Making and Breaking Parliamentary Opportunity Structures[1][2]

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1. Introduction

The Hungarian parliamentary arena has witnessed major political scandals in the last few years. Attempts at obstruction, the use of megaphones and whistles, the provocative banners have been part of the parliamentary arsenal but the conflict reached its climax in December, 2018 when opposition MPs attempted to obstruct the parliamentary debate of the so-called Overtime Bill which would modify the Labour Code allowing for more overtime. First, the opposition MPs introduced almost 3000 amendments to the bill in order to prompt the postponement of the debate. However, the Speaker of the House requested a meeting of the Justice Committee of the Parliament which decided to hold a single vote on the proposed opposition amendment which were deemed unfit for negotiation. Upon the commotion in the opposition benches, the Speaker called the Parliamentary Guard to line up at the plenary prompting further discontent among opposition MPs many of whom left the parliamentary floor after questioning the legal basis of the decision. Later, opposition MPs unsuccessfully tried to hinder the final vote on the bill by blocking the Speaker's access to its podium who then decided to preside over the session from his own seat.

While chaos and obstruction have always been part of the parliamentary world (Bell, 2017), this event is exemplary because of the unique combo of parliamentary procedural rules applied form the decision of the Justice Committee of the Parliament to the line-up of the Parliamentary Guard. Time is a scarce resource in parliaments thus obstruction attempts are costly in more than one way and are to be avoided through the strict application of the procedural rules in which the right to debate and control are limited by stringent timeframes. However, in our case the opposition was overcome by the application of strong disciplinary powers including even an armed group, the Parliamentary Guard which was a first in the Hungarian Parliament. In my paper I will argue that this Hungarian case is not just a colourful anecdote about how parliamentary work can be similar to the dynamics of a sand box where toddlers try to talk each other down but rather a clear sign of change in the direction of institutional change in parliaments and ultimately in how government-opposition dynamics are framed in terms of discipline and behaviour instead of policy debate and political conflict.

In the international literature there is increasing attention paid to parliamentary rules and institutional changes which is most clearly pronounced by Sieberer et al who directly suggest a new research agenda of mapping and explaining parliamentary rule changes. They argue that the reform of parliamentary rules affects the strategy of parliamentary actors, that studying the motivation behind the redesign of rules contributes to the understanding of how decision-makers interact with rules binding them and third, that the resulting longitudinal data is valuable resource for comparative research on parliaments (2016:61). Between the different approaches presented by the authors, I will apply a meso level approach that focuses on subsets of a reform based on the expected effect namely on the redistribution of power between the parliamentary majority and minority and the majority/minority friendliness of individual rule changes (2016:81).

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The focus on parliamentary rules raises further questions about the conceptualization of opposition as the concept in itself is highly political and not used in legal texts that rather talk about MPs and (qualified) minority. Thus, the first part of my paper will deal with some theoretical considerations about how to connect the legal concepts to the political realities and about which subset of parliamentary rules should be studied. The second section of my paper will be dedicated to the analysis of those subset of rules with the third section attempting to identify the changes in those rules. In the discussion I would like to present the research framework developed in the study as a tool for comparative research.

2. Theoretical considerations

What is parliamentary opposition? As Garritzmann notes we lack a theory of political opposition (2017:2) since the opposition is usually understood in a negative way as the non-governing part of the parliament. However, as Andeweg (2013) has clearly demonstrated it is hardly a stable definition, since in certain political context, the opposition becomes blurred or following Dahl (1966) it loses its distinctiveness. It can happen when opposition parties support the government or when governing parties oppose the government or when opposition parties provide structural support to a minority government and even when the government anticipates an opposition majority in another institution of government. Thus, it seems that opposition is a blurry political concept that is further weakened along Kircheimer's (1957) reasoning by the decrease in partisan conflict that distinguishes government and opposition parties which was observed by Andeweg – De Winter and Müller (2008) in relation to post-consociational democracies. While this theory of the waning of political opposition can be critiqued (see for example Loxbo-Sjölin, 2017), many studies point out that opposition behaviour is dependent on a complex set of factors including systemic and party specific features such as the need to differentiate themselves from the government (Tuttnauer, 2018), the government-types (Christiansen-Damgaard, 2008), the MPs' socio-demographic background (Steinack, 2016), the bill specific features such as the ideological significance of the bill (Mújica-Sánches-Cuenca, 2006) and even regime-types (Franklin, 2002).

Focusing on rules, there is a need to give a more exact definition of our understanding of the opposition. Following the conceptualization of Sieberer and Müller we can regard opposition as a minority in parliament which in terms of parliamentary processes emphasizes the role of minority rights: "Minority rights are particularly important as they distribute institutional power along the most important line of conflict within parliaments – the one between the governing majority and the opposition." (Sieberer-Müller, 2015:998). This conceptualization is in line with how legislation, in our case the rules of parliamentary procedure, standardizes opposition as the application of "opposition tools" are often linked to a qualified minority (for example 1/5 of MPs can promote the establishment of a committee of inquiry). Clearly, this approach cannot capture the party level of opposition that can be useful in order to map resources for opposition activity (Kopecky-Spirova, 2008) but on the other hand are better fit to understand the dynamics of an unstable opposition arena such as the Hungarian case.

