
Protecting Democracy in Europe and the Americas

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Abstract Especially since the end of the Cold War, the Council of Europe (CE) and the Organization of American States (OAS) have acted to protect democracy in their member states from erosion or reversals, with CE policies more robust than those in the Americas. What explains this variation? I develop an argument focusing on institutional permeability, or the extent to which those organizations are accessible to nonstate actors. Permeability consists of three dimensions: range of third parties allowed access, level of decision making at which access is granted, and transparency of IO information to those third parties. Higher levels of permeability are likely to produce higher levels of constraint on state behavior through increasing levels of precision and obligation in international rules and practices. Alternative explanations, summarized as regional democracy norms, domestic democratic lock-in interests, and the power of stable democracies cannot explain the variation in multilateral democracy protection. More broadly, this article suggests that “democratizing” IOs by allowing ever-greater access to nonstate actors is likely to result in stronger, more constraining international rules, even in areas where states most jealously guard their sovereignty, such as the nature of their domestic political institutions.

For decades, some states have developed multilateral organizations and tools to promote and protect democracy, but these states have employed them quite sporadically. Shaping other countries’ domestic political institutions is a costly, time-consuming, difficult task that runs contrary to principles of sovereignty. Yet since the end of the Cold War, regional organizations in Europe and the Americas have been active in promoting and protecting domestic democracy through monitoring, incentives, and threats. Democracy protection efforts have been more robust in Europe due to stronger monitoring, more specific rules, and broader conditions under which international action is allowed.

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I argue that *institutional permeability*, the extent to which those organizations are accessible to third parties, explains why the Council of Europe (CE) has been more active than the Organization of American States (OAS) in developing and using its democracy protection tools. Institutional permeability in international organizations (IOs) consists of three dimensions: range of third parties allowed access, level of decision making at which access is granted, and transparency of IO information to those third parties. More generally, I argue that higher levels of permeability in IOs are likely to produce higher levels of constraint on state behavior through increasing levels of precision and obligation in international rules.

Focusing on institutional permeability goes against the trend of concentrating on the interaction between states and IOs, which might be considered the dominant approach in the field.¹ Other studies have suggested that nonstate actors can influence IOs, but without careful attention to the institutional features of IOs that can facilitate influence.² This article explains how IO permeability facilitates civil society efforts to inject new goals, values, practices, and policies into IOs, even when those changes are ultimately targeted at fundamental domestic political institutions and even when those IOs are large, important, and well established.

Where IOs have greater permeability, states are likely to find themselves subject to clearer and more intrusive rules. Nonstate actors usually prefer to place more constraints on states and hence they attempt to increase the precision and obligation of international rules through clarifications, additional rules, increased monitoring, and stronger state commitments. This approach has important implications for debates about whether “democratizing” IOs by providing more third-party access will make a difference in institutional outcomes by suggesting that more “democratic” IOs are likely to place more constraints on state behavior—precisely the outcome that proponents wish and states often fear.

This article proceeds as follows. In the first section, I analyze the extent of democracy protection in Europe and the Americas. The second section defines and operationalizes institutional permeability and explains how it can produce more precise and binding international rules and actions. I then show that the CE’s Parliamentary Assembly, an institution facilitating and representing nonstate third parties, was the most important driver increasing the level of democracy protection in the CE. The absence of such a permeable institution in the OAS has impeded efforts to create a strong protection regime. That a European IO engages in more sovereignty-invasive practices than one in Latin America is not particularly surprising; yet the path that brought about these practices—a relatively powerless body open to societal actors—is unexpected and relevant to a broader range of IOs. In the fourth section, I examine three alternative “most-likely” explanations that fail to account for the observed variation, summarized as international norms, domestic interests, and

1. Hawkins et al. 2006.

2. Keck and Sikkink 1998.

powerful states.³ The counterpart to the unexpected influence of the Assembly in the CE is the somewhat surprising limits on the influence of the United States in the OAS. In the final section, I summarize the findings and conclude.

Three important points emerge from this study. First, the influence of institutional permeability on international democracy protection is surprising because states are generally reluctant to shape others' domestic political institutions and because the CE was not designed to be highly permeable. Permeability has passed a difficult test and is therefore likely to matter in other issues and institutions. Second, institutional permeability suggests an alternative pathway for the creation, implementation, and—more tentatively—effectiveness of international rules. This article suggests the importance of the interaction between nonstate actors and IOs as a way to gain state commitments and to increase IO rule monitoring and enforcement. Third, by way of policy implications, states seeking more robust international rules should paradoxically scale back their control of IOs and tone down their voices, yielding instead to nonstate actors. If the United States wants to protect democracy in Latin America, for example, it should attempt to bolster the role of civil society within the OAS and focus less on its carrots and sticks.

Democracy Protection in Europe and the Americas

Definitions, Research Design, and Significance

To begin, it is important to distinguish between democracy promotion, assistance, and protection—concepts that are implicit rather than explicit in most of the literature. Democracy promotion is a catch-all term that refers to any effort by international actors to encourage or facilitate the growth and consolidation of democratic institutions.⁴ Democracy assistance is the most common and most analyzed form of democracy promotion. It occurs when international actors allocate resources (for example, money, expertise) to governments or civil society actors for specific tasks (for example, training judges, rewriting municipal laws) in their attempts to build or consolidate democratic institutions.⁵

Democracy protection refers to activities that offer tangible or intangible rewards or penalties to the state as a whole for aggregate behavior with respect to democratic standards.⁶ Rewards typically include membership in regional organizations, with their associated security protection, macroeconomic benefits, and desirable social status. Penalties include shaming, economic or security sanctions, and membership suspension. Protective behavior is costlier and more difficult to achieve than promotion because it requires high levels of coordina-

3. Eckstein 1975.

4. Carothers 1999.

5. *Ibid.*, 6.

6. Schimmelfennig 2005, 832–83, refers to this as “intergovernmental reinforcement.”

tion among an organization's member states on matters that have traditionally been considered internal affairs. Penalties are more difficult to implement than rewards because they appear to violate principles of sovereign equality, incur costs in terms of decreased goodwill, and may engender negative reciprocity from sanctioned states and their supporters. In short, protective measures often require more collective action and infringe more on state sovereignty and are thus more puzzling.

Relatively few multilateral cases of democracy protection exist and they are concentrated almost exclusively in Europe and the Americas since the end of the Cold War. The basic research design consists of comparing two fairly similar regions with different outcomes on the dependent variable. Europe (understood as both east and west) and the Americas share broad similarities with respect to democracy: they both experienced a limited growth of democracy after World War II, enjoyed a widespread resurgence of democracy after the Cold War, have identified their important regional organizations as comprised of democratic values and governments, and have made serious efforts to promote and protect democracy. At the same time, they have made different kinds of efforts to varying extents in different time periods, marking important variation on the dependent variable that creates a puzzle as to why these differences occur. To facilitate comparison, I focus on two conventional international organizations that share a number of characteristics. An analysis of the democracy protection of the European Union (EU) would undoubtedly be enlightening, but comparisons to the CE and OAS (or any other organization) would be much more difficult because the EU's unique institutional features would undermine efforts to identify relevant independent variables and mechanisms. The amount of historical information available also enables process-tracing, which can suggest cause and effect with greater certainty.⁷

It is important to note that this analysis focuses on the policies and practices of IOs and not on outcomes in the country where democracy is being protected. IO policies may or may not be successful and their success is a separate question. I sometimes refer to the domestic outcomes as a way to illustrate the significance of the IO policies. Moreover, as with any large organization, the policies and practices of the CE and OAS are not always internally consistent. Stated policies may not be always observed and practice may vary from one case to the next. I analyze the aggregate thrust of the policies and practices, not disaggregated sets of discrete policies and practices. Important policy measures consist of the formally announced conditions under which the IO may act, formal rules about what the IO can do, and observations of IO behavior.

