

Die Evolution von Governance und Normwandel

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1. EINLEITUNG	4
2. GLOBAL GOVERNANCE: FORSCHUNGSSTAND UND NEUE ANSÄTZE	7
DREI VARIANTEN VON GLOBAL GOVERNANCE	8
FORSCHUNGSSTAND	9
EVOLUTION VON GLOBAL GOVERNANCE: TRANSLOKALITÄT UND KO-EVOLUTION ALS SCHLÜSSELKONZEPTE	14
Evolution von Governance-Strukturen und ihre Leistung im translokalen Raum	16
Diffusion und Fragmentierung als Formen des Normwandels	19
Institutioneller Wandel	24
Policy-Lernen aus Ko-Evolutions-Perspektive	25
3. SYNOPSIS DER HABILITATION UNTER DEM ASPEKT UNTERSCHIEDLICHER GOVERNANCE-BEDINGUNGEN	26
VORGEHENSWEISE	26
ÜBERSICHT DER KUMULATIVEN HABILITATION	27
GOVERNANCE ZWISCHEN HIERARCHIE, TRÄGHEIT UND AUSTAUSCH	29
Globale Bekämpfung von Terror zwischen Integrierter Problem-Lösung-Governance und Hybrider Governance – Lehren aus Mali	29
Politik des Klimawandels und Nachhaltigkeits-Governance: Konvergenz zwischen Menschenrechten und Nachhaltigkeit	31
Transnationale Gesundheits-Governance als Vorbild zur Sicherung des Selbst-Bestimmungsrechts von Frauen	32
Volatilität der Governance-Praktiken in unsicheren Zeiten – Pandemie-Politik in Europa und ihre Folgen	32
NORMATIVE FRAGMENTIERUNG UND INKOMPATIBILITÄT	33
Demokratie in China	33
China als alternativer Norm-Gestalter	35
Pluralistische Entwicklung des Narrativs “Nachhaltigkeit” im Klima-Regime und ihre Wirkungen	37
Alternative Narrative von Gerechtigkeit und Entwicklung: Inkongruenz-Erfahrung aus Mali	38
Gerechtigkeit in Ostasien: Ein anderes kulturspezifisches Verständnis?	39
Konkurrierende normative Storytellings in der Schnittstelle zwischen Urban-Governance und Flüchtlingspolitik	40
INSTITUTIONELLER WANDEL	41
Politik der Gender- und Strafgerechtigkeit in Ostasien: Interaktionen zwischen formellen und Informellen Mechanismen und ihre Implikationen	41
Anti-Korruptions-Kampagnen unter Xis Ein-Mann-Leadership in China und ihre institutionellen und transnationalen Implikationen	43
POLICY-LERNEN DURCH FUSION, EMULATION, WISSENSKUMULATION UND EXPERIMENTE	44
Ko-Evolution zwischen Nachhaltigkeits- und Menschenrechtsregimen	44
Policy-Lernen von Friedensmissionen in Mali	45
Policy-Lernen durch Imitieren und Wissen von Experten während der Covid-19 Pandemie	46
4. TRANSLOKALE GOVERNANCE ALS AUSWEG? DISKUSSION UND PERSPEKTIVEN	46
DISKUSSION	46
PERSPEKTIVEN	47
BIBLIOGRAFIE	49

ABSTRACT

This frame paper presents results of the author's **twelve publications** highlighting linkages between the evolution of global governance with diverse governance-structures, normative change, and policy learning at different levels. It shows how the global governance system has evolved from the dominance of a liberal democratic order towards a bifurcation one, in which a variety of actors use diverse means trying to shape the world order. Non-democratic great powers such as China and Russia, for instance, have used the weaknesses of the democratic world to spread competing narratives. **An autonomous multi-centric system with diffuse and networked exercises of indirect power** has emerged and co-evolved at translocal level as a competitor of the long-established state-centric world. Hence, the author proposes an analytical framework with the concepts 'co-evolution' and 'translocal orderings' which is sensible to the situated contexts where the encounter of different forms of normativity, the evolution of governance patterns and performance, the resulting institutional change and policy learning processes circulate into new contexts and demonstrate a high level of volatility, conflicts, discrepancies, and creativity, as found in the results of the presented articles. The involved themes cover **a) the dim prospect for democracy** in China (Text 1 (T1)); **b) global democracy** challenged by its own malaise and China and Russia as leading authoritarian powers (T2); **c) China's projection of the 'China dream' beyond East Asia** as part of its global governance strategies (T3); **d) multi-faceted factors that have shaped China's domestic anti-corruption campaigns and their transnational implications** (T4); **e) translocal normative storylines** in changing the outlook of the 'city' shaped by **refugee settlement and integration efforts in main host countries such as Germany** (T5); **f) transnational environmental and health governance practices** demonstrating a variety of translocality strategies and practices found in diverse adaptation measures, the adoption of alternative non-Western local knowledge systems, and women's struggle for their reproductive rights (T 6, 7 and 8); **g) the causes and effects of the failed international peacekeeping missions intertwined with the volatile informal regional and local governance** in West Africa (with the focus on Mali) (T9 and 10); **h) the understanding of 'criminal and gender justice' and politics of transitional justice in East Asia** (with the focus on past injustices in China and the imperialist Japan's comfort women system during the World War II) (T11); **i) governing uncertainty during the Covid-19 pandemic and its gendered effects in Europe** (T12). Through the adoption of cross-disciplinary approaches and methods, the findings of these articles demonstrate how the turbulent dynamics of global governance and its performance increasingly have been shaped by a tendency of marketization of values, the dominance of state-actors' security concerns, the weakening authority of long-standing structures found in intergovernmental international organizations (IOs), increased politicization of knowledge governance at translocal level, the resurgence of national, regional, and local identities, and the proliferation of subnational actors' coalition politics with their transnational and (sub)regional agendas. The accounts provided by **co-evolution approaches** and the deliberation of **translocal orderings** offer a holistic understanding of the evolution of

governance complex and normative change at macro-, meso-, and micro-levels serving as a basis for re-scaling the global governance system. The introduction of the secondary rules following H. L.A. Hart in defining the rules of negotiating among diverse competing value systems and the development of a typology of institutional and policy learning found in diverse translocal initiatives might constitute first steps to manage both the incompatibility and complementarity of concurring governance (sub)-systems, to address the resulting problems of inertia of international agency, and to integrate formal and informal governance through assessing the performance of different governance structures and local authorities' divergence strategies. These findings and reflections hence contribute to furthering onto-epistemic and methodological developments and offer new empirical insights in the fields of International Relations/Norm Diffusion, International Political Economy, and Comparative Governance Research. Also, they offer a promising agenda for future research through adopting an eclectic cross-disciplinary perspective.