In terms of legal procedures, "opposition tools" such as control tools are not conceptualized in terms of qualified minority but rather as the right of individual MPs. Both approaches to opposition's rights - the qualified minority and the MP level – are open concepts in the way that being in opposition is a not a prerogative to possessing those given rights: government MPs can also ask interpellations to the government (which actually they often do) and a given group of government MPs can form a committee of inquiry to, say, evaluate the wrongdoings of a previous government. How do these levels interact then?

The parliamentary level focuses on the institution itself. According to the Montesquieu's doctrine of separation of powers, the role of the parliament is responsible for the legislation

and the control of the government. The capture of the parliament by the government which typically controls the majority of mandates imposes a threat on its autonomous functioning because it hinders the effective execution of these parliamentary functions. This idea is widely explored in the literature propagating the decline of parliaments (for a critical review, see Baldwin, 2004). Still, in order to approximate the doctrine of the separation of power, it is not the parliament in itself but rather a qualified minority that is enabled through constitutional and other legal warrants. As Smuk (2016) points out based on the case study of the German Federal Constitutional Court decision (2 BvE 4/14) the opposition is a political and not a legal phenomenon thus it is the minority and not the opposition that should be granted the rights to control the government. The puzzle of the German case was what happens if the opposition is smaller than the minority required for accessing those tools? The Court's decision underlines that the separation of powers is based on *the imperative of an effective opposition* meaning that the opposition should have the necessary tools and measures to realize its parliamentary deliberative and control functions.

The MP level focuses on the role of elected representatives in the parliamentary process. In legal terms, all MPs have the right to attend the parliamentary debates, to participate in the formulation of policies and to control the government. Thus, as I indicated above these are not "opposition rights" but rather MPs' rights and MPs operate along a complex set of drivers of which one of the most important one is the need for reelection (Mayhew). Reelection is a complex game again since it depends on various agents such as their parties and their electorate. Their expectations can not always be derived from the opposition/government position even if it is about MPs' activities on the parliamentary floor. As Proksch-Slapin (2015) demonstrate parties play an important role in allocating speaking time to their members and that speaking time is in high demand thus government parties not only hinder opposition MPs from speaking but also their own representatives. Thus, it is important to assess how MPs actually behave and what the do. Also MPs not only have rights assigned but also obligations that are often restrictive in terms of debate and control. In order to understand the MPs' opportunity structure in its complexity, we should take into consideration how the government uses tools of disciplinary control on the floor.

This complex set of rules and drivers calls for a complex approach to research:

- first, the opposition's structure of opportunity is examined to evaluate the array of tools available to the qualified minorities and MPs;
- second the actual application of those tools is examined to see how the opposition goes about its "opposition business". The analysis of the application of the tools available tells us how useful they are regarding the imperative of an effective opposition, if they are abused or not and whether they are used in line with the intended objectives or not;
- third, the rules regarding disciplinary power should be examined to see what type of obligations there are and what are the sanctions to make MPs follow the lines, what are tools to curtail obstruction attempts;
- fourth exogenous institutions should also be analysed in relation to the parliamentary game. In this aspect, Sieberer et al (2016) pointed out that showed reforms can be triggered by changes in the external environment of parliaments but my emphasis is that change in external factors is not a necessary requirement to look outside of the parliamentary arena in case there are external institutions that can act as veto-players (Tsebelis, 2002). The Constitutional Court appears to be a decisive actor in case of conflicts that are unresolvable within the parliamentary arena and also it is the institution addressed when legislative concerns emerge regarding the constitutionality of proposed legislations. Thus, the role of the Constitutional Court should be analysed along with the potential capture of the Court by the government that can hinder its potential to safeguard against the distortion of the parliamentary power structure.

Based on the theory of nested games (Tsebelis, 1990) that many researchers use to describe to complexity of the parliamentary game (Sieberer et al, 2011), I argue that the structure of opportunity of the opposition is not only determined by the parliamentary rules and procedures but by their use (as in how the opposition can profit form the available resources) and application (as in how the government can apply the rules to limit these opportunities) and the strategy developed by each actor does not only depend on endogenous factors (such as the parliamentary rules) but on exogenous factors such as the role of veto-players (as in their legal status and political potential to override procedural decisions).

