Ambiguous Attacks on Democracy in Europe and the Americas: What Can Intergovernmental Organizations Do?

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Abstract

Past the time of traditional coups, today's would-be dictators are seeking out more ambiguous ways to undercut democracy. These norm violations are often difficult to identify, and sometimes are conceived of as less threatening to outsiders. So, what can an intergovernmental organization do if its member states begin to violate common democratic norms in an ambiguous way? While some have claimed IGO action is determined by the violating state's power or the pressure of third parties, few have explored the influence of an IGO's structure and design on its decision to enforce norms. This paper explores some ambiguous measures being taken to undermine democracy, and seeks to disaggregate the complex process of IGO norm enforcement and subject the moving parts to initial scrutiny.

In this paper, I assess the impact of five IGO characteristics on its decision to enforce democratic norms in member states: IGO composition or democratic density, democratic norm legalization, enforcement provisions, voting rules in the IGO's intergovernmental branches, and delegation to the IGO's supranational bodies. I develop six, independent hypotheses, relating one IGO characteristic to one aspect of the decision-making process. Using a pattern matching research design, I conduct a comparative case-study analysis of the Peruvian *autogolpe* facing the Organization of American States in 1992 and the Hungarian constitutional crisis challenging the European Union today to test each variable's predicted effect.

Introduction

When a sovereign state joins an intergovernmental organization (IGO), it subscribes to the rules and norms that govern the group. Most IGOs have criteria for membership, whether geographic, economic, or political. If the benefits of membership are strong enough, some state leaders are willing to make a number of domestic changes in order to join. Over the past few decades, the European Union (EU) has effectively wielded economic leverage over its neighbors to encourage democratization, especially notable in Central and Eastern Europe after the fall of the Soviet Union. Scholars like Keohane, Macedo, and Moravcsik (2009) analyze democracy promotion's increased effect when dealt through international organizations, and posit that "multilateral institutions can, and often do, bolster democracy by enhancing…domestic constitutional mechanisms," such as minority and individual rights protection or informed public deliberation (p. 9). While the EU is a strong example of pre-accession democratic criteria prompting positive domestic change in state structure, a puzzle that begs attention is what power or leverage an IGO has over its members *post-accession*. A state may adopt mandates or meet criteria before joining an IGO, but what can the IGO do if members regress in those same areas, violating collective norms? Additionally, how can the IGO determine when a state is acting within its sovereign right and when it has begun turning back on its original commitments?

In this paper, I ask under what conditions do IGOs act to enforce democratic norms in member states? I theorize that there are five independent characteristics of an IGO that influence its decision to act when member state violates democracy in ambiguous ways: the IGO's composition, that is the percentage of members that are democratic; norm legalization, or the specificity and legality of democracy as a norm for IGO member states; norm enforcement

provisions, or the tools provided within the IGO's governing documents to enforce democracy in a sovereign member; the voting rules in the intergovernmental bodies of the IGO, or the consensus required for the IGO to act in the name of enforcing norms; and, finally, delegation to an independent, supranational body of the IGO, which primarily protects the IGO's interests, in the process of democratic norm enforcement. Each of these variables is hypothesized to have a predicted effect on one part of the decision-making process, either in identifying the norm or in orchestrating an IGO response to it.

As a first attempt to test these hypotheses, I conduct a comparative case study of two different regional IGOs' responses to ambiguous democratic norm violations by a member state. Using pattern matching, I compare the OAS's response to the 1992 Peruvian *autogolpe*, or self-coup, in which the president dissolved the judiciary and legislature on accusations of corruption, to the EU's current debacle with Hungary's constitutional amendments, which have threatened the independence of the judiciary and civil liberties, to provide a better understanding of how an IGO's institutions, norms, and law work in practice. A larger study of these IGOs' responses to democratic crises would be needed to claim that my hypotheses hold across all IGOs in all cases of ambiguous norm violations, but by starting in the regions with the world's strongest democracies and strongest regional democracy norms, this study's goals are to recognize ambiguous norm violations as serious threats to democracy and to contemplate whether and how IGOs are willing and able to respond.

The paper proceeds as follows. First, I review the current literature on the reasons why IGOs enforce democratic norms. I find that many studies focus on how IGOs deal with visible coups d'état or cases of electoral fraud, but there have been few attempts to theorize what motivates an IGO to respond to an ambiguous norm violation. Second, I present the

theoretical premises behind the five IGO characteristics listed above, and develop independent hypotheses relating each variable to a specific part of the IGO's decision-making process to enforce norms. After operationalizing each variable, I present the OAS case study and then the EU case study, organized around the five hypothesized independent variables. In the final section, I discuss the two cases together to assess my findings on each theorized relationship, and I propose avenues for future research. While these cases alone cannot prove the absolute importance of one variable over another, this paper seeks to raise awareness of the ambiguous measures being taken to undermine democracy and to disaggregate the complex process of IGO norm enforcement, subjecting the moving parts to initial scrutiny, which can be continued in future work.

IGO Collective Interests & Norm Enforcement: Consulting the Literature

Over the past few decades, several IGOs have decided it is in their collective interest for their member states to be democratic, and have taken steps to legalize democracy as a norm.[1] Enforcing democracy is a delicate decision for any actor, because it can often be interpreted as an intrusion on state sovereignty. On high-stakes issues such as democratic governance, IGOs tend to have a difficult time taking strong collective action. Democratic norm enforcement has been complicated further for IGOs as state leaders are finding less obvious means to erode democracy. Ambiguous attacks on democracy might include extending the length of time an incumbent may stay in office, legally restricting the civil rights of citizens, or suspending branches of government on questionable grounds in order to circumvent the democratic process, altering the constitution to centralize power or change the balance between branches, as

[1] This study defines norm as "a standard of appropriate behavior for actors with a given identity" (Finnemore & Sikkink 1998, p. 891).

well as other acts of democratic weakening; the key is that all of these are done by the democratically elected leaders of the state, who claim the changes are within his or her legal right. "Ambiguous alterations" have arguably allowed what Levitsky and Way (2002) call competitive authoritarianism to take root in certain countries rather than liberal democracy. While the current literature has explored IGO reactions to visible antidemocratic events, it has not identified the conditions that lead an IGO to enforce democratic norms when they are threatened in these more ambiguous ways.

One reason for this scholarly gap might be that ambiguous democratic norm violations threatening do not seem to threaten external states, and thus do not warrant multilateral intervention. Arceneaux and Pion-Berlin (2007) contend that it is the clarity and absolute presence of a threat that motivates other states to intervene, and without this clear threat, intervention is unlikely (p. 9, 10). Following suit, much of the scholarship on IGO intervention has disproportionately focused on "public interruptions" to the democratic process or visible norm violations, such as electoral fraud, coups d'état, armed uprisings, and mass human rights violations (Donno 2010; Simmons 2009).[2] However, as coups become more punishable internationally, a leader or group in a country may choose to work ambiguously within legal precedents to obtain or centralize control of the state. While ambiguous alterations may be less violent and less obvious from an outside perspective, they pose an equally troubling threat to democracy, because "problems of separation of powers, representation, accountability, efficiency, and fairness could eventually weaken a regime to the verge of demise at the hands of insurgent civilians or coup-prone officers" (Arceneaux & Pion-Berlin 2007, p. 10). Ambiguous

[2] Daniela Donno (2010) argues that international monitoring by IGOs or NGOs can increase the probability that there will be some kind of external action in cases when electoral misconduct is determined, but she admits that having an international electoral monitoring group on the ground is not indicative of active norm enforcement in all cases (p. 597).

democratic norm violations are doubly problematic for IGOs because the members must decide whether a democratic norm violation has occurred on top of troubles of securing the necessary consensus to undertake collective action against a sovereign state. In an effort to provide more perspective on these less visible norm violations, this study focuses on IGO norm enforcement in the face of ambiguous threats to democracy.

Existing scholarship that has focused on IGO democratic norm enforcement of any kind has identified four *external* factors that potentially influence an IGO's decision to enforce norms: the presence of a hegemon, geopolitical power, the information available about the violation, and third party pressure. One hypothesis proposes that a hegemon's presence skews actions within an IGO. Some argue that IGOs are instruments that promote a hegemon's own interests and power (Arceneaux & Pion-Berlin 2007, p. 6). Arceneaux and Pion-Berlin (2007) argue the US as the hegemon definitely influences democracy promotion (8). However, unless the US leaves an IGO, its presence is constant in all democratic crises. In order for hegemonic presence to explain norm enforcement, then, the IGO would act according to the hegemon's will. Even when the hegemon is perceived to be highly interventionist, the IGO may not intervene in every instance of a norm violation if other member states oppose the hegemon's opinion (Shaw 2003). Therefore, the presence of a hegemon cannot explain IGO action or inaction fully.

Another power-based argument is that a militarily and economically powerful state is not likely to be criticized by an IGO for norm violations. Simmons (2009) discusses human rights abuse cases and finds that IGOs have a more difficult time organizing against countries that are strategically important even if they clearly violate human rights treaties (as cited by Donno 2010, p. 600). Donno (2010) points to the example of oil-exporting states, asserting that other states

within an IGO would not likely threaten their own oil supply to punish a state for a norm violation. Bilateral interests between members may therefore trump the common interest of enforcement, and should not be dismissed.

Access to reliable information about the norm violation may also influence an IGO's decision to enforce norms in an aggressive manner or not. Donno (2010) proposes that one problem with IGO norm enforcement is that the information an IGO receives about the antidemocratic behavior is often from unreliable sources. Because members in democratic IGOs might be expected to share the value of transparency, one might expect that IGOs can find reliable information some way. However, even when organizations send their own fact-finding missions to a state in question, information can be withheld or falsified, presenting a roadblock for any IGO action.

Enforcement may be influenced by third-party pressure on the IGO as a whole. Third parties include non-governmental organizations (NGOs), industry lobbies, and powerful states that are not members. For example, media and global NGOs have evoked IGO action to support human rights by creating independent commissions to handle specific issues, such as the International Commission on Intervention and State Sovereignty (Karns & Mingst 2010, p. 300). A study by van der Vleuten & Hoffmann (2010) analyzes the inconsistency in democratic norm-driven interventions by the EU, the Common Market of the South (Mercosur), and Southern African Development Community (SADC), concluding that if an external party decides to intervene in a state that is a member of an IGO with similar values and claims, the IGO's "political costs of non-intervention" increase (p. 755).

Altogether, these existing theories provide plausible hypotheses about the ways in which state power, the quality of information, or third-party pressure might influence an IGO's

response to democratic norm violations amongst its members. However, these are all external influences on an IGO. I argue that there are specific elements of an IGO's *internal* structure that may also influence when the organization chooses to enforce norms in member states. Thus, without dismissing these explanations, I pause to look inward, and theorize about five characteristics of an IGO that may serve as determinants of collective enforcement.

IGO Characteristics that Influence Norm Enforcement: Five Hypotheses

An IGO's capability to enforce democratic norms is highly dependent on the nature of the violation, as well as the structure of the IGO and the tools it is provided. The nature of the norm violation influences an IGO's decision about the enforcement strategy. The two categories of norm violations, public interruptions and ambiguous democratic alterations, were mentioned in the previous section. "Public interruptions" include outright antidemocratic behaviors, such as coups d'état, other military interventions, and armed public uprisings.[3] They are, *ceteris paribus*, simpler for a third party to recognize than the alternative. "Ambiguous democratic alterations" include unprecedented constitutional changes meant to dismantle the traditional balance of powers. This can be done incrementally by amending a few laws at a time, or an executive could decide to rule by decree, dissolving other branches temporarily as has been seen in the early 1990s in Latin America and called *autogolpes,* or "self-coups" (Cameron 1998a, p. 220; Levitt 2007, p. 227).[4]

[3] These uprisings are also called "civil society coups" (Encarnacion 2002 as cited in Boniface 2007, p. 59) or "impeachment coups" (Boniface 2007, p. 43).

[4] *Autogolpes* fall on the border between very public, clear changes in the democratic structure and ambiguous constitutional rights to do so. This study uses McCoy's (2006, 2007) theoretical basis for classifying *autogolpes* as an ambiguous democratic alteration.

The current literature has focused disproportionately on public interruptions. This may be because of the difficulty in determining when ambiguous democratic alterations are undermining democratic norms versus routine domestic restructuring, or because of a false sense that this type is less dangerous to democracy than a public interruption. While acknowledging the first explanation as a significant challenge, this study rejects the latter, arguing that slow erosions of democracy to be equally severe democratic norm violations. Furthermore, if Dobson (2012) is correct that would-be dictators demonstrate a "learning curve" and avoid blatant attacks on democracy, it seems likely that these types of ambiguous alterations will increase in number relative to more obvious assaults such as coups, and it is therefore one aim of this study to understand how IGOs are able or unable to meet the challenge of identifying and responding to such ambiguous norm violations.

Next, I provide the theoretical premises for the five characteristics of an IGO's decision making that influence what IGO response is taken when a member state violates norms in an ambiguous way: (1) IGO composition or "democratic density," (2) norm legalization, (3) enforcement provisions or the IGO's toolkit, (4) voting rules to determine and respond to norm violations, and (5) delegation to an independent secretariat. Six separate hypotheses are developed to explain the correlation between each characteristic and the predicted effect of it on IGO response to an ambiguous democratic alteration by a member state. Although each one corresponds to the IGO's decision to enforce democratic norms in member states, they are not aggregated to predict one outcome. Instead, each hypothesis makes predictions about one characteristic's influence on a part of the IGO's decision to respond.