Keywords: governance evolution; normative change; norm types and culture; post-liberal world (dis)order; co-evolution through policy learning; translocal orderings; integration of formal and informal governance; human rights, democracy, and sustainable development; criminal and gender Justice

Schlüsselbegriffe: Evolution von Governance; Normwandel; Normeigenschaften und Kultur; post-liberale Welt(un)ordnung; Institutionelles und Policy-Lernen; *translocal orderings*; Integration von formellen und informellen Governance; Menschenrechte, Demokratie und Nachhaltigkeit; Straf- und Gender-Gerechtigkeit.

1. Einleitung

Das aktuelle Global Governance-System stößt an Grenzen und auf Widerspruch. Zweifel häufen sich an der Angemessenheit der bestehenden Governance-Formen und der Anpassungsfähigkeit des gesamten Systems, das oft assoziiert wird mit dem lange herrschenden neo-liberalen demokratischen Modell und seinen Werten. Nicht nur fordert die Gleichzeitigkeit multipler Krisen die Global Governance heraus, darunter die vielfältigen grenzüberschreitenden Bedrohungen wie transnational vernetzter Terror, die Rückkehr des *interstaatlichen* Kriegs in Europa (besonders die russische Aggression in der Ukraine), organisierte Kriminalität und Klima-Krise. Die Schwierigkeiten, die das Governance-System mit diesen Krisen hat, offenbaren in den Augen vieler die beschränkte Leistungsfähigkeit eines liberal-demokratischen Selbstverständnisses, das vor mehr als dreißig Jahren die Rolle eines Siegers gepachtet zu haben schien. Der Bedeutungsverlust des Westens und der Aufstieg einiger Schwellenländer zu Großmächten haben das Entstehen und die Verbreitung von Gegennormen begünstigt. Einige (sub)-regionale Organisationen haben Vereinbarungen geschmiedet, um im Namen der regionalen Sicherheit, der Stabilität oder der Terrorismus-Bekämpfung

neue Rahmenbedingungen zu schaffen für die Institutionalisierung von autoritären Praktiken (Cooley 2015; Acharya 2004). Eine Vielzahl von Akteuren versucht, die Weltordnung zu verändern, liberale westliche Regime in Handel und Finanzen aufzulösen, die Messlatte „Demokratie“ als Soll abzulösen durch hybride oder gänzlich autoritäre Formen.¹ So zielt die Bildung einer heterogenen Schwellenländer-Gruppe wie BRICS unter der Führung von autoritären Regimen wie China und Russland, institutionell locker,² aber medial auffallend und in der Diplomatie wirksam, darauf, die Dominanz westlichen Einflusses in internationalen Foren und Institutionen wie die Dominanz des US-Dollars als Währung, das von etwa 11.000 Banken in 200 Staaten genutzte Zahlungssystem SWIFT und internationalen Friedensmissionen zu brechen. Der dadurch ausgelöste Normwandel hat Rückwirkung auf Selbstverständnis und Funktionsweise von internationalen Organisationen (IOs) und transnationalen Netzwerken (Paikin 2020; Lu 2019).

Die globale Ökonomie wird zunehmend beeinflusst von privaten Akteuren wie multinationalen nationalen Konzernen (MNC) und Nicht-Regierungsorganisationen (NGOs). Angesichts vieler überlappender Problemlagen sind staatliche Akteure auf die Unterstützung von privaten Akteuren angewiesen. Dies ermöglicht neue Formen von Governance, welche informelle und formelle Mechanismen enthalten, durch die Beteiligung von Regierungen, öffentlichen und privaten Akteuren auf translokaler Ebene. Das zeigen die Beispiele von *Public-Private-Partnership* (PPP) sowie der Integration von Expertenwissen bei der Durchführung großer Infrastruktur-Projekte (Scott 2004; Stone 2010; Jacobi 2013; Liss and Sharmarman 2015; Gómez-Mera 2017; Biersteker und van Marrewijk 2023). Insbesondere verpflichtet sich der private Sektor beim Kampf gegen Menschenhandel und die organisierte Kriminalität *freiwillig* zur Selbst-Regulierung auf transnationaler Ebene. So haben sich Normen geändert und neben formelle Formen sind häufig informelle Governance-Formen getreten.

Gerade im Blick auf die genannte Verschiebung von einem liberalen Global-Governance-Modell hin zu komplexeren Governance-Formen mit hergebrachten und neuen (informellen) Bündnissen und Regimen, in denen nicht-demokratische und -staatliche Akteure wirken, verdient nicht nur die Frage der Evolution von Governance zwischen formellen und informellen Strukturen eine systematische Betrachtung. Einige Forschungsfragen des normativen Wandels und seiner Auswirkungen auf private, öffentliche und transnationale Rechtsinteraktionen in relevanten Politikzusammenhängen (z. B. im komplexen Nexus zwischen Sicherheit, Menschenrechten, und Entwicklung sowie im Zusammenhang zwischen

¹ BRICS ist ein Akronym aus den Namen der Gründungsstaaten eines Staatsverbunds - Brasil, Russland, Indien, China und Südafrika. Er wurde 2006 gegründet. Anfang 2024 sind folgende Staaten zu diesem Verbund gekommen, nämlich, Ägypten, Äthiopien, Iran, und die Vereinigten Arabische Emirate. Daher wird inzwischen die Gruppe als „BRICS plus“ genannt.

² Vorschläge wie eine gemeinsame BRICS-Währung gelten als Versuche, Alternativen zur US-dominierten Finanzordnung einzuführen. Siehe NTV (2024). „Trump droht BRICS-Staaten mit Zöllen ‘von 100 Prozent’“. Siehe 30.11. (Abgerufen 01.12.2024); Johannes Petry (2024). „Wie sich die BRICS-Staaten von Dollar lösen“, FAZ, 01.12. (Abgerufen am 15.12.2024).

Sicherheit und Migration) sollen hier ansatzweise beantwortet werden. Wie hat sich das Global Governance-System entwickelt in einer veränderten post-liberalen Welt mit konkurrierenden Modellen des Regierens und spezialisierten Regimen? Steuert die Normentwicklung in der internationalen Rechtsordnung daher in einer Richtung der Fragmentierung? Wie wirken, in ihrer Kombination, die Eigenschaften der Normen, politische, historische und kulturelle Umstände und weitere Faktoren in diesem Prozess? Welche Kontinuitäten und Veränderungen lassen sich beobachten bezüglich des Musters von Öffnung und Schließung für das institutionelle und Policy-Lernen – und damit für die Anpassung des gesamten Governance-Systems?

