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Commentary

Brexit and Devolution in the United Kingdom

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Abstract
Devolution in the United Kingdom is deeply connected to United Kingdom membership of the European Union, which provides an external support system for the internal settlement. Exit from the European Union destabilizes the internal settlement and raises a series of major constitutional issues.

The United Kingdom (UK) has, in the last twenty years, been transformed from a unitary state into a complex, multilevel polity, through a process of asymmetrical devolution. Scotland, Wales and Northern Ireland now have their own executive and legislative institutions, while England continues to be governed directly from the centre. This pattern has allowed devolution to be developed without a fundamental reform of the UK constitution itself, leaving major questions such as the locus of sovereignty and the entrenchment of the new institutions in abeyance.

One factor making this possible is that devolution evolved since 1999, entirely during UK membership of the European Union (EU) and has been shaped by it. The EU has provided a framework for the new constitutional settlement and has helped keep the UK's own union together. Brexit puts that union in question.

The primacy of EU law (and also the European Convention on Human Rights) is embedded in the devolution acts, so that devolved legislation can be struck down by any court for infringing it. Indeed, most challenges to the competences of the devolved legislatures have been under European rather than UK law. At a minimum, Brexit will require the removal of the relevant clauses from the devolution acts.

EU membership has also allowed a more expansive form of devolution than otherwise might have been possible, since the EU secures the UK as well as the EU single market, regulating competition and dealing with the external effects of policies. Agriculture, the environment, regional policy and aspects of justice and home affairs are not reserved to the UK level (and are therefor devolved) but are also EU competences. There are no UK frameworks or ministerial departments in these fields (the Whitehall departments are mostly for England) so that coordination comes through EU policymaking, where the home nations must agree a common line before negotiating in Europe.

More broadly, the EU provides a discursive framework of ideas of shared and divided authority or 'post-sovereignty', which are at the heart of management of the plurinational state that is the UK. The Northern Ireland settlement requires a suspension of disbelief in traditional ideas of sovereignty and allows citizens to express multiple identities and loyalties. This is given more concrete expression in cross-border cooperation and in all–Ireland and UK–Irish institutions such as the British–Irish Council (including the UK and Irish governments, the three devolved governments and the Channel Islands and Isle of Man). In Scotland, too, it has favoured ideas of multiple levels of government. As in other parts of Europe, it provides an external dimension to devolution. The Scottish National Party (SNP) favours Scottish independence, but within the EU, which provides an ex-

ternal support system and qualifies the idea of unfettered sovereignty. Surveys regularly show that, far from wanting to take back sovereignty in a simple manner, most Scots are happy with the idea of multiple layers of government.

Brexit thus poses major challenges to the constitutional settlement of the UK, exacerbated by the fact that Scotland voted by 62 per cent to remain. All the parties represented in the Scottish Parliament were for Remain, although since the election of May 2016 and the June referendum, a small number of Leave supporters has emerged on the Conservative Labour and even SNP benches. Northern Ireland voted 56 per cent to remain but this disguises a serious division between the two communities. Nationalists were massively for remain while unionists were divided. The two governing parties (until the collapse of the Executive) were seriously at odds (Sinn Féin for remain and the Democratic Unionists for leave). Wales voted for leave in much the same proportion as England.

There are some common concerns among the devolved territories. There is strong support in Scotland and Wales for remaining in the Single Market, and in Northern Ireland for keeping an open border with the Republic of Ireland (which implies staying close to the Single Market). There is support in Wales and (especially) Scotland, for retaining free movement of labour. The idea of the UK staying in the Single Market appears to have been closed off by the Prime Minister's Lancaster House speech and the subsequent UK Government White Paper, although it is far from clear just what the relationship with the Single Market and Customs Union will be.

The Scottish Government's second preference is for a differentiated Brexit, which would allow Scotland to remain within the Single Market (although remaining in a customs union with the UK) even after the UK leaves it. It would also retain freedom of movement for workers between Scotland and the EU27 as well as with the rest of the UK. The framework would be the European Economic Area. Scotland would be given the additional competences required to transpose and implement Single Market regulations. This would present numerous practical difficulties and great political ones, as the UK would have first to agree and then to incorporate it into its negotiating proposals with the EU. The UK Government has not rejected the proposals formally but has said that it does not accept a territorially differentiated Brexit, as opposed to some sectoral arrangements.

Should Scotland not get a differentiated deal, the Scottish Government reserves the right to call another independence referendum. It acknowledges that this would require the consent of Westminster, since the constitution is reserved. If this were not forthcoming, there could be a constitutional deadlock. Independence under Brexit would be a more difficult proposition than the independence that was offered in the Scottish referendum of 2014. In that case, it was assumed that both Scotland and the rest of the UK would be in the EU, with open trade, movement of people and no hard border between them. With the UK outside the EU and the Single Market, this would be more difficult. Scotland does four times as much trade with the rest of the UK as it does with the EU27. In 2014 the Scottish Government proposed to share the Pound sterling after independence. This was contested at the time by the UK Government. With the UK outside the EU, it would be even more difficult. The concession that David Cameron gained in his renegotiation that the EU is a multi-currency zone, lapsed after Brexit.

The Northern Ireland peace agreement is not formally part of the EU structures but it is deeply embedded in European assumptions about mixed sovereignty. Cross-border cooperation is facilitated by the EU Single Market and the ease of travel. Brexit threatens many of these gains. It has widened differences between the two communities, since there will be no neutral European ground between the two national aspirations and sovereignty claims, and because the two communities voted in different ways. It risks putting an EU border between the two parts of the island, undermining efforts to bring them together. UK ministers have insisted that some solution will be found and that there will be no hard border. That depends on what is meant by a border. It might be possible to avoid a physical border and to retain free movement at least for Irish and British citizens, building on the old Common Travel Area, which predates the EU. With Ireland in and the UK out of the single market, however, there will be differences in product standards for goods, environmental regulations and rules on trade in services. There will be rules of origin on goods moving between the EU and UK customs unions. So there will have to be a border between the two parts of Ireland, albeit a virtual one, policed unobtrusively and without a visible presence.

Immediately after the referendum, voices on the Irish nationalist side called for a referendum on uniting the two parts of Ireland (which is provided for in legislation). This, however, would not be acceptable to the unionist community and in recent years polls have shown that there is no majority for Irish reunification even among Catholics, as long as the alternative is the current power-sharing arrangement—but this of course includes an open border and cross-border cooperation. Just as Brexit puts a border between the two parts of Ireland, Brexit plus Irish unity would put a border between Northern Ireland and Great Britain.

Brexit has put into question the evolving understandings about the constitutional standing of the devolved legislatures. These had been evolving in a 'federal' direction, as the institutions bedded down and were recognized as a permanent part of the constitution, albeit not entrenched in a legally binding way. According to the Sewel Convention established in 1999, Westminster will normally ask for consent of the devolved bodies before legislating in their fields of competence; later this was extended to changing their competences themselves. The

Convention was incorporated into law in the Scotland Act (2016) and the Wales Act (2017). The Scottish and Welsh governments have argued that, as Brexit does invade their competences, it should be subject to legislative consent motions. On this basis, they joined the case in the Supreme Court about whether the consent of the Westminster Parliament is needed to trigger Article 50 and start the Brexit process. The UK Government response was that this is a reserved matter so that Sewel does not apply. They might have added that is was not a 'normal' situation but went even further, insisting that Sewel, as a mere 'political' convention, has no binding force in any circumstances. The Supreme Court, in accepting this argument, has in effect reversed the 'federalizing' tendency in the UK, in which the devolved institutions were coming to be accepted as a permanent part of the constitution and the conventions that protected them as being as strong as other, well-established conventions. There will probably be further challenges about the role of the devolved legislatures in the Great Repeal Bill and legislation to repatriate competences from Europe as some of these are not reserved.

If nothing else is done, then those competences currently shared between the EU and the devolved legislatures will revert to the latter. Yet the division will not be clear cut, as the external dimension will still be reserved, including agricultural trade, international environmental policy and fisheries negotiations. There may also be a need for UK-wide frameworks to ensure fair competition and deal with externalities. Funding for agricultural support and regional policy will not automatically come back to the devolved level along with the responsibility. There are various options for this, including a needs-based formula with common criteria; per capita funding; or incorporation into the Barnett Formula. Barnett would see the devolved governments getting their current levels of funding, with any increase or decrease in the corresponding English spending allocated according to population. This would leave them vulnerable to cuts in English programmes, and force them to decide whether to maintain these programmes out of their own resources, under the pressure of competing priorities.

Some Scottish Conservatives and a few Labour and SNP politicians have seen the repatriation of powers as an opportunity for more policy autonomy and divergence. The Welsh Government, on the other hand, wants to retain UK-wide frameworks, but with a stronger role for the devolved governments in setting these. Alternatively, stronger powers to set policy frames may be imposed by Westminster. So Brexit may give a decentralizing or a centralizing impetus to the devolution settlement.

The EU served an important role in underpinning the UK's own union. After Brexit it will be much more difficult to hold that together.

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Conflict of Interests

The author declares no conflict of interests.

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Article

Trust and Tolerance across the Middle East and North Africa: A Comparative Perspective on the Impact of the Arab Uprisings

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Abstract

The protests that swept the Arab Middle East and North Africa (MENA) are expected to have influenced two key civic attitudes fundamental to well-functioning democracies: trust and tolerance. However, systematic comparative assessments of the general patterns and particularities in this region are rare. This contribution theorizes the uprisings' impact and presents new society-level measurements of trust and tolerance for the MENA, synchronizing over 40 Arab Barometer and World Values Survey surveys on Algeria, Egypt, Iraq, Jordan, Lebanon, Morocco, Palestine, Tunisia, and Yemen, from before and after the uprisings. The analyses firstly show political-institutional trust falling in the uprisings' aftermath in countries that went through democratic reform or regime change. It appears that politicians misbehaving and reforms not resolving social problems hurt people's trust in politics. Secondly, in democratic transition countries Egypt and Tunisia, a decrease in social trust reflected the pattern of political-institutional trust indicating a spill-over effect. Thirdly, ethno-religious tolerance dropped region-wide after the uprisings, indicating that the aftermath of religious conflict impacted the entire Arab region. These results support rational-choice institutionalist theories, while at the same time refining them for the MENA context.

Issue

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1. Introduction

During the Arab uprisings, millions took to the streets. The public was fed up with corruption, poverty, unemployment, suppression, and inequality. Moreover, people did not trust institutional procedures and ruling politicians to solve these problems (e.g. Heydemann, 2013; Longley Alley, 2013; Robbins, 2015). While a lack of political trust was clearly at the root of these uprisings, we still know little about how the protests and their aftermath influenced people's civic attitudes, including political and social trust and tolerance. Yet these civic attitudes are crucial in establishing a sustainable democratic system in which people accept the outcomes of the political process and realize that they can hold their government accountable through elections (e.g. Fish, 2002;

Geddes, 2007; Gibson, 2009; Inglehart, 1997; Norris, 2011). It thus is important to ask how the Arab uprisings affected political-institutional trust, interpersonal trust, and ethno-religious tolerance across the Middle East and North Africa (MENA).

Some MENA case studies suggest that both the protests and the subsequent lack of clear change toward democracy or reduction in economic hardship impaired public opinion considerably. For instance, as Heydemann (2013, p. 59) writes on Syria, "the democratic aspirations of the protesters who filled streets and public squares…were among the conflict's first casualties". And on the failed transition in Egypt, Brown (2013, p. 53) states that by discrediting democratic promises all that remained was "a cloud of distrust and suspicion". Still, any systematic theorization or empirical assessment of

how trust and tolerance have developed under the uprisings is lacking.

Though the more Western oriented literature on civic attitudes provides an important background to understanding the uprisings' impact, it cannot provide ready-made answers. While it shows that trust and tolerance are relatively stable, driven by slow endogenous processes and shaped by institutional contexts (cf. Mishler & Rose, 2001; Van der Meer & Dekker, 2011; Zmerli & Hooghe, 2011), the literature also acknowledges that these civic attitudes are subject to contextual shocks (e.g. political events) and that our knowledge on this is limited. So while we have learned from (empirically supported) rational-choice theories that a country's political and economic developments, such as economic performance, affect its citizens' attitudes (Easton, 1975; Gibson, 2009; Hutchison & Gibler, 2007; Rose & Mishler, 2011), and we know from sociological and classic institutionalism that religio-cultural differences, economic processes, and political institutional arrangements socialize generations in certain base levels of trust and tolerance (Growiec & Growiec, 2014; Inglehart, 1997; Lühiste, 2006), it is less clear how and under which conditions shocks, like the uprisings, actually influence trust and tolerance.

By combining these existing insights with specific observations from case studies and unique comparative empirical MENA material on the recent events, this study will (a) provide new empirical insights into both the impact of the Arab uprisings, and whether and how this impact differs across the region; (b) empirically assess the applicability of existing theories—which are mainly grounded in Western democracies and Central and Eastern Europe (CEE)—to the MENA region; (c) explore the conditions under which the uprisings are found to have had an impact, explaining differences across the region; and (d) consequently generate new empirically-grounded theoretical insights on what drives changes in these supposedly stable civic attitudes of trust and tolerance, feeding back into existing theories.

Empirically, I present diachronic and synchronic comparisons of nine MENA countries and over forty surveys. These comparisons have become possible by the synchronization of Arab Barometer and World Value Survey (WVS) data in the PRiME project.[1] The diachronic comparison will help lay bare longer-term developments, which is crucial for establishing whether changes in attitude before and after the uprisings are not merely part of a larger trend such as generational replacement (cf. Robbins, 2015). The synchronic nine-country comparison then assesses the conditions (e.g. countries' institutions and the uprisings' form) under which the uprisings have influenced people's trust and tolerance.

2. Theoretical Background

There is a vast literature on political trust, interpersonal trust and tolerance. And before turning to the more spe-

cific expectations of the uprisings' impact, I will provide a general background of the existing explanatory theories for the developments in these civic attitudes. As this study has set out to explain society-level developments in trust and tolerance and the differences between countries therein, macro-level explanations will be the focus here. Using this literature, I will then formulate specific expectations for these civic attitudes, which, although their general frames are similar, are thought to are explained by different specific factors (see e.g. Newton, 2001).

2.1. Explaining Macro-Level Civic Attitudes

A first important frame for understanding any development in civic attitudes over time is found in sociological institutional approaches, which mainly predict stability and slow changes. The economic and cultural situation both in a country and in intermediary societal groups are said to socialize generations into certain base levels of trust and tolerance, particularly at a young age (Easton, 1975; Gibson, 2009; Inglehart, 1999). In this vein, Growiec and Growiec (2014), for instance, argue that a way out of the low-trust trap in the transitional CEE countries is economic modernization. Logically, this approach sees generational replacement as an important driver of (slow gradual) change (see Gibson, 2009; Inglehart, 1997; Mishler & Rose 2001; Zmerli & Hooghe, 2011). Moreover, sociological institutionalism helps to explain differences between countries based on their different economic structures and cultural backgrounds, as for instance illustrated by Lühiste (2006) on the post-communist Baltic states, where political trust still suffers from the legacy of authoritarian communist rule.

Related to this approach is the classic institutionalist approach that focuses on the formal institutional context in which people live. This approach mainly helps to understand differences between countries. Stressed most in this respect is the difference between authoritarian and other regimes, the former's control over the people and its suppression of opposing ideas leading to low civic-attitude levels (Mishler & Rose, 2001; Zmerli & Hooghe, 2011). This phenomenon has also been linked to lasting effects after transitions to more open systems in the CEE (see Marinova, 2011; Murray, 2008). At the same time, as the transitions in the CEE have illustrated, regime types can change and this provides some explanations for changes in civic attitudes (Murray, 2008). Particularly, this approach puts forward that no short-term miracles should be expected from democratic transitions, as they lead to the breakdown of existing structures and the general disappearance of certainties. Consequently, already relatively low levels of civic attitudes cannot be expected to increase overnight or might even decrease (see Raiser, Rousso, & Steves, 2004), nor will unpopular groups be liked all of a sudden (cf. Gibson, 2009).

To explain more rapid and short-term changes, the rational-choice-based frame provides most apt explana-

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[1] Political and Religious attitudes and behavior in the Middle East.

tions. This approach mainly focuses on people's recent experiences (Easton, 1975; Gibson, 2009). And although this seems to shift the focus to the micro level, it still is relevant to this study, as societal-level events shape people's subjective experiences (Hutchison & Gibler, 2007; Rose & Mishler, 2011), and because it has been shown that sociotropic perceptions can outweigh egocentric ones (Gibson, 2009, p. 418). More concretely, from this perspective we can deduce that for instance economic performance and religious cleavages at the societal level affect people's civic attitudes, and that these macro-level factors thus help explain different levels of trust and tolerance between societies and within societies over various years.

2.2. Theorizing the Impact of Political Shocks in the MENA Region

The institutional and rational-choice approaches discussed above provide important background knowledge for analyzing the Arab uprisings' impact on civic attitudes in the MENA. The first assumption that can be made is that society-level civic attitudes are expected to have already been relatively low before the uprising. Secondly, civic attitudes are expected to be relatively stable over the roughly 14 years studied here. Thirdly, both the classic institutionalist and the rational-choice frame suggest that major political events—revolution, war, terrorist attacks, and regime change—can have considerable impact, at least in the short and mid-to-long term.

At the same time, the relative idiosyncrasy of such events also ensures that any insights derived from the existing frames are difficult to generalize, as illustrated by the two relatively recent political shocks that have received attention in the literature: 9/11 and the democratic wave across CEE. Studies on 9/11 show that, as a result of a new threat perception, political trust in the U.S. surged and tolerance decreased (e.g. Chanley, 2002; Davis & Silver, 2004; Gross, Aday, & Brewer, 2004; Skitka, Bauman, & Mullen, 2004). However, studies on the transition to democracy in CEE suggest that uncertainty inhibits any increase in political-institutional trust in a newly less-authoritarian context, though the transition might actually strengthen trust in informal networks as compensation (see Growiec & Growiec, 2014; Marinova, 2011; Murray, 2008; Raiser et al., 2004). These results suggest that political shocks have no single unequivocal effect; the impact of such events depends on the characteristics of the shock and context. So the first very general expectation in this study is that the impact of the uprisings differs considerably across countries and the different civic attitudes (Expectation 1).

Moreover, any systematic assessment of the uprisings' impact on civic attitudes in the MENA should thus dovetail the general frames discussed above with the country specificities and the institutional differences across the region. Below, I will therefore address the three civic attitudes focused on in this study—political-institutional trust, interpersonal trust and ethno-

religious tolerance—one by one and address the claims made about these civic attitudes in the MENA country studies after the uprisings. By doing so from the perspective discussed above, I can formulate new, partly explorative, expectations on the uprisings' impact.

2.3. Trust

Generally, political and interpersonal trust correlate at the societal level. Some have argued that political-institutional trust partly depends on people's more general interpersonal trust (e.g. Lühiste, 2006), while others argued that both have their own dynamics, at least at the individual level (e.g. Kaase, 1999; Newton, 2001). Unfortunately, claims about the Arab uprisings do not clearly distinguish between these two forms of trust. Yet to formulate clear expectations, this distinction is important.

Political-institutional trust, or political trust, in short, refers to people's acknowledgment of the government's authority and their willingness to accept the outcomes of the government's decision making as they believe politicians generally act fairly (Zmerli & Hooghe, 2011, p. 3). Interpersonal or social trust, on the other hand, refers to the belief that other people are generally willing to behave in ways that are not detrimental to others, thus measuring the way people "evaluate the trustworthiness of the world they live in" (Benson & Rochon, 2004; Newton, 2001, p. 203).

Political-institutional trust. Brown (2013) and Robbins (2015) link the failed transition in Egypt to a growing distrust of political authorities, but they neglect to explain why a *drop* in trust should be expected. Given Egypt's longstanding authoritarian history and malfunctioning government it is likely that political trust was already low or gradually declining, unless the regime change and free elections actually boosted trust at first. In this line, for Yemen, Longley Alley (2013, p. 89) talks about a strain due to economic hardship felt by millions of Yemeni, indicating trust was already low but did not drop in any major way. Or, as Boduszyński and Pickard formulate explicitly for Libya, "Libya's past—not only the years of the Qadhafi regime but also decades under brutal Italian colonial rule and then a corrupt monarchy—has made many Libyans deeply distrustful of *all* central authority" (2013, p. 89).

These accounts echo the literature on political trust in (transitioning) authoritarian regimes, but it does not become clear why a low but stable trust is (implicitly) expected in some cases while a decrease is noted in others. Combining these case insights with the general literature, however, leads me to formulate at least two concrete expectations. Firstly, only in the cases where political trust was relatively high can a drop be expected due to the introduced uncertainty (Expectation 2). Secondly, as a response to the uprisings some governments initiated some democratic reform (e.g. Morocco) or experienced a successful democratic transition (e.g. Tunisia). In those cases, a rational-choice institutional approach would sug-

gest that (a) trust might have risen as political authorities became more responsive, but also that (b) this newfound trust was not a matter of long-term socialization and thus still fragile. Citizens who were disappointed by the actual economic and political results of the uprisings—for instance, politicians falling back into old authoritarian and sectarian political habits (e.g. Egypt)—can then be expected to lose their newly-found political trust, the latter even dropping below original levels, as the "good guys" also turn out to be similarly untrustworthy or hungry for power (Expectation 3).

Interpersonal trust. Boduszyński and Pickard's discussion of Libya (2013, p. 91) talks about a general "trust deficit", one particularly linked to intra-country cleavages. This is unlikely to be restricted to Libya, as the entire MENA shares a (neo-)colonial history in which ethno-religious divides have become salient after the colonial powers drew their own borders. To illustrate, in 1915, British diplomat Mark Sykes, staring at a map, is recorded to have said: "I should like to draw a line from the 'E' in Acre to the last 'K' in Kirkuk" (Barr, 2011). Moreover, or consequently, many people in the MENA do not solely identify as Libyan, Moroccan, or Yemeni, but also as Arab citizens or part of the *Umma*,[2] and many share a language, and thus media accounts of what happens in one country easily reach citizens of and in another country.

The observations in country studies suggest that the uprisings have harmed interpersonal trust. Looking more closely at the regional conditions and linking these to the experiences as focused on in the rational-choice approach, it can expected that in the countries that are ethno-religiously diverse and where the protests were organized by particular ethnic or religious groups (e.g. Bahrain, Iraq, Lebanon), the violence and upheaval might have harmed trust in "people" in general (Expectation 4). Considering the Arab regional identity and the fact that interpersonal trust refers to "the *world* people live in" (see above) means that increased group tensions during the uprisings can also be expected to have harmed interpersonal trust across the region, albeit to a weaker degree (Expectation 5).

In addition, the above arguments on political trust might also apply to interpersonal trust, as, in several countries, people came to power who had not been considered part of the political elite before. Their actions might not only influence people's political trust, but also rub off on people's general views on the world's trustworthiness. Particularly in countries experiencing a democratic transition as well as untrustworthy and corrupt new leaders, we can thus also expect interpersonal trust to drop (Expectation 6).

2.4. Tolerance

In the Western political science literature, tolerance is generally defined as being prepared to extend civil rights

to disliked societal groups (e.g. Communists, Muslims, feminists) (see Djupe & Calfano, 2012; Scheepers, Gijsberts, & Coenders, 2002). Possibly due to the general absence of guaranteed civil rights, the common conceptualization of tolerance in non-Western countries instead centers on the extent to which people from other backgrounds are welcomed in the community, particularly whether people object to having these "outsiders" as neighbors (e.g. Ciftci, 2010; Moaddel, 2006; Spierings, 2014). Both conceptualizations tap into the same conceptual focus: how people respond to others with different worldviews.

The rational-choice and sociological-institutionalist frames clearly direct this study's assessment of social or ethno-religious tolerance to perceived sociotropic threats. We can assume that the uprisings have spread and heightened the threat perception because of increased ethno-religious tensions, protests, and conflicts—or at least that these tensions have become more widely visible. Consequently, the uprisings are expected to have negatively impacted ethno-religious tolerance. Heydemann (2013, p. 65), for instance, talks about the Syrian events having "led to partial sectarian cleansing in rural areas, destroying longstanding patterns of intersectarian tolerance between Sunni and minority villages in conflict affected areas". This effect is expected in MENA societies with clear ethno-religious cleavages (Expectation 7), as well as across the region, since ethno-religious tolerance is strongly connected to the shared (neo-)colonial history of, and identity discourse in, the MENA (Expectation 8).

3. Data and Methods

To assess the MENA region's developments in trust and tolerance and the differences between countries, I have synchronized over 40 existing public-opinion surveys to assess the impact of the uprisings on the civic attitudes. Moreover, I embedded these data in a country classification drawing from existing studies and media reports in order to assess how differences in the uprisings' impact relate to differences in the countries' protests and their aftermath.

Based on the surveys, aggregated macro-level descriptive statistics will be presented for 37 country-year combinations. Because this study does not focus on individual-level explanations of civic attitudes, macro-level descriptive analyses are most suitable to assess both whether trends and changes are due to specific outliers, as well as what the general developments are. This approach combines the strengths of case knowledge and those of representative public-opinion data as it not only allows for systematic comparisons but also for a more exploratory assessment of the patterns, which might identify important factors not derived from the theories and

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[2] The WVS includes questions on the degree to which people identify with their country and with the Arab nation. These figures show that in almost all country-years for which both are available, the identifications differ only slightly. Overall, on a scale from 0 (weakest) tot 3 (strongest), the means are 2.54 (nation) and 2.31 (Arab), indicating that people identify strongly with both.

literature described above. In that sense, a visual descriptive analysis of a limited number of countries is rather demanding as regards the theoretical expectations, because each deviation needs to be considered and thus can severely undermine any theoretical claim. In some instances, additional statistical tests are used to establish whether changes in the society-level attitudes are likely to have been caused by chance—for instance if they are relatively modest or only found in a few countries—and these will be discussed in the text where relevant.[3]

3.1. Surveys

The statistical analyses in this study are based on Arab Barometer (AB) and WVS data, three rounds each, which have been synchronized in the PRiME project. A core goal of this project is to create indicators for systematic comparative analysis even though different items are available across country-years. The exact procedures are discussed below. For eight countries at least one nationally representative survey[4] from before 2011 and one from 2013 or 2014 were available: Algeria, Egypt, Iraq, Jordan, Lebanon, Morocco, Palestine, and Yemen.[5] I also included Tunisia, whose earliest survey is from 2011 (after the ousting of Ben Ali, before the Constituent Assembly elections), as its lasting democratic transition makes it a good reference point, against the Egyptian case, to check whether a transition's success or failure makes much of a difference.

3.2. Political-Institutional Trust

All surveys provide several specifications of the question "how much trust do you have in [institution]?"[6] Items on four institutions were selected to create the macro-level index: parliament, government or prime minister, civil service, and media. Most surveys contain the first two, and by adding the latter two all selected surveys (see above) could be included. Factor analyses show that the four all tap one underlying dimension.[7] As the different items' means were very similar (per country-year that is), the arithmetic mean of available items per respondent was calculated, rescaled to run from 0 to 1, and aggregated per country–year. Several robustness checks using alternate operationalizations resulted in highly sim-

ilar conclusions to the ones presented below. Where relevant, sensitivity tests and important deviations are discussed in the results section. The resulting indicator of societal-level political-institutional trust per country-year has a real minimum of 0.26 (Lebanon 2011) and real maximum of 0.72 (Egypt 2011).

3.3. Interpersonal Trust

All surveys include only one dichotomous item, albeit a widely used one, to measure interpersonal trust: "most people can be trusted".[8] Without further synchronization the 37 country–year scores could be calculated, ranging from 0.12 (Lebanon 2013) to 0.56 (Egypt 2011).

3.4. Ethno-Religious Tolerance

The variation in available items was greatest for tolerance as concept. Still, most surveys did include several items on objecting to people from certain societal groups as neighbors, and these have been applied to studies of tolerance before (e.g. Ciftci, 2010; Moaddel, 2006; Spierings, 2014). From the "neighbor items", I selected those that allowed for including as many surveys as possible, while at the same time representing a coherent concept of tolerance, in this case ethno-religious tolerance: neighbors from another religion, race, or country, people with a migration background, and people who speak a different language.

As the religion and race items are closest to the theoretical concept and present in most surveys (24), they are used as synchronization benchmark. Yet further synchronization is needed to create comparable aggregate scores, because the "popularity" of the societal groups and availability of items varies across country–years. This synchronization entails a correction of each non-benchmark item by an item-unique synchronization factor, which is calculated by comparing scores on surveys that include both the benchmark items *and* the other item.[9] Consequently, six more country–years could be included. For Egypt 2008 no neighbor item was present, but the same synchronization procedure could be applied to an alternative item theoretically linked to this concept of tolerance[10] available in two other surveys that included the benchmark items. Additionally, the third AB

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[3] The models and figures are not controlled for individual-level characteristics such as age and education. First of all, because the number of macro-level cases is relatively small in statistical terms. Secondly, because it is known that demographic changes only lead to slow and rather gradual changes. The "raw figures" in the graphs are actually more informative: they show what the trends in civic attitudes were per country before the uprisings. I take these trends explicitly into account when judging the changes after the uprisings.

[4] If available, post-stratification weights are applied.

[5] Bahrain and Sudan are excluded. The 2014 Bahrain sample included only seven of twelve regions, which makes it difficult to compare the two surveys and assess developments in attitudes in Bahrain. Between the two Sudan surveys South Sudan became independent, troubling the validity of a comparison.

[6] A great deal; quite a lot; not very much; none at all.

[7] PAF, oblimin, 20,330 respondents with scores on all four items; all factor loadings > 0.6, KMO 0.782, Bartlett's test significant.

[8] Possible answers: (1) most can be; (0) can't be too careful.

[9] The exact procedure can be obtained from the author. Briefly: weighted means are calculated only on the cases with valid benchmark—and other-item scores. Each item has a conceptual minimum of 0. The benchmark mean is divided by the other-item mean: the synchronization factor. Valid scores on the other item in *all surveys* are then multiplied by the synchronization factor. Consequently, the same group of respondents will have the same aggregate tolerance score regardless of whether one used the benchmark or the other item.

[10] "How important should having ancestors from Egypt be as requirement for somebody seeking citizenship of Egypt?"

round did not include neighbor items, but asked whether "In a Muslim country, non-Muslims should enjoy less political rights than Muslims."[11] For five of the country–years of those surveys, WVS surveys are available that do include benchmark items. In this case, the synchronization factor was calculated by comparing the WVS benchmark means with the AB political-rights means on exactly the same country–years.[12] This enabled five more country–years to be included in the analyses below.

Based on the synchronized items, the final societal-tolerance scores[13] are calculated by taking the arithmetic mean of all available items per respondent aggregated per country-year (real minimum: 0.47 [Yemen 2013]; real maximum: 0.92 [Lebanon 2011]). These figures can be interpreted as proxies for the proportion of people that do not object to people of another religion or race as neighbors (the benchmark). Several alternative ethno-religious tolerance operationalizations (covering fewer country-years) are used to test the sensitivity of the below conclusions to the followed procedure, which will be discussed in the respective analysis sections. The presented general conclusions are robust.

4. Empirical Analysis

4.1. Arab Uprisings

The expectations formulated in the theory section are partly conditional on whether major protests took place, whether these were organized along ethno-religious lines, and whether they resulted in democratic reform and regime change. The nine countries studied here are therefore classified accordingly. Table 1 summarizes this and makes the expectations formulated above more tangible. For instance, the theoretical expectation on inter-personal trust declining (Expectation 4) now implies that such decline in trust should be found in Iraq, Lebanon, and Yemen particularly (see Table 1) for the expectation to hold.

Turning to these conditioning factors, I firstly distinguish between countries where major protests took place in 2010–2011 and where they did not, whereby I build on Brownlee, Masoud and Reynolds (2013) by defining "major protests" as large crowds protesting over multiple days and protests spreading across the country.[14] Secondly, among the countries that saw such protests, I can distinguish three where the protests were strongly linked to ethno-religious differences: Iraq, Lebanon, and Yemen. In Iraq, major protests revolved around the issue of the Sunni militia Sons of Iraq, who felt mistreated by the Shi'a-dominated government (Al Jazeera, 2008; Dermer, 2014; The Daily Star, 2013); in Lebanon, protests were driven by Sunnis protesting the Shi'a-backed candidate nominated for Prime Minister (e.g. Al Jazeera, 2011; Lutz, 2011); and in Yemen ethno-religious separatist protests—major parties being Northern Houthis and Southern Islamist secessionists—quickly led to violent conflict that saw political assassination attempts and protesters being fired upon (see BBC, 2016; Kasinof, 2016; Longley Alley, 2013, 2015).

Thirdly, as for the aftermath, institutional changes are at the core of the expectations formulated above.[15] Again building on Brownlee et al. (2013), I distinguish between countries where regime change took place and those were it did not. In three of the nine, the full set of institutional rules was replaced, leading to a fundamentally different type of political system, but, as Table 1 indicates, the *outcomes* are quite different. In both Egypt and Tunisia a democratic transition took place, but in Egypt this did not last, with the Qandil governments and president Morsi rolling back the democratic transition and the military aborting it completely (Brown, 2013); whereas in Tunisia the Islamist Ennahda and the other major parties more or less accepted the new rules (Netterstrøm, 2015). In Yemen, the regime collapsed and a still ongoing civil war broke out. Among the countries without regime change, a distinction can be made between countries that did introduce some reforms and

Table 1. Protest and political change in nine MENA countries.

	No major protest	Protest driven by particular religious or ethnic groups	Broad, peaceful protest
No substantive change	Algeria Palestine	Iraq Lebanon	
Minor democratic reform	Jordan		Morocco
Unsuccessful democratization			Egypt
Successful democratization			Tunisia
State breakdown		Yemen	

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[11] Possible answers: strongly agree, agree, disagree, strongly disagree.

[12] The exact procedures can be obtained from the author. Only Muslim respondents are included, and weights assured similar survey sizes for AB and WVS per country-year.

[13] Palestine 2006 included no suitable data.

[14] The differences with Brownlee and colleagues' classification are caused by my exclusion of their criterion that the protesters occupied public places, which is less relevant to this study's central question.

[15] Opposed to, for instance, financial appeasement or firing state officials.

those where this was not the case. Though the leaders of most of these countries did not see fit to announce and implement political-institutional reforms, in Jordan more freedom of expression was allowed and in Morocco some of the king's powers have been transferred to elected politicians (Dalacoura, 2012).

4.2. Political-Institutional Trust

To start with the developments before the uprisings, Figure 1 shows a distinct downward trend in political-institutional trust across the region, with only three exceptions.[16] Remarkably, the latter are all found around 2006–2007. This sudden increase might relate to the 2006 Lebanon war, which in the Arab MENA is general perceived to have been won by Hezbollah, defeating Israel (e.g. El-Husseini, 2015). Governments also claimed this victory, with Syrian president Assad, for instance, identifying himself with a growing Arab resistance against Israel (Al-Assad, 2006). It is not unlikely that a rally-around-the-flag mechanism might have been at play here, with the public feeling positive about the Arab leaders' performance.[17] Evidently, this explanation deserves more research (e.g. why does Algeria deviate from the pattern?)[18] but that is beyond the scope of this study. The main observation here is a long-term downward trend in political-institutional trust, which seems to have fed the uprisings.

Ignoring the existing trend discussed above could lead to overestimating the impact of the uprisings. For instance, the decline in Palestine is hardly a trend break, and the declines in Jordan and Morocco are more modest than one might have concluded simply comparing the 2011 and 2013–2014 figures. More generally, Iraq and Lebanon show no clear increases or decreases. Trend-breaking drops *were* found in Egypt, Jordan, Morocco, Tunisia, and Yemen—the five countries that saw regime change or some democratic reform (see Table 1). It is worth zooming in on this connection.

The drops in political-institutional trust are strongest in the three regime-change countries. Egypt and Tunisia saw a democratic transition and had relatively high trust levels just after the uprisings. For instance, in 2011, after Mubarak's ousting and Egypt's first democratic elections, trust was considerably higher than in 2008, the year of the previous survey. However, neither in Egypt nor in Tunisia did the high trust turn out to be durable. The undemocratic behavior in Egypt can partly explain the major drop in trust, but in Tunisia, with its rather stable democratization, trust likewise dropped. Considering the socio-economic problems at the core of the uprisings, it seems important that both governments did not solve these issues overnight. The remaining socio-economic problems can explain the nullification of the democratization trust boost. Also, the results for Jordan and Morocco further support this reasoning. Both countries saw minor democratic reforms, and though the decline in trust seemed to be slightly weakened at first, trust declined more strongly again some years after the reforms. Finally, in Yemen a minor increase in
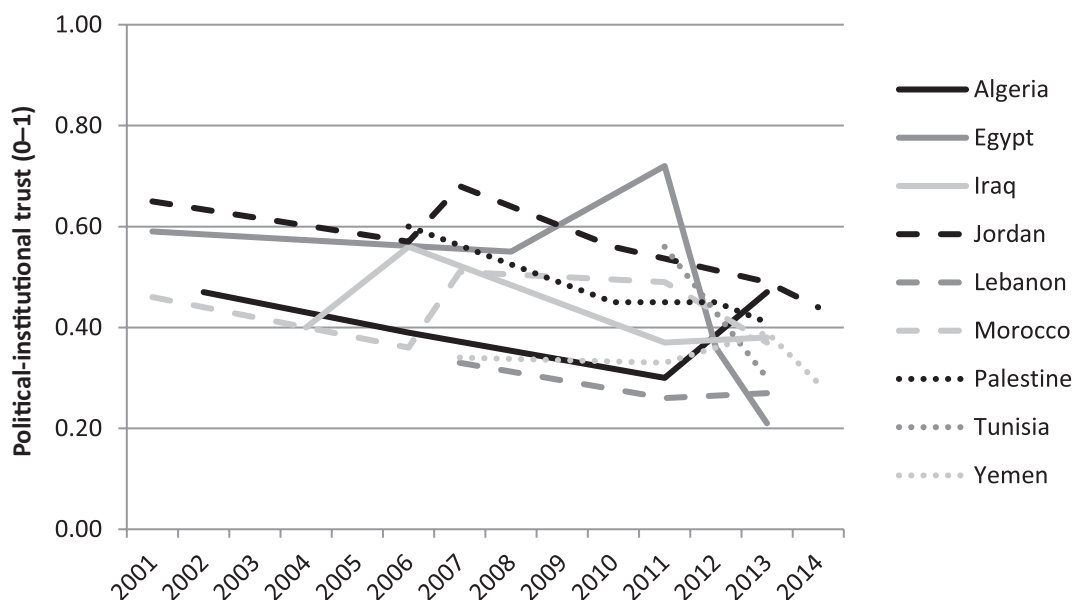
Figure 1. Political-institutional trust in nine MENA countries (2001–2014).

[16] Based on all the consecutive surveys between 2001 and 2011, with the exception of Egypt, for which the 2011 survey was not included as this was conducted after the fall of Mubarak and the parliamentary elections.

[17] Further support comes from Israel's main antagonist Palestine having the highest trust score in 2006. Methodological explanations are less convincing: country–years with both a WVS and AB survey do not show a consistently higher score on the WVS data, from which the 2006–2007 data stem; item-difference is unlikely to have caused the pattern, as similar effects are found for parliament scores only.

[18] The Egypt 2008 deviation is explained by being the only survey without items on either parliament or the executive branch.

trust was seen in the first survey after Saleh handed over power and signed the transition plan in 2012. However, the later complete breakdown of the country and the outbreak of civil war made political trust drop to a low. It seems that initial reforms had positive effects in all five countries, but as people's (socio-economic) problems were not resolved their daily experiences did not change. Consequently the uprisings ultimately harmed political trust as people became disappointed in the performance of their (new) governments and institutional elites.

Algeria seems to be a major exception to this mechanism, with trust strongly increasing between 2011 and 2013, though no institutional reform was introduced (see Table 1). A closer look, however, suggests that the 2012 parliamentary elections might have had the same effect as reforms in other countries. Even though no substantial *institutional* changes accompanied them, they were internationally considered to be relatively democratic (Al Arabiya, 2012; Al Jazeera, 2012). This explanation fits the larger pattern discussed above, but for that to hold future studies with data from 2014 onwards should also show lower levels of trust, since Algeria's government has also not solved its larger social problems, which include corruption and unemployment (Cheref, 2016; World Bank, 2016).

Overall, a general negative trend in political trust before the uprisings was followed by a more differentiated impact of the uprisings, as is also confirmed by additional statistical models.[19] In the conclusion, I will return to the theoretical expectations.

4.3. Interpersonal Trust

Before the uprisings, a trend of decline is found for interpersonal trust, albeit a somewhat weaker one than for political trust. Moreover, the publics of Morocco and Yemen show rather stable levels of interpersonal trust, and some increases are even found as well. Still, a pooled overall regression model on the surveys from before the uprisings shows a statistically significant negative trend.[20]

Turning to the uprisings, initially high levels of interpersonal trust or considerable increases are found just after the uprisings in Algeria, Egypt, Iraq, and arguably Palestine. Marked declines, partly following these increases, were found for Egypt, Jordan, and Tunisia. This cluster of three is hard to fit with the distinctions presented in Table 1, given that in the two other countries that saw reform or institutional change, Morocco and Yemen, interpersonal trust was rather stable. As such, a declining interpersonal trust cannot be linked to, for instance, the uprising being organized along religious lines. The only pattern that seems to appear is that decreases in social trust are found after a few years in countries that have seen a democratic transition, but where social and economic problems remain strong (Egypt, Tunisia), as will be elaborated on in the conclusion.

4.4. Ethno-Religious Tolerance

For tolerance, the overall pattern is certainly not one of decline; rather stable at first, it seems to be increas-
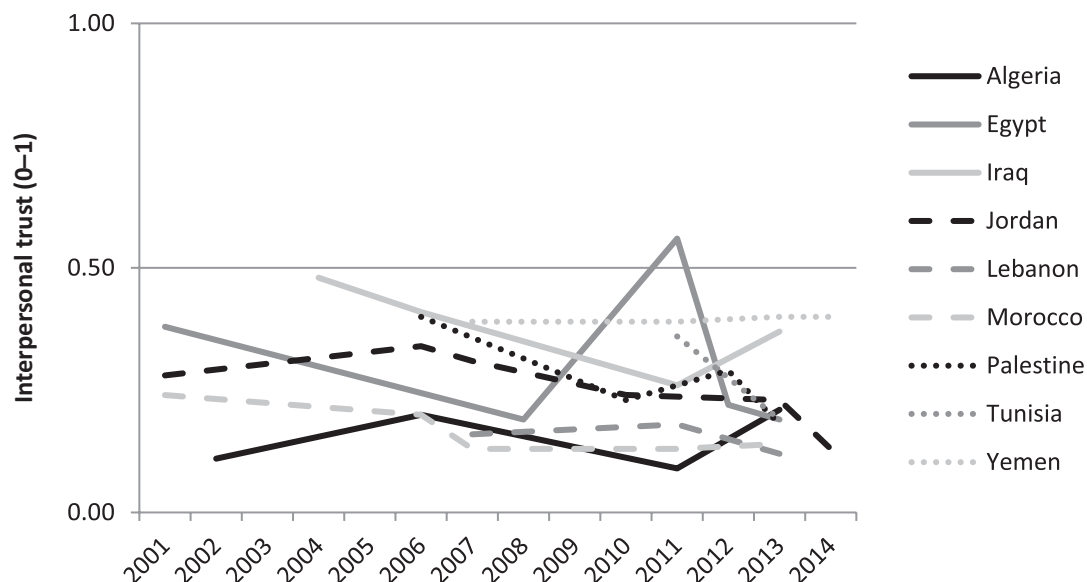
Figure 2. Interpersonal or social trust in 9 MENA countries (2001–2014).