IGO Composition

State interests are shaped by a plethora of domestic issues, but, within an IGO, multiple states must find common ground. Political like-mindedness among these actors can simplify group decision-making. When democracy is at the heart of these debates, Jon Pevehouse (2005) argues "democratic density," or "the percentage of permanent members in the organization that are democratic," influences how the IGO chooses to act (p. 46). For Pevehouse (2005), when there are more democratic voices in an organization, enforcement is more likely, because democracies are usually more transparent than autocracies, so an outsider can more clearly identify antidemocratic actions, and because there is a common understanding that international commitments by democratic states will be upheld more readily than by authoritarian states (p. 47-48). While Pevehouse (2005) uses this argument to analyze the role of regional IGOs during the transition to and consolidating of democracy, this paper takes his argument one step further, applying the democratic density argument to IGO decisions to enforce norms in any member state. I hypothesize the democratic density of an IGO has two implications for how the IGO handles democratic norm violations.

On a macro level, the democratic density of the IGO correlates with the extent of debate over the presence of the violation. Organizations composed of all consolidated democracies would be expected to have higher democratic standards, and violations of these standards would be alarming to the other democratic members. Organizations with mixed compositions, meaning there is a critical mass of authoritarian states, would not exhibit the same amount of alarm, because only the democratic states would have a reason to be concerned with the antidemocratic acts of a member. If the democratic density of an IGO is measured against the level of debate, there should be more debate about the presence of a violation from a mixed-

composition IGO with much less debate about the violation from a densely democratic IGO. Therefore,

> H1A: *A densely democratic IGO will have less debate about the presence of a democratic norm violation than a less-densely democratic IGO.*

On a micro level, the quality of democracy in each country should correlate with the individual member states' concern over the norm violation. Because the violations being considered here are ambiguous, less democratic states would be expected either to turn a blind eye to them, or to dispute whether a violation actually occurred. More democratic states with high standards for democracy, though, should want to classify even minor antidemocratic acts as democratic norm violations. Therefore,

> H1B: *The democratic density of an IGO correlates with the level of concern elicited from its individual members, with more democratic members expected to demonstrate greater concern about democratic norm violations in other IGO member states.*

Norm Legalization

To decide to enforce democratic norms, one must have a clear understanding of what the norm is and, thus, what the absence of that norm or a norm violation would be. The democratic norms that an IGO protects or promotes vary depending on the definition of democracy used. A basic characteristic for any state to be considered democratic is competitive and fair elections of executive and legislative officials. However, "liberal democracies" demand more encompassing behavioral norms that stress civil liberties. The specific definition of democratic governance and the length of time a norm is in place may therefore influence whether an IGO will act to enforce or protect democracy when it is threatened by a ruler in a sovereign state.

According to the norm life cycle, norms are institutionalized or legalized by an IGO when they are included in governing treaties or law (Finnemore & Sikkink 1998, p. 900). Kenneth Abbott, Robert Keohane, Andrew Moravcsik, Anne-Marie Slaughter, and Duncan Snidal (2000) define legalization as a specific form of institutionalization that stresses obligation, precision, and delegation (p. 401). Building off of the definitions of norm and legalization from Finnemore & Sikkink (1998) and Abbott et al. (2000), respectively, "norm legalization" means norms are clearly defined in a binding, governing document[5] of the standard behavior expected of an IGO member state. When norms are institutionalized by an IGO, violations and appropriate processes for organizing a group reaction to those violations should be defined as well (Finnemore & Sikkink 1998, p. 900). Therefore, specificity, clarity, or preciseness of the democratic norm refers not only to the definition of democracy, but the absence of democracy. The more specific the definition of democracy in an IGO's governing documents, the more likely the IGO is to enforce democratic norms. Therefore, in the decision-making process,

> H2: *If the legalized norm is precisely defined, there will be less debate over the presence of a violation before an IGO responds, holding the democratic density of the IGO constant.*

Enforcement Provisions

Because democratic norm violations range in severity, IGO responses range as well. There are three categories of norm enforcement tactics or collective action strategies: material, political, and reputational. Material tools are "tools that aim to coerce a change in government behavior" (Donno 2010, p. 601). These "hard mechanisms" can also include sanctions or boycotts of a state's goods, suspension of voting rights in IGO institutions, suspensions from

[5] I use to term "governing documents" rather than something more specific to include the charter of an IGO, as well as any other treaties and binding agreements between members of the organization regardless of technical name.

IGO meetings, or military interventions (McMahon & Baker 2006, p. 176). Political tools are aimed directly at government officials to entice change diplomatically, without taking it as far as to isolate the violating state from the organization. Some examples of political tools are electoral monitoring missions or mediation between opposition groups or actors. Political tools are different from material tools in that the main mechanism is diplomacy, whereas material tools are tangible consequences for the state, both internally and internationally. The third, "soft" tool is reputational defaming or "public shaming," observable in public statements, resolutions, or declarations (Donno 2010, p. 606). These three enforcement strategies comprise an IGO's norm enforcement toolkit. Each strategy has the same end goal: persuading the violator to change it course of action.

Generally, IGOs are wary about utilizing material tools because they are extreme; they should be reserved for only the most appropriate cases. Political and reputational tactics are used more frequently than material ones in instances of ambiguous democratic alterations, because they are less contentious and threatening (Donno 2010, p. 604). In an increasingly globalized world, publicly shaming a country or its officials is an efficient means of evoking change or compliance (McMahon & Baker 2006, p. 176; Donno 2010, p. 606). The IGO's response needs to be appropriate for the violation at hand.

However, not every IGO has all three provisions at its disposal. The available provisions differ from one IGO to the next, because the specific toolkit made available to the IGO by a consensus of the members. If all three enforcement strategies are provided for, the IGO has more avenues for action. It can build pressure increasingly by threatening responses that are more severe if there is a reasonable progression. For example, using strong rhetoric condemning the actions of a state might embarrass the state's leaders enough for the regime to

change course. Sending a political envoy to the country is a step further that may trigger a change, and if neither of those strategies has the desired effect, sanctions can be imposed. However, if an organization only has reputational and political tools, there is a cap to its influence. If it only has reputational and material options, there is a big jump from public shaming to complete suspension that is unlikely in the face of ambiguous norm violations. Therefore,

> H3: *The combination of reputational, political, and material tools available to an IGO will influence the likelihood and nature of its response to a democratic norm violation.*

Voting Rules in the Intergovernmental Councils

Having enforcement provisions available does not mean they will be utilized in every case of a norm violation. Whether IGOs utilize the enforcement provisions or not depends largely on another aspect of decision-making: voting rules within the IGO bodies. Two important components of voting in IGOs are what kind of majority is needed and whether every state has the same vote (Koremenos, Lipson, & Snidal 2004, p. 12). An IGO's voting structure can either raise or lower the threshold for collective action.[6] When bodies require unanimous decisions, conclusions may need to be watered down for all members to agree. It is to be expected that decisions cannot always be reached under unanimous voting. When decisions can be taken by less than a unanimous vote, though, the threshold for reaching conclusions does not become significantly simpler.

[6] Karen Alter (2006) describes the complexity in terms of backsliding: "Voting rules in international institutions tend to be designed to allow a small number of powerful states to block the legislative will of the majority, and a large number of weak states to block the will of the powerful. Such rules make it difficult to get agreement on anything, and especially difficult when it comes to reversing slippage…where few may like the status quo yet no one can agree to a new status quo" (p. 327-8).

The requisite percentage of a voting body is often described along a continuum. At one extreme, action must be taken by unanimity (Cortell & Peterson 2006, p. 261; Koremenos, Lipson, & Snidal 2004, p. 12). Super-majorities lie between the first extreme and the midpoint, which is simple majority voting (Cortell & Peterson 2006, p. 261; Koremenos, Lipson, & Snidal 2004, p. 12). Super-majorities "disperse authority to a greater extent [than simple majority voting] because they accord an equal role to a larger number of states" (Cortell & Peterson 2006, p. 261). Simple majority voting requires fewer affirmative votes than a super-majority, which requires fewer than a unanimous vote.

There are other potential complications to the voting rules in an IGO that raise the threshold. Any vote that does not require unanimity is often seen as a threat to a disagreeing state's sovereignty. For this reason, states in some IGOs reserve veto rights. If any state is provided a veto, the IGO will not be able to act without the consent of all states. Veto rights are especially problematic if the violating state is able to participate in the vote. Voting rules are complicated not only because conjuring the necessary critical mass may be difficult, but also because there may be more than one institution within the IGO involved in decisions to enforce norms in a member state. By involving more IGO bodies in a decision to enforce democratic norms, its actions are seen as more legitimate. All of these factors make up the "voting threshold," therefore,

> H4: *If the decision to enforce democratic norms requires a higher voting threshold, action from an IGO, and in particular its intergovernmental council, becomes less likely*.

Delegation to a Supranational Body

In the volume edited by Hawkins, Lake, Neilson, and Tierney (2006), principal-agent theory is used to define delegation in terms of states granting power to an IGO. This study

utilizes this principal-agent approach within the IGO: in the process of norm violation deliberation, is a body within the IGO that is composed of supranational representatives granted authority over intervention? "Supranational" bodies have a primary responsibility to serve the interests of the organization, not their home country or any other individual state, and the officials in this position may either be directly elected by the people or appointed and approved by member governments to serve the good of all. Cortell and Peterson (2006) confront the difference in discretion granted to bodies composed of independent persons versus staff members of their respective national governments. They, along with others, argue that independent representatives have vested interests in the IGO's legitimate authority and are primarily loyal to promoting the IGO's goals rather than the agenda of any one member state (Cortell & Peterson 2006, p. 260, 262). Because of these commitments to the IGO, the supranational body would be expected to want to react when the community or region's norms are being undermined. So, we might expect that a supranational body is more likely to respond than the bodies whose primary interests lie with the state, because while intervention may not always be in every member states' individual interests, upholding the norms of the IGO is the sole responsibility of a supranational branch.

If a supranational secretariat exists within an IGO, its causal influence on the decision to enforce democratic norms depends on how autonomous it is. If the supranational body can take independent action in member states, meaning it is not stopped by nor does it need permission from another body serving the interest of member states, it would have a high level of influence on the decision. However, if the supranational body's role is limited to agenda setting or initiation, it is less of a factor in democratic norm enforcement. Therefore,

> H5: *The more autonomous a supranational IGO body, and the greater role it plays in detecting and responding to democratic norm violations, the greater the likelihood of an IGO response.*

In the next section, I develop measures for each of these five independent variables to test the relevant hypotheses. Testing these hypotheses across IGOs will help determine which conditions consistently influence democratic norm enforcement. These hypotheses are theorized with regional IGOs in mind, and may be less applicable to non-regional organizations. The reasoning behind this scope condition is provided in the research design section below.

Research Design

To test the hypotheses above, I take a pattern matching approach to assess IGO norm enforcement against ambiguous democratic alterations in two regional IGOs. I analyze both crises in terms of the five variables just theorized, each of which refers to one stage in the decision-making process. Because these variables and hypotheses are focused on five distinct aspects of the IGO's decision to enforce democratic norms, the scores for each variable remain disaggregated. The unit of analysis for my case studies is "ambiguous democratic alteration"–IGO, so there were two levels of case selection: the IGO level and the ambiguous democratic alterations within each IGO. The first section of this research design explains the case selection on both levels of analysis. In the second section, I operationalize the five independent variables for my hypotheses.

Case Selection

On the level of IGOs, I focused specifically on regional IGOs. As a study by van der Vleuten and Hoffman (2010) argues, there is a difference between the interventions of the UN

and region-specific interventions because the UN functions "out of area" (p. 739). When a regional IGO enforces norms in a member state, the IGO is intervening in its own neighborhood. The "enforcing" member states will have to immediately face any repercussions that might come from action. The stakes are, thus, higher for regional IGOs that choose to act. Also, according to Pevehouse's (2005) logic, geographic proximity means there is a greater likelihood that norms from one state will affect another through diffusion (50). This is why regional IGOs would be more likely to promote democracy in their respective neighborhoods.

From the possible regional IGOs, I selected organizations that have adopted democratic norms for their members, and afterward have had to deal with ambiguous alterations to democracy. I also looked for two organizations that did not have any overlapping members so that there was no chance of a common influence. Going along with that criterion, comparing IGOs in two separate regions tests the external validity of my theory. For any discussion of democracy-promoting IGOs, it is imperative for the EU to be included because of its historical success promoting democracy in neighboring states; it is the paradigmatic case, in this regard.[7] While the EU has a long history of democracy promotion in its neighborhood, the OAS has a two-decade long history of dealing with member states' infractions of democratic norms, many of these being of a less obvious type.[8] The EU has only recently found itself face to face with challenges of this kind. The EU and the OAS are fundamentally similar organizations, in that they are multipurpose organizations, founded for the purpose of regional peace and economic

[7] Abbott & Snidal's (1998) study specifically "de-emphasizes" the EU because of the high level of institutionalism (p. 4 footnote). I choose the EU precisely because it is highly institutionalized.
[8] In earlier drafts, several readers have questioned whether a different organization (i.e. the Council of Europe) might be more comparable to the EU. The foreseeable problem with a comparison between the EU and the Council of Europe is that the members overlap, so the interests and agendas of the organizations are subject to the same influences. To control for any possible bias, I select two IGOs that do not share any members.

prosperity. In both cases, moreover, democracy promotion goals were added to the organizations' purposes after some time developing as a region.

The biggest difference between the OAS and the EU is the presence of a hegemon in the OAS. While it is to be expected that in the intergovernmental councils the U.S. will promote its own opinions and interests, if the U.S. were dictating the OAS's moves completely, then the OAS's enforcement should reflect the U.S.'s interests and wants at every point in the process. Carolyn Shaw (2003) studies the U.S.'s decision to act unilaterally versus multilaterally and the limits to hegemonic influence across 30 cases of a security threat by an OAS member, finding that the organization structure limits the influence of the U.S. As I will show in my case study, the US wanted the OAS to take much more severe action to match its unilateral one, but the OAS's decision was equally influenced by other states at this level. The sections on IGO composition and on voting rules in the council speak to this point. Also, while the US is a unique member of the OAS, the EU also has several global powers for members, specifically Germany and France, which are both Eurozone countries, as well as the United Kingdom. All things considered, the two regional IGOs merit comparison.