Das vorliegende Rahmenpapier widmet sich diesen Forschungsfragen und präsentiert auf sie bezogen die Ergebnisse von zwölf Veröffentlichungen der Autorin, welche die Zusammenhänge zwischen der Evolution von Governance, dem normativen und institutionellen Wandel und Policy-Lernen bearbeiten. Die Veröffentlichungen zeigen, wie sich das Global Governance-System von der Dominanz **einer liberal-demokratischen Werte-Ordnung hin zu einer Fragmentierung der Weltpolitik** entwickelt hat, die **normativ heterogen** ist und dies dahingehend, dass sie verstärkt autoritäre Tendenzen in Akteuren und Bündnissen sowie in deren Einfluss auf die zuvor stark dominanten Gesellschaften zeigt. Neben der seit langem etablierten staatszentrierten Welt ist ein zumindest teilweise **autonomes multi-zentrisches System als Konkurrent entstanden, nämlich diffuse Netzwerke, die indirekt Macht auf translokaler Ebene ausüben**. Vor allem nutzen nicht-demokratische Mächte wie China und Russland Schwächen der demokratischen Welt, um autoritäre Narrative zu verbreiten. Die Autorin schlägt deshalb einen analytischen Rahmen mit den Konzepten 'co-evolution' und 'translocal orderings' vor, welche Begegnungen zwischen verschiedenen Normsystemen, die Evolution von Governance-Formen und -Leistungen, institutionellen Wandel und verschiedenen Formen von Policy-Lernen sowie ihre Auswirkungen auf das Global Governance-System aufschlüsseln und neue Perspektiven geben können. Denn diese müssen stärker beachtet werden, wie die Forschungsergebnisse der hier vorgestellten Artikel zeigen.

Die behandelten Themen umfassen **a)** die düsteren Aussichten für Demokratie in China (Text 1 (**T1**)); **b)** Demokratie unter den Herausforderungen ihrer eigenen Schwächen und den autoritären Diffusionsbemühungen von China und Russland (**T2**); 3) Chinas Ambition zur Verwirklichung seines chinesischen Traums als Teil seiner Global Governance-Strategie (**T3**); 4) Chinas innenpolitische Anti-Korruptionskampagne und seine transnationalen Strategien für internationale Anerkennung (**T4**); 5) translokale normative Handlungsstränge bei der Veränderung des Stadtbildes, die durch Flüchtlingsbewegung und Integrationsbemühungen in den wichtigsten Aufnahmelandern wie Deutschland ausgelöst wurden (**T5**), transnationale Praktiken der Umwelt- und Gesundheitspolitik, die eine Vielzahl von Anpassungsstrategien und –Divergenz-Praktiken der Translokalität aufweisen, etwa wie die Übernahme alternativer, nicht-westlicher lokaler Wissenssysteme und die Mobilisierung transnationaler Ressourcen beim Kampf von Frauen um ihr reproduktives Recht in verschiedenen lokalen

Kontexten (**T 6, 7 und 8**), die Ursachen und Folgen gescheiterter Friedensmissionen in Westafrika (mit dem Fokus auf Mali), die mit informellen transnationalen, regionalen, und lokalen Governance-Formen verflochten sind (**T9 und 10**), Faktoren bei der Politik der Gerechtigkeit zur Bewältigung vergangenen Unrechts in Ostasien (**T11**) und das Regieren unter unsicheren Umständen während der Covid-19 Pandemie und seine geschlechtsspezifischen Auswirkungen in Europa (**T12**).

Mit Hilfe von transdisziplinären Ansätzen und Methoden zeigen diese Artikel, wie das Global Governance-System und seine Performance zunehmend in mehrere diskontinuierliche und turbulente Dynamiken geraten sind, in denen die folgenden Faktoren eine wichtige Rolle gespielt haben: die Kommerzialisierung von Werten, die Dominanz der Sicherheitsbelange von staatlichen Akteuren, die schwindende Autorität internationaler Organisationen (IOs) und ihre Trägheit, eine zunehmende Politisierung der Wissensnutzung auf translokaler Ebene, die Rückkehr nationaler, regionaler und lokaler Identitäten, und die Profilierung der Koalitionspolitik unter sub-nationalen Akteuren mit ihren transnationalen und (sub)regionalen Agenden.

Das Rahmenpapier gliedert sich in vier Teile. Nach der Einleitung gibt **Teil II** einen Überblick über den Forschungsstand zu Global Governance (GG) und Normforschung. Er begründet zugleich die Notwendigkeit eines transdisziplinären analytischen Rahmens, um einige Forschungslücken decken zu können sowie eine erweiterte Perspektive zur GG-Forschung anbieten zu können. **Teil III** testet die Anwendbarkeit dieses Rahmens hinsichtlich der Evolution von Governance-Formen, der Normentwicklung, des institutionellen Wandels und des Policy-Lernens und gibt eine Synopse zu den Ergebnissen der hier behandelten Aufsätze. Deren empirische und modelltheoretische Implikationen diskutiert **Teil VI**. **Eine Übersicht der Publikationen** bietet **Teil III**.

2. Global Governance: Forschungsstand und neue Ansätze

Global Governance (GG) ist einer der populärsten Begriffe in wissenschaftlichen und auch politischen Debatten seit Mitte der 1990er Jahre. Er entstand vor dem Hintergrund einer Aufbruchstimmung, in der eine Verbindung zwischen dem wissenschaftlichen und gesellschaftlichen Diskurs und dem politischen Programm zur Förderung der liberalen Demokratie stattgefunden hat (Weiss 2016; Dingwerth und Pattberg 2006). Sie ist als Bestandteil der internationalen Politik kein neues Phänomen: Supra- und internationale Institutionen wurden schon eingerichtet während der industriellen Revolution im 19. Jahrhundert als Reaktion auf den Druck expandierender Märkte (Murphy 1994 und 2023; Behrens 2004). Im 21sten Jahrhundert wird eine allgemeine anerkannte Definition zur "GG" schwieriger, da ihre Erscheinungsformen und Handlungsprozesse vielfältiger geworden sind. Je nach dem Verständnis vom "Regieren (Governance)" wird das Konzept unterschiedlich benutzt. Zum Beispiel findet man in den Globalisierungsdebatten in Zusammenhang mit Food- und Mig-

rations-Governance die Verwendung der GG als Transformations- und Emanzipationsprojekt, das die Rolle nicht-staatlicher Akteure thematisiert und die Konzepte „Agency“ und „Gender“ berücksichtigt (Held 2006; Lachenmann 2008; Stone 2010; Hameiri & Jones 2016; Santo und Moragues-Faus 2018). Mit anderen Worten, neben seiner ursprünglichen Aufgabe zur Bewältigung globaler Probleme durch Regulierung und zur Stärkung internationaler Kooperation im Sinne der Realpolitik in einer anarchischen Welt ohne Weltregierung sind weitere Aspekte sichtbar geworden. Dazu gehört die Art und Weise, wie die politischen Prozesse von Policy-Netzwerken stattfinden in engem Zusammenhang mit gesellschaftlichen und politischen Interessen in unterschiedlichen Governance-Formen und Kontexten sowie die Reichweite der Normdiffusion in verschiedenen Gesellschaften.