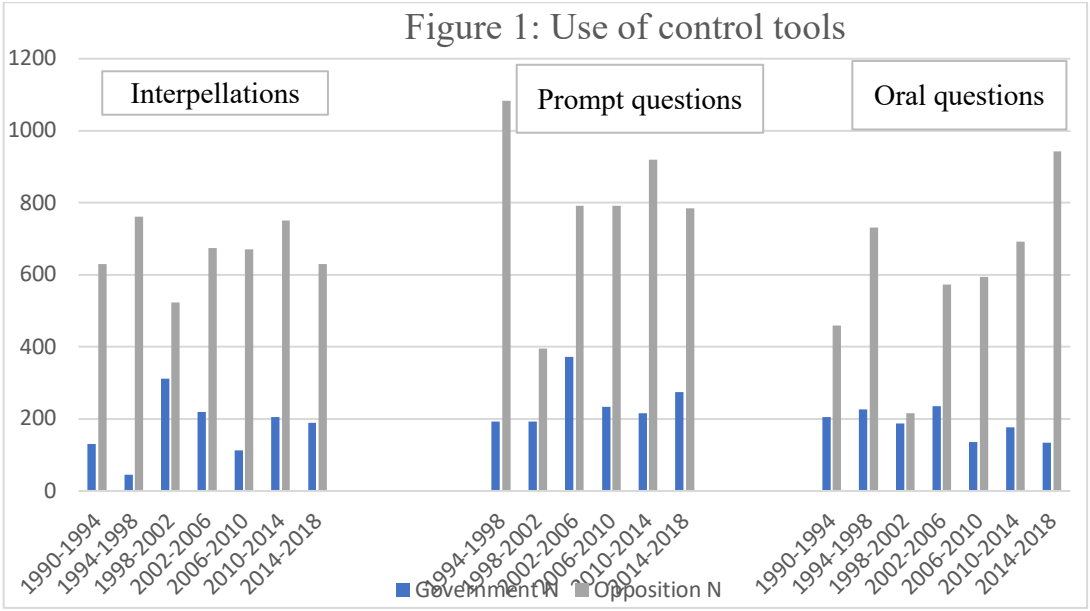
3. The changing opportunity structure of the opposition in Hungary

In order to capture the most important elements of the opportunity structure of the opposition as well as its potential dynamic of change, Garriztmann proposes an encompassing index that attempts to quantify and measure the degree of freedom of the opposition that I will use as a starting point for the analyses of the Hungarian case. The index reflects on the basic functions of the opposition – control and the (re)presentation of political alternatives - including measures of the strength of committees, oral questions, written questions, parliamentary question time and an agenda setting index. Many of these dimensions have been thoroughly explored in previous publications (Ilonszki-Jáger,2011, Ilonszki-Várnagy, 2018), but the reform parliamentary procedures and the enactment of the Act on the National Assembly in 2012 along with their amendments since then makes the revision of changes necessary. Moreover, I will address some additional dimensions that are missing from this framework mainly the disciplinary powers and the role of exogenous actors. As a result of the nested game approach, I will treat deviant parliamentary outcomes such as the attempts at obstruction and obstruction as a strategy developed in response to the above described framework.[3]

3.1.Control functions

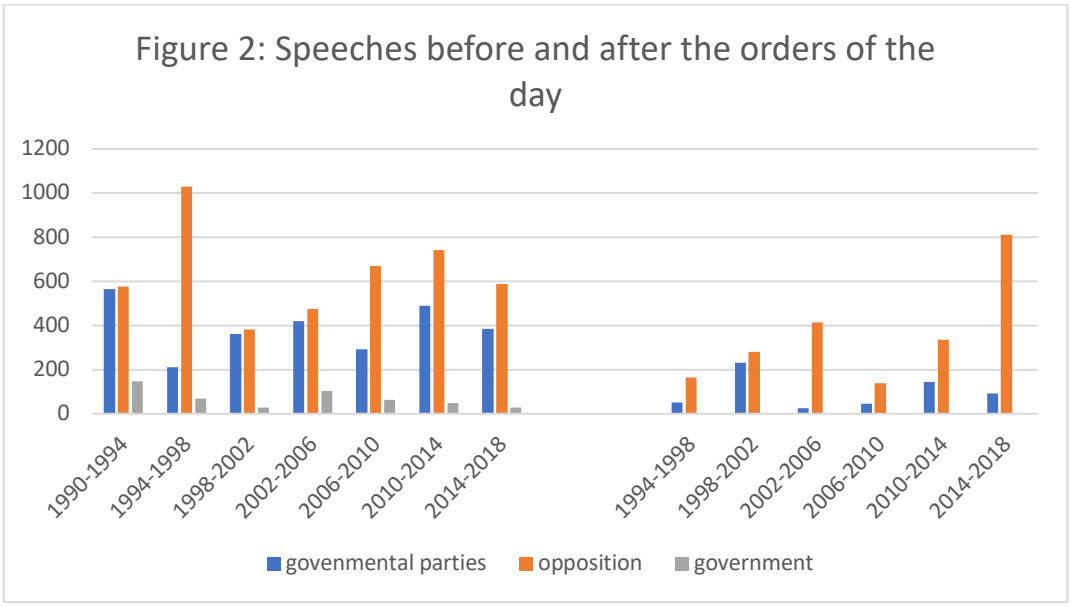
The traditional monitoring tools are interpellations, prompt questions and oral questions used by Members in a plenary sitting. Out of these three, interpellations are the most important as the representatives vote on the response given and if the Parliament rejects the response a committee report is drawn up an submitted for debate at a plenary session. As figure 1 depicts the use of these tools have not followed a clear pattern in the previous cycles and while we can witness an increase in the number of oral questions presented on the floor, it cannot be explained through the change of parliamentary rules as it did not modify the rules of the questions.