Once the two IGOs were selected for comparison, the second level of case selection was which ambiguous alteration to democracy is studied. In the EU, there have not been many attempts by member states to go against the democratic mandates of the organization after accession. Recently, though, the EU has come to face its starkest adversary in Hungary, Prime Minister Viktor Orbán. Hungary's constitutional revisions pose the first real ambiguous threat to democracy, and the most serious threat the EU has had to face to date. In the OAS, Peruvian President Alberto Fujimori conducted an *autogolpe*, or self-coup, which put the OAS in the

situation to make a decision on intervention for the first time vis-à-vis a non-traditional coup d'état.

These two events are different in a few ways. First, Fujimori immediately dissolved two branches of the government including the legislature, and Orbán put measures in place to slowly remove the judiciary from power, keeping the legislature in which his party had the majority. Second, Fujimori made use of the military briefly, although it was not a military coup, while Orbán did not. Also, Fujimori secured domestic public approval for his *autogolpe* post facto, while the subsequent amendments to the constitution are what triggered mass disapproval for Orbán. However, taking into consideration the temporal and spatial differences, both crises are cases of a democratically elected official employing seemingly lawful means to remove other democratic branches in order to concentrate power for himself. Using the first ambiguous alteration the OAS faced in comparison to the EU's first ambiguous alteration offers a comparison of two IGO decisions to intervene that were not affected by the failed or successful efforts to enforce democratic norms previously.

In selecting the state crises at this level, I control for the nature of the violating state by limiting my scope to countries of medium influence within the IGO. Influence includes the country's wealth and size respective to the other members of the same IGO. I control for this variable by selecting violations by a medium-sized countries in my sample. I do not consider large states because of the legitimate concerns that large states, especially hegemons, may hold sway over the IGO; the presence of the US in the OAS often evokes these feelings of reservation.[9] I also do not inspect small states to control for the possibility that the IGO may

[9] This approach does not make up for the presence of a hegemon. However, there have been several instances when Latin American states directly oppose the US in OAS forums, diminishing the theory

either dismiss them as insignificant or respond stronger than should be expected from a more influential member of the organization.

Operational Definitions of Independent Variables

While each independent variable is only hypothesized in terms of one part of the decision making process, all of the variables are concerned with IGO norm enforcement, which is synonymous with IGO reaction to norm violations. I define norm enforcement as the response by an IGO to a state exhibiting antidemocratic behavior. This study is not concerned with the effects of an IGO's intervention within the state in question, which may vary as a function of numerous domestic and international factors, rather with the process by which IGOs respond to ambiguous democratic norm violations among their members. I also recognize that enforcement does not always lead to member-state compliance.

The first independent variable is *IGO composition,* which I define for this study as the nature of member state regimes. First, to reflect the homogeneity of member states' domestic regimes and nature, I score the IGO's democratic density on a continuous scale from 0 to 1; this number reflects the percentage of democratic member states out of the total number of members. If the majority of the members are democratic, the IGO is democratically dense. I use the democracy scores in the Polity IV dataset to calculate this number at the year specified for each case.[10] The Polity IV dataset scores countries on a 21-pointe scale, according to various characteristics of the state's political structure. It ranges from -10 to +10, with the negative

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that the OAS is an operative of US interests (Legler 2007, 475; Shaw 2003). Also, the US's last unilateral intervention in Latin America was in Panama in 1989 (Perina 2005, p. 142).

[10] I recognize that the Polity IV data does not pick up on short-term lags in the quality of democratic governance. However, because this study is focused on ambiguous alterations, none of the non-region-specific democracy scales available today account for all of the minute changes in democratic quality I am focused on.

range being authoritarian or autocratic regimes, the positive end representing democratic regimes, and the spectrum in between signifying either competitive authoritarian states or transitioning democracies. For the purposes of this study, states with a score from +6 to +10 are categorized as democracies, and anything less than +6 is not democratically dense.[11] To test both hypotheses, there are two parts of IGO composition I measure.

The first aspect of IGO composition is the correlation between democratic density and the amount of debate. I analyze the extent of debate about whether the situation on hand violates the members' common understanding of democracy based on the homogeneity of member states opinions of democracy. I contrast this number with the level of debate coming from the member states' understanding of democracy based on how long it took the member states to act from the initial antidemocratic act. This element of IGO composition is scored on an ordinal scale. If there is divisive debate about the presence of a violation, the debate is scored "high." If there is some debate, but it does not debilitate a decision to act, it scores "moderate." If there is little to no debate, is scores "low."

The second factor of IGO composition is whether the individual, democratic states in democratically dense IGOs express greater concern about the violation. This element is measured according to the following set of questions: Do most democratic states in the IGO forcefully condemn the violation? Do any of these democratic members remain removed from the situation? Do any states support the violating state, and are these states democracies or non-democracies? I use the disaggregate democracy scores also from the Polity IV dataset to categorize the IGO member states as democratic or non-democratic, and I scrutinize public statements and news sources to identify the strong proponents for or stark critics of the debated

[11] This study does not attempt to distinguish between various regime types that are less than democratic, but that is a recommended avenue for future research.

violation. If all of the democratic states within an IGO voice their concerns about a democratic norm violation, it scores "high." If some of the democratic states are vocal, and others are silent, it scores "moderate." If none of the democratic states express concern about the norm violation, it scores "low."

The second independent variable is *norm legalization,* which is the clear definition of the standard behavior expected of an IGO member state in a binding document. There are two goals when assessing this variable, and thus two disaggregated scores. First, I assess the documents in which democracy is explicitly stated as a norm of the organization, and is defined. I define a "clear" or "precise" definition of democracy as one that not only defines what democracy should look like, but how the absence of democracy or a violation of democratic norms appears. This variable is scored on an ordinal scale. If democracy is a declared value, the IGO scores "low." If democracy is declared as a value and a clear definition of what it should appear as is included, the IGO scores "moderate." If democracy is a declared value and its presence and absence are both clearly specified, there is little room for debate, and the IGO scores "high." To fully test the hypothesis H2, I then assess the level of debate surrounding the classification of the violation in question: did a critical mass of the member states find that the violation did go against the IGO's democratic norms, or was the definition clear enough that there was little debate? Whether or not there was debate on the categorization of the violation is a binary, ordinal variable.

The third variable is *enforcement provisions,* or the IGO's toolkit from which it responds to a democratic norm violation by a member. To measure enforcement provisions, I, first, analyze what norm-enforcing actions are provided for in the governing treaties or charters of the IGO. There are three types of action: reputational, political, and material. Second, I score the IGO's

response on an ordinal scale, consistent with the intensity of the IGO's response or what combination of tools was utilized. To score "high" on the DV, material strategies, suspension or sanctions, are implemented by the IGO, or a combination of political and reputational strategies are put in place demanding compliance within a strict timeframe. To receive a score of "moderate," a variety of measures might be observed: political strategies might include calling together a special meeting to start the bureaucratic process that does not lead to a heavy consequence such as suspension or sanctions; material strategies could be discussed or threatened, but not yet imposed; or reputational tactics will be sternly used by the international organization. A "low" score on IGO norm enforcement is given when the IGO is limited to reputational strategies; when political tactics, such as fact-finding missions, are sent but their reports back to the IGO are inconsequential; or material sanctions or suspensions are agreed upon by other IGO members, but not implemented.

The fourth variable is *voting rules in the intergovernmental bodies* to determine and respond to norm violations. For this study, "voting rules" are defined as the consensus required for the IGO to act in the name of enforcing norms. It is expected that an IGO would delineate the way decisions are taken to punish norm violators in the charter. "Intergovernmental bodies" are those made up of member state representatives that represent primarily their states' interests. The intergovernmental bodies that I will investigate in the OAS case are the Permanent Council, the General Assembly, and the Meetings of Consultation of Ministers of Foreign Affairs, and in the EU case I will look at the European Council and the Council of Ministers. Using the spectrum of voting majorities defined by Cortell and Peterson (2005), I measure the variable voting rules according to the type of majority vote needed. An IGO scores 4 for voting rules if a unanimous vote is needed. It scores 3 if a super-majority is needed. It scores 2 if a simple

majority is needed. It scores a 1 if exactly a one half of the votes are needed. These scores imply IGO action will be likely (score of 1), moderately likely (score of 2), unlikely (score of 3), or most unlikely (score of 4). In my analysis, I also take note of any of the voting complications I noted in the theory. If one of these is present, I note it in the scoring with a "+". I do not add a number to these scores, because, for instance, the score of "3" would then not be differentiable between a super majority and a simple majority with complications. At this point, I do not theorize that these two scores are the same value, so I simply note the complication. In dealing with the implications, a plus sign will bump the variable's predicted effect up to the next likeliness: for example, 2+ implies "unlikely."

The fifth and final independent variable in this study is *delegation to a supranational body,* which I define as the involvement of a non-governmental body of the IGO in the identification of democratic norm violations and/or the IGO's act of enforcement. "Supranational bodies" are those made up of representatives, appointed or elected, who primarily represent the common interests of the IGO, not any one particular member state. According to this definition, the supranational organ of the OAS that is involved in issues of democracy protection is the Office of the General Secretariat, specifically the Secretary General, and, for the EU, the European Commission, the European Court of Justice, and the European Parliament are included. I measure this variable by assessing how much autonomy these bodies have to respond to a member state's democratic norm violation. The IGO scores "high" if the supranational body can decide to enforce democratic norms on its own in some way. The IGO scores "moderate" if the supranational body has some autonomy to raise the dispute or follow the decisions made by other bodies, but cannot act independently of the other branches to enforce democratic norms. The IGO scores "low" if the secretariat has no formal role in

responding to democratic norm violations, either in terms of agenda setting or independent action.

Each case study has the same structure. First, I give an introduction to the organization circa the particular crisis. The OAS is discussed as it was in the early 1990s, just before the 1992 Peruvian *autogolpe*, and the EU is situated in the present day. In this section, I also provide a brief overview of the respective IGO's response to the crisis. Following that, I analyze each of the five independent variables in order: (1) IGO composition, (2) norm legalization, (3) enforcement provisions, (4) voting rules in the intergovernmental body, and (5) delegation to a supranational body. These two cases are then compared in the Discussion section that follows.

The OAS versus Peru's *Autogolpe*

The OAS and Peru in 1992

The OAS was established in 1948 with the signing and ratification of the Charter of the Organization of American States among 21 countries. Guyana and Belize were the last of the thirty-five states in the western hemisphere to join the organization, both ratifying the Charter on January 8, 1991.[12] In 1992, the commitment to democracy in the OAS's governing documents was still evolving, although the principle of nonintervention was strong. In this context, Peruvian President Alberto Fujimori conducted the first *autogolpe* or "self-coup" in April 1992.

Elected in 1990, President Fujimori faced the daunting task of reviving an economy plagued by "severe unemployment" two years into his term, with half of the population living in poverty and a mere 15.6 percent of the population having full employment (Cameron 1994, p.

[12] Cuba ratified the Charter of the OAS, and the organization recognizes it as a permanent member; however, it remains inactive in the organization (OAS 2013).

148). He cut inflation from 7,650 percent to a mere 57 percent with his strict austerity measures (Cameron 1994, p. 146). However, the state faced a looming threat from the guerilla group, the Shining Path and was in an ongoing struggle against drug trafficking. On a political level, Fujimori had been enacting legislation unilaterally (Schmidt 1992a). In rebuttal, Congress curbed the President's power to create legislation with Decree Law number 25397 (Cameron 1994, p. 149). These circumstances of the domestic sphere at the time led the president to take an unprecedented step to obtain control.

On April 5, 1992, claiming the judiciary and legislature corrupt, Fujimori shut down both branches while simultaneously suspending the constitution, imposing censorship of most media, having the military occupy Congress, and placing prominent opposition leaders under house arrest (Cameron 1994, p. 145; Schnably 1993, p. 461; Arceneaux & Pion-Berlin 2007, p. 15; Schmidt 1992a). In an address to the nation, Fujimori said new laws would be drafted and elections held, and that "[t]hese exceptional measures are being taken to get rid of the old and rotten order that impedes the exercise of real democracy" (as quoted by Whittingham 1992, p. A11). Public opinion of Fujimori's *autogolpe* was overwhelmingly positive; eighty-nine percent of the public agreed with making changes to the judiciary, while seventy-one percent supported Fujimori's disbanding of parliament (Cameron 1998a, p. 224).

The international community was very critical of Fujimori's *autogolpe*. The U.S. immediately suspended aid to the country, followed soon thereafter by Spain, Germany, and Japan (Goshko 1992, p. A20; Harding 1992a). Argentina spoke out against the *autogolpe* strongly, and Venezuela suspended diplomatic relations ("Peru rebuked" 1992; "Venezuela breaks with Peru" 1992). The OAS met immediately, although before any meetings were underway, sources told John M. Goshko of the *Washington Post*, "the unusual nature of the Peruvian situation makes

it unlikely that the OAS will immediately institute such measures as the economic embargo it imposed against Haiti" (1992, p. A20). The Permanent Council demanded that Fujimori reinstall all democratic government branches and called for a meeting of the foreign ministers to determine proper OAS action (Perina 2005, p. 134; Robinson 1992a). It also instructed the secretary general to travel to Peru to get the facts before the meeting of Consultation of Foreign Ministers would meet on April 13 to discuss the situation and a coordinated response (Robinson 1992a; Cameron 1994, p. 154). Secretary General João Baena Soares was accompanied by the foreign ministers of Uruguay, Honduras, Paraguay, the vice minister of foreign affairs of Argentina, and the deputy minister of foreign affairs of Canada (Cameron 1994, p. 155).