Drei Varianten von Global Governance

Angesichts der Komplexität des GG-Systems verwendet das Rahmenpapier daher den GG-Begriff mit drei Varianten, die in der Forschungslandschaft von GG zu finden sind, um die genannten Aspekte ansatzweise adressieren zu können (für Literaturübersichten siehe Mürle 1998; Messner und Nuscheler 2003; Behrens 2004; Dingwerth und Pattberg 2006; Held 2006; zu grundlegenden Fragen von GG (warum, was und die Fragmentierungstendenz) siehe Weiss 2016; ein theoretischer Aufbau von GG hinsichtlich Fragen der Legitimität, Autorität und Kontestation siehe Zürn 2018). Erstens betrachten wir Global Governance als Systemmerkmal der *internationalen* Politik, indem staatliche Akteure mit ihren spezifischen nationalen Governance-Strukturen und Belangen sich mit globalen Normen auseinandersetzen wie Demokratie, Menschenrechte (darunter Rechte auf Gesundheit, Entwicklung und Frauenrechte), Rechtsstaatlichkeit (*rule of law*) und Strafgerechtigkeit (im Kontext der Aufarbeitung des vergangenen Unrechts). Dabei erfolgt die Governance über internationale Regime. Von Interesse sind nicht nur die Bedingungen, unter denen Staaten bereits sind zu kooperieren in Gestalt von Regimes. Auch die Variation des Verhaltens der Staaten gegenüber den internationalen Regelwerken wird in der Normforschung untersucht. Neben der Frage internationaler Kooperation wird das (Nicht)-*Compliance*-Verhalten von Staaten in ihrem jeweiligen innenpolitischen Kontext mit rechtssoziologischen und kultur-anthropologischen Ansätzen untersucht.

Zweitens wird GG in Anlehnung an dem üblichen „Governance“-Verständnis als Mittel der Problem-Lösung gedacht für die Bewältigung von Mängeln der Funktion der Institutionen beim kollektiven Handeln. Unter „Governance“ versteht man zunächst die Formulierung, Festlegung und Einhaltung von am Gemeinwohl orientierten Regelungen. Sie ist Output-orientiert. Auf innenpolitischer Ebene z. B. fokussiert Governance die Entwicklung und Funktion der Institutionen und Mechanismen politischer Steuerung. Im Zug der Globalisierung von verschiedenen Typen mit wachsender Interdependenz erfährt das Konzept „Governance“ vor dem Hintergrund der grenzüberschreitenden Probleme mehrere dynamische Evolutionen. So steht GG für Koordinationsleistungen, die von einer Vielzahl von Akteuren

erbracht werden sollen in den Schnittstellen zwischen verschiedenen Themenbereichen (Behrens 2004; Hasenkamp 2017c: 216-217).

Drittens wird GG zunehmend als eine Summe kollektiver Bemühungen betrachtet, die *transformative* Agenden liefern sollen, um Herausforderungen der Staatenwelt und der (Welt)Gesellschaft zu adressieren (vgl. Rohloff 2011; Lehr 2010; Dodgson et al. 2002, 6; Zürn 1998). Insofern handelt es sich bei dieser Variante von GG um ein normative-präskriptives Verständnis, indem eine auf bestimmte Ziele in den Bereichen Herrschaft, Sicherheit und Wohlfahrt ausgerichtete Handlungsorientierung vereinbart wird (vgl. von Prittwitz 2016, 1ff; Risse und Lehmkuhl 2006, 4). Zu betonen ist, dass diese normative-präskriptive Kategorie von Global Governance sich von der Analyse von Werten unterscheidet, die empirisch und logisch-philosophisch erfolgen kann (Mürle 2006: 6).

Forschungsstand

Die Definition von Global Governance mit der Unterscheidung der drei GG-Varianten erlaubt es, eine Übersicht über die Profilierung und Richtungsverschiebung der GG-Forschung aus einer intra- und transdisziplinären Perspektive seit den 1990er Jahren zu präsentieren. Die Schilderung in drei Phasen soll einige Stärken und Schwächen in der bisherigen GG-Forschung ermitteln, die für das Rahmenpapier relevant sind.

In der ersten Phase widmet sich die GG-Forschung besonders der Frage, wie normative Prinzipien in internationalen Regimen sich verbreiten, institutionalisiert werden und in einem top-down-Prozess auf die innerstaatliche Rechtsordnung von Mitgliedstaaten gewirkt haben. Sie ist inspiriert von intra- und interdisziplinären Ansätzen. Zu diesen Ansätzen gehören u. a. soziologische, kulturanthropologische und konstruktivistische Ansätze, des Weiteren neo-institutionalistische, transnational-rechtliche und modernisierungstheoretische Ansätze. Sie machen aufmerksam auf den Einfluss normativer Prinzipien auf Einstellung und Verhalten von Akteuren. Die soziologischen, kulturanthropologischen und konstruktivistischen Ansätze z. B. bieten Konzipierungsmöglichkeiten, wie eine Norm entsteht, akzeptiert oder abgelehnt wird und warum bestimmte Ideen und Strategien mittels kultureller Zirkulation und Übersetzung besser aufgenommen werden als andere (Levitt und Merry 2009, 443; Boyle et al 2002; vgl. True und Mintrom 2001). Im Fokus steht, wie Akteure Ideen und Werte durch *Framing* interpretieren und Regeln festlegen, die dem Erhalt des Gemeinwohls sowie der Durchsetzung materieller Belange dienen sollen. Normen sind dann Regulationen und Orientierung des sozialen Handelns. Die globalisierte Welt bietet zudem Akteuren ein günstiges Umfeld, Allianzen mit gleichgesinnten Akteuren auch über große Distanz zu bilden (vgl. Gilard 2012). Nicht zuletzt weisen solche Studien darauf hin, dass Missverständnisse,

Missachtung und Vorurteile häufig vorkommen, wenn sich zwei Gruppen mit gegensätzlichen normativen Auffassungen begegnen.³

