

## ELECTORAL SYSTEMS CHANGE IN ESTONIA, 1989-1993

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In many ways Estonia set the pace in political development among erstwhile USSR republics during the crucial years of 1989-93. It was the first to adopt a new constitution (on 28 June 1992) and to hold post-independence parliamentary elections (on 22 September 1992). With the important exception of Ishiyama ("Electoral Systems"), most of what has been written about elections in that country in the post-independence period is relatively descriptive. There is a dearth of analysis of election results beyond the reporting of seats-votes discrepancies (see e.g., Fitzmaurice). Often only one or a few elections are covered. Elections in countries formerly in or associated with the Soviet Union have become the focus of a great deal of scholarly attention (see e.g., Jasiewicz, Nohlen and Kasapovic, Olson, Wiatr), with particular attention to electoral rules and their consequences (especially for proportionality in seats and votes), on the one hand, and evolution in party systems, on the other. However, relatively little attention has been paid to the Baltic states, compared to countries in Central Europe such as Poland, Czechoslovakia and Hungary. Studies of the Baltic States and Estonia in particular tend to concentrate on other aspects of politics and democratization (e.g., Arter, Clark, Raun, Steen, Taagepera ["Estonia's Constitutional"], Grofman et al.), paying only incidental attention to electoral rules. A partial exception is Raitviir.

This study offers an overall consideration of the origins and evolution of electoral rules in Estonia during the democratization period, 1989-93, with an emphasis on institutional borrowing and on the strategic considerations of political actors. Also we discuss some peculiar features of the electoral rules under which the 1992 Estonian parliamentary elections were held, as an illustration of the potential significance of the unanticipated consequences of electoral system change. While our interpretation of the consequences of the 1992 rules is distinctive from that in other research, much of the information in this paper is available elsewhere, in a scattered form. Thus, we see the study as providing a useful compendium of country-specific electoral systems

information.

Since 1993, Estonia has had several further elections (including parliamentary elections in 1995 and 1999). However, we focus on the seminal stage of 1989-93. By this time the electoral rules were in place and only minor features have been altered.

### **Six Years, Nine Elections**

During the six years between 1988 and 1993, Estonian voters went to the polls nine times: twice for national referenda, five times for national elections (including a concurrent presidential election), and twice for local elections.

In 1991 there was a critical referendum about restoring the independence of the Republic of Estonia; it resulted in an overwhelming endorsement of independence. June 1992 saw a referendum on the new constitution.

Between 1988 and the Estonian declaration of independence in 1991, four parliamentary or quasi-parliamentary elections took place. The March 1989 elections determined the Estonian representatives to the USSR Congress of People's Deputies. In late February-early March 1990, a quasi-parliament, the Estonian Congress was established. It was elected by pre-1940 Estonian citizens only, intended to provide a non-Soviet set of representatives of the Estonian people to negotiate on their behalf. Elections to the Estonian territorial parliament (the ESSR Supreme Soviet that became the Estonian Supreme Council) took place in March 1990. Once independence was restored in August 1991, the first post-Second World War elections to the national assembly of a free Estonia occurred in September 1992, simultaneous with elections for the President of the Republic. Elections for local government took place in December 1989 and again in October 1993. By this point Estonians were rather sick and tired of elections.

Our principal empirical focus in this paper is on the 1992 post-independence parliamentary election. However, we shall also make some brief comparisons with some of the other elections.<sup>1</sup> These differed from one another in crucial ways, including differences in the sets of competing parties/groups, differences in electoral rules, differences as to who was eligible to participate, and, of course, differences in results.

### **Basic Features of the National Elections**

For the convenience of the reader, we provide in Table 1 a list of the national elections held in Estonia from 1989 to 1993, specifying for each

election the following: eligibility to vote, estimated turnout among those eligible, number of seats being contested, the range of district magnitudes (seats per district), basic electoral rules, number of parties or groups contesting the election, and results in terms of the seat shares of the half dozen or so largest parties. A glossary of basic electoral terms is given in the Appendix.

**Table 1. National Elections in Estonia, 1989-1992**

|  | USSR Congress<br>Of People's<br>Deputies<br>(March 26,<br>1989) | Estonian<br>Congress<br>(Feb. 24 -<br>March 1,<br>1990) | Supreme Soviet<br>of Estonian SSR<br>(March 18,<br>1990) | Estonian<br>National<br>Assembly<br>(Sept. 20,<br>1992) | President of<br>Estonia<br>(Sept. 20,<br>1992)  |
|--|---|---|--|---|---|
| Eligibility                                      | Permanent<br>residents +<br>Soviet Army <sup>a</sup>            | Pre-1940<br>citizens <sup>b</sup>                       | permanent<br>residents +<br>Soviet Army <sup>c</sup>     | Republic of<br>Estonia<br>citizens                      | Republic of<br>Estonia<br>citizens  |
| Estimated<br>turnout<br>among<br>Eligibles       | 87.1%   | 91.0%   | 78.4%  | 67.8%   | 68.0%   |
| Number of<br>groupings<br>contesting             | 3 major<br>tendencies   | 4 major<br>tendencies                                   | 3 major<br>tendencies                                    | 17 parties +<br>25 indep.                               | 4 groupings   |
| Effective<br>number of<br>parties                | -----   | -----   | ----- <sup>d</sup>                                       | 5.9   | 3.1   |
| Number of<br>seats                               | 32 + 4 elected<br>+ 12 appointed                                | 499 + 43<br>advisory re-<br>presentatives               | 97 + 4   | 101   | -----   |
| Number of<br>districts/<br>district<br>magnitude | 32/1 + 4/1  | 125/2-8   | 42/1-5<br>+ 4 military<br>seats                          | 12/3-13<br>+ national<br>alloc.<br>Remainders           | 1/1   |
| Electoral<br>Rules                               | Absolute<br>majority and<br>run-off                             | Limited vote  | single<br>transferable vote<br>(STV)                     | Complex<br>list PR<br>5% national<br>threshold          | Majority<br>required on<br>first ballot; if<br>run off,<br>election<br>needed.<br>Decision by<br>Parliament |
| Number of<br>parties in<br>legislature           | 3 tendencies  | 4 tendencies  | 3 tendencies   | 9   | -----   |

