Today (most of the) researchers engaged in transitions studies agree, that informal institutions matter. There is a discussion, however, about the importance and impact of informal institutions. Some see only little influence and concentrate the analysis upon formal institutions (Sartori 1994, Linz 1994, Valenzuela 1994). Others underline the importance, but notice an ambivalent impact on democratic institutions (in this direction O’Donnell 1996, Lauth 2000). A third position, related to research on corruption and clientelism (Heywood 1997, Sajo 1998), agrees on the importance of informal institutions, but emphasizes more the negative impacts on democratic institutions or even the State.

There are (at least) four reasons for this divergent result:

a) The concept of informal institution used varies.

b) Often studies deal with only one type of informal institution. Rarely one finds typological reflections that differentiate between certain subtypes of informal institutions.

c) The relationship between informal institutions and Democracy as well as the State is not always treated in a systematic way.

d) The methodological strategy of empirical research varies, (also the selection of research objects (cases) that have indeed a deep impact on different results).
In my paper I will define informal institutions in differentiation from formal institutions and from informal politics. Additionally, it is necessary to distinguish political and cultural informal institutions.

In the second step, I will propose various types and subtypes of informal political institutions that allow systematizing the field of informal institutions. Informal institutions can be weak and isolated. They can, however, be strong and can even build a common net or structure. In this way, informal institutions create a hidden (or the real) constitution, which is mainly responsible for the political process. Given this case by regime change, we are confronted with a special kind of transition. Then it is not only sufficient to change the formal rules, but also the informal ones, if they are not compatible with democratic norms.

In the following third step I treat the relationships between political informal institutions and Democracy as well as the State on an analytical level. There will be shown, that not all informal institutions have a negative impact on democratic institutions (contributing to the formation of defective democracies), some are ambivalent or even stimulate democratic institutions positively. Neither can it be said, that the existence of informal institutions weakens always the state. This is not the case, when informal institutions and formal institutions of the State are compatible (or when informal institutions occupy the State. In the last case they are rarely compatible with the rule of the law.)

In the last chapter I will deal the task of measuring informal institutions. There will be discussed the integration of research on political culture. The combination of quantitative and qualitative research methods is recommended.
The paper should be understood as contribution to the methodological and theoretical debate on informal institutions, which should improve the empirical studies on transition subjects.

Introduction

1. The Concept of formal and informal institutions

2. Types of Informal Institutions (and their relationship with Democracy)

3. Informal Institutions and Democratic Institutions
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Annex
Introduction

Many transformation studies analyze the change of formal institutions, from authoritarian in democratic ones. Regarding young democracies one central question is which institutions or sets of institutions are accurate for the new regime. Interested in the working of the democratic institutions investigators are looking for the best institutional design (see the intensive debate about Presidentialism vs. Parlamentarism or consensus vs. Majoritarian democracy). Criteria of these debates are the coherence and the adequacy (to the environment) of the design. Without ignoring the importance of these criteria, they indicate not the only causes for defects (or bad institutional performance) in democracies. Some researchers mention the problem of unqualified personal in young democracies. A third argument concerns the area of competing informal institutions.

It is no secret that informal institutions impinge on the operation and performance of democracy. Often the relationship between informal institutions and democracy is perceived as conflictive. Informal institutions seem to be hostile to democratic institutions, intending to eliminate the latter or using them for their own purpose. But this picture is too simple. It is necessary to look at this relationship more closely. To do this, we (1) define informal institutions, (2) differentiate between types of informal institutions and (3) analyze their relationship with democracy.

1. The Concept of formal and informal Institutions

In order to consider formal and informal institutions under the same theoretical perspective, I choose a neo-institutionalist approach to define institutions. Similar to Douglass North (1990), I understand "Institution as a norm or set of norms,
which have a significant impact on the behavior of individuals” (concerned by the institution or included in). Thus, an institution is not (necessarily) an organization. However, organizations are specified by certain rules or set of norms. It is possible to use the name of an organization for indicating these rules. Doing so, we assume that the name of an organization and the corresponding institution can be employed as synonymous. For example, considering parliament as an institution, one takes into account the specific rules of this part of the political system.

In a neo-institutional view, in some cases it seems difficult to equate formal institutions with institution. For example, political scientists, in general, consider constitutions as institutions, although specific aspects of them might lack respect in daily life. Furthermore it is difficult to judge whether the constitution is determining the factual behavior, when a constitution was just imposed. This was the case with the German constitution (the GG) in 1949 (or this is the case in many countries of the third wave after the founding elections), because these constitutions are young and nobody knows their exact impact. But I will regard these constitutions as institutions, too, simply because it was intended by their creators that they would work as institutions. One could say I trust in the institutional character of constitutions.

**Formal and informal Institutions**

In order to differentiate between formal and informal institutions, I will start with the working definition, then I will highlight further implications of this view: Informal institutions are institutions which are not formally codified (in constitutions or laws). Formal institutions are openly codified. Thus regulations are included which have the status of constitutional clauses and laws, but also standing orders and norms actionable at law. Whilst formal institutions are guaranteed by state agencies and
their disapproval is sanctioned by that state, most of the informal institutions are based solely on the fact of their existence and of their effectiveness. The power of sanction involved with them is linked largely to social mechanisms of exclusion or is based quite simply on the condition that its non-utilization minimizes the chances of gaining access to goods and services. Informal institutions are equally known and recognizable publicly, however, they are not laid down in writing.

Their authority is based on various sources. First of all, and according to institution and context, they receive a diverging degree of social acceptance which lends them a basic measure of legitimacy. One fundamental element of this acceptance (which simultaneously is an essential motive for entry into social patterns shaped by institutions) results from the purposes they envisage, which can be defined either narrowly or widely. The way in which institutions function continues to make interaction between individuals and groups easier by creating known and accepted behavioral structures which furthermore cannot be changed by individual persons. Even if an actor does not wish to accept them, he or she obeys by them, as in accordance with rational calculation, the costs involved in rejecting them can only be offset when real behavioral alternatives are available. Change within such traditionally driven institutions turns out, however, to be an extremely lengthy process, as they are internalized by the participating actors and reproduce themselves by shaping future behavioral expectations (Luhmann 1972: 71).

In contrast to formal institutions which receive their legitimacy through the state (and in the case of a democracy through the sovereignty of the people), informal institutions are based on auto-licensing (i.e. self-enactment and subsequent self-assertion). Whilst the nature of formal institutions can be shaped and changed by
actors with rule-making authority (Mayntz/Scharpf 1995), this is not the case with informal institutions, as these develop so to speak indigenously. They do not possess a centre which directs and coordinates their actions. If their factual recognition lapses, so does their existence with it, whereas ineffectual formal institutions continue to be in demand and, in form at least, to exist. Despite their unofficial nature, informal institutions can be precisely understood and described at the analytical level, as they manifest their own functioning logics and rules of identity, which distinguishes them from others.\textsuperscript{1} Reference to Zintl provides a complementary viewpoint: "We are dealing with systems which have a clear difference between the internal and external perception of actors as well as in terms of the type and density of interactions, not simply with statistical aggregates" (Zintl 1993: 89).

\textbf{The structural and the individual side of informal institutions}

Informal Institutions are more than "regularities" (in the sense of habits, like the specific sequence of the US-primaries) or structures (like patterns of income distribution). They are sets of norms in a specific configuration or one norm; both responsible for specific forms of interaction (behavioral patterns). Regularities and structures are important aspects of informal institutions, but they cannot be understood without their individual basis. Informal norms exist only, if they are rooted in the beliefs and/or attitudes of individuals. Their acceptance is not necessarily based on a positive normative assessment (evaluation). The existence of informal

\textsuperscript{1} The definition of ‘functioning logic’ or ‘rule of identity’ is based on the idea that the following criteria are present in a specific form and inner connexion: First they have to be recognized by certain symbols or elements, that indicates their existence. Second, there are given specific forms of interconnection or interaction. Third, each institution is linked with a special purpose, which allows its functional description. These criteria mark clearly identifiable and classifiable action patterns.
institutions only expresses that the functioning of such an institution is expected (whether it is good or bad). If one is looking for informal institutions, one must find the existence and the strength of informal institutions in the beliefs or attitudes of individuals. If they are not found, they do not exist.

Following this line of argumentation, it could seem that there is no difference between informal institutions and culture. This would ignore important particulars. Informal institutions are normally a part of cultural patterns, they are, however, not identical with them. Although it is very difficult to find a general accepted definition of culture, two aspects are common in such concepts. Firstly, culture indicates a much broader concept, which includes rules, values, traditions and customs. Together they mark patterns of collective identity, which provide a specific interpretation (or construction) of the world and motivate to a certain degree the adoption of typical life styles (or frame the horizon of possible actions); but culture as a whole do not determine the individual actions in the same (concrete) way as informal institutions do. Secondly, (and narrow linked with the last mention) while informal institutions are linked to sanctions, cultural patterns (when they do not find their expressions in institutions) do not dispose of power sanctions.

Informal institutions are as well not the same as informal politics, although some authors use both concepts simultaneously (Eisenstadt 2002). Informal politics include different variants of action, which have not to be linked necessarily with institutions. Informal actions can base on rules or they can have spontaneous or erratic character. Examples of informal politics are coalition agreements, corporatist meeting or private talks in smoky back rooms. Similar to cultural patterns informal politics have no sanction mechanism, if they are not an expression of institutions.
Informal institutions derive their **status as political institutions** from their reference to binding decisions, themselves guaranteed by the legally constituted exclusive authority of the state. Informal institutions either compete with the state’s claim to binding decisions, by striving to establish parallel areas of competence, or (and this is by far the more usual case), by influencing political decision making. This do not mean that institutions act; actors are always persons who use the informal institutions. Influence can take its effect in various phases of the decision path and can even include the implementation phase, during which the attempt is made to hinder or at least modify the administrative ‘enactment’ of the decision (e.g. by a reduction in payment of taxes by ‘exerting influence’ upon the appropriate authority). Thus the addressees of informal participation are political decision makers and those state agencies entrusted with their implementation, in other words the Executive in the broader sense of the term. Modes and logic of informal influence differ according to the individual institutional type of participation.