In der Disziplin der „Internationalen Beziehungen“ (IB) zeigt sich ein unterschiedlicher Umgang der Schulen mit dem Normen-Begriff. Während die liberale Schule die *regulative* Funktion einer Norm hervorhebt, die als Spielregel gilt für die Kooperation zwischen Staaten (siehe z. B. Moravcsik 1995), betont der Konstruktivismus den konstitutiven Aspekt einer Norm: Die Norm beeinflusst Identität und Interessenperzeption der Akteure (Finnemore 1996; Katzenstein 1996). Der Konstruktivismus gewinnt zunehmend an Bedeutung (*the constructivism turn*), der die Konstruktion und Diffusion von Normen (*norm-making* und *norm-diffusion*) analysiert, auch im Blick auf die Veränderung des Verhaltens der Akteure (siehe Hopf 1998; Mantilla 2009; Shawki 2011; Norris 2013; Wiener 2015).⁴ Inzwischen etabliert sich die Normdiffusions-Forschung als eine markante Subdisziplin in den IB, gekoppelt mit der *Compliance*-Forschung und der völkerrechtlichen Literatur, die sich mit der Frage der Auswirkung der Ratifizierung internationaler Abkommen (mit oder ohne Vorbehalt (*reservation*)) beschäftigen (Chayes und Chayes 1993; Hathaway 2002; Merry 2003 und 2009; Goodman und Jinks 2004 und 2008; Jackson 2007; Neumayer 2007; Baer 2010; Chowdhury 2011; Elkins, Ginsburg, und Simmons 2012; Crootof 2013; Dandashly et al. 2022). Zum Beispiel heben Goodman und Jink (2004 und 2008) die Bedeutung der **Sozialisierung globaler Normen** in der Weltgesellschaft hervor. Sie betonen besonders die Funktionsweise dreier Mechanismen – *coercion, persuasion, and acculturation* – als **top-down-Mechanismen in internationalen Regimen**. Diese Mechanismen prägen den Grad der Verinnerlichung globaler Normen durch Akteure (vollständig oder unvollständig). Hierfür prüfen sie besonders den Zusammenhang zwischen den institutionellen Arrangements eines Regimes (*regime design*) und dem Einsatz dieser drei Mechanismen als Mittel der Sozialisierung. Diesen Zusammenhang prüfen sie empirisch nach Kosten-Nutzen-Schemata. Das Konzept von Goodman und Jink (2004: 622ff) dient dazu, Normen zu operationalisieren sowie deren sozialen Einfluss in der Weltgesellschaft zu analysieren.

Widmete sich die erste Phase der GG-Forschung dem top-down-Sozialisierungsprozess der globalen Normen (darunter den Variationen des Compliance-Verhaltens von Mitgliedstaaten in internationalen Regimen), zeigt sich in der zweiten Phase ein verstärktes Interesse an den lokalen und regionalen Governance-Dynamiken mit dem Fokus auf zwei Aspekte: 1) den Umgang mit globalen Normen auf lokaler Ebene (*the local turn*); 2) den institutionellen Wandel innerhalb der gesamten GG-Architektur. Erstens zeigen zahlreiche Fallstudien die Hete-

³ Zum Beispiel ist die Praktik der genitalen Verstümmelung (FGM) in einigen afrikanischen Dörfern Zeichen der Garantie unversehrter Reinheit für junge Frauen und aus dieser Sicht gerechtfertigt. Einem Bericht zufolge wurden westliche Wissenschaftlerinnen, die dort Feldforschung betrieben und als nicht-beschnittene Frauen erkannt wurden, von Dorfeinwohnerinnen belächelt. Siehe Lane und Rubinstein 1996, 35, hier zitiert in Boyle et al. 2002, 8.

⁴ Solche Akteure sind Staaten, IOs, nicht-staatliche Akteure, darunter NGOs, transnationale Unternehmen (TNCs) und subnationale Communities wie ethnische Gruppen sowie Individuen auf Mikro-Ebene.

rogenität lokaler Praktiken gegenüber globalen Normen auf der nationalen und sub-nationalen Ebene (Triadafilopoulos 2005; Boyle et al. 2002; Wahl 2013; Sitaraman 2002). Ihre Bemühungen sind eine Reaktion auf die GG-Forschung von der ersten Phase, welche die Perspektive lokaler Akteure vernachlässigt habe. Je nach Themenbereich und Fokus der Untersuchung (staatliche, nichtstaatliche, und sub-nationale Akteure wie Polizisten und *enforcement officers*) untersuchen diese Studien Reaktions-Varianten bzw. Widerstand gegenüber globalen Normen (siehe Mantilla 2009; Wahl 2013). Sie beobachten **das strategische Verhalten** von Akteuren bei der Selektion und Interpretation globaler Normen in bestimmten Kontexten sowie Spannungen zwischen globalen und innergesellschaftlichen Rechtsauffassungen (Levitt und Merry 2009: 441). So zeigt Wahl (2013), wie lokale *enforcement officers* in Indien Menschenrechtsnormen lernen und dabei nach ihrer Auffassung selektiv anwenden. Die Beamten halten bestimmte Foltermaßnahmen, die den internationalen Menschenrechtsstandards widersprechen, für gerechtfertigt für den Schutz der öffentlichen Sicherheit. Ein anderer Aspekt betont die Rolle von Institutionen wie Bildungsinstitutionen und Massenmedien als Vermittler des westlichen Wertesystems im Zuge des Anschlusses an die Modernisierung. In ihrer Feldanalyse zur Politik gegen genitale Beschneidung (FGM) in Afrika zeigen Boyle et al. (2002, 5 ff.), dass lokale Akteure das westliche Skript als Referenz für ihre Identitätsbildung und ihren Kampf gegen patriarchalische Sitten übernommen haben. Ferner macht Sitaraman (2002) deutlich, dass aufgrund unterschiedlicher innenpolitischer Strukturen und Normen sich unterschiedliche Haltungen zwischen demokratischen und nicht-demokratischen Ländern ergeben: Während demokratische Länder wie die USA oft Widerstand gegenüber internationalem Menschenrechtsregimen zeigen, neigen nicht-demokratische Länder wie China in dieser Frage eher zu selektivem Verhalten. Letztere wollen innenpolitisch unerwartete Rückkoppelungseffekte vermeiden, die infolge der Normumsetzung auf nationaler und sub-nationaler Ebene eintreten.⁵

Zweitens richten sich die Forschungsinteressen zunehmend auf den Prozess der Identitätsbildung in einer regionalen politischen Einheit als Teil der gesamten GG-Architektur. Dieser Prozess betont die Wirksamkeit des Peer-Drucks innerhalb eines regionalen Regimes zur Einhaltung seiner Norm. Auch der Effekt der Normdiffusion aus der Sicht der Nicht-Mitglieder in der Region und in der Welt wird untersucht (Checkel 1997; Wiener 2015).⁶ Aufgrund des gemeinsamen historischen, politischen und kulturellen Hintergrunds und der daraus entstandenen Identität, so Checkel (1997, 474), bietet sich eine günstige Basis für Normdiffusion und Sozialisierung. Ein Beispiel dafür ist die Einflussnahme vom europäischen Menschenrechtsregime mittels Diffusion und Peer-Druck auf die innenpolitische Struktur der

⁵ Yu beobachtet z. B. wie China je nach Themenbereich seine GG-Strategie selektive entwickelt hat, um Unsicherheiten auf lokaler Ebene z. B. durch Einführung von westlichem Know-How-Wissen im Finanzsektor zu reduzieren. Siehe Yu 2019.

⁶ Hier wird argumentiert, dass aufgrund des gemeinsamen historischen, politischen und kulturellen Hintergrunds und der daraus entstandenen Identität sich eine günstige Basis bietet für Normdiffusion und Sozialisierung, also durch Peer-Druck. Zum Beispiel zeigt Checkel (1997, 474), wie das europäische Menschenrechtsregime mittels der Diffusion die innenpolitische Struktur der Mitgliedstaaten beeinflusst.