This focus raises the "so what" question: If the OAS or CE adopts a position or takes action, or threatens to do so, does anyone care or does it make any difference? Because I later argue that the OAS democracy protection efforts

7. George and Bennett 2005, 127–232.

are weaker, I focus on them here to address their importance.⁸ If one uses level of activity as a barometer, the states involved appear to care a great deal. Since 1990, Latin American states have been involved in forty-four democratic crises; in forty-one of them, American states have made some effort to help protect democracy, either individually or through the OAS.⁹ These efforts are not simply limited to facilitating negotiations but rather involve criticism, support for domestic groups opposing the government, or other actions undesired by the offending state. If these efforts were costless, all states would support them in the name of protecting democracy. Yet the OAS is often riven by disagreements about whether it should act.¹⁰ States experiencing irregular and perhaps undemocratic alterations of power, such as Ecuador, have sent prominent delegations to the OAS in an effort to prevent action and have objected strongly when the OAS has in fact acted.¹¹ Intense diplomatic battles over naming and shaming are consistent with international relations theories that suggest that real consequences can flow from the use of rhetoric and hence such rhetoric is potentially costly.¹²

Careful process-tracing suggests that the OAS has sometimes played a role in reversing or deterring deterioration of democracy over the past fifteen years, though the record is uneven.¹³ Identifying OAS influence is immensely challenging because it is difficult to disentangle that influence from parallel domestic (or other international) forces working to preserve democracy. In fact, the most important OAS influence is likely to occur by encouraging and supporting other international and domestic actors. Moreover, OAS protection measures are designed to deter democratic breakdowns, and deterrent effects—where the unwanted behavior is not observed—are methodologically tricky to demonstrate. Some evidence for a deterrent effect certainly exists. The last successful military coup in Latin America occurred in 1991 in Haiti, a remarkable fact in a region where such coups were once commonplace. The absence of such coups is not due to a new era of governmental stability, as evidenced by the forty-four crises noted above. Paraguay and Venezuela have witnessed attempted coups, but quick OAS action ensured the elected governments endured.¹⁴ In other cases, lower-level military forces have sometimes joined with other nonstate actors to interrupt normal democratic functions, but military actors have gained power only fleetingly. In Ecuador, one country that suffered this sort of democratic crisis, careful process-tracing suggests that

8. Kelley's important study (2004) shows that CE membership conditionality led to changes in Latvian citizenship laws and that membership conditionality generally is an influential tool of IOs.

9. McCoy 2006.

10. Levitt 2006.

11. Levitt 2007.

12. See Schimmelfennig 2001; and Keck and Sikkink 1998.

13. See Levitt 2006; Valenzuela 1997; and Cooper and Legler 2005.

14. See Valenzuela 1997; and Cooper and Legler 2005.

OAS efforts were plagued by collective action problems but nevertheless helped deter military forces from holding power.¹⁵

More broadly, prominent theories suggest that IOs can influence state behavior in a variety of ways, often by building coalitions with domestic actors.¹⁶ Quantitative empirical evidence buttresses these arguments by showing that regional organizations with highly democratic memberships are positively associated with transitions to democracy and negatively associated with breakdowns in democracy among member states, even controlling for other important variables.¹⁷ Of course, it is important not to overstate the importance of democracy protection. Some states have engaged in significant democratic backsliding without worrying much about the efforts of the CE or the OAS. Despite such failures, the extent of democracy protection in the CE and the OAS is unprecedented and in many ways unexpected.

The OAS and the CE: Restricted Response and Commitment Monitoring

Europe and the Americas share important similarities in democracy protection. In their foundational treaties, both the CE and the OAS require member states to be democracies and threaten to suspend them or penalize them in other ways if they are not. At times, both have actually acted on those threats by investigating and penalizing undemocratic practices, though both have also overlooked troubling cases of democratic backsliding. Both have elaborated criteria for democracy and have made domestic democratic governance a centerpiece of their meetings and normative stances, especially since the end of the Cold War.

At the same time, important differences between the regions also exist with respect to the nature and constancy of their activities and the scope of the problems that trigger action. American states have adopted a model of democracy protection that could be labeled “restricted response.” This model involves moderately high levels of commitment to protect democracy but in relatively restricted circumstances. The OAS first began developing this model in 1991 with General Assembly Resolution 1080.¹⁸ This resolution empowers the secretary general to call a meeting of the OAS Permanent Council if there is any “sudden or irregular interruption of the democratic political institutional process.” The Permanent Council is composed of delegations from the various member states and oversees the day-to-day business of the OAS. Member states went farther the following year when they adopted an amendment to the OAS Charter allowing the General Assembly by a two-thirds vote to suspend any member “whose democratically consti-

15. Levitt 2007.

16. See Jacoby 2006; and Pevehouse 2005.

17. Pevehouse 2005.

18. Available at (http://www.oas.org/xxxiiiga/english/docs_en/Representative_Democracy.htm). Accessed 5 February 2008.

tuted government has been overthrown by force.” This amendment, known as the Washington Protocol, went into effect in 1997.¹⁹ The OAS invoked Resolution 1080 in four subsequent cases in the 1990s, though it has never considered suspension.²⁰

While this democracy-protection behavior was unprecedented, it was also quite limited in some ways. Resolution 1080 explicitly limited action to sudden or irregular interruptions, suggesting that slow institutional decay or smaller blows against democratic principles or institutions did not merit response. The Washington Protocol was even more restrictive, allowing states to act only when democracy is overthrown by force. Thus, for example, a country whose military is invited into power by a sitting president may not qualify for action.

States subsequently altered this basic model in the Inter-American Democratic Charter, adopted 11 September 2001.²¹ The charter broadens the circumstances in which the OAS can act, although it is not legally binding like the Washington Protocol and hence constitutes a somewhat lower level of commitment. The charter allows the secretary general or Permanent Council to analyze threats to democracy, broadly defined, and arrange for protective actions, but only with the prior approval of the state in question (Article 18).²² More invasively, in the event of “an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order,” the Permanent Council or General Assembly can take diplomatic initiatives and other decisions “it deems appropriate” without the approval of the affected state (Article 20). Furthermore, a special session of the General Assembly can suspend member states from the OAS in the case of “unconstitutional interruptions of the democratic order” (Article 21). This allows strong OAS action in a broader array of cases than the traditional military coup but still circumscribes that action to relatively sudden and unconstitutional interruptions. In practice, the OAS has cited the Democratic Charter on several occasions, including Haiti (2001–2005), Venezuela (2002), Ecuador (2005), Bolivia (2005), and Nicaragua (2005).²³ It has focused mostly on exhortation and diplomatic missions but has implicitly threatened to move toward more punitive actions in the case of Nicaragua.

In contrast, European states have adopted a model that might be labeled “commitment monitoring.” As with the Americans, European states envision collective punishment in the form of the suspension of states engaging in undemocratic action, but the definition of threats to democracy is quite a bit broader. Article 8 of the Statute of the Council of Europe allows states to suspend any member for serious

19. Available at <http://www.oas.org/juridico/english/Sigs/a-56.html>. Accessed 5 February 2008.

20. Boniface 2002.

21. Available at http://www.oas.org/OASpage/eng/Documents/Democratic_Charter.htm. Accessed 5 February 2008.

22. It is worth noting that the OAS can and has called on governments to issue these approvals.

23. Various OAS resolutions available at www.oas.org. See, for example, “Support for Nicaragua,” CP/Res.892 (1507/05), 9 September 2005.

violations of the principles laid down in Article 3, namely, rule of law and respect for human rights, two principles associated with democracy in the Preamble.²⁴ This definition is not entirely open ended, as it still requires those violations to be serious (an undefined term) and it focuses on the rule of law and human rights, only two components of abstract definitions of democracy. The council invoked this article in the case of Greece in 1969, although Greece withdrew before the council could vote to suspend it.²⁵ The CE's Parliamentary Assembly—a body composed of delegates from the political parties of the various member states—has its own authority to refuse the credentials of a state's parliamentary delegation, which it has invoked on several occasions to punish states that are less than fully democratic.²⁶

The other striking difference with the American system lies in the routine, detailed, and partially public monitoring of democratic institutions. The CE's Committee of Ministers (CM)—the body roughly equivalent to the Permanent Council of the OAS—has set up three types of monitoring mechanisms.²⁷ In the first, the CM can monitor specific states, an effort undertaken rarely but with increasing frequency. In particular, the ministers have engaged in monitoring in Russia, Moldova, Albania, Ukraine, Turkey, Azerbaijan, Georgia, and Macedonia. In the second, the CM asks the secretary general to prepare reports on how well member states are complying with a particular democracy-related theme, such as local democracy or police and security forces. In the third, the CM monitors states that have recently joined the CE, including Armenia, Azerbaijan, Bosnia, Georgia, and Serbia. The reports and subsequent discussions frequently mix praise with criticism and seem designed to produce rhetorical incentives for greater compliance.²⁸

The result is that the CE seeks to protect a broader understanding of democracy than does the OAS and that the types of practices subject to CE efforts have grown much broader over time, especially for newer member states. Furthermore, the CE engages in relatively routine monitoring while the OAS rarely does so. Although some observers may suggest that the CE system is “toothless,” it is still stronger than in the Americas, where states significantly watered down U.S. proposals for more intensive monitoring (discussed below). Moreover, both systems are stronger than those in any other region of the world or globally.

