DEFENDING DEMOCRATIC International Actors NORMS and the Politics of

Electoral Misconduct



Daniela Donno

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International Actors and the Politics of Electoral Misconduct

DANIELA DONNO



OXFORD

UNIVERSITY PRESS

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> > Published in the United States of America by Oxford University Press 198 Madison Avenue, New York, NY 10016

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Library of Congress Cataloging-in-Publication Data Donno, Daniela.

Defending democratic norms : international actors and the politics of electoral misconduct / Daniela Donno. pages cm

Includes bibliographical references and index.

ISBN 978-0-19-999128-0 (hardcover : alk. paper)—ISBN 978-0-19-999129-7 (pbk. : alk. paper)

Election monitoring. 2. Contested elections. 3. Democratization. 4. Comparative government. I. Title.

JF1001.D66 2013 324.6'5-dc23 2013006550

1 3 5 7 9 8 6 4 2 Printed in the United States of America on acid-free paper

For my parents

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ACKNOWLEDGMENTS

My interest in the international influences on elections emerged—in much more abstract form—during my second year in graduate school, while taking Bruce Russett's seminar on the liberal peace. Intrigued by the correlation between democracy and membership in international organizations, I wanted to learn more. How exactly do international organizations promote democracy? How often do they punish countries for violating democratic norms? How do elections fit into this picture? In tackling these questions, Jon Pevehouse's research on regional organizations and democratization was an important source of inspiration to which I continually returned as I fine-tuned my ideas.

Over the life of this project I have learned that turning a dissertation into a book is a long and arduous—but ultimately rewarding—process. Many people have provided intellectual support along the way. My interest in pursuing graduate study would not have crystallized without the encouragement of Louise Davidson-Schmich at the University of Miami. My mentors at Yale University were a constant source of guidance and support. I am particularly grateful to Bruce Russett for his incisive feedback and for imparting his infectious enthusiasm for research. Our discussions challenged me to do more and to do better. He remains a treasured mentor, coauthor, and friend. Susan Stokes provided valuable feedback on the project from a comparativist's perspective. She encouraged me to think big and bold, to move beyond the international aspects of my theory and tackle questions about domestic politics head-on. I am also grateful for the many times she has provided sage advice on career and professional matters. Nikolay Marinov read several iterations of the project and challenged me to streamline my argument. His ability to distill a sharp puzzle out of a vague set of ideas was invaluable at key points during the development of this study.

Many other scholars have generously given of their time to provide feedback at various stages. I am especially indebted to Jon Pevehouse and Erik Voeten for

reading and commenting on each and every chapter and for agreeing to serve as discussants at my book workshop. Their suggestions were instrumental in shaping the direction of my revisions. Since my time at Yale, Susan Hyde has been a valued source of advice and support. From beginning to end, this project has benefited greatly from her feedback. Judith Kelley graciously read the entire manuscript and provided advice during a key stage of the revisions. Michael Goodhart and Nita Rudra read (and re-read) the introduction multiple times, challenging me to produce a more ambitious and engaging final product. I am also grateful to Susan Hyde, Nikolay Marinov, and Judith Kelley for sharing their data sets before their official release. Several others provided comments on working papers related to this book, including Sarah Bermeo, Tim Buthe, Xinyuan Dai, Thad Dunning, Stephen Gent, Ken Greene, Staffan Lindberg, Jennifer McCoy, Sara Mitchell, Irfan Nooruddin, Alberto Simpser, and Duncan Snidal. No less important has been the practical advice that many have offered. For helping me navigate the uncharted waters of publishing a book, I thank Barry Ames, Steve Finkel, Michael Goodhart, Julia Gray, Jude Hays, Susan Hyde, Judith Kelley, Pierre Landry, Jon Pevehouse, and Nita Rudra. At Oxford University Press, I am grateful to Angela Chnapko for her skillful guidance and enthusiasm for this project.