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[19] A two-level regression model with respondents embedded in countries shows a negative and significant impact of "years since 2001"; a dummy measuring the impact of the uprisings shows no overall negative and significant effect, but including it in the model's random part shows the uprisings' effect to differ significantly between countries.
[20] Respondents embedded in country-years in countries, with random intercepts and "years since 2001" as core explanatory factor.

ing towards 2010 and 2011, indicating some kind of public unification just before the uprisings. The 2007 dips in Jordan and Morocco are exceptions that mirror the increased political trust there (cf. Figures 1 and 3). The increased saliency of the Arab-Israeli conflict due to the Lebanon war might have simultaneously decreased ethno-religious tolerance, as under those circumstances more people have had Jewish people in mind when they were asked about neighbors with another religion. Additional analyses provide further support for the idea that it was particularly the tolerance towards Jewish people that decreased during those years.[21]

The developments following the uprisings are strikingly uniform: in all nine countries we see a decline between 2010–2011 and 2012–2013. Across the MENA, tolerance towards people of other ethno-religious background seems to have decayed in the first years after the uprisings—though it should be noted that in Egypt, Jordan, and Yemen it has been rising again since 2012 or 2013. One might seek an explanation for this region-wide decline in the different survey item included in the third AB round, but a similar pattern is also found when only including the item on neighbors from a different religion or only including the different years of one survey type (WVS or AB).

Regarding the most recent increases, we should cautious interpreting these, partly because 2014 data are only present for two countries. It thus cannot be said whether this is a region-wide effect or a more country-specific one. The core finding for now is that across the region the short-term effect of the uprisings and their aftermath is one of decreasing ethno-religious tolerance.

5. Conclusions

After the Arab uprisings rocked the MENA region more than five years ago, a great deal has been said about the uprisings' impact, including their impact on the civic attitudes of the people, of whom so many took to the streets from late 2010 onwards. At the same time, a systematic account of how civic attitudes such as trust and tolerance have developed across the region has so far remained lacking. In this study, I set out to shed more light on this issue by both comparing civic attitudes in the Arab MENA after the uprising with the trends before the uprisings and comparing these developments among MENA countries.

The analyses did not show the region-wide drop in political-institutional trust that was suggested in some MENA-country case studies. As Robbins noted, the differences in transitions and outcomes need to be understood to explain the effects on public opinion (Robbins, 2015, p. 87). However, the results do not resemble a picture of immediate decreasing trust in democratic transition countries (Expectation 2), as was expected based on the CEE literature (e.g. Growiec & Growiec, 2014; Murray, 2008). It was in countries that have seen major or minor institutional democratic reforms—or that moved towards democracy through relatively democratic elections—where political trust at first increased. However, the countries where democratization took place also then showed a declining political trust later on, in some case rather severely. As Longley Alley (2013) observed for Yemen, a likely cause for this is that, despite the institutional changes, the economic ills remained, harming the newfound trust in said political institutions. This initial increase and later decline supports Expectation 3, as well as the CEE literature's observation that it is people's experiences that count, not the actual transition (see Guérin, Petry, & Crête, 2004).

People's general trust in the world around them did not show a region-wide response to the uprisings either, nor was this interpersonal trust mainly harmed in countries where ethno-religious differences were at the root
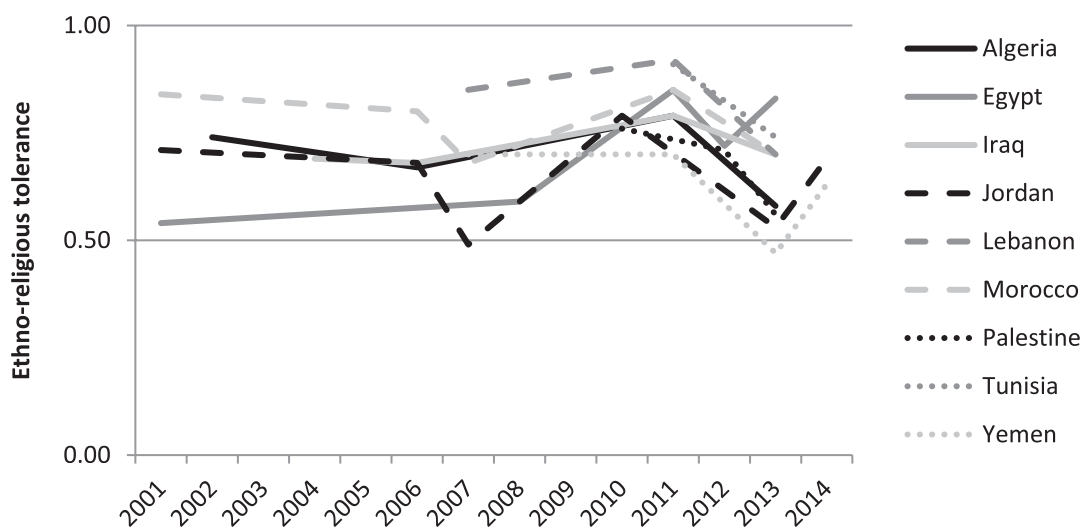

Figure 3. Ethno-religious tolerance in nine MENA countries (2001–2014).

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[21] For Iraq, information on Jewish neighbors (not included in index) is available for both 2004 and 2006, showing a decline from 0.17 to 0.04.

of the uprisings. This undermines Expectations 4 and 5. The result did, however, support Newton's (2001) more general claim that the two types of trust correlate at the societal level, as the reforms' impact on societal trust seem to be a reflection of their influence on political-institutional trust. This is in line with Expectation 6, noting that for this "negative spillover effect" from political to general trust to occur, the political reforms underlying the disappointment must be major *and* the new leaders—not hailing from the ruling elites—must take office first. Under those circumstances, the impact of political events on people's trust in the system and in politicians seems to rub off on the more general interpersonal trust, as was the case in Egypt and Tunisia. This conclusion seems to go against those in the CEE literature, which more often discusses interpersonal trust as fertile soil for political trust (Lühiste, 2006) or argues that people compensate for a lack of political trust with trust in informal networks (Marinova, 2011). The MENA analyses here suggest a new mechanism heretofore unexplored in the literature: if new leaders not previously part of the authoritarian ruling elite take over, changes in political trust can spill over into more general trust, as these new leaders in a way also represent the ordinary people or "common man". This pattern seems to be rather relevant for Western societies too where "outsider" populist leaders might become part of the governing elite, but probably will not solve all supposed problems overnight (cf. Rooduijn, 2013).

A decline in ethno-religious tolerance was found across the MENA (Expectation 8), not just in countries where ethno-religious violence or conflict broke out during or following the uprisings (Expectation 7). In that sense, the situation is more alarming than Heydemann's (2013, p. 65) warning about the events in Syria destroying intersectarian tolerance in areas affected by the conflict. Apparently, the general saliency of religious cleavages and cross-border ethnic or religious identification also facilitated a decrease in ethno-religious tolerance in countries without salient religious conflicts within their borders. It seems that in understanding the uprisings' impact on public opinion, transnational identities and discourses should not be underestimated as drivers of people's threat perceptions. To further test and understand these mechanisms, future in-depth interviews and survey case studies could focus on people's perception of religious tensions across the region and on their tolerance towards other ethno-religious groups, both in countries where these conflict were very prominent (e.g. Bahrain, Lebanon) as well as in countries where these tension are far less so (e.g. Algeria, Tunisia).

All in all, this study's results clearly support Expectation 1 that the impact of the uprising is not the same for each civic attitude as well as Robbins' (2015) claim that the impact of political shocks like the Arab uprisings are not unequivocal but conditional on the institutional context and specific events in the different countries. To understand what is going on in the MENA, it cannot be stressed enough that the MENA region is no homogenous bloc of authoritarian regimes.

At the same time, the patterns discussed above do indicate that general mechanisms are at work, though they translate differently depending on the context. Most clearly, people's experiences, particularly what they perceive to be threats and how they feel about the political elite's performance, are key in understanding the uprisings' impact on civic attitudes in the MENA. Though on the one hand this is in line with the larger literature, on the other there are particularities to the MENA that ensure results from studies on, for instance, CEE cannot be translated directly to transitioning countries in the MENA region. Most importantly, (1) the shared Arab identity and language in the MENA seems to allow threat perceptions to travel across borders; (2) under economic stress, as is the case in many MENA countries, the political performance of new leaders is not just measured by how these leaders deal with the new political order, but also whether they solve existing economic problems (quickly); and (3) if long-lasting authoritarian regimes transition towards democracy, not at the hand of the ruling elite, but through a takeover by people who did not belong to these elites before, the new leaders not only represent "politics", but also the general people, and their performance influences people's perception of both.

In conclusion, the uprisings might have partly stemmed from declining trust and increased tolerance, but above all they have considerably affected public trust and tolerance in the MENA, at least in the short term. Despite some initial positive effects, the larger patterns are all of decreasing trust and tolerance. The picture has thus turned rather grim, as the conflicts following the uprisings and the disappointment among the public seem to have done more harm than good when it comes to the civic attitudes that are fundamental to build stable democracies with accountable governance for *and* by the people. Still, some relief appears to be on the horizon: from 2013–2014 onwards, civic attitudes did recover in some countries. Future comparative surveys are needed to see whether the uprisings were just a ripple, whether these relatively stable civic attitudes will rise, return to their prior levels, or sink even further.

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Conflict of Interests

The author declares no conflict of interests.

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Article

The Effect of Direct Democratic Participation on Citizens' Political Attitudes in Switzerland: The Difference between Availability and Use

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Abstract
According to advocates of direct democracy, it is important to involve citizens more directly in political decision-making processes in order to create a democratic linkage between citizens and the political system. Indeed, some studies have demonstrated that citizens who live in direct democracies have higher levels of trust in political institutions and a higher sense of political efficacy. However, not all empirical evidence confirms this relationship. In a recent article on Switzerland, it was shown that, while the availability of direct democratic rights enhances trust in political institutions, using those rights actually initiates distrust. In this paper I expand the analysis of Bauer and Fatke (2014) and test whether the different effects of availability of direct democratic rights and the frequency of their use also hold for broader measures of trust in political institutions and political efficacy. I find that, even though an increased use of direct democratic measures is associated with lower levels of confidence in authorities on the cantonal level, this relationship is no longer apparent when applying a more comprehensive measurement of trust in political institutions.

Issue
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1. Introduction

A legitimate, stable and well-functioning polity is based on a strong relation between citizens and the state. However, in most established democracies the mechanisms that connect citizens with the political system have experienced fundamental changes in the last few decades (Dalton & Welzel, 2014). Given this development, proponents of direct democracy argue that one way of sustaining and strengthening the linkage between citizens and the state is to involve citizens more directly in the political decision-making process. The theory of participatory democracy provides a theoretical foundation for this argument. Political philosophers adhering to this theory assume that participation has an educative and an integrative function that connects citizens with the community (Barber, 1984; Pateman, 1970). In recent years, the attitudinal effect of direct democratic participation has attracted renewed interest in the literature. Most of

this research was conducted in countries that provide citizens with extensive mechanisms to engage directly in decision-making, notably the United States and Switzerland. Yet, the findings of those studies seem rather inconclusive and—even more striking—the results of some analyses are in sharp contrast with what participatory democrats would predict.

In one of these studies on the relationship between direct democracy and trust in cantonal authorities in Switzerland, Bauer and Fatke (2014) found that while levels of trust are higher in cantons offering extensive direct democratic rights, they are lower in cantons where citizens made frequent use of these rights. It was concluded that a more frequent use of direct democratic rights results in stronger feelings of distrust. Dyck (2009) obtained similar results in the American context, as he shows that ballot initiatives in the United States decrease trust in state governments. These studies suggest that, while the *availability* of direct democratic procedures

might have the effect that is envisioned in the literature, the fact that citizens actually use those opportunities might be an indication of distrust rather than trust. As a result, they conclude that the use of direct democratic procedures might initiate political distrust.

However, when looking closely at the indicators used to measure political trust in these two studies, it is clear that Bauer and Fatke (2014) as well as Dyck (2009) relied on a rather narrow measurement only capturing trust in authorities on the canton or the state level. While this negative relationship between such specific measures of trust and the use of direct democratic procedures could be conceivable, it remains to be investigated whether we also find the same effect when using a more encompassing measure of trust in political institutions. A broader operationalization of trust in political institutions seems essential because it can represent "a comprehensive assessment of the political culture that is prevailing in a political system" (Hooghe, 2011, p. 270). In line with David Easton (1965, 1975), I consider trust in political institutions as an expression of support for the political system and not just the result of satisfaction with performance (Chanley, Rudolph, & Rahn, 2000; Marien & Hooghe, 2011; Miller & Listhaug, 1990). Consequently, trust in political institutions represents a form of legitimacy (Hetherington, 1998; Zmerli & Hooghe, 2011). From a normative point of view, a negative effect of direct democracy on trust in political institutions would be alarming as it would endanger the functioning and the stability of the democratic system. I therefore rely on trust in political institutions in its broad definition and furthermore expand the analysis by including a second measure directly related to the classical conceptualization of a democratic civic culture, namely: external political efficacy, or in other words: the belief that governmental institutions and public officials are responsive to the interests, needs and demands of citizens. Political efficacy is evidently a very distinct concept from political trust, but the entire research tradition on the civic culture stresses that it is crucial for citizens to see themselves as active participants in the political process. Both concepts therefore represent important political attitudes linking citizens and the state. Already in Almond and Verba's *The Civic Culture* (1963) both attitudes were considered to be an essential element of a democratic civic culture.

To investigate the relationship between *having* and *using* direct democratic rights and support for the political system, I rely on the models of Bauer and Fatke (2014) and extend their analysis. I do so by including other, more comprehensive attitudinal measurements than in the original study, namely trust in political institutions and external political efficacy. It is assumed that these attitudes are developed during childhood and that they are relatively independent of outputs in the short run and hence comparatively stable over time (Easton, 1975; Iyengar, 1980). To measure trust in political institutions and external political efficacy, I draw on two different datasets from Switzerland: the Swiss Electoral Stud-

ies "Selects" and the Swiss Household Panel (SHP). The Selects survey 2007 is a post-election survey based on a national representative sample and the SHP is a rich, representative, household-based study aimed to observe social change in Switzerland since 1999. I start with a replication of the results of Bauer and Fatke (2014) with the use of datasets from 2007. As is well-known, Switzerland has a unique history of a rather frequent use of direct democracy, and therefore the country can serve as an ideal test case.

2. Political Participation and "Thick" Democracy

In her seminal work *Participation and Democratic Theory*, Pateman (1970) describes participatory democracy which underlines the educative value of political participation as opposed to liberal democracy which mainly highlights the instrumental value of political participation for the participants. Pateman summarizes three functions of political participation. First, political participation has an educative function, second, it has an integrative function and third, it facilitates the acceptance of decisions. For participatory democrats, the first and most important function is the educative function of political participation. Citizens who participate in political decision-making are assumed to learn to take other interests than their own into account when engaging in participatory processes. Moreover, they are expected to learn that public and private interests are linked and they are stimulated to deliberate with each other. It is through participation that individuals are expected to acquire the qualities needed for the political system to work. Consequently, it is through "participation in common seeing and common work" that members of a "strong" democratic community are transformed into citizens (Barber, 1984, p. 232). While Rousseau described the educative effects of political participation in the context of the city-state, John Stuart Mill described these in the scope of a modern political system, thus extending Rousseau's description of the educative function of participation. As Pateman (1970) points out, according to Mill, the local level of government plays a crucial role in "educating" the individual. In order to participate effectively in government, citizens need to develop the necessary qualities at the local level. Mill writes "a political act, to be done only once in a few years, and for which nothing in the daily habits of the citizen has prepared him, leaves his intellect and his moral dispositions very much as it found them" (Mill, as cited in Pateman, 1970, p. 30). Following this theory, citizens need a context in which they can practice their engagement in the decision-making process. While the local level of politics seems like a suitable context for Mill, Cole and Pateman stress the importance of participatory structures in the workplace or even in all "lower level authority structures" (Pateman, 1970, p. 35) as environments where citizens can experience and practice participating in decision-making procedures. According to this theory, we can expect, that individuals

who frequently engage in decision-making procedures, develop more positive, democratic characteristics, such as community-mindedness, political efficacy and satisfaction with political institutions and authorities, and are generally more supportive of the democratic system (Barber, 1984; Finkel, 1987; Pateman, 1970). What remains unclear, however, is whether this theory helps us to understand the potential consequences of direct democratic decision-making. Can participation in direct democratic procedures fulfil the same role as participation at the local level or in the workplace is expected to do?

Bowler and Donovan (2002) discuss this question explicitly. They argue that, although direct democratic procedures may not have the same educative value as participation in the workplace, compared to the election of representatives, direct democratic procedures should have a greater effect on political efficacy. This reasoning is built on the argument that, in comparison to the standard electoral context of representative democracy, citizens in democracies with direct democratic procedures must decide more often on collective issues and public policies. Through direct democratic decision-making citizens get an "occasional voice in government" and feel that the government is listening to them "or has to listen to them at some point" (Bowler & Donovan, 2002, p. 376). But citizens might not only feel that government listens to them, they might also feel that they are trusted, which is a crucial point according to Frey (1997, p. 1046), as their self-esteem is enhanced and their intrinsic motivation is "crowded in". Finally, when comparing citizens in representative democracies with citizens in systems with direct democratic procedures, the latter might experience more positive political attitudes and democratic orientations, because they are more satisfied with the democratic procedures (Hibbing & Theiss-Morse, 2001; Persson, Esaiasson, & Gilljam, 2013; Smith & Tolbert, 2004). In accordance with these arguments, it can be assumed that the central claim of participatory democracy applies to systems with extensive direct democratic procedures and that citizens who live in these systems are characterized by more positive attitudes towards the political system.

Indeed, some studies find evidence for the "educative benefit" of direct democratic decision-making. These analyses suggest that citizens who live in direct democracies are characterized by higher levels of external efficacy, i.e. they believe more strongly that the government is responsive to their demands (Bowler & Donovan, 2002; Hero & Tolbert, 2004; Mendelsohn & Cutler, 2000; Smith & Tolbert, 2004), their levels of political knowledge and interest are higher (Mendelsohn & Cutler, 2000; Smith, 2002) and they are more engaged in civic groups and associations (Smith & Tolbert, 2004; Tolbert, McNeal, & Smith, 2003).

However, not all empirical evidence confirms this direct positive relationship between direct democratic procedures and political attitudes and behavior. Whereas Gilens, Glaser and Mendelberg (2001) cannot find a di-

rect effect of propositions on political attitudes, they show that it is the salience of the propositions that seems to affect citizens' perception of having a say in political issues. The absence of a direct effect between direct democratic procedures and both internal and external efficacy is also ascertained by Schlozman and Yohai (2008) and by Dyck and Lascher (2009) who show that the effect of direct democracy on internal political efficacy depends on citizens' political knowledge.

A striking contrast between studies that find a positive effect of direct democracy on political attitudes and those that find no effect, is that scholars who find no effect distinguished between the institutional availability of direct democratic rights and the frequency of their actual use. This important distinction is not always clearly made in the literature and might explain the mixed evidence. It thus remains an open question whether citizens become more trusting and efficacious by actually making use of direct democratic procedures or whether it is sufficient that these opportunities are available to them, regardless of whether they actually use these additional possibilities to voice their opinion.

3. The Availability and Use of Direct Democratic Procedures

Several studies show that there is a difference between the effect of the availability of direct democratic procedures on political attitudes and the effect of actually using those procedures. Dyck (2009) finds that the availability of direct democratic initiatives in the United States does not affect trust in the state government, but that their actual use affects trust negatively. This negative effect is confirmed in the study on trust in cantonal authorities in Switzerland (Bauer & Fatke, 2014), where the authors also find a positive effect on trust when direct democratic procedures are available. Therefore, the question arises whether we should expect the availability and the use of direct democratic procedures to have different effects on political attitudes.

From the perspective of the theory of participatory democracy the results of Bauer and Fatke (2014) and Dyck (2009) are highly relevant as they seem to run counter to expectations. For adherents of this theory, using direct democratic procedures should lead to positive effects, as it is the act of participation itself that is expected to build and nurture democratic orientations and political attitudes. In order to obtain this psychological effect, the classical writers advocate full participation. However, Pateman (1970, p. 73) remarks that in this context a modification of the theory is required, because empirical evidence shows that "even the mere feeling that participation is possible, even situations of pseudo-participation have beneficial effects on confidence, job satisfaction, etc.". One might thus argue that citizens might be more supportive if they have the feeling that they are able to participate, independent of whether they actually do or not. The argument that government is

responsive and considers citizens as trustworthy should be valid for citizens independent of their actual engagement. Moreover, citizens might be more satisfied with the decision-making process in a system where direct democratic procedures are available, regardless of whether they participate or not. In conclusion, the theory of participatory democracy does not seem to provide a theoretical foundation to explain the different effects on political attitudes between the availability and the use of direct democratic procedures. The first hypothesis thus reads as follows:

H1. Citizens who live in systems that provide extensive direct democratic decision-making processes are characterized by higher levels of trust in political institutions and higher external political efficacy.

Consequently, it remains questionable how we can then explain the negative relation between the use of direct democratic rights and trust in canton and state level authorities, found by Bauer and Fatke (2014) and Dyck (2009). The authors give a number of reasons why this negative relationship was to be expected. If we start from the premise of liberal democracy instead of participatory democracy, and assume that participation mainly serves to protect citizens' individual interests, direct democracy can be used as a sanctioning instrument. In agreement with this assumption citizens, in states or cantons frequently employing this instrument, might get the impression that sanctioning is a necessity and that elected representatives are not to be trusted (Bauer & Fatke, 2014). This would be in line with the argument made by Rosanvallon (2008) that critical citizens should exert a rather strict oversight on the behaviour of political decision-making elites. Dyck (2009) argues that being constantly questioned and pressured to give their opinion, initiatives might undermine the authority of elected officials, which might again lead to increasing distrust among the population. At the same time, Bauer and Fatke (2014, p. 54) point out that representatives who are constantly controlled "might no longer feel the same obligation to honour the trust of being voted into office", which might encourage them to "follow their own agenda" or to tweak contested legislation in the phase of implementation where citizens have less influence. Such behaviour might by implication enhance citizens' distrust and diminish their sense of political efficacy. While this reasoning suggests that direct democratic participation affects citizen's attitudes towards the political system, the argument that direct democratic processes are used as a sanctioning mechanism rests on the reverse causal mechanism, namely that participating citizens are already dissatisfied with the performance of political institutions. Using an instrumental variable regression, Bauer and Fatke (2014) find evidence for the former causal mechanism that participation affects trust. MacKenzie and Warren (2012) however, argue that participation might stem from a lack of trust. Following this reasoning, citizens

might choose to use their direct democratic rights after evaluating how trustworthy their cantonal or state authorities are and how responsive they are to their interest. This reasoning would be in line with Gamson (1968, pp. 46–47) who stated that "high trust in authorities implies some lack of necessity for influencing them". Consequently, one would expect that citizens will only use direct democracy if there is a necessity to influence policy-makers.

While both mechanisms seem plausible for explaining a negative relationship between trust in cantonal or state authorities—the dependent variables in the studies of Bauer and Fatke (2014) and Dyck (2009)—and engagement in direct democratic decision-making procedures, it remains unclear whether these explanations can also be applied to a broader notion of trust in political institutions and to external political efficacy. The argument that frequent use of direct democratic procedures reduces political trust, as those procedures are used as sanctioning mechanisms seems to hold mainly in cases where citizens are dissatisfied with the output and the performance of political authorities and institutions. The reasoning seems to hold mainly for trust in specific institutions and authorities and is therefore expected to depend mainly on the perceived output and performance of those institutions. In fact, the dependent variables in the above mentioned studies are, as Dyck (2009, p. 550) points out himself, "strongly tied to incumbent evaluations".

However, regarding the broader measurement of trust in political institutions, the reasoning seems less straightforward. Trust in political institutions is an assessment of general political structures and procedures, and it tends to be more durable and independent of institutions' performances and output in the short run. Only after a continuous experience of discontent over a long period of time, general feelings of trust in political institutions might gradually erode (Easton, 1975; Hooghe, 2011). Therefore, I argue that while there are good reasons to assume that using direct democratic procedures is related to evaluations of democratic output and performance of specific political institutions, it is far less clear why using direct democratic procedures should lead to an erosion of trust in political institutions more generally.

Also regarding external political efficacy, a negative relationship due to the use of direct democratic rights can hardly be expected based on the theory. In fact, Hero and Tolbert (2004) argue that, in states with frequent exposure to direct democracy, citizens should be more inclined to perceive government as more responsive. A negative effect on external efficacy would rather be expected as a result of non-participation (Finkel, 1987). I therefore argue that the negative effect of using direct democratic procedures found in the study of trust in cantonal and state authorities does not hold in a study of trust in political institutions and external political efficacy. This leads us to the second hypothesis:

H2. The negative effect of using direct democratic procedures does not hold if we study trust in political institutions and external political efficacy.

I test those hypotheses using Swiss population data, but before presenting the results, I will introduce the datasets, measures and method.

4. Data, Measures and Method

First of all the results of Bauer and Fatke (2014) are replicated. In a second step, their models are extended to the study of trust in political institutions and political efficacy. For this purpose, I will use the same data as they did, namely the 2007 dataset from the Swiss Electoral Studies "Selects" that contains not only trust in cantonal authorities but also other items allowing us to create a comprehensive measure of trust in political institutions. As the Selects dataset does not contain any measure of political efficacy, I use a different dataset for the analysis of political efficacy, namely the 2007 wave of the SHP. Both datasets are based on random probability samples from the Swiss population and for both studies data were collected in a similar period of time. This allows us to include the same variables of interest, i.e. the availability and use of direct democratic instruments and to keep the analysis as comparable as possible to the original analysis of Bauer and Fatke (2014). However, as the SHP only contains one question on the perception of system responsiveness, the analysis has to be restricted to external political efficacy.

4.1. Dependent Variables

In comparison to the study of Bauer and Fatke (2014), I expand the analysis to support for the system as a whole and therefore I want to capture the level of trust in political institutions more broadly. As Easton explains (1975, p. 444) diffuse support "refers to evaluations of what an object is or represents—to the general meaning it has for a person—not of what it does". Therefore, if we start from Easton's concept of diffuse support, we need indicators for support that are independent of outputs and performances in the short run. Marien (2011) argues that the question about how much people trust their country's parliament, government, political parties, legal system, the police, etc. does tap into a more encompassing form of political trust—although we cannot rule out that respondents think about how these institutions are functioning. According to Hooghe (2011, p. 270), the latent concept that is built on these items "can be conceptualized as a comprehensive evaluation of the political culture that is prevailing within a political system…." Hence, instead of focusing on for example satisfaction with the functioning of an institution or authority, I decided to measure trust in political institutions based on the following items included in the Selects 2007 survey: trust in the federal council, trust in parliament, trust in

national political parties, trust in local authorities, trust in justice/courts, trust in the police and trust in cantonal authorities (the item that was used in the first step of the analysis). Assuming that this latent concept of trust in political institutions reflects the trustworthiness of the political system as a whole, it is expected that the different items on trust in actors and institutions load on one single latent variable. For each item respondents indicated their level of trust on an 11-point scale (0 = "no trust"; 10 = "full trust"). Based on these items, I conducted a factor analysis and found, in line with previous research, that these items load one single factor (Marien, 2011; Zmerli, Newton, & Montero, 2007) with an Eigenvalue of 3.214 and 46 per cent explained variance (Table 1). This measurement of trust in political institutions is thus one-dimensional and coherent. This finding confirms the argumentation of Hooghe (2011) that citizens do not distinguish between the functioning of various political institutions, and therefore this factor was used as measure of trust in political institutions.

Table 1. Factor analysis of trust in political institutions. Source: (Selects, 2007).

Item	Factor loading
Trust in the federal council	0.720
Trust in parliament	0.744
Trust in national political parties	0.644
Trust in local authorities	0.624
Trust in cantonal authorities	0.749
Trust in justice/courts	0.646
Trust in the police	0.600
% explained variance	0.459
Eigenvalue	3.214

Notes: Estimates are factor loadings from a principal factor analysis.

For the measurement of external political efficacy I relied on the question "How much influence do you think someone like you can have on government policy?" in the SHP 2007 personal questionnaire, respondents could answer on an 11-point scale with 0 indicating "no influence" and 10 indicating "a very strong influence". Following Niemi, Craig and Mattei (1991) this item primarily taps respondents' beliefs about the responsiveness of governmental authorities and institutions to citizen demands, i.e. their sense of external political efficacy.

4.2. Independent Variables

As I aim to build on the analysis of Bauer and Fatke (2014) I use the same measures as they did for the independent variables of interest, namely the availability of direct democratic rights and the use of those rights. For the availability of those rights, I thus rely on the same index that was created by Fischer (2009). This index represents a summary index of four sub-indices capturing

the strength of four direct democratic institutions in 2003: the initiatives for constitutional and statutory changes, the fiscal referendum on expenditure projects and the referendum for laws. Each sub-index ranges from one to six and reflects the evaluation of the requirements for those four institutions, more specifically the signature requirements needed for optional referendums and the fiscal thresholds for fiscal referendums. Therefore, each sub-index measures the availability and the imposed hurdles for each of the four direct democratic procedures in the Swiss cantons.

Regarding the actual use of these direct democratic instruments, I use the average number of cantonal initiatives and optional referendums per year between 2002 and 2006 generated by Bauer and Fatke (2014) based on data from the year book *Année Politique Suisse*, which is generally considered as a comprehensive account of political events in Switzerland.

4.3. Control Variables

I furthermore control for variables that could affect trust in political institutions and political efficacy on the individual as well as on the cantonal level. Again, since I am interested in an analysis that is as close as possible to the one presented by Bauer and Fatke (2014), I also include exactly the same control variables. For the analysis of trust in political institutions this is: gender, age, the level of education, and the perception of the economic development. Also, I include a dummy variable for Catholic denomination and unemployment status. Thanks to their detailed documentation of data sources, I could also include the same canton-level control variables, namely the financial state of cantons in 2006 and the primary national income per capita in 2005.

For the analysis of external political efficacy, I include the same control variables, expect for religious denomination and the perception of economic development. I excluded religious denomination, because in the literature I found no reason to assume that religious denomination should affect the sense of external efficacy. Economic evaluations, on the other hand, are expected to affect general political attitudes (Bowler & Donovan, 2002). However, the item used in the Selects survey is not included in the SHP, so instead I included a variable that measures the respondent's evaluation of his or her standard of living in the past year. Respondents could answer on a scale from 0 ("greatly worsened") to 10 ("greatly improved").

In both the analysis of trust in political institutions and the analysis of external political efficacy, I dropped the canton Nidwalden, because the Selects survey 2007 does not contain data for this canton. This resulted in 3,858 respondents for the analysis of trust in political institutions and 4,094 respondents for the analysis of external political efficacy. In both analyses these respondents are nested in cantons, which is why I rely on varying intercept models.

5. Results

In the first step, I replicate the analysis of trust in cantonal authorities of Bauer and Fatke (2014) (their Table 2). Not surprisingly, since using the same data, I find virtually the same results (see Annex, Table A). As the final model, which contains all the control variables and both variables of interest shows, the availability of direct democratic rights positively affects trust in cantonal authorities while their actual use has a significant, negative effect. So this first step clearly confirms the conclusion of Bauer and Fatke.

In the second step, I replicate the exact same analysis but this time I replace the dependent variable with the variable that captures trust in political institutions (Table 2). The first remarkable observation is that there is considerably less variance in trust in political institutions on the second level compared to the variance in trust in cantonal authorities. Our replication of the intercept-only model of trust in cantonal authorities reveals that about 6 per cent of the entire variance is found on the second level. For the intercept-only model of trust in political institutions, this is only 2.3 per cent. This confirms the assumption that trust in cantonal authorities captures evaluations of the performance of specific institutions apparently which vary quite substantially across the 25 cantons. The broader attitude of trust in political institutions, on the other hand, captures an attitude that varies primarily between individuals independent of where they live. Therefore, when attempting to explain the variance in trust in political institutions, we have to focus mainly on individual characteristics. This observation already challenges the first hypothesis claiming that citizens living in cantons that provide more extensive direct democratic decision-making processes are characterized by higher levels of trust in political institutions and external efficacy. The effects of those individual-level variables, however, are similar compared to the effects in the analysis of trust in cantonal authorities. While sex does not seem to matter, trust in political institutions seems to rise with age and the level of education. *Ceteris paribus*, Catholics seem to have higher levels of trust in political institutions, whereas unemployment is associated with lower levels of trust in political institutions. Also, citizens who believe that the state of the economy has worsened are significantly less trustful. Looking at the second-level control variables shows that a canton's financial state and national income do not affect individuals' level of trust in political institutions.

Finally, I turn to our variables of interest. The first model reveals that the availability of direct democratic rights does affect levels of trust in political institutions positively, which seems in line with what the theory of participatory democracy would predict. Similarly to the analysis of trust in cantonal authorities, but in sharp contrast to what we expected, we find that in the second model, the use of democratic instruments has a significant, negative effect on trust in political institutions.

Table 2. Random-intercept models of direct democracy and trust in political institutions. Source: Selects (2007).

	Trust in political institutions					
	I		II		III	
Age	0.002**	(0.001)	0.002**	(0.001)	0.002**	(0.001)
Sex	0.036	(0.030)	0.036	(0.030)	0.036	(0.030)
Education	0.022***	(0.004)	0.023***	(0.004)	0.022***	(0.004)
Catholic (Dummy)	0.122***	(0.032)	0.123***	(0.032)	0.121***	(0.032)
Economy worse (Dummy)	−0.281***	(0.052)	−0.284***	(0.052)	−0.281***	(0.052)
Unemployed (Dummy)	−0.233*	(0.126)	−0.235*	(0.126)	−0.233*	(0.126)
Availability of direct democratic rights	0.051**	(0.026)			0.036	(0.031)
Actual use of direct democratic instruments			−0.047*	(0.025)	−0.027	(0.031)
Financial state	−0.001	(0.026)	−0.000	(0.026)	−0.002	(0.026)
National income	0.144	(0.516)	0.818	(0.555)	0.463	(0.627)
Constant	−0.568**	(0.228)	−0.595**	(0.232)	−0.604***	(0.228)
Observations	3,858		3,858		3,858	
Number of groups	25		25		25	
−2 * loglikelihood	10,165		10,166		10,164	
ICC in %	0.016		0.016		0.015	

Notes: The dependent variable is trust in political institutions. Standard errors in parentheses. Sign.:*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$.

Yet, both effects disappear when we include them together in one model (Model III) and at this point, the conclusions differ strongly from the conclusions resulting from the analysis of trust in cantonal authorities. Neither the availability nor the use of direct democratic procedures seems to affect trust in political institutions. On the one hand, this result contradicts the first hypothesis. On the other hand, the negative effect of using direct democratic instruments disappears and this supports the second hypothesis. So, while using direct democratic measures apparently cannot enhance trust in political institutions, the good news for advocates of participatory democracy is that at least it does not seem to reduce it either.

In a final step we turn to the analysis of external political efficacy (Table 3). This variable varies even less across cantons than trust in political institutions. Only about 2 per cent of the variance in the intercept-only model is detected at the second level. Concerning the individual level variables, we find different effects than for trust in political institutions. We find that while older people seem to have more trust in political institutions than younger citizens, the sense of external political efficacy seems to diminish with age. Moreover, citizens with a higher level of education appear to have more trust in political institutions and also more external political efficacy, the latter being also the case for citizens who feel that their standard of living has improved.

Turning to the variables of interest, we find that the availability of direct democratic rights has a positive effect on external efficacy (Model I) and this effect also holds when we include the use of direct democratic instruments into the same model (Model III). Using direct democratic instruments, however, does not affect external efficacy, neither in the second nor in the final model

(Model III). Apparently, citizens have a stronger feeling that government is responsive to their demands and interests in cantons where direct democratic instruments are extensively available and hurdles to use them are low. And this effect remains observable independent of how often those instruments are actually used.

6. Discussion and Conclusion

Summarizing the results, we can state that there is only limited evidence for the first hypothesis which claimed that the availability and the use of direct democratic procedures has a positive effect on political attitudes that tap support for the political system. While we could not find any effect for the analysis of trust in political institutions, levels of external efficacy are significantly higher in cantons which are characterized by an extensive availability of direct democratic procedures. However, it has to be remarked that there is generally a lot less variance of both trust in political institutions as well as in external political efficacy across the 25 cantons compared to the variance that is found for trust in cantonal authorities. So while evaluations of cantonal authorities depend to a substantial degree on the canton where respondents live, levels of general trust in political institutions and feelings of external efficacy are hardly dependent on this administrative division. I interpret this finding as evidence for the claim that trust in authorities captures evaluations of performances of specific institutions rather than trust in political institutions as such.

Concerning the second hypothesis, we did find evidence to support the claim that while there are good reasons to argue that using direct democratic instruments affects trust in cantonal authorities negatively, such a

Table 3. Random-intercept models of direct democracy and external political efficacy. Source: SHP.

	External Political Efficacy					
	I		II		III	
Age	−0.015***	(0.003)	−0.015***	(0.003)	−0.015***	(0.003)
Sex	−0.053	(0.086)	−0.052	(0.086)	−0.053	(0.086)
Education	0.095***	(0.015)	0.094***	(0.015)	0.095***	(0.015)
Living standard improved	0.158***	(0.035)	0.158***	(0.035)	0.157***	(0.035)
Unemployed (Dummy)	0.434	(0.370)	0.437	(0.370)	0.436	(0.370)
Availability of direct democratic rights	0.192***	(0.054)			0.181***	(0.061)
Actual use of direct democratic instruments			−0.113	(0.070)	−0.025	(0.068)
Financial state	0.079	(0.065)	0.085	(0.076)	0.074	(0.065)
National income	0.974	(1.187)	3.323**	(1.506)	1.358	(1.523)
Constant	1.724***	(0.592)	1.572**	(0.690)	1.666***	(0.606)
Observations	4,094				4,094	
Number of groups	25				25	
−2 * loglikelihood	19,331				19,339	
ICC in %	0.004				0.009	

Notes: The dependent variable is external political efficacy. Standard errors in parentheses. Sign.:*** p < 0.01, ** p < 0.05, * p < 0.1.

negative effect is unexpected in the more general study of trust in political institutions. In fact, using direct democratic instruments seems to affect neither trust in political institutions nor external political efficacy. If direct democratic instruments are used as sanctioning mechanism for negatively perceived performances and outputs of authorities, this can explain the negative effect on evaluations of cantonal authorities and institutions. However, there is little reason to assume that broader attitudes of support for the system are also affected.

I believe that this study can contribute to a better understanding of the mixed evidence that was found in previous studies concerning the link between direct democratic procedures and political attitudes. In this regard, two aspects should be considered. First, in some studies a difference is made between availability of direct democratic rights and the use of direct democratic instruments and because results differ quite substantively this study confirms the importance of this distinction. Second, different measures of trust in political institutions have been employed in those studies and different theories have been applied to explain the results. This study underlines the importance of clearly distinguishing between these different measures. Participatory democracy can primarily serve to understand the long-term effects of extensive participation in different areas of life on support for the political system. Liberal democracy, on the other hand, which stresses the protective function of participation, might help to explain evaluations of political outputs and performances of specific authorities and institutions.

But what do these results tell us about the applicability of the theory of participatory democracy to direct democratic procedures? The findings of Bauer and Fatke (2014) and Dyck (2009) seem inexplicable from the perspective of participatory democracy, as they suggest that using more opportunities for direct participation "initiates distrust", which our analysis can qualify to some degree. While an increase in the use of direct democratic measures might diminish trust in authorities on the state or canton level, it does not affect the general feeling of support for the political system. So in the end it is not too bad of a result for adherents of this theory. However, these results can be interpreted in two ways.

On the one hand, the results show that providing citizens with more direct democratic instruments appears to affect their trust in cantonal authorities positively as well as their sense of external efficacy—and this independent of how much those instruments are used. Apparently, having the option of interfering is already sufficient to strengthen citizens' trust in cantonal authorities and their perceived government responsiveness. A possible reason could be that citizens are satisfied with the democratic process itself, regardless of whether they use it or not. This interpretation would be in line with the claim of Dalton and Welzel (2014) that new generations of "assertive citizens" are characterized by a strong appreciation of input-oriented notions of democracy. Hence, if direct participation can lead to more critical citizens, who are supportive of the system in general, some scholars might argue that this represents a desirable situation from a democratic perspective (Dalton & Welzel, 2014; Rosanvallon, 2008).

On the other hand, support for the first hypothesis that links direct democratic participation with political support remains limited, which might call the general applicability of the theory of participatory democ-

racy for direct democratic systems into question. As we have seen for both trust in political institutions as well as for political efficacy, by far most of the variance is found on the individual level and can therefore not be explained by the variance in the extent of direct democratic decision-making. One argument could be that, compared to other countries, Swiss cantons all provide relatively extensive opportunities of participation in decision-making processes and that the variance within Switzerland is therefore too limited. Another, even more fundamental reason could be that participatory democrats seem to envision an entirely different society with multiple participation possibilities in the workplace, during leisure activities and at all levels of the political system. Moreover, as Schlozman and Yohai (2008, p. 472) point out, these theorists stress the importance of deliberation and the benefits of deliberation cannot arise in plebiscites "where voters do not deliberate or where their interests clash". So scholars should be careful when applying the theory of participatory democracy to direct democratic systems and not blindly base their assumptions on a theory that envisions an entire reconfiguration of todays' political, economic and societal institutions.

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Conflict of Interests

The author declares no conflict of interests.

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Anna Kern is a postdoctoral researcher at the Centre for Citizenship and Democracy of the University of Leuven. She has written a PhD dissertation on the topic of political participation. Her main research interests are in political participation, political equality and political attitudes. Previously, her work has been published in, among others, *Comparative European Politics*, *Party Politics*, *West European Politics* and *Social Science Research*.

Annex

Table A. Random-intercept models of direct democracy and external trust in cantonal authorities.