24. Available at <http://conventions.coe.int/treaty/en/treaties/html/001.htm>. Accessed 5 February 2008.

25. Benoît-Rohmer and Klebes 2005, 40.

26. *Ibid.*, 41–44.

27. “Compliance with Member States’ Commitments: The Committee of Ministers’ Monitoring Procedures,” Secretariat Memorandum, 19 January 2005, Monitor/Inf(2005)1. Available at http://www.coe.int/t/cm/Home_en.asp. Accessed 5 February 2008.

28. See, for example, Council of Europe Secretary General, “Serbia and Montenegro: Compliance with Obligations and Commitments,” 7 July 2003, SG/Inf (2003); and Council of Europe Rapporteur Group for Democratic Stability, “Synopsis, Meeting of 15 July 2003,” GR-EDS(2003)CB13 (restricted), 24 July 2003.

Both systems have developed since 1990 even though there were plenty of strong needs to protect democracy among members and aspiring members during the Cold War. Why have Europe and the Americas developed stronger protection procedures since 1990 and why are they more robust in Europe?

Institutional Permeability in IOs

I argue that third-party nonstate actors are a likely source of IO rules and practices that place constraints on states. The end goal for many nonstate actors is to constrain state behavior by changing IO rules that seek to govern that behavior. Increasing the precision and obligation of those rules places stronger constraints on states by increasing and clarifying state commitments and by making state violations more transparent.²⁹ Precision refers to the number and clarity of rules; higher levels of precision place greater constraints on states. Obligation can be increased through more formal commitments and through monitoring and follow-up, all of which place greater constraints on states. For third parties seeking higher levels of precision and obligation, access to IO decision making is likely to facilitate their efforts.

Defining and Operationalizing Institutional Permeability

The comparative social movement literature has made important progress in conceptualizing institutional characteristics (usually of states) that facilitate third-party influence. Tarrow defines political opportunity structures as “consistent—but not necessarily formal or permanent—dimensions of the political environment that provide incentives for people to undertake collective action by affecting their expectations for success or failure.”³⁰ The well-known difficulty with this definition is that it covers a variety of components that vary widely by the scholar who operationalizes the term.³¹ These factors—historical precedence, cultural understandings, institutional rules, political allies, and so forth—do not necessarily covary and hence it seems better to disaggregate the term into its component parts and focus on those that are likely to have the greatest influence.

I conceptualize *institutional permeability* as part of the broader political opportunity structure and define it as the extent to which formal and informal rules and practices allow third-party access to IO decision-making processes.³² By third party, I refer to actors who are not themselves party to the contract governing the insti-

29. Abbott and Snidal 2000.

30. Tarrow 1994, 85.

31. Meyer and Minkoff 2004, 1459–60.

32. See Kitschelt 1986; and Hafner-Burton and Pollack 2002.

tution; for most IOs, this consists of nonstate actors but might also consist of third-party states or even other IOs.

Permeability comprises three dimensions: the range of groups that are allowed to participate, the decision-making level where the third party gains access, and the relative transparency by which IO decision making is conducted. The most accessible institutions are open to an array of third parties regardless of political ideology, national origin, or other criteria. Highly accessible institutions grant access at the most important decision-making levels. They also hold open meetings and debates, issue reports that provide reasons for their decisions, and facilitate knowledge of institutional procedures. At the other end of the spectrum, impermeable institutional rules carefully select the third parties who may gain access, limit their access to peripheral decision-making levels, and refuse to provide them with information. In their analysis of court accessibility, Keohane, Moravcsik, and Slaughter focused only on the range of third-party access.³³ This focus could easily be misleading in cases where anyone can formally participate but their participation is limited to peripheral issues and bodies or where their information about the decision process is restricted.

Due to substantial variation in the function and structure of IOs, it is difficult to create a single operational list for measuring these dimensions. No court, for example, would allow third parties into chambers where decisions are actually made, but some UN bodies allow third parties to be present during decision-making debates. Yet both courts and political bodies are IOs, and both are subject to third-party influence. Hence, I lay out a fairly generalizable operational scale, recognizing it may have to be modified for particular cases, depending on the issue area or functional purpose under study.

Range of access, the first dimension, refers to the range of social and political actors who can bring information or arguments to the attention of the IO, either through formal legal mechanisms or informal consultations. Some organizations have few if any formal rules allowing third-party access, such as the Security Council and the Permanent Court of Arbitration.³⁴ At moderate levels of range of access, all third parties can, in theory, communicate with the IO, but those communications are first screened either by governments or by other IOs. For example, businesses claiming unfair trade practices elsewhere must first convince their own government to bring a suit to the World Trade Organization (WTO), and individuals suffering human rights violations in the Western Hemisphere must first persuade an independent commission to bring a case to the Inter-American Court of Human Rights. The highest range of access is available when a wide range of actors can present information and arguments to an IO at relatively low cost and with no pre-screening by another body. Although such cases appear to be rare, examples include various human rights committees, such as the Commit-

33. Keohane, Moravcsik, and Slaughter 2000.

34. *Ibid.*, 462–66.

tee on Children's Rights, where some states allow direct petition from individual citizens.

In the second dimension, the decision-making level at which access is granted, third-party access may be banned altogether or limited to peripheral issues on the low end or include direct access to key decision-making bodies on the high end. The WTO dispute settlement panels fall near the low end because although anyone can file an *amicus curie* brief (thus, the range of potential third parties is high), the panels in practice accept few of them due to state objections, and third parties have no other avenues for making their case. At moderate levels, IOs allow third-party information and comments on a variety of their activities but shield key decision-making processes from third-party input. The World Bank, for example, has a variety of fora in which civil society actors can speak directly with Bank officials, including strategic policy workshops and an electronic development forum, but the Bank allows no access to weekly board meetings or to staff discussions on loans. IOs with high levels of permeability allow third parties to provide information or arguments in the most important decision-making fora. A prominent example is the Preparatory Committee to create an International Criminal Court, where nongovernmental organizations (NGOs) interacted intensively with national delegations in the negotiating process.³⁵

In the third dimension, transparency, impermeable IOs provide little information about either the process or the substance of their decision making to third parties. The North American Treaty Organization (NATO), for example, allows some third-party participation via an interparliamentary assembly but never divulges much information used in its decision-making process or an explanation of how the decision was made. IOs with moderate transparency release some decision-making information and disclose their logic after reaching the decision, as when courts publish their rulings and dissents. High transparency IOs offer access to most of the same information they have and allow third parties to observe government positions during the negotiation process, a practice that is fairly common in UN committees tasked with drafting treaties.

Institutional Permeability and the Precision and Obligation of International Rules

A focus on institutional permeability suggests the following hypothesis:

Hypothesis: The higher the level of institutional permeability, the more likely it is that the institution's policies and practices will seek to constrain state behavior through increasing levels of precision and obligation.

35. Benedetti and Washburn 1999.

This hypothesis is straightforward, but not tautological. It differs fundamentally from existing explanations of IO behavior and international rules, which tend to focus on state needs such as reducing transaction costs and strengthening the credibility of commitments.³⁶ Without suggesting a state functionalist approach is wrong, I argue that permeability to third parties constitutes an alternative source of precision and obligation. Third parties active in international affairs are marked by a huge range of preferences, but a great many of them are motivated by the desire to alter state behavior in some way.³⁷

Permeability facilitates the ability of nonstate actors to influence IO behavior and rules in a couple of ways. Permeability enhances the ability of third parties to provide information. Because IOs need information to carry out their tasks, shaping the nature of the information reaching them can also shape their decisions. Many international problems are fraught with complexity and marked by the absence of good information. IOs tasked by states to resolve these problems are frequently underfunded and understaffed. Governments who have superior information to IO staffs are sometimes reluctant to share that information. Many IOs, as in the human rights and environmental issue areas, rely on state reports, which are often incomplete and misleading. Nonstate actors can influence IO decisions by providing information about the nature of the problems and the likely consequences of different policy options.³⁸ Third parties can also provide information on state negotiating positions to other states.³⁹ The larger the permeability of the IO, the greater the opportunity for third parties to provide information that can shape IO decisions.