[3] Garritzmann also addresses obstruction but only in relation to the agenda-setting powers, while all types of obstruction (such as attempts to dissolve the parlaimentary meetings or to hinder final voting) will be considered in this paper.



Source: Website of the Hungarian Assembly, www.parlament.hu

Members of Parliament can also take the in speeches before and after the orders of the day with the former being broadcasted by radio and television. Regarding the trends, we can conclude that in the 2014-18 parliamentary cycle, the speeches after the orders of the day become more popular among MPs. The increase can be attributed to the fact that the access to the plenary become more limited after 2012 and also that independent MPs can also use this form of communication while speeches before the orders of the day can only be tabled by members of PPGs.



Source: Website of the Hungarian Assembly, www.parlament.hu

Committees of inquiry can also be formed by the Parliament following a motion tabled by one fifth of the MPs. While before 2012 such proposals were automatically accepted, the new regulation introduces a new requirement stating that committees of inquiry can only be formed in case the given case can not be sufficiently explored through interpellation and that the plenary vote on the proposal is needed for the establishment of the committee. The change had a clear effect on the formation of such committees as none were formed during the last parliamentary cycle despite of the relatively high number of proposals submitted. Based on the data presented in table 1, it is important to note that despite of not needing a plenary vote

on the proposal, the establishment of committees of inquiry was often sabotaged during the process even before 2012: in many instances the proposal on the establishment was not tabled, or the committee was not able to form due to the absence of its members or the plenary failed to accept the report suggested by the committee.

Table 1: The proposals to establish a committee of inquiry

	Initiator	Proposal	Establishment	Formation	Report
1990-1994	Government MPs	11	0	0	0
	Opposition MPs	13	1	1	0
	Total	24	1	1	0
1994–1998	Government MPs	2	1	1	0
	Opposition MPs	25	6	5	3
	Total	27	7	6	3
1998–2002	Government MPs	8	4	4	1
	Opposition MPs	16	2	0	0
	Total	24	6	4	1
2002–2006	Government MPs	8	5	3	0
	Opposition MPs	20	9	9	1
	Committee	1	1	1	0
	Total	29	15	13	1
2006–2010	Government MPs	3	2	0	0
	Opposition MPs	14	6	1	0
	Total	17	8	1	0
2010-2014	Government MPs	6	5	5	4
	Opposition MPs	16	2	1	1
	Total	22	7	6	5
2014-2018	Government MPs	0	0	0	0
	Opposition MPs	23	0	0	0
	Total	23	0	0	0

Source: Magyar, 2018

Another tool is the initiation of policy debates: based on a motion submitted by one-fifth of the MPs, the Parliament holds a policy debate on the policy topic identified in the motion. Table 2 indicates that there is a growing popularity of the debates which is partly explained by the lack of committees of inquiry and the limited access to the plenary floor.

Table 2: Policy debates submitted broken down by submitter

Submitter	1990-1994	1994-1998	1998-2002	2002-2006	2006-2010	2010-2014	2014-2018
Government	3	1	2	0	3	0	4
Governmental parties	0	2	2	5	2	4	1
Opposition parties	2	10	11	22	5	6	17
Total	5	13	14	27	9	10	22

To sum up we can observe a certain shift in the use of control tools in the Hungarian Parliament: while the use of the various type of questions has not changed much, the requirement of a plenary vote basically killed of the committees of inquiry which prompted MPs to turn towards other resources of floor time such as speeches outside the orders of the day and policy debates.

3.2.Legislation and debate

The legislative process of the Hungarian National Assembly underwent major changes according to the Law on the National Assembly. Figure 3 depicts the current legislative process which is different from the former process in three ways: first, the scope of bills requiring a qualified majority of two thirds of MPs was modified. While the increase in the number of supermajority bills points to the importance of cooperation with the parliamentary minority, the fact that since 2010 the minority was only strong enough to block the legislation of 2/3 bills for three years between 2015 – 2018 suggests that the governing parties are not always limited by this institution and if allowed they can even abuse their power without taking into consideration the constitutional ideal of effective opposition.

The second critical change introduced is the shift of the detailed debate from the plenary session to the so-called “designated committees” that are assigned to each bill by the House Speaker. Thus, after a general debate which usually consist of the introduction of the policy and main guidelines of the legislation, the meticulous work of dissecting the proposal partly along the emerging policy alternatives and partly along the introduced amendments takes place in committees. In this phase the committees make also decision about the introduced amendments. While it could strengthen the role of committees in the decision-making process and enable MPs to contribute to the debate without the added pressure of the media and public attention paid. to plenaries, the data on the total number of committee meetings an the amount of time spent in committee meetings actually decreased from 2010-2014 to 2014-2018 by almost 45-50% (Országgyűlés Hivatala, 2018). This decrease along with the growing responsibility of committees rather suggests that the work of committees became even more simplified supposedly by the widespread use of political voting without meaningful debate.