Table 1. Continued

|         | USSR Congress<br>Of People's<br>Deputies<br>(March 26,<br>1989)  | Estonian<br>Congress<br>(Feb. 24 -<br>March 1,<br>1990)   | Supreme Soviet<br>of Estonian SSR<br>(March 18, 1990)  | Estonian<br>National<br>Assembly<br>(Sept. 20,<br>1992)  | President of<br>Estonia<br>(Sept. 20,<br>1992)   |
|---------|--|---|--|--|--|
| Results | Popular Front<br>supported<br>candidates --<br>75.0%<br>Intermovement<br>and allies --<br>13.9% <sup>e</sup> | Popular<br>Front --<br>21.4%<br>Estonian<br>Heritage<br>Society --<br>20.8%<br>ENIP --<br>14.0%<br>CPE --<br>7.8% | Popular Front<br>40.6-44.6%<br>CPE, Free<br>Estonia and its<br>Rural Allies<br>24.8-28.7%<br>anti-indep.<br>JCWC and its<br>military allies<br>27.7-28.7% <sup>f</sup> | Fatherland<br>--28.7%<br>Secure<br>Home --<br>16.8%<br>Popular<br>Front --<br>14.9%<br>Moderates<br>--11.9%<br>ENIP --<br>9.9%<br>Indep.<br>Royalists --<br>7.9% | Rüütel --<br>41.8%<br>Meri --<br>29.5%<br>Taagepera --<br>23.4%<br>Parek --<br>4.2%<br>Parliament:<br>Meri -- 59<br>Rüütel -- 31 |

<sup>a</sup>Soviet Army personnel voted in regular districts. Which district that was to be was designated by their officers.

<sup>b</sup>Post-occupation immigrants who sought citizenship voted separately, electing advisory representatives. About 8% of the immigrants took part.

<sup>c</sup>Soviet Army personnel elected 4 separate representatives.

<sup>d</sup>On the ballots, party affiliations were not used. Therefore it was difficult to translate the outcome in terms of party support. Some members of parliament also changed their affiliation after election or decided to remain independent.

<sup>e</sup>The main distinction was between the Popular Front and Intermovement and its allies. CPE was a separate third group, but was slowly pulled apart in a tug of war as to links to the two other groupings.

<sup>f</sup>As formal party lists were not used, it is difficult to express the outcome in terms of party affiliation and support. Some members of parliament also changed their affiliation after the election or decided to remain independent.

The March 1991 independence referendum was restricted in participation to permanent residents of Estonia. About 1.2 million were eligible, about thirty percent of whom were of Russian ancestry and about sixty percent of Estonian background. In contrast, in the USSR Congress of People's Deputies elections in March 1989, and in the ESSR Supreme Soviet elections in March 1990, members of the Soviet Army stationed in Estonia also voted to elect Estonia's representatives. There were about 40,000 soldiers who were added to the rolls in this fashion.<sup>2</sup>

The quasi-parliamentary elections to the Estonian Congress in 1990 marked the most dramatic break with Soviet practices. Only citizens of pre-occupation Estonia and their descendants (regardless of place of residence) were entitled to vote. However, post-occupation immigrants were given the opportunity to vote on separate rolls to elect 43 advisory representatives.<sup>3</sup>

Post-independence, in the 1992 constitutional referendum and the 1992 national elections, eligibility was again confined to Estonian citizens. This meant that roughly 500,000 non-citizen residents, mostly Russian settlers who came during the Soviet occupation, were unable to vote under the new electoral and citizenship law. Still, about 90,000 non-Estonians (mainly Russians), being pre-1940 citizens of Estonia, were entitled to vote, while an almost equal number of ethnic Estonians, who were not citizens of pre-1940 Estonia (because they or their parents lived elsewhere at the time), were not entitled to vote (Park 72-6; Fitzmaurice 168; Raun 77). Estonian citizens and descendants of pre-1940 Estonian citizens who resided abroad were entitled to vote.

The number of applicants for Estonian citizenship in 1992 was very low: only 7,571 residents applied for citizenship, and it was granted to 5,417, of whom 3,989 were ethnic Estonians. Citizenship was also granted for special services to 465 persons. About 34,000 non-citizens had applied to the Congress of Estonia for citizenship in 1990 and on 18 February 1993 the Estonian parliament simplified the rules for them (Park 73). By 1994, perhaps 10,000 of them had reapplied for Estonian citizenship.<sup>4</sup>

In an attempt to eliminate the occupation army vote (where army service typically lasted two years), the 1989 local elections tried to restrict voting to those with two years local residence or ten years overall in Estonia. Soviet protests forced suspension of this restriction as it applied to voters, but it was maintained for candidates. The restriction affected roughly 10 percent of the colonists, but practically no native Estonians. Since independence, the practice of allowing non-citizen residents to vote in local Estonian elections has been continued and even enshrined in the constitution. In this respect, Estonia is more liberal than the U.S. or many other old democracies. In the heat of argument about citizenship in Estonia, both practitioners and scholars have tended to neglect this important opportunity of all permanent residents to participate in grass-roots democracy.