In democracies, formal and informal institutions can be in **different relationships** to each other. It is possible to distinguish between three types of relationship: the **complementary type**, in which both co-exist side by side and mutually reinforce and support each other; secondly, the **substitutive type**, in which either formal or informal institutions are effective in the sense of being functionally equivalent to each other; finally, the **conflicting type**, when both systems of rules are incompatible. In cases of conflict, formal and informal institutions can displace each other or, in terms of their way of working, they can be interconnected to the extent that the functioning logic of formal institutions becomes interfered with. Whilst displacement can be achieved through different strategies and has the elimination or occupation of formal institutions as its aim, interconnection demands a precarious coexistence on the part
of both. The reason for this is that here, informal institutions are dependent upon the existence of formal institutions. They live at the expense of the latter, by exploiting the formal institutions for their own purposes, by either partially occupying or penetrating them. In this sense, they are parasitic institutions, which for example find their expression in corruption. Such institutions, which should be understood so to speak as "penetrating" environments (Powell/DiMaggio 1991: 13), evade to a considerable degree any quantitatively oriented empirical analysis, as they do not change the form of formal institutions and ‘shy away from publicity’ themselves. At the same time however, their relevance is not to be underestimated, as they are capable of exerting quite considerable pressure upon the way in which formal institutions function.
2. Types of informal Institutions (and their relationship with Democracy)

The literature of social science provides many examples of informal institutions. Some are characterized by a high level of abstraction like trust or distrust. The existence of such (basic) norms has an extensive impact on behavior in different areas (basic norms). Others are linked with or express a very concrete meaning in special situations (like a typical form of greeting). Their relevance for the behavior beyond this singular situation is low. A third type of informal institutions is located in a middle range sphere like informal right systems or corruption. They are more concrete than the first type, and cover a broader spectrum of actions than the second.

Beside the level of abstraction and scope one can differentiate informal institutions by their connection to civic traditions. Trust, solidarity, tolerance and fairness are such basic codes which support the formal institutions of democracy. This is not given, if the environment is marked by distrust, egoism, intolerance or unfairness. While the former is called Civic Pool (CP), the latter is named Anti-Civic Pool (ACP). The more specific institutions can be linked more or less with either one or the other.

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2 “Basic norms” or “Basic codes” are effective in the sense of general norms or general dispositions of perception and behavior. They structure the interaction system of the entire society and their subsystems.

3 One finds a lot of such connections in the literature about social capital (e.g. Putnam 1993). Faust/ Marx 2004 provide a critical review about the debate on social capital.

4 I cannot discuss the complex relationship of these two categories here in extension, because this would need more than a footnote. This can be illustrated by one annotation to the concept of trust. Trust is understood as an important basis for Democracy. But one has to take in mind also that distrust against government can be a democratic virtue or that trust is common in clientelistic networks. Therefore it is necessary to specify the concept of trust. One could differentiate between a blind and a responsible trust or between a trust regarding a particular group or the whole community. One can separate between trust in persons, in institutions or universal values. Only to mention this diversity underlines the complexity of the analysis.
I will concentrate the discussion on the Anti-Civic Pool and middle range institutions, because they are relevant for young democracies and they can underline some causes of defective democracies. From this point of view it makes less sense to look at institutions of the Civic Pool, which should – as normally assumed – support democratic institutions. The absence of CP-institutions could be a first step to understand some defects but it is not enough to explain these. Linking the following informal institutions with the ACP does not mean that these have the same impact on democratic institutions. Additionally, certain informal institutions cover both sides (CP and ACP), as my discussion on ‘informal law’ (and partly clientelism) will show.\(^5\)

### 2.1 Ad clientelism

Clientelistic structures characterize numerous states of the third transformation wave. The concept of Clientelism unites such forms of interaction which result from a specific, personally stratified relationship, and which are bound to fixed roles and dominance structures. Manfred G. Schmidt (1995: 476) understands Clientelism as a "specialist term for forms of protective relationship of mutual benefit between a person or persons occupying a higher place in the social hierarchy (patron) and a following concerned with protection and the acquisition of certain advantages (clients)."\(^6\)

Clientelistic structures are based upon a relationship of exchange, which justifies our understanding of them as forms of participation, even when the personal connections are asymmetrically structured. On the one side, there is the patron, who

\(^5\) It would be better to take only a special informal right system for a more stringent argumentation. I take the whole spectrum, however, to illustrate the variety of informal institutions in this area as well.

controls the relationship, and on the other there are the clients, who accept the patron’s authority.

One can differentiate between clientelistic forms using two criteria which result from the observation of political participation (the centre of a particular patron-client relationship is located within or without the political system; political participation takes place directly or indirectly). With the help of these criteria, subtypes can be identified, which can be briefly termed as follows: (I) Kinship, (II) Mafia (III) autocratic cliques and client parties. All these subtypes have a different impact on democracy (for a more extended discussion on this relationship see Lauth 2002).

(I) Into the category of Kinship fall all clientelistically influenced structures of interaction and communication as found in the social domain. These are based upon relational relationships and have common survival and welfare within the context of the preservation of clearly defined status relationships as their aim, which separate them from other groups or sub societies. The network of interactions with State actors is only weakly developed, and political participation is only affected indirectly. Kinship structures are common in less developed countries. They reflect the traditional patterns of societal organization as well as the limited performance of the state in protecting individual rights.

(II) Within the ‘Mafia’ category are included those structures of interaction which seek to exert direct influence upon political decisions and whose centre of

7 The drawing up of a boundary is emphasized by Zintl (1993:107), in his discussion of the clan: “The formation of clans aims at creating a specially composed society within a society.” Zintl’s concept of the clan is applicable in this case, however it cannot be applied to the Mafia and Nepotism
dominance is also located within the social domain. These strive to manipulate not only the way in which decisions are reached, but also their implementation, with the aim of satisfying particularistic interests. Even when relationships do not necessarily have to be based on *kinship*, they are usually binding. As it does with those structures which are based upon *kinship*, opting out of these functionally sophisticated networks becomes extremely difficult. In contrast to *kinship*, such networks do not openly make themselves recognizable. The existence of mafiotic structures is due in part to poor social conditions regarding the recruitment of clients, but is mainly a result of the possibility to receive very high profits.

(III) Within the domain of state-dominated participation, one must differentiate between two further patterns: a) **autocratic cliques** and b) **clientelistic parties**. In the case of the former, the participation function is strictly limited. In order to maintain political support, it is applied mainly through the steering function of the hierarchy, with which the leadership of the clique aims to safeguard its particular interests. One need only think of "old school tie" networks, which have "survived over" from Communist rule into the new prevailing structures (Collins 1999). By comparison, the openness of the second variant, that of clientelistic parties, towards participation (which is to be found for example in African countries), is greater (Hanke 1999; Neubert 1999). This is not least due to the fact that various clientelistic systems compete against each other and that the client-patron relationships remain relatively variable. Nevertheless, most patrons come from the political Establishment.

/Patronage categories, which are to be observed analogously to the subtype IIIa (as explained below) as a clique, and which aim at discriminating against outsiders (ibid., p.95).
2.2 Ad corruption

Present academic research assesses corruption as the prominent mechanism of informal influence. Garzón Valdés (1997: 109) defines this influence structure of informal participation as follows: "Corruption is the violation of an obligation by a decision-maker, in order to obtain an extra-positional private benefit from the agent who bribes or is being extorted, in exchange for benefits granted to the briber or the extorted whose value exceeds the cost of the bribe or the extorted amount or service." When corruption takes place within the political domain (political corruption), then the involvement of a holder of public office within the political system is a precondition. Garzón Valdés agrees with Morris (1991) on the necessity of separating two basic forms of corruption from each other, by considering the different directions which their respective influences take.

On the one hand, he examines the influence of societal actors upon political decisions by means of material contributions (bribe). On the other, he looks at those financial demands made by State employees upon citizens, without which the former would not be prepared to fulfill their obligatory duties (extortion). From the participation perspective, the bribery variant is more relevant to the purposes of the present study, as it refers to the influence as taken by societal actors, whereas in the

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8 See the research overview by Anne Deysine (1980). The collection of essays by Arnold J. Heidenheimer (1970) offers a very good overview of the cognitive development concerning corruption and its effects. This analysis also gives a representative selection of the debate which ran during the nineteen-fifties and nineteen-sixties on this theme. A more recent analysis on this theme is Paul Heywood (1997), and also (although dating back somewhat) Arnold J. Heidenheimer, Michael Johnston and Victor T. LeVine (1989).

9 In this extended version of political corruption, the definition includes the first of three basic and pioneering categories of corruption definition, as suggested by Heidenheimer (1970: 4-6). By its reference to individual cost-benefit considerations, it simultaneously integrates the second category, that of market-oriented definitions, but not the third offered by Heidenheimer, which orients itself towards the common good.
case of extortion, the central focus is upon the citizen. At the empirical level, both variants often appear to be interwoven. Further, it is possible to differentiate between two types of bribery. In the more usual case, employees in public administration are the targets, who are then expected to manipulate or ignore decisions reached through the political process. In the other case, it is political legislators who are involved, and who are then expected to either make a specific decision or to make a ruling which favors those exerting their influence. Above all, it is the latter variant which creates wide-reaching changes, as it not only makes possible one single occurrence of taking influence, but also creates a corridor of action in which it can repeat itself. All kinds of corruption, however, damage the quality of democracy.