There were several observation missions sent to Peru, and sanctions were on the table. As a concession to the OAS's demands, Fujimori called elections for a democratic constituent congress. The OAS observed the elections in Peru, and afterward, the foreign ministers closed their investigation of the *autogolpe*, claiming the elections had "represented an important phase in the process of reestablishing democratic institutional order" (OAS 1992, 13-14, as cited in Arceneaux & Pion-Berlin 2007, p. 16).[13] Intra-governmental crises such as *autogolpes* fall into a gray zone for international intervention. In this case study, thorough analysis of each of my independent variables illustrates various steps in the OAS's decision to take action against Fujimori's *autogolpe*.

OAS Composition

[13] The OAS is often criticized for giving these elections, which had not permitted opposition political parties to participate, a "seal of approval," and setting a poor precedent for the organization (Legler 2003, p. 63).

In 1991, 72 percent of the countries in the Americas were democracies, earning the OAS a score of 0.72 on this variable (Marshall & Jaggers 2010).[14] Six countries did not cross the threshold for a democratic rating, according to the Polity IV dataset:[15] Guyana, Cuba, Mexico, Paraguay, Guatemala, and the Dominican Republic (Marshall & Jaggers 2010).[16] From ten years prior, this was a drastic increase in democratic density, though. In fact, it was gradual increase of representative democracies in the region allowed for the non-intervention agenda to be softened and a more serious mandate and commitment to democracy to be put in place by 1991.

Democratic density and debate. There was very little debate about whether the *autogolpe* was in violation of democratic norms before talking about the IGO's response. The *autogolpe* was on the 5 of April, and by the next day, a meeting of the Permanent Council had ben called (Whittington 1992). Removing two branches of the government, ruling by decree, and placing certain opposition leaders under house arrest were obvious signs of decreasing democracy to the other member states. Because of this, the various branches of the OAS were able to take a quick response, as will be elaborated on in subsequent sections. The democratic density is high in this organization, so the violation of a democratic norm – separation of powers between autonomous branches – *was not debated very extensively* before action was called for. The expediency of the identification and response to the *autogolpe* is strongly tied to the definition of the norm, which is discussed below.

[14] This percentage was calculated by the author based on the Polity IV's country reports available at http://www.systemicpeace.org/polity/polity06.htm.
[15] To understand the composition of the organization before the crises debated could have affect, I measure the composition percentages in the year 1991.
[16] The Polity I dataset and the country reports use the term "anocratic" to classify any regime that falls in the middle-range of the scale, between a highly democratic or highly autocratic score. In future reports, these "transitional" regimes will be disaggregated further. Due to the information available, this study adopts the classification, despite its lack of clarity or elaboration.

Strong member state responses. Although the organization hinged its efforts on diplomacy, several member states took stronger unilateral action. The United States unilaterally cut off the equivalent of $320 million in aid to the country (Crawford 1992a). President George H. W. Bush's administration made the decision to suspend all aid on April 7, two days after the *autogolpe* took place (Crossette 1992). The Canadian External Affairs Minister Barbara McDougall also voiced her concerns over the *autogolpe,* when she said, "Canada 'cannot condone under any circumstances abuse of the democratic process'" ("Fujimori defends crackdown" 1992). The Canadian media was very actively reporting on the OAS's activity and Fujimori's responses throughout the year. Its interests in the crisis may stem from the fact that it was a new member.

Two member states were propagating uniformity in the IGO's response, between the 1991 Haitian coup and the *autogolpe*. Colombia cut off the ongoing integration talks with Peru (Crawford 1992a). The Colombian government then offered asylum to Alan Garcia, former president of Peru ("Peruvian President sets" 1992). Argentina took a strong oppositional stance against Fujimori ("Peru rebuked" 1992). The state recalled its ambassador to Peru by April 8, after offering asylum to several targeted officials (Nash 1992; Harding 1992a). Fujimori's ex-vice president, Maximo San Roman, took refuge at the Argentine embassy and was welcomed into the country (Robinson 1992b). However, Argentina preferred to use a different regional organization, the Rio Group, to respond to Peru's actions, which were in place before the OAS had even met ("Peru rebuked" 2013). Aside from offering asylum to the former president, Colombia and Argentina together wanted the action in Peru to mirror the action in Haiti, which had experienced a traditional coup d'état the year prior ("OAS moves" 1992).

In 1991, Argentina scored a seven on the Polity democracy scale and Colombia scored an eight. The United States, which pushed for the OAS to use harsh punishments against Fujimori as well, and the very interested Canada both score 10. All four of these states are highly democratic, so the fact that they took unilateral initiative to intervene and attempted to pressure the OAS to act shows their higher level of concern than countries that were not as involved. While the states that exemplified concern over the *autogolpe* did happen to all be democratic, there were some other democratic states that did not raise concern within the OAS, including Costa Rica, Ecuador, and Bolivia. Bolivia and Ecuador are both neighbors to Peru, and one report mentions their reservations against any action that could send the state into chaos out of fear that violence could potentially spill over the border (Friedman 1992). While the states that were vocal seem to follow my hypothesis (1B) and none of the countries voiced any strong sentiment against the OAS's actions, not all of the democratic states were concerned and called for IGO action. Therefore, the OAS has a mixed finding on Hypothesis H1B, receiving a *moderate* score on this element.

Democracy as a Norm

While valuing the principle of nonintervention, the OAS's "defense-of-democracy" regime has gone through multiple transformations and become more explicit over time. In the original Charter of the OAS, the word democracy was only used twice: in the Preamble, suggesting the organization utilize "the framework of democratic institutions," and a second time to declare "representative democracy" as a principle of the organization (OAS 1948, Preamble, Article 5d). By 1992, there had been two protocols amending the Charter, the Protocol of Buenos Aires in 1967, which entered into force after ratification by two-thirds of the

member states in 1970, and the Protocol of Cartagena de Indias in 1985, which entered into force under the same provisions in 1988. Defining and expanding the concept "representative democracy" was the goal of a few key resolutions adopted by the General Assembly or Permanent Council from the end of World War II forward.

In 1959, as a result of the Fifth Meeting of Consultation of Ministers of Foreign Affairs, the Santiago Declaration declared eight principles to the concept of "representative democracy": 1) the rule of law; 2) free elections; 3) term limits; 4) social justice and "respect for fundamental human rights"; 5) judicial oversight to point 4; 6) no "systematic political prescription"; 7) freedom of press, television, radio, information, expression; and 8) inter-state cooperation (OAS 1959, 5-6). All twenty-one states were represented, and the only reservations to this Declaration pertained to the specific structure and powers that would be given to the newly established Inter-American Commission on Human Rights (OAS 1959, 18-19). In 1992, this was still the most explicit definition of representative democracy legalized in any document.

Subsequent resolutions and declarations amending the Charter of the OAS clarified the OAS's democratic agenda, but did not adjust the definition of representative democracy. Tension between representative democracy and having control over the political structure of one's sovereign state is visible in the statements surrounding the Cartagena Protocol of 1985. In this revision, the Cartagena Protocol reaffirmed representative democracy an "indispensible condition for the stability, peace, and development of the region" (OAS 1985, Preamble). The principle purposes of the organization were amended in Article 2 to include "promot[ing] and consolidate[ing] representative democracy, with due respect for the principle of nonintervention" (OAS 1985, Article 2b). In statements at ratification, the representatives from Chile and from Mexico accentuated the principle of nonintervention more specifically as Article

18 of the Charter, most presumably because these states were still dictatorships (OAS 1985).[17] Their rhetoric was not antidemocratic, but the principle of non-intervention superseded democracy; this agenda was supported by democracies and non-democracies alike that were reluctant to back away from a provision that protected them from the traditionally interventionist United States.

Multiple states stressed the importance of Article 3e of this Protocol, which reads, "Every State has the right to choose, without external interference, its political, economic, and social system and to organize itself in the way best suited to it." Mexico and Panama interpreted this Article to enshrine "political pluralism" as the rule in statements at ratification, but the United States stressed the clause's commitment to democracy when the representative signed the Protocol: "it [the Protocol] neither bars the promotion [of democracy]…nor requires the OAS or its Member States to accept regimes that are undemocratic or otherwise hostile to inter-American values, nor is it intended in any way to change the fundamental character of the OAS as an organization of democratic states" (OAS, 1985).[18]

By 1991, the OAS member states had moved beyond their reservation of protecting political pluralism. Amending the OAS Charter again, the 1991 "Santiago Commitment to Democracy and the Renewal of the Inter-American System" mentions democracy in almost every line of the preamble, one asserting, "representative democracy is the form of government of the region and that its effective exercise, consolidation, and improvement are shared priorities" (OAS 1991, para. 5). In this statement, the foreign affairs ministers and heads of delegation of the member states vowed, "to adopt efficacious, timely, and expeditious

[17] Article 18, which is previously Article 15 and currently Article 19 of the OAS Charter reads, "no State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other state."
[18] Despite speaking in its defense, the United States never ratified the Cartagena Protocol.

procedures to ensure the promotion and defense of representative democracy" (OAS 1991, para. 15).

According to the definition set up in the Santiago Declaration of 1959, Fujimori's *autogolpe* violated three principles of democracy. The most outright violation was to point number 1, the rule of law, which he overthrew by ruling by executive order. By dissolving the independent judiciary, Fujimori did violate point 5 of judicial oversight of social justice and human rights, and for a short period of time, he suspended freedom of the press, violating point number 7. The last of these was quickly reversed, and a military tribunal was established in place of the independent judiciary ("The challenge" 1992). When any of these principles is not present, there is a violation of democracy. By violating three of the principles simultaneously, Fujimori clearly was in violation of the organization's democratic values. Because the OAS had defined what representative democracy *is* so clearly and the absence of any of these means a democratic violation, the OAS scores *high* on this variable.

One thing to note in this case is that Fujimori had been ruling by decree with the judiciary and legislature in place for a long time. In November of 1991 alone, he put 120 laws in place; these largely were meant to ensure the other branches did not disrupt the economic changes he was initiating (Cameron 1994, p. 149). While these decrees were being enacted, effectively shutting the other branches out of decision-making and violating the first principle under the Santiago Declaration (1959), the OAS did not act. There were no hemisphere-wide meetings about the weakening of the democratic process leading up to the *autogolpe.* So, while there was *no substantial debate* about the violation once Fujimori decided to dissolve the branches of the government before OAS action, there had been a lack of action on the OAS's part leading up to the *autogolpe.* The balance between non-intervention and democracy protection looms

large here. Next, I look at what enforcement provisions the OAS did have all along, and what combination it chose to use.

Enforcement Provisions [19]

There are three types of enforcement provisions: reputational provisions, including press releases and statements; political provisions, such as OAS fact-finding missions; and material provisions, such as levying sanctions against the state. This section is concerned with which provisions are legally provided for in 1992, and which ones were used against the Peruvian *autogolpe*.

The OAS actively issues press releases, and thus reputational tactics for the organization to influence the state are readily available. Strong public statements were released after the foreign ministers would meet, and the OAS spoke resolutely against the *autogolpe* at the Meetings of Consultation of Foreign Ministers. Reputational tools were used most efficiently to carry the news of the various envoys that came to visit the country and spread the idea that sanctions were a real possibility.

The strongest political strategies provided to the OAS in 1992 were observation missions. Unofficial OAS missions established by the Council were and are only permitted to the country "with the consent of the Government concerned" (OAS 1985, Article 86). More specific OAS missions were provided for in 1989 when Resolution 991 permitted election monitoring in member states, setting a precedent for observations missions of different natures later (General Secretariat OAS, n.d.). Resolution 991 maintained the traditional reservation for state sovereignty, approving OAS monitoring and assistance in national elections only "upon an

[19] Only the Secretary General João Baena Soares and Hector Gross, Foreign Minister of Uruguay, took the trip (Costa 1993, p. 36).

invitation of the host country government" (as paraphrased by McMahon & Baker 2006, p. 93). There is a restriction set on the OAS's ability to intervene politically: invitation of the disputed state.

Fujimori's foreign minister Augusto Blacker Miller represented him at a meeting of the foreign ministers. On behalf of President Fujimori, Miller agreed for an OAS mission to visit Peru from April 20-23 (Inter-Am. C.H.R.1993, III/B/43-45). The mission to Lima was instructed, "to express the OAS's demand that democracy be restored and human rights respected" (Schnably 1993, p. 462).[20] During the first political intervention, Fujimori announced his plan to hold a referendum in July on his emergency rule by decree, to provide a list of the reforms for debate, to use the scheduled elections in November to vote on constitutional reform, and for parliamentary elections to be held in February of 1993 (Schmidt 1992b; Crawford 1992b). In effect, this plan meant twelve months would elapse before democracy was fully reinstated in the country. The OAS mission returned on May 4 and 5 to initiate talks between Fujimori and the opposition (Robinson 1992c).

Shortly after Resolution 991 set the precedent for political intervention, the OAS's material tools for protecting democracy were developed with the 1991 "Santiago Commitment to Democracy and The Renewal of the Inter-American System" and the corresponding General Assembly Resolution number 1080, "Representative Democracy." Under these new provisions, the OAS could take immediate action in "sudden or irregular interruption of the democratic institutional process or of the legitimate exercise of power by the democratically elected government" (OAS 1991b). The definition of a "sudden or irregular interruption" is not

[20] President Fujimori also allowed the Inter-American Commission on Human Rights, a group within the OAS, to visit the country on April 23 and 24, and later on May 11 and 12 (Schnably 1993, 463).

provided, and while this short document did not make explicit provisions for sanctions, it set their development in motion, according to H.E. Hugo de Zela, Permanent Representative to the OAS from Peru in 2011.[21] Determining the presence of a threat to democratic principles is delegated to the Secretary General, whose role is discussed below. Resolution 1080 was the primary tool for multilateral intervention if an OAS country exhibited antidemocratic behavior through the 1990s.