### *Turnout*

Turnout in local elections was around seventy percent in 1989 and

around fifty percent in 1993. Overall, turnout in the national elections identified in Table 1 ranged from a high of eighty-seven percent in the 1989 USSR Congress of People's Deputies elections to a low of sixty-eight percent in the 1992 parliamentary and presidential elections (Eesti Vabariigi Valimiskomisjon). However, for the 1989 elections turnout was estimated to be seventy-five percent among non-Estonians but ninety-five percent among Estonians (Taagepera, "A Note" 336). Similarly, if we focus only on Estonian citizens, it is striking how high the turnout was in the 1990 election to the Estonian Congress: ninety-one percent. High turnout in the election to the Estonian Congress is particularly remarkable in that this election was organized "unofficially" -- intended to provide a representative body reflective of the wishes of Estonian nationals (see Taagepera, "A Note" and *Return*).<sup>5</sup>

The high turnout in 1989 and 1990 is not surprising. For the first time since the Soviet occupation of 1940, Estonians had the opportunity to express their views in multi-option elections, and they seized this opportunity, the more so because, for all they knew, Soviet counteraction (which fortunately did not materialize) could abolish their new freedom any time. They also overestimated the importance of elections as compared to other, more time-consuming aspects of democracy such as lobbying, party and committee work, and other grass-roots civic activities. As it became apparent that merely voting in elections was not a magic wand for democracy, excessive faith in elections turned into excessive disillusionment, and participation rates dwindled. After holding at sixty-eight percent in 1992 and 1995, turnout tumbled to fifty-seven percent in 1999.

### *Electoral Rules*

Perhaps the most striking feature of the comparisons in Table 1 is the range of electoral systems that were used in the four national legislative elections over this very short time period of 1989-92 (see Appendix for terminology):

- one election with absolute majority and runoff;
- one election each with each of the two basic forms of proportion representation (PR) -- list PR and Single Transferable Vote (STV);
- and one semi-PR system (the Limited Vote).

Moreover, district magnitudes ranged from single member districts, to small multimember districts (for the elections using STV and the Limited Vote), to a national-level allocation according to list PR used to supplement district level results.<sup>6</sup> We shall discuss the origins and

consequences of these rules in more detail in the last section of the paper.

### *Results*

The most dramatic result of the 1989 USSR Congress of People's Deputies elections was the emergence of the Popular Front, a coalition of democrats and moderate nationalists, as the clear winner. In looking at the election returns in the 1992 parliamentary elections it is apparent that among the major losers were groupings and parties which tried to cash in on the images they had established during the independence struggle -- especially the Popular Front, but also the Estonian National Independence Party (ENIP). A general problem faced all "old" groupings (i.e., those more than one year old), but especially those whose leaders had been visible in the parliament and the government. They had had to face the responsibilities and limitations of governing and could not adapt well to the rapid changes in Estonian society. This gave such groupings the appearance of being conservative and timid compared to newer parties. Also, after Estonia had gained independence, most changes to its welfare system were negative. The existing groupings took some of the blame and lost in popularity. In contrast, the electoral campaigns of the newly formed Estonian Citizen and Fatherland parties were especially successful in the national election of 1992,<sup>7</sup> as was the Secure Home party, an umbrella label used by former Communist bureaucrats.

The embryonic and fluid party constellation, where voters voted more for individual leaders than for parties, has been described in detail by Arter. The Popular Front did not survive intact into the post-independence period, and the major parties which descended from it (Centre Party, Social Democrats, Liberals, Rural Centre Party) had a mixed fate. By early 1994, opinion polls showed the Centre party with about a ten percent support, but Social Democrats, Liberals, and the Rural Centre Party, all of whom had joined the 1992-94 radical nationalist government coalition, had a combined support of only six percent. Volatility continued beyond 1993. In the 1995 election, the Centre Party received 14.2 percent of the votes, the Moderates (an amalgamation of Social Democrats and the Rural Centre) received six percent and the Liberals were subsumed in a new Reform Party that received 16.2 percent of the vote. The winners of the 1995 election were the Coalition Party (the former Secure Home party, led by former Soviet managers) and the Rural Union (led by former state farm managers) who formed an electoral alliance. Cashing in on the "personality vote" for Arnold Rüütel, the former president of the ESSR, they received 32.2

percent of the vote. They briefly formed coalitions, first with the Centre Party, then with the Reform Party, and thereafter limped along as a minority cabinet.

In 1999 the pendulum swung once more. The incumbent Coalition Party and Country People's Party (former Rural Union), now running separately, suffered severe losses (eight and seven percent of the votes, respectively). The Centre Party, essentially out of power since 1992, emerged as the largest single party (twenty-three percent of the votes) but remained isolated. The new cabinet was headed by the second-ranking Fatherland (sixteen percent), out of power since 1994, in coalition with the Reform Party (sixteen percent) and the Moderates (fifteen percent). For details, see Grofman et al.

### **The Evolution of Electoral Rules in Estonia, 1989-1993**

In this main section of the study we concentrate on three aspects of electoral rules distinct from the proportionality of seats and votes that is the usual focus of interest:<sup>8</sup>

- evidence of borrowing and adaptation from Western European practices;
- pragmatic reasons why particular rules were chosen; and
- consequences unanticipated by electoral law framers.