During my time in graduate school, several other individuals at Yale helped me develop my ideas. Jim Vreeland deserves special thanks for his commitment to supporting the graduate students in our department, myself included. Nicholas Sambanis took me on as a research assistant during my first years of graduate study, giving me valuable experience coding and managing large data sets. I am also grateful to Keith Darden, Jolyon Howorth, Stathis Kalyvas, Pierre Landry, Ellen Lust, Frances Rosenbluth, Ken Scheve, and Ian Shapiro. My years at Yale were greatly enriched by the wonderful community of graduate students. For their friendship and many stimulating conversations (intellectual and otherwise), my sincere thanks to Graeme Auld, Laia Balcells, Mayling Birney, Sonali Chakravarti, Marco Duranti, Lilach Gilady, George Georgiadis, Alexandra Guisinger, Andira Hernandez-Monzoy, Gaye Ilhan, Turku Isiksel, Steve Kaplan, Nicole Kazee, Dominika Koter, Blaise Misztal, Harris Mylonas, Tom Pepinsky, Rob Person, Danilo Petranovich, Nasos Roussias, Gemma Sala, Nawreen Sattar, Steve Shewfelt, Elizabeth Saunders, Kahreen Tebeau, and Ivan Vidangos. Andira, Ivan, and Nasos deserve special thanks for the countless hours they shared with me in the library. Their companionship made dissertation writing something to look forward to every day.

My colleagues at the University of Pittsburgh have provided encouragement and feedback on many occasions, in both formal and informal settings. I consider myself beyond lucky to be part of such a vibrant department. Despina Alexiadou, Barry Ames, Steve Finkel, Chuck Gochman, Michael Goodhart, Julia Gray, Jude Hays, Scott Morgenstern, Anibal Pérez-Liñan, and Burcu Savun took an entire day out of their busy schedules to attend my book workshop. I owe thanks to many other colleagues for their support and feedback, including David Bearce, Chris Bonneau, Stephen Chaudoin, Luke Condra, Susan Hansen, Jonathan Harris, Jon Hurwitz, Kris Kanthak, George Krause, Ron Linden, Nita Rudra, Alberta Sbragia, Taylor Seybolt, Jennifer Victor, and Jon Woon.

A gifted group of Pitt graduate students provided research assistance. First and foremost, I am grateful to Shawna Metzger for her help with data, graphs, literature reviews, and numerous other technical aspects of the project. She rose above and beyond what could be expected of any research assistant. Thanks also to Andrea Aldrich, Camilo Castañeda, Chunrong Chen, Bruno Hoepers, Shane Killian, and Dan Tirone. Several others provided insightful comments on my research in workshops and informal settings, including Scott Cook, Will Daniel, Hakan Gunaydin, Jennifer Laks Hutnick, Yasemin Irepoglu, Leslie Marshall, and Sarah Patton.

It would not have been possible to assemble the data set for this project without the coding assistance of numerous talented Pitt undergraduates: Danielle Arbogast, Megan Ault, Kimberly Bennett, Ryan Bruno, Pragni Dave, Matt DiFiore, KC Euler, Derek Feger, Ari Hamilton, Lloyd Hedlund, Matt Hershey, Emily Kurz, Katie Manbachi, Tom Marvit, Timothy Moreland, Suman Sajjan, Benjamin Simons-Scalise, Maggie Tully, and Joseph Tsentner. Special thanks to Monica Meinert for her careful coding and insightful research into the Serbian case study.

This project has benefited from feedback at various conferences and workshops. Particular thanks go to participants at the Duke University Seminar on Global Governance and Democracy; the Juan March Institute Workshop on Electoral Fraud, Vote Buying and Clientelism; the University of Pittsburgh Globalization Workshop; and the Journeys in World Politics Workshop—especially Xinyuan Dai, Kelly Kadera, Sara Mitchell, and Thania Sanchez.

For financial and travel support, I am grateful to the European Union Studies Center at Yale and the European Union Center of Excellence at the University of Pittsburgh. A Peace Scholar Dissertation Fellowship from the US Institute of Peace in 2006–2007 afforded me the luxury of an entire year of uninterrupted time to write. A book workshop in the fall of 2010 was generously funded by the political science department and the EU Center of Excellence at the University of Pittsburgh.