Mitgliedstaaten. Allerdings macht Wiener (2015, 211ff) aufmerksam auf die kritische Haltung des globalen Südens bezüglich der von globalen Normen Übertragung (*norm transfer*) von einer liberalen Wertegemeinschaft auf den Süden. In Anknüpfung daran gibt es zahlreiche Fallstudien, die die Übertragungen der globalen Normen in verschiedenen regionalen und lokalen Kontexten untersuchen. Der Begriff "Lokalisierung" wird benutzt, um die *Norm-Contestation* als Ergebnis der Lokalisierung besser erklären zu können.⁷ Dabei handelt es sich um die Bildung zweier vernetzter gegensätzlicher Gruppen (nach dem Spiral-Modell von Risse et al. 1999 und 2013) im innenpolitischen Kontext, die jeweils mit verbündeten Akteuren auf internationaler Ebene (mit gleichgesinnten Staaten und zivilgesellschaftlichen Akteuren) für oder gegen die Implementierung der Norm kämpfen.

Die dritte Phase der GG-Forschung interessiert sich für zwei Fragen, die als Forschungsbedarf zunehmend sichtbar sind vor dem Hintergrund des Aufstiegs eines post-regulativen Staats, nämlich die Frage der Dynamik zwischen formellen und informellen Formen von Governance auf translokaler Ebene sowie die Frage der Verteilung der relevanten Kapazitäten und Ressourcen auf eine breite Masse von staatlichen, nicht-staatlichen und supranationalen Akteuren, die für die Machtausübung wichtig sind (Scott 2004). Unter Schlagwörtern wie "*governance without government*" oder "*the age of governance*" (Rosenau 1992 und 2021; Scott 2004) wird das Phänomen der diversen Governance-Mechanismen unter die Lupe genommen, welche nicht automatisch auf formelle staatliche Autorität und Kontrolle zurückgreifen (Scott ebd.). Für die Erklärung dieses Phänomens greifen Gesellschaftstheoretiker auf Ansätze wie den soziologischen Institutionalismus zurück, um Fragen der Formation transnationaler Regime-Komplexe und der strukturellen Varianz in der institutionellen Gestaltung der globalen Governance zu erklären. Dort versucht man z. B. die Rolle nicht-staatlicher Akteure mit Hilfe der Akteur-Netzwerk-Theorie zu beleuchten und den Begriff "*transnational governance*" als Teil der GG-Forschung theoretisch fundiert zu integrieren (Breslin & Nesadurai 2018; Roger und Dauvergne 2016). Auch wird am Beispiel der Bekämpfung grenzüberschreitender organisierter Kriminalität gezeigt, dass kohärentere Formen der globalen Kriminalitäts-Governance zustande gekommen sind durch das Zusammenspiel des Leaderships von führenden Akteuren.

Andere Untersuchungen zeigen, dass Metaorganisationen (MOs) – Vereinigungen, deren Mitglieder Organisationen sind – ähnlich wie andere Organisationen mit Trägheit auf diskontinuierliche Durchbrüche reagieren. Studien auf Basis von Längsschnitt-Felddaten, etwa zu deutschen Industrieverbänden und dem Aufkommen des Online-Handels, untermauern diese Beobachtung (König et al. 2012).

Insbesondere machen neuere Forschungen und Eckpunktepapiere zum komplexen Patchwork des GG-Systems darauf aufmerksam, wie sich informelle Governance in neuen Formen verbreitet und wie transnationale Akteure zunehmend in diesen Prozessen bei der Bewältigung verschiedenartiger Krisensituationen Einfluss gewinnen (siehe Westerwinter et al.

⁷ Lokalisierung wird definiert als "*the process of appropriation and local adoption of globally generated ideas and strategies*" (Levitt und Merry 2009: 441).

2021; Stone 2013; Helmke & Levitsky 2012). Einige normative und machtpolitische Konsequenzen lassen sich in den Befunden dieser Studien entnehmen. So werden die Machtasymmetrien infolge der Profilierung transnationaler Akteure als neue Herausforderungen in der globalen politischen Ökonomie identifiziert. Dort beobachtet man, wie MNCs die globale Norm *“Corporate Social Responsibility (CSR)”* in ihre Strategie einbauen, und zwar auf Kosten des Wohlergehens von Gemeinschaften. Daher schlägt Banerjee (2018) einen translokalen Governance-Rahmen aus der Perspektive gefährdeter Stakeholder vor, der einen progressiveren Ansatz für die gesellschaftliche Governance von MNCs ermöglicht. Nicht zuletzt spielt die Integration von formellen und informellen Mechanismen eine wachsende Rolle als Teil des Krisenmanagements und Sicherheitspolitik. So berichtete eine Vertreterin Bundesministeriums für wirtschaftliche Zusammenarbeit und Entwicklung (BMZ), wie die Bundesregierung über informelle Bündnisse wie G7 und die *Multi-Agency Donor Coordination Platform (MDCP)* ihre humanitäre Unterstützung und entwicklungspolitischen Vorhaben in der Ukraine geplant und umgesetzt hat. Dies geschah über öffentliche Träger wie die Gesellschaft für Internationale Zusammenarbeit (GIZ) in enger Zusammenarbeit mit IOs (den VN, der EU und der Weltbank) sowie interkommunaler Partnerschaftsarbeit, dem Privatsektor und der Zivilgesellschaft, um dem Wiederaufbau der Ukraine eine Perspektive zu eröffnen.⁸ Zusammenfassend lässt sich feststellen, dass die bisherige GG-Forschungslandschaft vielfältige Erkenntnisse liefert sowohl in der transdisziplinär theoretischen Ausarbeitung (z. B. anthropologische Studien, Compliance- und Sozialisierung- sowie Normen-Zyklen- und Kontestation-Forschung) als auch in der empirischen Breite der Studien zu Akteuren, der Fallstudien zu Ländern und zu internationalen Organisationen (Weltbank und UNO)) sowie Vergleichen des Policy-Outcomes bei der Norm-Umsetzung (siehe Park 2005; Krook und True 2010; Gilardi 2012; Liam und Fallon 2017). Trotz ihres Reichtums an Einblicken bleiben Defizite, auf die das Rahmenpapier reagiert und die es zu verringern versucht durch den Vorschlag eines analytischen Rahmens, indem neue Konzepte wie *“Translokalität”* und *“Ko-Evolution”* Impulse geben, um die Komplexität des Zusammenhangs zwischen der Evolution von Governance und Normalwandel stärker holistisch betrachten zu können. Die bisherige Diffusionsforschung macht zwar aufmerksam auf die Verbindung zwischen Normumsetzung und innenpolitischen institutionellen Bedingungen bzw. Governance-Strukturen. Aber es fehlt noch eine systematische Erfassung dieser Verbindung besonders im Hinblick auf die Schnittstellen zwischen den Themenbereichen sowie Konsequenzen der Konflikte zwischen verschiedenen Normsystemen auf das gesamte GG-System. Deren Ursachen und Einflussfaktoren versuche ich zu zeigen anhand der Ergebnisse der zwölf Publikationen. Sinnvoll ist, sich um eine systematische empirische Bestandsaufnahme zu bemühen, modelltheoretisch

⁸ Siehe Phoenix (2025). Talk *“Ukrainekrieg nachgehakt”*. Interview mit Ulrike Hopp-Nishanka, Leiterin des Ukraine-Stabs vom BMZ. 10.01. Weitere Informationen über das Engagement der Bundesregierung als humanitäre und entwicklungspolitische Akteur inmitten des russischen Angriffskriegs in der Ukraine siehe BMZ (2024). Entwicklungspolitische Unterstützung der Ukraine. BMZ-Beitrag zum Engagement der Bundesregierung (Stand: Sept. 2024); Bundesregierung (2024). Eckpunktepapier. Wiederaufbau der Ukraine. Mobilisierung des Privatsektors für den Wiederaufbau der Ukraine. Stand: 10.04.2024.