#### **Evidence of Borrowing and Adaptation from Western European Practices**

Pre-1990 elections in Estonia used majority rule in single member districts. Most Western scholars think of such electoral rules as associated with France and Australia, but this was also the standard format of Soviet era elections. (For details of Soviet rules see White.) However, the Soviet rules were written for elections where real contests were unheard of and turnout was always reported as very high. When choice between several candidates became possible in 1989, problems arose. Soviet rules allowed opposition to all candidates, and the winner was required to net at least fifty percent of the votes. This was easy to achieve in a field of one candidate (especially if the option of fraud was available if needed). But with two candidates, one encountered results such as forty-eight to forty-five, plus seven percent opposed to both -- in which case the electoral rule declared both candidates losers, and completely new elections with new candidates had to be carried out. (In the presence of more than two candidates, runoffs were prescribed.) The Soviet rules also required a fifty percent turnout, which had previously



been easy to achieve through compulsion and fraud. But in free and fair elections, once the novelty of real elections wore off, turnout began to fall below fifty percent in some districts. It had the consequence of voiding the elections and mandating new elections with new candidates - with the risk of an even lower turnout the next time around.

Awareness of the existence of electoral options other than the Soviet ones happened in Estonia probably earlier than in any other part of the USSR because Rein Taagepera, an Estonian émigré located in California, quickly took advantage of press liberalization. He published popularizing articles on electoral rules in a Soviet-controlled Estonian daily, *Edasi* (7 July; 13 September; 15 December 1988). Readers of those newspaper articles were sensitized to the wide range of electoral rule possibilities and the major differences in outcomes that could result under different rules. By local initiative, the Taagepera and Shugart book, *Seats and Votes*, was published in Estonian in late 1989, almost simultaneously with the publication of the English language edition. By this time, Taagepera had also taught a thirty-hour lecture course at the Estonian Humanities Institute and carried out shorter seminars for local administrators on electoral rules and constitutional options.

When Estonia adopted the Single Transferable Vote for the December 1989 local elections, terms like STV were probably vaguely familiar to about one percent of Estonia's adult population, and to a reasonably high proportion of politicians. But a little learning can be a dangerous thing. Politicians soon became sufficiently knowledgeable about the variety of electoral rules to begin playing games with them, without any theoretical understanding or practical feel for the results. The resulting 1992 parliamentary electoral law was a horror story, as will be described later. All of its components were borrowed or adapted from the West, but their combination was Byzantine.

### **Pragmatic Reasons Why Particular Electoral Rules were Chosen or Not Chosen**

#### *The 1990 Supreme Soviet Election*

The rules for the 1989 elections to the USSR Congress of People's Deputies were prescribed by Moscow and followed the traditional Soviet patterns. But, by 1990, the choices were in the hands of Estonians. For the 1990 Supreme Soviet elections (and the preceding December 1989 local ones), Popular Front proposed open list PR with simple quota and largest remainders. Taagepera (*Edasi*, 13 September 1988) had suggested this as the simplest method that struck some balance between

party representation and voters' inputs regarding particular candidates. List elections in any form were, however, opposed by the Communists, whose discredited party label would have brought down even those Communist leaders who were personally popular. The former Communists proposed the equivalent of the Single Non-Transferable Vote (SNTV), without any party labels shown, so as to capitalize on the high name recognition of local Communist officials. They also successfully pushed for local residence requirements so as to block the liberal capital city elite from competing with local managers.

As a compromise, Peet Kask of the Popular Front then proposed the Single Transferable Vote. It was adopted because it satisfied the Communist need to avoid party lists while still leading to a form of proportional representation. Surprisingly, the relatively complex ordinal STV ballot presented no difficulties for the voters, although their previous experience had been limited to ballots with a single name on them. The complexities of seat allocation through transfer of votes also were handled easily by district officials, thanks to clear step-by-step instructions and (in larger cities) computer programs prepared by Peet Kask et al. Using STV in the December 1989 local elections, where party lines were less firmly drawn, was a useful dress rehearsal for the more competitive Supreme Soviet elections three months later.<sup>9</sup>

### *The 1990 Estonian Congress Election*

For the Estonian Congress elections Taagepera was asked (early February 1989) for advice by Trivimi Velliste, leader of the Estonian Heritage Society, the main organization pushing for a national election restricted to those of pre-1940 Estonian citizenship. These 1990 Estonian Congress elections are what we believe to be a unique case of privately organized general elections -- opposed, though not blocked, by the Communist authorities. Taagepera recommended a form of Limited Vote for these elections. In his view, the vote had to be personal, because local activists often belonged to several groupings that competed on the national level but cooperated at the grass roots. Also, since the resources for implementing the elections were extremely limited, he argued for keeping the seat allocation procedure simple. Tallying STV ballots far exceeded the computational capabilities of the local committees.

As a "poor man's" approximation to non-list PR (STV), Taagepera recommended a form of the Limited Vote in which each voter was given a number of votes close to the square root of district magnitude.<sup>10</sup> In a nine-seat district, a voter could vote for three candidates, but in a four-

seat district for only two. On the one hand, this mitigates the disadvantages of the single non-transferable vote (SNTV), with one vote per voter, which risks wasting votes cast for the most popular candidates. On the other hand, it also almost certainly prevents the largest grouping from winning all the seats, as could happen with the extreme form of plurality, the bloc vote (in which there are as many votes for each voter as there are seats in the district). The square root formula was adopted, rounding up to the higher side (e.g., in a five-seat district, voters had three votes). No detailed justification for the square root formula was presented to the electorate, and indeed, it still lacks a theoretical basis.

To the best of our knowledge, no data on the district level outcomes of the Congress elections have been compiled beyond the names of the winners, but something like rough proportionality to the strength of the various groupings seemed to prevail (cf. Taagepera, "A Note"). The results seemed to be accepted by the voters as legitimate, to judge by the dearth of voiced objections (as compared to, say, the 1992 elections). The latter is a crucial test for any electoral system, and it will be seen that the 1992 rules may well have flunked it (see below).