	Trust in cantonal authorities					
	I	II	III	IV	V	VI
Age	0.007***	0.007***	0.007***	0.007***	0.007***	0.007***
	(0.002)	(0.002)	(0.002)	(0.002)	(0.002)	(0.002)
Sex	0.053	0.055	0.053	0.055	0.053	0.054
	(0.061)	(0.061)	(0.061)	(0.061)	(0.061)	(0.061)
Education	0.027***	0.028***	0.028***	0.028***	0.028***	0.028***
	(0.009)	(0.009)	(0.009)	(0.009)	(0.009)	(0.009)
Catholic (Dummy)	0.196***	0.197***	0.188***	0.200***	0.199***	0.198***
	(0.067)	(0.066)	(0.067)	(0.067)	(0.067)	(0.067)
Economy worse (Dummy)	−0.456***	−0.445***	−0.457***	−0.444***	−0.452***	−0.445***
	(0.103)	(0.103)	(0.103)	(0.103)	(0.103)	(0.103)
Unemployed (Dummy)	−0.350	−0.344	−0.349	−0.344	−0.350	−0.345
	(0.263)	(0.263)	(0.263)	(0.263)	(0.263)	(0.263)
Availability of direct democratic rights		0.282***		0.275***		0.198**
		(0.067)		(0.070)		(0.080)
Actual use of direct democratic instruments			−0.151**		−0.243***	−0.134*
			(0.075)		(0.073)	(0.079)
Financial state				0.015	0.021	0.012
				(0.072)	(0.076)	(0.068)
National income				0.356	3.914**	1.966
				(1.383)	(1.567)	(1.618)
Constant	6.013***	4.846***	6.221***	4.644***	4.519***	4.451***
	(0.187)	(0.329)	(0.210)	(0.605)	(0.649)	(0.587)
Observations	4,225	4,225	4,225	4,225	4,225	4,225
Number of groups	25	25	25	25	25	25
−2 * loglikelihood	17,646	17,634	17,642	17,633	17,636	17,630
ICC in %	0.055	0.030	0.046	0.029	0.033	0.026

Note: The dependent variable is trust in cantonal authorities. Standard errors in parentheses. Sign.:*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$

Article

Towards Exit from the EU: The Conservative Party's Increasing Euroscepticism since the 1980s

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Abstract

Since the 1980s, Britain's Conservative Party has become increasingly critical of the European Union, and of the country's membership of it. So contentious and controversial has this issue become that it was a significant factor in the downfall of three consecutive Conservative Prime Ministers, all of whom found it increasingly difficult to manage their Party in Parliament, and thereby maintain any semblance of Party unity. Initially, during the 1980s and 1990s, the intra-Party divisions were between Europhiles (pro-Europeans) and Eurosceptics, but this demarcation was subsequently superseded by a division between soft Eurosceptics and hard Eurosceptics. The development and deepening of these intra-Party divisions are attributable to a plethora of endogenous and exogenous factors, the combined and cumulative effect of which ultimately led to the 'Brexit' vote in the June 2016 referendum.

1. Introduction

The Conservative Party once enjoyed a reputation for public unity, rejection of ideology, pragmatic adaptability, deference towards its leaders, governmental competence, and a remarkable ability to win electoral support from a wide cross-section of British society. All of these attributes contributed towards its renowned reputation for 'statecraft' (Bulpitt, 1986) and unrivalled electoral success: 'the natural party of government'.

However, since the 1980s, the Conservative Party has been characterised by increasing disagreements and divisions over Britain's relationship with—indeed, membership of—initially the European Community (EC), and then the European Union (EU). During the last four decades, the Conservative Party has experienced a transition whereby the former division between pro- and anti-Europeans has been superseded by a demarcation between 'soft' Eurosceptics and 'hard' Eurosceptics. Al-

though the 'hard' Eurosceptics have not actually constituted a majority of the Party's MPs, they have exercised considerable influence, partly by virtue of the vehemence of their views and how vocal they have been in expressing them. They have also been increasingly proactive in agenda-setting, by assertively framing the debates within the Conservative Party (and *inter alia*, the media) and highlighting key issues of concern concerning Britain's relationship with the EU.

As a consequence, the Conservative Party leadership, particularly John Major and David Cameron, has often appeared defensive or reactive, and vulnerable to criticism that it should have been more robust in protecting and promoting Britain's economic and political interests. Indeed, it sometimes appeared as if Major and Cameron were following their Party, rather than leading it. In explaining the Conservative Party's increased Euroscepticism since the 1980s, we will note the role of exogenous and endogenous factors. Some of these reflect de-

velopments and changes in the EC/EU, and the manner in which these have impacted on domestic politics, while other factors pertain to changes within the Conservative Party itself, coupled with the perceived electoral threat posed by the rise of a populist anti-EU party (United Kingdom Independence Party, UKIP). However, these factors have been inextricably interlinked, mutually reinforcing, and cumulative in their consequences.

2. Developments during the 1980s and 1990s under Margaret Thatcher and John Major

During the 1980s and 1990s, key developments in the EC/EU increasingly clashed with the ideological orientation and internal politics of the Conservative Party. These encouraged and then exacerbated growing divisions among Conservative politicians, and fuelled an inexorable shift towards Euroscepticism. Such was growth of intra-party disagreement over Britain's relationship with the changing EC/EU during the 1980s and 1990s, that the premierships of both Margaret Thatcher, and her successor, John Major, were terminated partly as a consequence of these deepening disagreements and the ensuing collapse of Conservative Party unity. European integration fuelled Conservative disintegration.

2.1. Margaret Thatcher's Premiership

It was during Margaret Thatcher's premiership in the 1980s that Britain's relationship with the (then) EC became increasingly conflictual, and thus fuelled deepening divisions within the Conservative Party itself. This was largely (but not wholly) prompted by the impact of various EC policies and proposals on British politics and political economy, especially the neo-liberal 'project' of the Thatcher Governments which aimed to establish (or re-establish) a free-market economy in Britain (see, for example: Evans, 2013, p. 3; Gamble, 1986; Green, 2006, Chapter 2; Hay & Farrall, 2014, p. 9; Letwin, 1992, Chapter 5). Although Thatcher herself had campaigned for continued British membership of the EC in the 1975 referendum, she subsequently experienced three particular problems pertaining to EC developments and policies during the 1980s, and these cumulatively fostered her increasing—and increasingly outspoken—Euroscepticism. This, in turn, encouraged several other Conservatives to adopt an increasingly anti-European stance.

The first such clash concerned Britain's contribution to the EC Budget, to which each member state contributed one per cent of its 'indirect' tax receipts. The newly-elected (1979) Conservative government had increased indirect taxes (on consumption or purchases—VAT) from 8% to 15%, in order off-set cuts in income tax (on earnings). As a result, the increase in Treasury revenues accruing from VAT meant that Britain's budgetary contributions were higher than those of most other member-states. Thatcher thus embarked on a campaign

to get 'our money back', which eventually resulted in Britain being awarded a substantial annual rebate following a summit at Fontainebleau in June 1984 (for details, see George, 1998, Chapter 5; Young, 2000, pp. 130–137).

Two years later, the Single European Act (SEA) heralded the move towards a single European market, entailing the removal of border controls and customs duties on intra-EC trade, and facilitating the free movement of goods, capital and labour (workers) between member-states. The SEA was wholly commensurate with Thatcher's enthusiastic commitment to economic liberalism, free trade and flows of capital (her government having previously abolished Exchange controls): Thatcherites 'were wholeheartedly in favour of the provisions relating to the Single Market....An open market in Europe was what we had always wanted' (Ridley, 1991, p. 143).

However, the SEA also invoked reform of EC decision-making, by extending the range of issues and polices which would be determined by Qualified Majority Voting (QMV). This effectively reduced the scope for individual member-states and their governments to veto proposals which they judged to be inimical to their economic or political interests. Due to Britain's particular concept of sovereignty—discussed below—this was a controversial development, and fuelled concerns in the Conservative Party about the increasingly political and supranational character on the EC/EU. At the time however, 'the importance which Thatcherites attached to the promotion of the single market' was such that the non-economic implications of the SEA were discretely disregarded (Letwin, 1992, p. 284). Or as Geddes (2013, p. 70) observes: 'The British government compromised on some issues, such as increased use of QMV, in order to secure more prized single market objectives'. However, it has been suggested that, in her eagerness to establish the single market at European level, Thatcher might 'have underestimated the expansionist elements of the SEA because she so firmly believed that her free market agenda had been victorious' (Gifford, 2008, p. 95).

What further fuelled this nascent Euroscepticism in the Conservative Party was the emergence, in the second half of the 1980s, of a 'social Europe' agenda, whereby the transition to a single market and free trade would be matched by a corresponding increase in employment protection and rights for workers whose conditions or security of employment might be significantly weakened by greater economic liberalisation, competition and deregulation. Thatcher was wholly in favour of economic freedom, but strongly opposed to employment protection and workers' rights vis-à-vis their employers; these were totally incompatible with her neo-liberal commitment to 'labour market flexibility' and 'management's right to manage'. This antipathy was evident in her (in)famous 1988 Bruges speech, when she attacked 'those who see European unity as a vehicle for spreading socialism', and warned that: 'We haven't worked all these years to free Britain from paralysis of socialism only to see it creep

through the back door of central control and bureaucracy in Brussels' (Thatcher, 1988).

By this time, Thatcher had become deeply concerned at the direction in which the EC was seemingly being steered, and at the role being played by key institutions in facilitating this: 'I had witnessed a profound shift in how European policy was conducted—and therefore in the kind of Europe that was taking shape. A Franco–German bloc with its own agenda had re-emerged to set the direction of the Community'. This development, she claimed, was being facilitated both by the European Commission, 'which had always had a yen for centralised power', and Britain's own Foreign Office which 'was almost imperceptibly moving to compromise' with the key policy actors shaping the future of the EC (Thatcher, 1993, pp. 558–559; see also, Ridley, 1990).

This last point also highlighted another aspect of growing Conservative Euroscepticism from the mid-1980s onwards, namely a suspicion that the Foreign Office itself was too conciliatory and cordial, and thus insufficiently robust in defending British interests in EC/EU diplomacy. In fact, as far back as 1981, one of Thatcher's foreign policy advisers wrote in his dairy 'the PM [Prime Minister] suspicious of Foreign Office advice' (Urban, 1996, p. 28, diary entry for 28 January 1981), while a senior Ministerial colleague who was ideologically and politically close to Thatcher, Norman Tebbit, has been quoted as claiming 'the Ministry of Agriculture looks after the interests of farmers, the Foreign Office looks after the interests of foreigners' (as cited in Jenkins, 1989, p. 285).

The pro-European stance of the Foreign Office ensured that Thatcher's Bruges speech caused considerable consternation within it, at the very highest levels (Dickie, 1992, p. 293). An initial draft of the speech had been strongly criticised by the then Foreign Secretary, Geoffrey Howe, who identified several 'plain and fundamental errors', thus necessitating several redrafts before Thatcher delivered it (Wall, 1988). Yet even the final draft was apparently 'amended inside Number 10 [Downing Street] before it was delivered', thereby increasing the consternation of the Foreign Office (Wall, 2008, p. 78). Howe himself subsequently confessed to being 'deeply dismayed by the Bruges speech', and lamented that: 'Its impact, at home as much as abroad, far exceeded my initial fears' (Howe, 1994, p. 538).

As her Euroscepticism significantly (and publicly) increased, Thatcher began losing the support of some of previously close Cabinet colleagues, and this was to prove disastrous for her premiership. In October 1989, her Chancellor, Nigel Lawson, resigned, largely due to serious disagreement with Thatcher (and her Economic Adviser, Alan Walters) over whether Britain should join the EC's Exchange Rate Mechanism; Lawson was in favour (albeit opposed to economic and monetary union and a single currency), but Thatcher was strongly opposed (Lawson, 1992, pp. 923–926, Chapter 76).

The following year saw the fatal resignation of Thatcher's former Chancellor and Foreign Secretary, Geoffrey Howe. His exasperation at her increasingly strident anti-Europeanism was compounded by her clear impatience and lack of civility towards Howe personally, sometimes criticising and belittling him in the presence of other people (Howe, 1994, pp. 186, 646–647). As one of Howe's Cabinet colleagues explained, after a decade of loyal and competent service, first as Chancellor and then as Foreign Secretary: 'The scorn with which she later treated him not only offended him, it was proof of her failing political judgement' (Hurd, 2003, p. 400). In his resignation speech to the House of Commons, the usually mild-mannered Howe strongly denounced Thatcher's increasingly hostile stance towards Europe, and ridiculed:

> the nightmare image sometimes conjured up by…[Thatcher] who seems sometimes to look out upon a continent that is positively teeming with ill-intentioned people scheming, in her words, to 'extinguish democracy', to 'dissolve our national identities', and to lead us 'through the back-door into a federal Europe.' (Hansard, 1990)

Not only were such fears unjustified, Howe argued, they were damaging Britain's economic and business interests, while also reducing the country's political influence and credibility in Europe.

It was Howe's resignation speech—one of the most remarkable parliamentary speeches ever, both in content and impact—which precipitated the leadership challenge that resulted in Thatcher's own resignation. At this time, there remained many prominent or senior pro-Europeans in the Conservative Party (for example, Kenneth Clarke, Michael Heseltine, Douglas Hurd, and Chris Patten), and they fully shared Howe's anxiety and revulsion over Thatcher's increasingly strident anti-Europeanism, and the sometimes undiplomatic language with which she expressed it.

2.2. John Major's Ill-Fated Premiership

Whereas Thatcher's premiership was partly terminated because several senior Conservatives found her anti-European stance unacceptable, her successor, John Major, found his premiership constantly undermined by Conservatives who did not consider him to be anti-European enough. Furthermore, there was always a suspicion that some of the Eurosceptics who constantly undermined Major did so partly to wreak revenge on behalf of Thatcher, who many of them revered, and believed had been stabbed-in-the-back by cowardly or unpatriotic colleagues. Certainly, Thatcher herself never publicly admonished these Eurosceptics, or urged them to refrain from constantly criticising Major over European issues. On the contrary, she continued to make speeches and other public comments which were highly critical of what was, by 1992, the EU, and these naturally emboldened other Eurosceptics in the Conservative Party.

Consequently, Major found himself presiding over increasingly deep and acrimonious divisions between pro-Europeans, and the increasingly vocal Eurosceptics. The latter included Cabinet colleagues such as Michael Howard, Peter Lilley, Michael Portillo and John Redwood, as well as backbenchers who acquired prominence in the 1990s precisely for their vehement Euroscepticism, such as Bill Cash and Teddy Taylor.

The problems of intra-party management which Major endured were greatly exacerbated by the fact that following the 1992 general election, the Conservative Government was re-elected with a parliamentary majority of just 21 seats (compared to 101 seats in 1987). Furthermore, this was steadily reduced during the next five years, due to defections (to other parties) by a few Left-leaning pro-European Conservative MPs, and almost inevitable by-election defeats. This narrow and dwindling parliamentary majority served to enhance the relative power of the increasingly confident and cohesive Eurosceptic Conservative MPs and Ministers. In this political context, Major constantly struggled to impose his authority on the rebellious Eurosceptics, especially as they soon became acutely aware of their growing strength in the parliamentary Conservative Party.

Geoffrey Howe attributed part of the growing vehemence and confidence of such Conservatives to Thatcher's 1988 Bruges Speech: using the analogy of *The Sorcerer's Apprentice*, he noted that 'where Margaret had drawn the first bucket of Euroscepticism from the well, others were only too ready to follow', while 'Margaret herself began to return, again and again, to the well that she had re-opened' (Howe, 1994, p. 538). The result was a cumulative, almost contagious, Euroscepticism in the Conservative Party, and this had grown inexorably ever since. Certainly, many of the most vehemently anti-European Conservatives today are 'Thatcherites' ideologically (and proud to be such), and are convinced that most of the Party's electoral problems since 1997 have been due to it diluting or abandoning Thatcherism, rather than persevering with it.

However, what greatly compounded Major's problems vis-à-vis the Party's anti-Europeans was the 1992 (Maastricht) Treaty of the EU (Seldon, 1997, pp. 368–371). This provided Conservative Eurosceptics with a new target against which to mobilise, and further 'evidence' of Brussels' seemingly megalomaniac determination to subjugate Britain to a United States of Europe, while also seeking to impose Socialism by stealth via the 'social Europe' agenda. According to a prominent Conservative Eurosceptic, John Redwood, the Maastricht and (1997) Lisbon Treaties 'represented a major step on the way to a single country'. Indeed, he suggested that anyone reading them for the first time 'would conclude that the intention is none other than the establishment of a new country called Europe' (Redwood, 1999, pp. 29, 33).

Although Major finally succeeded—after a bitter struggle with sections of the parliamentary Conservative Party—in securing parliamentary ratification of the Maastricht Treaty (see Alderman, 1993; Baker, Gamble, & Ludlam, 1993; Baker, Gamble, & Ludlam, 1994; Gorman, 1993; Wincott, Buller, & Hay, 1999), this merely exacerbated the hostility and rebelliousness of many Conservative Eurosceptics. Many of them felt that they had effectively been bullied and blackmailed, by the Party's whips, into voting for the ratification of the Maastricht Treaty.

Thereafter, Major found it impossible to re-establish his authority, and as a consequence, he contested the 1997 general election leading a Conservative Party which was deeply and very publicly divided over Britain's relationship with the Europe. Although Europe itself was not a major electoral issue in 1997, the divisions in the Conservative Party, and Major's consequent inability to provide any semblance of unity or authoritative leadership, proved electorally fatal, and allowed New Labour (led by the avowedly pro-European—and seemingly charismatic—Tony Blair) to win a landslide victory; Labour's largest ever, in fact.

3. The Conservatives' Wilderness Years, 1997–2005

Between the 1997 election meltdown, and the election of David Cameron as Conservative leader in 2005, the Party was led by William Hague, Iain Duncan Smith and Michael Howard respectively. All three were renowned Eurosceptics, especially Ian Duncan Smith, who had been a prominent 'Maastricht rebel' in 1993. When Hague and Duncan Smith were elected (Howard was 'elected' unopposed), the candidate they defeated was Kenneth Clarke. The latter was widely acknowledged to be popular outside of the Conservative Party, by virtue of his down-to-earth, plain-speaking, jazz-loving, and often cheerfully irreverent persona, but to many Conservatives, Clarke's strong pro-European stance was, by this time, tantamount to heresy, and thus rendered him, in the eyes of many Conservative MPs, unacceptable as a Party leader.

To a considerable extent, therefore, the support which Hague and Duncan Smith attracted in the 1997 and 2001 leadership contests was attributable to an 'ABC—Anyone But Clarke' *ethos* among Conservative Eurosceptics, even though he would probably have been more electorally popular than Hague or Duncan Smith. Certainly, by this time, Duncan Smith's enduring reputation as a 'Maastricht rebel' in the early 1990s had become 'a virtue rather than a vice', and most of his parliamentary support in the 2001 Conservative leadership contest came from the Eurosceptic Right of the Party (Lynch, 2003, p. 161).

That the Conservatives continued to become more Eurosceptic under Hague, Duncan Smith and Howard was not solely due to their own Euroscepticism, important though this undoubtedly was. Also of immense importance were continued developments in the EU itself, and the increasing 'Thatcherisation' of the Conservative Party long after Margaret Thatcher herself had resigned (this last point is discussed more fully later in this article).

In terms of developments in the EU itself, the 1997–2005 period witnessed the Amsterdam and Nice Treaties, the introduction of the single European currency (the culmination of Economic and Monetary Union), proposals for a European Rapid Reaction Force (quickly denounced as an EU army by some Conservative Eurosceptics, who feared this would undermine NATO, and jeopardise Britain's perceived 'special relationship' with the United States), and the next phase of enlargement, as former East European states acquired EU membership. To its critics, the EU was assiduously extending its jurisdiction and powers; administratively, diplomatically, economically, geographically, and militarily.

These developments provided Conservative Eurosceptics with a wider range of targets against which to direct their increasing criticisms of the EU and its trajectory. Furthermore, it enabled them to argue that the EU was acquiring some of the key characteristics and attributes of a sovereign nation-state. As such, increasingly dire warnings were issued about the development of a European Super-State with its own currency, army and foreign policies. Such an entity, it was feared, would subsume and supersede individual member-states, and thus destroy national autonomy and parliamentary sovereignty.

Hague, Duncan Smith, and Howard each commenced their leadership of the Conservative Party arguing that it needed to modernise, not least by becoming more socially liberal and less morally judgemental—at the Party's 2002 annual conference, Theresa May told delegates that the Conservatives were widely viewed as 'the nasty party'—but given the ideological backgrounds and stance of these three leaders, such claims rarely sounded genuine or heart-felt. Indeed, under each leader, when the initial softer, more conciliatory stance failed to yield any significant improvement in the Conservative Party's public popularity (as illustrated by continued low opinion poll ratings), it was jettisoned in favour of a return to a much more Thatcherite stance.

For example, Bale notes how, under Hague's leadership, when the advocacy of modernisation and social liberalism failed to deliver any discernible increase in the Conservatives' popularity, the irresistible temptation was 'to exploit the few issues on which the Party already enjoyed leads—immigration and asylum [seekers], law and order, and the Euro (if not Europe as a whole)'. As such, many of Hague's advisers and leadership team were convinced that 'the sooner the Party got off Labour's territory and back onto what they saw as a more profitable populist track, the better…the Tory leader agreed'. Similarly, Bale notes that in spite of his modernisation rhetoric, Duncan Smith 'represented not a transcendence of Thatcherism, but a desire to resume where it had left off' (Bale, 2010, pp. 122, 123, 147).

By the early 2000s, Thatcherism had become the Conservative Party's default position and comfort-zone, both reflecting, and reinforced by, the changing ideological character and composition of the Party in the House of Commons, as discussed below. Of course, the swift shift back to a Thatcherite stance rather implied that the advocacy of 'modernisation' and social liberalism had only ever been superficial and cosmetic. According to this perspective, a major reason for the Conservatives' heavy electoral defeats in 1997 and 2001 was not that the Party was too Thatcherite, but that it was no longer Thatcherite enough. The modernising and socially liberal rhetoric (however superficial) had alienated core supporters, but failed to attract new, non-Thatcherite, voters.

4. David Cameron's Premiership and Pressure for a Referendum on Britain's EU Membership

When he was elected as Conservative leader in December 2005, David Cameron tried to minimise the EU as a policy issue in the Conservative Party, precisely because he was acutely aware of its intrinsic divisiveness. He thus urged Conservatives to 'stop banging on about Europe', along with other emotive issues like immigration. This was part of his initial attempt at 'de-toxifying' the Conservative Party's image, by placing much less emphasis on traditional Conservative (or Thatcherite) themes such as crime, immigration, public sector inefficiency and welfare dependency. Instead, he boldly promoted more 'progressive' issues such as environmentalism, eradicating poverty, same-sex relationships, social justice, and work-life balance (Bale, 2010, Chapter 7; Dorey, 2007; Dorey, Garnett, & Denham, 2011, Chapters 3–4; Hayton, 2016).

In effect, Cameron was attempting precisely what his three predecessors had initially done—promoting a post-Thatcherite agenda and identity for the Conservative Party. Yet while Cameron himself seemed genuinely committed to this strategy (much more so than Hague, Duncan Smith and Howard), the preponderance of Thatcherites and Eurosceptics in the parliamentary Conservative Party meant that he constantly struggled to impose his authority on some of his more recalcitrant backbench MPs.

Certainly, continued developments in the EU itself, coupled with a further increase in the scale and strength of Euroscepticism among Conservative MPs (Heppell, Crines, & Jeffery, 2017), ensured that Cameron could not avoid the issue of Europe. During the first half (2005–2010) of Cameron's leadership, the most contentious issue pertaining to the EU concerned the Lisbon Treaty, which he initially insisted should be subject to a referendum prior to ratification. However, in November 2009, by which time other member states had ratified the Lisbon Treaty, Cameron announced the abandonment of the Conservatives' referendum pledge. His rationale was that: 'We cannot hold a referendum and magically make…the Lisbon treaty…disappear, any more than we could hold a referendum to stop the sun rising in the morning' (BBC, 2009).

While Cameron's stance was constitutionally correct and politically realistic, it nonetheless alarmed and angered Conservative Eurosceptics, many of whom began

doubting (if they had not doubted before) the seriousness and strength of Cameron's determination to resist further European integration, and the concomitant diminution of parliamentary sovereignty. In order to assuage such anxieties, Cameron advanced a new Conservative policy on the EU, one which insisted that the Lisbon Treaty was a line drawn in the sand, so that no further ceding of sovereignty would be permitted unless clearly approved by the British people. Thus did the Conservatives' 2010 manifesto pledge that 'in future, the British people must have their say on any transfer of powers to the European Union…any proposed future treaty that transferred areas of power, or competences, would be subject to a referendum' (The Conservative Party, 2010, p. 113), a pledge enshrined in the 2011 European Act.

However, this pledge was insufficient to prevent repeated demands, often articulated via legislative amendments, parliamentary motions, and Private Members' Bills, from sundry Conservative Eurosceptics for a referendum anyway, without waiting for any further initiatives or Treaties from the EU (for examples of such demands, see: Hansard, 2010 [Volume 520, speeches by Douglas Carswell, column 201; Bill Cash, column 224; John Redwood, column 194], 2011 [Volume 534, speech by David Nuttall, column 46], 2012 [Volume 551, speech by Douglas Carswell, column 1256]).[1]

Cameron eventually conceded to these demands in January 2013, via a speech at the London office of Bloomberg media company, in which he announced that a referendum would be held in the next [post-2015] Parliament. As with the referendum on EC membership pledged by the Labour Prime Minister Harold Wilson in the mid-1970s, Cameron's promise of such a plebiscite was not motivated by a sudden desire for direct democracy, but by the urgent need to manage the issue inside the Conservative Party: 'It was obvious that David had taken [the decision] mainly for reasons of party management', in the context of 'the constant backdrop of Right-wing nationalist Conservative backbenchers agitating on Eurosceptic causes', although he also envisaged that it might neutralise the electoral threat of UKIP (Clarke, 2016, p. 473).

What was widely overlooked, however, was the generally positive tone of the referendum speech; Cameron apparently came not to bury the EU, but to praise it. With the caveat that the EU should be viewed as a means to an end (namely economic growth, greater prosperity, and the defence of democracy and liberty) rather than an end in itself, Cameron insisted that:

> I never want us to pull up the drawbridge and retreat from the world. I am not a British isolationist. I don't just want a better deal for Britain. I want a better deal for Europe too….I want the European Union to be a success. And I want a relationship between Britain and the EU that keeps us in it. (Cameron, 2013)

Indeed, it has since been described as 'one of the most pro-EU speeches given by a British prime for some time' (Seldon & Snowdon, 2015, p. 266).

Certainly, Cameron hoped that by the time this referendum was held, he would have successfully renegotiated the terms and conditions of Britain's membership of the EU, and reclaimed various powers from Brussels. On this basis, he would then urge people to vote in favour of continued British membership of the EU. This seemed a plausible strategy at the time, because various opinion polls showed that while many people would vote for Britain to leave the EU if presented with a simple 'Leave/Remain' binary choice, many of them would instead vote 'Remain' if Cameron could secure a 'better deal' for Britain; it was not Britain's membership of the EU *per se* that many British people were opposed to, but the actual terms and conditions of that membership—or so it seemed at the time.

This was confirmed by a summer 2012 poll, conducted by YouGov, which showed that if a referendum was held after successful [albeit not defined] renegotiation of Britain's relationship with the EU, and David Cameron then recommended that Britain should remain a member of the EU under the revised terms, then 42% would vote to remain, while 34% would still vote to Leave the EU. There were, though, 19% of respondents who were undecided at this time (perhaps wanting to wait-and-see precisely what renegotiation would entail), while 5% claimed that they would not vote (YouGov, 2012, p. 4). Nonetheless, the 42%–34% ratio might well have convinced Cameron that much of the British public was open to persuasion, and that he personally had the requisite authority and charisma to persuade them.

Yet when, a few months later, Cameron did announce a post-2015 referendum on Britain's continued membership of the European Union, the response from many of his political colleagues and commentators was generally unfavourable. Some of his closest and usually most supportive colleagues doubted the political or tactical efficacy of such a pledge. Certainly, his Chancellor, George Osborne, 'did not just think a referendum was a bad idea, he thought it was a disastrous idea', partly because it would only present the electorate with a stark In/Out, all-or-nothing choice, and partly because he envisaged the 'major risk that several uncontrollable forces would combine in a referendum campaign' such as anti-government sentiment, and political opportunism from opponents, 'and then you lose' (Shipman, 2016, pp. 3, 4; see also Portillo, 2016; Seldon & Snowdon, 2015, p. 547). Yet given his political seniority and closeness to Cameron, he studiously refrained from expressing his reservations publicly. Nor was Osborne alone among senior Conservative colleagues in harbouring 'serious reservations about this sudden genuflection towards his own Eurosceptic backbenchers' (Clegg, 2016, p. 206).

Less reticent in expressing his doubts was a former Conservative Chancellor, Kenneth Clarke, who was ap-

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[1] These can all be accessed online via: https://hansard.parliament.uk

palled at 'the irresponsibility of this gamble...this foolish and extremely risky decision'. Clarke was emphatic that a referendum was not 'a useful way of taking decisions on hugely complex political and diplomatic issues' which were reduced to 'a vote on a broad-brush simple question which obscures a myriad of sub-issues within it about the role of Britain in the world'. To present voters with a simple binary 'Yes/No' choice on such issues was, Clarke argued, 'reckless beyond belief', and the former Conservative Chancellor expressed these grave doubts to Cameron directly, face-to-face (Clarke, 2016, pp. 472, 473).

Further strong criticism emanated from Cameron's former speech-writer, Ian Birrell, who described the pledge as 'padding wrapped around a stick of political dynamite'. He suggested that: 'Mr. Cameron has been forced to concede possibly the biggest gamble of his prime ministerial career', adding ominously that: 'This is not throwing a slab of red meat to the Right—it is giving them the keys to the abattoir' (Birrell, 2013).

Also highly critical of the decision was the Deputy Prime Minister in the Coalition Government, the Liberal Democrat Nick Clegg. He describes it as 'a wilful elevation of an internal party problem to the level of a national plebiscite'. Clegg confesses that he 'could not see the logic of asking millions of our fellow citizens a question just because a single political party, under increasing pressure form UKIP, was unable to make its mind up for itself'. Ultimately, Clegg describes it as 'a decision born of political weakness' (Clegg, 2016, p. 206; see also Laws, 2017, p. 245).

Even a former Conservative Cabinet Minister and prominent Eurosceptic in the 1990s (and now a prominent TV presenter and media commentator), Michael Portillo, argued that, while he had personally voted for Britain to leave the EU, the referendum should never have been conducted. He deemed it to have been a monumental error of judgement and miscalculation by David Cameron, 'the greatest blunder ever made by a British prime minister', one which neither quelled Euroscepticism in the Conservative Party nor reversed the rise of UKIP. Portillo argued that 'if he [Cameron] seriously thought that leaving the EU would be calamitous for Britain, there is no defence for taking that national risk in an attempt to manage his party or to improve its chances of election'. Portillo suggests, though, that Cameron 'did not expect to win a [parliamentary] majority in 2015, and therefore did not anticipate having to redeem the pledge' (Portillo, 2016).

The implication was that the 2015 election would produce another Hung Parliament, and thus a new coalition with the Liberal Democrats, whereupon the latter would insist on the referendum pledge being abandoned as a pre-condition of any political deal with the Conservatives; in such a scenario, Cameron could blame the Liberal Democrats for his failure to fulfil the referendum pledge. When the Conservatives won a surprise victory in the 2015 general election, albeit with a narrow ma-

jority, Cameron was effectively obliged to proceed with the promised referendum. However, a prominent academic expert on Conservative politics has subsequently rejected this interpretation, insisting that 'there is no truth whatsoever in the idea that he was assuming his pledge to hold a vote could be dropped in negotiations for the renewal of the coalition with the Lib Dems' (Bale, 2016, p. 436).

Meanwhile, few, if any, Conservative Eurosceptics were pacified by Cameron's belated referendum pledge, not least because of their continued sense of betrayal over the abandonment of the previously promised Lisbon Treaty referendum; they simply did not trust Cameron to deliver on this latest pledge. Yet even if he did, they strongly suspected that he would greatly exaggerate any success accrued from his renegotiation over the terms and conditions of Britain's membership, and thereby persuade enough British people to vote to remain in the EU on the basis of merely cosmetic changes (Heppell, 2014, p. 160).

However, the implacable scepticism and clear lack of respect which many Conservative Eurosceptics felt towards Cameron was also attributable to long-term and more fundamental ideological, sociological and behavioural changes in the Conservative Party itself. These changes not only strongly shaped intra-Party attitudes towards the EU, but also the increasingly assertive manner with which many Conservative MPs responded to the Party leadership on this issue.

5. The Changing Character of the Conservative Party

In addition to developments in the EU itself (as noted above), and their impact on domestic politics and political economy, there were three inter-related or mutually reinforcing factors which further fuelled growing Conservative hostility towards the EU from the 1980s onwards: the changing ideological character and social composition of the parliamentary Conservative Party; behavioural changes among Conservative MPs; a change in the nature of Euroscepticism within it. All of these factors made effective Party management virtually impossible for ostensibly conciliatory or pragmatic leaders like Major and Cameron, and grievously damaged the Party's former reputation for cohesion, leadership loyalty and unity.

5.1. The Thatcherite Transformation of the Conservative Party

Since the 1980s, the Conservative Party has become steadily more Thatcherite in its ideological orientation and strategic policy objectives. Thatcherism has been characterised as the pursuit of a free economy and a strong State (Gamble, 1988), for it enshrined a dual commitment to neo-liberalism (free markets, deregulation, private enterprise, competition, wealth creation, profit maximisation, labour market flexibility, and tax cuts) in the economic realm—'rolling back the State'—but the

restoration of authority and discipline in the political and social spheres. The latter dimension of Thatcherism entailed a stronger and more punitive role for the State against those who were deemed to obstruct 'the market' or constitute a threat to parliamentary democracy and the rule of law (invariably Left-wing organisations and social movements). Thatcherism also entailed a strengthening of Britain's perceived 'special relationship' with the United States, this comprised of close diplomatic, military and political links, and ideological affinity, as well as a shared language.

Thatcherism thus had important consequences for the Conservative Party's approach towards the EC/EU, for while the move towards the single market (*pace* the 1986 SEA) was largely commensurate with the Thatcherite commitment to the liberalisation of trade and the promotion of economic competition, the parallel advocacy of a 'social dimension' was anathema to Thatcherites. So too was the extension of QMV, which was deemed a major threat to parliamentary sovereignty (discussed below) and national autonomy.

Intuitively, it might be assumed that Margaret Thatcher's November 1990 resignation would be followed by a weakening of Thatcherism in the Conservative Party, but precisely the opposite occurred. Since Thatcher's downfall, the parliamentary Party has steadily become *more*, not *less*, Thatcherite, due to the ideological stance of new Conservative MPs. Indeed, many of these seem to have been adopted as Conservative candidates largely because of their Thatcherite credentials. As such, the Conservative Party (in the House of Commons) has steadily become more Thatcherite than it was when Thatcher was leader. Crucially, many of these Thatcherites have been among the most vehement and vocal Eurosceptics in the post-1990 parliamentary Conservative Party.

Bale notes the extent to which 'the parliamentary party that returned to Westminster after the [1997] election was more uniformly Thatcherite and Eurosceptic than the one that had left it' when the campaign began, to the extent that 140 of the 165 Conservative MPs elected in 1997 were Eurosceptics (Bale, 2010, pp. 68, 79). This ideological trajectory continued in/after the 2001 general election, whereupon the intake of Conservative MPs served 'to push the Conservatives even further down this road towards the Right, rather than returning towards the centre ground of Westminster politics' (Norris & Lovenduski, 2004, p. 94).

Meanwhile, writing in 2003, Lynch observed that: 'The Conservative parliamentary party has become significantly more Eurosceptic over the last decade', either as pro-European Conservative MPs retired or resigned, and were replaced by Eurosceptic candidates and MPs, or because some Conservative parliamentarians 'have hardened their position on Europe, becoming more sceptical' in response to integrationist developments in the EU itself (Lynch, 2003, pp. 154, 155).

The growth of Conservative Euroscepticism has been starkly illustrated by Bale (2010, p. 136), who notes that whereas 58% of the Party's MPs had been Eurosceptics in the 1992–1997 Parliament, this tally had increased to a remarkable 90% following the 2001 general election. Similarly, whereas the proportion of Conservative MPs who could be categorised ideologically as Thatcherites stood at a mere 19% in the late 1980s, according to Norton (1990, p. 52), Bale suggests that this figure had increased to 73% in 2001 (Bale, 2010, p. 136).

As a consequence, whereas Thatcherites were actually a minority of the parliamentary Conservative Party when Thatcher herself was Prime Minister, they have since become the overwhelming majority, certainly in terms of their ideological commitment to free-market economics and Euroscepticism. Indeed, it no longer makes sense to refer to Thatcherites as being on the Right of the Conservative Party, because the Right-ward shift of the Party in the last three decades means that Thatcherism is now the mainstream or modal point in the parliamentary Party.[2]

5.2. Behavioural Changes Among Conservative MPs

This ideological transformation in the Conservative Party has been accompanied by a corresponding change in the attitude and conduct of many Conservative MPs towards their Party leaders and policies, particularly since Thatcher's downfall. This has manifested itself in an increased willingness among Conservative MPs to vote *against* their own Party in the House of Commons when they strongly disagree with the stance or policy adopted by the leadership. Admittedly, scholars like Philip Norton have traced the origins of contemporary 'dissent' by Conservative MPs to the apparently autocratic and alienating leadership of Edward Heath in the early 1970s (Norton, 1978, Chapter 9), and Thatcher herself occasionally experienced major rebellions by backbench Conservatives (most notably that which defeated the 1986 Shops Bill to legalise Sunday trading).

Nonetheless, it has been since the early 1990s onwards that backbench dissent in the parliamentary Conservative Party has significantly increased, either in terms of the frequency of such rebellions or/and the size of them. As Norton (1996, p. 137) has noted: 'Once the genie of back-bench independence…had been let out of the bottle, there was no way of putting it back.…The change of the early 1970s has been maintained'.

Needless to say, many of these have backbench rebellions involved Conservative MPs defying their Party leadership in parliamentary votes on EU-related issues. According to Ludlam: 'The proportion of [Conservative] backbenchers willing to engage in repeated rebellion over Europe grew to unprecedented levels under Major', exacerbated by the 'right-wing alarm over Thatcher's sacking that undermined appeals to party unity and loyalty' (Ludlam, 1996, p. 119).

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[2] I am grateful to one of the referees for making this particular point.

As we noted earlier, John Major encountered serious difficulties due to due divisions among Conservative MPs (and some prominent Cabinet Ministers) over Europe, with the parliamentary ratification of the Maastricht Treaty crystallising these intra-party disagreements and fuelling leadership defiance. Twenty years later, David Cameron also endured serious backbench dissent and defiance over his stance on Britain's relationship towards the EU, but this time, it was the issue of a referendum on continued membership which provided the main focus for Conservative rebels, as noted above (see also Cowley, 2013; Cowley & Stuart, 2013; D'Ancona, 2013, Chapter 13, Dorey & Garnett, 2016, pp. 230–236; Lynch & Whitaker, 2016, Chapter 6; Seldon & Snowdon, 2015, Chapter 21).

For such Conservative Eurosceptics, the Party's official policy, as enshrined in the 2011 European Act, was inadequate because it would allow Ministers themselves to decide whether future changes or proposed transfers of power were of sufficient scale or scope to justify a referendum (Hazell, 2012, pp. 165–166). In short, many Conservative Eurosceptics simply did not trust Cameron to 'deliver' on such a pledge. After all, while Cameron had insisted that the Lisbon Treaty constituted 'a line in the sand', everyone knows that such lines are washed away by the next incoming tide, thus rendering them ephemeral. It was largely in response to such pressure that Cameron finally pledged an 'In/Out' referendum, and in so doing, illustrated both the manner in which backbench deference towards their Party leaders has declined, and the consequent extent to which backbenchers can sometimes influence their Party's policies, rather than obediently or passively following their leader.

5.3. The Conservative/Thatcherite Notion of Sovereignty

Much of the growing Conservative hostility towards the EC/EU has been articulated via a nationalistic discourse concerning sovereignty, and particularly parliamentary sovereignty. For many Conservatives, but particularly for Thatcherites, sovereignty means that Parliament should either be the only, or the highest, political institution with the authority and power to enact laws applying to the British people (Lynch, 1999, pp. 80–81). The House of Commons (inside Parliament) is directly elected by the British people in free-and-fair elections every five years, and is thus deemed to be both representative of and accountable to 'the people'. Consequently, it is deemed unacceptable and undemocratic for another institution, above and beyond the nation-state, to be empowered to devise policies and 'laws' (EU Directives) which are applicable to Britain, and which take precedence over domestic laws enacted by Parliament.

In effect, this Hobbesian perspective views true sovereignty to be indivisible, and thus wholly incompatible with the notion of 'pooled' (shared) sovereignty accepted by many other EU member states—some of whom are accustomed to power-sharing as a consequence of coalition governments accruing from their electoral systems based on variants of proportional representation. The Thatcherite/Eurosceptic notion of sovereignty also strongly underpins the Party's hostility towards supranationalism (as symbolised by the EU in general, and both the European Commission, and the European Court of Justice, in particular), because it means that an external, international, organisation and its constituent institutions exercise authority and jurisdiction over Britain, yet these bodies are neither elected by, nor accountable to, the British people. A prominent Conservative Eurosceptic, Norman Tebbit, once argued that the EC/EU 'is a force generated from outside our shores and…by people not of our nationality. That it so say, it is a foreign force', and as a consequence, British people have increasingly 'suffered from laws made outside our shores by foreigners' (Tebbit, 1991, pp. 64–65).

From this perspective, every new Treaty which imbues the Commission with more authority, extends the range of EU decisions to be determined by QMV, or/and expands the range of policies to be 'Europeanised', further diminishes Britain's cherished parliamentary sovereignty, and prompts further warnings about Britain being subjugated to a dystopian 'European Super-State'. Consequently, for many Conservatives, and especially the Thatcherites, international issues and problems which require joint policy-making by several nation-states should be addressed via intergovernmentalism, not supranationalism.

One other aspect of the Conservative/Thatcherite notion of sovereignty which needs to be emphasised is the manner in which it also constitutes an integral component of the British Right's nationalist discourse. Not only does this entail the social construction and an ideological narrative about what it means to be British, in terms of culture, history, values and other shared characteristics—what Benedict Anderson (1983) termed 'imagined communities'—it also entails identifying an alien, external, 'Other', which is deemed to constitute a threat to the sovereign nation-state.

In this respect, Thatcherites have not merely constructed an (often quasi-mythical) image of what Britain is or ought to be—often based on a nostalgic or romantic vision of a supposed Golden Age which apparently existed several decades ago—but purported to identify who or what poses a threat to Britain and its people: these threats can either be internal (such as Communist/Marxist subversion, militant/Left-wing trade unions, etc.,), or external. Until its spectacular collapse in 1990, the Soviet Union fulfilled the role of the external Other, but since then, the EU has unwittingly fulfilled this role; the ideologically-defined threat to British independence and sovereignty, albeit via 'soft' power rather than military prowess.

The identification of the 'Other' provides Conservatives with a valuable means of fostering a sense of national unity which transcends, and diverts attention

away from, other socio-economic divisions within British society—especially the inequalities of wealth, power and privilege which the Conservatives are committed to defending and legitimising.

5.4. The Changing Nature of Conservative Euroscepticism

By the time David Cameron had become Conservative Party leader at the end of 2005, the previous intra-party divisions over the EC/EU between pro-Europeans (or 'Europhiles') and Eurosceptics, had been superseded by a division between 'soft' (or pragmatic) Eurosceptics and 'hard' Eurosceptics (Lynch, 2015); only seven Conservative MPs elected in 2010 were pro-Europeans[3], a mere 2.3% of the parliamentary Party (Heppell, 2013, p. 349, Table 4). According to Taggart and Szczerbiack (2008, p. 8), 'soft' Euroscepticism 'is where there is not principled objection to European integration or EU membership', but where there are concerns about particular policy issues, and hence a 'qualified opposition to the EU, or…a sense that the 'national interest' is currently at odds with the EU's trajectory'.

As such, 'soft' Eurosceptics tend to favour continued EU membership, albeit on looser or more flexible terms, probably following a renegotiation of the conditions of membership and possibly the reclaiming of particular powers. This was certainly David Cameron's stance, and one shared by many of his Conservative colleagues in the Cabinet, such as Chancellor of the Exchequer, George Osborne, and then Home Secretary Theresa May—who is now Prime Minister following Cameron's post-referendum resignation.