My greatest and most heartfelt debts are owed to my family. For his unfailing love and support, I thank my husband, "teammate" and best friend, Marios Panayides. Much of the final writing for this book occurred while under the loving care of our family in Cyprus: Andreas, Kalia, and Klea. My brother Alex always keeps me laughing and reminds me that there is a "real world" outside of academia. Finally, this book is dedicated to my parents, Luca and Karen Donno, who instilled in me a love of learning and an interest in the wider world. As they never tire of reminding me, I would not have chosen this career path without their encouragement. Their friendship and love have carried me through all of life's ups and downs.

ABBREVIATIONS

INTERNATIONAL ORGANIZATIONS

| ASEAN | Association of Southeast Asian Nations |
|---------|--|
| AU | African Union |
| CARICOM | Caribbean Community |
| CIS | Commonwealth of Independent States |
| COE | Council of Europe |
| COMESA | Common Market for Eastern and Southern Africa |
| ECOWAS | Economic Community of West African States |
| EU | European Union |
| ICG | International Crisis Group |
| IRI | International Republican Institute |
| JIOG | Joint International Observation Mission (Cambodia) |
| NATO | North Atlantic Treaty Organization |
| NDI | National Democratic Institute |
| OAS | Organization of American States |
| ODIHR | Office for Democratic Institutions and Human Rights |
| OSCE | Organization for Security and Co-operation in Europe |
| PACE | Parliamentary Assembly of the Council of Europe |
| SADC | Southern African Development Community |
| UN | United Nations |
| UNTAC | United Nations Transitional Authority in Cambodia |
| USAID | United States Agency for International Development |
| | |

DOMESTIC POLITICAL PARTIES AND INSTITUTIONS

- Cambodian People's Party CPP Democratic Opposition of Serbia DOS ECK Electoral Commission of Kenya ICE Central Electoral Board (Dominican Republic) KANU Kenya African National Union NaRC National Rainbow Coalition (Kenya) National Election Committee (Cambodia) NEC ODM Orange Democratic Movement (Kenya) Party of Dominican Liberation PLD Party of National Unity (Kenya) PNU PRD Dominican Revolution Party Revolutionary Social Christian Party (Dominican Republic) PRSC
- SPS Socialist Party of Serbia
- SRP Sam Rainsy Party (Cambodia)

Defending Democratic Norms

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Introduction

Nearly every country in the world today holds multiparty elections. With unexpected speed, in the early 1990s a brushfire of political change swept through the former communist bloc and much of the developing world. Democracy became the only legitimate game in town, and people around the world embraced this new norm, an "emerging right to democratic governance" (Franck 1992). Twenty years later, however, it is clear that early, unbridled optimism was misplaced. Many leaders have strategically adapted to the shift in international expectations, constructing a democratic façade to deflect attention from distinctly undemocratic practices. Sometimes labeled "hybrid" or "pseudodemocratic" regimes, these countries have democratic credentials on paper: opposition parties are allowed, and political offices are filled through multiparty elections. But in practice the norms of free and fair political competition are regularly and systematically violated. Thus, although holding elections is now crucial for attaining political legitimacy, this has done "less than expected to create well-functioning mechanisms of democratic accountability" (Carothers 2007, 21).

The reality is that in any given year the number of flawed elections around the world greatly exceeds the number of clean ones. Although fraud has long figured in the repertoire of authoritarian rule, electoral misconduct is on the increase even among nominally democratic leaders. An array of methods is at their disposal. In Peru, for example, democratically elected president Alberto Fujimori used bribes and intimidation to ensure the cooperation of key players in the judiciary, legislature, and media in the run-up to the 2000 presidential election, violating campaign regulations with impunity and even rigging the software used for vote tabulation on election day (Conaghan 2006, ch. 8). Prior to Armenia's 2007 legislative elections, police and local officials created a climate of intimidation to prevent opposition parties from campaigning freely.¹ In other cases, incumbents have resorted to tried-and-true forms of election-day fraud. In Albania's 1996 parliamentary election, votes cast for the opposition were altered, and premarked ballots for ruling party candidates were stuffed into ballot boxes by polling station officials (ODIHR 1996). In the Dominican Republic's 1994 election, at least seventy-three thousand names of opposition supporters were mysteriously deleted from registration lists on election day, preventing those individuals from casting ballots and contributing to President Joaquín Balaguer's narrow victory (Espinal 1998).