While sanctions were provided for, it is unclear how they would be carried out. The OAS first invoked resolution 1080 the year before the Peruvian *autogolpe*, setting up a trade embargo against Haiti for its coup d'état in September 1991 (Harding 1992a). Because of the potential threat of sanctions, Fujimori let up on some of the more severe decrees in place, specifically removing certain opposition leaders from house arrest (Robinson 1992b). Also, Fujimori appeared willing to work with the OAS. He sent his foreign minister, Blacker Miller, to represent his position on the *autogolpe* at the first meeting of foreign ministers on April 13th. [22] At the meeting, no sanctions were placed on Peru – an outcome that was largely expected (Crawford 1992, p. 5; "OAS to discuss Peru crisis" 1992; Vincent 1992; Reid 1992, p. 9).[23] Instead, the ten-point resolution demanded an OAS mission go to the country and report back

[21] This reflection on democracy in the Americas was written shortly before the most recent Summit of the Americas.

[22] The suspended Congress sent Maximo San Roman, former vice president to Fujimori, as the envoy to speak against Fujimori's actions (Crawford 1992, p. 5; Cameron 1994, p. 155). The meeting was delayed, because the OAS needed to decide who would take the Peruvian seat. The OAS opted to hear from Blacker in the formal meeting (Walte 1992; Harding 1992b).

[23] Although this study is not focused on the domestic factors, one element of Peru's domestic climate that seriously influenced the IGO's decision not to place sanctions on the state was that the Shining Path guerilla force, already responsible for 25,000 deaths in the Peru, was gaining, and the international community feared it might overtake the state if it was completely isolated by sanctions (Vincent 1992).

to the foreign ministers at the next meeting, giving Peru until May 23 to prove it was firmly on a path to reinstating democratic governance (Brooke 1992).

By mid-May, Fujimori's proposed plan for restoring democracy had been rejected by the opposition ("Peru opposition reject timetable"), and would have failed to meet the OAS's May 23 deadline for a clear indication that the country was back on track. The foreign ministers were meeting again on May 18, primarily to approve new economic sanctions against Haiti; sanctions against Peru were on the docket. In a last-minute move, Fujimori flew to the meeting himself to present a new timetable for elections in the country (French 1992, p. 1; Gamini 1992). Fujimori conceded to the OAS's demands for a swifter return to a proper democratic structure, agreeing to have the November elections be for a constituent congress, which would operate as the legislature until the next official elections (Bowen 1992, p. 5; McMahon & Baker 2006, p. 96; Cameron 1998a, p. 225; Legler 2003, p. 62).[24] Fujimori had previously rejected the idea of holding a democratic constituent congress (DCC), but succumbed to the OAS's pressure in order to avoid harsh economic sanctions (Bowen 1992, p. 5).

Because all three enforcement tools were at the organization's disposal, it scores *high* on this variable. The meetings of foreign ministers and the special meeting of the Permanent Council issued strongly worded statements against the *autogolpe*. These provisions were not all executed effectively. The political missions largely failed to produce any results in the country, and the OAS mission's report – which most likely would have led to sanctions – was thwarted by Fujimori's new proposition at the May 18 meeting. While economic sanctions were

[24] The CCD was immediately responsible for composing and ratifying the new Constitution and confirming the legality of Fujimori ruling by presidential decree from April until December 30, 1992 (Cameron 1994, p. 156). These de jure elections held in November gave Fujimori's party a Congressional majority (Cameron 1994, p. 157). The CCD operated as planned until 1995 and President Fujimori remained in office until 2000

informally circling, there was no formal discussion of implementing any kind of economic sanctions. Nevertheless, the combination of OAS presence in the state, public reproaches of Fujimori's actions, and the credible threat of region-wide sanctions pressured Fujimori to succumb to the OAS's demands.

Voting Rules in the Permanent Council, General Assembly, and the Meetings of Foreign Ministers

The original Charter did not set specific guidelines for procedure in each of the bodies. The Protocol of Amendment to the Charter of the OAS signed in Buenos Aries in February 1967 detailed the procedures of each organ of the OAS. Voting rules were clarified on specific topics, which were then further clarified by the Cartagena Protocol of 1985. Under Resolution 1080, the voting rules on issues of democracy follow "in accordance with the Charter and international law" for each OAS body (OAS 1991). It is important to understand the voting rules of the three intergovernmental OAS organs central to democracy promotion: the General Assembly, the Permanent Council, and the Meeting of Consultation of Ministers of Foreign Affairs.

The General Assembly of the OAS is the main agenda-setting and final decision-making body, composed of high-level government officials (OAS 1967, Article 52). The delegated representatives of each member state government meet annually and in special sessions upon request (OAS 1967, Article 55, 56).[25] The General Assembly usually takes decisions by absolute majority, except when two-thirds majority is required (OAS 1967, Article 57). Each state has one vote (OAS 1967, Article 54).

[25] Originally, this body was known as the Inter-American Conference (OAS 1948, Chapter X).

The Permanent Council is the main consultative body of the OAS, especially in matters of armed attacks against a state in the region (OAS 1948, Article 52, 43). It is composed of thirty-four appointed representatives, generally permanent ambassadors to the OAS, one from each member state (OAS 1948, Article 48 updated by OAS 1967, Article 78). When disputes arise between or within member states and are not being settled peacefully, the Permanent Council is one point of contact for raising a grievance (OAS 1967, Article 86). The Permanent Council's decisions are made by a two-thirds majority, minus the party in question (OAS 1967, Article 89). Each state receives one vote on the Permanent Council (OAS 1967, Article 69).

When states are concerned with or dispute the democratic quality of actions in another state, the Council may establish ad hoc working groups (OAS 1985, Article 85, 86).[26] These working groups are composed of the member states' foreign ministers, called the Meetings of Consultation of the Ministers of Foreign Affairs. The voting rules within the ad hoc Meetings of Consultation of Ministers of Foreign Affairs differ each time according to the Permanent Council's mandate (OAS 1948, Article 41 changed to Article 61 (OAS 1967)).

Interestingly, the Charter never explicitly reserves a member state's right to veto. There are also no provisions for unanimous voting. In place of a veto, member states are dissuaded from using the OAS to take any aggressive action against another member through the nonintervention principle, in place since the original drafting of the Charter:

> No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or

[26] These meetings can be called by any member pursuant to Article 40 of the OAS Charter, "in order to consider problems of an urgent nature and of common interest to the American States, and to serve as the Organ of Consultation" (OAS 1948, Article 39)

> attempted threat against the personality of the State or against its political, economic and cultural elements.[27]

At the first meeting of the foreign ministers, the resolution to send a political envoy was affirmed by a vote of 31 yeses, one abstention, and with two absentees (Friedman 1992, p. A8; "Sanctions rejected" 1992). For the resolution to meet the requisite two-thirds majority, only twenty-one of the representatives needed to vote affirmatively.[28] To contextualize the importance of voting procedures, it may be helpful to consider the counterfactual. If the votes were all by absolute majority, only sixteen representatives would be needed to vote "yes" to allow the OAS to take a course of action. For an organization straddling democracy protection and noninterventionism, requiring an additional five affirmative votes for democracy-related issues could be complicated on some controversial issues or decisions, but ensures that a slight majority cannot overstep its role and go against a near-equal minority. Nevertheless, this vote clearly passed the necessary mark. In various meetings, votes about action against the Peruvian *autogolpe* were subject to supermajority voting.

While each state has an equal vote, and the disputed state is left out, there is no unanimous voting, nor is there a provision for another state to formally veto action. Therefore, the OAS's supermajority voting earns a **3** on the voting rule variable. There are no veto rights complicating decision making in these bodies, and each body is able to take its decision without the reaffirmation of another branch. Since there are no other complications to voting rules, the score stands at 3.

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[27] As written in Article 15 of the Charter of the OAS in 1948; it was renumbered Article 18 in the Buenos Aires Protocol of 1967.

[28] Thirty-one states are signatories to the Protocol of Buenos Aires, and thirty are signatories to the Cartagena Protocol.

Delegation to the Secretary General

Of the four organs included in this democracy protection procedure, only one, the secretary general, is a representative of the organization at large. Under Resolution 1080, in the instance of antidemocratic acts, the secretary general is instructed to call a meeting of the Permanent Council immediately to survey the situation (OAS 1991). On April 6, 1992, Secretary General João Baena Soares called the Permanent Council together to discuss action against the "self-coup" (Crossette 1992, p. 16).

The General Secretariat is "the central and permanent organ of the Organization of American States" (OAS 1967, Article 113). Within the General Secretariat, the secretary general is elected by the General Assembly to represent all OAS as a whole. The member states understand that the secretary general has no national allegiance. Article 90 ensures the independence of this position: "Every Member of the Organization of American States pledges itself to respect the exclusively international character of the responsibilities of the Secretary General and the personnel, and not to seek to influence them in the discharge of their duties" (OAS 1948). Also, to ensure no national biases, the secretary general cannot be succeeded by someone of the same nationality (OAS 1948, Article 79). The Protocol of Buenos Aires permitted the secretary general to participate in all meetings of the OAS (1967, Article 116).[29]

The secretary general's responsibility and role in democracy promotion were strengthened as representative democracy became a more explicit norm.[30] When political pluralism was still the name of the game, the Cartagena Protocol of 1985 expanded the secretary

[29] Originally, the secretary general was permitted to participate "with voice, but without vote" in only the "Inter-American Conference, the Meeting of Consultation of Ministers of Foreign Affairs, the Specialized Conferences, and the Council and its organs" (OAS 1948, Article 81).
[30] The Secretary General's primary duty in 1948 was to oversee the Pan American Union (OAS 1948, Article 84).

general's oversight. More controversially, the secretary general was permitted to "bring to the attention of the General Assembly or the Permanent Council any matter which in his opinion might threaten the peace and security of the hemisphere or the development of the Member States" (OAS 1985, Article 116). The Chilean representative found even this minuscule increase in the secretary general's role merited clarification, and Peru included the only reservation about this specific article upon signing.[31] Both states' concerns were the extent of the secretary general's powers, but, again, both states were also not democratic. Nevertheless, the Secretary General obtained the right of initiative when a threat to democracy might arise. The secretary general may also participate in all meetings of the OAS, although it may not vote (OAS 1967, Article 116).

The change in attitude towards democracy in the hemisphere is obvious in the rhetoric of the Santiago Declaration and Resolution 1080, which made the secretary general a central piece of democracy protection efforts.[32] The foreign ministers or the General Assembly in a special session have the final say about what action to take. The secretary general's role remained limited to initiation, therefore the OAS scores *moderate* on the delegation variable.

[31] The Peruvian reservation reads, "The Delegation of Peru states by way of a reservation that the powers conferred upon the Secretary General in Article 116 may not be exercised for matters that have already been resolved through settlement by the parties or through the decision of an arbitrator or a judgment handed down by an international court, or that are governed by agreements or treaties in force."

[32] By 1992, Resolution 1080 had most clearly outlined the role of the secretary general in democracy protection: "The General Assembly resolves 1) to instruct the Secretary General to call for the immediate convocation of a meeting of the Permanent Council in the event of any occurrences giving rise to the sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by the democratically elected government in any of the Organization's member states, in order, within the framework of the Charter, to examine the situation, decide on and convene an ad hoc meeting of the Ministers of Foreign Affairs, or a special session of the General Assembly, all of which must take place within a ten-day period."

Summation

The OAS's reaction to the Peruvian *autogolpe* was taken very quickly. The clear definition of a norm left little room for debate even among the less democratic states. The four bodies involved, three intergovernmental and one supranational, made use of the complete toolkit of enforcement provisions. In the next section, I outline the second case study along the same factors so that they can be compared on each of the aspects of IGO decision-making.

The EU versus Hungary's Constitutional Revisions

The EU and Hungary 2010

In 1952, Germany, France, Netherlands, Belgium, Luxembourg, and Italy decided to pool their production resources for steel and coal, simultaneously ensuring access for all states which was important to economic recovery post World War II and eliminating the possibility of war between France and Germany by entwining the central energy and weaponry sources. The European Coal and Steel Community's (ECSC) purpose "spilled over" into more industries, such as atomic energy, and then the value of a single market for goods led to deeper economic, monetary, and eventually political integration. The membership of the ECSC expanded in four "waves" of enlargement: the first wave in 1973 included the United Kingdom, Denmark, and Ireland; the "southern" wave in the 1980s added Greece, Portugal, and Spain; the "northern" wave in the 1990s included Austria, Finland, and Sweden; and the most recent "eastern" wave, in two parts, acceded the Czech Republic, Poland, Hungary, Slovenia, Slovakia, Cyprus, Malta, Estonia, Latvia, and Lithuania in 2004 followed by Romania and Bulgaria in 2007. Croatia, the most recent addition, acceded in July 2013.

The fourth wave of enlargement included mainly the newly democratized states of the former Soviet bloc. While these democratic regimes were arguably fragile, after meeting extensive requirements of democratic institutions and internalizing EU law, they were deemed eligible for EU membership. Scholars debated whether or not these states would backslide, but until recently there was little evidence that they would. Hungary's sweeping constitutional reforms in 2011 and, more alarmingly, the four subsequent amendments further restricting individual rights and the independence of the judiciary may now be evidence that democracy is not irreversible in EU member states.

In the April 2010 Hungarian parliamentary elections, the center-right Fidesz party took 263 of the 386 parliamentary seats in the first round of elections, a two-thirds majority ("Opposition's Orbán" 2010; "Hungary's election" 2010; "Fidesz Victory: Implications" 2010). During the campaign, the party leader Viktor Orbán promised "to cut taxes, red tape and corruption in a move to kick-start the country's economy and help neutralise far-right nationalism" (McLaughlin 2010a).[33] After officially being named Prime Minister on May 29, Orbán began redrafting the Hungarian constitution, which had not been amended since 1990 (Arato & Miklósi 2010). The Fidesz government had run on a platform of change from the Socialist party's harsh austerity measures and open corruption (Gorondi 2010).