2.3 Ad threat perception

A further variant lies in the exerting of influence by violent participation. "Violence" as a characteristic means of informal institutions of political participation does not necessarily mean the use of physical force in order to exert influence. This type of participation is characterized much more by its use of violence simply as a means of making threats, itself part of exerting influence upon political decisions. As an institution, such a type of influence founded on force does not manifest itself through the use of force alone, whichever way this may be communicated. What is required is the development of an identifiable form of interaction, as in the case of the types first-mentioned, which involves fixed roles and its own functioning logic. The precondition for the way in which it functions is that, as soon as only one element of this structure is used, the entire structure must become evident to all involved.

Also in the case of this particular participation type, differing variants can be identified, which diverge in terms of their respective aims, functioning logics and
effects. What is decisive for all of these is that they are based on the threat or partial use of force. The following can be termed ‘identifiable forms of violence-based participation’: the threat of a coup (d’état), guerilla warfare, riots and organized crime. Despite their obvious character i.e. that of the violation of norms related to Democracy and to the rule of law each hinders the functioning of Democracy in different ways. Due to its structure, which in comparison with the other variants is accentuated, the following will discuss by way of example the classic case of the threat of a coup, the functioning as well as the effects of which are brilliantly described by Valenzuela (1992) as part of the discussion of “perverse institutions”.

According to this thesis, this mechanism takes effect whenever elections are not seen as the sole, legitimate way to a changeover of power, but rather when military alternatives are seriously considered. The actors who weigh up such considerations can, but do not need to have, the necessary resources at their disposal. They simply have to make credible the belief that they could significantly influence the use of these. The coded message is understood, without the threat having to be carried out. Thus the real aim is not a change of regime by means of a putsch, but rather the effective protecting of particularistic interests (i.e. the safeguarding and/or creation of privileges) within democratic structures by the threat of a putsch. If these aims cannot be secured however, the putsch option is then taken up anew. The defining of aims for such strategies of action is not limited to the influencing of changeovers of power; it can affect all central governmental and parliamentary decisions. These then stand perpetually under the Sword of Damocles, as one must always bear in mind whether the risk of a putsch is increased by the resolutions arrived at.
Once such a climate of potentially permanent intervention is established, everyday routine decisions also become influenced by it; the self-censorship of democratic behavior spreads and takes root. In this way, Valenzuela (1992: 68) argues, a "vicious circle of perverse institutionalization" is initiated, which in every piece of planning and every action includes the interests of those veto-groups which have the overall say (as they can threaten with violent action).\(^\text{10}\) In order to hinder a putsch and thereby avoid an authoritarian regime, far-reaching concessions, rule of law violations and the relinquishment of democratic decision-making powers become accepted. Through this strategy however, the quality of the existing democracy becomes ever further reduced, so much so that the danger arises that one ends up defending a mere façade, which has long since been robbed of all its substantial, democratic characteristics.

### 2.4 Informal law

Custom law constitutes a further informal institution that can constitute a legal source of formal law, thus permitting a conversion of informal rules into formal ones. However examples of custom law are conceivable which cannot be formalized in a state under the rule of law, as they run contrary to its fundamental principles. In the same way, custom law can prove to be not only compatible with democratic procedures, but also cumbersome with them.\(^\text{11}\)

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10 Valenzuela understands institutions in the sociological sense as action-oriented, action-structuring and action-restraining norms, which can be constituted formally as well as informally. By perverse institutions, Valenzuela understands institutional deficits which undermine democracies and which mean, in his view, a perverse institutionalization. Besides the "putsch threat", he differentiates between three further basic types of "perverse institutions", which are to be found predominantly in the formal domain. These are: 1. Tutelary powers; 2. Existence of reserved domains; 3. Serious instances of discrimination in election processes.

11 In this way, custom law can lead to the rewarding of social status, sex or age, which is
The difficulty encountered when attempting to define statements on custom law lies more precisely in its ‘open’ boundaries, themselves articulated in the controversies surrounding international law.\(^{12}\) If in a wider understanding, it is identical with informal rules, i.e. with informal institutions, and if thereby all other types were subtypes of custom law as well, then in a narrower formulation, it is ‘merely’ identical with the legal form or legal tradition, itself coming before or even analogous to the formal jurisdiction of the rule of law. If we apply custom law as it is structured within international law to a particular country, the subjective conviction on the part of participant actors that they are legally bound must be present in conjunction with the behavioral character element. For this reason, the following arguments will address custom law in its narrower sense, as characterized by elementary pre-state features of the law (matter of dispute, plaintiff, trial, judge, ruling), and which is linked to a right to recourse, whatever the nature of this may be. Custom law can also be addressed by the state, however in principle it is not binding on the state. Therefore it is not identical to, nor can it be equated with the Anglo-Saxon tradition of case law or of common law as it is authorized by the state, codified (in varying forms) and is actionable legally.

In contrast to this, custom law includes all non-codified rules and modes of behavior, which are actionable before state or private tribunals. This includes traditional secular and religious law systems. This is a very broad field with hundreds of different types.

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\(^{12}\) See Mössner (1977). Within international law, custom law signifies an ongoing practise of modes of behaviour, in which states are convinced that they are legally bound to such behaviour. According to this, the custom law norm is composed of an objective element (one of practice) and a subjective one (one of recognition). In the absence of the latter, one speaks of a custom or habit. Controversial however remains the question of to what extent this norm represents its own source of law or whether it is simply the expression of an unspoken contractual agreement.
Several are compatible to rule of law, several are in tension with it or contradict central principles of rule of law. Folk traditions continue to belong to custom law, the adherence to which can even be enforced in non-state or even partially state-controlled tribunals, as can be observed in various west-African countries (Bierschenk/de Sardan 1999). An important new area has developed in the field of business relations, especially at international level, where conflict arbitration is carried out by private instances following business law which they themselves have created.

When applying custom law to the narrower field of political institutions, we can distinguish between two levels of informal rule-making. The first (quite unique) case concerns institutions which are located at constitutional level. These are unwritten, but nonetheless binding constitutional clauses. The second case concerns legal, informal arrangements within democracies, e.g. coalition agreements, shadow cabinets etc. These represent a very specific variant of informal institution, as they stem from a quite deliberate decision and thus are similar to formal institutions. However they exist without state sanction and are not legally actionable. Due to the way in which they come about, their lifespan is not as long or binding as those which have come about "autonomously". The power of social sanction involved with them is often modest. Thus the question arises whether such arrangements achieve the

13 The archaic custom of the blood feud can only in a limited way be included under custom law, as the roles of plaintiff and judge are normally embodied in one person. What can be included more easily however are "kangaroo courts" or "mafia courts", whose basic concern is the violation of an unwritten "code of honour". Such institutions are to be understood as political ones, not because they can be classified as part of the political system, but rather because through their violation of the exclusive authority of state, they combat the central feature of the political system, thus forming at least partial opposition to the state.

14 Such binding, yet non-codified traditions can be observed in the case of the United Kingdom (e.g. Human Rights catalogue). However this should not mislead the reader to assume that no formal institutions exist. Many central elements of the British system of government are set down in writing, albeit not in one single document. In dealing with non-codified traditions, itself often controversial, an inherent problem of custom law becomes all too evident, namely how such rules are to be recognized and how they are to be amended. See Weber (1998: 179).
status of an institution in all cases (or better it would be spoken of informal politics). Often, their only binding feature is the fact of their formation, and less the adherence of actors to them.]

Finally, I would like to address a form of arrangement which can be understood neither as an expression of custom law nor directly as a political institution. I am referring to self-help networks such as neighborhood associations, saver and migrant clubs, or burial societies, all of which are networks existing in many third world countries. These should receive some attention, as they draw up or develop informal, legal rulings which are supposed to achieve the rank of custom law. The method employed for this purpose is the reference to already existing values such as solidarity and trust. They are political in that they take on state tasks in the area of social security, also, in that they act as a starting point and medium for political participation as well as serving as a mobilization reservoir of state agencies and parties. Self-help networks constitute informal institutions which, in terms of their understanding of the law, correspond to that of arrangements made under the rule of law (or which imitate this understanding). From the Democracy theory point of view, they are capable of making positive inputs, as they make possible the practice as well as the practising of democratic modes of behavior (Tocqueville), as well as simultaneously defusing problem situations in the social sphere. However their contribution to Democracy can be lessened or set in relative terms to the extent that they are shaped by strong clientelistic and authoritarian patterns.