By contrast, 'hard' Eurosceptics share 'a principled opposition towards the EU and European integration' and therefore 'think that their countries should withdraw from membership' (Taggart & Szczerbiack, 2008, p. 7). As such, hard Eurosceptics tend to view their country's membership of the EU as non-negotiable, because they are fundamentally opposed to European integration; negotiation entails compromise, and will thus still entail at least some betrayal and loss of sovereignty, regardless of any corresponding concessions gained or granted by Britain's EU partners. Consequently, nothing short of complete and irrevocable withdrawal from the EU will suffice for 'hard' Eurosceptics.

Although the majority of Conservative MPs during Cameron's leadership were actually 'soft' Eurosceptics, the 'hard'-Eurosceptics nonetheless comprised 35.4% of backbench Conservative MPs, and thus a significant minority of the parliamentary Party (Heppell, 2013, p. 347, Table 3). Crucially, these 'hard' Eurosceptics were much more vocal and well-organised than the 'soft' Eurosceptics, and also willing to defy the Conservative leadership and official Party policy on the issue of Europe. In so doing, they tend to view themselves as true patriots, placing the national interest over and above party or partisan interest.

6. The Rise of the UKIP

In parts of the UK, increasing Euroscepticism has been reflected, and then reinforced, by the growing electoral support enjoyed by UKIP led, until 2016, by the charismatic Nigel Farage. Initially, UKIP was seen as a single-issue party on the fringes of British politics, but during the last decade, UKIP has both exploited growing anti-EU sentiment in Britain, and considerably exacerbated it too (see Ford & Goodwin, 2014, for a study of the rise of UKIP and Right-wing populism in Britain).

What has also increased support for UKIP in recent years has been increasing concern over immigration, particularly migrants from the East European states which joined the EU in 2004. This concern was inevitably exacerbated by the 2008 global financial crash, and the consequent increases in unemployment and welfare expenditure. Predictably, EU (and especially East European) migrants were variously blamed for 'taking jobs' from British workers, and thus fuelling unemployment among the indigenous work-force, particularly as migrant workers were deemed to be willing to work for low(er) wages, which therefore made them more attractive to British employers.

On the other hand, migrant workers were also blamed for fuelling social security expenditure, the rationale being that large numbers of East European migrants were moving to the UK solely to claim 'generous' welfare benefits. Similarly, migrants were variously accused of placing an additional strain on Britain's public services and infrastructure—hospitals, housing, schools, transport, etc.—in an era of austerity and consequent cuts in funding and service provision.

It was in this context that UKIP skilfully linked Britain's EU membership with concern over the free movement of labour, and insisted that the country would only be able to halt (and reverse) EU migration into Britain by leaving the EU altogether. Such withdrawal, UKIP argued, would enable Britain to regain control of its own borders, and make its own decisions about who was allowed to enter the country, for what purpose, and for how long. This prognosis enabled UKIP to enhance its political credibility and increase its electoral appeal.

It also allowed UKIP to emphasise a point which subsequently became a major feature of those who supported 'Brexit' in the 2015 referendum, namely that many people and politicians who favoured continued EU membership were part of a metropolitan or liberal elite who were out-of-touch with, and thus did not genuinely represent, ordinary British people. This populist narrative argued that the 'liberal elite' was patronising and contemptuous towards citizens who were anxious about the impact of EU migrants on their communi-

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[3] Heppell defines 'pro-European' as being someone who firmly believed that 'further European integration, with an implicit 'pooling' of sovereignty, was essential to renewed British influence on the world stage' (Heppell, 2013, p. 343; see also Crowson, 2007, pp. 105–126; Garry, 1995, p. 172).

ties. Instead of acknowledging their concerns, the 'liberal elite' allegedly condemned them for not embracing multi-culturalism, and denounced them for being racist and xenophobic. In this context, UKIP garnered increasing electoral support and higher opinion poll ratings by portraying itself as being 'out there' on the side of ordinary British people against the political Establishment.

Much of UKIP's growing electoral support seemed to emanate from former Conservative supporters who believed that, under David Cameron's leadership, the Party was not offering a sufficiently robust policy towards the EU, partly because of his own soft Eurosceptic stance, and partly because of the constraints apparently imposed by his pro-EU Liberal Democrat coalition partners. The concern was *not* that UKIP would actually win many seats from the Conservatives but that, under Britain's simple-plurality electoral system (where candidates only need to attain the largest number of votes in a constituency, not a majority, to be elected), a UKIP candidate might attract just enough votes from the Conservative candidate to deprive them of victory. This was a particular risk in 'marginal' constituencies where only a relatively small number of votes separated the first- and second-placed candidate.

This electoral threat had become evident in the 2010 general election, when there were 21 constituencies in which the Conservative candidate was narrowly pushed into second place (behind the Labour or Liberal Democrat candidate), primarily as a consequence of the number of votes won by the UKIP candidate, many of whom, had previously voted Conservative. In some of these constituencies, UKIP only needed to attract a few hundred votes from former Conservative supporters to deprive the Conservative candidate of victory, and thereby enable a Labour or Liberal Democrat candidate to win the seat instead (see Dorey, 2010, p. 432, Table 10).

Further evidence of the extent to which UKIP was attracting increasing support from ex-Conservative voters was gleaned from annual surveys conducted by YouGov (one of the UK's leading opinion poll companies) for the British Election Survey, and reproduced in an online blog about the radical Right in Britain. The key data from these surveys is presented in Table 1, which illustrates that whereas 16% of UKIP supporters in 2008 had previously voted Conservative, this figure had doubled by 2011, and then increased further, to 37% in 2012. While this meant that a majority of UKIP supporters had previously voted for other parties, or abstained, it still meant that well over a third of UKIP's 2012 has previously voted Con-

servative, and the scale of the annual increase in Conservative 'switchers' was naturally a cause of considerable concern for many Conservative MPs. Naturally, this increased the pressure on Cameron to adopt a tougher stance on the EU issue, hence his pledge to hold a referendum on continued British membership.

7. Conclusion: The Long Road to Leaving

In the June 2016 Referendum, there was a 52%–48% vote in favour of Britain leaving the EU, the turn-out having been 72.2%. This was the culmination of several decades of growing Euroscepticism in the Conservative Party, which was itself a product of the changing ideological stance and membership of the parliamentary Party. Having previously been dominated, at senior levels, by pro-European One Nation Conservatives until the 1970s, the Party has since undergone a significant transformation in its ideological stance, both with regard to domestic policies and, indeed, the role of government, and in its attitude towards Europe.

Initially, in the 1980s and 1990s, there remained several prominent and high-ranking pro-European (or Europhile) Conservatives, but these were increasingly challenged, and gradually superseded, by Eurosceptics, with the Maastricht Treaty providing a *cause celebre* around which they could mobilise and hone their critique of the emerging European Union.

However, by the time David Cameron became Prime Minister in 2010, the divisions in the Conservative Party were no longer between Europhiles and Eurosceptics, but between 'soft' Eurosceptics and 'hard' Eurosceptics, and although the latter were numerically a minority in the parliamentary Conservative Party, they were more cohesive and confident, and more willing to criticise the leadership not being sufficiently resolute and robust in its stance towards the EU. This shift towards overall Euroscepticism in the Conservative Party, and the development of a 'hard' Euroscepticism, reflects both the post-1990 'Thatcherisation' of the Conservative Party, and growing concern at developments within, or emanating from, the EU, such as new Treaties and post-2004 East European migrant workers respectively.

These also fuelled the rise of populist anti-EU parties like UKIP, which, in turn, emboldened some Conservative Eurosceptics to demand a tougher stance by the Party leadership, lest further electoral support was lost to UKIP. Meanwhile, in August–September 2014, two Conservative MPs actually defected to UKIP (Douglas Carswell and

Table 1. How UKIP supporters voted in the previous general election. Source: Ford (2012, adapted from annual polls by YouGov and the British Election Survey).

	2004	2005	2006	2007	2008	2009	2010	2011	2012
Con	22	12	20	25	16	21	22	32	37
Lab	34	14	17	16	24	27	13	5	3
Lib D	6	5	6	6	6	8	14	1	13

Mark Reckless), raising concerns that more Conservative parliamentarians might follow them, although none actually did so.

Much of the success of 'hard' Eurosceptics in campaigning for Britain's withdrawal from the EU derives from their ability (or willingness) to simplify the issues via short but pithy slogans—'taking back control', 'controlling our borders', etc.,—and appealing to people's emotions or gut-instincts in denouncing EU bureaucracy and immigration. By contrast, pro-Europeans and 'soft-Eurosceptics' erroneously assumed that the case for Britain remaining in the EU could convincingly be made by appealing to 'facts', logic, reason, and economic data, yet this approach lacked the simplicity and visceral appeal of anti-European (sometimes xenophobic) arguments and sentiments (Bale, 2016, p. 440; Oliver, 2016, pp. 10–11). Ultimately, the pro-EU/Remain case was often too abstract, esoteric or intangible.

Furthermore, many of those who campaigned to 'Remain' in the 2016 Referendum were widely associated with the 'liberal elite' (even Conservatives like Cameron, who lived in the previously fashionable and bohemian Notting Hill district of West London) and the out-of-touch inhabitants of the 'Westminster bubble'. As a consequence, they lacked the requisite credibility or trust to persuade enough people of the case for continued British membership of the EU.

In this context, many of the factors which led to Britain's 'Leave' vote can be characterised as a populist backlash by the 'left-behind' (particularly sections of the working-class, and the elderly) who felt that they had not benefited from globalisation, but had been betrayed, ignored or viewed with contempt by the 'liberal elite' and 'politically-correct'. For such citizens, the EU referendum seemed to offer a once-in-a-lifetime opportunity to wreak revenge on 'globalists' and the 'liberal elite'—a populist revolt of the masses (Shipman, 2016, p. 580).

The Conservative Party's triumphalist 'hard' Eurosceptics are now endeavouring to ensure that Theresa May, who succeeded Cameron as Party leader and Prime Minister, does not betray those who voted to Leave by diluting or backtracking on Brexit. The rhetoric now is that May's Conservative Government will pursue a 'hard Brexit', rather than the fudging and finessing that a 'soft Brexit' would entail.

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Conflict of Interests

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Article

Mixed Signals: Democratization and the Myanmar Media

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Abstract
This article investigates the media context of Myanmar's recent political reforms and transition of power. Drawing on interviews with 57 Yangon-based media professionals, the article analyzes the media's role as both an agent and subject of political change as Myanmar prepared for parliamentary elections in November 2015. It asks to what extent changes in the Myanmar media system adhere to existing theories of the media's role in the democratization process. Specifically, the article analyzes the features and functions of Myanmar's media during the country's liberalization from 2010 to 2015. The article concludes by assessing what Myanmar's experience adds to our theoretical understanding of the media's transformation during liberalization.

Keywords
Burma; democratization; freedom of the press; journalism; liberalization; media; Myanmar; reform; transition

1. Introduction

2016 was a monumental year in Myanmar. Parliamentary elections in November 2015 delivered a landslide victory for Aung San Suu Kyi's National League for Democracy (NLD). In March 2016, the NLD's Htin Kyaw became Myanmar's first civilian president since the military coup in 1962, a role denied to Aung San Suu Kyi by the junta-drafted constitution because she married a foreigner. The NLD's 2015 election victory is the culmination of a five-year reform process. In March 2011, Myanmar's ruling junta handed power to a new nominally civilian government, led by former general President Thein Sein. The new president initiated a series of reforms leading to a substantial opening of the former pariah state (Hlaing, 2012). Most dramatically, these reforms include allowing Aung San Suu Kyi and the NLD to contest parliamentary by-elections in April 2012, following her release from house arrest in November 2010. Reforms also included releasing hundreds of political prisoners, reaching preliminary peace agreements with the majority of armed ethnic groups and gradually reducing restrictions on media freedom. In August 2012, Thein Sein's government abolished the Ministry of Information's pre-publication censorship regime (Harris, 2013). Previously off-limits topics such as rampant corruption, inequality, ethnic conflicts, and government land-grabs began to feature frequently on the front pages.

Myanmar's media have been center stage in the country's transition process, both as a subject and agent of change. Media and politics influence each other. This article investigates the media's role in Myanmar's democratization during the five-year liberalization process preceding parliamentary elections in November 2015. Myanmar was selected as an illustrative case against which to compare existing theories of the media's functions and features during liberalization for the purpose of both testing and refining these theories.

To develop a more nuanced understanding of the conditions and consequences of the Myanmar media's involvement in the democratization process, the article draws a distinction between structure and agency. The structural dimensions refer to the economic, technological and political context in which the media operate. Agency denotes the editorial aspects of the media. Journalists play an active role in constructing social reality,

by setting the agenda for public discourse and by framing narratives that give meaning to political events. The interplay between structure and agency creates the opportunities and constraints that shape both the media's influence on democratic change and the impact of political change on the media.

2. The Media and Democratization

Before analyzing the media as a factor in political change, it is first necessary to define democratization. At its most simple, democratization is a journey between two ideal points on the political spectrum: closed autocracy at one end and open democracy at the other. In reality, no regime conforms to an ideal type (Dahl, 1998). Autocracy and democracy are both contested concepts that describe a range of real-world regimes. Likewise, there are many paths between these two points. Scholars of democratization have tried to identify the regular stepping-stones that mark this journey. A developmental theory of democratization assumes linear progress along sequential steps. The most widely used schema distinguishes between three main stages of democratization: liberalization of the autocratic regime; transition to democratic rule; and the consolidation of the new democratic order (O'Donnell & Schmitter, 1986). The process of regime change, however, is not always linear. Timing and sequencing vary between cases. In some states, different stages can occur simultaneously. Some states may skip one stage altogether. Others go back as well as forward along the path to democracy. Myanmar's democratization has been far from straightforward. In November 2014, Aung San Suu Kyi declared that the international community had been too optimistic about the results of liberalization begun in 2010 (Tha, 2014). Media freedom and human rights groups concurred, arguing that 2014 witnessed significant backsliding (Committee to Protect Journalists, 2014b; Human Rights Watch, 2015). Thomas Carothers argues that many states get stuck at the transition stage and never arrive at consolidated democracy (2002). To account for the range of routes, Schneider and Schmitter (2004) refer to liberalization, transition and consolidation as 'components' rather than phases of democratization.

The distinction between the three components of democratization is a useful conceptual tool for media scholars. As Katrin Voltmer theorizes that, depending on the particular component of the democratization process—liberalization, transition or consolidation—the media affect the course of events in different ways (2013, p. 72). At the same time, changes in political circumstances alter the constraints and opportunities for journalists and other media professionals. This article looks at the Myanmar's media as the country liberalized between 2010 and 2015. During liberalization, authoritarian leaders loosen their grip on society, allowing citizens more personal, professional and political freedom. Relaxing media censorship is an important part of this process. Liberalization

is often a strategic response by the ruling elite to maintain their power in reaction to mounting domestic and external pressure for political change. Domestically, the impetus for liberalization can be top–down or bottom–up. In Myanmar's case, a combination of poor development prospects, unrest among large sections of the population, an effective opposition movement, and Western sanctions that deepened economic dependence on China, convinced the ruling regime to initiate a largely top–down liberalization process as a means to retain control over the direction of political change.

3. Approach and Methods

Voltmer theorizes that the functions performed by the media in liberalizing autocracies vary depending on the impetus for liberalization (2013, p. 79). Based on her comparative research, she distinguishes between three models of liberalization based on the direction and origins of political change: bottom–up; top–down; and external influences. In reality these three processes are often interdependent. And as Voltmer points out, external influences are unlikely to trigger liberalization independently of the preferences of domestic actors.

Voltmer's work offers a rare attempt to conceptualize a general theory of the media's role in the liberalization process. Her theories are the starting point for my analysis. I assess to what extent the Myanmar media exhibited the features and function associated with her three interdependent models during the country's liberalization by answering the following research question:

> To what extent do Voltmer's theories of the role of the media in political liberalization explain the liberalization of Myanmar's media?

To further structure my analysis of the Myanmar media as a subject and agent of political change, I draw on Hallin and Mancini's (2004) four dimension comparative framework of media systems. First, journalistic *professionalism* denotes the norms that constitute the media's professional identity and that inform the standards of news reporting. Second, *political parallelism* describes the ties that the media develop with political interest groups within society. Third, the media are strongly influenced by the *state*, a relationship that involves elements of both dependency and enmity. Finally, the media are embedded within economic *markets*. In borrowing from Hallin and Mancini I hope to enhance the relevance of my study to comparativists working to refine typologies of media systems, as well as to add to the scholarly debate on the role of the media in democratization. My theoretical approach is set out in Table 1.

As Table 1 shows, Voltmer's three liberalization models are divided into four dimensions based on Hallin and Mancini's media systems framework. Although my analysis of the Myanmar media is divided into four distinct dimensions, this does not imply that transformations

Table 1. Features and functions of the media system during liberalization. Source: Voltmer (2013, pp. 79–92); Hallin and Mancini (2004).

		Bottom–up Liberalization	Top–down Liberalization	Externally-Influenced Liberalization
Agency	Professionalism	Partisanship prioritized over objective and accurate reporting	Ritualized rhetoric of the state media replaced by more accessible language	Prioritizing of information delegitimizing the regime and rallying popular resistance
		Content of oppositional media produced by activists rather than journalists	Journalists serve the political and economic interests of financial backers rather than the public interest	Outsiders often misjudge the domestic reception and interpretation of information they provide
	Parallelism	Close relationship between journalists and the opposition	Journalists alignment with one of rival factions within the regime (hard liners or soft liners)	Domestically available exiled and foreign media sustain opposition resolve by providing a sense of solidarity
		Media a tool to build alliances across diverse opposition groups divided by race and class	Liberalization deepens divisions within ruling regime between hard and soft liners	Copying and distributing transborder media to those who cannot receive it directly expands opposition network
Structure	State	State suppression and surveillance of independent media	State grants new freedoms, but for their own political purpose, not as constitutional rights	State jams international broadcasts and imposes stiff penalties for those consuming and distributing forbidden media
			State determines scope of political debate—some topics remain taboo despite relaxing censorship	Limited access for foreign journalists
	Markets	Pro-democracy opposition have their own media (including dissident and underground media) that challenge state media narratives	State-controlled media persists, despite marketization delivering some pluralism	Opposition (including media) funded by foreign donors and political exiles
			Independent media largely dependent on intra-regime factions for economic survival	Foreign media available in the domestic market

within each arena are discreet. Rather, developments within each dimension of the media system, as well as cross the three models of liberalization are considered interdependent.

To reveal the changes that took place in Myanmar's media system during the country's liberalization period, my research draw on face-to-face interviews with 57 journalists, editors, media owners and trainers working in the Myanmar-based media. My methods are therefore exclusively qualitative. Interviewees' affiliations are detailed in Table 2.

Interviews conducted by the author took place primarily during two periods of fieldwork in December 2013 and December 2014. Follow-up interviews were conducted electronically between September and December 2015. Naturally, a potential problem with interview data is deliberate distortion. Given the volatility of the political situation in Myanmar, it may be professionally or legally helpful to censor one's views, or to hide knowledge of any wrongdoing. To mitigate this problem, interviewees were offered anonymity. Furthermore, multiple sources from different organizations were interviewed,

and in several cases re-interviewed, to alleviate the effects of embellishment or misinformation. Where appropriate, I draw attention to conflicting accounts and opinions in my discussion below. Basing my analysis of Myanmar's media liberalization on the views of journalists working inside system, however, is a potential weakness of my study, as it is not always possible to adequately evaluate and corroborate their testimonies.

Interviewees were initially selected from among my personal contacts in the Yangon-based media. Interviewees then introduced me to their colleagues and associates, leading to a snowballing method of selection. Some interviewees proved particularly knowledgeable and were re-interviewed. My personal contacts in Myanmar work in the print media. The majority of their associates are also print journalists. This led to over representation of print journalists relative to professionals from other media sectors among my interviewees. Arguably, the print media is the most relevant sector to analyze when investigating the impact of liberalization on the Myanmar media. At the time of writing, the Myanmar government retains almost exclusive control over

Table 2. Interviewees affiliation (no. interviewees).

NGO (12)	Print (30)	Broadcast (6)	Professional Body (5)	Online* (1)	International (3)
Tagaung Institute	11 Media (3)	DVB (3)	Pen International	Kamayut Media	Radio Free Asia
BBC Media Action (3)	Mizzima (3)	Skynet	Interim Press Council (3)		New York Times
Internews	7 Day News (3)	Mandalay FM	Myanmar Journalist Network		Agence France-Presse
Open Society Institute	Street View Journal	MRTV			
Burma News International (3)	Myanmar Freedom Daily (2)				
Karen Information Centre	The Chronicle (2)				
Pandita Institute (2)	Pae Tin Thran				
	Yanant Thit				
	Women Can Do It				
	Myanmar Times (2)				
	The Voice (3)				
	Arakan Journal				
	Yangon Times				
	The People's Age				
	Irrawaddy (2)				
	Chin World News				
	Human Rights & Democracy Journal				

Notes: Total 57 interviewees, 17 women and 40 men. * Many print and TV media also have associated websites. Here online is used for media outlets available only on the web.

the broadcast media. Journalists at state broadcasters were reluctant to be interviewed, fearing negative consequences at the hands of their employers (only one journalist from state-owned MRTV agreed to an interview). Three journalists/editors at private satellite broadcaster *DVB*, currently the only Myanmar television channel not directly or indirectly owned by the state, were interviewed. The most popular online news sites in Myanmar are those run by the major newspapers (for example, *Eleven Media* and *7 Day News*). Their online content is very similar to what appears in print and is written by the same journalists. Interviews with print journalists, therefore included questions about their publication's associated website. The sharing of news articles on social media was also discussed with all interviewees.

Interviewees were asked open-ended questions, for example:

- How has the end of official censorship influenced your work?
- Can you describe your experience of reporting on the NLD?

- How would you characterize media reporting on inter-ethnic tensions?

Care was taken to avoid phrasing questions in a manner that might elicit specific kinds of responses. Although the same general questions were asked to each interviewee, interviews did not follow a set script. Rather, interviewees were encouraged to elaborate and refine their answers with spontaneous follow up questions. Most interviews were approximately one hour to 90 minutes in length.

Following Hallin and Mancini, my discussion below is divided into four sections. In the first section, I begin by analyzing journalists' *professionalism*—defined as the media's professional norms and practices (Benson, 2004; Klinenberg, 2002). Section two examines *political parallelism*. The third section analyses the role of the *state* in shaping the functioning of the media system. The final section investigates the influence of economic factors shaping the media *market*. I conclude by comparing the changing characteristics of the Myanmar media during liberalization to the theoretic expectations outlined in Table 1.

4. Discussion

4.1. Professionalism

As outlined in Table 1, Voltmer's theories identify factors closely related to political parallelism as the main obstacles impeding journalistic professionalism during liberalization. Journalists eschew their neutral watchdog role to become opposition activists (bottom–up liberalization) or guard dogs protecting the interests of their economic and political paymasters (top–down liberalization). The media in exile that are a feature of externally-influenced liberalization are also far from neutral, framing their reports to undermine support for the existing regime. Undoubtedly, reporting in the Myanmar media was highly politicized during the country's liberalization. Issues relating to political bias, however, are discussed in the next section on political parallelism.

Interviews for this study reveal that poor education, the influence of social media and ethnic tensions, as well as political factors undermine the application of internationally recognized professional standards in the Myanmar media. Journalists in liberalizing states often poorly understand the norms expected of their profession in a democracy, as for decades state censors externally imposed standards on the media. In many democratizing societies, media organizations are young and inexperienced, since older, more seasoned journalists are often associated with the state-controlled media of the former regime. In 2012, the average Myanmar journalist was 25 (International Media Support, 2012). Even chief editors are unlikely to be much older than 30. The inexperience of many Myanmar journalists is compounded by a relative lack of professional training opportunities. Journalism schools have only recently appeared and places remain scarce.[1] There are not enough qualified media professionals to fill the demands of Myanmar's expanding media market. 'Anyone who wants to can get into the media', says a reporter at *SkyNet News*, herself one of the few at the satellite television channel with a degree in journalism.[2] State-owned media often pay better salaries than their commercial competitors and therefore attract a larger share of journalism school graduates. Even at leading commercial newspaper *Seven Day News*, fewer than 10 percent of reporters have a professional qualification.[3] Competition for qualified journalists and editors increased following the government's decision to allow private newspapers to resume publishing daily editions from 1 April 2013.[4] A senior editor at *Seven Day News* explains:

When we decided to run a daily newspaper, we advertised for new reporters. But in most cases the applications we received were not suitable. Some applicants admitted they didn't even read the newspapers. We couldn't find any appropriate candidates to add to our editorial team. We therefore have to edit our daily newspaper with the same number of editors who previously worked at our weekly edition.[5]

Finding qualified media trainers is another challenge, as is accessing training materials in Burmese language. International media training organizations like *BBC Media Action* and *Internews* are helping to cover the shortfall in training opportunities by provide professional development courses for Myanmar's journalists both domestically and overseas. But these courses are oversubscribed and usually only last a few months.[6] Courses provided by international organizations are generally more accessible for journalists in urban centers and/or with English language ability.[7] During Myanmar's liberalization period, a large number of those being trained by the *BBC*, *Associated Press*, *Kyodo News* and other international news agencies worked for state-run media. It is questionable whether training journalists to do a better job promoting the military-backed government's propaganda was helpful to Myanmar's democratization (Moe, 2014). Training opportunities, however, are expanding, with several international organizations targeting courses at journalists from Myanmar's ethnic-minority media.[8]

In states like Myanmar where foreign media were taboo, journalists lack not only adequate training opportunities, but also access to foreign colleagues from whom they could learn international professional norms. By 2012, this situation was improving, as more international journalists and media organizations began to receive government permission to work in Myanmar. But despite growing exposure to international professional standards, ethical norms remained underdeveloped among Myanmar's media professionals. A journalist at *Seven Day News* estimates that only half of her colleagues understand the meaning of ethical journalism:

In my opinion, 50 percent of journalists behave ethically and 50 percent do not. Many of my junior colleagues confuse fact with opinion and often mix the two in the same article. Sometimes this is not deliberate, but a product of their poor education. But in other cases, journalists deliberately distort the truth to make their reports more sensational. These journalists are more interested being popular and getting

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[1] Author's interview with *Pae Tin Thran* editor, December 2013.
[2] Author's interview with *SkyNet News* reporter, December 2013.
[3] Author's interview with *Seven Day News* editor, December 2013.
[4] All private dailies in Myanmar were shut down in 1964. Until 2013, the authorities allowed publication of state-run dailies, but only permitted the private media to publish weekly editions (Committee to Protect Journalists, 2012).
[5] Author's interview with *Seven Day News* editor December 2014.
[6] Author's interview with *Internews* trainer, December 2013.
[7] Author's interview with a Yangon-based media trainer, December 2013.
[8] Author's interview with a representative of *Burma News International*, December 2014.

a lot of followers on Facebook than in accurately reporting the news.[9]

Pursuing financial gain, as well as popularity and fame, can lead journalists to abdicate their professional responsibilities, challenges not accounted for in Voltmer's theories (Table 1). Several interviewees in this study acknowledged bribery as a persistent problem in Myanmar's newsrooms. For example, an editor at *Eleven Media* admits:

> When a new restaurant opens, for example, a reporter might receive money to write a positive review. Sometimes the reporter refuses the money and tells their editor. But other times they take the money. It is difficult to know how often this happens. As an editor, I read 12 to 16 stories a day. Most of the articles I receive aren't good quality and I have to spend a long time on each one to make it publishable. I therefore don't have time to check every fact.[10]

The ethical and professional dilemmas confronting Myanmar's editors are compounded by reliance on citizen journalists with no formal ties to their news organization. In the current Myanmar market, few private media organizations can afford to establish bureaus outside of major cities. As a result, Yangon-based newsrooms often rely on citizen journalists to report on events in remote parts of the country. Lacking any professional education, citizen journalists often fail to record the information necessary to make a story publishable. As an editor at *Chin World News* explains:

> Our entire news organization has only eight full-time staff. We have to rely on citizen journalists and this causes a lot of ethical problems. They contact us with a story, but they have rarely checked who is involved or why it is happening. They don't get the details needed to corroborate a story. We have to tell them to go and ask follow-up questions. But this delays publication of the story. We frequently have to trade timeliness for ethics.[11]

Journalists' poor training and inexperience means that both deliberate and unintended inaccuracies are commonplace in the Myanmar media. Inaccuracies can undermine public confidence in the media and provide authoritarian regimes with a pretext for withdrawing hard-won media freedoms. In Russia, a disregard for professional standards by many journalists allowed President Putin to reassert state control over the broadcast media, a move supported by the majority of Russians (Burrett, 2011). Journalists' poor understanding of profes-

sional norms can impair the democratization process. These challenges, absent from Voltmer's theories (Table 1), should be included in theoretical descriptions of the features of the media during liberalization.

The advent of social media creates new ethical quandaries for the media not considered in Voltmer's theories. In 2015, only 12.6 percent of Myanmar's population had access to the Internet (Internet World Stats, 2016). But already social media had become a key news source for urban residents. As one editor explains:

> For young people in particular, news shared by friends on Facebook is their main source of information. People don't discriminate between information produced by media professionals or by amateurs. They do not question the origins or authenticity of what they read online.[12]

Several journalists interviewed for this study raised the related issues of fake news and a lack of capacity for critical thinking among audiences as challenges for the Myanmar media. Interviewees stated that audiences were more likely to trust information posted online by their friends than news appearing in the professional media:

> The media have a bad reputation. For decades there was only the state media and they were propaganda organs for the government. In post-authoritarian states like Myanmar people tend to trust their friends over institutions, and that includes the media.[13]

Myanmar's multiple ethnic conflicts are the most common theme of fake news, both online and in the traditional media. Journalists lament that new media freedoms won since 2012 have often exacerbate ethnic tensions. Posts on social media precipitated some of the most violent clashes of recent years. Anti-Muslim riots in Mandalay in July 2014, for example, were sparked by a post on Facebook alleging the rape of a Buddhist girl by her Muslim employer. Although the story proved untrue, it quickly went viral, triggering communal violence within 24 hours of posting (Crane, 2014). More attention must be paid to the potential problems posed by social media in theories of the media's role in democratization. Audiences' ability to assess the reliability of online information is a problem everywhere. But it is particularly acute in transitional societies, where authoritarian governments discourage the teaching of critical thinking skills.

False reporting is a problem on both sides in the Buddhist–Muslim conflict in Rakhine.[14] Owing to problems of access and personal security, it can be difficult for Yangon-based media organizations to verify reports from Myanmar's far-flung regions. At *Seven Day News* a

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[9] Author's interview with *Seven Day News* reporter, December 2014.
[10] Author's interview with *Eleven Media* editor, December 2013.
[11] Author's interview with *Chin World News* editor, December 2013.
[12] Author's Interview with board member of *Pen International*, March 2015.
[13] Author's interview with a Yangon-based media trainer, September 2015.
[14] Author's interview with a Yangon-based international media agency correspondent, December 2013.

lack of verification often leads to editors being forced to pull stories from Rakhine:

> When a story has a religious or ethnic component we are especially careful about what we write, as we don't want to fuel the conflict. Many times we decide not to print a story because we can't be sure of the facts, or because we can't access opinions on both sides. It is particularly difficult for us to talk to the Rohingya [Muslim] community in Rakhine, since many of them live in government-run refugee camps, which are closed to the media. If we can't print a balanced story, then we don't print any story at all.[15]

Editors may also reject a story on inter-ethnic violence to prevent a backlash from sectarian readers. An editor at *Seven Day News* explains:

> Whenever we write about the conflict in Rakhine we get a lot of angry letters and phone calls, especially from the Arakan (Rakhine Buddhist) side. Following criticism of our reporting on the violence in Rakhine in 2012, we decided to give the issue less prominence.[16]

Self-censorship of this kind can lead to a dearth of balanced information on the causes and consequences of inter-ethnic violence. When balanced reporting is scarce, biased accounts go unchallenged and the probability that the public will be misinformed increases. Several journalists interviewed for this study complained of calculated pro-Buddhist coverage of the 2012 Rakhine conflict by much of the Myanmar media.[17] As one journalist at *Eleven Media* said of his colleagues:

> Most reporters are Buddhists and they are patriotic. Their personal nationalism is reflected in what they write. This isn't only true of reporting on the Rohingya issue, but also of coverage of international affairs, especially bi-lateral relations with China.[18]

Although patriotic fervor is not uncommon among journalists in other places at times of national crisis—for example in the US following the terrorist attacks on 9/11—it is particularly dangerous in the context of volatile inter-ethnic tensions (Kull, Clay, & Evans, 2003; Levy & Bugingo, 2001). One-sided reporting not only obscures audiences' understanding of the issues, but also increases the probability of further violence.

Other interviewees in this study attribute biased coverage of ethnic tensions to low educational standards among media professionals. Some argue that biased reporting stems from journalists' poor understanding of media framing.[19] Framing theory contends that the media focus audience attention on certain events and then place them within a field of meaning. It suggests that how something is presented to the audience influences the choices people make about how to process that information (Entman, 1993; Goffman, 1974; Scheufele, 1999). In Myanmar, by offhandedly using loaded nouns such as 'Bangladeshi' or 'immigrant' to describe the Rohingya, journalists unconsciously framed the Muslim-Buddhist conflict in nationalist terms.[20]

Voltmer's theories identify significant political bias as a feature of media systems undergoing liberalization whether the origins of political change are bottom–up, top–down or external. Her work has less to say about bias arising from ethnic loyalties that may cut across political affiliations. Sectarian biases in media reporting are an impediment to liberalization and should be included in theoretical frameworks. The generals who seized power in Myanmar in 1962 justified their rule as necessary to hold together a country fractured by ethnic strife. Several interviewees for this study raised suspicions that government provocateurs were behind outbreaks of sectarian violence in central Myanmar in 2013.[21] Fresh sectarian violence adds credence to the military's insistence on remaining a prop to Myanmar's civilian government. But despite harboring suspicions that the military were stoking inter-ethnic tensions to justify retaining power beyond 2015, the majority of journalists were too afraid to publish such concerns.[22]

4.2. Political Parallelism

Voltmer's theories predict that when liberalization is initiated from below, the independent media will exhibit a strong pro-opposition bias. But when the process is top–down, the media are more likely to align with factions within the ruling regime. The media are drawn into the escalating conflict between government hard and soft liners over the pace of liberalization. If change is precipitated by external pressure, then exiled and foreign media embolden and widen opposition networks by providing information that challenges the regime's propaganda (Table 1). Unsurprisingly, given the multidirectional sources of its liberalization, Myanmar's media displayed elements of all the features listed above.

In Myanmar, as in other authoritarian states, government persecution of the press led journalists to join pro-democracy groups. During the rule of the military

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15 Author's interview with *Seven Day News* editor, December 2013.
16 Author's interview with *Seven Day News* editor, December 2013.
17 Riots in June 2012 between Rohingya Muslims and Buddhist Rakhine killed approximately 170 and displacing roughly 140,000 mostly Rohingyas.
18 Author's interview with *Eleven Media* editor, December 2013.
19 Author's interview with *Myanmar Journalists Network* representative, December 2013.
20 The Rohingyas' exact roots are debated, but many likely settled in Burma in the nineteenth century, having migrated from modern-day Bangladesh following expansion of the British Empire. Today, the Rohingya are excluded from the 135 ethnic groups the government recognizes as Myanmar citizens.
21 Author's interviews with journalists at *Mizzima*, *Seven Day News* and *Myanmar Freedom Daily*, December 2013.
22 Author's interview with *Street View Journal* journalist, December 2014.

junta, journalists languished in the country's 43 prisons. Even after political reforms began in 2011, the imprisonment of journalists continued (Reporters Sans Frontières, 2012). Harassed by the state, it is difficult for journalists in transitional states to remain neutral observers of political events. Many of Myanmar's journalists are members of the NLD or the '88 movement' (Pidduck, 2012).[23] This is especially true of many of the former-media-in-exile that began returning to Myanmar following the start of reforms in 2011.[24] By engaging in political struggles against state leaders, journalist-activists provided the authorities with justification for restricting media freedom. Differences in attitudes between the media and state elites over the proper functioning of the media have led to the rolling back of political reforms and media freedom in Russia, Bolivia, Peru, Guatemala, Sri Lanka, Pakistan, the Philippines and Iraq (Reporters Sans Frontières, 2011/2012).

A politicized media, however, is not incompatible with democracy. In their seminal work on comparative media systems, Hallin and Mancini identify a 'Polarized Pluralism Model' of the media that is dominant in Southern Europe. Under this model, political parallelism, instrumentalism and commentary-orientated journalism dominate the media system (2004, p. 67). External pluralism guarantees that a wide range of political voices can be heard in the public sphere. The rule of law ensures the media freedom from state harassment. But in Myanmar under military-backed rule, opposition media did not face a level playing field with their state-run competitors. Furthermore, pluralism was limited by the legal framework in which the media operated, providing state authorities with a choice of methods for silencing their critics.

Despite some significant political reforms, at the time of the 2015 elections, Myanmar was far from a democratic system. Many journalists therefore contended that it was inappropriate to hold them to the same standards of political neutrality that characterize the media of the established democracies in Europe and North America. A Yangon-based media trainer uses a football metaphor to explain:

> Politics in Myanmar is not like in the UK or the US. In the US there are two teams, the Republicans and the Democrats. They compete in the political field where there are rules structuring the game. But in Myanmar we have teams but no agreed rules of the game. First we must build the institutions that structure political competition. This means we must support the pro-democracy movement. Now is not the time for me-

dia neutrality. The political system is not neutral; it is stacked in favor of the regime.[25]

How much to accommodate President Thein Sein and other soft liners within his military-backed government was an issue that divided Myanmar's media. Journalists were divided over to what extent they could trust the military's commitment to liberalization. Echoing views expressed by many interviewees, one editor at *The Voice* supported the idea of a negotiated political settlement with the military, citing the example of South Africa's transition in the 1990s:

> A lasting change can only be built slowly and will have to involve the military. I'm not pro-military, but they are a fact of life. A permanent settlement requires a compromise on all sides. Nelson Mandela understood this well. He promoted reconciliation rather than retribution and South Africa today is a consolidated democracy. The opposition in Myanmar must learn that politics is about compromise. When the opposition media aggressively attack the government, it makes the military insecure.[26]

A member of the IPC agreed, arguing that excessive media criticism of the military undermined the likely success of the liberalization process:

> It is hard for journalists to imagine the military as vulnerable because for decades the media have been the dictatorship's victims. But in starting the liberalization process, the military are a bit like a mole coming out of his hole for the first time. If he feels safe, he will come out a little further. But if he gets hit on the head, he will run back inside. The military feel like the media are hitting them on the head.[27]

Others in the media disagreed, believing that liberalization was aimed at strengthening the military's hold on power rather than a genuine transition to democracy. A journalist at the formerly exiled satellite broadcaster the *Democratic Voice of Burma* summed up the views of many of his colleagues:

> The military are undertaking reforms to protect themselves. If you are in any doubt, look at how they have guaranteed themselves 25 percent of seats in parliament. This gives them a controlling stake in who is president after 2015.[28] The military won't give us

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[23] In 1988 demands for an end to the military dictatorship in Myanmar spilled out from university campuses onto the streets, led by a group known as the '88 Generation Students' Group. The movement was brutally suppressed and those who were caught were sentenced to decades in prison. Some of those who escaped overseas went on to work in the media in exile.

[24] Author's interview with *Interim Press Council* (IPC) member, December 2014.

[25] Author's interview with Yangon-based media trainer, September 2015.

[26] Author's interview with *The Voice* editor, December 2014.

[27] Author's interview with IPC member, September 2015.

[28] The president of Myanmar is nominated by parliamentarians, not directly elected by the public. Three committees, known collectively as the Presidential Electoral College, are formed from among upper and lower house parliamentarians. One of the three committees is made up entirely of military-appointed lawmakers. Each committee nominates one candidate for the presidency. Members of the Electoral College then vote for one of the three candidates to become president. The candidate with the most votes takes the presidency and the unsuccessful candidates become vice-presidents (Reuters, 2015).

democracy. We must fight for it. They promised democratization in 1990 and we are still waiting.[29]

In line with Voltmer's theories (Table 1), interviewees who had lived in exile were more likely to favor unrestrained struggle against the government than those who had remained in Myanmar. By dividing her theories into three distinct models, however, Voltmer fails to capture the significance of disagreements among journalists over accommodation with the existing regime. Such divisions have allowed authoritarian governments in other places to divide and rule the media (Burrett, 2011).

To build mutual trust, in December 2014, members of the IPC attended the first joint workshop between the military and media to exchange ideas about building an information system that works better for both parties (Zaw, 2014). The IPC explained to General Min Aung Hlaing, the then commander-in-chief of the Myanmar Armed Forces who attended the meeting, that media reporting is often inadvertently biased against the regime due to a lack of freedom of information. Representatives of the military and their civilian colleagues in government were reluctant to talk to journalists. When reporters could not get a quote from official sources, stories often seemed one-sided.[30] The IPC advised the military to provide more points of contact for journalists in order to improve the public image of the armed forces. Authoritarian authorities' inability to adapt to the demands of the liberalizing media is another factor not included in Voltmer's models.

Journalists interviewed for this study were not only critical of government secrecy, but also of suspicion of the media among Myanmar's opposition parties, especially the NLD. Following the end of pre-publication censorship, photos of Aung San Suu Kyi appeared on newspaper front pages almost daily—something previously unthinkable when her name could not even be mentioned in the press. But most journalists interviewed for this study complained that getting 'the Lady' and her party to comment on the news could be difficult. After decades of government harassment and attempts at infiltration by state agents, the NLD leadership was wary of strangers:

> It takes a long time to win the trust of NLD press officers. Even today, government informers try to get inside the party. It is not surprising that they are paranoid, but it makes it hard to get access [to the party]. Only trusted journalists are invited to interview the Lady.[31]

The NLD's reluctance to talk to journalists outside their select circle inhibited reporting on the party's policies and activities in the run up to the 2015 elections. Journalists who criticize the NLD, even with the aim of helping the party improve its operations, found themselves ostracized. The following quotation is typical of the sentiments expressed by many interviewees:

> If I criticize the NLD I will be the common enemy of everyone. Sometimes I am more afraid of the NLD than of the military. If I attack the president and the military, my colleagues and readers will approve. They hate the military and are ready to believe the worst of them. But if I criticize the NLD, the party and its supporters will punish me.[32]

Many interviewees also cited over-centralization and a dearth of professional staff as factors hampering the NLD's media operation:

> Inside the NLD, the Lady decides everything. Icons do not necessarily make good managers. NLD press conferences are often very chaotic and unprofessional. They don't know how to use the media to their best advantage….A lot of journalists want to help the NLD, but they don't invite us to press conferences.[33]

Several others accuse the NLD of deliberate obfuscation motivated by political expediency:

> The Lady is sometimes slow to comment on events because she doesn't want to lose support, for example, over religious conflicts. The NLD focus too much on political issues, like changing the constitution [to allow Aung San Suu Kyi to be president] rather than on the concerns of ordinary people.[34]

Some journalists also felt the NLD did not do enough to oppose flawed new legislation giving the military-backed government continued oversight of the media:

> We received very little support from opposition parties in parliament in our struggle with the government over the Media Bill. The Lady's attention was on other matters and NLD MPs take their lead from her.[35]

Strong political support for the NLD among the independent media was not always reciprocated. As elections approached, the military-back government was bent on retaining the legal means to restrain media freedom. Without support from the NLD in parliament, journalist groups possessed few mechanisms through which to oppose legislation aimed at maintaining state influence over the media. Opposition parties' unwillingness

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[29] Author's interview with *Democratic Voice of Burma* presenter, December 2014.
[30] Author's interview with IPC member, December 2014.
[31] Author's interview with a Yangon-based international media agency correspondent, December 2013.
[32] Author's interview with Yangon-based print media journalist, July 2015.
[33] Author's interview with Yangon-based media trainer and journalist, December 2014.
[34] Author's interview with *The Chronicle* editor, December 2014.
[35] Author's interview with IPC member, December 2014.

to work with unfamiliar sympathizers in the independent media and the failure of pro-democracy parliamentarians to support new liberalizing media laws are factors not considered in Voltmer's theories.