The third major change was introduced to the process following the committee phase. A new committee, a Committee on Legislation was founded that enjoys a high political status since it reviews the amendments adopted in committees, its own amendments and combines the original bill and the modifications into a single proposal. This single proposal called the summary of proposed amendments is to be discussed on the plenary floor. It means that most of the amendments won’t reach the plenary floor by themselves, only if they were successfully integrated in the single proposal. While the MPs can request the debate of a certain amendment on the floor, the parliamentary bottleneck prompts the actors to only revise the viable proposal and not waste time on amendments that are not supported by the committees thus by the government. This shift towards the revision of the viable document

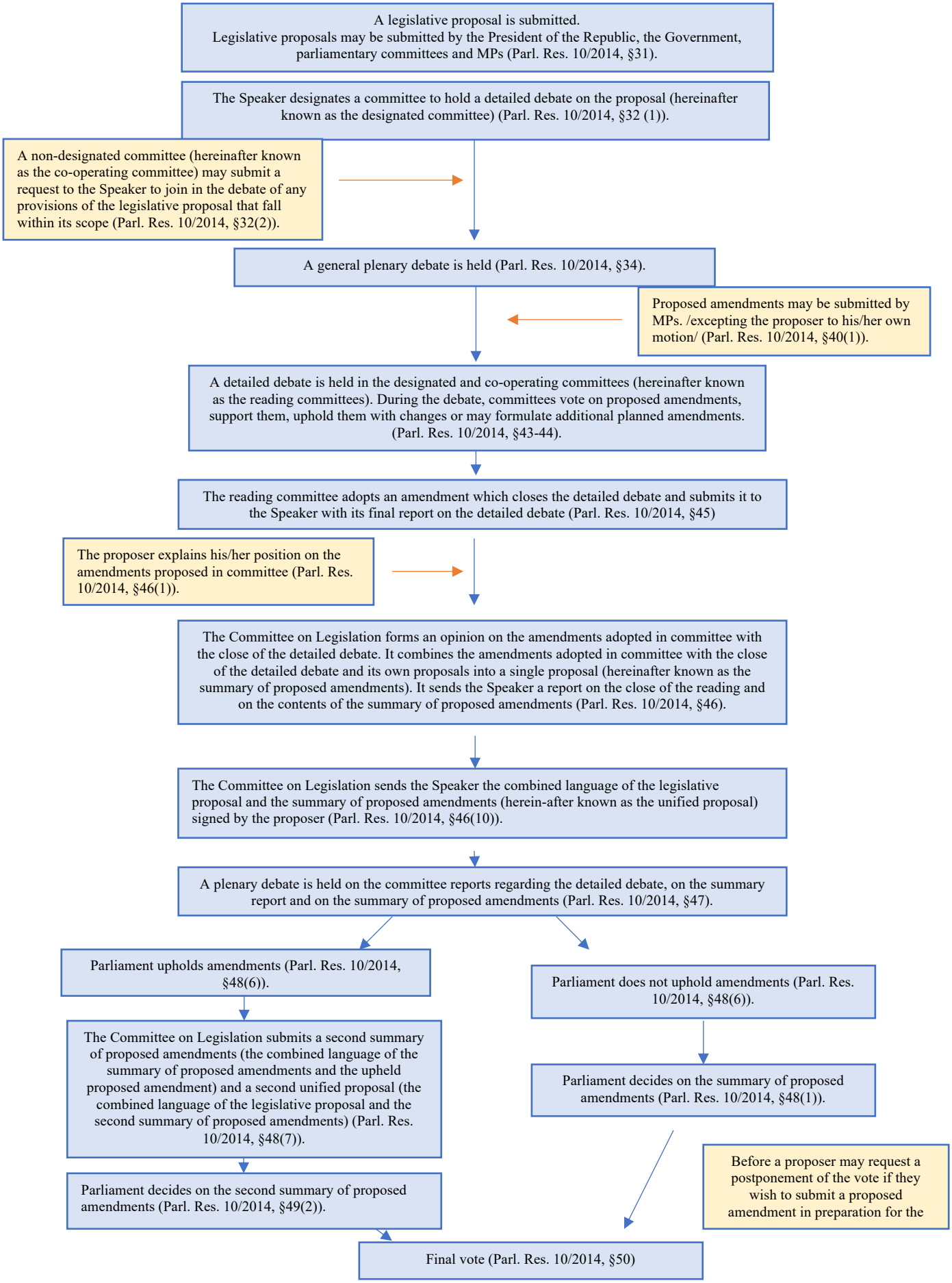
(along with the committee reports though) weakens the potential of presenting, revising and debating alternatives and diverting policy ideas.