### *The 1992 Parliamentary Election*

The 1992 parliamentary election rules were the result of two years of haggling in the Supreme Council, where important decisions required approval by fifty percent of the total membership. Effectively, absentees (typically one quarter of the total) were automatically counted as opposed to any measure proposed, so that any group of one-third of those present had veto power. This "super-democratic" decision-making rule was another vestige of the Soviet era, where the deputies' presence (and unanimity without any debate) was enforced through KGB methods. During liberalization, this rule, requiring what is often called a "constitutional" majority, made passing any laws difficult -- electoral laws included.

The prime impetus to replace the STV rule that had been used for the 1990 elections came from the Christian Democrats. They correctly observed that the 1990 election rules had weakened the emerging party structures, but incorrectly blamed STV, rather than the absence of party labels on the ballot.<sup>11</sup> The observation that clear party labeling on STV ballots in Malta has led to strong parties left the Christian Democrats unmoved, because they wanted a closed list system so as to assure election of nationwide leaders even in case of lack of local support. They already had their minds made up in favour of the German two-ballot system -- but with multi-seat districts so as to enable independents to

win, too. They had little or no idea of how much this apparently small alteration (multi-seat districts) undermined the desirable features that they attributed to the German system, e.g., a competitive system with a few strong parties.

In contrast to the replacement of the existing electoral law desired by the Christian Democrats, the Popular Front was in favor of only minor changes. However, its influence was rapidly diminishing as the coalition of groupings that had made up the Front was disintegrating now that their common aim of home rule for Estonia had been achieved.

Both the Popular Front and the more radical nationalists (including the Christian Democrats) desired new elections soon. Indeed, the August 1991 declaration of restoration of independence mandated elections in 1992. To have elections, one needs voting rules, and hence both these groupings felt some urgency to find a compromise. In contrast, the Communist managers (under new names like "Free Estonia," and later "Independent Democrats") expected to see further erosion of their support in the elections and were thus interested in delaying the elections as much as possible. They had sufficient votes in the Supreme Council to block any decision to implement electoral rules, and they appeared unmoveable.

The eventual compromise was a system that exemplified a mixture of bits and pieces with little rhyme or reason. For the 1992 Estonian parliamentary elections the rules started with Finnish-type "personalized" list PR in twelve districts whose magnitudes ranged from five to thirteen (averaging 8.4 seats). Voters voted for an individual candidate, but list affiliation was marked on the ballot. Candidates who received a full simple (Hare) quota (total votes divided by total seats in the district) were certified as "personally elected." The remainders were added by lists, and if a full quota (or several) materialized, the top vote-getters on the list received district seats. Up to this point the procedure followed the Finnish pattern and selected the most popular candidates. However, the list remainders (fractions of quotas) were not allocated in districts but were compiled nationwide and allocated (subject to a five percent threshold) to closed lists set up by party leaderships. Also, the allocation at this national level used a unique set of quasi-d'Hondt divisors: 1, 2.9, 3.9, 4.9, .... The raising of the d'Hondt divisors to a 0.9 power was intended to boost slightly the advantage of the largest party.<sup>12</sup>

The 1992 Estonian rules nicely exemplify a pattern commented on earlier by Taagepera and Shugart (220, 228):

Some electoral systems offer complexities that baffle even experts outside the particular country: multimember districts, remainder

distribution in superdistricts in which a party can participate only if it has previously gained such-and-such combination of votes, except when it has such-and-such other redeeming features. The enabling and disabling clauses pile on top of each other.

### **Consequences Unanticipated by Electoral Law Framers**

When genuinely competitive elections were introduced, continued use of Soviet majoritarian electoral laws for the 1989 elections led to a severe unanticipated problem -- the need to rerun multi-candidate elections when no winner was declared because of failure to get a majority of the votes cast or because turnout was too low to constitute a valid election (see earlier discussion).<sup>13</sup> In contrast, the electoral laws of 1990 (STV without party names for the Supreme Council and the Limited Vote for Congress) worked as most politicians (and outside scholars) would have expected.

It is the 1992 electoral law, however, which had the most striking unanticipated consequences relative to the expectations of those who wrote the law. These unanticipated consequences are not, however, particularly in terms of disproportionality, in partisan seats-votes outcomes. Disproportionality was of the sort that might be expected when a five percent national threshold is imposed in a new democracy with a proliferation of parties and the absence of a defined party system. The five percent threshold eliminated the smallest parties, and the votes of these parties totalled twenty percent of all votes cast. However, if we disregard the votes of these very small parties, the results were quite proportional except for a considerable largest-party bonus caused by the use of later divisors that had been raised to a 0.9 power -- an outcome that had been anticipated.<sup>14</sup> The unexpected results had to do with personal votes.

It might seem that the 1992 electoral rules we described above would allocate most seats in the districts, on the basis of personal seat shares, and only minor remainders would be left for nationwide allocation -- just enough to assure safe seats to top party leaders. However, because of the large number of lists (seventeen multi-candidate lists, plus twenty-five independents), the opposite was true. Within parties, very different people would have won on the basis of personal votes.<sup>15</sup> Throw seventeen lists into a district with eight seats, and the likelihood is high that only a few of the lists will net a full quota (one-eighth of all votes).<sup>16</sup> The remainder quotients that did not constitute whole quotas were reallocated at the national level. Indeed, in 1992 a substantial 60 of the 101 seats in the parliament were allocated via the party-order-determined nationwide closed lists. Out of the 101

highest vote-getters nationwide, only 56 were elected to parliament.<sup>17</sup> Only 50.1 percent of the voters saw the candidate they voted for elected, a proportion typical of outcomes in single member plurality elections (Taagepera and Shugart 109).<sup>18</sup>

This profusion of separate lists could have been anticipated on the basis of opinion polls, but some of the designers of the 1992 law did not realize that a profusion of lists would make it likely that most allocations would be determined by the national closed list. However, others were actually happy to have central party control over seats slip back into what was ostensibly an open list system, while others yielded in face of Communist stone-walling so as to reach an agreement on electoral law that would permit a 1992 election. But even if the importance for electoral outcomes of the national closed lists was correctly anticipated, it appears unlikely that any Estonian politician anticipated the potential delegitimizing effects of mixing open list and closed list components. These delegitimizing efforts arose for the following reasons.