15 Information to an Egypt example gives Diane Singerman (1997) and respective to Chile see Philip Oxhorn (1991).
These cursory arguments show that custom law can be understood legally as well as illegally or compatible and not compatible to rule of law. As part of the process of wide-reaching formalization and codification of law, in modern constitutional states, it is to be assumed that a growing discrepancy and tension between custom law and the rule of law will take place, as the former of these is based on a pre-modern tradition representing particular interests.\footnote{16}{A difference exists in comparison to the international level, where the formalization of international law is not yet advanced to the same extent, although here also a considerable increase in the codification of law has been observed over previous decades, being reflected not least in the development of international regimes.} Seen from this perspective, the slow development of custom law norms and the sluggish nature of their change show themselves to be increasingly inadequate in modern societies. Nevertheless the development of custom law can also be understood as a contribution to the development of law within the overall rule of law context. Either it serves to establish a more binding structuring of relationship patterns in the sense of the development of \textit{soft law} (as in the case of coalition agreements), or it contributes to the development of law in areas which up until now have seen little regulation, whereby it can in particular take account of the needs of circles of individuals (as in the case of self-help networks), who generally do not take any part in the legislative process. From this latter perspective, the development of custom law norms is a reference to the democratic context in which law develops, namely through the demand for the inclusion of all groups. As the creation of private business law illustrates in the same way, this development of norms is oriented towards existing state rules, the interpretation and further development of which is influenced by private legal custom which develops autonomously (Galanter 1981; Kiwit/Voigt 1995).
2.5 First Findings

All of the treated informal institutions affect democracy in a more or less negative way. This is no wonder, because we did not integrate such institutions, which influence democracy only positively. Therefore, the results do not indicate that all informal institutions deteriorate the quality of democracy. Other informal institutions (like civil disobedience) can accompany an improvement of the capability of the democracy to function well and can be understood as a functional equivalent (of distorted) formal participation channels (Lauth 2000). Our discussion demonstrates that the impact of the treated informal institutions on democracy varies to a certain degree or could even support democratic institutions as in the case of certain types of informal law. Also a few forms of clientelistic participation can express a positive defensive reaction, designed to hinder the exploitation and occupation of formal democratic institutions. Thus, the struggle about democracy is not located on the grounds of distinction between formal and informal institutions but inside the informal arena itself. Due to different ways in which informal political institutions function and work, regarding the examination of the types discussed above, it remains to emphasize that without the inclusion of informal institutions, the analysis of the functioning of a democracy remains incomplete, as democracy can hardly escape their influence.

Although one can separate these different types of informal institutions on an analytical level, in reality, various forms of combination very often exist. Strong links are evident between the variants of clientelism and corruption.\(^{17}\) Once however such

\(^{17}\) The strong negative impact of cooperation between various forms of Clientelism with corruption upon Democracy have been elucidated by O’Donnell (1993: 1359f) in the "brown areas" theorem. Mafia is another example of combining different types of informal institutions (types 1, 2 and 5).
informal institutions (of Type 1-3) are established and support each other mutually, their logic is difficult to break, indeed one would require an enormous amount of effort and public commitment to do so. Seen from a three-level perspective, the consequences for a democracy can be serious in this particular case.

? First of all, they undermine the sovereignty of the state, by breaking its exclusive authority and by curtailing the possibility of effective Government.

? Secondly, they undermine the notion of the rule of law by disregarding its formal rules and by partially doing away with the separation of powers.

? Thirdly, they hinder the democratic process as a whole, by manipulating the preference transfer of formal democratic processes and by occupying democratic institutions.

It is obvious that through this, even already long-established democracies can be badly damaged. In fledgling democracies, the disadvantages can be greater still. Through the systematic exploitation of the rule of law and Democracy to the advantage of particular interests, it becomes difficult to develop any trust in these norms or indeed to develop a workable civic culture. Instead, a cynical attitude towards the government and towards state agencies establishes itself. It is to be expected that, under such conditions, young democracies often develop into defective or into "badly functioning democracies" (Burnell1998: 21), or that they have tendencies towards hybrid or autocratic forms of regime.

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18 By use of an example, O'Donnell (1998: 8) illustrates the problematic consequences of corruption for Democracy. As instances of corruption within governments are not investigated by the legal authorities, the media functions as a type of replacement tribunal. However it does not have the capacity to act as a functional equivalent. The consequence of this is that, "los culpables suelen quedar impunes, los inocentes estigmatizados." (The guilty go unpunished, and the innocent become stigmatized). The consequence of this is a further loss of faith in government action. Della Porta/Vannucci (1997: 114-121) draw a corresponding conclusion in their analysis of the effects of corruption in the first Italian Republic.

In cases (such as in Latin America), in which the abuse of democratic institutions is founded upon deeply-rooted historical experiences (Mols 1985), and which is nurtured repeatedly by new
This drastic perspective, however, indicates only one possibility. It is necessary to differentiate the debate. In our discussion we have assumed already that different types of informal institutions have not the same impact on democracy. The next question is: Does one informal institution have the same impact on all dimensions of democracy or do all informal institutions influence the profile of democracy in the same way? To look at the relationship between informal institutions and democracy in detail, we need to present a concept of democracy in the following chapter, which allows such a differentiated view. An analytical discussion about the relationship between various informal institutions and dimensions of democracy should help to formulate some hypotheses, which should be able to orientate (or conduct) the empirical research. This proposal is not without any problem – as we will seen later – but it provides some advantages, which should not get loose without starting any previous trial.

experiences (‘defective democracies’), the enormous difficulty of leaving such a path of "perverse" institutionalization becomes all too evident.
3. Informal Institutions and democratic Institutions

3.1 Concept of Democracy

What makes an institution a democratic institution? Political scientists argue that the nature and consistency of an institution depends on the political regime.\(^{19}\) This assumption reaches a certain degree of plausibility, but, we can also assume that the institution of bureaucracy functions in the same manner under democratic and under authoritarian rule. Definitely, this notion creates an ambiguity that needs a more precise and tighter definition to be solved. In this sense, a democratic institution is an inherent part of the concept of democracy itself. To explain this idea, first, I will present the definition of democracy and second, I will introduce three dimensions and five institutions, which inherently mark the concept of democracy (Lauth 2001).

Definition of democracy

In the tradition of procedural democracy I will define democracy in the following way: **Democracy** is a constitutional kind of rule, which allows the self-determination of all citizens (in the sense of sovereignty of the people) by guaranteeing their decisive participation in free and fair elections (of the main political representatives) and/or in political decisions (referendum). The concept includes the possibility of a continuing influence on the political process and the control of power. Democratic participation on the political power finds its expression in the dimensions of **freedom**, **equality** and political and juridical **control**.

\(^{19}\) This interpretation follows the idea of embedded institutions. O’Donnell (1994: 57) seems to go in this direction.
Explication of the three dimensions

**Preliminary Equality:** The dimension of equality expresses political equality, which includes on the one hand the formal fair treatment of all citizens by the state (legal equality). On the other hand, it enables all citizens to participate in a fair and effective way in all formal institutions, needed for the democratic process (input-egalitarianism). While the dimension of liberty includes the possibility of the free participation in the democratic process in an active sense, the dimension of equality underlines the equal chance of having access to these rights. Do all the citizens have the same opportunity to use their rights? So the perspective changes from the active side to a more passive side (of treatment and enabling structures). This concept of political equality does not strive for the same results of political participation, not even for the equal chance of competence beside effective legal equality. Fair means the equal and effective use of the civil and political rights.

These annotations demonstrate that we do not speak of equality only in a formal sense. We have to respect the significance of norms that can be realized. Equality is rooted in the acceptance of the others as equals on the basis of the concept of individual autonomy. Therefore, the existence of liberty rights is a necessary, but not a sufficient condition for equality.

**Preliminary freedom:** The dimension of freedom is rooted in the citizens’ free self-determination in a political community. This contains the transfer of individual preferences through the elections of political representatives in free and fair elections, and, additionally, the opportunity of a continuing political participation, embedded in a public structure of competitive organizations. The citizens’ political participation is guaranteed by the existence of civil and political rights. Furthermore, sovereignty of
the people implicates that the elected representatives own the political power and use it, respecting the individual rights (effective power to govern). To participate freely means that all rights have to be codified, that the factual possibility to join the rights exists (which demands a certain degree of institutional and administrative capacity), and that the use of the rights is not thwarted by formal or informal acts.

**Preliminary control.** The main idea consists in the control of political power (government and parliament) through the means of political and juridical control. The dimension of control integrates both vertical and horizontal accountability. Besides the peculiarities of political control in the political process (through civil society), the main actors of control are the formal institutions of the state. Democratic control bases necessarily on the opportunity of citizens, civil society and parliament to participate in control mechanism, to ensure their capacity to defend their rights and to support the (sometime limited) initiative rights of the justice. The only standard of the juridical control is established by the constitutional behavior of the respective office holders. Transparency of the political process figures as an important condition for both kinds of control that are exercised permanently. Control is only effective, if it aims at forcing the office holders to render an account of their acts and behavior in order to create the possibility of punishment. This requires the functioning of an independent justice, supported by other authorities and by initiatives of civil society.

**Five central institutions of democracy**

There are different ways to indicate the central democratic institutions (Dahl 1971, 1989). I will introduce five institutions by their special functions. This implies not a pure functional approach, because all functions have to find their expression in an
institutional form. Some functions are covered by characteristic institutions; however, often the typical institutions can be substitute by institutional functional equivalents.

Ad 1: procedures of decision

In democracies the participation of the citizens in binding decisions is mainly given by elections. With their vote the citizens select their representatives in government and parliament. This institution is characterized by the standards of free and fair elections. While political scientists agree on the validity of this criterion, they still discuss if all different kind of election systems can be considered equal and fair (Lijphart 1984 and 1999; Nohlen 2000). This debate also raises the question whether it shall be allowed to prohibit extremist parties or not. Besides the possibility to decide over their representation, the institution “procedures of decision” holds up as well the possibility to participate directly in decision, which is given in referenda (or plebiscites).