4.3. The State

As is expected based on Voltmer's theories, when liberalization is largely initiated from above, the political needs of the ruling regime determined the pace and scope of the new freedoms granted to the Myanmar media from 2011 (Table 1). Restrictive media laws remained intact, with journalistic freedom granted at the discretion of the government, rather than by legal statute. In Myanmar, liberalization did not include a new freedom of information law. Journalists complained that government ministry information bureaus were under-staffed and difficult to contact.[36] Given the brutal and secretive culture of the junta that ruled Myanmar for 50 years, despite liberalization, government officials continued to fear getting into trouble if they talked to the media. Like the rest of society, bureaucrats are traumatized from living under a dictatorship.[37] The vague wording of national security laws and other laws meant that bureaucrats often felt unsure about what information they could release to the public. Rather than getting into trouble for releasing restricted information, bureaucrats preferred to release nothing. Even when the information pursued by journalists was benign, bureaucrats often stayed silent.[38]

A culture of secrecy, distrust and fear meant government ministries were slow to respond to breaking news stories. In this regard, the military-back government was often 'its own worst enemy'.[39] Prior to the 2015 elections, the government and military were frequently slow in commenting on stories about ethnic insurgencies. The government's opponents were much faster to respond to media requests for information:

> Following an incident, the Kachin Independence Army (KIA) will speak to the media within hours, while it takes the government days to respond. In the old days, the government could release days-old information and no one knew. But now that SIM cards are inexpensive and the Internet is more pervasive, information comes out almost immediately on social media. The first version of a story that appears sets public opinion. The government is very bad at getting their story out to the public. Unfortunately, they usually blame the messenger, accusing the media of being one-sided about Myanmar's civil wars.[40]

Although it was often the military-backed government's secrecy rather than journalistic bias that led to imbalanced reporting of ethnic insurgencies, the authorities used this imbalance to justify cracking down on media freedom.[41]

Government secrecy took a step backwards in August 2014 when hard line Information Minister Ye Htut replaced moderate Aung Kyi (August 2012–July 2014).[42] Interviewees for this study stated that Ye Htut called editors to criticize their reporting more commonly than his predecessor, pressuring them to change their editorial line. Editors at various newspapers also complained that Ye Htut was less willing to work with the media to solve disputes between the press and authorities than Aung Kyi. Several interviewees speculated that Ye Htut had been appointed to intimidate the media into submission ahead of the 2015 election. Many more journalists were prosecuted and jailed in 2014 and 2015 than in any other year since liberalization began (Nyein, 2014; Stout, 2014).

As Voltmer anticipates when political change is top–down, Myanmar's military-backed government retained a variety of legal means to silence and intimate the media (Table 1). Vague national security laws, such as the 1923 Official Secrets Act, the 1950 Emergency Provisions Act, the 2000 Internet Act, and the 2004 Electronic Transaction Act, ensured that censorship could be legally enforced and journalists punished for non-compliance. The authorities had broad discretion in deciding whether media reports posed a 'threat to national security, domestic tranquility, or racial harmony' (Crane, 2014). While these laws remained mostly unenforced during the reform period from 2012 to 2013, they were utilized as mechanisms of harassment more frequently in 2014 and 2015.

In July 2014, the courts sentenced four reporters and the CEO of current affairs magazine *Unity Weekly* to ten years in jail with hard labor for publishing an article alleging that Myanmar's military was operating a secret chemical weapons factory in central Myanmar (Committee to Protect Journalists, 2014b). The government used the colonial-era Official Secrets Act to convict the journalists rather than prosecuting them through the new Media Law, passed in March 2014. The new law empowered prosecutors to decide whether to prosecute journalists using the Media Law itself—which allows for fines but not imprisonment for misdemeanors—or Myanmar's more punitive defamation and national security laws.[43]

In 2014, the Ministry of Information took legal action against two media outlets for defamation. Action was taken against an article on President Thein Sein published by the weekly journal the *Myanmar Herald* and against a story by *Daily Eleven* alleging misuse of funds by the

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[36] Author's interview with *Irrawaddy* editor, December 2014.
[37] Author's interview with *The Voice* journalist, September 2015.
[38] Author's interview with *Myanmar Freedom Daily* reporter, December 2013.
[39] Author's interview with *Myanmar Freedom Daily* reporter, December 2013.
[40] Author's interview with *Mizzima* editor, December 2014.
[41] Author's interview with *Yangon Times* journalist, December 2013.
[42] Author's interview with *The Voice* editor, December 2014.
[43] Author's interview with IPC member, December 2014.

Ministry of Information in its purchase of printing presses (Nyein, 2014). Minor laws were also used to harass journalists. Officials increasingly used the threat of criminal trespassing charges to prevent reporters probing their activities. In April 2014, a *DVB* journalist was sentenced to one year in jail on charges of 'trespassing' and 'disturbing an on-duty civil servant' while reporting on the seemingly innocuous subject of scholarships awarded to Myanmar students by a Japanese foundation (Committee to Protect Journalists, 2014c). Cases such as this undoubtedly create anxiety within the media community and influence what journalists do and do not report.

In a clear step backwards for media freedom, in March 2014 parliament passed both the Media Act and the Printers and Publishers Regulation Act giving the Ministry of Information ultimate power over what news was permissible to print and sole authority to issue and revoke news publication licenses. Both bills dashed journalists' hopes that new legislation would liberate the media from state intervention. The Printers and Publishers Regulation Act, similar to the previous junta's censorship guidelines, banned the publication of materials that 'insult religion', 'disturb the rule of law', 'violate the constitution', 'incite unrest' or 'harm ethnic unity' (Crispin, 2014). The controversial Act, drafted by the Ministry of Information without consultation with journalist groups, also created a new registrar position with extensive powers to withhold or revoke publishing licenses. Fear of losing their licenses inevitably encouraged self-censorship among editors, especially in reporting on sensitive topics such as ongoing inter-ethnic tensions and land development.[44]

Government-imposed travel restrictions further impeded reporting on Myanmar's ethnic conflicts during the liberalization period. Journalists were typically barred from areas of unrest. Even when not officially banned, it can be dangerous for journalists to travel to conflict zones, as illustrated by the death of freelancer Aung Kyaw Naing, who died in suspicious circumstances while in military custody after reporting from rebel held territory in Mon State (Committee to Protect Journalists, 2014a). Independent media even faced restrictions on covering outwardly uncontroversial events, such as a visit by the King of Norway to Mandalay in December 2014. Journalists from *The Voice*, *Seven Day News*, and *DVB* were barred from sites along the Irrawaddy River, where dozens of poor families had earlier been evicted to avoid blighting the landscape during the king's visit.[45] It was not uncommon for the authorities to limit access to diplomatic events and government ceremonies to state-run media to avoid critical coverage. In March 2014, independent media were barred from the first-ever press conference by army chief General Min Aung Hlaing, who took questions only from state-owned outlets (Mann, 2014).

As Voltmer's theories predict when liberalization comes in response to external pressures, Myanmar's military-backed government also clamped down on foreign journalists' access (Table 1). In February 2014, the Ministry of Information reduced the duration of foreign reporters' visas from three months with multiple entries to one month with a single entry. The move likely came in reaction to international media criticism of government treatment of Rohingya refugees displaced following ethnic clashes in Rakhine in 2012. In some cases, international reporters were denied entry altogether. In March 2014, for example, *Time* journalist Hannah Beech was refused a visa, probably in response to her cover story the previous year featuring a radical Myanmar Buddhist Monk with the caption 'The Face of Buddhist Terror' (Crispin, 2014).

4.4. The Market

In Myanmar, consistent with Volmter's theories of top–down liberalization, the state continued to dominate the media sector despite marketization (Table 1). The independent media that appeared after licensing laws were relaxed depend largely on business elites with government connections for their economic survival. The opposition-operated and foreign-funded media associated with bottom–up and externally-driven liberalization were few in number and limited in influence in Myanmar. Table 3 sets out the financial structures and political connections of Myanmar's main media outlets at the start of 2015.

Prior to the 2015 election, state authorities showed few signs of giving up their controlling influence over the media. The state retained majority control over the television sector, the most popular source of news among urban dwellers. MRTV-4 (owned by the Forever Group) and *SkyNet* (owned by the Shwe Than Lwin Company) were ostensibly private networks, but were owned by allies of the regime. The formerly exiled satellite broadcaster *DVB* had a small but growing audience as elections approached.[46] In August 2015, parliament ratified a new Broadcasting Law, enabling private companies to enter the broadcast market for the first time. Broadcasters were previously required to partner with the state-owned Myanmar Radio and Television (MRTV). The Law, however, maintained government control over the broadcasting sector by granting the president power to appoint members of the new Broadcast Council authorized to issue and revoke broadcast licenses (Freedom House, 2016).

State-owned media also continued to dominate in the print sector. The country's three state-run dailies—which operated as mouthpieces for the regime—had a circulation of more than 320,000, while the more popular private newspapers only sold about 80,000 copies per

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[44] Author's interview with *The Chronicle* editor, December 2014.
[45] Author's interview with *The Voice* editor, December 2014.
[46] Author's interview with DVB editor, December 2014.

Table 3. Ownership and political connections of main non-state news media (TV and Print), January 2015. Source: Based on information from author's interviews.

Outlet Name/Type	Parent Company	Funding/ Ownership	Politics
7 Days News (Weekly & Daily Print)	Information Matrix Co.Ltd	Thaung Su Nyein (CEO)	Politically objective despite CEO being the son of ex-Foreign Affairs Minister Win Aung (1998–2004). Win Aung was purged from the government in 2004 and sent to Insein prison, where he died in 2009.
Democracy Today (Weekly & Daily Print)	Yangon Media Group	U Ko Ko Swe Thanj Lwin (not confirmed)	Close to regime. Promoted President Thein Sein. Tabloid.
Democratic Voice of Burma (TV)		Free Voice of the Netherlands National Endowment for Democracy	Anti-regime, pro-democracy and human rights. Based in Thailand and run by Burmese expatriates. Began radio broadcasts from Oslo in 1992. Satellite TV from 2005. In 2012 established operations inside Myanmar as exiled journalists returned home.
Eleven (Weekly & Daily Print)	Eleven Media Group	Than Htut Aung (CEO)	CEO has strong editorial influence. Formerly close to NLD. Given Media of the Year award by Reporters without Borders in 2011.
Irrawaddy (Weekly & Monthly Print English & Burmese)	Irrawaddy Publishing Group	Aung Zaw	Owner a former activist who left Myanmar in 1988. Former media in exile (from 1990). Returned to Myanmar in 2012. Supportive of NLD.
Mizzima (Daily & Monthly Print)	Mizzima Media Group	Serge Pun Soe Myint Sonny Swe	Politically independent, former media in exile. Co-owner Soe Myint is a former activist who hijacked a Thai passenger plane in 1990s to publicize Myanmar's struggle against its military regime. Co-owner Serge Pun ranked No.38 in *Forbes Asia's* 2013 rich list (Chairman SPA Group).
MRTV-4 (TV)	Forever Group	Win Maw	Generally avoids political reporting. Owner Win Maw has government connections.
Pyi Myanmar (Weekly & Daily Print)	Swesone Media Group	Tin Tun Oo	Politically close to regime. In 2010, owner Tin Tun Oo stood as a parliamentary candidate for the military-backed Union Solidarity and Development Party (USDP). Close to former Information Minister Kyaw Hsan. Tabloid.
Skynet (Satellite TV)	Shwe Than Lwin Company	Kyaw Win	Some pro-regime bias. Owner Kyaw Win has government connections.
Snap Shot (Weekly Print)		Myat Khine co-owner (Editor and co-owner) Aung Kyaw Oo (Financier)	Pro-regime. Co-owner Myat Khine close to former Information Minister Kyaw Hsan. No current close government connections. Tabloid focusing on entertainment news. Criticized for sensational coverage of Rakhine conflict.
Sun Ray (Weekly, name changed to *Asian Light*, 2014)		Moe Heina (not confirmed) Htaw Kywe (not confirmed).	Anti-government. Rumored co-owner Moe Heina former student activist and exile. Now US citizen. Htaw Kywe also former student activist.

Table 3. Ownership and political connections of main non-state news media (TV and Print), January 2015. Source: Based on information from author's interviews. (Cont.)

Outlet Name/Type	Parent Company	Funding/ Ownership	Politics
The Myanmar Times (Weekly Print English Language)	Myanmar Consolidate Media	Ross Dunkley (49 percent) Thein Tun (51 percent)	Formerly considered close to the regime, as part owned by Sonny Swe (See Mizzima), son of General Thein Swe.
The Street View (Weekly Print)		Toe Naing Mann	Owner son of Shwe Mann (Speaker of the lower house 2011–2016), former General and leading figure in the military government. Not very political, focused on entertainment.
The Voice (Weekly & Daily Print)	Living Color Media Group	Wife of late Nay Win Maung Kyaw Min Swe (Editor)	Political independent, but often critical of the government.
Yangon Times (Weekly & Daily Print)	Yangon Media Group	U Ko Ko (Chairman)	Chairman former Secretary of MWJA (Myanmar Writers and Journalist Association), which was close to the Ministry of Information. From 2011 gained greater independence.

day.[47] Private outlets could not compete in terms of economic resources, distribution networks or cover price. Operating in a poor country with a modest advertising market, many private media failed to survive. Advertisers often preferred to work with higher-circulation state-run outlets than with the privately-owned media. In 2014, financial difficulties forced three privately owned dailies to close within a month (Cunningham, 2014). A lack of business acumen among those running private newspapers is another factor hampering their success. Trained managers are scarce and many editors are former political prisoners or exiled activists with no business experience.[48] Financial backers willing to suffer losses while a newspaper establishes a foothold in the market are hard to find. As in other liberalizing states, those with the deepest pockets were often cronies of the regime (Becker, 2004; Heng, 2002; Porto & Hallin, 2009). Depending on business elites with connections to the government entailed editorial compromise at best. Private-media owners used their political leverage to extract economic and regulatory favors from government benefactors in exchange for turning a blind eye to official corruption and failed programs.[49] A few lucky outlets, such as *DVB* and *The Chronicle* secured funding from international NGOs, but such sources of finance are limited.[50]

Ties to financial and business interests have restricted what Myanmar's journalists can report about economics as well as politics. Traditionally, the watch-

dog role of the media is defined as behavior that reveals abuses in the exercise of state power and ignores the role of the press as a defense against exploitation in the private sphere—most notably with regard to the economy (Chomsky & Herman, 1988; Donohue, 1995). Clearly, the media should act as a source of redress against the abuse of all forms of power. But in Myanmar, privately owned media outlets have refrained from investigating the activities of the conglomerates to which they belong. At *SkyNet*, for example, a journalist reports being instructed by editors to refrain from investigating misdemeanors by businesses within the same holding company.[51] A journalist at *Mandalay FM* was told not to report on any topics that might jeopardize company profits or advertising revenues.[52]

When company profits are not in jeopardy, Myanmar's media have shown a predilection for sensationalism and scandal. Growing competition in the media market has encouraged tabloidization and an emphasis on infotainment over serious news. Myanmar is not alone. In the West, the search for profits in an increasingly crowded market has led to a decline in news quality (Barnett, 1998; Postman, 1986). In democratizing states like Myanmar, where scandal and gossip were previously forbidden, audiences have become transfixed by 'yellow journalism'.[53] When tabloid newspaper *The Sun Rays* (Thuriya Naywon) hit the newsstands in 2013, its mixture of colorful cover pages, scandal and sensa-

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[47] Author's interview with IPC member, September 2015.
[48] Author's interview with *Sun Ray* editor, December 2013.
[49] Author's interview with *People's Age* reporter, December 2013.
[50] Author's interviews with DVB presenter and *The Chronicle* editor, December 2013.
[51] Author's interview with *SkyNet News* reporter, December 2013.
[52] Author's interview with *Mandalay FM* reporter, December 2013.
[53] Author's interview with *Myanmar Times* editor, December 2013.

tionalism quickly made it one of the highest circulation weeklies in Yangon. Its no-holds-barred coverage of corruption among high-ranking officials and their cronies in the business elite attracted a wide audience. But the newspaper's personal attacks and unsubstantiated claims quickly landed *The Sun Ray* in legal hot water. In November 2013, powerful tycoon Tay Za accused the newspaper of defamation after it ran a front-page story with his photo under the headline 'Cronies Should Jump into the Andaman Sea' (Weng & Zaw, 2013). The following month, the Ministry of Information asked the IPC to take action against the newspaper for its 'unethical yellow journalism' and 'hate speech' (Snaing, 2013). Journalists interviewed for this study were equally critical of *The Sun Ray* and other tabloids for bringing their profession into disrepute. The following quotation from an *Irrawaddy* journalist is typical of many:

> *The Sun Ray* is 50 percent gossip. It provides no evidence for its accusations. Its unethical behavior damages public confidence in the media and allows the government to say we need restrictions on what journalists can report.[54]

Other journalists expressed concern that the success of *The Sun Ray* and fellow tabloids, such as *Snap Shot*, would encourage more newspapers to adopt a sensationalist style.

Some interviewees expressed suspicions that more sinister motives lay behind the tabloidization of the press. Although it appeared that by exposing state corruption tabloids were living up to their watchdog role, such stories concealed political biases, as a member of the IPC explains:

> Look closely and you will realize that some newspapers only attack members of a particular faction within the regime. Their victims are carefully chosen.[55]

As is predicted by Voltmer's theories when liberalization is predominantly top–down, ownership of much of the Myanmar media by figures close to the military-backed regime means that reporting on government corruption was often a by-product of intra-elite conflict rather than the result of a commitment to the public interest (Table 1). Similar 'information wars' between competing elites in post-Soviet Russia badly damaged public confidence in the media. Journalists' complicity in the information wars of the 1990s strengthened public support for President Putin's increase in state control of the media from 2000 (Burrett, 2011). Although often an obstacle to successful democratization, the tabloidization of the media that invariably accompanies liberalization is not included in Voltmer's theories (Table 1).

My recommendations for additions and amendments to Voltmer's theories based on my analysis of the

Myanmar media are summarized in Table 4 and in the concluding section below.

5. Conclusion

During the five-year liberalization period preceding parliamentary elections in November 2015, to a greater or lesser extent, all of the media features and functions predicted by Voltmer's theories were present in Myanmar. Looking again at Table 1, the Myanmar media strongly exhibited features associated with both top–down and bottom–up liberalization. Although less significant, elements derived from externally-induced liberalization were also present. Programs broadcast from abroad by, for example, *DVB*, *Radio Free Asia* and the *BBC* were popular. But there is little evidence that exposure to transnational media content by itself mobilized popular resistance to the regime. News from overseas of international solidary with Myanmar's pro-democracy movement, however, may have helped strength the resolve of opposition activists in their struggle against the regime (Puddington, 2000).

Although Volmer's tripartite theory is helpful in analyzing the media' role in Myanmar's liberalization, the complex causes of the country's political transformation suggest that the distinctions between her three discreet models are becoming obsolete. Voltmer acknowledges that democratic transformations often contain elements from more than one model. Innovations in online media, however, are accelerating interdependence between the forces driving liberalization. The presence of social media brings greater potential for grassroots participation and coordination that are part of bottom–up transformations (Krastev & Holmes, 2012). Growing Internet access provides foreign and exiled media alternatives to state-run news, increasing the role of external forces in pushing domestic change. Furthermore, pro-democracy activists can use online tools to draw global attention to government brutality and to pressure the international community to support their calls for democracy. External pressure and domestic activism can convince ruling regimes to initiate top–down reforms. Given the growing interdependence between the forces driving liberalization, it may be better to collapse Voltmer's three models into one.

Applying Voltmer's models to the Myanmar media highlights several omissions in her theories. In Table 4, I recommend additional features for inclusion in each dimension of the media system, regardless of the source of liberalization. The features I identify cut across Voltmer's three models. Myanmar's experience suggests these additional features are factors potentially influencing the media's actions, regardless of whether liberalization is precipitated by bottom–up, top–down or external forces. Voltmer's focus on politics as the catalyst for change leads her to omit some of the practical challenges that

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[54] Author's interview with *Irrawaddy* journalist, December 2013.
[55] Author's interview with IPC member, December 2013.

Table 4. Amended features and functions of the media system during liberalization (recommendations for addition are highlighted in blue).

		Bottom–up Liberalization	Top–down Liberalization	Externally-Influenced Liberalization
Agency	Professionalism	Partisanship prioritized over objective and accurate reporting	Ritualized rhetoric of the state media replaced by more accessible language	Prioritizing of information delegitimizing the regime and rallying popular resistance
		Content of oppositional media produced by activists rather than journalists	Journalists serve the political and economic interests of financial backers rather than the public interest	Outsiders often misjudge the domestic reception and interpretation of information they provide
		Addition: Poor understanding of professional norms leading to inaccuracies and bias (intended and unintended): problem exacerbated by prevalence of amateur and anonymous writers (especially on social media) Deliberate bias motivated by ethnic loyalties		
Structure	Parallelism	Close relationship between journalists and the opposition Media a tool to build alliances across diverse opposition groups divided by race and class	Journalists alignment with one of rival factions within the regime (hard liners or soft liners) Liberalization deepens divisions within ruling regime between hard and soft liners	Domestically available exiled and foreign media sustain opposition resolve by providing a sense of solidarity Copying and distributing transborder media to those who cannot receive it directly expands opposition network
		Addition: * Opposition parties suspicious of unknown journalists, leading to poor communications strategies) Non-state media divided over accommodation with the ruling regime		
	State	State suppression and surveillance of independent media	State grants new freedoms, but for their own political purpose, not as constitutional rights State determines scope of political debate—some topics remain taboo despite relaxing censorship	State jams international broadcasts and imposes stiff penalties for those consuming and distributing forbidden media Limited access for foreign journalists
		Addition: State lacks capacity and knowhow to improve communications with the public via the media		
	Markets	Pro-democracy opposition have their own media (including dissident and underground media) that challenge state media narratives	State-controlled media persists, despite marketization delivering some pluralism Independent media largely dependent on intra-regime factions for economic survival	Opposition (including media) funded by foreign donors and political exiles Foreign media available in the domestic market
		Addition: Tabloidization undermines quality of information and public confidence in the media		

frequently undermine journalistic *professionalism* during liberalization. The youth and inexperience of those drawn into journalism as the media expands under liberalization have negative consequences for professional standards and ethics that can in turn impede the liberalization process. These challenges are exacerbated by the accessibility and anonymity afforded by social media. In the presence of civil conflict, ethnic or religious loyalties

can further encourage journalists to abdicate their professional responsibilities.

Political parallelism was a significant factor influencing the features and functions of the Myanmar media. As expected by Voltmer when societal demands from below are a cause of liberalization, much of the non-state media in Myanmar was found to support the pro-democracy opposition. Many Myanmar journalists

viewed themselves as activists rather than as neutral observers of events, as liberal models of journalism would suggest. Although some journalists were close to the opposition NLD, others outside the party's tightknit circle were treated with suspicion, despite sharing its pro-democracy aims. In Myanmar's highly partisan environment, journalists seeking to hold the opposition, as well as the government, to account were ostracized by both sides. The NLD's suspicion of strangers sharing their democratic sympathies suggests Voltmer's claims of close relations between the opposition and independent media requires qualification (Table 4).

Myanmar's liberalization was initiated from above as well as from below. Like authoritarian leaders in China and the Soviet Union, Myanmar's military-backed government pursued liberalization to mitigate societal demands for political change that might otherwise become difficult to control (Mickiewicz, 1997; Steinhardt, 2010). The media were granted new freedoms as a means for the regime to achieve its broader policy objectives, most notably to end Western sanctions. New freedoms were not constitutionally guaranteed. Given the uneven playing field, Myanmar's journalists differed over how much to accommodate the ruling regime. Some journalists supported unrestrained struggle, while other supported cautious compromise. Those willing to meet the military half way did not align with regime soft liners as Voltmer's theories predict. Rather these journalists saw reconciliation with the military as the only means to building lasting peace and democracy. This more nuanced understanding of journalists' motives for sometimes working with the regime is included in my suggestions for refining Voltmer's theories in Table 4.

Although liberalization expanded the range of issues open for critical discussion in the media, the *state* continued to determine the scope of debate. Despite the abolition of official censorship in 2012, the state retained significant legal means to coerce the media, fostering a culture of self-censorship. Travel restrictions limited access to trouble spots by domestic and international journalists. A culture of suppression and secrecy endured within state institutions despite reforms. Interviewees for this study, however, assert that the state's lack of capacity for effective communications in part accounts for its ongoing culture of secrecy. The state's inexperience and weakness at public relations are not mentioned by Voltmer, but are included in my recommendations for expanding her theories in Table 4.

Despite introducing commercialization, the state remained the main player in Myanmar's media *market* during the country's liberalization. Financing from international donors and other independent revenue streams were minor in comparison to the economic resources of the state and its business allies. Opposition-operated media were low in circulation and consumed mainly by the converted. Although often serving the political and economic interests of their owners, commercial-media outlets acted as a counterweight to pronouncement in the state-owned media. But as combatants in the factional wars within the ruling regime the commercial media were limited in their watchdog role. The tabloidization unleashed by marketization curtailed the media's ability to encourage societal reconciliation and to present political alternatives, important functions in an emerging democracy. The negative repercussions of tabloidization are not accounted for in Voltmer's theories. Their addition to her framework is my last recommendation in Table 4.

Voltmer's theories provide a useful framework for understanding the media's role as a subject and agent of change in Myanmar's liberalization. At the same time, as a case study, Myanmar provides insights into how these theories might be expanded and refined in the future. The inauguration of a new government in 2016 notwithstanding, many obstacles remain to achieving a genuinely free media in Myanmar. Some of these challenges, such as self-censorship, are hangovers from the junta period, while others, such as tabloidization, are products of liberalization. The Myanmar media has never functioned as a democratic fourth estate. But although the range of views on offer is far from complete and the operation of the market deeply flawed, the media today provide Myanmar audiences with a form of imperfect pluralism on which to build a more democratic future.

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Conflict of Interests

The author declares no conflict of interests.

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Article

The State of Jordanian Women's Organizations—Five Years Beyond the Arab Spring

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Abstract

This paper explores the failure of women's organizations to effect the improvement of the status of Jordanian women during the Arab Spring. Through an examination of the regime's political liberalization strategy, leadership failures within women's organizations, and international donor influence on programmatic focus, the underlying explanation for this failure is found to be rooted in the historical depoliticization of women in Jordan. This is tested in the context of the Arab Spring through an analysis of the results of popular protests, proposed electoral law reforms, and efforts to amend the Jordanian constitution. The paper draws in part on a large collection of interviews and a focus group conducted in Jordan during the spring/summer of 2012, as well as analysis of primary documents from the government and a variety of women's organizations in Jordan.

Keywords

Arab Spring; democratization; Jordan; women

1. Introduction

During the first weeks of the Arab Spring, democrats thought hopefully of a 'fourth wave' of democratization sweeping across the Middle East and North Africa. Indeed, initially, this potential wave seemed poised to increase the rights of tremendous numbers of previously disenfranchised people. The Tunisian regime quickly withdrew from power and work began on facilitating a transition to democracy. In Egypt, protests were more violent but shortly after the military chose not to crack down on demonstrators, the Mubarak regime was swept from power. Protest in both countries included great numbers of women and were supported by women's organizations. Some in the western media began to question if these events would lead to an 'Arab Spring for Women'. Referencing the 'striking role of women in the protests sweeping the Arab world' it was noted that women were at 'the forefront of those protests' (Cole & Cole, 2011, p. 1). Not only did women have a 'significant

place' in the Tunisian demonstrations that sparked the Arab Spring, it was a video blog post by a woman, Asmaa Mahfouz, which initially called on Egyptians to protest in Tahrir Square on January 25. Likewise, women played a central role in the initial protests against Muammar Qaddafi in western Libya. Tawakkul Karman was awarded the Nobel Peace Prize for her role in protests in Yemen. Prospects of democracy were accompanied by hopes that the Arab Spring would usher in unique political opportunities for positive social change and improvements to the status of women in the region.

In the end, these hopes proved to be overly optimistic. There is no doubt that the protests produced results. Political upheaval in Tunisia, Egypt, Libya, and Yemen resulted in the removal of long-standing leaders from power. However the hopes of an enduring wave of democracy sweeping across North Africa and the Middle East quickly began to fade. Civil war broke out in Syria and democratic protests were put down in countries ranging from Yemen to Qatar to the United Arab Emirates.

Only in Tunisia does it appear that democracy has begun to take root. So, is the same thing true when we turn from democracy to the 'Arab Spring for Women?' Did the Arab Spring improve the status of women? The consensus seems to be no; or as Ashwath Komath (2014) put it 'a resounding no'. Looking at the broader MENA region, Abdalhadi Alijla (2015) contends that the dream of women being 'effective participants in political, economic and social life in the post-Arab Spring countries has been crushed'. Not only have the prosepcts for improvement failed to materialize, but Haifa Abu Ghazaleh (2016) argues for many it has gotten worse: 'The status of women has not improved in most Arab Spring countries. Their social, economic, and political demands have not been fulfilled; they have instead been dragged by terrorist groups into battlefields in several countries, thus becoming enslaved, widowed, or bereaved'.

As with the wider MENA region, the Arab Spring offered initial hopes for real, sustained change and improvements in the status of women in Jordan. Unfortunately, the answer in Jordan is also no. In an attempt to understand the answer, this paper addresses the question: why were women's organizations unable to effect the improvement of the status of Jordanian women during the Arab Spring? Drawing on a wide range of viewpoints from interviews conducted with people involved in women's organizations in Jordan, three main themes emerged. First, the use of political liberalization as a tool for regime survival resulted in a continuation of the depoliticization of Jordanian women and women's organization, undercutting their ability to achieve lasting change. Second, there was a failure of leadership. The professionalization of leadership in Jordanian women's organizations undermined efforts to maintain programmatic focus and to expand the base of the women's movement. Third, the reliance on funding from international donors impaired the ability of women's organizations in Jordan to independently identify programmatic focus and undercut their domestic support. This study references (see Annex) a variety of material including: 40 interviews conducted in Jordan (May to July 2012); a focus group attended by field workers in Jordanian NGOs; primary source material such as Jordanian government documents and NGO advocacy materials; and, normal academic secondary material.

2. Political Liberalization Effects

Political liberalization is employed as a theoretical framework for understanding the state of Jordanian women's organizations. When confronted with democratic challengers, one of the main responses of non-democratic regimes has been to repress, often violently, the opposition in order to maintain control. Political liberalization represents a different strategy. Here regimes advance what appears to be a reform-minded agenda in order to placate the opposition while maintaining control

over the country. This approach offers the potential for regime survival by venting opposition pressure usually through the use of less force than the repression strategy. The difficulty is that regimes undertaking political liberalization can lose control of the reform process and thus sow the seeds of their own demise. In this event, regimes can choose to further capitulate or attempt to undertake a cycle of repression.

Jordan has a long history of employing both approaches. Since the 1950s, the country has witnessed a number of cycles of liberalization and severe political repression (Rath, 1994, p. 530). Early on, the regime mainly employed naked repression relying on 'harsh crackdowns, shuttered institutions, and other highly visible forms of royal domination' (Yom, 2009, p. 152). At the end of the Cold War, when confronted with a crisis potentially threatening the existence of the regime, Jordan undertook a policy of political liberalization as 'a regime survival strategy of the monarchy' (Koprulu, 2012, p. 75). However, once initiated, it can prove difficult to completely control change. In this case, the policy 'initiated a political and liberalization process that included the revival of elections and parliamentary life' as well as 'the lifting of martial law, the legalization of political parties, loosening of restrictions on the media, and six rounds of national parliamentary elections (in 1989, 1993 ,1997, 2003, 2007, and 2010)' (Ryan, 2011, p. 370). Despite these seemingly democratic outcomes, it is important to remember that this was a strategy employed by an authoritarian state in order to maintain a tight grip on power (Yom, 2009, p. 370).

Thus, political reforms were introduced to vent opposition pressure as part of 'a state strategy to maintain the dominant political order' (Robinson, 1998, p. 389). Side by side with reforms was an effort to keep civilians from organizing political opposition and effective public engagement by employing reminders of the consequences of contesting state power (Wiktorowicz, 2000, p. 430).

The effect of the measures specifically aimed at Jordanian associational life were apparent; as formal citizen structures for organizing were disbanded, liberalization resulted in societal depoliticization (Robinson, 1998, p. 390). These effects were felt within women's organizations. As a prominent NGO director noted during the interview: 'It caused a culture of fear that we cannot integrate into political life...(and) the legacy has remained' (Interview A, 2012).[1]

The implications for the broader civil society are just as important. There was little space from which a populist social movement with an autonomous stance and critical mass could take root, bringing with it healthy norms of public engagement and state opposition (Wiktorowicz, 2000, p. 47). Instead, civil society evolved in direct response to institutionalized state policies that granted calculated political freedoms, rather than emerging as a distinct and opposing actor.

The influence of political liberalization can be seen

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[1] All interviews (A–M) were conducted in Amman, Jordan, in the Summer of 2012.

throughout civil society. The regime legalizes activities yet restricts their scope. So they are seen as reform policies but they allow for state control of the effects of the reforms. A variety of restrictions have been employed over the past few decades to push NGOs into state-approved spaces where they are administered by compartmentalizing organizations into narrow areas of work and strictly monitoring their actions. The purpose of this is to remove broader governance and regime survival issues from the goals of such organizations.

The clear example of this is the Law of Societies (No.51 of 2008 as amended by Law 22 of 2009) which defines civil society organizations as organizations that 'provide services or undertake activities on a voluntary basis…without aiming to achieve any political goals that enter into the scope of the work of political parties' (Law of Societies, 2008, as amended by Law 22 of 2009, Article [3] A. 1). And while the law prohibits civil society organizations from 'conducting political activity or having any political objectives…political activities are not defined in either the Societies Law or the Political Parties Law'. The problem with this definitional failure is 'such vague terminology invites government discretion and potentially subjects [civil] societies to chilling effects in their expressive activities' (International Center for Not-for-Profit Law [ICNL], 2017, p. 6). The effects of these efforts are felt by women's organizations, which are placed under the Ministry of Social Development, where their mandates are confined under the Ministry's mandate to focus on social welfare issues such as child development and poverty alleviation. This results in 'organizations, associations, and movements that support the status quo, advocate conservative reforms, or are simply apolitical' (Hawthorne, 2004, p. 3). Hence, the liberalization strategy legalizes activities but at the same time, seeks to assure that such activities will not evolve into ones that could challenge the regime itself.

A second example, can be seen when in 2006, the MIZAN Law Group for Human Rights began a campaign to address the status of women jailed under the protective custody law. This policy placed women who were in danger of becoming victims of honor crimes under the protective custody of the state by transferring them to jails. They could not be released until a male family member had signed them out and, in effect, would often remain in prisons for up to ten or twenty years (Interview I, 2012). MIZAN spearheaded a project that envisioned transferring some of these women to a 'safe house' and eventually reintegrating them into society. While certainly a noble objective, it is important to note the depoliticized and service-based approach in the organization's efforts. They basically pursued an apolitical response to a political problem rooted in legislative action. MIZAN did not engage in an effort to revoke or reform the law but instead attempted to provide services to those negatively affected by the law. When asked to explain this choice, one interviewee stated, 'To be honest, I don't know. I guess we didn't think of this' (Interview I, 2012).

Moreover, despite boasting links to several different women's networks, none of these institutions were encompassed into their advocacy efforts to exploit their 'critical mass' collectively. Despite the existence of a large base of civil society organizations that rally against administrative custody law in Jordan, including groups that protest torture and arbitrary detention, MIZAN did not appear to engage in an effort to mobilize them to undertake a shared response to the underlying issue. In short, the effort remained an isolated, unitary, institutionally-based approach towards addressing one outcome of a broader legal structure that disenfranchise women. Ultimately, the program was dismantled after a few years due to shortfalls in donor funding. At the time of this research, the 'jailed women' initiative had been erased from MIZAN's program of work, which now focuses almost solely on gender violence (Interview I, 2012). This example reinforces the notion that liberalization efforts broaden the scope of allowable action while at the same time attempting to preserve the status quo by taking the issue of regime survival off the table.

3. Leadership Effects

A second theme for understanding the lack of improvement of the status of Jordanian women during the Arab Spring is the failure of leadership. Based on the data collected for this paper, the activities of a large portion of Jordanian women's organizations appear to be directed by elites with strong regime ties. A more narrowly pointed criticism identified during interviews was that leaders in many of these groups appear to be involved more for social status purposes. As such, their attention tends to drift between popular issue areas and the actions pursued generally avoid political content. Specifically, actions avoid challenging the Jordanian regime and its positions. To evaluate these critiques, it is important to first understand the general construction of such organizations. Generally, the leadership of women's NGOs in Jordan is comprised of highly educated women holding degrees from North America and Europe. They are well versed in English and use modern methods of communication in their work (Clark & Michuki, 2009, p. 331). These characteristics are shared by organizational staff as both leaders and staff are often picked on the basis of their ability to be convincing, presentable, and able to deliver well-written reports and in-person presentations in order to attract funding from the regime as well as international donors. As such, it is easy to understand the elite nature of organizational personnel—ongoing operation demands funding and these are the types of people most likely to be successful in such endeavors. However, it is precisely this elite, professional culture that alienates many such women's NGOs from what one feminist organizer in Jordan described as the far more numerically significant, 'ground networks' they need in order to build critical mass to influence meaningful political change (Interview B, 2012). Thus, it seems that the structural and

leadership characteristics of these organizations seems likely to reinforce, rather than challenge, the status quo, at least in terms of regime stability.

Moreover a second issue is the universal, rather than local, outlook of many of these organizations. In surveying Jordanian women's organizations, it can be noted that most rely on modernized and globalized communication and educational tools, such as workshops and conferences, and through invoking discourse that speaks to 'universal human rights', of which women are a part, rather than relying on more localized understandings of concepts and priorities (Interview C, 2012). These are, in turn, effective at invoking discourse that seeks to 'educate' and 'empower' a predefined 'target group' for a limited period of time through conferences and workshops but have not set political education, organization, and mobilization as goals. While these tools may be effective at communicating with large audiences, they appear to be ineffective at engaging Jordanian women as political agents. Woman may receive the specific messages, but little interaction is achieved to articulate an autonomous feminist stance that mobilizes the preamble of 'human rights'. Moreover, the invocation of 'universal human rights', which is often a product of professionalized NGO environments, holds less meaning for the constituencies of these organizations, who conceive the projects as 'misinformed and paternalistic', since it disregards the 'specificity of their condition' (Schild, 1998, p. 237). These approaches limit the articulation of deeper social and political rights as they are often dictated and implemented by professionals hired to get the job done, rather than a pursuing an interactive process that evolves, with considerable time, into a mission involving conviction and organization around a political goal—that is, a social movement.

An alternative framework can be seen in the Palestinian-style neighborhood organizations, whom, as Isah Jad notes, were 'known and trusted by people', had 'easy access to them', and 'helped whenever needed' (2004, p. 38). She emphasizes that 'the task needed daily, tiring, time-consuming effort in networking and organizing. These organizations knew their constituency on a personal level, and communication depended on face-to-face human contact' (p. 39). Moreover, these efforts were informed by rhetoric that balanced a citizenship of universality, without assuming a monolithic constituency with identical interests (Molyneux, 1998). In effect, they were able to 'organize and mobilize' their base towards tackling the underlying social relations that discriminate against women. The contrast with the Jordanian situation was summed up by one interviewee who argued:

It's the elitism. The women groups have become an elite entity that works on their own issues. The majority of the population are not connected to what's going on in the central capitals of Amman, Cairo, Beirut. That is the problem with women's movements. Because they are disconnected from ground networks,

they are limited. They lost the top support but don't have ground support. Unless they both meet somewhere, they will always be fragile. (Interview D, 2012)

Thus, the traits, interests and tools of leaders in many women's organizations in Jordan will help us understand the failure of women to achieve progress when we turn specifically to the events of the Arab Spring.

4. International Donor Effects

Before that, we must examine the third theme underlying the role and effect of women's organization: the international donor effects. The depoliticizing of women's organizations through the actions of the regime is complemented and compounded by the effects of international donor policies and neoliberal globalization. The larger transnational trend of neoliberal globalization plays a significant role in constraining women's organizations. As Schild suggests, the neoliberal thrusts of gender equity do not constitute real advancements to gender justice but, instead, transform political agendas of gender rights into technical tasks (2000, p. 25). In this regard, feminist movements seeking political change are often co-opted by reformist goals that constrain organizers to a narrow set of policy options that end up equating empowerment with overcoming marginality from the market, while disregarding the multiple oppressions faced by women (p. 28). She argues these effects are particularly acute in the context of nations under extended periods of authoritarian rule, as austerity economics often coincides with patronage politics of defensive democratization to transform demands of political change into service-oriented goals.

This view was largely confirmed in our interviews. Several interviewees expressed the idea that international donors in Jordan dichotomize the professional and the political, choosing to fund the former based on what Hawthorne refers to as their ability to act as 'professional [and] nonpartisan organizations' (2004, p. 18). As such, assistance is often targeted to groups with 'shallowest roots in the community', fundamentally missing the opportunity to aid groups that can 'develop links to and build coalitions across sectors' (p. 17). In addition, interviewees often complained that they were required to submit detailed proposals and undergo training programs to meet donor requirements, demands which only the most professionalized and well-resourced organizations could meet (Interview D, 2012). Finally, academics in Jordan have stressed that donors often cross the fine line between suggesting new ideas and imposing external policy priorities and political mandates on their aid recipients, a tendency that has resulted in civil society organizations that flit from issue to issue. It is important to note that these trends reinforce the state's goal of social control, as associational life is further encouraged to tread in apolitical and elite spaces, rather than transgressing into action that is political and tackles the underlying social relations that discriminate against women.

5. Depoliticization of Jordanian Women

The interplay of repressive state mechanisms resulting from political liberalization, the leadership challenges in women's organizations, and the structural effects induced by international donor policies result in the general depoliticization of Jordanian women's movement. The Jordanian women's movement has undergone a process quite similar to what feminist scholar Sonia Alvarez (1989) refers to as NGOisation. This helps explain why women's organizations have been unable to turn isolated institutionalized efforts at furthering gender equality into a broader social movement that would allow them to take advantage of the political openings engendered by the Arab Spring. One director of a Jordanian social organization summarizes the effects of this NGOisation: 'Women's movements have all consented to institutional movements. They have been set within boundaries and parameters that states have defined. I don't think there's a movement. Most of the women groups have become institutionalized into NGOs' (Interview E, 2012).