However, international criticism arose when the parliament passed ten constitutional reforms in the second half of 2010 alone, almost completely uncontested, and an entirely new constitution was signed into law on April 25, 2011 (Puppinck & Pecorario 2011, p. 1). The biggest criticisms of this new constitution had to do with the entanglement of Christian ideals

[33] Orbán served as Prime Minister before Hungarian accession to the EU from 1998 to 2002 (Bryant & Buckley 2010). The Socialist Party then began their eight-year control, with Orbán leading the opposition.

and law, effectively limiting the civil rights and liberties, and changing the voting rules in the Parliament to require a two-thirds majority, a threshold easily passed by the Fidesz-Christian Democratic coalition. Amendments to the new constitution decreased the autonomy of some branches, such as the country's highest court, and increased power in other offices.

By 2012, tensions between EU-level institutions and Hungarian politicians were high over these political reforms, and were further aggravated by economic issues.[34] A few member states raised issue with Hungary's actions, requesting formally that the European Commission examine its legality in EU law. The Commission has not targeted the overall undemocratic nature of Hungary's constitutional reforms, instead isolating pieces of the reforms that can be scrutinized easily under EU law. In November 2012, the European Commission brought a case against Hungary before the European Court of Justice for age-related discrimination (ECJ 2012). The Court ruled "the radical lowering of the retirement age for Hungarian judges constitutes unjustified discrimination on grounds of age" (ECJ 2012).

While the Commission was taking these cases to the ECJ, Orbán did not stop. On March 11, 2013, the Fidesz party's two-thirds parliamentary majority pushed through the fourth set of amendments to the new constitution. This set of changes raised large domestic outcry and the most international criticism for targeting the rights of individuals and the judiciary's independence: it restricted the power of the constitutional court, annulling any decisions it took prior to January 2012, and allowing the parliament to overrule its decisions; limited religious freedom in the state to Christianity; defined marriage as heterosexual; made homelessness,

[34] In January 2012, Hungary was threatened with sanctions through a mechanism of the EU's cohesion funds for not taking appropriate action to curb its excessive financial deficit ("EU readies economic sanctions"). The application of these sanctions in March of 2012 (Gulyas & Norman, 2012) was only relevant to Orbán's economic policies, was not based on the constitutional reforms, and did not reference or attempt to respond to the political issues in the country. These economic sanctions were lifted in June (Emmott 2012).

specifically sleeping on the streets, illegal; mandated that any student who receives scholarships for higher education remain in Hungary to work or repay the aid; and restricted non-state-run media outlets from running political campaign ads (Traynor 2013b; McDonald-Gibson 2013a, p. 1; Warsaw & Waterfield 2013).

This set of amendments prompted the supranational bodies of the EU to take action. The Commission issued a report in June, known as the Tavares Report, which called for Hungary to make a number of concessions. The report was affirmed by a vote in the European Parliament, which led to a fifth set of amendments. These "concessions" included "measures which limited judicial independence, reduced the definition of a family to heterosexual marriage and allowed authorities to fine the homeless" ("Hungary proposes new" 2013). Adopted in September 2013, this set of amendments has not met the EU's standards, with other nongovernmental organizations such as Human Rights Watch calling them "largely cosmetic" ("Hungary criticized" 2013).

Orbán was the first leader of an EU member state to take systematic steps to reduce democracy, with the support of his unprecedented majority in Parliament. He is nationalist, and is likened to Vladimir Putin or Belarusian Alexander Lukashenko, being called "an opportunistic populist" (Castle 2011). The matter of Hungary's constitution has yet to be completely resolved. In the following sections, I assess the EU on each of my five variables as the treaties and resolutions currently stand.

EU Composition

In 2010, before Orbán had made any changes to the democratic structure of the country, all of the EU member states scored 8 or above on the Polity IV dataset. Eighteen countries

received a score of ten, four countries a score of nine, and three countries a score of eight (two not listed). The EU easily earns a score of 1.0 on the composition variable, making it as democratically dense as possible for an IGO. Hungary scored a ten on the Polity scale. However, once constitutional revisions began taking place, this rating was no longer applicable. There are two hypotheses concerning composition, so I will first discuss the EU's democratic density and the level of debate around the issue, and then about individual member states' concerns, as relevant to their democracy scores.

Democratic density and debate. Amidst the first changes, which placed the media under the national Parliament's control, debate began to flare about whether Orbán's actions were actually in violation of EU law. Orbán has continuously challenged critics to prove how what he is doing is against EU values or EU law. For the first six months of 2011, Hungary held the rotating Presidency of the European Council, and within the first week of the year, Orbán chastised the French and German governments for their criticism of the new Hungarian constitution on the grounds of "European values," claiming there were no grounds under which Hungary was violating the EU's law (Castle 2011). More recently, in April 2013, he reportedly challenged the EU by asking "Who is able to present even one single point of evidence, facts, may I say, which could be the basis for any argument that what we are doing is against democracy?" followed up with "Without facts there is no sense of any general political discussion" ("Hungarian premier rejects" 2013). Until very recently, the EU has struggled to respond to Orbán's question.

Debate has been high surrounding whether the actions are in violation of the EU's law, as well as whether the EU has any jurisdiction over Hungary's domestic decision. Multilevel

governance in the EU reserves the right to regulate media to the member states, so the EU branches have very little legal ground to stand on. The EU's inability to concretely prove that Hungary's actions were in violation of the EU's values has allowed for a lot of debate about whether there was a norm violation at all. According to my hypothesis H1A, highly democratically dense IGOs are expected to have less debate over whether there is actually a norm violation. In this case, despite the fact that the EU received the most democratically dense score, debate about the presence of a norm violation was prominent.

Concern from member states. On March 6, 2013, Germany, the Netherlands, Finland, and Denmark sent a joint letter to Commission President Jose Manuel Barroso entreating the Commission to see that a mechanism is created by which the EU could oversee acts of democratic weakening and intervene in an early stage. Without specific reference to Hungary, the letter stressed human rights, democracy, and the rule of law in member states, arguing that the "EU should place greater emphasis on promoting a culture of respect for the rule of law in Member States." Common interests in democracy and a democratic culture were deemed "the glue that binds us [EU states] together" (Westerwelle, Timmermans, Søvndal, & Tuomioja, 2013). Among the European leaders, there was no action and little public discussion about Hungary directly before this joint statement.

One exception is the German government, which expressed deep concern over Hungary's constitutional revisions early on. In April 2011, after the new constitution was signed into law, German Foreign Minister Werner Hoyer issued a statement that the German government was watching and was concerned (Phillips 2011). This concern did not seem to have raised much individual action on the part of Germany, though, until the fourth set of

constitutional amendments in 2013. At that time, the joint letter was sent to Barroso. German concern over the Hungarian revisions snuck into domestic politics the week following the joint letter, with the Social Democrats entreating Chancellor Angela Merkel to be more assertive towards change ("Hungarian premier Orbán" 2013). In late May 2013, Merkel and Orbán clashed over a Merkel's comment that Germany would "do everything to put Hungary onto the right path. But we [Germany] won't be sending in the cavalry straight away" (Evans 2013). Germany is one country that does act in accordance with hypothesis H1B.

Prime Minister Orbán has publicly rejected the EU's criticism. In March, as the debate in the EU bodies intensified, Orbán reportedly said, "We [the Hungarian government] would be very happy to be able to address these concerns [from the EU], but there is not a single hard fact in any of this. Speaking in general terms, saying 'we don't like this', is not concrete enough to enable us to react. Read first, then listen and then act: that's the European method." (as quoted by Beary & Vandystadt 2013). The same time that the small coalition of Western European and Scandinavian states pressured the Commission to refute the Hungarian constitutional amendments, Orbán called on the other Central and Eastern European Countries (CEE) member states to "make their own policies without looking to the EU. We do not have to listen to everything the bureaucrats in Brussels say" (Traynor, 2013a).

One of the largest and longest established democracies in the EU that would be expected to raise concern over the situation in Hungary is France. The French government has been a vocal critic of the Hungarian constitutional reforms, but was not a signatory of the letter to Barroso. Orbán pushed back against French criticism in January 2011. The French Foreign minister vowed to be "vigilant" in its bilateral interactions with Hungary so that democracy and

the rule of law could be upheld (Leonetti 2012). France, then, affirms the argument that democratic states will raise concern along with Germany.

The UK has taken an interestingly quiet position on the Hungarian crisis. British-based news agencies have focused substantially on the constitutional revisions. However, there is little record of substantial exchanges between the British leaders and Hungary, either within or outside of the EU. In Orbán's responses to his critics, he never mentions any contentions with the UK. It is perhaps characteristic of the UK to keep economic issues in its sights, and the political crisis at the periphery. The British EU finance minister along with the Austrian, Polish, Swedish, and Czech representatives agreed to place economic sanctions against Hungary in early 2012 for its economic policies, but these were not tied to Orbán's constitutional revisions at all (Beesley 2012). Nevertheless, the UK's position challenges the premise that the highly democratic member states will raise concern over the antidemocratic actions of another member state.

The EU has had a mixed report on this hypothesis. All of the member states are highly democratic, so there should have been a high level of individual concern about the situation. While this study is limited in fully testing this claim by language requirements, it appears that even the most democratic states have not equally taken it upon themselves to address the democratic crisis. The democratic states have only been *moderately* active in voicing their concerns over Orbán's actions.

Democracy as a Norm

The predecessors to the EU – European Coal and Steel Community and the European Communities – were established to promote peace and ensure economic prosperity. A failed

attempt at creating the European Political Community in 1954 illustrated the member states' outright rejection of coordinating political efforts. However, as prospects for membership grew, the members realized the significance of similar government structure and values even for economic cooperation. In the 1980s, the Communities needed to determine accession standards for Greece, Spain, and Portugal, all newly democratized. Enlargement became the driving mechanism for the EU to legally declare democratic commitments, and in 1986, the Single European Act first referenced democracy in its preamble (McMahon & Baker 2006, p. 37).

After the fall of the Soviet Union, prospective new member states to the east were in complete rebuilding. This urged the EU to make more explicit demands for not only economic but political standards of membership. The 1992 Maastricht Treaty or the Treaty on European Union (TEU) made six explicit uses of "democracy."[35] As part of the Union's Common Provisions, the TEU today stipulates, "The Union shall respect the national identities of its Member States, *whose systems of government are founded on the principles of democracy,*" (Article F, Section 1, emphasis added).[36] This clause implies that all members are democracies. It also sets a principle of nonintervention in an EU member state. Title XVII, "Development Cooperation" asserts the Union's dedication to promoting democracy in developing nations, which included the newly democratizing states to the east that became potential member states (Article 130u (1&2)). Democracy promotion appears again under Title V, "Provisions on Common Foreign

[35] Two references democracy appear in the preamble, reaffirming the organization's commitment to the principle of democracy as well as the democratic quality of the organization's institutions. A third is in Annex under the "Declaration on the right of access to information."
[36] For current placement, see Article 6, Section 1 under Title I "Common Provisions" in Consolidated Version of the Treaty on European Union (2010).

And Security Policy," Article J.[37] This treaty's focus, though, was on consolidating the single European market, a goal that was set the previous decade.

In 1993, the European Council discussed relations with the Central and Eastern European countries (CEECs) and their membership potential. The summit's conclusions declared that the states with "Europe agreements" – statements of association between the EU and its members on one hand and the external country on the other – were henceforth "associated states" (European Council 1993, Section 7 A(i)). It said that any associated state could become a member of the EU if they so chose, establishing certain political and economic requirements for these countries and any country that sought membership in the future:

> Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union (European Council 1993, Section 7 A(iii)).

This paragraph of political mandates for EU membership became widely known as the Copenhagen Criteria. To become a member, a country must satisfy each of these requirements according to the Commission's assessment and internalize all parts of the *acquis communitaire*, the name for the cumulative body of EU law ("Accession criteria," n.d.).

While the EU's commitment to democracy and mandates for new members were laid out in the Copenhagen Criteria, the member states realized that the language in the TEU was remarkably unbalanced in its attention to protecting democracy outside and within the Union. The EU tried to remedy the disparity in drafting a document for institutional reform, the Treaty of Nice in 2000, adding a provision by which a threat to the EU's values could be brought to

[37] See Article 11, Section 1 under Title V "Provisions on Common Foreign and Security Policy" in the Consolidated Version of the Treaty on European Union.

various governing bodies for review (Article 7). The most recent treaty of institutional reform, the 2007 Lisbon Treaty, maintained Article 7, which grants the EU legitimate oversight: the EU "may determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2" (Article 7 TEU 2010). However, the "serious breach" is not explicitly defined.

The EU's commitment to democracy is clear in these governing documents. The Copenhagen criteria still offer the most explicit guidelines for what democracy should look like in EU member states. However, there is no indication of what an absence of democracy is, beyond a reference to a clear breach of democratic norms. Therefore, the EU scores *moderate* on norm legalization.

This score is also reflected by the fact that there *has been political debate* between the branches of the EU and some concerned member states about whether the constitutional revisions are in violation of EU law. As Hypothesis 2 posits, when the norm is not completely legalized, including violations, there will be more debate about the violation in general before IGO action can be taken. The debate, explained in the previous section, has largely kept the EU bodies from directly responding to Orbán's actions. There have been some calls to action by a few member states, such as the letter from Germany, Denmark, the Netherlands, and Finland discussed above. However, out of 28 member states, only four states signed on to this motion. None of the other CEE member states were included in this statement; this could be a reflection on the uncertainty of whether the Hungary's constitutional revisions really qualify as norm violations. The agreement is also missing some key states, such as the United Kingdom and Hungary's neighbors.