Ad 2: intermediate mediation/regulation of the intermediate sphere

Institutions of the intermediate sphere structure the organization of interests in a way that they are capable to articulate, to select and to aggregate interests with regard to the democratic process. The institution is democratic, if all preferences of the citizens have a fair chance to be organized and therefore, translated in political decisions (Merkel 1998). To ground the policy(-decisions) only on elections is not sufficient. If the political situations change, there must be the chance of a continuing possibility to

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20 There are good reasons to forbid the participation on elections, if these parties do not only intend to abolish human rights but violate them factually. Therefore not each restriction on eligibility is necessarily to understand as a limitation on liberty – like Gastil (1991: 34) and Dworkin (1998: 306) suggest. This does not mean to interpret the possibility of exclusion in a extensive manner, that justifies the exclusion of each anti-system-party (to that concept see Sartori 1976: 132). If such parties respect the democratic rules factually, there is no reason to restrict them from elections.
influence the decisions making process. Selection and aggregation of interests mean at the same time interpretation of individual preference. Necessary as well is the acceptance of basic norms, essential to a free and fair regulation of conflict. Parties and organizations of civil society are the main types of intermediate mediation, whereby both types of representations formulate different goals (office holding vs. decision influence; Schmidt 1995: 696f and 986). The institutional disposition is documented in the law of party rights on the one hand, and in the law of organization rights on the other (organizational freedoms).

**Ad 3: public communication**

The institution of public communication regulates the possibilities of communication which are necessary for other democratic institutions. Their specific democratic form is built by a set of liberty rights concerning communication (like freedom of speech, of expression, of information, of press). Even if they are individual rights, they need the public sphere to find their expression. Democratic communication structures are characterized by transparency and openness, which does not mean that all interests have the same impact, but that they have a real chance to be articulated. One condition is the pluralistic structure of the mass media, which allows the expression of competing interests. Avoiding any state ownership (or influence) of media is not a necessary condition for a pluralistic structure. Sometimes the state needs to inter-

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22 About the consequences of missing transparency regarding the capacity of control J. Dunn (1999: 339) indicates: “State discretion is a clear inroad into democratic accountability, and state furtiveness is a frontal assault upon it. The demand for privacy in ruling is an attack on the core charter of a democratic state.”
vene in order to avoid private monopolies. Following Habermas (1994: 624ff), the general public creates the central institutional place that enables to mediate rational building of interest with the principle of people sovereignty (see the concept of deliberative democracy).

**Ad 4: guarantee of rights**

The institution of guarantee of rights marks a specific form of political participation, which allows all citizens to protect their rights (basic to the other democratic institutions) directly. By legal proceedings individual citizens or organizations of citizens can defend their rights or influence the political process and policy outputs. Similar to procedures of decision, this institution is qualified by its binding character with one important difference. While voting expresses a Citizen’s decision, the juridical decision (judgment) is made by a judge (the court). In the latter, citizens can cause a decision about a special issue, but they cannot determine the content of the decision. The institution is used to correct former political decisions or to influence them in the future.

To express its democratic nature, this institution covers all juridical procedures, which are relevant for the forming of polity, politics and politics. The central or basic function, however, is to guarantee civil and political rights through the acceptance of all principles of the rule of law. This includes mainly the principles of equality, fairness and effectiveness. Specific authorities (like commissions on human rights or ombudsman) can complement the activities of the courts. However, these authorities miss the competence of binding judgments.
Ad 5: rules settlement and implementation

The central character of this institution is linked with the idea of an effective government that implements the decisions of the democratic majority. This implies the control of the exclusive authority of the state in the whole country and excludes the existence of non constitutional Veto-powers (or official Veto-powers, which use their formal resources in an unconstitutional way) or ‘brown areas’. It also demands a rational and effective bureaucracy (Max Weber) and should have the possibility to obtain all the information of the citizens that are necessary to fulfill their duty and do not infringe individual rights.

An impartial and unbiased treatment of the citizens by government, parliament and bureaucracy highlight the democratic character of an effective government. This characteristic indicates that the rule is not abused by a privileged elite, that no preferences (or minorities) are excluded by these institutions and that all citizens have access to these without including the social standing of a person (no privileged access for certain groups). Finally, the democratic quality of an effective government demands its control by state agencies and parliament (for example audit division).

The matrix of democracy

I briefly presented the three dimensions of democracy and five central democratic institutions. If we combine these two categories, we obtain a concept of democracy, built on a matrix of 15 fields, allowing us a separate analysis of the different aspects

23 This excludes also the existence of a low intensive citizenship (Méndez/O’Donnell/Pinheiro 1999).
of democracy. In the following capital, we will discuss the impact of certain informal institutions on these special effects. The underlying idea is that the impact of each informal institution varies significantly with respect to the 15 fields of the matrix. If this can be demonstrated, one would perceive different pattern of influence, depending on the respective informal institution.

This assumption is to be confirmed in order to intensify the research in two directions: First, one can detect more precisely the reasons for special defects in democracies regarding democratic dimensions and democratic institutions. Are informal institutions responsible for specific impacts? Second, it could indicate the stability and dynamic of democratic defects and therefore, give some ideas of reform strategies.
### Matrix of Democracy

<table>
<thead>
<tr>
<th>Dimensions</th>
<th>Institutions</th>
<th>Liberty</th>
<th>Equality</th>
<th>Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>procedures of decision</td>
<td>Free elections and referenda (no restrictions)</td>
<td>Free elections and referenda (no restrictions)</td>
<td>01 1/1</td>
<td>equal chances of participation, Equality of votes</td>
</tr>
<tr>
<td>Intermediate mediation/ regulation of the intermediate sphere</td>
<td>Freedom of organization</td>
<td>Freedom of organization</td>
<td>02 2/1</td>
<td>Equal rights of organization</td>
</tr>
<tr>
<td>public communication</td>
<td>Freedoms of communication</td>
<td>Freedoms of communication</td>
<td>03 3/1</td>
<td>Equal chances to participate</td>
</tr>
<tr>
<td>guarantee of rights</td>
<td>Free Access to court</td>
<td>Free Access to court</td>
<td>04 3/1</td>
<td>Equal rights and equal treatment in court</td>
</tr>
<tr>
<td>rules settlement and implementation</td>
<td>Effective government (Parliament, rational administration)</td>
<td>Effective government (Parliament, rational administration)</td>
<td>05 5/1</td>
<td>Equal treatment by Parliament and administration</td>
</tr>
</tbody>
</table>
3.2 Informal Institutions and their impact on democratic institutions

One assumption, gaining special attraction in the field of transformation research, is linked with the idea of defective democracy: Most concepts which deal with this diminished subtype of democracy (Collier/Levitsky 1997) maintain the idea that defective democracies base on free and fair elections, while the defects themselves are mainly due to lack of control of the executive (accountability and rule of law). If this assumption is (empirically) right and informal institutions are a main reason for the development of defective democracies, then, we should expect a corresponding pattern. This would demonstrate that the democratic institutions which are linked with "free and fair elections" are less affected by informal institutions than the democratic ones, involving the mechanism of horizontal accountability.

The analytical discussion of the impact of informal institutions covers all five democratic institutions and their three dimensions. The strength of the impact is assessed in five degrees (none – low – some – strong – very strong). All the following explications concern democratic regimes (or at least regimes at the democratic borderline). This means that the informal institutions do not dominate, even if they are strong. It makes no sense to speak of a democratic system, if social norms (of the Anti-Civic Pool) dominate the formal institutions. In that case, we are leaving the democratic area, being are confronted with an authoritarian regime or an hybrid system. In the case of informal right systems, we will only treat those, which are not compatible with the rule of law. The following tables inform about the results of the discussion. Explanations of the assessments are given in the Annex.

25 Therefore it is not expected, that the category "very strong" will be used.
(1) procedures of decision (elections)

(Question: How strong do informal institutions influence the functioning of the formal institution of procedures of decision in a negative way?)

<table>
<thead>
<tr>
<th></th>
<th>Freedom</th>
<th>Equality</th>
<th>Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clientelism</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>? Kinship</td>
<td>None (active suff.)</td>
<td>Some (pass. suff.)</td>
<td>None</td>
</tr>
<tr>
<td>? Mafia</td>
<td>Low (active suff.) some (pass. Suff.)</td>
<td>None (active suff.) some – strong (pass. suff.)</td>
<td>None – some (local, region)</td>
</tr>
<tr>
<td>? Clientelistic parties</td>
<td>None – low</td>
<td>None (active suff.) some (pass. Suff.)</td>
<td>None</td>
</tr>
<tr>
<td>Corruption</td>
<td>None</td>
<td>Some</td>
<td>None – some (local, region)</td>
</tr>
<tr>
<td>Threat perception</td>
<td>Some-strong</td>
<td>Strong</td>
<td>None – low</td>
</tr>
<tr>
<td>Informal right systems</td>
<td>Low – some</td>
<td>Low – some</td>
<td>None</td>
</tr>
</tbody>
</table>

Agenda: suff = suffrage, pass = passive

(2) intermediate mediation/regulation of the intermediate sphere (organization rights)

<table>
<thead>
<tr>
<th></th>
<th>Freedom</th>
<th>Equality</th>
<th>Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clientelism</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>? Kinship</td>
<td>Low</td>
<td>Low</td>
<td>None-Low</td>
</tr>
<tr>
<td>? Mafia</td>
<td>Low</td>
<td>Some</td>
<td>Low</td>
</tr>
<tr>
<td>? Clientelistic parties</td>
<td>Low</td>
<td>Low</td>
<td>Low</td>
</tr>
<tr>
<td>Corruption</td>
<td>None-low</td>
<td>Low</td>
<td>Some</td>
</tr>
<tr>
<td>Threat perception</td>
<td>Low</td>
<td>Some</td>
<td>Some</td>
</tr>
<tr>
<td>Informal right systems</td>
<td>Some</td>
<td>Some</td>
<td>Low</td>
</tr>
</tbody>
</table>
### (3) public communication