Third parties can also use permeability to help IOs define problems and identify solutions. These mechanisms differ from pure information-provision because they result in deeper conceptual changes in IO worldviews. Barnett and Finnemore have argued that IO staffs can influence states by creating categories that identify new ways of perceiving the nature of problems and solutions.⁴⁰ IO staff can create these analytical categories themselves, but they are also likely to rely on ideas and “ways of seeing” provided by third parties. UN postwar reconstruction programs in Central America, for example, “taught” states that the concept of reconstruction involved an emphasis on civil society and local community programs, a conceptualization advocated by NGOs among UN staffers.⁴¹ At times, third parties can bypass IO staff entirely to suggest new conceptualizations directly to states, as when NGOs successfully advanced the new concept of violence against women in UN forums.⁴²

36. Abbott and Snidal 2000.

37. Keck and Sikkink 1998.

38. Raustiala 1997, 726–27.

39. *Ibid.*, 730.

40. Barnett and Finnemore 2004.

41. Reimann 2006, 62.

42. Joachim 2003, 254–60.

Permeability also increases the ability of third parties to engage in dialogue and arguments that could persuade IOs of their viewpoints. Social psychology research suggests that persuasion is most likely to occur when persuaders engage in serious deliberative argument (rather than lectures, demands, or shame) and when that dialogue occurs in less politicized, insulated, private settings.⁴³ Other conditions facilitating persuasion include speakers who share common worldviews and who recognize each other as equals in a nonhierarchical setting.⁴⁴ Permeability facilitates these conditions by allowing third parties to make private rather than public arguments and to engage in an ongoing, serious dialogue rather than limited side-line sniping, by giving third parties insights into the ways in which IO staff and state representatives conceptualize the issues, and by treating third parties as relative equals rather than prying outsiders. By way of illustration, when the UN General Assembly tasked a Preparatory Committee to prepare a draft statute of an International Criminal Court, the committee allowed extremely wide access to NGOs supporting the court. These NGOs played an important role in persuading states to view the court in terms of the demands of justice rather than as a tool for states to employ.⁴⁵

By focusing attention on nonstate contributions to IO behavior and rules, permeability contributes to theoretical alternatives to state-centric approaches. Permeability shines a spotlight on the ways in which civil society can influence the creation and implementation of international rules, which in turn affect state compliance and regime effectiveness. If IO permeability is increasing, as it seems to be the case generally, civil society groups are likely to be increasingly empowered. Yet the role of nonstate actors in IOs is currently not well-conceptualized, and a discussion of third-party influence cuts against the grain of important theoretical perspectives. The *International Organization* special issue on institutional design, for example, does not discuss design features that might facilitate or impede third-party influence.⁴⁶ In principal-agent theory, states are the main actors who determine the behavior of IOs, and outside actors must first influence states before they can influence the organization.⁴⁷ In neoliberal institutionalist theory, states use IOs to cut their transaction costs and provide them with information. Martin and Simmons have critiqued the institutionalist literature for failing to examine the way that nonstate actors influence IOs, but most of their critique and much of the subsequent literature focused on domestic actors influencing states who then influence IOs.⁴⁸

43. Checkel 2001, 563.

44. Risse 2000.

45. Benedetti and Washburn 1999.

46. Koremenos, Lipson, and Snidal 2001.

47. Nielson and Tierney 2003.

48. See Martin and Simmons 1998; and Hawkins et al. 2006.

Institutional Permeability and Democracy Protection in the CE and OAS

Institutional Permeability in the CE and OAS

While the CE and the OAS possess many similarities, the CE has substantially higher permeability due to its Parliamentary Assembly. Moreover, the CE's permeability has grown over time as the Assembly has become more active. The Assembly is an advisory body only with formal authority under the CE statute to debate issues and to make recommendations to the Committee of Ministers (CM).⁴⁹ It is composed of members of parliament of the various member states and hence represents a wide range of political parties and interests. The civil society groups who first launched the CE initiative in postwar Europe hoped the Assembly would be an important decision-making body, but state opposition turned the body into a simple consultative forum.⁵⁰ In fact, states labeled the body the Consultative Assembly, which is still its statutory name, but eventually acceded to the wishes of the Assembly and now call it the Parliamentary Assembly. Although its formal powers are purely advisory, the ministers routinely respond to Assembly requests and, in the words of two top analysts and CE insiders, the Assembly "now exercises a powerful influence over the Committee [of Ministers]."⁵¹ Both the OAS and the CE consult third parties in a variety of conferences and through informal contacts, but the Assembly allows nonstate voices to reach the ministers directly and the Assembly itself is open to civil society influence because it is composed of elected parliamentarians. The OAS has no similar organization.

All three dimensions of permeability outlined here fall at fairly moderate levels in the CE. With respect to the range of groups with access, the Assembly is composed of parliamentarians from the various member states who fairly represent the relative size of the various parties in their home state's parliament.⁵² In addition, the Assembly also includes parliamentarians from nonmember governments as observers who participate in debate and attend meetings but cannot vote. As a result of this different selection process, the Assembly has often exhibited a different range of preferences from that of the CM, which represents the governments in power. As parliamentarians, members of the Assembly are more directly dependent on and attentive to the needs of constituents than government ministers, providing a way for civil society actors to engage the CE without having to gain the attention of the government itself. The range of groups with access is still quite narrow—parliamentarians are closer to governments than most other third

49. Benoît-Rohmer and Klebes 2005, 56–69.

50. *Ibid.*, 56–57.

51. *Ibid.*, 69.

52. Information in these paragraphs is drawn from the Statute of the Council of Europe and the Rules of Procedure of the Assembly, available at (http://assembly.coe.int/Main.asp?link=/RulesofProcedure/PACERuleIndex_E.asp), accessed February 2008; as well as from the cited secondary sources.

parties—yet it is broader than in the OAS, which excludes all nongovernmental actors from direct representation in the most important decision-making institutions.

The Assembly also enjoys moderate levels of access and transparency within the CE. Despite constituting a primary organ of the CE, the Assembly is formally excluded from CM activities and debates and lacks co-decision authority. At the same time, the ministers frequently seek advice from the Assembly, a privilege they grant no other organization, and frequently respond to Assembly requests and initiatives.⁵³ Assembly members cannot attend CM meetings and have no authority to compel the release of information used by the CM in decision making. Still, the Assembly routinely requests information from the CM, much as a parliament might request answers from its government about particular issues, receives regular reports from the CM, and involves ministers or their representatives in discussions.

Significantly, changes in the Assembly's rules, relations with the CM, and behavior have increased the permeability of the CE over time. In the Assembly's earliest days, governments appointed the members of the Assembly, but the Assembly pushed through a rule making the home state's parliament responsible for selection of Assembly members.⁵⁴ When first created in 1949, the Assembly could not even determine its agenda, which had to first be approved by the CM.⁵⁵ The Assembly, however, quickly took over its agenda. While states originally drafted the CE statute to keep the Assembly at arms-length from the ministers, the Assembly has eroded that distance by creating a joint committee to coordinate action between the two bodies.⁵⁶ The Assembly also appoints the secretary general, who over time has become an increasingly important voice in the CE.⁵⁷ Finally, the Assembly has simply become more active on a wider range of issues, making more recommendations and asking for more information, and the CM has responded. Such measures have increased the extent to which Assembly members can access the important decision-making processes in the CE and receive information about them.

The Process of Building Democracy Protection

Substantial process-tracing evidence identifies the Assembly as the most important driver increasing democracy protection in the CE, using the admission of new member states to do so. Formally, only the Committee of Ministers can issue invitations to potential members. Not wishing to be sidelined, the Assembly began to chip away at this authority as early as 1950, asking the ministers to amend the statute to include the Assembly in the admission procedure.⁵⁸ The ministers responded in May 1951 by agreeing they would first consult the Assembly before

53. Benoît-Rohmer and Klebes 2005, 65–69.

54. *Ibid.*, 58.

55. Robertson and Merrills 1993, 6–7.

56. Benoît-Rohmer and Klebes 2005, 69–71.

57. *Ibid.*, 71–74.