Zusammenhänge zwischen Evolution von Governance und dem Normwandel zu reflektieren sowie Effekte der Fragmentierung mehrerer Normen infolge der Interaktionen zwischen formellen und informellen Governance-Formen z. B. in der Sicherheits- und Klimapolitik zu betrachten.

Evolution von Global Governance: Translokalität und Ko-Evolution als Schlüsselkonzepte

Der Aufbau eines analytischen Rahmens mit den Konzepten "Translokalität" und "Ko-Evolution" und ihren Ansätzen bietet eine Grundlage, um die Evolution von Global Governance mit einer Vielzahl von (un)abhängigen Sub-Systemen auf translokaler Ebene und ihren Normwandel in den betroffenen Themenbereichen sowohl modelltheoretisch als auch empirisch (in Bezug auf die Ergebnisse von den zwölf Aufsätzen) betrachten zu können. Die Definition beider Begriffe sowie ihre Bedeutung als Stützpfeiler für unseren analytischen Rahmen lassen sich wie folgt kurz exemplarisch beschreiben.

Das Konzept "**Translokalität**" entstand im Zuge des „*spatial turn*“ in den sozialwissenschaftlichen Globalisierungs-Debatten in den 1990er Jahren. Es stellt ab auf „Prozesse kulturellen Austauschs und Transfers wie auch die Situierung von Individuen und sozialen Akteuren in translokalen und transnationalen Netzwerken“ (Freitag und Oppen 2005, 2). Gerade im Zug der historischen Veränderungen der Moderne, beschleunigt durch die Globalisierung und Informationstechnologie, findet die Mobilität von Akteuren, Ideen und Gütern *nicht nur* zwischen unterschiedlichen Regionen im globalen Süden zunehmend Aufmerksamkeit (Freitag und Oppen ebd., 1). Es erlaube auch über diese Regionen hinaus „eine neue Sichtweise auf grenzüberschreitende Verflechtungen“ (ebd.), welche früher als absolut gedachte Räume oder Kulturen relativiert und herausfordert. Insofern lenkt das Konzept „Translokalität“ dem Blick auf die Wechselbeziehung zwischen Transgression, d.h. Überschreitung und Überwindung zwischen dem Globalen und Lokalen und Lokalisierung (Freitag 2005, 3). Somit wird eine räumlich-analytische Grundlage geschaffen für die Erklärung alternativer und experimenteller Projekte, die z. B. von einem lockeren Netzwerk ziviler und öffentlicher Akteure ins Leben gerufen wurden und erheblichen Einfluss ausüben können auf politische Entscheidungen (Santo und Moragues-Faus 2018; Dekel et al. 2019). In zweifacher Hinsicht bringt die Prägung dieses Begriffs einen neuen Schwung für die GG-Forschung. Zum einen hebt die Einführung einer translokalen Perspektive die Bedeutung der alltäglichen Praktiken von Governance hervor, in denen sich die Formation eines informellen Bürgernetzwerks und die dadurch erzeugte räumliche Identitätsbildung als alternatives politisches Projekt darstellen und dem Staat politisch entgegenzutreten können, zwar im Dienst der lokalen Belange.⁹ Zum

⁹ Dekel et al. (2019) beschreiben eine 40 Jahre alte alternative Planungstradition, die die Formalisierung informeller Beduinensiedlungen in den Außenringen der Metropole Be'er Sheva in Israel trotz der anhal-

anderen ermöglicht das Konzept eine Analyse der Phänomenologie der Begegnung, indem emergente Formen der Normativität identifiziert werden, die durch fundierte Begegnungen mit lokalen und transnationalen Praktiken, Diskursen, Subjektivitäten und Formen des Widerstands entstehen (Canfield et al. 2021).

Als ein weiteres Schlüsselkonzept wird **die Perspektive der „Ko-Evolution“** in Anlehnung an die Disziplinen "Management und Verwaltungswissenschaft" und "Organisationssoziologie" eingeführt. Ziel ist es, das komplexe Gebilde von Governance im Zusammenhang mit dem Prozess des Policy-Lernens differenziert betrachten zu können. Es handelt sich bei der Ko-Evolution in der Governance um **Lernprozesse**, in denen Akteure darüber reflektieren, wie Dinge funktionieren und angepasst, überarbeitet und verbessert werden können. Aus dieser Ko-Evolution-Perspektive lässt sich die internationale Ordnung als ein System konzipieren, in dem man heuristisch annimmt, dass ein Subsystem den „Weg“, die Evolution des anderen beeinflusst und umgekehrt (van Assche et al. 2022). Diverse Formen des Policy-Lernens – wie Nachahmung oder Experimentieren – ergeben sich aus den Interaktionen sowohl zwischen den spezialisierten Regimen als auch innerhalb der Subsysteme eines Themenbereichs. Oft führt ein solcher Lernprozess durch mangelnde Koordination zwischen diesen Subsystemen dazu, dass konkurrierende Prinzipien und Inkonsistenzen von Regeln entstehen. Dies wiederum schafft eine Ordnung, die verrechtlicht ist, aber zunehmend inkohärent. Zu den wichtigen Aspekten in diesen Lern-Prozessen gehören u. a. die verschiedenen Wissensformen, die vorhanden sind in einem Governance-System, Wissensinfrastrukturen, verschiedene Wege des Lernens und die Auswirkungen des Lernens auf die Governance-Strukturen. Ferner wird analysiert, wie bestimmte Governance-Konfigurationen Einfluss haben auf die Möglichkeiten des Lernens und die Anpassung in der Gesellschaft. Darüber hinaus wird Lernen im Governance-System als Ganzes gefasst in dem Sinne, dass es sich dabei um lernende Organisationen, Politiksysteme, Netzwerken und Metaorganisationen handelt (Meadows, 2008; Wilson, 2020, zitiert in van Assche et al. 2022: 1228).