<table>
<thead>
<tr>
<th></th>
<th>Freedom</th>
<th>Equality</th>
<th>Control</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Clientelism</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>? Kinship</td>
<td>None – low</td>
<td>None – low</td>
<td>Low – some</td>
</tr>
<tr>
<td>? Mafia</td>
<td>Some</td>
<td>Some</td>
<td>Some</td>
</tr>
<tr>
<td>? Clientelistic parties</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td><strong>Corruption</strong></td>
<td>Low</td>
<td>Some</td>
<td>Some</td>
</tr>
<tr>
<td><strong>Threat perception</strong></td>
<td>Some</td>
<td>Some</td>
<td>Low</td>
</tr>
<tr>
<td><strong>Informal right systems</strong></td>
<td>Low</td>
<td>Low</td>
<td>None</td>
</tr>
</tbody>
</table>

### (4) guarantee of rights

<table>
<thead>
<tr>
<th></th>
<th>Freedom</th>
<th>Equality</th>
<th>Control</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Clientelism</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>? Kinship</td>
<td>Low</td>
<td>Low - some</td>
<td>None</td>
</tr>
<tr>
<td>? Mafia</td>
<td>Some</td>
<td>Some</td>
<td>Low</td>
</tr>
<tr>
<td>? Clientelistic parties</td>
<td>None – low</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td><strong>Corruption</strong></td>
<td>Some</td>
<td>Some</td>
<td>Some</td>
</tr>
<tr>
<td><strong>Threat perception</strong></td>
<td>Low – some</td>
<td>Low</td>
<td>Low – some</td>
</tr>
<tr>
<td><strong>Informal right systems</strong></td>
<td>Some</td>
<td>Some</td>
<td>Low</td>
</tr>
</tbody>
</table>
### (5) rules settlement and implementation

<table>
<thead>
<tr>
<th></th>
<th>Freedom</th>
<th>Equality</th>
<th>Control</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Clientelism</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>? <em>Kinship</em></td>
<td>Low – some</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>? <em>Mafia</em></td>
<td>Some – strong</td>
<td>Low – some</td>
<td>Low</td>
</tr>
<tr>
<td>? <em>Clientelistic parties</em></td>
<td>None – low</td>
<td>None – low</td>
<td>None – low</td>
</tr>
<tr>
<td><strong>Corruption</strong></td>
<td>Low – some</td>
<td>Some</td>
<td>None – low</td>
</tr>
<tr>
<td><strong>Threat perception</strong></td>
<td>Strong</td>
<td>Some</td>
<td>Low</td>
</tr>
<tr>
<td><strong>Informal right systems</strong></td>
<td>Some – strong</td>
<td>Low</td>
<td>None</td>
</tr>
</tbody>
</table>
Table: Summary of the separated results

<table>
<thead>
<tr>
<th>Informal Institution</th>
<th>Freedom Democratic institutions</th>
<th>Equality Democratic institutions</th>
<th>Control Democratic institutions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>I</td>
<td>II</td>
<td>III</td>
</tr>
<tr>
<td>Kinship</td>
<td>4</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Mafia</td>
<td>5</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>Clientelistic Parties</td>
<td>3</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Corruption</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Threat perception</td>
<td>7</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>Informal right system</td>
<td>5</td>
<td>6</td>
<td>4</td>
</tr>
</tbody>
</table>

| Sum of freedom       | 26 | 26 | 25 | 30 | 35 | 31 | 30 | 27 | 33 | 28 | 17 | 27 | 26 | 21 | 18 |
| Sum of freedom       | 26 | 26 | 25 | 30 | 35 | 142|
| Sum of equality      | 31 | 30 | 27 | 33 | 28 | 149|
| Sum of control       | 17 | 27 | 26 | 21 | 18 | 109 |
| Total                | 74 | 83 | 78 | 84 | 81 |

Agenda: None = 2; Low = 4; some = 6, strong = 8, very strong = 10; odd numbers mark the findings between two categories.
Democratic institutions: I = procedure of decisions, II = regulation of the intermediate sphere, III = public communication, IV = guarantee of rights, V = rules settlement and implementation
5. General findings and comments

What are the findings of our differentiate debate? First, we observe, that each informal institution touches a democratic institution in a different way. There are particular patterns of impact. "Threat perception" (81) and "Mafia" (78) have the most negative impact; the lowest impact "Kinship" (54) and "Clientelistic parties" (45). The democratic institutions are affected differently, although the variation (74 – 84) is less than in the case of the informal institutions. As expected, some mechanisms of horizontal accountability – mainly the guarantee of rights – are strongly influenced by various informal institutions. If we look at the five democratic institutions individually, perhaps the most interesting thing we observe is that the dimension of control (109) is attacked less than those of freedom (142) and equality (149). Another surprising finding is that we only see a low level of support for the expected evidence that elections are not or only slightly touched by informal institutions. They are less influenced than the other democratic institutions, but the difference is low. Furthermore, if one considers the whole election process (which includes the institutions of public communication and regulation of the intermediate sphere), the difference disappears.

What do these results of the theoretical consideration mean? Are the empirical observations regarding elections and accountability wrong or unsatisfactory? Two factors can explain the missing difference, especially the relative good empirical findings regarding elections. The first underlines the possibility that the negative impact on elections is to some extent compensated. Guillermo O´Donnell (1995: 34f; 1998: 19) mentioned in a footnote the significance of international election monitoring. The latter could have positive effects on the realization of elections, even
if it were unable to eliminate all informal impacts. The acceptance of elections is even rational in the logic of the behavior of the actors (of the informal world). In principle, they can live with free and fair elections, because they have the possibility to manipulate the political process (and the outputs) after each election. The second reason is related to the empirical observation itself. I am not sure that we have a lot of really "free and fair elections" (free perhaps, but not fair) in the democracies of the third wave. If the status of citizenship is not guaranteed – a fact for reasonable parts of the population in many countries – it is problematic to speak of free and fair elections. Therefore we should have a closer look at the whole election process (like it is suggested by the Inter-Parliamentary Union).26

I have only present findings about the impact of the discussed informal institutions, not about the impact of informal institutions in general. We have not dealt informal institutions, which can have positive effects on democracy, but we have not even cover all, which might be problematic to democracy. For example, we did not discuss the significance of autocratic clans. The analysis of this clientelistic subtype would have worsened the findings we obtained regarding the democratic institution of guarantee of rights and the dimension of control.

As I mentioned above, the difference between the impacts on the different democratic institution is not extensive. One cannot draw the inference, however, that this will be also the case, when we will regard informal institutions in a more dominant status. For example, a stronger version of corruption will not change significantly the results we got in the analysis of elections, but it will modify the findings dramatically in

26 See Inter-Parliamentary Union (1994): Declaration on Criteria for Free and Fair Elections, Genf
the cases of guarantee of rights and rules settlement and implementation. I suppose we could observe this trend in the other cases, too, if we discussed stronger versions of informal institutions. Following this line of argumentation we get an additionally argument in explaining the empirical difference between ‘democratic’ elections and ‘weak’ rule of law. Strong versions of informal institutions can attribute to the mentioned explanations. [Serious problems emerge for democracies, when the discussed informal institutions tend to dominate. In such situations, we observe hybrid regimes, if democratic rules are not longer the only game in town.][27]

A few problems of the analysis I want to stress by myself: It seems difficult to draw a strong analytical borderline between the different informal institutions. For example, clientelism can contain or enclose informal right systems; mafia is strict related with corruption and threat (of violence). These problems are related to complex empirical phenomenon, which indeed combines various institutions. Nevertheless it is possible to make an analytical disconnection by identifying the principle norm of each one.

Another problem seems more complicated. Our discussion about the impact on democratic institutions always demands imagination of an equal strength of the each informal institution. This is an important issue, because the impact depends seriously on this strength. If this varies, one would obtain different results. It is no easy task, however, to consider all informal institutions with the same emphasis.[28] Nevertheless I think the analytical debate can provide a preliminary foundation for further research.

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[27] This danger is obvious in the process of regime transformation. In most cases of transition, there is a phase in which the old formal institutions die but the new ones have not yet appeared. In this environment of insecurity, there is a need for certainty, which can satisfied by informal institutions. These then tend to survive over into the institutional world of the new regime.

[28] It could be that some assessment is biased. The institution “Threat perception” needs always a strong performance to have any effect, while other informal institutions are working already at a
4. Operationalization of informal Institutions

The reflections on informal institutions provide an interesting indication of measuring informal institutions. Most studies of such phenomenon base on qualitative assessments. I do not want to criticize this methodological procedure. There exists, however, another complementary way of measurement. If all informal institutions find their resonance in the attitudes of individuals, it is possible to use the quantitative methods of empirical social science research to assess the spread and acceptance of informal institutions. For the empirical research one can construct a questionnaire about informal institutions (see the following table). A few similar questions are included in other surveys (World Value Survey, East European Eurobarometer, Latinobarómetro etc.) which can be used, too. Such research allows the assessment of the spread of informal institutions inside the whole society. If we get the sufficient data it is possible to look for informal institutions according to functional as geographical criteria.

Additionally one can use special indices on informal institutions as the Corruption Perception Index (CPI) of Transparancy international. The CPI, started in 1995, ranks about 90 countries in terms of the degree in which corruption is perceived to exist among public officials and politicians. The CPI is a composite index, drawing on several surveys from independent institutions. The surveys incorporate the perceptions of business people, the general public and country analysts. The CPI bases lower level.