58. Winkler 1995, 150–51.

making any admission or suspension decisions.⁵⁹ At first, the Assembly offered only oral, informal opinions. As time passed, the Assembly began issuing written opinions of ever-increasing length and specificity and with ever more requirements for membership.⁶⁰ In 1965, the Assembly issued its first written opinion on admission, expressing its “wish” that Malta would sign and ratify the European Convention on Human Rights after it became a member.⁶¹ In the mid-1970s, the Assembly made references to Spain’s and Portugal’s democratic institutions and intentions as part of the admission procedure but did not commit those states to anything in particular.⁶² In subsequent opinions, through the accession of the first East European members in 1990–91 (Hungary, Poland, and Czechoslovakia), the Assembly followed this pattern of noting the existence of democratic institutions and welcoming the governments’ intentions to pursue legal obligations with respect to the Human Rights Convention.⁶³

Beginning with Bulgaria in 1992, the Assembly began to use the language of “commitment” (rather than wishes or observances), to expand the number and scope of obligations of new member states, and to specify those commitments in greater detail.⁶⁴ The largest change occurred in May 1993 with the admission of Estonia. Russian delegates, who enjoyed seats in the Assembly but not on the Committee of Ministers due to Russia’s special guest status, raised questions about the treatment of the Russian minority in Estonia.⁶⁵ While this effort was undoubtedly self-interested, it was made possible by the Assembly’s fundamental permeability, which allowed nonmember parliamentarians to raise issues. The Assembly then delegated the thorny question to a group of eminent lawyers—experts unwedded to any state or political party.⁶⁶ This action essentially increased the Assembly’s permeability by creating another group of outsiders with excellent institutional access. The resulting Assembly opinion broke new ground by committing Estonia to alter its policy on minorities to conform to European rules as a condition for membership.⁶⁷ For the first time, the Assembly committed a state to do something more than ratify a human rights treaty.

Once this bridge was crossed, the Assembly regularly increased the level and scope of commitments for subsequent member states. These increases resulted from a combination of parliamentarians pursuing their interests in the Assembly and of

59. The ministers gave the resolution a “statutory character,” but failed to amend the Statute. See Council of Europe, “Texts of a Statutory Character,” ETS1. Available at <http://conventions.coe.int/treaty/en/treaties/html/001.htm>. Accessed 5 February 2008.

60. See Winkler 1995, 149–71; and Klebes 1999, 18–21.

61. Opinion No. 44. This and all subsequent Assembly documents are available at <http://assembly.coe.int>. Accessed 5 February 2008.

62. Opinion No. 78 and Recommendation 820 (1977).

63. See, for example, Opinions No. 144, 153, 154 and 155 on Finland, Hungary, Poland, and Czechoslovakia.

64. Opinions No. 161, 168 and 169 on Bulgaria, Lithuania, and Slovenia.

65. Winkler 1995, 158.

66. Klebes 1999, 19.

67. Opinion No. 170 (1993).

the independent experts who set the agenda for Assembly debate. Moreover, once one new member made a particular commitment, the CE often asked all subsequent new members to make the same commitment. Hence, the Czech Republic in 1993 committed to minority protection in the same fashion as Estonia despite the fact that Czechoslovakia, two years previously, had made no such commitment.⁶⁸ Hungarian representatives raised concerns about minority treatment in Slovakia, leading to Assembly-initiated Slovak commitments to allow minorities to use surnames and first names in their mother tongue and to rid legislation of any notion of collective ethnic guilt.⁶⁹ In the Romanian case, the Assembly rapporteur assigned to produce a report raised a number of specific concerns that the Assembly had not previously addressed, including judicial functioning, media independence, and the authority of local officials.⁷⁰ It seems likely that Romania had more difficulties in these areas than previous members, but it is also true that previous members were far from perfect on these or other issues and thus that the influence of the individual rapporteur was essential.⁷¹ In fact, he even went so far as to secure a letter from Romania's foreign minister addressed to the rapporteur that made specific commitments for improvements—a clear precursor to later commitment letters formally exchanged between applicant states and CE institutions. As a result, the Assembly created a substantial list of specific commitments for Romania, including domestic legislation that would legalize homosexuality between consenting adults, return property to churches, and make it impossible for government officials to instruct a judge, among other things.⁷²

While the Assembly forged ahead with ever longer and more specific commitments, the Committee of Ministers, in contrast, consistently lagged behind the lead of the Assembly by a couple of years and when it did act, it routinely adopted the Assembly's approach. While the Assembly laid out specific democracy commitments for Lithuania, Slovenia, and Slovakia, for example, the CM imposed no membership conditions and instead simply took note of the Assembly's "favorable opinion" regarding admission and noted the governments' promises to sign (with no mention of ratification or acceptance of key optional clauses) the European Convention of Human Rights.⁷³ In October 1993, the CM took a step toward greater action by noting the Romanian government's commitments to the Assembly.⁷⁴ Two years later when Latvia was admitted, the CM referred not only to the Assembly's

68. Opinion No. 174 (1993).

69. See Opinion No. 175 (1993); Winkler 1995, 161–62; and Klebes 1999, 11.

70. Report on the Application by Romania for Membership in the Council of Europe, Doc. 6901, 19 July 1993. See also Winkler 1995, 164–65.

71. For example, the Polity IV data set rated Estonia a 6 and Romania a 5 on its democracy scale (10 is the highest score) in the early 1990s.

72. Opinion No. 176 (1993).

73. Resolutions (93) 24, (93) 25, and (93) 33, available at (http://www.coe.int/T/CM/WCD/advSearch_en.asp#). Accessed 5 February 2008. This site was also used for all subsequent references to CM documents.

74. Resolution (93) 37.

commitments but also to commitments made to the CM.⁷⁵ These commitments, however, were not publicly written down anywhere, making them fairly low-level obligations. The CM then followed this pattern with subsequent applicants, including important states such as Ukraine and Russia. With Croatia's admission in mid-1996, the CM finally created its own written commitments through an exchange of letters with the applicant state, a pattern that has continued through the admission of the most recent member, Serbia, in 2003.⁷⁶ The letters increased the CM's direct involvement in the commitment process, but they still defaulted almost entirely to the requirements laid out by the Assembly. In those letters, the CM essentially adopted wholesale the Assembly's approach rather than articulating alternative conditions for democracy.

CM monitoring efforts illustrate the same pattern. In November 1994, the ministers adopted a document authorizing monitoring of commitments, though only when the Assembly, the secretary general, or a member state brought a case to their attention.⁷⁷ CM decision making is confidential and hence it is difficult to identify motives, but the timing suggests that ministers were worried that institutional influence over new member states was slipping toward the Assembly, an interpretation held by CE officials who participated in the process.⁷⁸ As official state representatives, however, the ministers remained reluctant to single out any state in particular and so in practice opted to examine all member states' compliance with a series of particular themes.⁷⁹ Indeed, it once again fell to nonstate actors—the secretary general and the Assembly—to place the first cases of individual state monitoring on the ministers' agenda.⁸⁰ It was not until the CE admitted members with serious security issues at stake in 2000 and later—Armenia, Azerbaijan, Bosnia, and Serbia—that the CM finally took the initiative on country-specific monitoring.⁸¹

In short, process-tracing evidence consistently shows that the Assembly initiated the key democracy protection measures of specific commitments and monitoring, that the Assembly placed those efforts on the ministers' agenda, that the ministers consistently adopted the Assembly's procedures, sometimes in wholesale fashion, and that the ministers were in fact responding to the Assembly rather than arriving at similar solutions independently.

A comparison with the Americas is instructive, though it is also difficult because it involves showing how the absence of permeability resulted in less progress on democracy protection policy. The best way to illustrate the importance of this absence is to examine cases that are as similar as possible. In the CE, all progress

75. Resolution (95) 3.

76. Resolution (96) 31.

77. Committee of Ministers (CM), Council of Europe. "Declaration on Compliance with Commitments," 10 November 1994, 95th Session.

78. See Klebes 1999, 28; and Winkler 1995, 167.

79. See, for example, CM, "Stock-Taking of the First Two-year Monitoring Cycle," CM(97)74, 16 April 1997.

80. Benoît-Rohmer and Klebes 2005, 123–24.

81. See CM Documents, CM (2000)170, 9 November 2000, Res. (2002)5, and Res. (2003)3.

on democracy protection policy occurred in the context of admitting new members with problematic democratic prospects. While the OAS has not admitted new members since 1990, it has had an opportunity to act in several cases of democratic backsliding where states faced problematic democratic prospects in the future.⁸² These cases have presented excellent opportunities for the OAS to create new protection policies, yet the OAS has not made as much progress on democracy protection as the CE. As a small state where previous internal turmoil adversely affected nearby powerful states, Guatemala provides a most-likely case for OAS efforts to increase multilateral protection procedures. Guatemala clearly violated regional democracy norms in May 1993 when the president dissolved much of the Guatemalan Constitution and seized authority for himself. Reacting immediately, the OAS condemned the antidemocratic actions, called for a restoration of democracy, threatened sanctions, and sent the secretary general to negotiate solutions.⁸³ A few days later, when Guatemala's congress appointed a new president, the OAS quickly declared an end to the crisis, congratulated the people of Guatemala for their commitment to democracy, thanked everyone, and closed the matter.⁸⁴ The OAS took strong action but then abruptly halted its efforts despite an ongoing civil war and the executive's precarious hold on power.