Enforcement Provisions

Once again, there are three types of enforcement strategies that the EU might have provided itself: reputational provisions, or releasing public statements; political provisions, such as fact-finding missions; and material provisions, such as levying sanctions against the state or suspending it from certain functions. The EU only has two of these tools available: reputational and material.

The EU uses many reputational strategies, including press releases, speeches in various bodies, and the media at large. Media outlets in each state as well as EU-level media, sources such as *Euractive* and *EU Observer,* frequently publish brief opinions from different politicians on current issues. A few of these sources can typically be easily translated into the at least two languages, English and French. EU press releases tend to be in these two procedural languages, but resolutions and treaties are available in all 24 official EU languages. Not only are enforcement provisions, therefore, widely available as a tool and used, they are able to reach a large part of the EU's population by having different translations available.

The international response to Orbán's constitutional reform was largely rhetorical through 2011 and 2012. In July 2011 during Orbán's exit speech as European Council President, the Socialists, Social Democrats, left-wing GUE/NGL group, Greens, and the Liberals reprimanded Orbán's constitutional reforms at home, instigating a defensive comment that "Brussels is not Moscow" (Orbán, quoted in "Hungarian EU President slithers" 2011). Orbán made several comments about not being "subordinate" to the EU or any IGO in reference to their economic mandates (McLaughlin 2010b). Commission President Barroso has sent letters to the Prime Minister, urging him to retract some of the most problematic reforms (Vandystadt, April 2013).

Two material tools are provided for the in the treaties: the violating state can be taken to the European Court of Justice (ECJ) or it can be suspended. In the effort to counter Hungary's actions thus far, the Commission has taken Hungary to the ECJ over the legality of specific sections of the constitution or certain amendments that violate EU laws. Under Article 260 TFEU, "If the Court finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it." In 2012, the European Commission brought a case before the ECJ because of the constitutional amendment that set an age limit on judges. The ECJ ruled that this stipulation was in violation with EU employment directives, and thus ordered that Hungary rehire the judges who had been dismissed as a result of the recent constitutional amendments (ECJ 2012). Hungary has offered concessions to the Court in the most recent case against it for violating employment law, so no monetary punishment has been handed down, although it would be within the Court's power to do so. The revisions made have been declared "cosmetic," however, and largely insufficient ("Hungary criticized" 2013).

Besides taking action through the ECJ, Article 7 (TEU 2010) is the most forceful provision that the EU has to respond to a member state that violates the community's norms. It provides for a member's voting rights to be suspended in response to a serious breach of the EU's values, including democracy. The President of the European Parliament, German MEP Martin Schulz, brought up the possibility of suspending Hungary in March of 2013 ("Hungarian premier Orbán" 2013). Some consider suspension a "nuclear" option (translation and excerpt in "EU threatens Hungary with sanctions" 2013). Article 7 has not been used against a member state to impose any kind of punishment, and in the Hungarian case, it has only been loosely mentioned.

There is currently no EU provision for political observation missions in sovereign member states. When the last wave of enlargement was underway, and the candidate countries were negotiating membership, the Copenhagen European Council agreed that the Commission should monitor each state's progress towards the Copenhagen criteria including the adoption of all aspects of the *aquis communitaire*. The Directorate General for Enlargement within the Commission is responsible for these monitoring efforts in candidate countries, and it publishes an annual report on the progress in the country up to the time that the state is offered membership. To write up these reports, the Commission would often observe the state, locally. However, once a country joins the EU, these reports do not continue.[38]

In June 2013, MEP Rui Tavares offered a proposal to both address the situation in Hungary, and rectify the EU's deficiency responding to ambiguous attacks on democracy. Within his proposal, he called for the formation of a new body, provisionally called the "Copenhagen Commission" or "high-level group," which would be responsible for monitoring the democratic quality of member states post-accession[39] (Tavares 2013a, p. 36). Regular monitoring member states' "respect for fundamental rights, the state of democracy and the rule of law in all Member States, while fully respecting national constitutional traditions" is the key responsibility of this proposed group, along with sharing its findings with the other branches of the EU and other related agencies (Tavares 2013a, p. 37). This proposal calls for a conference on the subject by the end of the year, although there has yet to be an update on the subject. The

[38] The accession process was a bit different for Romania and Bulgaria. These countries had not yet met the threshold that the Commission wanted to fully declare the states transitioned. The EU agreed to offer the two states complete EU membership upon the condition that the Commission continue monitoring the state for a set period of time in order to ensure that these states continue making progress towards the Copenhagen Criteria.

[39] Currently, the Commission monitors states before their accession. The Commission only monitored two states post-accession, Romania and Bulgaria, which were both granted member-state status by agreeing to the monitoring for a set period of years.

Tavares Report has a few harsh critics as well as a few fervent supporters. It been rebuked as hypocritical or a double standard, and Hungarian politicians called it an attack of the left (Hungarian Ministry of Foreign Affairs 2013). Oppositely, Commission President Jose Manuel Barroso made a speech before the Parliament and Prime Minister Orbán in support of the Tavares Report, and one of the most renowned scholars on Hungarian law, Kim Lane Scheppele, has praised it (Scheppele 2013). The Tavares Report offers a positive note of progress on this provision, but the EU at this point still has no legal precedent to monitor member states.

At present, reputational tactics are readily at the EU's disposal; the supranational bodies of the EU, the European Commission and the European Parliament use these techniques strongly. There are also specific grounds for material punishments to be handed down. When conducted through the ECJ, specific pieces of the reform have been targeted, not the antidemocratic quality of the violations overall. In the most serious cases, a state can be suspended from the organization, a decision that requires agreement between intergovernmental and supranational branches of the EU. However, there is no provision that allows the EU to monitor the democratic quality of a sovereign member state. Minus this provision, the EU has to take a big jump in enforcement from reputational threats to material punishments. As discussed in the theory section, this jump is unlikely when the norm violations are ambiguous. In this case, the constitutional amendments have been systematic enough to draw significant attention, but heightened awareness and criticism still does not lead naturally to material sanctions or voting suspension. The EU is only *moderately likely* to act in enforcing democratic norms, because there are no political provisions available, the material, monetary punishments

have been small, there has been no real threat of suspension, yet reputational strategies have made this a hot-button issue for Europe.

Voting Rules in the European Council and the Council of Ministers

The voting rules in EU vary depending on the policy area and the body taking the vote. Originally, unanimity was the norm; however as the Union grew, this became increasingly unrealistic. Qualified majority voting (QMV) was introduced in the Single European Act of 1985. The trend in subsequent treaties became expanding the policy areas in which QMV was the norm. The procedures in place currently follow the definition of QMV under the Treaty of Nice, which has been in force since 2003. Under the Treaty of Nice, voting was weighted according to state size, and if requested, the vote must represent 62 percent of the population of the EU ("Qualified majority" 2013). However, the Treaty of Lisbon adopted in 2007 amended voting procedures make the votes more representative of the now-28 member states. Entering into force on December 1, 2009, the amended voting procedures under the Lisbon Treaty are due to change on January 1, 2014.[40]

Out of the five bodies involved in decisions to enforce democratic norms, there are two intergovernmental bodies: the European Council and the Council of Ministers ("the Council"). Under the treaties currently in force,[41] the European Council is the principal intergovernmental

[40] At the time of the Hungarian situation, qualified majority voting will necessitate a majority of 55% of the Member States, which must represent 65% of the Union's population. In a Union of 28, QMV requires 16 votes to clear the 55% threshold. The percentages are higher if the proposal does not come from the Commission or High Representative (Article 238 (3b) TFEU 2010).

[41] The treaties in force are the Treaty of Lisbon (2007), Treaty on the Functioning of the European Union (TFEU), Treaty on European Union (TEU), Treaty Establishing the European Atomic Energy Community (consolidated as of 2012), and the Charter of Fundamental Rights of the European Union (2012).

institution.[42] Composed of the 28 heads of state and government, the European Council represents member states' interests in their semi-annual meetings. Roughly four times a year, the European Council determines areas of competence for the other EU bodies. It is also the final arbitrator in debates. Under Article 7 TEU, a member state can be referred by the European Commission, the European Parliament, or one-third of the member states to the European Council for a "clear risk of a serious breach" of the norms established in Article 2. If a concern is raised, the member state is invited to explain its disputed actions to the European Council before any EU action is taken (Article 7(1) TEU 2010). The European Council decides by four-fifths majority, excluding the member in question, whether there is a "serious breach" of EU law (Article 7(3) TEU 2010; Article 354 TFEU 2010).

When the European Council determines that a "breach" or norm violation has occurred, the Council of Ministers is responsible for deciding what action to take (Article 7(4) TEU 2010). The Council is the co-legislative, intergovernmental body responsible for making binding decisions on laws and policies in ten specialized configurations of the member states comprised of one cabinet minister from each member state; the specific delegate changes dependent upon the field being discussed.[43] The Council of Ministers takes decisions to suspend members for violations of democracy by qualified majority, excluding the member state in question (Article 7(3) TEU 2010; Article 354 TFEU 2010). It is also the Council's responsibility to lift any charges, such as voting suspension, when the member state is no longer in breach of Article 2 (Article 7(4) TEU 2010).

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[42] The heads of state and government began meeting annually to discuss Community affairs in 1974, although it was not a formal institution of the EU until the Treaty of Lisbon (Karns & Mingst 2010, p. 165-6).

[43] For a list of configurations, see http://www.consilium.europa.eu/policies/council-configurations?lang=en

Because decisions are made by super-majority in the intergovernmental bodies, the EU scores 3 on voting rules. To fully address the hypothesis – whether the voting rules in the intergovernmental bodies raise or lower the thresholds for IGO action – it is important to note that there are many potential roadblocks to orchestrating action against a member state under the current provisions. These intergovernmental organs of the EU have a large role in the decision-making process about a democratic norm violation, but they rely on the supranational branches, the Commission and the Parliament, to initiate action. While the Commission might agree to address a crisis or situation, if the requisite majority of Parliament does not accept the Commission's proposal, it will not move forward. The long, bureaucratic path to an action complicates the intergovernmental bodies' actions. Therefore, the threshold for action by the intergovernmental bodies of the EU is more complicated, earning the EU a score of 3+ on voting rules.

Delegation to the Commission, ECJ, and European Parliament

The EU is a highly bureaucratized organization, with both intergovernmental bodies, where state representatives share power, and supranational ones, where "Eurocrats" lead. In many decisions, particularly those concerning state sovereignty or violations of EU law, multiple EU institutions are involved. Through various renditions of EU law, particularly the Treaties of Maastricht, Nice, and Lisbon, decision-making rules were increasingly shared amongst the various institutions. Three of the five institutions involved with democracy protection and

promotion are supranational: the European Commission (Commission), the European Court of Justice (ECJ), and the European Parliament.[44]

Commission. Known as the "executive" branch of the EU, the Commission is composed of 28 commissioners appointed by the member states to represent European interests and the Commission President, elected by the European Parliament (EU 2007, Article 9D(4); Article 9A (1)).[45] Even though the Commissioners are appointed, this governing mandate for Commissioners makes it the prime supranational body of the EU, because they are appointed with the specific purpose of representing European interests, not national ones: "In carrying out its responsibilities, the Commission shall be completely independent… the members of the Commission shall neither seek nor take instructions from any Government or other institution, body, office or entity" (EU 2007, Article 9D(3)).

The Commission has the authority to refer a member state to the European Council for a norm violation (Article 7(1) TEU 2010). While the Commission's role in democracy protection is a shared one of initiation, it plays a very significant role in ensuring stable democracy in candidate countries. The Commission's role in the EU is "guardian of the treaties." It monitors the status of candidate countries that are in the process of meeting EU criteria for membership and adopting EU laws. All applicant countries and candidates must gain the Commission's approval before accession.

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[44] There is one important branch of the EU bypassed in the process to enforce democratic norms: the European Court of Justice (ECJ).

[45] Under the Lisbon Treaty, as of October 1, 2014, the size of the Commission will be reduced so that only two-thirds of the member states had a delegated Commissioner at any given time. This adjustment, though, is not in effect and therefore inconsequential to the present situation in Hungary. It may become relevant only if the situation is prolonged and a Hungarian Commissioner is or is not in the first rotation.

When the Commission deems there has been a violation of any part of EU law, it may bring a case before the ECJ. However, because the law for democracy is loosely defined as "liberal" and "representative" and a violation to democracy is not defined, the Commission has only been able to build a case against individual sections of the Hungarian constitution and subsequent amendments. It has not able to prove within the language of EU law that Orbán's overall actions are illegal or antidemocratic. The Commission has resorted to challenging the legality of specific clauses of the constitution's amendment in the Court. Hungarian Prime Minister Viktor Orbán has capitalized on this disparity, only making minor concessions.

ECJ. The ECJ is composed of 28 judges, one per member state, who are appointed for six-year terms by the member states (Article 19 (1&2) TEU 2010). Article 19 (2) clarifies that these judges are supranational, even though they are appointed, because they are "chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles 253 and 254 of the Treaty on the Functioning of the European Union." The TFEU specifies how often judges are replaced and explains that the ECJ President is selected amongst the ECJ judges themselves (Article 253).

The ECJ's role in democracy enforcement is not one of initiation; it cannot take any action on any matter autonomously. Articles 258, 259, and 260 in the TFEU allow a member state or the Commission, as guardian of the treaties, to bring another state to the ECJ in the event that "a Member State has failed to fulfill an obligation under the Treaties." In these articles, though, there is no explicit mention of democratic norms or values, nor is there an implicit reference to them through Article 2 in the TEU. Therefore, the ECJ cannot rule directly on the level of democracy in

a country. It can only rule that certain pieces of a large constitutional reform such as Hungary's violate the *acquis communitaire*.