Governments that employ these crooked tactics often get away with it. Since 1990 well over half of elections held around the world have involved misconduct, and the majority of these contests have been won by the incumbent. Whereas the rate of victory for the ruling party or candidate in clean elections is 55 percent, this figure rises to more than 70 percent in flawed elections. In only thirteen cases—a mere 5 percent of the total—have leaders been forced to step down or cancel results after winning a fraudulent election. The upshot is that electoral manipulation feeds a vicious cycle. It reinforces incumbent dominance and over time becomes embedded within a broader context of institutional bias and corruption. This in turn fosters a climate of tacit acceptance in which opposition parties are weak and citizens too disengaged—or simply too afraid—to defend their right to vote in free and fair elections. Once this occurs, electoral misconduct is exceedingly difficult to eradicate. Many regimes, like the ruling Frelimo party in Mozambique, can safely use elections as nominal democratic cover while remaining conveniently "free of any exposure to uncertain outcomes" (Manning 2010, 161).

Yet against the odds, stolen elections do sometimes trigger democratic change. In the Philippines (1986), Serbia (2000), Georgia (2004), Ukraine (2004), and Kyrgyzstan (2005), mass outrage in response to electoral manipulation directly precipitated the government's downfall. Laurent Gbagbo's dubious victory in Cote d'Ivoire's 2010 election resulted in a prolonged postelection standoff, but he was eventually dislodged. In other cases, change is more gradual. Consider a country like Albania, where abysmally flawed elections in 1996 were followed by incremental but steady improvements in the professionalism and transparency of election commissions, the quality of the legal framework governing elections, and the impartiality of electoral dispute resolution. In the 2009 parliamentary contest, a single computerized voter registration list was introduced, which sharply limited opportunities for fraud, and—for the first time in Albania election observers found "no evidence of irregular counting or manipulation of results" (ODIHR 2009, 4).

What explains this variation? Why do governments get away with manipulation in some cases, but not in others? How do some countries escape the vicious cycle and experience real improvement in electoral quality? Domestic factors alone do not answer these questions. Consider, for example, the 1990 and 1994 elections in the Dominican Republic. In both contests the opposition enjoyed broad popular

support. Both races were won by the incumbent president, Joaquín Balaguer, by an exceedingly small margin. Even the technology of fraud was the same in the two elections. But only in 1994 did misconduct spark democratic change. From a domestic standpoint, this outcome is puzzling, because the two contests were seemingly similar in every relevant respect. The key difference was the response of the international community. In 1994 election observers presented detailed evidence of manipulation, and the Organization of American States (OAS) and United States took rapid action in response. By repeatedly criticizing the election's legitimacy, they validated the opposition's claims that tens of thousands of its voters had been disenfranchised. They imposed sustained diplomatic pressure, making it clear to Balaguer that the status quo could not stand. Ultimately, in August 1994 internationally mediated talks culminated in a negotiated settlement—the "Pact for Democracy"—wherein Balaguer agreed to hold early elections in which he would not stand for reelection. At the behest of the international community, important changes to election administration were also agreed upon, including purging the central election commission, cleaning up voter registration lists, and creating a national judiciary council to adjudicate electoral disputes.