Also the presentation of a single proposal, the summary of proposed amendments can change the dynamics of voting – while MPs had the chance to express their detailed opinion through the vote on amendments before, now the stakes of expressing opposition are higher not because it threatens the vote on the bill but rather because the discontent MP can only refuse the bill as a whole. In case of popular decisions, this routine makes it hard to express nuanced critics (such as "I like the idea but not the realization"). Also it is hard to differentiate between the acceptance and the rejection of certain amendments as voting is done en bloc, about all of them. It is even more problematic if we take into consideration that the Committee on Legislation can propose an amendment to the bill three hours before the opening of the sitting when the final vote is scheduled leaving very limited time for MPs (and their experts) to revise the new, modified proposal.

While time as a scarce resource is the explanatory factor behind many parliamentary reforms, its use is also the most criticised aspect of the reform as the legislative process seems to have gathered speed leaving very limited time window for debate. In the Hungarian National Assembly there are three types of special procedures that can accelerate the legislation process:

- The proposal of urgency can be submitted by at least twenty- five MPs and can be applied no more than six times in half-year. By adopting the proposal the time frame between the day of ordering and the final vote on the legislative proposal can be shortened to six days.
- The proposal for exceptional proceeding requires the supporting signatures of at least one-fifth of the Members and can be applied four times in half a year. The deadline for

Figure 3: The legislative process of the Hungarian National Assembly



Source: www.parlament.hu

- submitting the proposals for amendment shall not be less than three hours after the decision ordering the exceptional procedure
- Upon the proposal of the House Committee, the National Assembly may decide, to derogate from the provisions of the Rules of Procedure with the votes of at least the four-fifth of the Members present. This derogation can affect either the course of the discussion of and/or the decision-making on specific matters.

The resulting quickening in the legislation process and its consequences have been discussed in earlier work (Ilonszki-Várnagy, 2018) while its consequences regarding the quality of the political debate and the ensuing quality decision-making is to be explored further (see the report of the Corruption Research Center Budapest, 2015 for an early attempt).

Following the reasoning of Szente (2018), we can relate the problem not only to the opposition but to the government MPs as well. On the one hand, plenary time becomes an even more scarce resource among governmental benches. On the other hand, the growing number of bills introduced by government MPs suggest that political debate is avoided not only in relation to the opposition but also in relation to its own politicians. These routines chip away from the right to debate of all MPs in the Parliament. The lack of enough time to debate bills is not a Hungarian phenomena, in her expert review of arrangements for allocating time to proceedings on bills, Newson (2017) concludes that the time spent on scrutinising a bill should be increased. This question clearly touches upon the issue of efficient changes and redistributive changes (Tsebelis, 1990). As Sieberer and Müller state: "The process and outcome of institutional reforms depend on the question whether actors are affected equally by institutional changes. […] Efficient reforms benefit all actors involved in the reform process irrespective of their position in political competition (e.g. their government status or their position in the party hierarchy). Distributive reforms, on the other hand, strengthen some actors at the expense of others – i.e. actors are affected differently depending on their position in political competition." (Sieberer-Müller, 2015). The overview of the changes in the legislative process suggest that while these reforms clearly helped to address the parliamentary bottleneck, the need for such frantic legislation can itself be questioned and the redistributive nature of the reform is undeniable.

4. The changes in the disciplinary power of the Parliament

One of the main changes in the legislation concerning parliamentary work was the strengthening of the disciplinary powers that are mainly practised by the Speaker of the House. According to the new rules, the functions of the disciplinary power is to secure the undisturbed proceeding of the sittings, to safeguard the reputation of the National Assembly and the chair and to safeguard the measures taken by the Speaker. One of the main drivers behind the change was to hinder obstruction and also to enable to Speaker to deal with the new methods of communication occurring in the Hungarian Parliament such as the use of megaphones, banners and such. This phenomenon is not exclusively Hungarian: Bell (2017) notes that the introduction of large numbers of amendments or sub-amendments appears to be a prevalent obstructionist tactic. Also the Slovak Parliament has recently passed a reform of the parliamentary proceedings with very similar triggers and elements to the ones of the Hungarian reform. As Melles (2017) documents after the 2010 Slovakian elections, a new style of debate was introduced to the floor with Igor Matovic, member of the Ordinary People faction who repeatedly used banners and other visual tools to emphasize its arguments. As a result, the use of alternative visuals became prohibited in the Slovak Parliament similarly to the Hungarian Assembly.