If the OAS possessed an Assembly or other forum for nonstate actors, it is easy to imagine those actors demanding stronger ongoing action on Guatemala. In their absence, the lack of change in OAS policy is more easily understood. Likewise, when Peru's president seized power from congress and the judiciary in April 1992, the OAS responded the same way as in Guatemala and then, after observing new elections, closed the case in December 1992 by requesting that Peru keep the OAS informed of the progress of democracy in the country.⁸⁵ The other two instances of OAS action to restore democracy in the 1990s—Haiti and Paraguay—also ended without important changes in OAS democracy protection policy.⁸⁶ Again, it is relatively easy to imagine the counterfactual where an Assembly composed of parliamentarians subject to civil society influence would have required at least some ongoing monitoring of these shaky governments to ensure their democratic nature.

Process-tracing in the CE identifies permeability as the central causal mechanism promoting democracy protection, an important strength of process-tracing evidence.⁸⁷ Nevertheless, as noted here, the OAS has made some progress on democracy protection since the end of the Cold War even in the absence of much

82. See Shifter 2002; and Boniface 2002.

83. See also Organization of American States (OAS), Ad Hoc Meeting of Ministers of Foreign Affairs, "Restablecimiento Democrático en Guatemala," 3 June 1993, OEA/Ser.F/V.3, MRE/Res. 1/93.

84. See OAS, Ad Hoc Meeting of Ministers of Foreign Affairs, "Restoration of Democracy in Guatemala," 8 June 1993, OEA/Ser.F/V.3, MRE/Res. 2/93 corr. 1.

85. OAS, Ad Hoc Meeting of Ministers of Foreign Affairs, "Restoration of Democracy in Peru," Resolutions 1/92, 2/92, and 3/92, OEA/Ser.F/V.2, April–December 1992.

86. Haitian monitoring began again with the renewal of political crisis in 2000 and has continued since then because the crisis has not abated.

87. George and Bennett 2005.

permeability. Hence, it is important to investigate other factors that might have contributed to institutional change in the OAS and that might have facilitated that change in the CE.

Alternative Explanations of Democracy Protection

Constitutive International Norms

Within the constructivist tradition, both Flynn and Farrell and Santa-Cruz have developed arguments for international democracy protection behavior that highlight the role of constitutive normative frameworks shared among states.⁸⁸ They focus on different practices and institutions than those examined in this article, but ones that are closely related to democracy protection. In particular, Flynn and Farrell developed a constructivist account of the evolution of democratic security norms in the Conference for Security and Cooperation in Europe (CSCE; later OSCE) while Santa-Cruz did the same thing for the practice of election monitoring in the Americas.⁸⁹ As a result, democracy protection in the CE and the OAS should be “most likely cases” for their theoretical arguments.⁹⁰

Despite some differences between them, both Flynn and Farrell and Santa-Cruz make a similar central point: states cannot act without a collective normative framework that makes that action logically possible and likely.⁹¹ In the particular case of CSCE’s conflict prevention behavior, the international response “could not have been undertaken” without an “anchoring set of norms.”⁹² Furthermore, an “enabling norm is one that allows, or greatly facilitates, actions that would otherwise be impossible or unlikely to occur.”⁹³ Likewise, Santa-Cruz argues that the Western Hemisphere’s normative structure, also labeled a “constitutional structure,” enabled the emergence of international election monitoring. For Santa-Cruz, constitutional structures in the Americas “infused states with a social collective identity that made the emergence of [election monitoring] in the Americas logically possible.”⁹⁴ Absent that particular normative structure, election monitoring would not have emerged in the Americas earlier than elsewhere.⁹⁵

To what extent can this approach shed light on democracy protection practices in Europe and the Americas? Most analysts would probably agree that a strong regional democracy norm emerged in Western Europe at the end of World War II. Whether a similar norm emerged in the Americas at the same time is difficult to

88. See Flynn and Farrell 1999; and Santa-Cruz 2005.

89. *Ibid.*

90. Eckstein 1975.

91. See Flynn and Farrell 1999; and Santa-Cruz 2005.

92. Flynn and Farrell 1999, 509.

93. *Ibid.*, 511.

94. Santa-Cruz 2005, 670.

95. *Ibid.*, 687.

say. Because norms constitute an alternative explanation to the one developed in this article, I adopt the operationalization provided by proponents of that theoretical perspective and assume that a democracy norm has existed in the Americas at least since 1945.⁹⁶ Substantial discursive evidence exists to support this view, though the uneven practice of democracy in Latin America during the Cold War obviously works against the claim.⁹⁷ Still, norms scholars tend to focus on these discursive and ideational (rather than behavioral) aspects, as when Finnemore and Sikkink suggest that norms are best measured by “justifications for action” and “an extensive trail of communication.”⁹⁸

The main difficulty for a norms explanation is that the CE and OAS have adopted diverse behaviors within the context of similar prodemocracy normative structures since 1945. Even within Europe, the stronger case for a norms explanation, behavior has changed quite a bit over time while identities and norms have remained democratic. During the Cold War, as I discussed, the CE was content to threaten punishment for violating democracy norms, but after 1990 the CE reversed course, increasing the levels of specificity and obligation associated with democratic protection. Even within the CE, the Assembly consistently pressed forward while the ministers held back and remained more skeptical. In addition, I will show how the EU lagged the CE in democracy protection and how the OAS has made some progress but also suffered reversals. Shared democracy norms in Europe cannot account for these variations in behavior.

Yet it would be a mistake to dismiss norms entirely. The fact that other regional organizations in Europe, such as the EU and the CSCE, have attempted to construct, promote, and protect democracy provides evidence in favor of norms. It seems more consistent with the evidence to say that norms help explain broad patterns, such as the general efforts of regional organizations in both Europe and the Americas to promote and protect democracy, but that they have difficulty explaining more fine-grained variance in state and IO behavior.

The Cold War cases of Greek and Turkish democratic backsliding shed additional light on this issue. At first glance, it might appear that norms influenced states to sanction Greece in the late 1960s (ultimately leading to Greek withdrawal from the CE) because there were few strategic incentives to isolate Greece. A closer look, however, provides evidence that norms may have played a background role, but that permeability more directly and strongly influenced CE behavior. After the Greek coup in April 1967, the CE’s Assembly was the first to take action when it called on states in June to file a complaint against Greece in the European Commission of Human Rights.⁹⁹ Denmark, Sweden, Norway, and the Netherlands lodged that complaint, but other European states maintained better

96. Santa-Cruz 2005.

97. See Muñoz, 1998: 3–5; Shifter 2002, 86–88; and Santa-Cruz 2005, 674.

98. Finnemore and Sikkink 1998, 892.

99. Resolution 346 (1967). All CE resolutions relating to the Greek case can be found at (www.ena.lu). Accessed 5 February 2008.

relations with Greece, continuing to trade and engage in military sales and refusing to use CE membership as a sanction.¹⁰⁰ The Assembly forged ahead, calling in January 1968 (Resolution 361) for suspension of Greece from the CE within a year and then in January 1969 (Recommendation 547) refusing to seat Greek delegates in the Assembly. Amid mounting pressure from domestic human rights groups and enormous media attention, Britain, Germany, and France finally agreed to suspend Greece from the CE in late 1969. Still, states did not want to penalize Greece too much, and thus Britain and others worked hard to ensure that NATO would not also censure Greece.¹⁰¹ A 1980 coup in Turkey produced a similar dynamic, with the CE Assembly taking the lead once again on investigations, resolutions of concern, and the withdrawal of Turkish delegates from the Assembly, yet states never seriously considered suspending Turkey. In both cases, democracy norms were consistent with CE efforts to protect democracy in Greece and Turkey, but cannot account for state foot-dragging and the Assembly's more active role within the CE. Of equal note, democracy norms failed to produce any movement toward institutionalized democracy protection mechanisms during the Cold War.