To understand the effect in Jordan, it is helpful to contrast the situation with women's movements in Latin America and South Africa. In observing the success of Latin American women's efforts to organize, Alvarez notes that women did not realize rights by pleading with an authoritarian state or by isolating women in women's organizations. They started off with their own organizations, enlarged their constituencies, allied with political parties, and participated in the struggle for democratization and political transition. (Alvarez, 1990). As such, they have managed to 'mainstream' their demands within the state and society. In South Africa, Georgina Waylen (2007) speaks to a similar 'linkage' effect: Women organized themselves as a part of the broad opposition movement to apartheid that mobilized a discourse of equal citizenship. They followed up with a 'triple alliance' of women academics, politicians, and activists to strategically articulate gender issues from different points during the transition. In this regard, the openly feminist organizations articulated the change in a radical manner and these demands were buoyed by 'insider women' and translated into policy outcomes.

The lack of these dynamic networks and linkage structures between insiders and outsiders, as well as across constituencies and issue bases, is evident in Jordan. Professionalization explains the inability for women's organizations to connect 'ground networks' of women but compartmentalization extends this phenomenon to discord within women's organizations themselves: that is, the inability of outsiders and insiders to work in tandem and to ally with key political actors outside their traditional constituency bases. While women's organizations have forged large networks on paper, they are seldom dynamically exploited to bring political weight to their demands. The few networks that do form are comprised of like-minded women's organizations that purposefully shut out others with different ideological tendencies and agendas. In this regard, efforts between openly activist organizations and elite-insiders to increase communication and move toward shared objectives and actions, is practically non-existent in Jordan. State engagement is conducted between elites, which favours the most professionalized and institutionalized NGOs. These actions are not backed and informed by a general movement or activist demands of outsiders (Interview F, 2012).

The resulting compartmentalization can be understood in the context of political liberalization where the regime employs a strategy of social control, in which the fear of dissolution prevents trust and cooperation among groups. In effect, they are structured in little pockets that are fragmented and weak, lacking the critical mass necessary to advance a broader agenda in the face of an unresponsive state. An NGO director speaks to this effect: 'They talk to particular social groups but if you don't have critical mass, you're likely not to make it' (Interview F, 2012). The result is that many NGOs are disillusioned about the prospects of enacting change through policy reform, rather choosing to focus their efforts on more concrete but often unsustainable programming.

These shortfalls manifest themselves as depoliticization, one of the main impediments to women achieving long-term change through the Arab Spring in Jordan. Though there are a substantive number of organizations addressing women's issues in name, 'there is no women's movement' (Interview F, 2012). It is this lack of transformation of institutionalized efforts into a broader movement that is a marked difference between Jordanian women's efforts and those of South African and South American women's groups. As a director of the one of the national commissions admits, 'If you want to be effective, social movements are important but they need political support, even a coalition with political parties or being more active in politics yourself….This is one major obstacle' (Interview G, 2012).

In this regard, Jordanian women's institutions are prevented from serving as mobilizing or organizing agents, so that however much they proliferate 'they cannot sustain and expand a constituency, or tackle issues related to social, political or economic rights on a macro or national level' (Jad, 2004, p. 39). In contrast, to acquire power, these institutions must morph into a type of social movement that, as Jad suggests, should permeate 'into the social networks and cultural symbols through which social relations are organized' (p. 40). Here, the social movement can take the form of a large number of small institutions, even with diverse agendas, coming together to constitute a women's movement. In this regard, there might not be an agreed agenda, but common goals. We see these fluid structures form out of existing institutions in the Latin American and South African context, but not in the Jordanian context. As such, they remain depoliticized and service-based, unable to put together the 'contentious collective action' needed to defeat a better armed opponent (Interview H, 2012).

The director of the above-referenced commission noted that the Associational Law 'creates a huge gap between the *real* role of NGOs and that of women's organizations by limiting their areas of working to development. This enhance[s] the same negative image of integration into political life. We have huge challenges to overcome to create this organization' (Interview H, 2012). What is important to note here is the distinction between what she believes to be the *real* role of NGOs and women's organizations in their current form. The aim of political liberalization can thus be seen. The subtle methods of social control employed by the state prevent women's organizations from fulfilling roles as distinctly *political* actors. This results in women's organizations that are constrained to providing traditional 'women's services' rather than engaging in policy advocacy and organizing that might bring more sustained advances to the status of women, and potentially threaten the existing regime. To be sure, the efforts of these organizations are laudable and the point is not to necessarily privilege one type of activity over the other, but reiterate the earlier argument about civil society existing to mimic the state's definition of feminism, rather than consolidating their own for use during key political opportunities during liberalization processes induced by events like the Arab Spring.

6. Jordanian Women and the Arab Spring

To understand why women's organizations were unable to effect the improvement of the status of Jordanian women during the Arab Spring, we examine the failure of three sets of events that might have resulted in such change: popular protests, electoral law reform, and amending the constitution. As protests spread from Tunisia to Egypt to Libya and then to Jordan in the spring of 2011, the Kingdom once again turned to the strategy of political liberalization. In December 2010, just prior to the beginning of the Arab Spring, the new government of Prime Minister Samir al-Rifa'i was sworn in. When Arab Spring protests began in Jordan, the demonstrators called for the dismissal of the new government but not for removal of the royal family from power (Ryan, 2011, p. 383). On February 1, as a preemptive response to the crisis overtaking a number of other regimes in the region, King Abdullah II removed al-Rifa'i from power and replaced him with Prime Minister Marouf al-Bakhit (Koprulu, 2012, p. 87). That move alone did not quell the protests. The March 24 Shabab Movement staged an all day and all night protest in the Ministry of Interior Circle in Amman that included demonstrators from all walks of Jordanian life. The peaceful demonstration was broken up the following morning by nationalist youths at the cost of hundreds of injuries (Ryan, 2011, p. 386). In response, the new Prime Minister blamed Islamist forces for the violence and the King publicly pledged support for the reformation process, promising to stand 'firm against non-democratic moves that threaten the country's national unity' (The Jordan Times, 2011). While the King

clearly indicated a willingness to negotiate democratic reforms, he also firmly established a 'red line: the survival of the monarchy' (Koprulu, 2012, p. 88). And the strategy appeared to have the desired effect, as 'despite the setbacks such as the March 25 violence, most Jordanians remain strongly in favour of reform rather than full regime change' (Ryan, 2011, p. 387).

The subsequent protests that were organized in Jordan were small and isolated compared to the 'street based' movements that arose during the Arab Spring in other countries in the region. Upon meeting with Jordanian women that were instrumental in organizing many of the protests during the Arab Spring, the influences of liberalization, leadership problems, focused, donor-driven objectives and the effects of depoliticization can all be observed. The legacy effects of past liberalization efforts and their effect on the manner in which Jordanian women view political participation was made clear in one interview: 'They think, I will not be a part of political parties and life because there is a negative image of it in our minds' (Interview A, 2012). Of the women that did participate in protests, it was difficult not to notice that most were in the upper-middle class elite, situated in the urban core of the capital Amman. In addition, these protests were often thrown together last minute using Facebook and other forms of social media that are utterly inaccessible and out of reach to women that are not part of a specific class/geographic region (Interview K, 2012).

Moreover, though the issues that were chosen often related to bodily rights, an issue that disproportionately affects rural and lower class women, the discourse surrounding the campaigns was entirely alien to those outside of the Western education system. Indeed, even the signs held were often written in English, sometimes without the Arabic counterpart (Interview L, 2012). One interviewee drove this point home relating the time she witnessed a security guard who asked protesting women, 'Why don't you go hold up signs in front of City Mall?' (Interview N, 2012). Unlike successful cases in the South Africa and Latin America, in Jordan there was little emphasis placed on integrating the interests, needs, and opinions of women in rural areas and lower classes into the protests.

Given the urgency of the protests, it might be unreasonable to expect the establishment of these links with women outside of the traditional constituency base of NGOs. However, most NGOs themselves would not have knowledge of these protests, despite an open willingness to collaborate. The protests comprised of 30–50 women tackling issues related to bodily rights, without any semblance of critical mass or pressure on the regime (Interview K, 2012). A young elected official in Jordan speaks to this gap:

I think this is where consistency matters. It's not enough to draft it and drop it until the government makes some action. This is when I say consistency and long-term advocacy is important. There is no sus-

tained push. We've never had a campaign for a million signatures to advocate for a change in legislation, to raise the marriage age for example. We talk about it in meetings and conferences. We accept and delegate but what we accept is not what we want. We compromise. We don't take it down to the streets. I've never witnessed a huge movement. (Interview M, 2012)

She goes on to say that what women's organizations need in the future is 'more coordination and consistency', and suggests that if she gives 'an example of what is happening on the streets, this is how governments listen' (Interview M, 2012). These comments make evident the ramifications of depoliticization in Jordan: there is a lack of contention and the 'collective' in the protests. As such, the critical mass needed to defeat a better armed opponent, in this case the state, was not mobilized.

A second example of a lost opportunity to change the status of Jordanian women can be seen in the proposed electoral law reform. As part of the Arab Spring's political liberalization processes, King Abdullah II revisited the election law to create more favourable conditions for the proliferation of political organizations, including political parties. During this period of change, instead of organizing themselves into a broader struggle for more political openness, a matter that severely inhibits their operation, most women NGOs understood their role to be focused on increasing the quota for women (Interview H, 2012). Advocating for legislation that allows stronger political party formation might have enabled women's groups to connect with key sectors and actors—such as political parties and academics—outside of the realm of women's NGOs. With these expanded constituencies, activists could have found it easier to mobilize the level of support and pressure needed to push forward important gender-specific legislation, including, but not limited to, the creation of sweeping gender quotas. Instead, the ongoing effects of depoliticization again undermined a push for broader change.

A final example can be observed in the efforts toward constitutional reform. During the political liberalization process, the constitution was opened for amendments. Among the changes discussed was a specific gender-equity mandate. Women's groups sought to insert the word 'gender' into Article Six of the constitution, which read, 'Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion' (Constitution of the Hashemite Kingdom of Jordan, 6A). The importance of such an amendment cannot be understated. It would have provided women with constitutional grounds on which to challenge the prevalent gender discrimination under Jordanian law. Unfortunately, the leadership issues clearly came into play. Three highly professional women that were or had previously been engaged with the regime were chosen to represent the interests of all women to the constitutional committee: an MP, a former minister, and the director

of a semi-governmental organization (Interview K, 2012). This delegation of 'insiders' provided assurances that the requests of women's organizations would be met.

The problems with this attempt at representation are clear. Since few civil society organizations in Jordan engaged in the cross-class network creation through sustained contact that was aimed at organizing and mobilizing the masses—the 'ordinary' woman was removed from these larger discussions, even if she was to be directly affected. There was no grassroots-level awareness-raising about the significance of the proposed constitutional amendment for ordinary Jordanian women. Though some efforts were undertaken, they were hardly enough to establish the substantive clout needed to create a movement of women demanding change (Interview J, 2012). Further, the dynamic interaction within civil society itself was largely missing, as activism on the ground by organizations with different ideological associations was not pushed forward by those engaged in constitutional talks (Interview J, 2012). The committee eventually returned the final draft without the inclusion of the word gender, citing 'political' reasons for being unable to do so (Interview J, 2012). As an interviewee notes, 'If the women had political weight, the government wouldn't have gotten away with it. The reason they don't have popular weight is the women did not have a popular base. Women did not form popular movements' (Interview J, 2012). To be sure, the importance of these powerful insiders cannot be discounted, since they give access to strategic space to engage directly with the regime. However, in the absence of sustained consolidation from outsiders, they are unable to transform the regime's cosmetic inclusion of women in the talks into substantive changes through contentious collective action.

7. Conclusions

The advent of the Arab Spring was hailed by democrats in the region and across the globe as holding the potential for meaningful reform. Given the prominent role of women in a variety of locations, many held out the hope for a broader Arab Spring for Women. While this does not appear to be the case, particularly in Jordan, the lack of sweeping change should not be seen as an indication that such reforms are impossible. It is for this reason, the question motivating this research is: why were women's organizations unable to effect the improvement in the status of women in Jordan during the Arab Spring? To arrive at an answer, the paper examines political liberalization, the failure of leadership, and international donor influence on programmatic focus. The underlying effect of these three forces can be seen in the depoliticization of Jordanian women. This framework is examined in light of three sets of events that took place during the Arab Spring.

As with similarly situated countries, Jordan witnessed political protest during the onset of the Arab Spring. In response, they pursued a strategy of political

liberalization. While addressing some of the protesters' concerns, the Kingdom drew a 'red line' at regime survival. The monarchy was willing to oust elected leaders and undertake reform efforts as long protests observed the red line. The strategy worked, insofar as the survival of the regime was never seriously in doubt. The ability of women's organizations to effectively seek change in the status of women was impaired by the elite-driven interests of their leadership as well as the inability to expand their programmatic focus to issues more concerning to the broader female population in the country. A similar story is observed when examining the regime's electoral reform proposals. Instead of using this opportunity as a springboard for more wide-sweeping changes, women's organizations maintained their position inside of previously established political liberalization boxes, maintaining a very narrow focus on quota reforms.

Finally the regime-led efforts to reform the constitution appear to confirm the answers proposed in this paper. While initially seeking to insert gender into a list of intolerable forms of discrimination, the effort ultimately failed. Again, some of the explanation for this 'political' failure can be tied to the choice of leadership to represent the interest of Jordan's women. The inability to mobilize support for reform as well as an effective response to the failure can also be seen in the lack of a broader women's movement. This, at least in part, is tied not only to the issues of representation relying on elite leadership but also on the inability of organizations' to pursue programmatic foci grounded in the concerns of Jordanian women writ large, rather than those driven by international donors. The 'culture of fear' toward women's political action driven by the history of political liberalization, the failure of leadership in women's organizations, and the influence international donor's hold over programmatic focus of these organizations undergirds the depoliticization of Jordanian women. While future hopes for sweeping changes in the status of women should not be lightly dismissed, they seem less likely to occur until the forces behind such depoliticization are addressed.

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Conflict of Interests

The author declares no conflict of interests.

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About the Author

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Annex

Methodology

The forty, semi-structured interviews were conducted with non-governmental organization workers, government bureaucrats, parliamentarians, and journalists concerned with women's issues in Jordan. As most of this group consists of women, there were thirty eight female and two male interviewees. They were primarily middle-age professionals who were established in their careers. However, two activists and one parliamentarian, all in their late twenties, were also interviewed. Of the civil society actors contacted, all were either directors or in similar senior positions within the organizations. Several elected officials as well as bureaucrats in relevant portions of the Jordanian government were also interviewed. All interviews took place in Amman.

The focus group convened fieldworkers from both genders responsible for implementing projects within urban and rural settings. The questions directed to the focus group concentrated more on the problems involved with implementation and community relationships, rather than organizational strategy.

In addition to this fieldwork, primary documents that outlined the legal frameworks for civil society in Jordan were collected. Different pieces of legislation are analyzed and referenced in the paper. Further, advocacy materials, such as educational pamphlets, training manuals, and annual reports, from organizations where interviews took place are examined. This allowed for a more systemic analysis of the organization's overall vision, strategy, and area of work. These materials were also compared to the interview discussions to note similarities and discrepancies.

Primary materials were supplemented by a literature review that analyzed methods of democratization undertaken by authoritarian regimes, civil society in the Middle East, and women's movements in democratic transitions of the past, particularly in Latin America and South Africa. This literature was used to supplement our understandings how trends and strategies were used by women as peripheral groups in the political transition context.

Article

Policy Integration and Multi-Level Governance: Dealing with the Vertical Dimension of Policy Mix Designs

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Abstract

Multifaceted problems such as sustainable development typically involve complex arrangements of institutions and instruments and the subject of how best to design and operate such 'mixes', 'bundles' or 'portfolios' of policy tools is an ongoing issue in this area. One aspect of this question is that some mixes are more difficult to design and operate than others. The paper argues that, *ceteris paribus*, complex policy-making faces substantial risks of failure when horizontal or vertical dimensions of policy-making are not well integrated. The paper outlines a model of policy mix types which highlights the design problems associated with more complex arrangements and presents two case studies of similarly structured mixes in the areas of marine parks in Australia and coastal zone management in Europe—one a failure and the other a successful case of integration—to illustrate how such mixes can be better designed and managed more effectively.

1. Introduction: The Issue of Optimality in Complex Policy Portfolios

The complexity of contemporary socio-economic and environmental problems and the requirements of planning for the needs of client groups and affected regions are problems which challenge policy-makers on many levels (Levin, Cashore, Bernstein, & Auld, 2012). Protecting components of, and entire, eco-systems under conditions of global warming, for example, increasingly involves the development and implementation of arrangements of policy goals and instruments in 'policy mixes' (Kern & Howlett, 2009), and how best to design such mixes is an ongoing issue in the policy sciences.

After several decades of policy-making experience and research in many countries, it is evident that sector-alized, uni-dimensional, and uncoordinated policies do not serve well the cause of many complex policy problems, such as sustainable development or dealing with hunger or homelessness (Cejudo & Michel, 2017). While many studies have noted these issues and the need for a more integrated approach to policy-making in such areas (Briassoulis, 2014; Jordan & Lenschow, 2008, 2010), how exactly policies are to be better integrated remains unclear (Candel, Jeroen, & Biesbroek, 2016).

As this paper argues, answering this question requires, among other things, a better understanding of the nature of policy mixes than presently exists in the literature. This subject has been the central concern of recent works delving into the examination of 'packages'; 'bundles' or 'portfolios' of policy tools in the policy sciences (Chapman, 2003; Doremus, 2003; Hennicke, 2004;

Milkman, 2012) and bringing the insights of this literature to bear on policy design in complex problem areas is the aim of this paper.

The discussion below sets out a model of policy mixes focusing on the nature of the tools required to address complex policy problems in order to better define what integration means in such contexts. It then examines the history of efforts to promote integrated policy mixes in two environmental issue areas with severe co-ordination problems—coastal zone management (ICZM) in Europe and marine park management in Australia. The first effort was a failure and the second a success, allowing lessons to be derived from these cases about how to design and manage integrated tool packages.

2. Policy Mixes and Their Vicissitudes

Most policy areas involve the development and operation of mixes of policy tools and aims. At their most basic, policy mixes can be thought of as bundles of individual policy instruments or tools and techniques used by government in order to achieve their policy goals (Howlett, 2005).

Some problem areas are more complex than others, however, and result in more complex policy mixes. Environmental policies, for example, commonly combine market and regulation-based instruments and include combinations of tools such as regulations on discharges and chemical use, mechanisms for assessing fees or taxes on environmental degradation, tradable permits which establish overall levels of pollution and allocate them among firms. Market friction reduction efforts such as enactment of liability rules designed to encourage firms to consider the potential environmental damages of their decisions, information programs such as product labelling requirements and reporting requirements, and government subsidy reductions which attempt to reduce the inefficient behaviour promoted by many government subsidy programs (Anderson et al., 2010). They often also involve user charges intended to promote compliance with first and second equimarginality rules (Tietenberg & Lewis, 2008) and lead firms to reduce emissions to the point where the marginal abatement cost equals the tax rate.

There are always significant interactive effects among the policy goals, sectors and governments involved which also add to the complexity of policy design and the difficulties encountered in pursuing effective integration (Boonekamp, 2006; Del Río, 2010; Grabosky, 1995; LePlay & Thoyer, 2011; Yi & Feiock, 2012). This is because in many circumstances 'supplementary' or 'complimentary' tools are often required to control side-effects or otherwise bolster the use of more 'primary' tools (Hou & Brewer, 2010; Tinbergen, 1952).

And there is also a temporal dimension to complexity as, in many cases, tools and instruments from one era have been 'layered' on top of others in an often less than rational process of matching overall pol-

icy means with goals, resulting in inconsistencies and incongruencies in tools embedded in such arrangements (Howlett & Mukherjee, 2014; Howlett & Rayner, 2004). And this complexity is augmented even further when tool choices and preferred combinations of instruments deal with ideological or even 'aesthetic' preferences in tool choices and goal articulation rather than issues around efficiency or equity, and when they involve trade-offs and bargaining between actors in choosing types of tools, goals and policies (Beland & Wadden, 2012; Williams & Balaz, 1999).

The existing evidence shows that for all these reasons, suboptimal situations in which duplication and unnecessary redundancies and gaps remain in existing policy mixes are very common. And this is more likely to occur in complex problem areas with many actors and affected parties involved in mixes which have developed over lengthy periods of time, a situation which again is not exceptional in policy-making but rather quite common.

The nature of such mixes focuses attention on issues related to their development and alteration over time, such as exactly how the sequencing of instrument choices occurs and how negative policy legacies can be overcome (Taeihagh, Givoni, & Bañares-Alcántara, 2013). Despite the difficulties involved in identifying the elements of such mixes and how they emerge, as the case studies presented below illustrate, understanding the nature of the existing mix and its evolution aids understanding of how it can be altered to help improve policy outputs and outcomes.

3. Enhancing Integration as Enhancing Complementarity and Minimizing Inconsistency among Policy Instruments

The issue of the nature of the design of 'optimal' bundles of tools in policy mixes has only recently begun to be addressed by policy scholars (Howlett, 2005; Peters, 2005). Most existing literature on policy tools and goals to date, rather, has focused on single instrument choices and less complex designs (Salamon, 1989; Trebilcock & Prichard, 1983; Tupper & Doern, 1981). Such studies, unfortunately, provide only limited insight into how to design and operate more complex, but quite common, 'portfolios' of tools (Jordan, Benson, Wurzel, & Zito, 2011; Jordan, Benson, Zito, & Wurzel, 2012).

Integration—understood as the smooth coexistence of the different elements of policy, including goals, policies and government levels involved in policy mix design and creation, so that conflicts are minimized and, if possible, synergies and complementarities are promoted—has been identified repeatedly as a key feature of well-performing mixes (Briassoulis, 2004; Howlett, 2004).

One major issue identified in the design and operation of any mix linked to poor integration, for example, is that the tools involved and invoked in a mix may be inherently contradictory (Gunningham, Grabosky, & Sinclair,

1998; Tinbergen, 1952). That is, they may evoke contradictory responses from policy targets, cancelling out or confusing their effects (Schneider & Ingram, 1990, 1993, 1994, 1997, 2005) such as occurs, for example, when a subsidy is provided to encourage certain kinds of production while that production is simultaneously discouraged through various forms of regulation (Grabosky, 1995). The potential for such contradictory relationships to exist increases as the number of tools in a mix increases and steps should be taken to identify and reduce their number if better integration is to occur.

Similarly, other combinations of tools may be more virtuous in providing a reinforcing or supplementing arrangement (Hou & Brewer, 2010). And some arrangements may be unnecessarily duplicative while in others some redundancy may be advantageous (Braathen, 2005, 2007) as occurs for instance in the provision of multiple programmes to help offset poverty or illness. Again, better integration involves promoting as many positive relationships as possible within a mix.

Avoiding ill-effects and bolstering positive interactions within portfolios and thereby promote better integration is thus a central aim and concern of policymakers. But achieving this higher level of integration is not a simple thing to accomplish. In the case of ecosystem services, for example, co-ordination problems are omnipresent. One such challenge there concerns properly identifying the appropriate tax rate or user charge to be used. Ideally this should be set equal to the marginal benefits of environmental preservation at an efficient level of preservation. However, there is likely to be uncertainty among policy-makers as to how firms will respond to a given level of taxation and about what is the most efficient level of preservation. Tradable permits allow firms which keep below their allotted level to sell their surplus permits or use them to offset excess emissions in other parts of their operations. Their use, however, raises other issues such as how to properly allocate permits between techniques such as auctioning, grandfathering or benchmarking, among other possibilities. Moreover, there are additional issues associated with the possible joint effects of user charges and tradable permits as well as the other components of an ecosystem services mix which must be taken into account if efforts in this area are to be effective.

These integration issues become even more complex when the political economy of policy-making is taken into account. That is, certain groups of actors may promote certain options without regard for their impact on other elements of a mix—for example when forest companies advocate for greater cut allotments without taking into account their impact on fisheries or endangered species—and when historical problems of policy legacies exist in a sector (Kiss, Manchón, & Neij, 2012). Older programmes and policies which have conferred benefits on certain actors, for example, can make it very costly to shift to other arrangements (Anderson et al., 2010) and many existing mixes have developed haphazardly through processes of policy layering, in which new tools and objectives have been piled on top of older ones, creating a palimpsest-like mixture of inconsistent and incoherent policy elements (Carter, 2012; Thelen, 2004; van der Heijden, 2011). Factors such as increasing efforts to promote collaborative or horizontal governance arrangements also affect the number of multi-sectoral and multi-policy situations which exist (Peters, 1998) and raise the issue of policy integration to the forefront of policy design considerations.

3.1. Enhancing Integration in Instrument Mixes: Understanding Verticality and Horizontality

The argument presented here is that the first step in addressing and improving policy integration in any policy mix involves accurately diagnosing its level of complexity.

As Table 1 shows, several distinct mix types exist based on the number of goals, the number of policies and the number of levels of government involved in the construction and maintenance of a policy 'portfolio' or 'bundle' (Howlett & del Río, 2015).

The first two situations can be thought of as 'horizontal' ones which occur within the same level of government, for example, at the level of a single national, international, state or local government. The third situation, however, adds an additional 'vertical' complication, highlighting the manner in which the elements of a mix also have to be co-ordinated across levels of government.

The degree of complexity and the need for, and difficulty in achieving integration grows with the increase in the number of goals, policies and levels of government involved; that is, as the degree of horizontality and verticality increases. 'Horizontal' design considerations increase as the number of problems or issues to be addressed increased. Determining the efficiency of price-based (tax) environmental systems compared with quantity-based (tradable permit) systems, for example, is clear when cost curves are rather flat; then quantity instruments are superior to price instruments. But in many cases the relative shape of the benefit and cost functions of abatement may be unknown (Weitzman, 1974). Also, the long-term cost-effectiveness of taxes versus tradable permits is affected by the relative responses of targets to market-

Table 1. Spectrum of tool mix complexity.

Simple			Complex
Single Goals, Policies and Levels	Single Goals in Multiple Policies or Levels	Multiple Goals in Multiple Policies or Levels	Multiple Goals in Multiple Policies and Levels

based tools in terms of effects on aggregate emissions and permit prices. These outputs are affected by factors such as economic growth, inflation, or exogenous technical change but are linked primarily to the number and type of actors and targets involved (Anderson et al., 2010).

These horizontal issues are serious ones in and of themselves but integration is made even more complex and difficult by the existence of any kind of 'verticality' or the involvement of policy actors and elements at different levels of government. That is, in addition to the issues raised above concerning the kinds of contradictory or complementary relationships existing between tools within a single level of policy-making (Hosseus & Pal, 1997) when a second, 'vertical' dimension is present the level of complexity and the integration challenge increases exponentially. The administrative and legislative arrangements present in federal and non-federal systems, for example, greatly enhance the number of multi-governmental mixes which exist in such jurisdictions (Bolleyer & Borzel, 2010; Howlett, 1999) as do spatial and other issues which allow policy problems to cross jurisdictional boundaries, as is very common in environmental policy, for example, but also in others such as refugee flows or international trade and industrial activity.

These latter multi-policy, multi-goal and multi-instrument mixes—what Milkman (2012) calls 'policy bundles'—are examples of policy portfolios which are typically much more complex than single or multiple instrument mixes (Chapman, 2003; del Río, 2014; Hennicke, 2004; Howlett & del Río, 2015) and pose the greatest integration challenges. They typically involve more than simple functional logics linking deployment of a single policy tool such as regulation or tax incentives to accomplishment of a single policy goal and require additional efforts to integrate their various parts which simpler mixes or single instrument choices typically do not.

Conflicts with respect to goals and instruments are likely to be more common and prominent when multiple jurisdictions are involved. This is so because in such multi-level government and governance contexts (Hooghe & Marks, 2003), different levels of government are likely to have some common, but also different goals and instrument preferences (Enderlein, Wälti, & Zürn, 2011). These mixes have rarely been studied from a policy integration perspective and the two cases studies presented below illustrate the kinds of mechanisms which have been used, both successfully and unsuccessfully, in two of these efforts. As the cases show, reconciling the components of complex mixes involves not just efforts at better horizontal integration but also the use of an overt political calculus of intra- or intergovernmental bargaining and decision-making and the presence or absence of effective multi-level governance arrangements is a significant factor affecting integration (Bolleyer & Borzel, 2010; Kaiser, Kaiser, & Biela, 2012).

4. Two Case Studies of Policy Mix Design: Learning from the Integration Experience of ICZM in Europe and The Great Barrier Reef in Australia

Given the trans-boundary nature of many environmental issues, it is common in the environmental sphere for several levels of government to be involved in policy-making processes, including the supranational, national, regional and local, and such issue areas provide good illustrations of the difficulties, and solutions, involved in integrating such complex mixes (del Río, 2009; Howlett & del Río, 2015). This makes the study of such cases a good one for comparative analysis of the (in)effectiveness of efforts to enhance vertical policy integration in complex policy mixes.

The two cases set out below—efforts to implement Integrated Coastal Zone Management (ICZM) in Europe as well as efforts in Australia to manage Marine Protected Areas—illustrate how mixes of this type face additional risks of failure due to lack of integration across levels of government and policy elements. The cases show these are difficult, but not impossible, to correct (Howlett, Ramesh, & Wu, 2015; Keast, Brown, & Mandell, 2007).

The first case can be considered a failure and the second a success as far as integration is concerned. Why this was the case and what lessons can be learned from these experiences are set out below.

4.1. ICZM in the European Union

ICZM has been a favoured planning tool of the international development community for many years. Better vertical integration of environmental policy and management efforts has been a major goal of the pursuit of sustainability by the UNCED (1992) and other efforts such as the World Summit on Sustainable Development which passed the Johannesburg Plan of Action in 2002.

ICZM figured prominently in the United Nations Food and Agriculture Organization (FAO) Code of Conduct for Responsible Fisheries (FAO, 1995; Humphreys & Burbridge, 2003), and Agenda 21 pushed ICZM forward by emphasizing a general commitment on the part of nations to pursue integrated management of coastal areas and the marine environment. This occurred together with a specific call for the development of multilateral ICZM frameworks and guidelines.

Although the OECD was also actively promoting ICZM at this time, the World Bank took the lead and their Guidelines were adopted at the 1993 World Coast Conference in Noordwijk, Holland. UNEP's guidelines for ICZM in the Regional Seas Program also stressed the importance of strengthening cross-sectoral management for successful policy integration. While various guidelines and protocols exist in different regions (for instance in the Mediterranean—the ICZM Protocol to Barcelona Convention for the Mediterranean Sea passed in 2010; IUCN ICZM Protocol in the Mediterranean from 2011), as

the ICZM name suggests, these guidelines all advocate enhanced horizontal and vertical integration and coordination (Harvey & Hilton, 2006; Humphrey & Burbridge, 2003; Portman, Dalton, & Wiggin, 2015). They include a focus on intersectoral coordination rather than traditional sector-by-sector management; holistic, multidisciplinary ecosystem-based planning; a dynamic, continuous, evolutionary and iterative attempt to solve complex problems; and the creation of new governance structures to accommodate meaningful stakeholder participation and conflict resolution (Post & Lundin, 1996).

Attaining these goals has not been easy, however. In Europe, ICZM began largely at the project level and of nineteen European countries expected to follow an EU Recommendation on ICZM which called for the development of a national strategy by 2006, only nine complied. A 1999 study of EU coastal states plus Norway, for example, found a very uneven pattern of ICZM implementation (Table 2); distinguishing between plans that were fully implemented, those merely formulated, and those under development in the pre-formulation stage.

Of 182 coastal regions studied, 108 were recorded as showing no progress in ICZM at all, and only Denmark and the Netherlands had all coastal regions showing at least some progress towards fully formulated or implemented strategies (Elburg-Velinova et al., 1999).

Thus, despite these good intentions in oceans and coastal governance, the implementation of large scale integrated approaches failed to achieve the broad aim of moving beyond the sector-based management of ocean resources that integrated approaches were meant to resolve (Jay et al., 2013; Portman et al., 2015; Vince, 2013, 2014, 2015). Overall, Humphreys and Burbridge (2003) characterized European ICZM as emerging in rather isolated pockets as a response to local situations, in the absence of or without connection to institutional arrangements at more central levels of government.

This illustrates the difficulties involved in creating better integrated policy mixes where multi-level or vertical complications proliferate. Among other things this outcome highlights the importance of understanding the vertical dimension of policy mix design and securing intergovernmental agreement as a pre-condition for moving forward in policy mix design and implementation.

That is, this situation might have been addressed by a Europeanization initiative where the European Commission bypasses national governments and joined up the dots to create a European-wide ICZM policy. Instead, however, the debate over ICZM featured a confrontation between European Parliament and the Council, with the emergence of many national sectoral interests opposed to what they saw as unnecessary disturbance of existing local arrangements.

The ultimate outcome was only a Recommendation on ICZM (2002/413/EC) rather than the Directive that many in the Parliament and the NGO community were originally seeking (McKenna, n.d.). Although coordination was expected to be carried out by an ambitious benchmarking scheme to identify leaders and laggards, the scheme was not put in place in part because of continuing disagreement over what is to be measured.[1]

4.2. Australia's Great Barrier Reef Marine Park

The experience of policy-making in a second case of multi-level policy-making involving the Australia's Great Barrier Reef Marine Park, however, was quite different as the central government was able to resolve many intergovernmental issues and retain control and direction over the policy. This case exemplifies the difficulties with integrated policy implementation over four decades but provides useful lessons about how governance arrangements can help overcome integration problems.

The Park was established through the *Great Barrier Reef Marine Park Act* (Commonwealth) 1975 which defined the Great Barrier Reef Region (also Australia's largest World Heritage Area which was listed in 1981) which extends from the low water mark, an area that

Table 2. State of ICZM in European Coastal Regions, 1999. Source: Elburg-Velinova, Valverde and Salman (1999, p. 15).

Countries with at least one coastal region where ICZM was

Under Development	Formulated	Fully Implemented
Belgium	France	Netherlands
Denmark	Greece	United Kingdom
Finland	Italy	
Germany		
Ireland		
Norway		
Poland		
Spain		
Sweden		

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[1] Thus, a survey of the achievements and intentions of nineteen European countries with respect to the Recommendation on ICZM, showed only nine even intended to develop a national strategy by 2006, the target date set in the Recommendation, six did not intend to meet this deadline and four did not report their intentions (Janssen, 2004).

is otherwise state jurisdiction in Australia's coastal zone, as part of this arrangement. The Park is managed utilising ecologically sustainably-based principles, a zoning plan that includes multiple use areas and 'provides protection of biodiversity values through a network of no-take zones for 33 per cent of its area and for at least 20 per cent of every bioregion' (Commonwealth of Australia, 2013, pp. 5, 11).[2] The Australian Federal government used the Act, along with its international ratified agreements and external affairs powers, to halt attempts by the Queensland government to begin offshore oil and gas exploration in the reef (Haward & Vince, 2008, p. 91).

The integration efforts made in this case were more effective and serve as an example of successful multi-level governance, multiple use management, marine spatial planning and integration between jurisdictions, sectors and communities (see Kenchington & Day, 2011); overcoming the challenges with vertical and horizontal integration posed to achieve biodiversity conservation in the face of complex political conflicts. The results from the integrated management efforts made by governments in the case of Australia's Great Barrier Reef Marine Park (GBRMP) highlight the point made in the ICZM case above concerning the need to early recognize and act on the appropriate dimension(s)—horizontal or vertical or both—of a mix if better integration is to be achieved, often involving the exercize of some central control over local issues and concerns.

This can be seen in the activities undertaken around the turn of the millennium when the GBRMP was rezoned in 2004 to provide better environmental protection by increasing the size of fishing no-take zones. This exercise was met with opposition from the recreational and commercial fishing groups who found the process inequitable (Sutton & Tobin, 2009, p. 250). Surveys found recreational fishers 'had low to moderate satisfaction with the programme used to consult the public throughout the rezoning process', were more likely to be supportive of the changes if consistent with their values, and believed that the outcomes of the process were 'predetermined' (Sutton & Tobin, 2009).

Lack of communication, policy coordination and co-operation between decision makers, agencies, key actors and those affected by the policy (Briassoulis, 2004, p. 20) were also recognized by the governing bodies as potentially resulting in unfavourable outcomes and efforts were taken to ameliorate them. The federal government spent five years and AUS$200 million assisting affected parties adjusting to the new arrangements (Fernandes et al., 2005; Macintosh, Bonyhady, & Wilkinson, 2010).

Fernandes et al. (2005, p. 1742) argue that without this financial assistance, community acceptance of the new zoning arrangements would have been difficult to achieve. However the key vertical integrative device employed in this case was the creation of an Authority which liaises and coordinates policies with other Federal

and Queensland government agencies within the framework outlined in the *Great Barrier Reef Intergovernmental Agreement* (2009) (updated in 2015). The aim of the Authority was to enhance environmental protection of the reef, economic development and community participation while minimising regulation (Sainsbury, Haward, Kriwoken, Tsamenyi, & Ward, 1997, p. 27). It jointly manages vertical coordination and decision making within the region through different management tools including Fishery Management Plans, Cruise Shipping Policy for the Great Barrier Reef Marine Park, Traditional Use of Marine Resource Agreements, and Environmental Impact Management policies (Day & Dobbs, 2013, p. 17; GBRMP, 2014).

In addition to specific plans, planning authorities and financing for enhancing inter-governmental coordination, special efforts were also made in this case by the Authority to enhance public participation opportunities and to develop vehicles intended to address concerns raised in policy development processes. This is well illustrated in the GBRMP rezoning process which took six years to complete due to a complex community consultation process (Fernandes et al., 2005, p. 1738) but which, in the end, was completed successfully only through the cooperation of non-state or private actors, such as the Indigenous community, environmental NGOs and the local tourism industry.

5. Conclusions

Attaining better policy integration involves adopting policy tools capable of overcoming or avoiding conflicts and contradictions in a policy mix. This is an important aspect of policy-making and policy design which is made difficult to achieve in the ever more common practice of the bundling of policy tools together into complex arrangements in order to address complex multi-faceted and multi-level policy problems.

The emergence of more, and more complex, mixes raises many difficult questions regarding how best to integrate policy elements developed over time through a range of processes from special pleading on the part of affected interests to historical lock-in caused by the layering of one policy element on top of another.

Understanding how such mixes operate, what are their strengths and weaknesses and how their problems can be overcome are significant subjects of interest in the policy sciences. Existing studies of integration, however, do not use a consistent terminology and often fail to define the dependent variable carefully enough to have been able to make much headway in addressing many aspects of tool mix design. As a result, the cumulative impact of empirical studies has not been great, theorization has lagged, and the understanding of integration has not improved as much as it should have over past decades (Chapman, 2003; Ring & Schroter-

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[2] The GBRMP has just undergone another bleaching event and is now being reviewed again for being listed as 'in danger' if not removed completely off the UNESCO world heritage listing. This will no doubt intensify planning activities undertaken by the Board in the near future.

Schlaack, 2010), undermining efforts to promote better policy-making, policies and outcomes.

Design principles to promote integration in complex mixes featuring high levels of verticality especially require a broader view of the elements found in policy mixes than is typically found in the literature on the subject (da Costa Canoquena, 2013; del Río, 2009). To help resolve this issue, the article developed a framework for analyzing integration utilizing the twin dimensions of horizontality and verticality, noting the increased complexity which occurs in cases where not only are issues of policy design centered on how best to deal with instrument interactions in a single policy area or level of government but where they span two or more such levels. The paper argues this 'vertical' or multilevel dimension of more complex mixes has not been taken into account enough in past work and that this dimension has to be added to the more commonly acknowledged 'horizontal' one in order to properly understand the functioning of policy mixes and the means and methods by which they may be enhanced.

Many environmental policies fall into this latter category of both high horizontality and high verticality and the article assessed two cases in this area of policy-making sharing this same characteristic—one considered a success and the other a failure—in order to determine what lessons could be derived from them for the better integration of environmental policy mixes.

The two cases illustrate several key design points. First, they show that the institutional framework developed in the policy design stage is a crucial predictor of success or failure in multilevel, multi-sectoral integrated governance areas, with the ICZM case showing the weaknesses of de-centralized inter-governmental efforts while the GBRMP case illustrates the advantages of the existence of multipurpose special bodies able to cross agency and government jurisdictional boundaries.

Second, they show there is the need to move beyond the use of just 'substantive' tools designed to affect production, consumption and distributive arrangements and to include procedural tools such as public participation and stakeholder funding in policy mixes in order to help integrate existing, and sometimes, rival policy initiatives into a more cohesive strategy (May, Jones, Beem, Neff-Sharum, & Poague, 2005; Howlett, 2000).

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Conflict of Interests

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Article

Why the United States Supports International Enforcement for Some Treaties but not for Others

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Abstract
Under what conditions should we expect the United States to support international enforcement of treaties? We hypothesize that U.S. support is most likely for treaties where international enforcement will cause considerable (desired) behavioral change by other countries but little (undesired) behavioral change by the United States. Similarly, U.S. support is least likely for treaties where international enforcement will generate the converse effects. In developing this hypothesis, we derive specific conditions under which we should expect U.S. benefits of international enforcement to outweigh U.S. costs (or vice versa). We also provide empirical examples. Finally, we consider three alternative explanations of U.S. views on international enforcement—concern for U.S. sovereignty, desire to prevent infringements on U.S. constitutional protection of individual rights, and the usefulness of international enforcement as a domestic commitment device. We discuss these alternative explanatory factors' relationship to our own hypothesis.

1. Introduction

To be effective, an international agreement must satisfy three conditions (Barrett, 2003). First, all of the (major) countries concerned must participate. Second, the participating countries' commitments must be sufficiently deep to be able to solve or at least significantly reduce the problem the agreement aims to alleviate. Finally, the agreement must achieve high compliance rates. To fulfill these conditions, the agreement may need to restructure the parties' incentives, and a potentially powerful way to do this is to incorporate provisions for international enforcement. As used here, enforcement refers to the threat or actual use of material consequences[1] to enhance treaty compliance, treaty participation, or both.

Examples of agreements that contain such provisions include the 1995 WTO agreements, the 1989 Montreal protocol on substances that deplete the ozone layer, and the 1992 Chemical weapons convention. The 1997 Kyoto protocol, too, includes an enforcement system. In contrast, Kyoto's successor, the 2015 Paris agreement, does not contain any provisions for enforcement. In this respect, Paris resembles many other environmental agreements, such as the 1999 Gothenburg protocol and the 1985 Helsinki protocol.

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[1] Failure to comply could also entail "soft" consequences, for example, in the form of loss of reputation (see e.g., Downs & Jones, 2002). Such consequences are not included in the concept of enforcement employed here. Our definition excludes several human rights regimes, which are rarely enforced through material consequences.

Two main factors influence whether an international agreement will come to include international enforcement. The first is whether the agreement has a need for enforcement, which is often linked to situation structure. While an agreement aiming to solve a coordination problem provides no incentive to be noncompliant or to withdraw, an agreement aiming to solve a collaboration problem might posit a strong incentive for defection.[2] Thus, it is primarily agreements which aim to solve a collaboration (dilemma-type) problem that have a need for enforcement (see e.g., Koremenos, 2007).

Second, even when an agreement has a need for enforcement, it may be difficult or even impossible to muster the required support among the negotiating parties for incorporating enforcement provisions (Hovi & Sprinz, 2006; Underdal, 1980; Ward, Grundig, & Zorick, 2001). The negotiation and design of international agreements (including their system of enforcement) are often based on the consensus principle, which provides a veto to each country (or at least to each *major* country) in the negotiations. Thus, erecting institutions for international enforcement typically requires support from each of the (major) countries involved.