Table 3: Disciplinary measures in the Hungarian Parliament

MPs activity	**Decision 1**	**Decision 2**	**Decision 3**	**Legal Consequence**	**Legal remedy**
The MP deters from the subject of the speech in a clearly unreasonable manner.	First warning to focus on the given topic	Second warning to focus on the given topic	Withdraw the right to speak	The MP can not have the floor again on the same sitting day, in the course of discussing the same item on the orders of the day.	
The MP used up all the timeframe available for him/her or for his/her parliamentary group.	Withdraw the right to speak (giving the cause of the withdrawal)				
The MP uses an indecent term or a term offending the reputation of the National Assembly or any person or group.	Reprimand the MP	In case of repetition, withdraw the right to speak		The MP can not have the floor again on the same sitting day, in the course of discussing the same item on the orders of the day.	
The MP uses a term ostentatiously offending the reputation of the National Assembly or any person or group	Exclusion of the MP without warning	The National Assembly takes vote without debate on the proposal for exclusion	If the National Assembly has no quorum, the chair of the sitting shall decide on the exclusion.	The Member excluded from the sitting day shall not have the floor again on the same sitting day. The Member excluded from the sitting day shall not be entitled to remuneration for the day of exclusion.	At the next sitting of the National Assembly the chair of the sitting shall inform the National Assembly of the exclusion and its reason. Then the National Assembly shall decide without debate on the lawfulness of the decision taken by the chair of the sitting.
The MP objects to the decision or the conducting of the sitting by the chair (except for making a procedural proposal)	Witdraw the right to speak without warning			The MP shall not have the floor again on the same sitting day, in the course of discussing the same item on the orders of the day.	The MP, whose right to speak has been withdrawn without calling and warning, the committee responsible for the interpretation of the provisions of the Rules of Procedure to take an ad hoc position.

The MP seriously violates the reputation or the order of the National Assembly, or infringes by his or her conduct the provisions of the Rules of Procedure..	reprimand the MP and give a warning of exclusion	Exclusion of the MP for the remaining part of the sitting day. The remuneration payable to the Member may be decreased		The MPS excluded from the sitting day shall not have the floor again on the same sitting day. The Member excluded from the sitting day shall not be entitled to remuneration for the day of exclusion. The Parliamentary Guard shall be in charge of the enforcement of this prohibition	At the next sitting of the National Assembly the chair of the sitting shall inform the National Assembly of the exclusion and its reason. Then the National Assembly shall decide without debate on the lawfulness of the decision taken by the chair of the sitting.
The MP exerts physical violence at the sitting of the National Assembly, threatened with or called for direct physical violence, or hindered the taking out of another person.	Exclusion of the MP from the sitting day. The emuneration payable to the Member may be decreased	The National Assembly takes vote without debate on the proposal for exclusion	If the National Assembly has no quorum, the chair of the sitting shall decide on the exclusion.	The MP excluded from the sitting day shall not have the floor again on the same sitting day. The MP excluded from the sitting day shall not be entitled to remuneration for the day of exclusion. The Parliamentary Guard shall be in charge of the enforcement of this prohibition.	At the next sitting of the National Assembly the chair of the sitting shall inform the National Assembly of the exclusion and its reason. Then the National Assembly shall decide without debate on the lawfulness of the decision taken by the chair of the sitting.
	Suspension of the exercising of the Member's rights in case of repeated conduct.			The MP shall not attend the sittings of the National Assembly, shall not participate in the work of the parliamentary committees and shall not receive remuneration. The Parliamentary Guard shall be in charge of the enforcement of this prohibition.	The MP against whom a policing measure has been applied by the chair of the sitting may submit an objection to the committee on immunity, incompatibility, discipline and mandate
In case of disturbance taking place at the sitting of the National Assembly of such extent that makes the continuation of the discussion impossible	The sitting may suspended for a definite period or may be closed by the chair of the sitting.	If the chair of the sitting is unable to announce his or her decision, he or she shall leave the chair and the sitting shall be interrupted. If the sitting has been interrupted, the sitting shall only continue upon the Speaker convening it again.			The MP may request that the Committee on Immunity, Conflict of Interest, Discipline and Mandate Control rescind a decision.

Source: The website of the Hungarian parliament, www.parlament.hu

Table 3 presents the arsenal of disciplinary tools available to the Hungarian Parliament most of which can be applied by the Speaker. Based on the new legislation we can observe a growing disciplinary trend: in the 2010-2014 cycle there were 15 votes on proposals to decrease the remuneration of MPs (affecting 40 MPs in total) , in 2014-2018 there were 22 while in the current parliamentary cycle (2018-2022) there have already been 45 such proposals.
This shift from debate to discipline is clearly problematic. While the causes and consequences are hard to distinguish namely if it is the government that wishes to silence further the opposition or if it is the new communication style that prompted the changes to guard the reputation of the Parliament, the outcome is clear: one person, the Speaker of the House can decide on what s/he deems acceptable and suitable for parliamentary debate. If we consider that at the time of the reform tools to question these decisions were not available, we can clearly see the redistributive nature of the reform. Although, on 13 February 2014 the Parliament passed an amendment to the Parliament Act, modifying the rules of disciplinary procedure for MPs introducing the possibility for a fined MP to seek a remedy before a committee, it does not solve our original concern about who is entitled to overrule representatives in the House.