A simple closed list may rank high persons who never would win on a personal-vote basis. Yet voters cannot observe (and thus are unlikely to be bothered by) the selection of persons with low personal votes over persons with high personal votes, for the simple reason that personal votes are not being tallied. What the 1992 Estonian law did was allow people to vote for personal candidates, leading them to think that their personal vote mattered -- and then see the tallying procedure disregarding this information if the party failed to receive a whole seat in the district. Nationwide distribution of remainders was the main problem with the 1992 system and the main reason for its perceived illegitimacy. For example, of the five seats assigned to the Ida-Viru district, only two went to candidates who had run there. Moreover, neither of the two locals who won was the highest in personal votes in the district: one was second, while the other was the fifteenth highest personal vote-getter in the district, but high on his party's national list.<sup>19</sup>

There were a number of other bothersome outcomes involving substantial discrepancies between personal vote tallies and outcomes.<sup>20</sup> As a result, many voters felt disenfranchised, and questioned the legitimacy of the rules (personal observations). There appeared to be a high component of randomness in the sense of no clear relationship between voter (personal) preferences and electoral outcomes.

## **Discussion**

Our focus has been assembly elections, but a few words on presidential elections are in order. While Estonia's first presidential

election was disconnected from its parliamentary elections (at least in its first round), subsequent presidents were to be chosen by parliament.<sup>21</sup> Estonia's early experience fits in with that of most of eastern central Europe in that it has preferred a parliamentary style of government to the super-presidential rule in Russia, and it has chosen electoral rules with a PR component. Like many former members of the Soviet bloc, Estonia has seen appreciable oscillations in the level of popular support for radical pro-market reformers (as compared to former Communist managers), rather short-lived cabinets, and yet basic political stability and resistance to authoritarian trends. Within this common pattern, however, Estonia is distinct in terms of the large number of elections it has seen and in the range of changes that have taken place in its electoral rules.

In our view, in new democracies, unsettled conditions and voter volatility make it undesirable to change electoral rules too frequently if we want voters (and perhaps even more importantly, parties and candidates) to be able to develop realistic expectations about the likely electoral consequences of their choices. We also believe that, when electoral rules are chosen for new democracies, in general it is desirable to keep them simple.<sup>22</sup> The Estonian election of 1992 violated both rules. In a country new to democracy, without an established party system, the 1992 Estonian election, by changing the rules so dramatically, created a situation where reliable expectations were hard to form.<sup>23</sup> Indeed, although there were opinion polls that could have provided cues to strategic choices, voters often perversely insisted on voting for parties with less than or hardly above the five percent threshold in opinion polls. But then voters subsequently complained about the fairness of the election when the parties they supported failed to exceed the five percent threshold and thus were denied representation from the national list. Voters also complained about the parliament being too fragmented when they had contributed to it by voting for lesser parties.

Events subsequent to the 1989-93 period, which is the focus of this study, do not significantly affect our conclusions. For the 1995 election to the Estonian parliament, the electoral rules were only tinkered with slightly vis à vis the 1992 rules. In particular, parties falling below five percent in nationwide votes could no longer receive any district seats, except those earned by a candidate's personal full quota. Furthermore, district seats now could be won only by candidates who received at least one-tenth of a quota in personal votes. However, this restriction did not apply to the national seats. Thus, laudably, we saw a refinement of the 1992 law, rather than another fresh start. On the other hand, the changes added a new layer of complication to something that needed

simplification. As seems typical, specialists on electoral rules were not consulted about how best the 1992 system might have been changed. Shortly before the 1999 elections, further minor additions were made, such as prohibiting electoral alliances. However, some parties seemed to be able to circumvent the prohibition by presenting “joint lists” (rather than allied lists).

*What does the future hold?*

First, while ethnicity may become a defining cleavage of electoral competition in Estonia once substantial numbers of Russians have achieved Estonian citizenship, preliminary evidence suggests that ethnic differences are diminishing in importance, especially as compared to the sharp ethnic polarization evident in the 1991 independence referendum.<sup>24</sup> It was evident from the 1999 election figures that only about one-half of the expanding Russian ethnic electorate voted for specifically Russian parties. The rest voted for broad-appeal parties, especially the Centre Party.

Second, to the extent that cleavage lines were evident by the mid-1990s, they were based not so much on market versus anti-market forces as on the speed of transition. The main disagreements were between those who emphasize going slow in market reforms in order to maintain a fairly strong welfare security blanket and those who seem to view the market as a cure-all for any economic troubles. This cleavage maintained its importance in Estonia even in 1999, and this pattern of party division over economic policy is also found in many other parts of the former Soviet empire.