Domestic Incentives for Delegating to IOs

Moravcsik developed a very different explanation of why states might seek to protect democracy, proposing that new and unstable democracies create international human rights regimes to lock in democratic principles in the face of domestic uncertainty.¹⁰² He argued that the primary proponents of reciprocally binding international human rights institutions are the governments of newly established or unstable democracies. This is because these governments fear the possible return to authoritarian rule and are seeking to "lock in" democratic principles. By placing power in the hands of independent authorities, governments seek to restrain future nondemocratic leaders. With respect to established democracies, Moravcsik concluded they would seek to bind others but not themselves because the costs of reduced sovereignty outweigh the benefits of the commitment. Additionally, authoritarian governments would not support human rights regimes for the obvious reason that they are the states most likely to violate these norms. Moravcsik developed the theory in the context of Western Europe's creation of a strong human rights enforcement mechanism in post-World War II Europe. As a result, the democracy promotion actions of the CE in particular should be a relatively easy case.

The evidence, however, provides only mixed support for the argument. Some new democracies have strongly supported more specific and obligatory inter-

100. Pedaliu 2007.

101. Ibid.

102. Moravcsik 2000.

national rules for democracy but others have not. From 1945–60, several countries in Europe and Latin America could be considered new or unstable democracies yet neither region made much progress on democracy protection. In the Americas, Venezuela proposed adopting a procedure that would determine whether states were complying with democratic obligations.¹⁰³ Argentina, Brazil, and Chile, all new or struggling democracies, strongly opposed the measure and helped bury it. In the early 1990s, by contrast, nearly all the new democracies in Latin America and Europe strongly supported international protection mechanisms. Given the number of new democracies in both regions in the 1990s, the lock-in hypothesis would expect roughly equal movement toward a protection regime—yet Europe made more progress.

Furthermore, if states were really motivated by the desire to lock-in democracy, they would make as much progress on creating precise and binding rules for democracy as they have on rules for human rights. Yet democracy enforcement efforts in the Americas and in Europe are still quite thin compared to human rights. Europe in 1950 and the Americas in 1966 established an independent commission and court of human rights and made it possible for individual citizens to bring complaints and for the court to issue legally binding judgments. This constitutes much stronger protective action that more intensively alters sovereignty than does the routine monitoring or shaming in the democracy protection regimes. If states have such strong interests in protecting democratic institutions, why have they not done that, as a way of supplementing human rights protections?

The Influence of Powerful States

An explanation focusing on power is a final obvious alternative. The most important hypothesis in this tradition is summarized succinctly by Mearsheimer: “The most powerful states in the system create and shape institutions so that they can maintain their share of world power, or even increase it.”¹⁰⁴ Carr argued that powerful states inject their ideologies into international institutions in an effort to project their political systems and values on weaker states—a position suggesting that democracy protection should be an important feature of Western-dominated international institutions.¹⁰⁵ Others have used these power arguments to explain regional institutions in the Americas and Europe. Klepak captured much of the conventional wisdom by arguing: “United States power, once established as predominant in the hemisphere, has been nothing short of decisive in the founding, nature, and functioning of the multilateral institutions in the Americas.”¹⁰⁶ In

103. Organization of American States, *Documents of the Council of the Organization of American States on the Draft Convention on the Effective Exercise of Representative Democracy*. Doc. 8, 1 March 1965, Second Special Inter-American Conference, Rio de Janeiro, Brazil.

104. Mearsheimer 1994–95, 13.

105. Carr 1964, 80–88.

106. Klepak 2003, 239.

Europe, Garrett has made similar arguments about the importance of power, even in the case of the creation of the internal market that benefited all: “Both the economic rules and the political institutions governing the internal market reflect the preferences of the most powerful countries in the EC: France and Germany.”¹⁰⁷

If the interests of powerful states have driven democracy protection in the CE and OAS, we should observe those states protecting democracy in their foreign policies outside those institutions. Interests should lead them to use their power to protect democracy in ways that are as robust as the methods they use in the CE and OAS during the same time period. European states first sought to protect democracy in 1989–90 when they made EU aid and trade agreements with Eastern Europe conditional on democracy, the rule of law, and human rights.¹⁰⁸ Yet these rules did not specify the nature of democracy, impose much monitoring, or attempt to influence domestic institutions and practices in any detail. States did delay aid and trade in response to overt state violence in Romania in the early 1990s, but even in such an obviously repressive and nondemocratic case states disagreed about whether to impose any penalties and granted aid and trade after a brief delay.¹⁰⁹ When the EU decided to hold out the carrot of expansion in June 1993, it announced that future members would need to achieve “stability of institutions guaranteeing free democracy” without specifying that requirement.¹¹⁰ The pre-accession agreements in the early 1990s with states aspiring to EU membership did not define democracy, specify the political commitments of aspirant states, or implement any monitoring.¹¹¹ Rather, some of these “Europe Agreements” referred vaguely to democratic principles as essential elements in the relationship and stressed political dialogue, not imposed conditions.

None of these efforts suggests that states took democracy protection very seriously. Vachudová labels them “passive” while Smith calls them “confused” and frequently subordinate to economic and geopolitical concerns.¹¹² In December 1995, when expansion discussions were intensifying, EU states openly disagreed on whether the EU should collectively punish states who seriously violated human rights and democratic principles.¹¹³ Change finally occurred in 1997 when the Amsterdam Treaty resolved the question by empowering the Council (using qualified majority vote) to suspend member states in “serious and persistent breach”

107. Garrett 1992, 560.

108. See Vachudová 2005, 100–101; and Smith 2001.

109. Vachudová 2005, 101.

110. Known as the “Copenhagen Criteria,” this document is formally the conclusions of the European Council in Copenhagen and can be accessed at (<http://www.europarl.europa.eu/summits/>). Accessed 5 February 2008.

111. These agreements may be found in the Agreements Database at the Council of the European Union (<http://ue.eu.int>). Accessed 5 February 2008.

112. See Vachudová 2005, 81–104; and Smith 2001, 36.

113. See 1995 Madrid European Council, available at (<http://www.europarl.europa.eu/summits/>). Accessed 5 February 2008.

of democratic principles. Also in 1997, the EU Commission published “Agenda 2000,” a document that began specifying the nature of applicants’ democratic commitments and began evaluating their progress.¹¹⁴ The following year, states instructed the Commission to begin routine monitoring of the compliance of aspiring member states.

In short, it was not until 1997 that the EU strengthened its democracy protection efforts by specifying and monitoring democratic commitments. Two close observers summarized the record of the EU in the early 1990s as follows: “the [European] Union (then the EC) lacked both the instruments for democracy promotion and the official mandate to deal with human rights and democratic principles. Its initial efforts were rather unfocused and were outweighed by more prominent concerns, such as trade. . . . Until 1997 and the Amsterdam Treaty of that year, the EU (in contrast to the Council of Europe) did not even have routine mechanisms for monitoring democracy among its own members.”¹¹⁵ Democracy protection was certainly not absent and Eastern states were undoubtedly anticipating EU membership, but until 1997 European states demonstrated a marked reluctance to create detailed and credible commitments to democracy. In contrast, the CE Assembly was engaged in the specification and monitoring of democracy commitments by 1993.

The United States exhibited somewhat stronger action to protect democracy than Western European states in the early to mid-1990s. At the first Summit of the Americas involving the hemisphere’s heads of state, hosted in Miami, Florida, in December 1994, the United States placed democracy protection front and center, in contrast with EU summits at the same time. In the first sentence of the plan of action adopted at the Summit, states declared, “The strengthening, effective exercise and consolidation of democracy constitute the central political priority of the Americas.” The United States translated these principles into action in its response to four major democratic reversals in the hemisphere in the 1990s in Haiti (1991), Peru (1992), Guatemala (1993), and Paraguay (1996). The United States imposed sanctions and removed the authoritarian government by force in Haiti, imposed economic and military sanctions on Peru in response to President Alberto Fujimori’s *autogolpe*, threatened to cancel Guatemala’s tariff concession in response to a similar problem in that country, and cut off military aid, threatened economic sanctions, and engaged in vigorous bilateral and multilateral diplomacy to head off a potential coup attempt in Paraguay.¹¹⁶ Observers agree that the United States played an important role in drafting and approving Resolution 1080, the Washington Protocol, the inter-American Democratic Charter, and other multilateral democracy protection mechanisms in the 1990s.

114. See European Commission. Agenda 2000: For a Stronger and Wider Union. *EU Bulletin, Supplement* 5/97; and Kelley 2004.