Another methodological problem is worth to mention. The category "some" indicates more similarity than it is often given. "Some" can indicate, that all cases are affect in the same middle range sense, which means that all components of a democratic institutions are impressed in the same intensity. Or it can indicate, that a few issues are affected strongly while all others are not (or far less) touched. The second possibility marks the majority.
on qualitative assessments. The CPI indicates a specific problem on measuring informal institutions. They cannot be observed directly. For that reason TI assess the perception of corruption. This approach cannot control intervening variables (such as public opinion) which could stimulate the response of the observers. This possibility cannot be excludes by the first mentioned approach either. One possibility to reduce this problem consists in the construction of the questionnaire. It would be better to ask for the individual experience with informal institutions than for opinions about them. Additionally one has to cautious with the interpretation of the data. A widespread knowledge of informal institutions is a necessary but not a sufficient condition for strong informal institutions. They have to be practiced as well.

A third possibility is provided by measurements of good governance. The World Bank uses composite variables for the ranking of good governance (Kaufmann et al. 1999 und 2002). The basic idea of this third approach of measuring informal institutions consists on the assumption that a weak performance of good governance can be an indicator for strong (unfriendly) informal institutions. Such an assumption can be confirmed, it cannot be excluded, however, that other factors determine the poor performance. For example, defects of the rule of law can be caused by informal institutions, but also by the inconsistency of the formal rule or the insufficient administrative infrastructure. Therefore it is necessary to analyse carefully such composite variables. Perhaps only elements of them can be used in the indication of informal rules. Less recommended is the consideration of approaches of measuring democracy. Although it should be expected, they do only include partially and implicitly – if at all – the measurement of informal institutions (Lauth 2004). And in these cases, they do, one cannot receive the respective data (freedom house).
<table>
<thead>
<tr>
<th>Type of informal institution</th>
<th>Questions</th>
<th>answers possibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clientelism</td>
<td>1. Are the relevant political decisions made by parliament and government?</td>
<td>Always – sometimes – never</td>
</tr>
<tr>
<td></td>
<td>2. Does one need personal protection, if one wants to influence a political decision or reach an administrative position?</td>
<td>Government/Parliament – informal circles</td>
</tr>
<tr>
<td></td>
<td>3. Where is the centre of political power?</td>
<td></td>
</tr>
<tr>
<td>Corruption</td>
<td>1. If one wants the administration staff to do their duty, one needs to blackmail (extortion).</td>
<td>Always – sometimes – never</td>
</tr>
<tr>
<td></td>
<td>2. If you want the administration staff to do their duty, you are willing to bribe?</td>
<td></td>
</tr>
<tr>
<td>Threat perception</td>
<td>1. Do you think one has to consider the interest of powerful groups while voting?</td>
<td>Always – sometimes – never</td>
</tr>
<tr>
<td></td>
<td>2. Are the elections free of external threats?</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Do you think that all relevant issues can be treated in parliament?</td>
<td>Yes – no</td>
</tr>
<tr>
<td>Informal right system</td>
<td>1. Do you have to consider other rules and &quot;law&quot; that are not indicated by the official law?</td>
<td>Yes – no</td>
</tr>
<tr>
<td></td>
<td>2. Are these rules in contradiction to the official law?</td>
<td>Always – sometimes – never</td>
</tr>
</tbody>
</table>
6. Resume

If we look at the impact of the informal institutions on democracy as a whole, it is difficult to obtain a differentiated picture. Each dimension is more or less affected. Therefore, one can speak of a widespread effect of informal institutions that allows a certain ranking of their impact. If the concept of democracy is divided into five democratic institutions, the picture becomes clearer. First, this strategy gives us the opportunity to prove the former general assessment. Second, it allows us to constructing an impact profile of each informal institution. Third, it highlights the areas that are most affected by informal institutions. In consequence, the empirical research can be conducted using these results. As it was indicated, the empirical research should initiate the satisfactory assessment of the strength of an informal institution.

In this presentation we have dealt with a complex structure by analyzing the relationship between informal institutions and democratic institutions. Certainly, one can improve the analysis in different aspects, but I think that the given ideas underline the fruitfulness of research strategy presented here. One gets a better impression of the influence of informal institutions by differentiating the main variables. The next step should be to look for the empirical evidence of the expected relationships. One goal is to specify the impact profile of informal institutions. Following this path, we can improve future research on our theories on democratization (especially the phenomenon of defective democracies). Last but not least, we can contribute to a better understanding of informal institutions, about which we do not know a lot, as Douglass North (1990: 140) mentioned.
Regarding the theories of transformation two points should be underlined. Firstly, in the conceptualization of steps of democratization, informal institutions have to be systematically included in the analysis of the institutionalization of Democracy. The orientation toward the phrase of ‘institutional uncertainty’ (Merkel) after the end of authoritarian rule can produce an uncompleted picture of reality, if parallel to the change of formal institutions a set of informal institution survives in stability (or even gain stability in a context of unstable formal institutions). One has to analyze the whole package. Only then it is possible to understand the working (democratic performance) and the dynamics of young democracies. In this perspective of research, theories about institutional change are needed. Not only has the impact of informal institutions on democratic institutions had to be analyzed but also the possibility steering informal institutional change by formal institutions.

Secondly, including informal institutions in the analysis brings power back in. The power dimension have been neglected by rational choice approaches and institutional studies concentrated in formal regime change. Without doubt the setting of a new constitution reflects power relations. To believe that possibility would be the only way of powerful groups and elites to influence the political process after regime change ignores the capacity of informal institutions to canalize and to transfer power interests efficiently. Especially powerful groups can be interested in an informal institutional setting that allows them a more effective way of political participation than the formal institutions. Institutional building (in young democracies) from the view of such groups can mean enforcement of informal rules (clientelism, corruption). The fight for democracy has also to be won in this area of informal institutions.
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Annex: Explanation of the tables (chapter 3)

Explication: (1) procedures of decision (elections)

*Kinship:* Does kinship have an influence on free voting? Although voting in this contexts results in group election or block voting, there is no evidence that the members of the community are forced to elect a special candidate or do not have the possibility of free elections. They want to elect their chief respective leaders and they do (or they elect these persons, that are indicated by their chiefs). The facts are a little bit different by observing the passive suffrage (eligibility), because it will be extremely difficult for ordinary members to candidate (especially against the desire of the chiefs). For that reason, normally they (the regular members) do not use this right. The liberty of election is reduced in that way. The same structure can be identified by analyzing the dimension of equality. Each person of the community has the same vote, but not the equal chance to candidate. Kinship does however not affect the candidacy of persons outside the kinship(-community). If it is possible to leave the kinship-network (without high costs), there are no restriction on passive suffrage. Kinship does not affect the possibility of control or monitoring the elections, too.

*Mafia:* What impact has mafia – understood as a special network – on free elections? It is not expected that mafia has any influence on voting behavior. In certain situations, it cannot be excluded that candidates are forced to abandon their candidacies. Therefore, free vote is impeded. A similar situation is given, analyzing the equality of election. In this case the impact on a fair candidacy can be even stronger, because, while some candidates are forced to leave, others would be protected. Mafia may have also an influence on the control in a limited area or local environment. In sum, the negative impact of mafia on elections is stronger than the impact of kinship.

*Clientelist parties:* Analyzing clientelistic parties is a very intriguing task. At the one hand, it seems that all members of such a kind of party are obliged to elect their leaders. At the other hand, it is undeniable that the members of a clientelistic party

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29 In that sense one can observe voting behavior determined by ethnic lines. This represents no problem for a democracy like the other kinds of cleavage bounded voting (see labor and capital).
have come to a deal with the patron. Liberty is only affected in the sense that this deal is not free. If one has the possibility to select the party membership between rivaling parties, there is no restriction.\textsuperscript{30} The existence of clientelist parties cannot be understood as restriction to candidate. This changes, if one observes the dimension of equality, because the chance to be a candidate of a clientelistic party is restricted to elitist circles. The existence of such parties does not mean, however, a reduction of control.

\textit{Corruption:} The impact of corruption differs, compared with clientelistic parties. There is no impact on the liberty of election. The sometimes used argument of bought votes (Hadenius 1992) is not convincing. If buying votes should indicate a violation of liberty, it must be demonstrated that this deal was necessary for the voters. This is very difficult to demonstrate. But also the concept of buying votes is not clear in itself; Robert Dahl mentioned (1976) that each campaign promise has something of buying votes. Corruption can affect the equality of election. Although it is difficult to buy votes, it is not so difficult to buy a candidate or to influence the nomination of candidates. Additionally, the dimension of control is affected by corruption. However, this is rather linked with local or regional than with national elections, or differently spoken, with rural than with urban areas.

\textit{Threat perception:} Threat perception or the use of threat indicates the strongest impact of informal institutions on elections. It prevents the citizens from voting for their preferential party or candidate, blacklisted by the veto-player. If many citizens vote for their preferences neglecting the threat, the veto-players (military) can close up the elections (by annuling them; see Algeria). The liberty of elections can be drastically reduced (if military forces use this instrument in an creditable way).\textsuperscript{31} Not affected is equal voting (each vote counts the same), but the equality of candidacies, because certain candidates (or parties) are more or less forbidden. Contrary to the impact of corruption it is not expected, that threat perception has a significant influence on the control of elections.

\textsuperscript{30} This means the absence of meaningful ethnic cleavages, which only was limited the case in former Yugoslavia.

\textsuperscript{31} A lower version of this type of informal institution is given, when mighty financial actors make their inversions or donations depend on the election results.
**Informal right systems:** It is much more difficult to assume the impact of informal right systems, which are not compatible to the rule of law, because they vary in a broad manner. They challenge free, fair and controlled elections, when they are responsible for the registration of voters and candidates. This is the case, when informal right systems discriminate certain issues or minorities. They are far less relevant, when they deal only with economic matters.