Third, the imposition of a five percent threshold in 1992 and thereafter may lead to a slow reduction in the number of parties. From 1992 to 1995 the “effective number” (Laakso and Taagepera) of electoral parties decreased from 9.0 to 5.9, but then it increased to 6.7 in 1999. The effective number of parliamentary parties went from 5.9 to 4.1 to 5.5.<sup>25</sup>

The newest research into electoral systems (ably synthesized by Gary Cox) emphasizes the ways in which electoral systems structure the incentives (and thus the choices) of voters and parties. In looking at issues of electoral system origins, researchers in the rational choice tradition look for the ways in which electoral law choices are perceived by the groups which drafted them to benefit those groups. We have done likewise in much of our discussion of the Estonian case in this study. Yet, despite our basic sympathy for a rational choice approach, we’d like to issue several caveats about models of electoral law choice that



attribute too much rationality to the process. First, in Estonia, actors were rarely in a position to implement their most-preferred system; rather, compromises were reached. Second, the decision makers' ignorance of the implications of their electoral law choices (especially for patch-work systems that incorporated aspects of electoral rules from more than one country's electoral system) shows how choice of electoral rules can have consequences unanticipated by their framers, such as on the perceived legitimacy of election outcomes.

### Appendix: A Glossary of Electoral Terms

*Absolute majority and runoff.* Used mainly in single member (single seat) districts. Winning requires more than fifty percent of the votes. If no candidate obtains fifty percent, a second round (runoff) takes place, with only the two top candidates running.

*Bloc vote.* The party with the most votes wins all the seats in a multiseat district.

*Closed list PR.* Voters can vote only for an entire party list, in a multiseat district, with no ability to indicate preference for a particular candidate (in contrast to Open list).

*District magnitude (M).* The number of seats at stake in an electoral district.

*Droop quota.* The total number of votes divided by (M+1).

*D'Hondt divisors.* Series 1, 2, 3, 4..., used as follows. In a multiseat district the first seat is allocated to the largest party, but then its vote share is divided by two. The next seat is allocated to the largest of the shares thus resulting. Whenever a party gets a second seat, its vote share is divided by three, etc., until all seats are allocated. Compared to other PR rules, this one favours large parties.

*German two-ballot system.* A voter votes for a candidate in a single member district (with plurality winner), and separately also for a party nationwide. The second vote goes to restore nationwide PR among parties (subject to a nationwide five percent threshold).

*Effective number of parties.*  $N = 1 / \sum p_i^2$ , where  $p_i$  is the fractional share of the i-th party. E.g., when votes are divided as .40-.30-.20-.09-.01, then  $N = 3.4$ .

*Limited vote (LV).* In a district with M seats, every voter can vote for several candidates, but the limit is less than M.

*List PR.* Seats in a multiseat district are allocated on the basis of party lists.

*Majority rule in elections.* See Absolute majority.

*Open list PR.* In a multiseat district, voters vote for a party, but they also can indicate preference for a particular candidate within this list (in contrast to Closed list).

*Plurality rule in elections.* The candidate (or party) with the most votes wins the

seat (or all the seats) at stake, even with a vote share of less than fifty percent (in contrast to Absolute majority rule).

*Proportional representation (PR).* Electoral rules that make party seat shares approximately proportional to their vote shares.

*Personalized list PR.* Extreme form of open list PR: voters must vote for a specific candidate, not for a party. However, party votes are totalled, and seats won are allocated to candidates with the most personal votes.

*Sainte-Laguë divisors.* Seat allocation procedure like d'Hondt, except that divisors 1, 2, 3,... are replaced by 1, 3, 5, 7,... or (modified Sainte-Laguë) 1.4, 3, 5, 7,... This is more favourable to small parties and approaches perfect PR.

*Semi-PR.* Seat shares are not quite proportional to vote shares but still more proportional than is the case for single member districts.

*Simple (Hare) quota and largest remainders.* In an M-seat district, voters vote for a party list. Seats are allocated on the basis of full simple (Hare) quotas, i.e., votes divided by seats (votes/M). The remaining seats are allocated on the basis of the largest numbers of votes that remain after full quotas are subtracted. Approaches perfect PR.

*Single member district.* A district where only one seat is at stake:  $M=1$ . Often leads to disproportion between vote and seat shares.

*Single non-transferable vote (SNTV).* Voters in an M-seat district vote for one candidate, and the M candidates with the most votes win. Votes for extremely popular candidates are not transferred to fellow party members (in contrast to STV).

*Single transferable vote (STV).* In an M-seat district, voters rank candidates, regardless of their party affiliation. First choices are counted. Those candidates who reach the Droop quota,  $\text{votes}/(M+1)$ , win seats. Excess votes (above Droop quota) are transferred to voters' second choices, and further quotas may materialize. The weakest candidate is eliminated, with votes transferred to second choices. The process is repeated until all M seats are filled.

## Notes

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1. Treatments of the 1989 election may be found in Taagepera ("A Note"); the 1990 election is discussed in Ishiyama and Taagepera (*Estonia, Return*). The name of the Estonian SSR legislative assembly, ENSV Ülemnõukogu, literally means "Supreme Council" but in the Soviet context is usually

translated as “Supreme Soviet.” After it dropped “ESSR” and became Eesti Ülemnõukogu in Spring 1990, we revert to “Supreme Council.”