In the effort to counter Hungary's actions thus far, small pieces of the constitution or amendments have been taken to the ECJ for being in violation with specific EU laws. The Court agreed with the Commission in 2012 that the amendment setting an age limit on judges was in violation of EU employment directives, and thus ordered that Hungary rehire the judges who had been dismissed due to this clause (ECJ 2012). Under Article 260 TFEU, "If the Court finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it" (2010). To this point, Hungary has conceded to the Court's rulings in the most recent case against it for violating employment law, so not monetary punishment has been levied against the state.

European Parliament. The Parliament is the only directly elected body of the EU. Members of European Parliament (MEPs) are elected for five-year terms (Article 14 (3) TEU 2010). In session, the MEPs are organized by political party regardless of nationality (European Parliament 2013b). Originally limited to consultation, the Parliament has earned more autonomy over time, especially after MEPs became directly elected, because they were seen as legitimately representing the voice of the constituents.

The Parliament's role in democracy protection is a shared one of initiation. The European Parliament can entreat the European Council to investigate a potential democratic norm violation with or without a proposal from the Commission (Article 7(1) TEU 2010).[46]

[46] If neither the Commission nor the Parliament brings a potential violation to the European Council, a group member states representing one-third of the Union may propose that the European Council review the situation (Article 7(1) TEU 2010).

Upon receipt of a proposal, the European Parliament must affirm the breach of European values by a two-thirds majority before sending it on to the European Council for a decision on action to be rendered (Articles 7(1&2) TEU 2010; Article 354 TFEU 2010). This threshold requires agreement across political parties.

The European Parliament issued resolutions on each of Hungary's constitutional reforms and specific aspects of the changes. The first of these was on February 16, 2012, followed by a resolution on March 10, 2011 on the media law in Hungary, and on July 5, 2011 on the revised Hungarian constitution. These resolutions did not carry any weight in the EU's subsequent actions.

Without the action of these bodies, it is unlikely that a highly intergovernmental body such as the European Council would have taken action against Orbán because the Commission and the Parliament share the role of initiation. However, the Commission also has a degree of autonomy with which it can take a member state to the ECJ for violating the EU's law. The ECJ does not have any autonomy over initiating action, but once the Commission brings a case before it, the ECJ's rulings carry material weight. Placing the EU's supranational body in charge of initiating responses to democratic crises does not seem to clearly indicate a timely response by the organization, but the EU's call to action was quite comprehensive. The EU scores *high* on the delegation variable, because each of the supranational bodies can act against the member state.

More recently, the supranational bodies have played a more forceful role in EU action. After a plenary debate in the Parliament on January 18, 2013, the Commission and the Parliament became more assertive against Orbán's overall agenda. In June 2013, the Tavares

Report took a stance on Hungary's constitution as a whole, claiming it was a case of democratic weakening. The European Parliament supported the Tavares Report, and required Hungary to respond to the EU's biggest concerns within one month's time (Vandystadt, May 2013). The EU was concerned with three specific clauses: a condition for any EU fines to be distributed amongst the constituents; a restriction of political campaigning to state-run networks only; and the article granting the National Judicial office – currently held by a close friend of Orbán – the autonomy to move cases and files between courts (Vandystadt & Mirguet 2013). Tavares claimed that the "pace and the trend" of the constitutional amendments were concerning, but the more troubling part is the "trend of concentration of power towards the majority and the government" (Tavares 2013a). The Parliament approved the Tavares Report, including both the guidelines it sets out for Hungary and the goal of developing an EU mechanism for monitoring, on July 3, 2013 by a 337-248 vote with 82 abstentions (Scheppele 2013; Vandystadt May 2013). The Tavares Report as approved by the Parliament is generalizable to other similar crises that may come up so the EU has a proper mechanism for dealing with ambiguous norm violations in the future.

Summation

The Hungarian constitutional crisis has challenged the EU, and the EU has been trying to confront it in many ways. The difficulties that the EU is having mostly stem from the imprecise definition of democracy and the high voting thresholds the intergovernmental bodies must clear to act. The autonomy given to the supranational bodies of the EU is unique to the EU, and its high democratic density makes the lack of active member states dubious. To put

these variables in context, the following section compares the results on each independent variable found here about the EU's response to Hungary with the OAS's response to Peru.

Discussion

Now that each case has been analyzed, I return to the hypothesized relationships between each variable and its predicted effect. The first variable was IGO composition, which had two corresponding hypotheses. The first is H1a: *A densely democratic IGO will have less debate about the presence of a democratic norm violation than a less-densely democratic IGO.* The raw score for IGO composition in each IGO and the extent of debate over the presence of a democratic norm violation are listed in Table 1. In the OAS, there was no debate about whether Fujimori had violated the principles of democracy laid out in the Santiago Resolution. The OAS does fall towards the high end of the democratic density spectrum, so this follows my hypothesis. The fact that the EU received the most democratically dense score possible should have meant there was little to no debate about the presence of a violation. However, debate has been prominent over whether Orbán's constitutional revisions violate EU laws. Because this comparison shows the opposite of my prediction, my results are indeterminate on H1A.

Table 1. Democratic Density and the Extent of Debate

	Democratic Density	Extent of Debate
OAS	.72	Low
EU	1.0	High

One flaw that could account for this difference is that this variable is tied closely with norm legalization. One reason for the EU's seemingly backwards scoring is that until the 1990s, the states joining the EU were already democratized. There was not much of an exogenous

shock when only a few members joined at a time, even if they were still democratizing. Backsliding was not yet a viable concern, and so the violations of democratic norms had not been explicitly legalized. The OAS, as was discovered, has a precise definition of both the mandates and violations of democracy. The EU, however, only scored moderate. The extent of debate as it relates to democratic density and the extent of debate according to norm legalization co-vary, with the norm legalization variable appearing to overshadow this one. Studies of additional crises in both IGOs could illuminate the discrepancy and provide a determinate test on this hypothesis. Also, this variable could be operationalized in a more distinct way from the norm legalization hypothesis.

The second element of IGO composition was hypothesized in H1B: *The democratic density of an IGO correlates with the level of concern elicited from its individual members, with more democratic members expected to demonstrate greater concern about democratic norm violations in other IGO member states.* Both IGOs scored moderate on this variable, but for different reasons, which still provides insight on the hypothesis. In the OAS, the states that were vocal about their concern were all on the democratic end of the scale. None of the non-democratic states spoke in support of or against the *autogolpe*. In the EU, all of the member states are highly democratic, so, theoretically, there should have been a high level of individual concern about the situation. Realistically, not all of the states can be actively voice their concerns in a productive way. It appears that even the most democratic states have not equally taken it upon themselves to address the democratic crisis.

Domestic interests in the conflict seem to control whether the state is individually concerned over the violation more than its raw democracy score, and may be an alternative explanation for these results. Some of the more democratic states in the OAS were not active because they also shared borders with Peru; stability was the main concern for these states.

Also, the silent EU states were active in other issues, such as the financial debacle Hungary was facing at the same time. In order to retest and support or disprove this hypothesis, future studies should include other IGOs with different democratic densities.

The second variable is norm legalization, hypothesized in H2: *If the legalized norm is precisely defined, there will be less debate over the presence of a violation before an IGO responds, holding the democratic density of the IGO constant.* The results on this variable follow the hypothesis, as reported in Table 2. Because the OAS had precisely defined the principles for representative democracy and set out that the absence of any of these qualifies as a democratic violation, the OAS scores high on this variable and there was no substantial debate about the presence of a violation once Fujimori dissolved the branches of the government, further supporting the claim. Comparatively, the there is no clear definition of how democracy can be violated in EU law. The lack of clarity has allowed for extensive political debate between Orbán and other EU member state leaders. Defining a violation is a key piece to a precise definition of democratic norms. Thus, norm legalization does have implications for the extent of debate before any IGO action is taken.

Table 2. Norm Legalization and Extent of Debate

	Variable Score	Additional Debate
OAS	High	No substantial debate
EU	Moderate	Lengthy political debate

The third variable in this study is enforcement provisions, which are relevant to whether the IGO takes action according to H3: *The combination of reputational, political and material tools available to an IGO will influence the likelihood and nature of its response to a democratic norm violation.* The scores and implications for the hypothesized effect can be found in Table 3. Because all three enforcement tools were at the organization's disposal, there is room for logical threats to be

piled one on top of another, rather than needing to have evidence beyond a doubt that the actions are in violation with OAS law before dealing harsher consequences. In addition to having the maximum possible resources at its disposal, the credibility of the threats proved to be important. In the EU, only reputational and material tools are at the organization's disposal. There are clear repercussions for missing the capability to monitor states as illustrated in this case, because it has proven difficult for even the most democratic IGO to make the jump from reputational tools to material tools. Reputational strategies have made this a hot-button issue for Europe, but with fewer tools available, the EU has no grounds to make a credible threat of member suspension or other material repercussions. These cases together do support my hypothesis on the effect of having a complete toolkit.

Table 3. IGO Toolkit and the Likelihood of IGO Action

	Variable Score	Implications for IGO Action
OAS	High	Highly likely
EU	Moderate	Moderately likely

The fourth variable is the voting rules in the intergovernmental bodies of the IGO, testing hypothesis H4: *If the decision to enforce democratic norms requires higher voting thresholds, action from an IGO, and in particular its intergovernmental council, becomes less likely.* The scores for each IGO on this variable are listed in Table 4. Both IGOs take decisions by supermajorities, earning the even score of 3. The required number of votes is different in each region, but that is inconsequential to the overall hypothesis. In comparison, these two cases illustrate the importance of additional barriers to meeting voting thresholds. The OAS's intergovernmental bodies quickly took action against Fujimori because each body was able to make a decision and follow it up with action. In order for the EU intergovernmental bodies to even consider pressing any material sanctions on

Hungary, the situation must pass through multiple levels of EU governance. The intergovernmental bodies of the EU have been entirely inactive in the Hungarian crisis, partially because it has yet to reach their turn in the decision making-process. Provisionally, these cases confirm my hypothesis on voting rules. Additional cases would strengthen the causality between speed of action and the voting rules, particularly by assessing an IGO with lower voting thresholds or that acts on unanimity alone.

Table 4. Voting Rules in the Intergovernmental Bodies and Likelihood of IGO Action

	Voting Rules in the Intergovernmental Body	Implications for IGO Action
OAS	3	Less than moderately likely
EU	3+	Not very likely

The final variable of this study is delegation to a supranational body, hypothesized in H5: *The more autonomous a supranational IGO body, and the greater role it plays in detecting and responding to democratic norm violations, the greater the likelihood of an IGO response.* The results on this variable and their predicted effects are listed in Table 5. In the OAS case, there is only one supranational body, the secretary general. This organ is limited to initiation unless other responsibilities are given to it, but it does have the autonomy to call a meeting of the Permanent Council when a threat presents itself. In the Peru case, the secretary general played a larger role, because he led the fact-finding missions to Peru meant to inform the OAS countries of the events on the ground. The EU on the other hand has three supranational bodies. The Commission and the European Parliament have both actively shamed Orbán's constitutional revisions, and more recently have taken greater initiative to demand higher concessions through the ECJ rulings and the Tavares Report. As was theorized, these supranational bodies that had the autonomy to act on their own have done so, trying to influence the Hungarian government from at least some of

the antidemocratic amendments. In comparison, these cases support the predicted effect of the hypothesis.

Table 5. Delegation to a Supranational Body and Likelihood of IGO Action

	Delegation to Supranational Body	Implications for IGO Action
OAS	Moderate	Moderately likely
EU	High	Highly likely

In sum, the comparison of these two cases has supported the predicted effects of four of my six hypotheses, pertaining to four variables: norm legalization, enforcement provisions, voting rules in an intergovernmental body, and delegation to a supranational body. I have provided explanations for the inconclusive results on the two hypotheses about IGO composition. Overall, the hypotheses would be better supported with additional case studies, both of additional crises within both IGOs already being studied, and, perhaps more interestingly, by adding other IGOs to the study.

Conclusion

The comparison between the OAS in Peru and the EU in Hungary has provided preliminary support for four of my hypothesis. First, the preciseness with which a norm is defined – including both what it should appear as and what constitutes a violation to it – had the predicted effect on the level of debate. Second, when an IGO is provided a full toolkit that includes reputational, political, and material strategies, it is more likely that the IGO will take action against a democratic norm violation. Third, when the intergovernmental bodies have lower voting thresholds, IGO norm enforcement is more likely. And finally, if the supranational bodies of an IGO are granted autonomy in the area of norm enforcement, the likelihood of

IGO enforcement increases. Democratically elected officials are devising less public ways to consolidate power in certain branches, posing a new but equal threat to democracy as a military overthrow. The likelihood that an IGO with democratic norms will have to deal with antidemocratic behavior within is increasingly likely, making these findings important to scholars and IGO leaders alike.

To rightly test the hypotheses about IGO composition, and to verify that all of the other hypotheses hold true, future studies could expand on this project in two ways. First, the findings presented here could be more generalized to IGOs with democratic commitments if a third IGO was included. Second, it may be beneficial to examine more constitutional alterations within each IGO. I do not claim that the cases compared here are representative of all ambiguous democratic alterations the OAS and EU have faced, but it is my hope that this study raises awareness about ambiguous democratic norm violations, which are credible threats to democracy and have severe implications for the people subject to the regime's decisions.

The first goal of this paper was to identify and assess IGO characteristics that may influence the actions it takes against its own member states. While not all of my hypotheses can be affirmed with this two-case comparison, this assessment may have implications for institutional reform that would make an IGO more responsive or clarify when IGO reaction is warranted. Specifically, a full toolkit of enforcement provisions might allow the EU to more effectively influence Orbán and restore liberal democracy in Hungary. The second goal was to highlight ambiguous norm violations to make them more recognizable to scholars and leaders alike. The concept of ambiguous democratic norm violations deserves further disaggregation and analysis to prevent would-be dictators from undermining the values upon which democracy is built.

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