The same mechanisms of international influence apparent in the Dominican Republic are echoed in numerous other cases in which opposition parties have sought international allies, mediation has produced incumbent concessions, or international actors have demanded reforms to institutions of election management. They resonate in the words of those most directly affected by manipulation, such as when Albania's opposition candidate claimed in 2001 that his "only hope" was that international organizations would force the government to overturn the election results,² or when Viktor Yuschenko, addressing hundreds of thousands of his supporters in Kiev, declared: "Today, as never before, we need international attention to focus on this fraud."³ They are echoed in the disappointment of those for whom international support is not forthcoming, such as in Azerbaijan, where opposition protesters called on the West to be true to its values: "Do not exchange democracy for oil."⁴

The broader point conveyed by these examples is that the domestic electoral game plays out before an international audience. The members of this audience do not merely influence domestic costs and benefits from afar. Nor are their activities limited to those of election observation missions, which can document and publicize misconduct, but otherwise have no ability to punish cheating. Rather, international actors *enforce democratic norms* by responding to electoral misconduct in concrete and immediate ways: they wield sticks and carrots to induce government concessions, mediate conflicts between opposing parties, shame norm violators, and validate the opposition's claims of fraud. By altering the balance of power between government and opposition, these efforts can provide

the decisive push toward democratic change. In short, conceiving of electoral misconduct as a violation of international norms—and therefore as an act that has external repercussions—is essential for understanding variations in domestic outcomes after flawed elections.

The idea that enforcement matters may at first seem surprising. International promotion of democracy is often criticized as inconsistent and weak. Only some of the countries that hold flawed elections are punished, and sanctions that impose tangible costs on norm violators are rare. These facts raise important questions about whether international actors are simply choosing to involve themselves in "easy" cases, where democratic change would result anyway. Moreover, electoral misconduct is widespread and persistent, pointing to the international community's failure to establish a credible deterrent. For all these reasons, it would be tempting to conclude that the international defense of democratic norms is meaningless, that we are simply witnessing a game of "organized hypocrisy" in which norms are regularly violated with impunity (Krasner 1999). This book argues otherwise. Even if enforcement is selective and politicized, or appears on its face to be weak, it can deepen democracy by influencing both the conduct and the outcome of elections.

THE ARGUMENT IN BRIEF

Norms are shared understandings about appropriate behavior.⁵ With the end of the Cold War there emerged a growing consensus—a shared understanding that governments should be chosen through free and fair elections. This includes the concepts that no party or candidate should be unduly or arbitrarily prevented from competing; campaigns should be free to operate without intimidation; all parties and candidates should enjoy equal access to the media; state institutions involved in organizing and arbitrating elections should be impartial; no voter should be arbitrarily denied the right to cast a ballot; voters should be free to express their political preferences and should vote by secret ballot; and ballots should be counted in a transparent and accurate manner. I refer to these standards collectively as "democratic electoral norms" (or simply democratic norms). Their origins in international law date to the Universal Declaration of Human Rights. Through the subsequent efforts of election monitoring organizations, the United Nations, and a number of regional organizations, a set of more specific standards for electoral conduct has now emerged within a growing body of hard and soft law (cf. Fox and Roth 2001; Rich 2001).6

Democratic electoral norms are global in scope. These standards are used by international and domestic actors in all regions of the world as the benchmark against which to evaluate electoral conduct. A country does not have to be a member of a particular international institution or sign onto a particular international commitment to be held to account. Yet there is wide variation among countries and regions in whether—and to what extent—violations of democratic electoral norms are punished. Enforcement—understood as policies that aim to improve norm compliance through pressure, incentives, or suasion—is selectively imposed. The goals of this book are twofold: to explain this variation in norm enforcement and to explain the impact of enforcement—when it *is* applied—on electoral conduct and outcomes. In other words, this study explores both the causes and effects of the international enforcement of democratic norms.

Some countries are more likely than others to be punished for electoral misconduct, and the intensity of enforcement can differ substantially across cases. Any attempt to assess the effects of international enforcement must first account for this variation in when and where it is imposed. One reason is simply a country's regional location. In Latin America and Europe, regional organizations are the first line of defense against democratic backsliding. A virtuous combination of member state will and institutional capacity has resulted in entities like the OAS, European Union (EU), Council of Europe (COE), and Organization for Security and Co-operation in Europe (OSCE) developing a strong track record of monitoring elections and responding to electoral misconduct. Other regions lack this key component. Africa's regime for protecting democracy is far less developed, and in Asia it is virtually nonexistent.