115. Dimitrova and Pridham 2004, 95.

116. See Shifter 2002; and Valenzuela 1997.

Despite all of this, the efforts of a hegemonic United States produced a weaker multilateral protection regime than the efforts of the CE's Parliamentary Assembly. Events in the Americas after 2001 suggest that U.S. power is as much of a liability as an asset. In June 2005 in Florida, the United States tried to capitalize on the first OAS General Assembly session held on its territory in thirty-two years by trying to strengthen democracy protection. In particular, the regional hegemon suggested that the OAS Permanent Council routinely monitor any situations that might affect the quality of democratic institutions and seek civil society input in the process.¹¹⁷ A wide variety of Latin American states, citing concerns about sovereignty and a process that could be used by the powerful against the weak, proposed watering down the plans. The United States fought back hard, making the proposal the centerpiece of the conference, the focus of President George W. Bush's speech, and the main object of Secretary of State Condoleezza Rice's diplomatic efforts. In the end, however, the United States managed to pull along only one or two Latin American states. The final version of the document simply instructed the secretary general to prepare a report on the ways in which the 2001 Democratic Charter has been implemented—a fairly vague mandate that seems to focus on how the OAS has worked to protect democracy rather than on the record of the states—while tempering that initiative with instructions that any further efforts must be cooperative and must respect the principle of nonintervention.¹¹⁸

Conclusion

The evidence suggests that institutional permeability constituted the key causal mechanism for a more robust democracy-protection regime in Europe and that the absence of permeability in the Americas has weakened democracy protection. As process-tracing demonstrated, permeability was central to the process of creating more specific and obligatory rules regarding democracy in the CE. The CE Assembly, populated by and open to the influence of nonstate actors, consistently took the lead in specifying the nature of member state democratic commitments and in monitoring those commitments while state leaders in the Committee of Ministers lagged behind.

The other three explanatory factors—summarized as norms, domestic interests, and international power—may have facilitated the emergence of the CE's democracy protection regime but worked as favorable conditions rather than central causal mechanisms. Contrary to the expectations of a constitutive norms thesis, multilateral democracy protection was not self-evident or taken for granted by Western

117. OAS, General Assembly, "Draft Declaration of Florida: Delivering the Benefits of Democracy," OEA/Ser.P, AG/Doc.4476/05, 1 June 2005.

118. OAS, General Assembly, "Declaration of Florida: Delivering the Benefits of Democracy," AG/Dec.41 (XXXV-O/05).

states even fifty years after World War II. In contrast to the new democracies thesis, parliamentarians from established democracies were the strongest proponents of locking in unstable democracies. Western European states did not demonstrate an interest in multilateral democracy protection in the EU until 1997 or so, thus providing evidence against the powerful states perspective.

The OAS provides a striking comparison that mimics a “natural experiment” because favorable norms, interests, power were all present after 1990 while permeability was not. In this case, a much less robust regime emerged. Process-tracing evidence suggests that both new democracies and powerful states drove multilateral protection in the 1990s in the Americas and that they benefited from a sense of democratic identity. Yet when the United States wanted to go farther, it failed, despite unsteady democracies and strong prodemocracy norms. Europe during the Cold War provides another useful comparison because it possessed democratic norms, unstable democracies, and powerful states with potential interests in democracy protection, yet it failed to institutionalize any multilateral protection mechanisms and acted slowly in the face of threats to democracy. Process-tracing shows that the CE was much less permeable during the Cold War because the Assembly was much less active and the CE’s institutional rules and processes were less favorable.

The argument presented here rests mostly (not entirely) on evidence from the relatively short time-span from 1990–2005. Careful attention to state and IO behavior in these years identifies a lot of variation that cannot be explained by norms, one type of cultural approach. If the analysis took a broader perspective—why does Europe generally protect democracy more than the Americas?—then cultural approaches would probably be in a stronger position. It seems likely that the liberal tradition is more deeply rooted in Europe and that this tradition influences many of the other variables discussed here, including the higher levels of permeability in Europe. In this sense, deep cultural factors are likely to influence general patterns in this area.

The importance of permeability in shaping international democracy protection is surprising because states do not meddle lightly with domestic institutions and because states did not design the CE to be highly permeable. States are reluctant enforcers of international norms. They have been especially reticent when dealing with traditionally domestic issues such as the environment or human rights. Given that the concept of democracy goes to the heart of state power and sovereignty, states should be especially reluctant to enforce democracy norms. Moreover, states granted the Assembly little formal power when setting up the CE, thus initially limiting permeability. Despite these obstacles, institutional permeability was the most important factor explaining the emergence and robustness of the CE’s democracy protection regime.

Because permeability succeeded in a relatively difficult case, it is likely to influence other issues and institutions. Nonstate actors have been seeking to make IOs more permeable for quite some time now and in several cases have made significant progress, often under the banner of democratizing IOs and making them

accountable.¹¹⁹ The theory and case study offered here suggest that their instincts are exactly right, yet we have relatively few studies of whether this increasing permeability has produced any changes in international rules. To be clear, scholars have produced a number of studies on NGO influence on world politics, many of which have analyzed NGO relationships with IOs.¹²⁰ These have produced important insights about the value of NGO framing, information provision, and monitoring, and the role of the broader international opportunity structure, including the importance of state allies and particular historical moments. What is still missing, however, is an assessment of the extent to which permeability facilitates NGO efforts.

The value-added of this analysis is to show how IO permeability interacts with nonstate actors to influence IO and state behavior. Much of the literature focuses on exogenously determined state interests and commitments to explain the design and operation of IOs and the nature of the rules they produce.¹²¹ A focus on permeability suggests a different path by which the objectives of international treaties and IOs get articulated and implemented. In this alternative, nonstate actors use permeability to shape the nature of state commitments, especially the ways in which those commitments become defined and put into practice through particular rules and procedures. Nonstate actors work to specify vague state commitments, as they did with state commitments to protect democracy in the CE. They also increase levels of obligation by shaming or cajoling states into new or more legally binding commitments and by influencing the IO to adopt higher levels of monitoring.

In the end, there may well be multiple pathways by which IOs can achieve more robust international rules and corresponding changes in state behavior. IOs may try to influence state behavior by creating external carrots and sticks that alter state preferences, or by building state capacity, thereby eliciting voluntary compliance with IO rules. Or, IOs may try to influence state behavior by empowering, colluding with, or facilitating the efforts of nonstate actors to help push governments in a desired direction. None of these pathways is more effective per se. Where permeability becomes too high, for example, states may simply walk away from new commitments, as they did with the large numbers of new agreements adopted by the International Labor Organization.¹²² Rather, these alternatives may be useful for different issues and different contexts.

The policy implications of these arguments for states seeking to promote and protect democracy in other countries are complex. In attempting to create a democracy-monitoring mechanism that would involve civil society groups in 2005, the United States was on the right track. Its preferences for strong democratic institutions in Latin America aligned with those of most civil society groups; attempting to give

119. Reimann 2006.

120. See Raustiala 1997; and Joachim 2003.

121. See Hawkins et al. 2006; Koremenos, Lipson, and Snidal 2001; and Abbott and Snidal 2000.

122. Helfer 2006.

them a voice inside the OAS made eminent sense. The United States failed, however, apparently because weaker states mistrusted U.S. motives. Latin American countries have far more problems with democratic stability than the United States and so are more likely to be targeted by a monitoring process. To make progress in the future, the United States might first have to accept higher levels of civil society input in the OAS across different issue areas and to find weak-state allies to move the process forward. Because a general increase in permeability would not clearly favor the United States, it would not be met with as much suspicion. In fact, because increasing permeability generally at the OAS is likely to result in more efforts to restrict state behavior in multiple issues, such a strategy makes sense for Latin American states who seek to constrain U.S. behavior.

More generally, where governments seek more robust international rules that will place stronger restrictions on behavior, they would do well, paradoxically, to relinquish some control of IOs by facilitating higher levels of permeability. At the same time, this is a risky strategy because permeability is likely to remain in place over time and affect multiple issue areas, while state preferences for restrictive rules could be more time-sensitive or issue-specific. The evidence presented in this study suggests that even minimal levels of permeability can grow over time: the CE Assembly began life with purely advisory functions but gradually (during its first fifty years) gained an influential role. States concerned about controlling IOs have a few options. One is to try to tinker with permeability mechanisms to ensure asymmetric access by friendly nonstate actors. Another is to craft more detailed IO mandates and to keep a tighter rein on budgets. A third strategy consists of engaging in direct negotiations with important nonstate actors rather than awaiting the outcomes of uncertain institutional processes in IOs. The bottom line is that permeability matters and that political battles over the nature of permeability in IOs are likely to be a growth area in the coming years.

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