**Explication (2) intermediate mediation/regulation of the intermediate sphere (organization rights)**

**Kinship:** If kinship does not cover the structure of the whole society, there is no indicator for a reduction of liberty outside the kinship-community. Inside it can be suspected that particular interests, dissident to the chiefs, are suppressed by the clientelistic structures and therefore, have less chance to organize. In the same way the equal chance of organization is diminished. This reduction is not significant, if the chance exist to leave the kinship without high costs. The dimension of control is not affected negatively, but normally kinship – as rooted in a parochial worldview – gives no incentive for control of national government, if proper interests are not concerned.

**Mafia** can restrain more active the rise of other organization. For example, they can try to block groups of civil society to organize a campaign for transparent politics. In this way, the equal chance for representing certain interests would also be reduced. For some segments of interests the situation can be worse, because mafia has the possibility to manipulate state actors in order to support their aims. These annotations make clear, that mafia also wants to restrain control of politics, if their interests are involved. Although mafia has an impact on all dimensions, one should not overestimate it, because it is linked with or directed to smaller segments of organized interests.

**Clientelistic parties** have little influence on the regulation of the intermediate sphere. It can be that they have effects on organizations, which are connected with them. Problems emerge however, when clientelistic parties come to power, because they try to make other organizations dependent on them (like the PRI in Mexico) or to
block independent formations. This case is near to cross or crossed already the democratic borderline.

Corruption does not affect the right of organization in general, although one can imagine situations, where corruption is used to block the registration of a party (or an organization). The influence is higher, regarding the dimension of equality. Through corruption the political process can be closed or opened for special organized interests. Even more it contributes to impede effective control, if organized interests which are critical to government, are bought by incorporating or coopting their leadership.

Threat perception does not affect the formation of organization. Nor does it modify the equal chance to organize interests. It can, however, modify the behavior of organizations, especially during the electoral campaign. The mechanism of threat can restrict the agenda or restrict to push certain candidates. Given this situation, not all interests have the equal chance to be presented. Also there exists the possibility that the disposition to control is weakened.

Informal right systems based on rigid value systems can give some resistance to certain demands and can block the equal organization of all interests. Special interests can have more difficulty than other (rights of women, anti-religious or sexual orientation). The freedom and equality of intermediate regulation is touched. The dimension of control is not influenced, however.

Explication (3) public communication

Kinship does not affect the communication structure outside the community. But it can suppress different kinds of communicative liberties and related freedoms (freedom of worship) inside of it. In this way a few restrictions on the equal chance to use the communication liberties are given, too. Concerning the parochial perspective of the world, one should no expect a significant contribution to the control function. This does not have any effect on control activities of actors, which do not belong to the kinship-network.
Mafia. The impact of mafia on public communication is more massive in all three dimensions of democracy. Especially affected is the freedom of information and press, because mafia is hindering investigations in those areas which belong to its sphere of influence. Using incentives (corruption) or threats, factual censorship on certain topics can be built. This restricts the possibility of control, too. These influences do not affect, however, all the issues which are not connected with mafia-structures.

The influence of clientelistic parties on public communication is even lesser than in the case of intermediate mediation. Danger for the democratic structure of public communication emerges, when a clientelistic party is in government. This affects to a lesser extent the respective individual freedoms, but more the plural structure of mass media.

Corruption affects public communication in various ways. Rather to understand corruption as an instrument of censorship, because in a pluralistic media world different ways of publishing can be easily found, corruption has to be seen as an institution, restricting the freedom of information and control. These effects are mainly activated by occulting certain facts or – expressed in other words – by reducing the transparency of the political process (one may speak of an indirect censorship). This implicates that each person has not the same access to information.

Threat perception can have an impressive impact on public communication, because it can cause an intrinsic censorship. All the issues, which are related – or only supposed to be related – to the threat, are automatically dropped. It is difficult to assume, how strong the impact is. On the one side, it can be unclear, which issues can be affect (sometimes the borderline is blurred) and therefore, it can develop a self expanding syndrome, in which more issues are concerned than the threat initially has covered. On the other side, all issues which are not connected with threat are not restricted. Neither is affected the media structure. The aspect of control (that occupies past decisions) is less influenced.

Informal right systems: Traditional informal rights systems normally have no or only limited influence on public communication. One problem emerges, if these parallel
rules prohibit or discriminate actions, linked to the complex of communication freedoms. For example, fundamental religious norms restrict the freedom or opinion and expression. If such norms are not too strong, they have a very low impact on the control dimension.

Explication (4) guarantee of rights

*Kinship* has no impact on the free access to rights and the independence of courts outside the community. It is possible, however, that a kinship community is linked with the status of low intensive citizenship, which complicates the use of legal proceedings. Furthermore, kinship can reduce the application of guarantee of rights for some of its members by social pressure, if these members intend to defend their rights by legal proceedings against their chiefs’ interest. This possibility indicates the potential reduction on equal chances to protect the rights, which is already given by the status of low intensive citizenship. Nevertheless kinship does not lessen or weaken the institution of judicial control.

*Mafia*: Similar to other cases of democratic institutions, the negative impact of mafia is higher than that of kinship. If mafia exists, individuals can be hindered to use their rights (in different ways). They can be threatened directly to abandon legal procedures or the judicial process itself is manipulated. Both restrict the freedom and the equality in the same way. The judicial control over government, however, is less affected. Mafia may have some impact on lower courts, but its capacity to influence decisions of higher courts is low.

*Clientelistic parties* do not restrict the guarantee of rights regarding the access to court, with one exception. Conflicts inside such parties cause seldom a legal proceeding, although formal rights can be involved. Depending on the interconnectedness between such parties and the judicial system, the possibility exists that party members are treated with preference, which damages the equal treatment of all citizens. The judicial control would only be affected, if the independence of the courts has been reduced by the dominance of clientelistic parties. Examples for this development are cases on the democratic borderline or beyond democratic regimes (see Peru or Argentina in the 90ies).
Corruption has several effects on the guarantee of rights. It can contribute to hinder the free application of this formal institution by influencing the entire legal procedure. Even more affected is the legal equality. If a system of corruption is well established, all the persons or groups with a high capacity of bribe have good chances to escape the sentence. In such an environment the possibility of control is reduced, too. Office holders can use their position to bribe in legal proceedings in different ways.

The impact of threat perception on rights guarantee is low. The significant influence on voting behavior possesses no or less equivalence in that case. It can reduce, however, the chance to protect individual right in certain areas. Therefore, all issues linked to the threat are not likely to be brought to court. The courts might as well ignore them (their statements of claim) or respectively the judges do not feel free to sentence impartial. This limits the independence of jurisdiction to a certain degree. The exclusion of specific interests from the judicial agenda affects the equal chances of rights guarantee, too. The impact on judicial control or judicial review is less.

Informal right systems can modify the role of judicial system by offering procedural alternatives. If one has the choice between various right systems, the value of each shrinks. Also it can hinder individual to se their formal rights, because they are still living in the world of the informal right system, which shaped their mind. Against this background, it can be expected that the control of government is affected as well.

Explication (5) rules settlement and implementation

Kinship does no affect rules settlement and implementation in a strong way. It can reduce the effectiveness of bureaucracy by refusing the cooperation. In the worst case, kinship can produce ‘brown areas’ and diminish the exclusive authority of the state. The influence on the equality dimension is less strong in this category. Nevertheless there exists, like in the case of the democratic institution ‘guarantee of rights’, the possibility that a kinship community is observed under the perspective of low intensive citizenship. Political control is not affected by official institutions, which is given by the separation of powers.
The impact of *Mafia* on effective government is higher in each dimension. The worst influence can be observed considering freedom, because *mafia* can create significant ‘brown areas’ which undermine the exclusive authority of the state. To a certain extent it can invent a Veto-power with the chance to pressure important politicians. In the same way or by establishing networks, mafia can have a privileged access to the relevant institutions of rules settlement and implementation. So the equal treatment of all citizens is damaged. Furthermore, mafia undermines in a limited scope the separation of powers in order to weaken the mechanism of control.

The impact of *clientelistic parties* on this democratic institution is quite low. This can change dramatically, if such a party reaches power. Then, one can expect that clientelistic networks disturb the rational character of bureaucracy. Equal treatment is affected in a more extensive manner, because all the members of a clientelistic party obtain a privileged access to offices. Additionally, the clientelistic networks cover the various powers and weaken their independence. We do not rate these problematic tendencies (like in the discussion of the other democratic institutions), because such a situation is characterized by the domination of the informal institution, which should not be included in our analysis.

*Corruption* influences rules settlement and implementation mainly in two ways. It can weaken the effective working of a bureaucracy and it can secure a privileged access for certain groups, which can use it for their particular interests. The restriction on equality is assumedly higher than that on freedom. The dimension of control seems to be less affected.

*Threat perception* is a more dangerous informal institution for effective government, because it can only work, if a significant and mighty veto-power exists, which is ready to act outside the constitution. In consequence, the exclusive authority of the state is deeply affected. The other aspects of effective government are less involved, with one significant exception, which is related to the privileged access of such actors to the highest political powers. That means a reduction of equality. Although the dimension of control is biased by this informal institution, the effects are lower than those regarding freedom and equality.
Informal right systems, which are not compatible with the rule of law, can have a vehement impact. The main problem bases on the possibility of a competing law system, which as well needs its own power resource, restricting the exclusive authority of the state and its capacity of implementation. This does not imply, however, that the equal treatment of the citizens by government and bureaucracy is automatically involved. Nevertheless it can create for some citizens a situation, reducing their chances to get access to the formal institutions, because they do not know their official rights. The dimension of control is not affected.
<table>
<thead>
<tr>
<th>Informal Institution</th>
<th>Freedom Democratic institutions</th>
<th>Equality Democratic institutions</th>
<th>Control Democratic institutions</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>1</td>
<td>2</td>
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