Variation in enforcement is also shaped, at the country level, by interests and information. Enforcement is less likely to be found in geopolitically important countries or strategic allies where the external actor's interest in promoting democracy is trumped by other foreign policy goals. But patterns of enforcement are not dictated solely by power relations. The decision to enforce in a particular case—even in a strategically important country—is also shaped by the degree of uncertainty about the scope, source, and severity of electoral misconduct. When information about a norm violation is compelling and credible, it provides a justification—and creates outright pressure—for an international response. Within multilateral organizations, states that favor enforcement can marshal evidence of misconduct to shame other, more reluctant member states into providing their support. Election observation missions are one prominent source of information on electoral conduct. But international actors can also learn about the intentionality of misconduct simply by observing a regime's behavior over time. Repeat offenders-countries that experience a series of flawed elections with no evidence of improvement—are more likely to be punished, because it is clearer in these cases that violations are deliberate and willful. Importantly, repeat offenders also represent the more intractable cases, which runs counter to the idea that international actors choose to intervene primarily when conditions are easy.

Once enforcement is imposed, what are its effects? Can international actors influence domestic political outcomes? Understanding the mechanisms of international influence requires first understanding key features of the domestic political context. In the wake of a flawed election, two barriers stand in the way of democratic change: institutional bias and opposition weakness. By targeting these barriers, international actors can transform the electoral context, leveling the playing field and altering the balance of power between government and opposition. Their influence runs through two specific channels. First, by promoting institutional reform, enforcement improves electoral conduct. At issue is the quality, impartiality, and professionalism of the institutions of election management and oversight. When they are weak and politicized, and accountability mechanisms are poor, opportunities for manipulation are extensive, and cheating is easy to pull off. By inducing governments to agree to institutional reform and ensuring implementation, international actors contribute to an environment that favors clean elections. Importantly, this pathway of influence requires no change of heart on the part of the incumbent. Rather, an improved institutional environment renders electoral misconduct more costly and difficult, even if the incumbent still wants to cheat. It may seem puzzling that any leader would agree to such changes, but institutional reform is more incentive compatible than it might first appear. For an incumbent with a short time horizon—one that is focused simply on retaining power in the near term—institutional change provides a way to alleviate postelection pressure without giving up power entirely. The "bite" of these reforms is only felt in the next electoral cycle.

In the second channel, by empowering the domestic opposition, international enforcement *increases the probability of alternation in power*. In the immediate aftermath of a flawed election, the opposition faces two strategic dilemmas: its claims of fraud may lack credibility, and attempts to orchestrate protests are plagued by collective action problems. International actors mitigate these problems by providing external validation and reducing the likelihood that protests will be repressed. Enforcement also bolsters the opposition's electoral prospects. International actors can increase the incentives for opposition parties to unite by employing targeted threats and promises; they alleviate fear and increase confidence in the electoral process, thereby boosting turnout among opposition supporters; and by tying valuable international benefits to a change in government, international actors increase the incentives for voters to support the opposition.

Different enforcement tools have different strengths. Conditionality—the wielding of sticks and carrots—marshals the power of concrete material incentives. This form of influence is particularly well-suited for inducing governments to implement institutional reform and encouraging opposition parties to forge a united electoral front. Tools of diplomatic engagement—mediation, diplomatic missions, and shaming—instead marshal the power of social pressure

and suasion. These methods prove particularly adept at empowering opposition voices and lending credibility to their claims during the immediate period of postelection contestation. This runs counter to the idea that concrete threats and punishments are necessarily the best—or the only—way to induce compliance with international norms.