However, the conditions under which (major) countries can be expected to support—or oppose—international enforcement remains poorly understood. With a key focus on five cases of international treaty enforcement, we seek to contribute to filling this void by identifying the main conditions under which one particularly important country—the United States—is likely to support (or oppose) international treaty enforcement.[3]

We assume that the key determinant of U.S. support for (or opposition to) international enforcement is whether the United States expects to derive net benefits from such enforcement. Based on this general hypothesis, we then identify the more specific conditions under which we should expect the United States to support (or oppose) international enforcement and exemplify these expectations with observations from the five cases in focus.[4] To complement our analysis, we also discuss three other explanations of U.S. support (or opposition) to international enforcement. Although the focus here is on the United States, the inherent logic is arguably generic, a point we return to in the concluding section.

Our discussion is primarily deductive in nature, but also draws significantly on data from 14 interviews with practitioners, observers and experts. The interviewees were selected on the basis of their experience with and/or expertise on U.S. foreign policy in general and the five core cases in particular.[5] In the text, interviewees are referenced by number as listed in the Annex (e.g., I9 refers to interviewee number 9). The Annex also lists the names and affiliations of those interviewees who permitted such listing.

We proceed as follows. Following a review of the relevant literature, we develop our hypothesis concerning the circumstances under which the United States would be likely to support international enforcement. Next, based on this hypothesis, we identify and exemplify more specific conditions under which we should expect the United States to support (or oppose) international enforcement. Then, we discuss the relationship between our own hypothesis and three other explanations. Finally, we conclude. Before we embark on our analysis, however, we need to specify in more detail what we mean by U.S. support of international enforcement.

2. U.S. Support for International Enforcement

When we say that the United States *supports* international enforcement, we mean that it signals a willingness during the negotiations to submit to such enforcement, provided other countries do the same. When we talk about the *United States*' support for international enforcement, we actually conflate several distinct decision points that involve different U.S. government actors, notably the executive branch/president and the Senate:[6] 1) The executive decides to enter into treaty negotiations; 2) the negotiation team, appointed and instructed by the executive, decides to support inclusion of an enforcement system in the treaty; 3) the president decides to sign the treaty; 4) the president decides to send the treaty to the Senate for its advice and consent; and 5) the Senate decides to adopt a resolution of ratification. In our analysis, "U.S. support" for international enforcement refers to the views and decisions of the president's administration, i.e., the executive (decision points 1–3). This choice means that when U.S. ratification requires that the Senate provide its advice and consent,[7] U.S. "support" for international enforcement may or may not entail that the United States actually submits to such enforcement; indeed, it may not even eventually become a party to the treaty concerned.[8]

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[2] The power of this incentive depends on factors such as whether the agreement is bilateral or multilateral, whether the parties' commitments are deep or shallow, and whether strong counteracting international norms exist.

[3] In the concluding section, we briefly discuss the generalizability of our conclusions.

[4] The treaties that constitute our primary focus are the Kyoto Protocol to the United Nations Framework Convention on Climate Change, the Montreal Protocol on Substances that Deplete the Ozone Layer, the treaties administered by the World Trade Organization, the Chemical Weapons Convention, and the Rome Statute. To keep the analysis manageable, we focus on this limited number of cases. These cases were chosen because they are significant examples of treaties with international enforcement. Together, they cover key areas of international cooperation and international enforcement, notably international environmental politics, international trade, human rights, and the international regulation of arms.

[5] Most interviews were conducted in Washington, DC, from 3 to 11 November 2014. One interview was conducted in Oslo, 14 October 2014.

[6] This point, for which we are grateful, was made by one anonymous reviewer.

[7] This requirement applies to so-called Article II treaties, which are negotiated under Article II of the U.S. Constitution; however, it does not apply to other types of international agreements negotiated by the U.S. president, such as Congressional–Executive agreements and Presidential–Executive agreements (Trimble & Weiss, 1991).

[8] The Kyoto protocol provides an example (see below).

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3. Literature Review

To the best of our knowledge, no previous scholarly work has directly addressed the research question under consideration here. However, we draw on—and contribute to—four strands of related research.

The first strand seeks to explain why countries create and empower institutions for international enforcement or dispute settlement (e.g., Helfer, 2006; Helfer & Slaughter, 2005; Posner & Yoo, 2005a, 2005b; see also Guzman, 2002). For example, offering a theory of "constrained independence", Helfer (2006) argues that countries create and delegate authority to international courts and tribunals (ICs)[9] to enhance the credibility of their own international commitments. According to him, countries also seek to prevent ICs from overreaching through the use of formal, structural, political, and discursive control mechanisms (Helfer, 2006).[10]

In contrast, Posner and Yoo (2005a, 2005b) use a principal–agent framework to explain when countries will comply with IC rulings. According to them, adjudication does not provide incentives for compliance; rather, it merely adds information. Instead, they argue, reputation effects and fear of retaliation constitute the main incentives for compliance.

The theories offered by Helfer and by Posner and Yoo focus on explaining why countries collectively create ICs, how they collectively prevent ICs from overreaching, and why and when they choose to comply (or not to comply) with IC adjudication. However, these theories are less helpful for explaining whether a particular country (such as the United States) individually will support a particular IC or a particular enforcement institution of another type (e.g., a compliance committee for an international environmental agreement). To explain the emergence and persistence of an international enforcement institution it does not suffice to establish a collective motive for this institution; one must also establish that each major country has an individual motive to support it.

The second strand considers U.S views on international enforcement in relation to particular treaties. Scholars working in this strand have analyzed how the United States (and other countries) relate to international enforcement in the International Criminal Court (ICC) (e.g., Cerone, 2009), in the WTO/GATT (e.g., Dunoff, 2009), in the North American Free Trade Agreement (e.g., Gantz, 2009; Karamanian, 2009), in the Montreal Protocol (Brack, 2003), in the Kyoto Protocol (Werksman, 2005), in human rights treaties (Melish, 2009), and in the CWC (Linkie, 2000, pp. 552–553; Robinson, 2008; Sucato, 2006).

Much of this work is obviously relevant for our paper. For instance, with reference to U.S. policies on ICs, Romano notes that "American attitudes and behaviors toward international courts are highly contextual, changing between courts or dispute settlement procedures and between issues" (2009, p. xix). He further notes that case studies on human rights regimes suggest "that the United States conceives of these bodies mostly as a one-way road—that is, as tools to influence the conduct of other nations, rather than instruments to affect internal change" (Romano, 2009, p. xxi). Both of these observations can be understood in light of our hypothesis that expected costs and benefits motivate the United States' support for, or opposition to, international enforcement. Nevertheless, these scholars' work differs from ours concerning the main focus. In particular, their work does not seek to compare and contrast U.S. motives for supporting (or opposing) international enforcement across different treaties. Moreover, and perhaps partly as a result of this more narrow focus, these scholars' work does not try to develop a general hypothesis concerning the circumstances under which the United States might be expected to support international enforcement.

The third strand seeks to explain compliance with international agreements. Much research in this strand relates to the controversy between the "enforcement school" (e.g., Barrett, 2003; Downs & Jones, 2002; Downs, Rocke, & Barsoom, 1996) and the "managerial school" (e.g., Chayes & Chayes, 1993, 1995) over the effect of enforcement on compliance. Some scholars also aim to build bridges between rationalist theories (the enforcement school) and constructivist theories (the managerial school) concerning the determinants of compliance (e.g., Checkel, 2001). Other important work in this strand aims to explain compliance with treaties—particularly human rights treaties—that lack enforcement with material consequences (Simmons, 2000, 2009), or considers how selection effects concerning treaty participation influences compliance (Simmons & Hopkins, 2005; von Stein, 2005).

We share these scholars' interest in international enforcement; however, their work also differs from ours concerning the main focus. While scholars working in strand three focus on the determinants of compliance, we focus on the political feasibility of international enforcement, particularly the determinants of a single country's support (or lack of support) for such enforcement. A second difference has to do with the fact that several studies in strand three focus on human rights treaties without material consequences for noncompliance.[11] In

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[9] Following Romano, ICs (sometimes also referred to as international judicial bodies) may be defined as institutions that 1) are permanent, 2) were established by an international legal instrument (often a treaty), 3) resort to international law when deciding cases submitted to them, 4) decide such cases on the basis of pre-existing procedures, and 5) produce legally binding outcomes (1999, pp. 713–714). Because the last criterion rules out some of the institutions we are interested in (specifically, the compliance committees of the climate and ozone regimes), we prefer to use the term "international enforcement institutions".

[10] Helfer (2006) also maintains that states use such control mechanisms both before a new IC is established and after it has begun operating, thereby signaling to IC office holders what types of legal outcomes member states find politically acceptable.

[11] An important reason why the United States rarely supports international enforcement for human rights treaties may be that, for such treaties, enhanced compliance by other countries would often entail few (if any) benefits to the United States. At the same time, international enforcement might potentially entail increased compliance costs for the United States—possibly even a risk of political prosecution of U.S. personnel.

contrast, our hypothesis is developed specifically for treaties that include such consequences, and we leave it for future research to consider whether this hypothesis also holds for treaties that only include provisions for adjudication *without* any material consequences for non-compliance or nonparticipation.[12]

Finally, a fourth strand of relevant research focuses on the relationship between institutional design and state behavior. For example, Moe shows how institutions and their design are not only expressions of cooperation but also of power (Moe, 2005), while Koremenos, Lipson and Snidal (2001) identify enforcement as one of three main channels through which institutional design might influence such behavior.

The present paper contributes to this fourth strand in two ways. First, our hypothesis helps explain how a country's support (or lack of support) of an international enforcement institution depends on the design of the institution concerned. Second, it highlights the conditions under which a powerful country—the United States—will support some enforcement institutions but not others.

4. A Simple Hypothesis Concerning U.S. Support for International Enforcement

Underlying most (if not all) treaties is the idea that a mutual exchange of deep commitments will generate net benefits for all member countries.[13] However, assuming that other member countries commit deeply and fulfill their parts of the bargain, a given country might benefit *even more* if it either fails to make deep commitments or fails to fulfill some or all of the deep commitments it does make. Indeed, the possibility that a country might seek to gain a free ride on other countries' efforts provides an important motivation to create international enforcement institutions which can entice member countries to make deep commitments and fulfill them.

We proceed on the assumption that the United States will support international enforcement of a given treaty if (and only if) such enforcement generates net expected benefits for the United States.[14] Given this assumption, U.S. support for international enforcement of a treaty will depend on the balance of the benefits and costs that the United States expects to incur from such enforcement.

U.S. benefits primarily derive from international enforcement's influence on other countries' behavior. The more international enforcement can be expected to change these other member countries' behavior in the desired direction (which may partly depend on the depth of these other members' commitments), the greater the expected benefits of such enforcement for the United States.

Similarly, U.S. costs primarily derive from the international enforcement institution's influence on the United States' own behavior. The more the United States expects international enforcement to influence U.S. behavior in a direction that the United States dislikes,[15] the larger the expected costs of such enforcement for the United States.

Table 1 illustrates how U.S. support for international enforcement will vary, depending on the extent to which the United States expects such enforcement to influence its own and other countries' behavior.

First, consider the two cells off the main diagonal. For these two cells, it is straightforward to predict the U.S. position concerning international enforcement. The United States would likely (strongly) support international enforcement if its own behavior may be expected to be largely independent of such enforcement, while other members' behavior may be expected to be substantially influenced by it (see the bottom-left cell in Table 1).

Conversely, the United States would likely (strongly) oppose international enforcement if it had reason to expect that such enforcement would influence its own behavior substantially and in costly ways, while influencing other countries' behavior only moderately (see the top-right cell in Table 1).[16]

For cases that fall in the two cells on the main diagonal, predicting the U.S. position on international enforcement is less straightforward. In either cell, the cost-benefit balance could be either positive or negative; thus, whether the United States would support international enforcement might be in doubt.

However, the two cells on the main diagonal differ in at least one important respect. If the effect of enforcement is expected to be modest for all countries (the bottom-right cell) enforcement will be largely pointless. Thus, in the bottom-right cell, we expect the

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[12] One interviewee (I13) remarked that our hypothesis "would not be true with regard to the Geneva Conventions", adding that "the United States takes these conventions very seriously and enforces them domestically, which entails costs....There is no guarantee that other countries will also take these conventions seriously. So the United States implements and enforces treaties even when reciprocity is not guaranteed".

[13] The distinction between deep and shallow commitments is often ascribed to Downs et al. (1996).

[14] As one anonymous reviewer rightly pointed out, various actors might "differ in their subjective perceptions of a given treaty's 'net expected benefits'. For example, George W. Bush differed from Richard Nixon on the benefits of the Anti-Ballistic Missile Treaty, from Bill Clinton on the benefits of the Rome Statute, and from Al Gore on the benefits of the Kyoto Protocol. Likewise, Donald Trump perceives the net expected benefits of the Paris Accord, the TTP, the TTIP, and NAFTA very differently than Barack Obama". However, the reviewer's succinct point is probably more important for treaties overall than for their international enforcement, the net benefits of which depend on two relatively simple factors: whether it will likely cause significant behavioral change by the United States and whether it will likely cause significant behavioral change by other countries (see Table 1). This being said, estimating the expected net benefits of international enforcement can also be challenging and hence controversial in some cases, particularly in those cases that fall into the top-left cell in Table 1.

[15] The extent of the expected U.S. behavioral change may partly depend on the depth of the United States' own commitments.

[16] While our hypothesis was derived on the assumption that states maximize absolute gains, it would be strengthened even further if one were to make the neorealist assumption that states are (also) concerned with relative gains. For recent studies on how concerns about relative gains might influence international cooperation regarding trade and environmental problems, see Grundig (2006); Purdon (2013); and Vezirgiannidou (2008).

Table 1. U.S. support for and opposition to enforcement by enforcement's expected effect on its own and other countries' behavior.

		Expected effect of international enforcement on *other* countries' behavior	
		Substantial	Modest
Expected effect of international enforcement on *U.S.* behavior	Substantial	Moderate support or opposition, depending on the benefit-cost balance	Strong opposition
	Modest	Strong support	Indifference

United States to be largely indifferent to international enforcement.

In contrast, if the effect of international enforcement is expected to be *substantial* for all countries (the top-left cell), enforcement might make a substantial difference to the treaty's effectiveness. Thus, both U.S. benefits and U.S costs might be substantial. If the United States expects its substantial benefits from international enforcement to slightly outweigh its substantial costs, it would then likely moderately support such enforcement. Conversely, if the United States expects its substantial costs from international enforcement to somewhat outweigh its substantial benefits, it would likely moderately oppose such enforcement.

We now develop these initial considerations in more detail and consider how they might throw light on U.S. support (or lack of support) of international enforcement. In doing so, we use the five treaties that constitute this paper's main focus as examples.

4.1. When Would the United States Support International Enforcement?

Table 1 suggests that the United States would support international enforcement under (at least) four sets of circumstances.

First, the United States would support international enforcement of treaties for which 1) the United States has only shallow commitments, while 2) some or all other countries have deep commitments, and 3) the United States expects enforcement to enhance these other countries' compliance substantially. Compliance with shallow commitments is by definition nearly cost-free; thus, international enforcement under these circumstances would likely entail few (if any) costs for the United States. Simultaneously, the United States would likely benefit substantially from the positive influence of international enforcement on other members' compliance.

Consider the 1989 Montreal Protocol. The construction of this treaty arguably followed a more general U.S. practice concerning international environmental agreements, namely "to act first at home, and then to build on that approach at the international level" (Purvis, 2004, p. 175). Thus, Montreal largely extended to other countries regulations which were similar to those which had

already been adopted by the United States. U.S. commitments were, therefore, shallow (they required little policy change); in contrast, commitments were deeper for other countries, which had not yet—when the treaty was being negotiated—introduced regulations similar to those required by Montreal.

Thus, the inclusion of trade restrictions to enforce participation in and compliance with the Montreal Protocol was supported by the United States; indeed, it was largely based on a U.S. proposal (Benedick, 1991, p. 91). As one of our interviewees (I6) put it, "The United States expected it would comply with the freeze and phase-out. Moreover, U.S. business wanted control with the substitutes market. Enforcement was important to us because we had to make sure there was no leakage of banned CFCs from parties in noncompliance or from non-parties. The best way to do this was trade restrictions, so we pursued a ban on trade with non-parties and countries in noncompliance".

The trade restrictions might have positively influenced other countries' willingness to participate in and comply with the Montreal Protocol. Indeed, anecdotal evidence suggests that they have induced some countries to accede to the treaty (after having come to recognize the drawbacks of being excluded from Western markets) and that they have also improved compliance (Brack, 2003, p. 220; see also Aakre, Helland, & Hovi, 2016, p. 1320). Since the trade restrictions could be expected to enhance participation and compliance while having little, if any, influence on U.S. policies, it is hardly surprising that the United States so eagerly supported their inclusion.

Second, we should also expect the United States to support international enforcement of treaties in which the United States 1) has a deep commitment, yet 2) expects to be fully compliant independent of international enforcement, while 3) expecting international enforcement to substantially enhance other countries' compliance. The reason the United States expects to be fully compliant even without enforcement might originate from normative political factors (e.g., political pressure from other countries or from domestic environmental groups) or from institutional features (e.g., the possibility that NGOs would take domestic legal action).

Consider the Kyoto Protocol. In the environmental politics literature, it is commonly held that if the United

States ratifies an environmental treaty, it will also comply with it. Most (if not all) of our interviewees seemed to share this view. To name only one example, I4 said, "The United States is often compliant anyway with the treaties we sign and ratify, so the United States will benefit from enforcement of other countries' commitments".

According to Article 6 of the U.S. Constitution, "all Treaties made…under the Authority of the United States, shall be the supreme Law of the Land".[17] Hence, if U.S. authorities ratify a treaty yet fail to comply with its regulations, they can be sued by, say, an environmental NGO. Such resort to domestic courts to enforce international regulatory standards is far more common in the United States than in, say, European countries (Brunnée, 2004, p. 640). As a result, U.S. negotiators will often be more reluctant than other countries' negotiators to accept stringent international commitments (Wiener, 2003, p. 647). Other things being equal, however, the possibility of domestic enforcement also makes it more likely that the United States would comply with the commitments it does accept.

Hence, during the negotiations over Kyoto's enforcement system, the U.S. administration had reason to believe that—even if the United States were to ratify Kyoto—international enforcement would largely make a difference for other countries' compliance. The strong U.S. support for strict enforcement of Kyoto is therefore understandable. As I11 commented: "If the United States ratifies a treaty, it will likely obey it; that is part of the reason why we will often push for strict enforcement, to ensure that others will also comply".[18] To the extent that enforcement would enhance other countries' compliance with Kyoto, the United States would benefit both in terms of reduced global warming and in terms of there being fewer detrimental economic competition effects.

Third, we should also expect the United States to support international enforcement for treaties in which 1) the United States *and* other countries have deep commitments, 2) the United States expects enforcement to enhance those other countries' compliance, and 3) the United States is either exempt from enforcement or able to block enforcement measures against itself. Again, enforcement of treaties where these conditions hold will promote other countries' compliance (and thus entail positive benefits for the United States), while having little influence on U.S. behavior (and thus entailing few, if any, costs).

Consider the CWC, which gives the Organization for the Prohibition of Chemical Weapons (OPCW) the authority to suspend a noncompliant Party's privileges under the treaty and to recommend sanctions based upon the collective action of the other States Parties (Article XII). In cases of "particular gravity", the OPCW may also consult with the UN Security Council to request harsher sanctions or even military action if necessary.

Assuming that international enforcement would enhance other States Parties' compliance with the CWC, the United States would benefit because of the reduced risk of exposure to hazardous chemicals for U.S. personnel engaged in U.S. military action abroad.

Concerning U.S. costs from enforcement, it is important to emphasize that U.S. noncompliance with the CWC was a real possibility; indeed, according to one estimate, the United States would not meet the deadline that expired on 31 December 2012.[19] Moreover, the Convention's enforcement system does not enable U.S. prevention of all kinds of enforcement against the United States. In particular, the United States may be unable to prevent the OPCW from suspending U.S. privileges under the Convention (such as the right to vote and the right to request an "on-site challenge inspection" of any facility or location controlled by one of the other States Parties). It may also be unable to prevent the OPCW from recommending voluntary sanctions against the United States. However, as a permanent member of the UN Security Council, it can veto use of the OPCW's most potent enforcement measures—mandatory sanctions or even military action imposed through a UN Security Council resolution. In this respect, the United States differs significantly from most other States Parties to the CWC.

The role of the UN Security Council also protects the United States against abuse of the CWC enforcement system. According to I11, such protection was a major concern for the United States:

> The defense department had no strong interest in chemical weapons, so there was relatively little controversy on the substance. The biggest controversy concerned two points: 1) there should be effective enforcement and monitoring, and 2) there should be protection against abuse of the enforcement mechanisms.

Finally, we should also expect the United States to support international enforcement for treaties in which 1) the United States and other countries have deep commitments, 2) the United States expects enforcement to enhance its own and other countries' compliance, provided that 3) the United States believes that the additional benefits it will derive from the increase in other countries' compliance will outweigh its own additional costs of compliance.

Consider the 1995 creation of the WTO, which significantly strengthened the world trade dispute-settlement

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[17] This provision concerns self-executing treaties. If a treaty is not self-executing, enabling legislation is required to ensure its implementation. Normally, a non-self-executing treaty would not be ratified without enabling legislation. For a definition of self-executing agreement, see for example, Wex Legal Dictionary, available at https://www.law.cornell.edu/wex/self_executing_treaty

[18] I15 offered a different explanation for U.S. support for international enforcement: "Concerning the Kyoto Protocol, an explanation for the U.S. position on enforcement may be found in the U.S. position on the flexibility mechanisms. These emissions trading mechanisms were important to the United States. A strict enforcement regime was seen as justified, in part because of the need for legal certainty for the effective functioning of carbon markets".

[19] Arms Control Association, "Chemical Weapons Convention at a Glance", available at: http://www.armscontrol.org/factsheets/cwcglance

mechanisms, compared to previous GATT arrangements (Bello, 1996). The new mechanisms entail, among other things, that a consensus is now required to reject a panel report. Hence, a country can no longer veto a complainant's request for permission to enact countermeasures against it.

The new mechanisms provoked considerable controversy in the United States. Major concerns included the fear that the Dispute Settlement Understanding (DSU) might "threaten U.S. sovereignty and undermine the effectiveness of section 301" (Dunoff, 2009). Ultimately, however, the U.S. administration concluded that the benefits outweighed the costs and the United States became a member from 1 January 1995.

Stricter enforcement of WTO treaties could be expected to cause increased adherence to WTO regulations by other countries, which would entail beneficial competition effects for the United States. On the other hand, it could also entail increased costs, by enhancing U.S. compliance. According to I3, the U.S. administration expected the benefits to outweigh the costs: "It was clear [during the Uruguay Round negotiations] that the United States would win more than it would lose [from strict WTO enforcement], because the United States was [already] complying more than most other countries did". Similarly, I1 said, "The United States would be less likely to violate than other countries and could use the new enforcement system to 'lock in' these other countries".

The views of I3 and I1 mirror those expressed by Bello and Holmer (1994). Stating that the U.S. advantages of the DSU would outweigh any U.S. disadvantages, they emphasize that "the United States likely will…be a plaintiff in WTO dispute settlement proceedings at least as often as it proves to be a defendant". They go on to argue that "as the world's largest exporter, the United States has at least as much interest in the international trading system and the WTO as any other nation on earth" (Bello & Holmer, 1994, pp. 1102–1103).

A similar view was also expressed by the Office of the U.S. Trade Representative in the Executive Office of the President of the United States:

> To ensure that the United States secures the full benefits of the WTO Agreements, the United States sought and obtained a strong, binding and expeditious dispute settlement process for the WTO….As a result, under the WTO we have better enforcement of U.S. rights and more certainty that our trading partners will abide by the rules and open their markets to American exports. (as cited in Bacchus, 2003, p. 440)

It is worth noting that the United States has a reasonably good track record concerning compliance with adverse WTO dispute settlement rulings (Bown, 2005; Wilson, 2007). It thus seems that the U.S. views concerning the DSU in the mid-1990s have continued to prevail in the years following the U.S. accession to the WTO treaties.

4.2. When Would the United States Oppose International Enforcement?

The logic underlying Table 1 suggests that the United States would decline to support international enforcement under at least two sets of circumstances.

First, we should expect the United States to oppose international enforcement if 1) the United States has deep commitments that are 2) only partly under the control of U.S. authorities, while 3) most or even all other member countries have only shallow commitments. International enforcement may then be expected to entail significant costs for the United States. In addition, international enforcement would require little behavioral change for other countries and would thus produce few (if any) benefits for the United States. Under these circumstances, international enforcement would likely produce net costs for the United States.

Consider the ICC. According to Posner and Yoo (2005b, p. 970), the ICC's members "consist mainly of states who do not expect that their citizens will commit war crimes or human rights violations on foreign soil". If their account is correct, the ICC will require little or no behavioral change by these member countries and will, therefore, impose few if any costs on them. Thus, the benefits provided by the ICC for the United States are likely to be small or even nonexistent. In contrast, the United States and other major powers that "foresee a need to engage in significant military action" (Posner & Yoo, 2005b, p. 970) might well face substantial costs by submitting to international enforcement of war crimes. In addition, the ICC might entail a risk of political prosecution, perhaps even more so than in the case of the CWC.

The desire to avoid these costs helps explain why the United States has declined to submit to ICC enforcement. In the words of I8, "As a great power, the United States is special, with worldwide reach. It is therefore uniquely at risk all over the world". I8 added that there is "real fear among conservatives that the ICC would be used, not only against dictators, but also against the United States, for political reasons". Similarly, I5 said that "as a global power we would be more likely to be exposed to prosecution". I5 added: "As reflected in President Bush's unsigning of the Rome Statute, we might be an attractive target for certain other countries". I11 went even further:

> The objection was that, rightly or wrongly, you might get political prosecution, such as prosecution of Kissinger for the bombing of Cambodia or prosecution of Obama for the bombing of Libya. Sure, had the UN Security Council been in control, we would likely have agreed to participate in the ICC. But there was widespread fear of political prosecution. People said things like: "If you like Kenneth Starr, you are going to love the ICC."

Second, and finally, we should also expect the United States to oppose international enforcement of treaties in

which 1) the United States and other countries have deep commitments, 2) the United States expects enforcement to enhance its own and other countries' compliance, but 3) the United States expects that the benefits it will derive from the increase in other countries' compliance will be outweighed by the increase in its own compliance costs. None of the five treaties that constitute this paper's main focus would immediately seem to fit this possibility, at least not at the time when the treaties were negotiated. Following the current protectionist wave in U.S. politics, however, the U.S. calculus concerning international enforcement of the WTO agreements might change, perhaps even tipping the benefit-cost balance to replace U.S. support for international enforcement by U.S. opposition.

5. Other Explanations

What is the relationship between our hypothesis and other possible explanations of U.S. support for and opposition to international enforcement? In this section, we consider three such other explanations.

5.1. Concern for U.S. Sovereignty

Practically all our interviewees mentioned sovereignty issues as being key to understanding U.S. positions on international enforcement. Several interviewees argued that when international enforcement is perceived to be associated with sovereignty issues, it may prevent U.S. support for international enforcement even in cases where such enforcement would entail net U.S. benefits in terms of behavioral change. For instance, I7 argued that our hypothesis "omits an important non-monetary cost: U.S. sovereignty. Ensuring U.S. sovereignty massively outweighs the material or security gain that could be achieved [through an international enforcement system]". Similarly, pointing to the Senate's significant role in the ratification process, I8 commented that "members of the Senate do not base their decisions on rational analysis of costs and benefits; rather, they base their decisions on politics and sovereignty concerns. The administration often faces a big opposition on giving up sovereignty". With specific reference to arms control treaties, I1 stated that "it is a question of how intrusive inspections are, but they will involve sovereignty concessions".

Most treaties require states to give up sovereignty; hence, a key question is why sovereignty issues would bar U.S. support for some international enforcement systems but not for others. Responding to this question, interviewees pointed—directly or indirectly—to the extent to which agreements are clearly defined or open-ended. This distinction was particularly highlighted by I7,

who emphasized that "the United States would…be leery towards treaties with open-ended obligations". Explaining the point, I7 invoked the example of the Arms Trade Treaty: "Key terms in this treaty are interpreted differently; there is no consensus on key terms. Indeed, many core terms *cannot* be defined precisely. This implies an open-endedness that the United States should not be a party to".

Several interviewees identified a similar problem with the United Nations Convention on the Law of the Sea (UNCLOS). I3 explained:

> Some in the Senate are concerned about signing the United States up to compulsory dispute settlement under the Convention. The Convention excludes from dispute settlement those disputes that involve 'military activities', but some fear that a tribunal might not honor the U.S.'s assessment of what constitutes a U.S. 'military' activity.

Open-ended agreements are perceived as a sovereignty issue because they imply that "countries do not know what they sign on to" (I7). For open-ended agreements, international enforcement "would mean that obligations can be designed by third parties" (I7). I2 said that "U.S. decision makers generally dislike the idea of having a committee decide what the United States should do": Similarly, I14 stated that:

> treaties that give authority to a foreign agency without Senate advice and consent would not be [perceived to be] in the interest of the American people. A widespread view is that sovereign states should not be dictated to by some foreign power or bureaucracy.

Two treaties in particular were often mentioned by interviewees—the Convention on the Rights of Persons with Disabilities (the Disabilities Convention) and UNCLOS. Interestingly, these treaties share some common features. One is that they do not include international enforcement (in the sense of this paper).[20] The Disabilities Convention's Committee on the Rights of Persons with Disabilities monitors compliance; however, it cannot impose any material consequences on noncompliant countries.[21] Similarly, although UNCLOS has an elaborate mechanism for peaceful dispute settlement, including various arbitration panels and the International Tribunal on the Law of the Sea, it includes no material consequences to enforce these bodies' verdicts.[22]

A second shared feature is that existing U.S. policies are largely in line with both treaties' provisions.[23] With regard to UNCLOS, Borgerson contends, "While the United States treats most parts of the convention as cus-

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[20] These treaties' lack of enforcement mechanism as defined in this paper is also the reason why these treaties are not included in our core set of cases considered.

[21] See Articles 35 and 36 for the monitoring provisions of the Convention. Available at: http://www.un.org/disabilities/convention/conventionfull.shtml

[22] See Boyle (2001) for an analysis of the dispute settlement system of UNCLOS.

[23] Provisions concerning the deep seabed, that is, "the design of and the powers to be given to the new regime for governance of the mineral resource recovery in the area beyond national jurisdiction" are contested (Borgerson, 2009, p. 11).

tomary law, it remains among a handful of countries…to have signed but not yet acceded to the treaty" (2009, p. 3). Similarly, with regard to the Disabilities Convention, the report that accompanied the Letter of Transmittal (from the President to the Senate) declared that "the United States would be able to implement its obligations under the convention using its vast existing networks of laws affording protection to persons with disabilities. Therefore, no new legislation would be required to ratify and implement the convention".[24] The letter further stated that "the provisions of the convention are not self-executing, and thus would not be directly enforced by U.S. courts or of itself [sic] give rise to individually enforceable rights".[25]

Sovereignty issues may be particularly prone to be decisive in situations where enforcement's effect on both one's own and others' behavior is expected to be modest (see the bottom-right cell in Table 1). In such situations, a country's position concerning international enforcement—and indeed concerning the treaty itself—would likely be determined by factors such as principles, and sovereignty might be one such principle. In these two cases, however, sovereignty concerns did not prevent the U.S. administration from supporting the treaties. The (renegotiated) UNCLOS was signed by the Clinton administration in June 1995 and the Disabilities Convention was signed by the Obama administration in June 2009.[26] In the Senate, on the other hand, the Disabilities Convention raised concerns over sovereignty. For instance, Senator Inhofe (R-OK) stated:

> I do oppose the United Nations Convention on the Rights of Persons with Disabilities because I think it does infringe upon our sovereignty, establishing an unelected United Nations bureaucratic body called the Committee on the Rights of Persons with Disabilities and a Conference of States Parties. These unelected bureaucratic bodies would implement the treaty and pass so-called recommendations that would be forced upon the United Nations and the United States if the United States is a signatory.[27]

In response to this argument and to similar arguments from other senators, Senator Kerry (D-MA) remarked:

> the Senator mentioned the question of a committee being created, and sometimes committees make recommendations outside of the purview of something. That may be true. But when have words, I ask the Senator—when have words or suggestions that have no power, that cannot be implemented, that have no access to the courts, that have no effect on the law of

the United States and cannot change the law of the United States—when has that ever threatened anybody in our country?[28]

It thus seems that sovereignty may be a decisive factor in cases where both the material costs and the benefits of international enforcement are modest. In the case of the Disabilities Convention, U.S. benefits of international enforcement would be marginal, whereas the political cost of pursuing the issue in the Senate could be significant, which may contribute to explaining why the administration chose not to pursue the advice and consent of the Senate further.

In contrast, when material costs and benefits are substantial, sovereignty appears less likely to be decisive. For example, sovereignty clearly played a role in the debate over U.S. participation in the WTO agreements; however, ultimately concerns over sovereignty gave way to pecuniary considerations. Hence, the United States acceded to the WTO treaties and supported international enforcement of them. Similarly, sovereignty concerns did not prevent the United States from ratifying the Montreal Protocol or the CWC. Nor were concerns about sovereignty a central argument against U.S. ratification of Kyoto; rather, the Senate's resistance was largely based on concerns about Kyoto's likely effect on the U.S. economy.

Thus, our hypothesis facilitates mapping the conditions under which we should expect the United States to accept restraints on its sovereignty. In particular, our hypothesis suggests that the United States would accept such restraints if 1) other countries also accept restraints on their sovereignty and 2) the U.S. restraints are largely formal whereas other countries' restraints are substantive (thereby influencing these countries' behavior in a way that benefits the United States). However, as emphasized by some of our interviewees, open-ended commitments might make it difficult to foresee whether U.S. restraints on sovereignty will prove substantive or largely formal.

5.2. Desire to Prevent Infringements on U.S. Constitutional Protection of Individual Rights

One interviewee (I5) suggested that the United States is particularly reluctant to join international enforcement systems for treaties involving individual rights. I5 said that "the United States has problems with international enforcement in cases where individuals are involved". Using the ICC as an example, I5 continued:

> In the United States, domestic statute is required for criminal prosecution. There are many constitutional protections of individual liberties and criminal en-

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[24] Letter of transmittal, Treaty number 112-7, available at: https://www.congress.gov/112/cdoc/tdoc7/CDOC-112tdoc7.pdf
[25] Letter of transmittal, Treaty number 112-7, available at: https://www.congress.gov/112/cdoc/tdoc7/CDOC-112tdoc7.pdf
[26] Treaties pending in the Senate, U.S. Department of State, available at: http://www.state.gov/s/l/treaty/pending
[27] Congressional Record, Senate S7366, 4 December 2012, available at: https://www.congress.gov/crec/2012/12/04/CREC-2012-12-04-pt1-PgS7365-2.pdf
[28] Congressional Record, Senate S7369, 4 December 2012, available at: https://www.congress.gov/crec/2012/12/04/CREC-2012-12-04-pt1-PgS7365-2.pdf

forcement raises some of those core constitutional protections. Taking away someone's liberty is a very serious matter and that makes the ICC different from international enforcement more generally.

For treaties with enforcement systems that influence individual rights, the costs (i.e., the potential violation of U.S. citizens' constitutional rights) might outweigh the benefits of joining the treaty. A case in point is the ICC, whose jurisdiction implies potential prosecution of individual U.S. citizens in situations where U.S. courts have dismissed the case. One interviewee (I11) maintained that "although ICC prosecution of U.S. personnel would likely be rare [because of U.S. domestic enforcement], there was the possibility of *political prosecution*. And political cases are exactly the cases we are unlikely to pursue domestically" (emphasis added).

To determine the conditions under which a concern for individual-rights weighs more heavily for U.S. support or opposition to international enforcement than material costs and benefits do, we would need to consider treaties for which the desire to protect U.S. citizens' constitutional rights points in one direction, whereas material costs and benefits point in the opposite direction. For example, we could consider treaties for which the individual-rights explanation points in the direction of U.S. opposition to international enforcement, while U.S. net benefits derived from the influence of enforcement on countries' behavior point in the direction of U.S. support.

We do not exclude the possibility that such treaties actually exist; however, none of the treaties that constitute our main focus satisfy this criterion. In particular, concerning the ICC, the individual-rights hypothesis points in *the same* direction as our hypothesis does: Both lead us to expect the United States to be reluctant to submit to international enforcement concerning war crimes. Thus, determining which of these hypotheses best explains U.S. nonparticipation in the ICC must be left for future research.

5.3. Usefulness of International Enforcement as a Domestic Commitment Device

Referring to U.S. participation in the WTO, some interviewees mentioned that international enforcement can be useful for U.S. authorities as a domestic commitment device. For example, seeing U.S. participation in the WTO even as an instrument to curb U.S. protectionism, I16 emphasized how the risk of penalization could be used in the domestic debate on protectionist measures: "Domestic commitments are important in the case of the WTO. U.S. authorities can say, 'If we do this, then we will be penalized'. So the WTO enforcement system can be used domestically to counter calls for protectionism". This point was also made by I7: "The U.S. turn to free trade was primarily to curb U.S. protectionism, which only could be achieved if everyone else also pursued free trade".

The domestic-commitment argument is well known from the literature on trade policy. In the GATT/WTO legal system, it is generally considered desirable to settle disputes through agreement among the parties to the dispute. Nevertheless, Hudec, Kennedy and Sgarbossa (1993) find that almost 50% of the disputes in the 1948–1990 period ended in a ruling rather than in a negotiated settlement. According to them, the reason is political:

> It may be that defendant governments find it difficult to settle once the complaint is launched. The political costs of agreeing to modify or remove a trade barrier can be quite high. It may be better to fight and lose in a lawsuit because then the unpleasant corrective action can be blamed squarely on GATT law. (Hudec et al., 1993, p. 8)

Incorporating this function of enforcement into the calculus underlying our hypothesis would mean adding political benefits, thereby strengthening the overall balance between U.S. benefits and U.S. costs. For enforcement systems that essentially influence other countries' behavior while having little effect on U.S. behavior (bottom-left cell in Table 1), taking this function into account will therefore simply add to the already strongly positive U.S. material net benefits. Moreover, for enforcement systems that essentially influence U.S. behavior (top-right cell in Table 1), the domestic-commitment argument will improve an otherwise negative balance; however, it must carry very high weight to be able to outweigh strongly negative material net benefits. In contrast, for enforcement systems having a significant impact on the United States' *and* other countries' behavior (top-left cell in Table 1), the domestic-commitment argument might—in some cases—plausibly cause a (slightly) negative U.S. material benefit-cost balance to become positive when the domestic commitment effect is also taken into account.

The difference between these three types of case helps explain why the domestic-commitment argument is typically linked to international trade and the WTO treaties (which we have previously placed in the upper-left cell in Table 1), while rarely (if ever) being mentioned for the other treaties that constitute our main focus.[29] Thus, just as in the case of the sovereignty argument, our hypothesis seems helpful for determining the conditions under which the domestic-commitment argument may be expected to influence the U.S. position concerning international enforcement.

6. Conclusions

In this paper, we have proposed a simple hypothesis concerning the circumstances under which the United

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[29] Moravcsik (2000) argues that the domestic commitment argument is highly relevant also for human-rights regimes; in particular, newly established (or reestablished) democracies tend to support international human rights adjudication and enforcement to lock in the political status quo against domestic political opponents.

States would likely support international enforcement of treaties. According to this hypothesis, a key determinant is whether the United States can reasonably expect international enforcement to generate net U.S. benefits. Net U.S. benefits are most likely for treaties where international enforcement will largely influence other countries' behavior (in the direction desired by the United States), and least likely for treaties where international enforcement will largely influence U.S. behavior.

Based on this hypothesis, we identified several conditions under which we should expect the United States to support (or oppose) international enforcement and compared these expectations to observations from five cases of international enforcement. The analysis indicates that our hypothesis indeed provides a plausible explanation for why the United States supports international enforcement for the WTO treaties, the Montreal Protocol, and the CWC, why it also supported international enforcement in the Kyoto negotiations, and why it does not participate in the ICC.

Our analysis indicates, moreover, that in situations where material costs and/or benefits are substantial, a concern for these costs and benefits are likely to determine the U.S. response. In situations where material costs and benefits are modest, however, sovereignty concerns will likely determine the U.S. response. Moreover, in situations where U.S. benefits only outweigh U.S. costs by a fairly narrow margin, the desire to use international enforcement as a domestic commitment device may play an important role.

Our hypothesis thus seems to offer a simple yet fruitful baseline for explaining U.S. views on international enforcement. In addition to explaining the U.S. position on international enforcement of the treaties mentioned above, it also provides guidance for demarcating the conditions under which factors such as sovereignty and the usefulness of international enforcement as a domestic commitment device might play a decisive role for this position.

To what extent may our hypothesis be expected to hold also for other countries than the United States? Clearly, the logic underlying Table 1 is generic: The change that international enforcement causes in *other* countries' behavior tends to generate benefits, while the change it causes in a country's own behavior tends to generate costs. However, the circumstances under which enforcement will generate substantial benefits and only moderate costs (or vice versa) will likely vary from one country to another. First, domestic political and legal institutions differ across countries. For example, few other countries offer possibilities for domestic enforcement of their own treaty compliance comparable to those existing in the United States. Similarly, few other countries can expect to influence the design of a treaty as much as the United States influenced the design of (say) the Montreal Protocol. Also, only four other countries hold veto power in the UN Security Council.

Second, as a rule, major powers such as the United States will likely be able to obtain indemnity from en-

forcement more often than other countries will. Exceptions exist, however. Consider the Kyoto Protocol, where enforcement applies only to Annex I (developed) countries. While initially reluctant to accept international enforcement, developing countries turned into strong supporters of such enforcement once it became clear that it would not apply to them (Werksman, 1996, p. 95). An important factor making the developing-country exemption from international enforcement feasible was Kyoto's classification of the parties into Annex B (developed) and non-Annex B (developing) countries, with only the former having binding emissions limitation commitments.

In conclusion, our hypothesis provides a promising starting point even for explaining other countries' views on international enforcement. Thus, it should represent a step forward for mapping the conditions under which the incorporation of enforcement measures in treaties is likely to be politically feasible. However, in applying our hypotheses to other countries, one should always be careful to consider the international position and domestic institutions of the country under consideration, as well as the specifics of each treaty.

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Conflict of Interests

The authors declare no conflict of interests.

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About the Author

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Tora Skodvin is a professor in political science at the University of Oslo. Her main areas of interest include international negotiations with a particular focus on the international negotiations of climate change and the domestic–international interface of U.S. and EU climate and energy policies. Other research interests include U.S. treaty behavior with a particular focus on the domestic politics of U.S. treaty ratification.

Annex: List of interviewees[30]

I1: Stewart M. Patrick, Senior Fellow and Director of the International Institutions and Global Governance Program, Council on Foreign Relations.

I2: Harald Dovland, former Head of the Norwegian delegation to the UNFCC, has served in a number of formal positions in various UNFCCC bodies, including the Joint Working Group on Compliance.

I3: U.S. Department of State lawyer.

I4: Analyst, U.S. think tank.

I5: U.S. Government official.

I6: Analyst, U.S. think tank.

I7: Ted R. Bromund, Senior Research Fellow in Anglo–American Relations, the Heritage Foundation.

I8: John B. Bellinger III, former Legal Adviser to the U.S. Department of State and former Legal Adviser to the National Security Council, the White House.

I9: U.S. Government official.

I10: Ernest Z. Bower, Senior Adviser and Sumitro Chair for Southeast Asia Studies, Center for Strategic & International Studies.