2. In the 1990 Estonian SSR elections Soviet soldiers voted on separate rolls. In the 1989 Supreme Soviet elections, soldiers stationed on Estonian soil voted in regular districts, as assigned by their commanding officers. Reputedly they were at times shifted to “critical” districts in which their vote might be more likely to be decisive.
3. Of the 910,000 residents of Estonia who qualified as Republic of Estonia citizens, 845,000 registered -- but this figure includes children registered by their parents. The turnout in the election was 590,000 -- ninety-eight percent of adults who registered and ninety-one percent of all adults who qualified. At stake were 464 seats, complemented by 35 filled by Estonian refugee organizations in the West. About 34,000 post-occupation immigrants also participated (about eight percent of the adult immigrants): Taagepera (*Estonia, Return*) 174.
4. Among the democracies, the procedure used to qualify for citizenship in Estonia is one of the most liberal toward new immigrants. The pre-existing Soviet settlers present a special problem. Their naturalization could largely be completed within one to five years, depending on their willingness and ability to pass a moderate language exam. For comparison purposes we may note that a majority of Arabs living in Israel at the time of independence did not attain citizenship until around 1965, fifteen years after state creation.
5. We estimate turnout among Estonians in the 1991 independence referendum at around ninety-four percent (see below).
6. This national-level allocation was used to establish nationwide proportionality among the lists surpassing a five percent threshold. For a more detailed description of the various electoral systems mentioned, see e.g., Taagepera and Shugart.
7. However, these parties were not as successful in the local elections thereafter, for opposite reasons. Estonian Citizen could not complement flashy campaign rhetoric with positive action. Fatherland had become the main government party, and hence began to take part of the blame for poor economic conditions.
8. For discussion of seats-votes proportionality for the 1990 election to the ESSR Supreme Soviet see Taagepera (“A Note”); for seats-votes proportionality for the 1992 national parliamentary elections see Fitzmaurice.
9. An important conclusion is that, if Estonia, unused to multi-candidate elections as it was, could handle STV, so could any Western country, including the U.S. STV may have other disadvantages, but complexity is not a valid argument against it in democracies with reasonable levels of literacy. Ireland and Malta have used it for many decades. A much more negative

portrait of STV (and its use in Estonia) is found in Ishiyama ("Electoral Systems"), who stresses the weakness of parties in Ireland and says nothing about Malta, where parties are strong.

10. Because committees based on traditional counties coordinated the process, these perform became the bases for multi-seat electoral districts.
11. Ishiyama ("Electoral Systems") commits this same error.
12. An author of the present paper reading a co-author's description of this system assumed that it had to be a typographical error and that the system actually was a Sainte-Laguë-like one with coefficients of 1, 2.9, 3.9, etc. This illustrates the complexity of the system. Previous attempts to briefly describe it get some important parts wrong.
13. Ukraine seems to be the only country preserving these aspects of Soviet electoral rules up to 1998. As a consequence, it had several parliamentary seats that remained vacant until the next elections.
14. Indeed, if seats had been allocated simply by largest remainders in districts, eliminating the nationwide tier (but still excluding the parties with less than five percent votes nationwide), only four seats would have been reallocated among parties.
15. A total of 36 out of the 101 seats would have gone to stronger local candidates if personal preference votes had determined outcomes.
16. To define quota, Estonia uses the simple Hare quota rather than the arguably more appropriate Droop quota.
17. This ratio (60/101) was even lower than for the U.S. Senate in 1992 where, despite huge disparities in state sizes, twenty-two out of the thirty-five highest vote-getters occupied one of the thirty-five seats at stake in 1992.
18. Indeed, even if seats were assigned to the 101 personal top vote-getters nationwide so as to maximize the share of the voters seeing their personal choice win, this share would have been only 63.9 percent because so much of the personal vote was scattered among the other 500-odd candidates.
19. How could it be that the top vote-getter in the district failed to get a seat? He and his party missed the simple quota in his district -- and on his party's nationwide list he was ranked low. If the reader still remains confused then this illustrates the complexity of the rules. It took one of the present authors quite a while to re-figure his own example, first worked out in 1994.
20. Independent candidate Väino Viilup received 5,007 votes (0.95 quotas) and lost, while elsewhere Toivo Uustalo, with only fifty-one personal votes (0.01 quotas) rode in on the coattails of the hugely popular leader for his Estonian Citizen party who, alone, netted almost four quotas. Of course, the latter outcome could, in principle, happen under a pure open list system such as in Finland. In this respect, a more troubling example is that Peeter Lorents, a leader of the Secure Home, attracted only 212 votes but received a seat, while a party running mate in that same district, Aavo Mölder, lost

- despite receiving 2,359 votes in the district. The party did not garner a full quota in that particular district and Mölder was very low on the party's national (closed) list.
21. For the 1992 presidential election, see Taagepera ("Running"). Thereafter, if a parliamentary two-thirds majority does not materialize, the election is thrown into a college including local government representation. This was the case when Lennart Meri was re-elected in 1996. See Frye for a rational choice approach to understand the impact of electoral rules on the strength of presidency.
  22. When the 1992 election rules were adopted, Rein Taagepera's views about simplicity of electoral rules had no influence. He was not consulted, and advice he volunteered fell on deaf ears. Even those who appreciated his knowledge of electoral laws found themselves caught up in a political game where pressure to reach a compromise was more important than political principles or reasoned analysis. However, when popular disenchantment with the messy rules arose later on, some of the architects of the 1992 rules put the blame on Taagepera.
  23. Parliament members may not always be the best designers of electoral laws. They have concerns that are idiosyncratic and often highly strategic, but lack the knowledge to match their desires to realistic anticipations of electoral law consequences. A nonpartisan commission might do a better job, especially if it includes other people besides lawyers and invites input from the international electoral studies community.
  24. See Park, cf. Ishiyama ("Electoral Rules"), Shafir.
  25. Some of the steep reduction in 1995 was not quite "real" because the major electoral "party" was a Coalition-Rural alliance that immediately formed separate factions in the parliament. Still, the overall trend from 1992 to 1999 indicates that the five percent legal threshold does exert some downward pressure on the number of parties.

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