IMPLICATIONS FOR DEMOCRATIZATION AND ELECTIONS

This book joins a growing body of research that carves out a space for international actors in an area typically studied through the lens of domestic politics. This wave of scholarly inquiry is challenging the assumption that democracy must come from the bottom up. In a pioneering set of studies, Pevehouse (2002a, 2002b, 2005) finds that membership in densely democratic regional intergovernmental organizations (IGOs) promotes both democratic transitions and consolidation. His causal story relies on the idea that IGOs impose costs on democratic backsliders—through sanctions or suspension of membership—and in so doing tie the hands of would-be norm violators.⁷ Studies of the EU's enlargement echo this conclusion about the powerful effects of conditionality-at least when it is tied to a highly valued reward, like EU membership (Vachudova 2005; Jacoby 2006). Under certain conditions softer tools of influence, which do not rely on threats and coercion, appear to matter as well. Foreign aid, for example, has been found to lead to improvements in democratic performance, especially when it is specifically designed to target democratic institutions (Finkel et al. 2007; Goldsmith 2003).

Other studies forego theorizing about the effects of particular tools for promoting democracy and instead conceive of external forces as structural or background conditions, as the international "context" of democratization. Early research on the international dimensions of the third wave of democratization largely adopted this approach (cf. Pridham 1991; Whitehead 1996). Studies of the liberal peace find that membership in international organizations is associated with democracy (Russett and Oneal 2001). More recently, Levitsky and Way (2005, 2010a) offer a structural account of competitive authoritarian regimes that emphasizes the role of economic, social, and political linkages with the West as a primary cause of democratization. Research on the diffusion of democracy similarly focuses on the importance of geographic location (Brinks and Coppedge 2006; Gleditsch and Ward 2006; Simmons, Dobbin, and Garrett 2008). Taking stock, the value of structural accounts lies in their ability to illuminate variation in countries' long-term propensity to democratize. They are less useful for answering more nuanced questions about the particular timing and character of democratic breakthroughs. Bunce and Wolchik (2011) emphasize this point in their study of postcommunist regimes, in which they find that structural conditions exhibit only a very weak correlation with successful electoral revolutions.⁸ Similarly, Birch's (2011) study of electoral malpractice finds only limited evidence that dependence on trade, investment, and foreign aid is associated with electoral quality (2011, ch. 3). The problem is that structural accounts fail to model international actors as agents that choose when, where, and how to intervene in domestic politics. To gain a complete understanding of international linkage, trade, flows of financial assistance, or membership in international institutions. One must account for active forms of international intervention during particular moments of electoral contestation.

A second limitation of existing research is the tendency to focus broadly on democratization writ large, customarily measured via aggregate ratings on the Polity or Freedom House indexes. These aggregate "umbrella" concepts can sometimes conceal more than they reveal.⁹ Much work remains to be done to understand how insights about international pressure and engagement apply to the specific realm of electoral politics.¹⁰ This is the essential task taken up in this book. Elections are the heart of democracy; indeed, they are the single element that even the most minimal definitions of democracy agree upon.¹¹ Thus, by demonstrating that international actors can improve electoral quality—and the conditions under which they do so—this book provides compelling new evidence about the precise causal mechanisms through which international forces promote democracy.

No less important is the contribution this makes to the study of electoral misconduct, the large majority of which locates the causes of misconduct within the domestic sphere. In an extensive cross-national study of electoral malpractice, Birch (2011) argues that a leader's decision to engage in manipulation is shaped by legitimacy costs: in systems where relations between citizens and the state are based on patronage and clientelism, backlash against electoral malpractice is likely to be lower than in countries with strong and autonomous civil societies. She finds, accordingly, that malpractice is higher in countries with high levels of corruption and lower in countries with strong freedom of the press and a history of protests. Other studies have found that misconduct is more likely in contexts where power is disproportionately concentrated in the hands of the incumbent (Simpser 2013); in more competitive races (Lehoucq and Molina 2002; Lehoucq 2003); in winner-take-all electoral systems (Birch 2007; Lehoucq 2003); and in districts marked by high socioeconomic inequality (Ziblatt 2009). Simpser (2013) argues that leaders' incentives to perpetrate electoral misconduct stem from its long-term and far-reaching political benefits. Especially when manipulation is blatant and excessive-that is, beyond what is needed to win the election