I11: Former senior policy official in the U.S. Department of Defense.

I12: Heather A. Conley, Senior Vice President for Europe, Eurasia, and the Arctic; and Director, Europe Program, Center for Strategic & International Studies.

I13: Steven Groves, Bernard and Barbara Lomas Senior Research Fellow, the Heritage Foundation.

I14: Former U.S. administrative deputy on security policy; analyst in U.S. think tank.

I15: Alex Hanafi, Senior Manager, Multilateral Climate Strategy and Senior Attorney, Environmental Defense Fund.

I16: Jeffrey J. Schott, Senior Fellow, Peterson Institute for International Economics.

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[30] Some interviewees asked to remain anonymous. Interviewees are only cited by name with their permission.

Article

Governing Disasters: Embracing Human Rights in a Multi-Level, Multi-Duty Bearer, Disaster Governance Landscape

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Abstract

International and national disaster governance faces multiple challenges given the large variety and amounts of resources, skills and expertise that adequate disaster response commands. Moreover, disasters do not necessarily respect territorial boundaries, or may overwhelm the capacity of any one nation. They may therefore need a truly collective, joint, or even global effort to be overcome. Not seldom, reducing disaster risks and responding to disasters as they occur requires a sustained, concerted and coordinated effort of a broad range of actors, both public and private, acting nationally and internationally, and across the full 'disaster cycle'. Unfortunately, disaster governance is commonly characterized as patchy, fragmented and inadequate, leading to essential protection gaps for affected communities. In order to strengthen disaster governance, this article first aims to further conceptualize the practice and challenges of 'disaster governance', mostly through the lens of 'Multi-Level Governance'. Secondly, it proposes that disaster governance will greatly benefit from relevant actors more firmly embracing human rights-based approaches, particularly in the context of so-called, emerging 'multi-duty bearer human rights regimes'.

Issue

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1. Introduction

Over the past two decades, the huge and protracted impacts on human lives caused by disasters have revealed a dire need for improved national and international protection frameworks, and essentially for better disaster governance. Yet, research into existing governance frameworks typically shows that disaster governance architectures are highly dynamic, complex, multi-level, multi-actor, and fragmented and patchy in nature. Particularly, disaster governance takes place amongst a broad range of public and private actors, at various levels (from the local to the global) and involves various types of activities, in various phases of disaster management (Fisher, 2007; Gall, Cutter, & Nguyen, 2014, p. 4; International Federation of Red Cross and Red Crescent Societies [IRFC], 2000, 2005, 2007, pp. 24, 151; Tierney, 2012).

In recent years, several international initiatives have sought to improve international and domestic disaster governance, in particular by clarifying 'legal standards, procedures, rights and duties', or by attempting to 'pull together the disparate threads of existing law' and to

'expand and develop the law in new ways'; indeed, especially in international law, various initiatives have emerged to develop or clarify the law or to improve the coordination and synthesis of different regimes (see IFRC, 2000, p. 145, 2007; Inter-Agency Standing Committee [IASC], 2011; International Law Commission [ILC], 2016; Sphere Project, 2011).

The outcome of one important initiative, the 'International Disaster Response Law' Programme of the International Federation of the Red Cross (IFRC, 2007), affirmed the lingering image that disaster governance indeed remains mostly carried out through an amalgam of loosely related regulatory instruments, policies and processes, with a 'yawning gap' at its core (IFRC, 2000, p. 145, 2007; Fisher, 2007). In fact, a single glance at the numerous search categories that organize the IFRC's Disaster Law Database—currently containing over 1,300 national, regional and international instruments—shows that instruments pertain to different:

- *Types of disasters* (e.g. hydrological, meteorological, technological, environmental disasters);
- *Actors involved* (e.g. affected states, assisting states, transit states, inter-governmental organisations, non-governmental organizations, the private sector, individuals);
- *Sectors* (e.g. telecom, food, water, health, housing);
- *Activities* (e.g. rescue, relief, recovery, risk reduction);
- Or disagree on *key terms* (e.g. risk, vulnerability, humanitarian assistance, preparedness).

This has only been partially improved by other recent initiatives—such as the International Law Commission's Draft Articles on the Protection of Persons in the Event of Disasters, or the new Sendai Framework on Disaster Risk Reduction (DRR) (ILC, 2016; United Nations Office for Disaster Risk Reduction [UNISDR], 2015b)—for these instruments still focus predominantly on *certain actors* or *certain topics* (e.g. on states, disaster relief, or DRR).

The most important problem of such fragmented and patchy approaches is an unwanted duplication of efforts or serious gaps in protection, including delays in the delivery of crucial, life-saving goods and services to disaster victims, or poor coordination of activities between pre-, post- and disaster-proper phases (Fisher, 2007; IFRC, 2007; Jones, Oven, Manyena, & Aryal, 2014).

In response to the current inadequacy of disaster governance, the main purpose of this article is twofold. First, it aims to sketch in greater conceptual detail the various dimensions and challenges of governing disasters (Section 2). In particular, we use the Type I and Type II typology of 'Multi-Level Governance' (MLG) as proposed by Hooghe and Marks (2004) as a general framework (Section 3). The purpose of embedding this article in MLG-literature is not necessarily to 'test', reflect on or add to MLG-theory as such, but rather to use MLG as oth-

ers have done: as a useful heuristic device to understand how disaster governance is 'arranged today in a way that [is] easy to grasp' and what challenges might arise from such arrangements (Stephenson, 2013, p. 818, emphasis removed). In fact, we are aware that MLG-literature has been criticized for its lack of engagement with explanations of causality, or with what drives MLG-regimes to come about in the first place (Stephenson, 2013). While we acknowledge such concerns and the importance of asking these questions, certainly as a matter of political science research, we also emphasize immediately that, as principally international legal scholars, we intend to use MLG predominantly in its more descriptive form as a way of understanding which levels or actors may be involved in disaster governance and how their activities may overlap or relate to each other.

On the basis of this conceptual MLG framework, we embark on the second part of our article, which is an inquiry into the role of international human rights law (IHRL) and human rights-based approaches (HRBAs) for improving disaster governance. Here, the article will actually argue that HRBAs may be able to remedy some central criticisms of MLG regimes, notably, the difficulty of (al)locating material responsibilities among many different actors and levels and, above all, ensuring an adequate measure of answerability and accountability to affected populations in such complex regimes.

Indeed, IHRL must by now be considered a *cornerstone*, if not a key *touchstone*, for disaster governance activity. IHRL protects a broad range of disaster-relevant rights, such as the human rights to water, food, shelter, medical care, adequate housing, social security, insurance, information, or the protection of life, homes, property and physical integrity, in *all* phases of disaster management (for a comprehensive analysis of how IHRL applies to disaster management, see Cubie & Hesselman, 2015; Hesselman, 2013). Recent key international standard-setting initiatives on disaster governance affirm the importance of human rights, for example when they state that '[p]ersons affected by disasters are entitled to the respect for and protection of their human rights in accordance with international law' (ILC, 2016, Draft Article 5, or IASC, 2011; UNISDR, 2015b, Principle 19; Sphere Project, 2011; United Nations Human Rights Council [UNHRC], 2015). In our view, IHRL is an indispensable, universal reference point for *all* actors involved in disaster governance, because its relevant protective standards can help improve the design of disaster programmes, processes and activities and also provide affected communities with pertinent yardsticks against which to assess relevant actors' behavior in the completion of their disaster-related activities. The application of IHRL standards through HRBAs in particular (as explained in Section 4) will assist in improving the *overall accountability* of all relevant actors as well as the *allocation* and *distribution* of responsibility among diverse actors that undergirds the possibilities for improved accountability in the first place. The latter is further underscored by our

analysis of the present, progressive articulation of international human rights responsibilities for non-state actors in IHRL, and the emergence of so-called 'multi-duty bearer human rights regimes' (Section 4.2). At the same time, these multi-duty bearer regimes are also still developing, and they may learn from the insights gathered from the MLG analysis in Section 3.

2. Disaster Governance

Recently, the term 'disaster governance' has been defined as:

> the interrelated sets of norms, organisational and institutional actors, and practices (spanning pre-disaster, trans-disaster, and post-disaster periods) that are designed to reduce the impacts and losses associated with disasters….Disaster governance goes beyond governmental settings, powers, processes and tools by encouraging collective actions through the engagement of all stakeholders…operating at all scales—from local to global. (Gall et al., 2014, p. 4; Tierney, 2012)

Arguably, the term 'disaster governance' is closely related to, but not entirely synonymous with, the more familiar term 'disaster risk governance'. The latter term is linked to the field of DRR and mostly focuses actors' attention on the reduction and avoidance of disaster-related risks in a broad sense—and away from the narrower management of emergency disaster relief (see definition of 'disaster risk governance' and DRR by UNISDR (2015a, 2017).

We do not necessarily prejudice the term 'disaster governance' over 'disaster risk governance'. However, we affirm the importance—as also stressed by the definition above—of a holistic, integrated vision of the activities required in all phases of disasters, including disaster risk reduction, preparedness and prevention in pre-disaster phases, emergency response, relief and search and rescue activity in disaster-proper phases, and (early) recovery and reconstruction in post-disaster phases. Such a holistic approach is in line with current disaster management literature, which commonly embraces the concept of the 'disaster cycle' (de Lourdes Melo Zurita, Cook, Harms, & March 2015, p. 386; Farber, 2014; Hesselman, 2013; IASC, 2011, p. 2). At the same time, the UNISDR (2015a) recently critiqued the limited definition that many actors attach to the term 'disaster risk management/governance', in the sense that actors seem to focus mostly on mitigating or preparing for *exogenous* risks and hazards (e.g. floods, a typhoon, earthquake or mud-slide) or try to improve preparedness for response and relief, instead of also addressing dire *endogenous*, structural risk factors in society, such as poor financial stability, under-sourced local governments, poverty in the population, or pre-existing social conflict (UNISDR, 2015a, pp. 128–129). UNISDR

(2015a, p. 129) even submits that 'disaster management cycle'-based governance regimes, carried out through specialized disaster risk management sectors, may have reached their limit, because this sector is starting to share an 'increasingly crowded space with the climate change sector, finance and planning ministries, the private sector and city governments'. Moreover, 'managing risks cannot be separated from the broader governance of social and economic development', however, a new governance paradigm has yet to emerge' (UNISDR, 2015a, p. 129).

We posit here that, also from this broader governance perspective, IHRL provides a valuable integrative governance framework, as it is specifically applicable to *all* phases of the disaster cycle and to structural underlying risk factors and other fields, such as poverty reduction, discrimination, social exclusion, or climate change.

Finally, before further considering the characteristics and challenges of disaster governance through a lens of MLG, it is useful to point out that a salient challenge of governing 'disasters' continues to be the lack of a single, authoritative definition of 'disasters'. For example, (the causes of) disasters in various legal instruments are identified as natural, man-made, technological, slow-onset (e.g. desertification, drought, salinification) or sudden-onset (e.g. hurricanes, earthquakes, oil spills), and in some cases include terrorism or armed conflict (see generally ILC, 2016; Telesetksy, 2015; Tierney, 2012). Naturally, in order to understand the relevance or applicability of certain governance regimes to any particular event or any set of risk factors, a further understanding of what a disaster (risk) might entail is important.

3. Multi-Level (Disaster) Governance

3.1. (Disaster) Governance without or beyond States

The general term 'governance' can mean different things and has attracted different definitions in literature depending on the context. For example, governance has been defined as 'the attempts of governments or other actors to steer communities, whole countries, or even groups of countries in the pursuit of collective goals' (Bell & Hindmoor, 2009, p. 1), or as 'a process whereby societies or organizations make their important decisions, determine whom they involve in the process and how they render account' (Graham, Amos, & Plumptre, 2003, p. 1).

It is a popular notion (both within governance literature itself and literature pertaining to transnational policymaking/global public policy, e.g. Stone & Ladi, 2015), that *governance* does not equal *government*. The definition of disaster governance provided above clearly considers 'governance' to go '*beyond governmental settings, powers, processes and tools* by encouraging collective actions through the engagement of all stakeholders' (Graham et al., 2003; emphasis added). Some governance literature supports that governance may even take place *without* government (e.g. Jones et al., 2014, p. 80; Peters

& Pierre, 1998, pp. 223–243; Rhodes, 2006; Rosenau & Czempiel, 1992).

For disaster settings, governance 'beyond' or 'without' governments is certainly of interest both nationally and internationally. First, hazardous situations will in many cases (temporarily) overwhelm state authorities, especially in countries with scarce resources. Moreover, affected states may lack the necessary capacity to prevent or respond to disasters altogether, or may not be in a position to act as first responders (e.g. see Tierney, 2012, p. 351). Aldrich and Meyer (2015, pp. 255–256) also note that in many disaster settings, individuals such as neighbors and family members will be the first actors to respond and 'provide immediate lifesaving assistance', and that communities with strong 'social capital networks' tend to rely on formal institutions to a lesser degree, and have a better chance of adequately responding to and (swiftly) recovering from disasters (see Aldrich & Meyer, 2015, pp. 257–258). While a full consideration of what constitute 'social capital networks' is beyond the scope of this paper, the argument is that high levels of political, civic, social, religious or family cohesion bolster disaster resilience due to mutual support in communities (see Aldrich & Meyer, 2015). In circumstances of governance without or beyond government, it is nevertheless always important to understand which action non-state actors may or must take, and whether and which (direct) responsibilities might exist for various actors. Importantly, which (types of) responsibilities (still) exist for state actors, in a residual or complementary manner?

On the complexity of locating responsibility when private actors are involved, de Lourdes Melo Zurita et al. (2015) have pointed out in relation to the involvement of NGOs in Australian disaster response and recovery, for example, that local NGOs originally focused on 'filling the 'gaps' in services not provided through formal government channels', but that they now increasingly work in close relation with higher-level government, that funds and commissions NGO activity. A key question the authors identify is whether closer alignment of NGO activity with 'governmental disaster management objectives' actually hampers the unique role of NGOs in 'identifying and filling government design gaps' and providing greater protection to the public? Particularly, has an actual, unique responsibility for non-state actors themselves been substituted by a devolution of state functions to local actors in this instance (de Lourdes Melo Zurita et al., 2015, p. 392)?

Secondly, the scale and complexity of some disasters, and their often exceptionally broad and prolonged impacts, normally also mean that disasters command skills and resources at a scale and diversity falling outside the scope of any one actor's capacities and expertise, certainly of (poor) affected states (Tierney, 2012, p. 344). Governing disasters may thus be a truly joint, societal and international effort in some respects. This is clear from the fact that in many cases, international assistance is needed. Suggestions that governments may become entirely absent from (disaster) governance should be viewed with caution, and seem misleading for several reasons. First, it is commonly accepted—certainly as a matter of international law—that states bear the primary responsibility for the 'direction, control, coordination and supervision of the distribution of disaster relief and assistance on their territories', and that states are typically best placed to assess the various risks, rights and interests at stake, and to manage and allocate available resources accordingly (ILC, 2016, Draft Article 10 and commentary; Jones et al., 2014, p. 80; UNISDR, 2015b). Moreover, IHRL also clearly views the state as the primary 'duty bearer' for the protection of individuals' human rights, including disaster victims, even if such perspectives are certainly shifting to include duties for non-state actors as well (see Section 4; Hesselman & Lane, 2017; United Nations Committee on Economic, Social and Cultural Rights [CteeESCR], 2000).

Those concerned with governance *without* or *beyond* the state typically observe that state authority and 'centrality' is receding in many areas of life, being replaced by non-state actors with more resources and growing decision-making power (see e.g. Jones et al., 2014, p. 79). In the disaster context, state authorities may be actively 'crowded out' or 'replaced' by non-state actors when they are not powerful enough to assert their own authority effectively or when they provide inadequate protection to the population. In such cases, the 'governance gap' left by 'weak' governments may be filled by others, including a multitude of (internationally-backed) non-governmental (humanitarian) organizations (NGOs) (Jones et al., 2014). Tierney recalls Haiti's nick-name as the 'Republic of NGOs' when reflecting on this country's notorious lack of capacity to deal with disasters; yet, she also immediately submits that Haiti's disaster governance is not (fully) served by the hotchpotch of international NGOs, many of which crowd the country during emergency phases, but leave when the recovery period starts and in many instances lack concrete commitment or experience with the country (Tierney, 2012, p. 351). Similarly, Jones et al. (2014, p. 85) point out that in Nepal, international donors and NGOs work together to fill government gaps, and that according to some international NGOs, 'if the government's perfect there is no need of NGO[s]'. Yet, the authors also note with some concern that the Nepalese NGO sector is increasingly entrepreneurial, in that 'everyone wants to try and get involved' and get a piece of the funding pie. In this sense, the Nepalese government needs to compete for resources with these 'entrepreneurs' and may ultimately lack the support to strengthen its overall governance capacity with the help of international support.

In other situations, states themselves may actually pro-actively recognize that certain activities are simply better performed by others (e.g. more cost-effective, higher quality, in larger volumes) and/or that adequate protection of disaster victims simply commands resources that it does not possess. In these circumstances,

states may actively choose to delegate or bestow public interest tasks or decision-making power to others 'upwards' or 'downwards' (i.e. to international or subnational governmental authorities), or 'outwards' (to national and international non-state actors) (Jones et al., 2014; Levi-Faur, 2012). In the field of disaster governance, this may include delegation, regulation, privatization, 'out-sourcing', or 'contracting-out' of particular activities such as first aid, ambulances services, fire brigade services, contingency stock management, food delivery or reconstruction of housing (e.g. see de Lourdes Melo Zurita et al., 2015, p. 392).

3.2. Type I and Type II MLG

Clearly, disaster governance is a multi-layered, multi-actor affair. The concept of MLG may help to further characterize this governance sphere and identify challenges that it involves. The definition of MLG used throughout this paper is that offered by the so-called 'king and queen of multi-level governance', Gary Marks and Liesbet Hooghe (Stephenson, 2013, p. 818). These scholars are known for their identification of two types of MLG in particular (Bache, Bartle, & Flinders, 2016; Bartle, Bache, & Flinders, 2012; Marks & Hooghe, 2004, pp. 15–17).

First, 'Type I' MLG views MLG-regimes as consisting of neatly nested, fairly 'general-purpose', territorially-based jurisdictions—i.e. at the international, national and subnational levels. In Type I MLG-regimes, individuals are viewed as situated at the bottom of a set of 'Russian doll-like' jurisdictions that each have a set of non-overlapping functions, competences and members (Marks & Hooghe, 2004, pp. 15–17). To some extent, Type I MLG-regimes may be concerned with 'multi-level *government*', rather than 'multi-level *governance*', although by now it is accepted that within Type I 'intensified (horizontal) interactions between government and non-governmental actors' occur at various levels (Bache et al., 2016, p. 487). We would argue that in international legal scholarship there is still a tendency to think mostly in Type I MLG structures, i.e. with scholars viewing regulation as being nationally, regionally and internationally layered. At the same time, international legal scholarship is also very much concerned with the 'fragmentation' of international law in various (self-contained) specialized regimes/jurisdictions, and how this affects a unified regulatory system of international law.

From this perspective, 'Type II' MLG is of interest, since it firmly rejects the idea of 'conceiving authority in neatly defined local, regional, national, and international layers', and favors a conception of MLG-regimes as built up through a(n infinite) multitude of specialized, 'task-oriented jurisdictions', with each jurisdiction consisting of a 'specific-purpose' governance community to which actors can volunteer themselves as participants, based on their expertise and interests (Bartle et al., 2012; Hooghe & Marks, 2003, p. 11). As usefully submitted by Marks and Hooghe (2004, referring to Ostrom & Ostrom):

In Type II MLG, multiple, independent jurisdictions fulfill distinct functions in which citizens are not served by 'the' government, but by a variety of different public service industries….We can then think of the public sector as being composed of many public service industries including the police industry, the fire protection industry, the welfare industry, the health services industry, the transportation industry, and so on.

Type II MLG thus recognizes 'specialized jurisdictions' where public (and private) actors gather to solve particular problems, without a centralized, overarching authority in charge and capable of exhaustively setting and delegating all tasks (Marks & Hooghe, 2004; see also Bartle et al., 2012). It is certainly possible to view 'disaster governance' as largely undertaken through independently functioning 'sector-based' jurisdictions, both nationally and internationally. May and Williams (1986) have, for example, relied on the concept of 'shared governance' when pointing out that in the US distinct (yet potentially overlapping) disaster governance tasks were distributed among different public institutions (also see Tierney, 2012). Similarly, at the international level, the UN recognized the need for greater coordination between various disaster sectors, dealing with food, health, telecom, logistics, etc., and introduced the so-called UN 'Cluster Approach' in 2005 (see Figure 1). Through this 'cluster approach' specialized international UN or non-UN organizations were designated as so-called 'cluster lead agencies', which coordinate a broad range of international and domestic actors operating with specific disaster response sectors. Simultaneously, a measure of general oversight and coordination between sectors was centralized with the UN emergency coordinator and with country teams (see Figure 1).

Overall, it can be argued that disaster governance carries characteristics of both Type I and Type II MLG. It can be considered to resemble Type I MLG because disaster management takes place at and includes regulatory activity on various 'territorial levels'—i.e. at global, regional, national and local levels—and also still relies heavily on (inter)*governmental* governance. Certainly, from a perspective of general international law—at the 'national/international law frontier'—the territorial, general-purpose jurisdiction of the state remains respected; international law clearly articulates that disaster governance and the protection of persons are primary 'duties' of the affected state (e.g. see ILC, 2016; UNISDR, 2015b). Even in the absence of international law, it might be difficult to argue that state authorities would be able to voluntarily 'opt-in' or 'opt-out' of any public responsibilities in the area of disaster management; there is no 'choice' to govern or 'opt-in' (or not), in the way other actors may have this choice (see de Lourdes Melo Zurita et al., 2015, p. 394; Jones et al., 2014, p. 80). Indeed, clearly, states are generally practically involved in disaster management on their territories, and at (sub)national levels use their general regula-
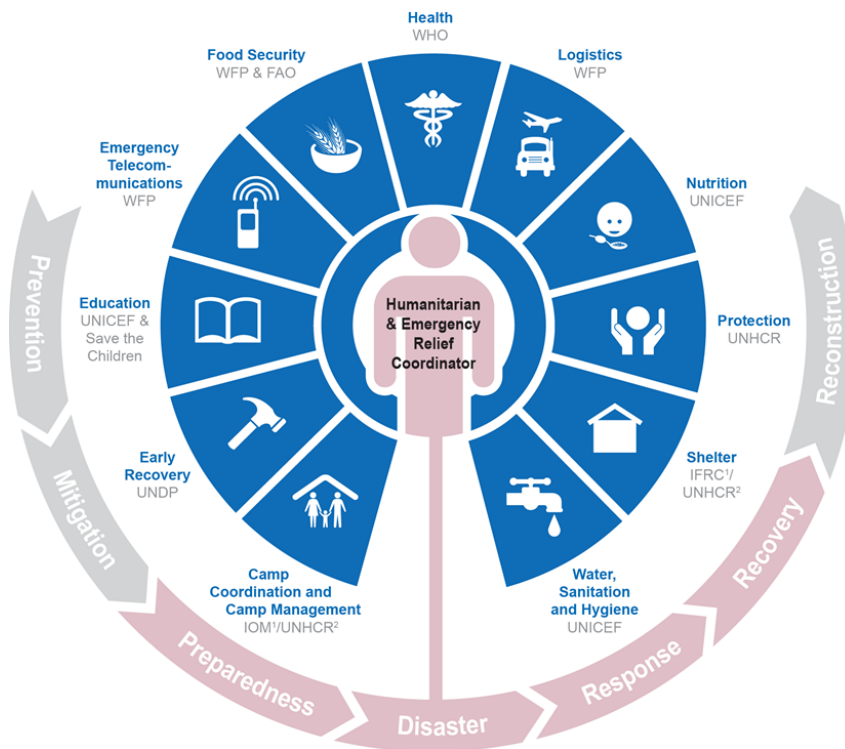
Figure 1. Cluster approach to disaster response. Source: Office for the Coordination of Humanitarian Affairs (2017).

tory powers to delegate competences and tasks in this sphere 'downwards' to lower level jurisdictions, or 'outwards' to private actors (see e.g. de Lourdes Melo Zurita et al., 2015, on Australia). When they are absent from disaster governance or there is insufficient protection in place, this is commonly viewed as a failure or weakness of the state.

At the same time, disaster governance also resembles Type II MLG, in that it is highly reliant on a 'baroque patchwork' of specialized jurisdictions involving many different resources, expertise and (non-state) actors, spanning or 'overlaying the nested pattern of Type I jurisdictions' (Marks & Hooghe, 2004, p. 28). This is visible, for example, from the UN 'cluster approach', and the fact that disaster governance domestically is also carried out through various risk management agencies and is often organized in different sectors.

Regardless of the type of MLG-regimes, a main challenge of MLG is how to achieve a measure of coordination and unity of action and purpose in such complex governance spheres? The question is arguably even more pertinent for Type II regimes, and as the governance activity of non-state actors increases. Most importantly, how can the quality of governance be ensured, and a measure of *accountability* to the public for *governance failures* by *different actors* be achieved? As submitted by Bache et al. (2016, p. 489) but also by Stephenson (2013), MLG scholarship has so far shown (too) little concern for the (negative) implications of such 'complex and de-coupled governance processes' for democratic values and accountability. Papadopoulos (2007) points out that MLG's focus on 'managerial concerns of performance

and efficiency' and the increased confederation of actors in diffuse, task-specific governance networks, without a clear overarching public decision-maker, means that the overall governance of important public interests (such as protecting persons in event of disasters) will become decoupled from public (democratic) control and accountability (also Stephenson, 2013, p. 826). When MLG regimes fail, for example due to the poor articulation of different (levels of) duties and responsibilities amongst different actors towards the population concerned—as seems to be the case in disaster governance—, then the question is where do affected individuals go to claim better disaster management, and on the basis of what?

The following sections posit that by embracing human rights more firmly in disaster governance, universal standards are foregrounded which all actors can jointly use to gear their activity towards the essential protection of persons. Particularly, through the notion of 'multi-duty bearer human rights regimes', the implications of human rights law for non-state actors may also be better understood, and the opportunities for accountability on the basis of IHRL standards may be improved.

4. Disaster Governance and 'Human Rights Based Approaches'

In 2015, the UNHRC considered that the application of HRBAs to disaster management entails the application of the following principles, as derived from IHRL:

(i) Direct and intentional linkage to human rights;
(ii) Transparency;

(iii) Participation and consultation of those affected and beneficiaries;
(iv) Non-discrimination;
(v) Special attention given to the needs of vulnerable and marginalized subgroups within the larger set of beneficiaries;
(vi) Accountability
(UNHRC, 2015, paras. 6-7, 9, 40, 95)

Although no single, conclusive definition of "HRBAs" exists—the element of transparency is not always included, for example (see Vandenhole & Gready, 2014)—all definitions of HRBAs include at least the five elements of '(intentional) linkage to human rights standards'/normativity', 'non-discrimination', 'empowerment/vulnerability', 'participation' and 'accountability' (Vandenhole & Gready, 2014). Originally, the concept of HRBAs derives from the field of development cooperation, where it was predominantly aimed at encouraging states and international organizations/agencies to integrate IHRL standards into their development projects and programming. A highly detailed and instructive example of HRBAs to disaster management by UN agencies can be found in the Training Manual on 'Human Rights-Based Approaches to Programming' by the United Nations Population Fund (UNFPA), setting out step-by-step how human rights standards, including as clarified in other important standard-setting initiatives on disaster management, can be integrated in programme design by UNFPA Country Staff, implementing partners and others working in the same field (UNFPA, 2010). The Manual includes a full module on HRBAs in 'emergency response', which sets out how the abovementioned HRBA principles can or have been applied in specific case-studies. By now, HRBAs are commonly advocated to address various development-related problems, and can supposedly be applied by various actors, i.e. certainly by international organizations and NGOs, but also by businesses (see e.g. Vandenhole & Gready, 2014).

The application of 'HRBAs' generally denotes two things: first, it emphasizes substantive human rights standards as a distinct way of normatively evaluating the quality of governance involved; second, it views relevant actors concerned as '*duty bearers*' with concrete responsibilities to protect '*rights holders*'. In fact, HRBAs uniquely serve an operational purpose in that they intend to provide duty bearers with clear standards and principles for the design, implementation and evaluation of programmes, projects and activities. Practically speaking, HRBAs require actors to fully understand, respect and protect applicable human rights of affected human beings when setting up and implementing new projects and plans; to engage and consult the disaster-affected or disaster-prone population through participatory mechanisms; to not discriminate when providing or securing access to relevant assistance or in setting up relevant recovery programmes, evacuation plans, zoning laws etc.; and to actively and continuously identify who is vulnerable,

left out or needs extra help (e.g. rural populations, the elderly, handicapped, women, children or the poor) (see also Hesselman, 2013; Hesselman & Lane, 2017; Kälin, 2011). The element of 'participation' speaks clearly to the complaint that MLG regimes may lack 'poor presence of citizens' representation', as it requires all stakeholders to engage affected populations in decisions affecting rights (UNHRC, 2015, para. 40(c)). Simply stated, securing 'accountability' requires that fora are identified or set up through which individuals can require relevant governance actors to be answerable for their decisions and conduct, and hold them to account for (potential) human rights violations, through sanction or reward. At the international level, HRBAs on the basis of IHRL directly open up recourse to relevant international accountability and oversight mechanisms with respect to states (Cubie & Hesselman, 2015; UNHRC, 2015, para. 40(e)). As discussed in Section 4.1, the importance of accountability mechanisms for business actors or NGOs is acknowledged, but still requires further development. Finally, 'transparency' (in particular access to information) is linked to and improves the exercise of accountability by making visible what has been decided, coordinated or carried out (or not) (UNHRC, 2015, para. 40(f)).

Some limitations of HRBAs must be acknowledged, however; as further discussed below, IHRL has traditionally focused on states as the sole or primary duty bearer, and human rights treaties only legally bind these actors. Moreover, until recently, the interpretation of human rights standards took place mostly in relation to states' own behavior and responsibilities/obligations, although the following paragraphs will demonstrate that this is changing in some respects. Nevertheless, even the multi-duty bearer approach (to be outlined in Section 4.2) would not necessarily envisage obligations for *all* relevant non-state actors, such as individuals in local communities, for example, who may be first responders or charged with DRR activity (see earlier mention of Aldrich & Meyer, 2015). For instance, de Lourdes Melo Zurita et al. (2015, p. 392) point out that in Australia individual households may be made responsible for protecting their property in case of bush fires under a nationally endorsed 'stay or go' policy, which raises the difficult but important question of how this affects the (human rights) responsibilities of the state for protecting these persons and their property, especially in case of failures by individuals or communities to carry out protective tasks; does this imply or affect human rights responsibility of these actors, or of states, or both? This could reduce HRBAs' ability to ensure accountability and protection within disaster governance.

In summary, HRBAs may prove a useful tool for a broad range of governing actors—including non-state actors such as NGOs or businesses—to ensure that their activities are jointly geared towards meeting important public interests, such as protecting persons in times of disaster. The role of HRBAs in guiding the distribution of disaster governance responsibilities in a MLG regime

will be analyzed through the following examination of human rights responsibilities for non-state actors under HRBAs.

4.1. HRBAs: Human Rights Responsibilities for Non-State Actors

In essence, 'HRBAs' imply that 'plans, policies and processes…*are anchored in a system of rights and corresponding obligations established by international law*' (United Nations Office of the High Commissioner for Human Rights, 2006, emphasis added). This of course requires an understanding of the 'system of rights and corresponding obligations' that present IHRL establishes, whether for states or non-state actors.

Here, it is important to first clarify that traditionally, IHRL typically places legal obligations on states, and it considers states the principal international and national duty bearers. Yet, IHRL has recently been grappling with the observation that it would become 'less and less relevant if it fails to adapt to changing realities in which States are no longer the only leading actor' (Vandenhole & van Genugten, 2015, p. 1). For this reason, IHRL has been responding to the challenges posed by non-state actors in several ways.

First, international human rights treaties have been evolutively interpreted in a way that states' duties were expanded to cover the human rights risks and violations emanating from non-state actors; more specifically, states are obliged to 'protect' individuals against such risks and violations within their territory or jurisdiction (see e.g. European Court of Human Rights, 2008). A great example of this obligation in the context of disasters is states' 'duty to regulate' the dangerous or polluting (industrial) operations of businesses, particularly by setting up adequate regulatory systems for facilities and operations involving permits, safety regulations, monitoring and providing for (criminal) accountability as necessary (CteeESCR, 2000, paras. 48, 51; European Court of Human Rights, 2008; Hesselman & Lane, 2017; see generally Hallo de Wolf, 2011, pp. 242–245). IHRL also requires states to regulate relationships between individuals *inter se*, e.g. in the sense of safeguarding life or physical integrity, including as a matter of criminal law, although this has not gained full attention yet in the area of disaster management (see e.g. European Court of Human Rights, 1985, 2008, paras. 129–132).

Second, importantly, IHRL has also evolved to articulate *direct*, *separate* responsibilities for non-state actors themselves, i.e. alongside those of the state. Here, we do not speak about an *extension* of the state's *own* obligations, but of extra (*complementary*) obligations for others (Vandenhole & van Genugten, 2015, p. 5).

The evolution of complementary responsibilities for business particularly occurred through the 2011 UN Guiding Principles on Business and Human Rights (UNHRC, 2011 [UNGPs]). This unique human rights instrument, endorsed by the UN Human Rights Council, affirmed in great detail that businesses have their own human rights responsibilities distinct from states (even if states also continue to bear their obligation to regulate the conduct of businesses). Human rights responsibility for corporations mostly requires businesses 'to do no harm', i.e. to operate in such a manner as not to interfere with individuals' existing human rights enjoyment (Hesselman & Lane, 2017; UNHRC, 2011, Guiding Principle 11). One of the difficulties has been to determine when this obligation to 'do no harm' is triggered and how it applies exactly in and across business operations, since businesses are not, and should not, be involved in or made responsible for *every* aspect of human life or disaster governance. We therefore see that the 'business and human rights' community is currently further exploring the (legal) bases and concepts which can ground businesses' human rights responsibilities, including, for example, 'human rights in the supply chain' or '(spheres of) influence' (see e.g. Telesetsky, 2015). Similarly, pursuant to the UNGPs, this community is now concerned with further pursuing 'grievance mechanisms' to improve 'accountability' for business-related human rights violations, as well as exploring a new binding IHRL treaty on business and human rights (see UNHRC, 2011, Principles 25–31 on 'access to remedy').

A further interesting question is to what extent businesses or other actors, such as NGOs, also have a human rights responsibility 'to do good', i.e. to positively contribute to improved human rights protection where they can—e.g. by delivering aid to disaster victims (see Telesetsky, 2015). International human rights treaty supervisory bodies have considered in this regard that the role of the WHO, UNCHR, IFRC, UNICEF, as well as NGOs are considered of 'particular importance in relation to disaster relief and humanitarian assistance in times of emergencies'. Moreover:

> [w]hile only States are parties to the [International] Covenant [on Economic, Social and Cultural Rights] and thus ultimately accountable for compliance with it, all members of society [including] intergovernmental and non-governmental organizations, civil society organizations, [and] the private business sector—have responsibilities regarding the realization

of important disaster related human rights (CteeESCR, 2000, para. 42). Yet, the exact scope of positive obligations is difficult to determine. For example, for NGOs, there are hardly any further indications for their expected behavior, save for the practice of self-regulation (e.g. see Sphere Project, 2011, and an exception in UNHRC, 2015, para. 40(g)); more discussion in Hesselman & Lane, 2017). The UNGPs have been criticized for not contemplating positive responsibilities at all. In the absence of clear (legal) responsibilities it may be difficult to try to hold private actors directly responsible for failure to contribute to improved human rights protection in disaster settings, although arguably this is increasingly

addressed through self-regulatory activity (see for more discussion, Hesselman & Lane, 2017; cf. Telesetsky, 2015, on the UN Global Compact). Of course, states' positive human rights obligations may lead them to incorporate horizontal responsibilities (owed between non-state actors, including between individuals) within domestic disaster law and policies (e.g. duties of care for others in emergency situations, or duties of healthcare professionals to respond to disasters—see e.g. American Nurses Association, 2010).

Before moving on to consider the emergence of 'multi-duty bearer human rights regimes', it is important to stress again that under no circumstances will a state be able to legally absolve itself of its own legal IHRL responsibilities, by delegation or through the emergence of new duties for other actors (Vandenhole & van Genugten, 2015). The full responsibility for human rights protection as committed to under IHRL applies generally and cannot be replaced, legally delegated or changed through some type of out-sourcing (see Brownlie, 1994; Lane, 2016; Vandenhole & van Genugten, 2015, p. 5). Instead, regulation by the state, as well as the establishment of any separate obligations for non-state actors, should be seen as attempts to try to govern human rights protection *better* or more *completely/expansively* (see Bell & Hindmoor, 2009, p. 150).

4.2. Multi-Duty Bearer Human Rights Frameworks

The concept of 'multi-duty bearer human rights regimes' has arisen from concerns regarding the continued relevance and effectiveness of 'state-centred' IHRL in the present age, and it inspires a 'fundamental re-thinking of a basic tenet of human rights law', notably 'that human rights obligations are primarily incumbent on the territorial State' (Vandenhole & van Genugten, 2015, p. 1). In fact, IHRL scholars suggest that '[h]uman rights law has to move *beyond territoriality* as the main criterion for assigning human rights obligations' (Vandenhole & van Genugten, 2015, p. 1, emphasis added). Yet, the challenge is then, if duties are not 'assigned' on the basis of (state) 'territory', what is the basis for responsibilities instead? Here, it is useful to point out that IHRL in fact commonly supports both the concepts 'territory' and 'jurisdiction' as a basis for IHRL obligations, with the term 'jurisdiction' normally equated to exercising some type of 'effective control' over a territory, population or individual(s) (see De Schutter et al., 2012, pp. 1104–1109; United Nations Human Rights Committee, 1981, paras. 12.1–12.3). Perhaps here, the MLG literature discussed above can actually offer some inspiration to further conceptualize the notion of 'jurisdiction' in human rights law, e.g. as potentially involving both territory and 'specialization', or 'sphere of influence', or perhaps 'effective control' over important resources (De Schutter et al., 2012, p. 1154, e.g. referring to control over technologies). Inspiration from Type I MLG 'jurisdictions' in particular might suggest that human rights obligations can and should

come about at different, nested 'territorial levels', alongside the state's territorial jurisdiction, e.g. for international organizations (such as the UN and its various organs carrying out its work) within their competences. On the other hand, the notion of Type II MLG jurisdictions may particularly inspire us to (also) consider how human rights responsibility can come about in a task-oriented manner, e.g. as based on unique 'expertise', 'resources' or 'skills' that actors have to offer, within their sphere of operation, influence or organizational mandate. In fact, the terms 'position', 'ability' or 'capacity' to assist are common terms in IHRL underpinning positive IHRL obligations for states and might be applied to others as well, such as businesses or NGOs—although across the board, there is still some difficulty delimiting when 'capacities' may have been exhausted exactly (see De Schutter et al., 2012, pp. 1150–1154; or Telesetsky, 2015, suggesting that companies should assist until the point of bankruptcy when state authorities cannot address disasters effectively themselves, which seems extreme).

In the 'multi-duty bearer human rights regimes' literature, several criteria or approaches have been suggested to (al)locate human rights responsibilities to/for non-state actors so far, including when non-state actors' activities could be considered: 'relevantly public' (publicness approach); necessary to offer effective human rights protection (functional approach); or when they (risk) adversely affect(ing) human dignity or human rights (stakeholder approach) (Vandenhole & van Genugten, 2015, p. 4). Following these grounds, most actors currently involved in disaster management could be considered relevant human rights duty bearers, and be called upon to consider IHRL standards and HRBAs seriously in their activities. In order to expedite the process of articulating human rights-based responsibility in a multi-duty bearer setting, and thereby of achieving greater joint protection of affected populations, this article agrees with Vandenhole and van Genugten (2015, p. 6) who support that successful multi-duty bearer regimes may have to embrace an active role for non-state actors themselves in carving out and clarifying their respective human rights obligations in specific settings. This would take place through self-regulation or co-regulation, and could greatly stimulate the legitimacy and acceptability of standards 'and hence the potential abidance by the rules' (Vandenhole & van Genugten, 2015, p. 6). Although it is beyond the remit of this article to examine examples of human rights-based self- or co-regulation that exist already in the area of (sector-based) disaster governance (see Hesselman & Lane, 2017), these practices certainly exist. Some examples include: the 'Guiding Principles for Public–Private Collaboration for Humanitarian Action' (prepared jointly by the World Economic Forum and the United Nations Office for the Coordination of Humanitarian Affairs, 2007), the Sphere Project's 'Humanitarian Charter and Sphere Minimum Standards in Humanitarian Response' (drafted by international NGOs and humanitarian organizations; Sphere Project, 2011),

or 'Disaster Response: Guidelines for Establishing Effective Collaboration between Mobile Network Operators and Government Agencies', (drafted by GSMA, a telecom branch organization; GSMA, 2012).

5. Conclusion

MLG theory usefully sheds light on how 'disaster governance' is currently dispersed at the international, national and sub-national territorial levels of decision-making, and is simultaneously fragmented in 'a baroque patchwork' of highly task-specific governance communities that bring together many different public and private actors' specialized knowledge, expertise and resources (Marks & Hooghe, 2004). This article considered whether/how better unity of action and purpose could be achieved in such highly dynamic, multi-level, multi-actor governance landscapes, including a more coherent distribution of roles and responsibilities, especially from a perspective of IHRL and HRBAs.

We observed that IHRL emphasizes the 'primary role and responsibility' of the state in disaster governance and for human rights protection, but also increasingly seeks to account for the behavior of non-state actors. This includes affirming states' duty to adequately regulate risks and violations emanating from non-state actors. Yet, as governance literature also supports, the ever-growing participation of non-state actors in (disaster) governance reveals that states cannot provide, control or command *all* activities and resources necessary for adequate protection. Moreover, non-state actor activity may impact human rights enjoyment very directly, both negatively or positively. This raises the pertinent question of their *direct* human rights responsibilities, alongside and distinct from those of states. IHRL has certainly begun to respond to these concerns, *inter alia*, through the concept of 'multi-duty human rights bearer' regimes (Vandenhole & van Genugten, 2015). The notion of multi-duty bearer regimes supports that, while an important regulatory, directive role/task and prerogative for states always remains—because states' duties to protect individuals cannot be abrogated—the delimitation of grounds for non-state actors' own responsibilities (including during disasters) is firmly underway. We argued that the (al)location of human rights responsibility could be highly assisted by improved application of HRBAs by relevant non-state actors, including through human rights-based self- or co-regulation (see also Hesselman & Lane, 2017; Vandenhole & van Genugten, 2015).

Ultimately, those affected by disasters have a right to benefit from adequate protection through appropriate, transparent and accountable disaster governance activities, which requires the concerted action of many different actors. This article has argued that adherence to IHRL in the form of HRBAs by all those involved can greatly improve the protection of persons through a better articulation of roles and responsibilities, and by emphasizing accountability for universal IHRL standards towards affected populations as a primary principle of organization. Finally, we also hope to have demonstrated, with an analysis seeking to draw simultaneously from governance literature and IHRL scholarship, that the field of 'disaster governance' is not just a multi-level and multi-actor affair, but also lends itself to broader *multi-*, or *inter-disciplinary* analysis.

Conflict of Interests

The authors declare no conflict of interests.

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