5. The role of the Constitutional Court

The Constitutional Court has the potential of becoming a veto-player in the parliamentary process in many aspects. First and foremost, the Court can intervene in the legislation process through the constitutional review of the legislation. In this dimension we can observe the increase of minority rights in the Hungarian Parliament as before the reform of the Constitutional Court only the Speaker of the House could initiate such review, while now one fifth of the MPs can ask for a constitutional review. Through the review the Constitutional Court potentially has the power to review the reform of the Law on the National Assembly as well, thus can act as a veto-player in the legislative process. During the reform of the parliamentary procedures, a debate has taken place about the potential role of the Constitutional Court in reviewing the procedural decisions made by the National Assembly. The idea was that the Court could act as an exogenous institution where MPs can turn to for legal remedy (Szabó, 2017) but it was rejected.

The case-law also suggest the reluctance of the Constitutional Court to interfere directly with the procedural workings of the Parliament. In the spring parliamentary session of 2013 several politicians of the opposition used visual materials, banners and placards displaying critic of the government in parliamentary sessions. One of the placards read “Here Operates the National Tobacco Mafia”. Subsequently, the Speaker of the House fined all of the MPs involved who in turn decided to submit a complaint to the Hungarian Supreme Court which ruled against them stating that while the Parliamentary Act (at that time) did not provide for a remedy against disciplinary decision, remedy is only necessary if the decision is made by a judicial organ, State administration or an administrative authority. Since disciplinary decisions of Parliament did not fall into any of the above categories, the lack of a remedy against them was not unconstitutional in itself (Constitutional Court judgment no. 3206/2013 (XI.18) AB of 4 November 2013). It is worth to note that the opposition MPs also appellead to the European Court of Human Rights (Applications nos. 42461/13 and 44357/13) that ruled partly in their favor (Judgment 17 May 2016) and in its first decision pointed out the lack of legal remedy as a problem which was solved an amendment in 2014 that introduced a legal remedy.

In order to fully grasp the potential of the Constitutional Court in exercising control over the parliamentary decisions we have to recall that with the constitutional amendments of 2010 and 2011 the government raised the number of judges to 15 along with dominating the nomination of the judges to the Constitutional Court, limited the powers of the Court and put the election of the president of the Court in the hand of the parliament. While the Court is still capable of addressing sensitive political issues (Stumpf, 2017), its potential for acting as a veto-player in the political sense can be questioned.

6. Conclusions

The overview of the reform of the rules of the parliamentary game and its changes after 2012 depicts a rather strict picture of the parliament where it seems, the interference of the oppositions is rather seen as an inconvenience and brother to the smooth business of legislation. While in table 4 we can observe changes that have a minority-friendly aspect such as the wider range of appointments by qualified majority, the fact that the government has enjoyed supermajority for all but 3 years since 2010 modifies our understanding of current affairs. Still most of the introduced changes are rather majority-friendly and enable the majority to dominate the parliamentary process.
The problematic nature of opposition has been pointed out by various case-studies (De Giorgi-Ilonszki, 2018) but my analysis brings to light one yet understudied aspect of the institutional framework: the disciplinary tools. These tools are important because they affect MPs as individuals and thus their effect is direct (while the effect of the increase of qualified minority rule is indirect). They also shift the opposition-government dynamic, influence the nature of their conflict towards value-based evaluations and assessments. In case we conceptualize the opposition as MPs or group of MPs whose role is to control the government, the adequate answer is not discipline but accountability. Of course, in this shift it is not only the government who is to blame, since the opposition is clearly changing its communication and often attempts to use the plenary floor as a theatre stage where conflict and spectacle sell. But the narrowing of the structure of opportunities will hardly change political culture for the better, instead it will prompt further conflict which will soon be undebatable in their nature thus truly unfit for the parliamentary floor.

Table 4: Changes in the structure of opposition opportunities after 2012

Tools available to opposition	**Current conditions and/or requirements of application**	**Description of change**
Legislation requiring qualified majority (2/3)	Defined by the Fundamental Law	Wider range of legislation
Detailed debate on bills	Takes place in committees	Shifted from plenary to committee floor
Vote on amendments	Takes place in plenaries	Takes place in committees
Appointment of the Members of the Constitutional Court	Ad hoc parliamentary committee composed of representatives of all parliamentary parties reflecting the parliamentary strength of the parties	Abolishment of parity in the committee

Appointments by qualified majority (2/3)	Ombdusman, president of the State Audit Office, member and president of the Constitutional Court, president of the Curia, public Prosecutor	Wider range of appointments
Procedural decisions by qualified majority	- exceptional proceeding (4/5) - urgent proceedings - derogation from the provisions of the Rules of Procedure (4/5)	Limited use of non-ordinary procedures but wider use of derogations
Constitutional review of legislation	¼ of MPs can request post facto constitutional review	Abolishment of the actio popularis but constitutional review made available to MPs
Committee	1/5 of MPs can propose the establishment of an investigative committee	MPs only have the right to propose, the decision is made by the plenary
Referendum initiative	Not available to MPs	Abolishment of MPs right to initiate a referendum

Source: modified from Smuk, 2012:27

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