Die Betrachtung translokaler Ordnungen mit ihrer räumlich-analytischen Reichweite sowie der Rückgriff auf Koevolutionsansätze, argumentiert die Autorin, bieten ein ganzheitlicheres Verständnis der Entwicklung des Governance-Komplexes und des normativen Wandels auf Makro-, Meso- und Mikroebene und dienen als Grundlage für die Neuskalierung des globalen Governance-Systems. In Bezug auf unsere Forschungsfragen (S. 65) werden vier wichtige Aspekte von GG-Forschung unter dieser kombinierten Perspektive neu betrachtet. Ziel ist

tenden Weigerung des Staats förderte, was ein äußerst umstrittenes Planungsthema ist. Die Planung startete mit Planungsspezialisten und einzelnen Basisorganisationen (GROs), die nur geringe Ergebnisse erzielten, da sie auf die anhaltende Weigerung des Staates stießen, sich zu formalisieren. Jedoch entstand im Laufe der Jahre ein komplexes translokales Bürgernetzwerk aus losen miteinander interagierenden NGOs, GROs, lokalen Räten, Fonds, sozialen Bewegungen, globalen Institutionen und politischen Parteien. Das Netzwerk schlug (professionelle) Alternativpläne als Teil eines breiteren politischen Projekts vor, das sich in verschiedenen Bereichen manifestierte, und erzielte bedeutende Ergebnisse gegenüber der staatlichen Macht und Politik.

es, den Beitrag der Ergebnisse der hier präsentierten Publikationen für die Weiterentwicklung der GG-Forschung empirisch und methodologisch zu identifizieren.

Evolution von Governance-Strukturen und ihre Leistung im translokalen Raum

Angesichts der komplexer gewordenen Governance-Gebilde mit ihren Interaktionen zwischen formellen und informellen Mechanismen hat es Bemühungen gegeben, eine Typologie zu entwickeln und entsprechend anzupassen. Fünf Typen der Governance lassen sich darstellen (vgl. Cannon et al. 2000; Beaumont und Nicholls 2008; Lehr 2010; von Prittwitz 2016, 1-4 ff): strittiger Austausch (Verhandeln und Argumentieren), machtbestimmte Governance (Hierarchie), gebundene (*bound*) Governance (Spiel, Gesetz), sowie als neue Typen integriertes Problemlösen (Public Policy) und plurale Governance. Der Vorteil dieser Typisierung liegt darin, dass sie die Funktionsweise von Governance (Einflussfaktoren sowie ihre Leistung) im Zusammenhang mit dem Normwandel und Policy-Lernen aufschlüsseln kann.¹⁰

Beim Governance-Typ des strittigen Austauschs sind die Koordinationsmuster beim *Verhandeln und Argumentieren* Austauschprozesse, in denen „die Beteiligten einander auf Augenhöhe begegnen“ (von Prittwitz 2016, 2) und sich gegenüber dem Anderen – als Herren des Verfahrens – die Verhandlungs-Agenden, den Verlauf, die Bedingungen usw. in ihrem Sinne zu gestalten. Hier spielen sowohl die Dynamik der soziopsychologischen Identitätsbildung als auch die dafür verwendete Abgrenzungstaktik für die Bestimmung des Diskurses eine zentrale Rolle. Ihre Vorzüge „liegen in ihrer unmittelbaren Zugänglichkeit und Flexibilität“ (von Prittwitz 2016, 2). Die möglichen Leistungen sind ein hoher Grad der Verankerung in der diskursiven Entwicklung auf verschiedenen Ebenen, reger Informationsaustausch und Schaffung der Kanäle für die Partizipation, welche die Aggregation der Interessen von Akteuren ermöglichen, deren Funktion auch von der Zahl der Veto-Akteure in der Policy-Arena abhängig ist (Cusack 1997, 3). Daher ist es nicht zu wundern, dass dieser Typ der Governance aufgrund seiner strittigen Austauschformen und der hohen Zahl der Veto-Akteure oft unter Verhandlungs-Dilemma und Polarisierung leidet.

Machtbestimmte Governance bezeichnet „die Koordination von Akteur-Verhalten auf Grundlagen einer durchgängigen Machtstruktur“ (von Prittwitz 2015, 3). Als Merkmal liegt eine traditionelle Top-Down-Struktur vor, ohne informelle Muster der Anpassung durch Opportunismus auszuschließen. Hierfür wird Macht über vielfältige Medien errungen und aus-

¹⁰ Von Prittwitz führt die ersten vier Typen aus. Dennoch wird in seiner Ausführung die plurale Governance nicht berücksichtigt, die die Governance-Struktur in transnationalen und fragilen Räumen mit weiteren Subkategorien wie Corporate Governance betrifft. In der Literatur gibt es ähnlich verwandte Begriffe wie *pluri-form Governance*, Netzwerk-Governance, und demokratische und deliberative Governance. Da zwei Aufsätze in diesem Rahmenpapier einen fragilen Kontext wie Afghanistan und ein Aufsatz die Klimapolitik im transnationalen Raum behandeln, wird der Typ „plurale Governance“ als der 5. Typ der Governance-Struktur aufgenommen. Siehe Beaumont und Nicholls 2008; Lehr 2010; Hasenkamp 2017c.

gebaut, wie etwa über die Propagierung des Anspruchs auf Wahrheit durch eine Religionsgemeinschaft, über militärische Gewalt, epistemische Wissens-Gemeinschaften usw. Die Vorteile von Hierarchie liegen in ihrer übersichtlichen Regelungsstruktur, direkten Koordinationswegen, häufig hohe Bestände (homogener) sozialen Kapitals und in ihrer Fähigkeit zu zwangsmäßigem (*coercive*), raschem und kollektivem Handeln (vgl. von Prittwitz 2015, 3; Mayntz und Scharpf 1995, 16; Putnam 1994). Ihre Leistungen zur Aufnahme bzw. Ablehnung globaler Normen sind Mobilisierung, effiziente Koordination und rasche Entscheidungsfindung, da sie aufgrund der klaren Regelungsstruktur und Existenz der Sanktionsmechanismen Strategien entwickeln kann für die Durchsetzung ihrer Interessen (vgl. Griffith und Myers 2004, 254). Aufbauend auf effizienter Koordination und starkem Regieren kann machtbestimmte Governance politisches Vertrauen gewinnen, das wiederum eine Legitimations-Basis schafft und stärkt für Kontrolle der Governance-Akteure über die Gesellschaft. Nachteile sind Mängel bei Anpassung und Innovation sowie steile hierarchische Wege für Kommunikations- und Information.

Als dritter Typ der Governance-Struktur ist die *Bound Governance* zu nennen. Die Funktionsweise der *Bound Governance* wird durch Spiele und Gesetze bestimmt, die zwei Dimensionen enthalten: 1) eine Regel-Dimension; 2) eine operative Dimension. Wie von Prittwitz (2015, 4) betont, sind beide Dimensionen „zwar funktional aufeinander ausgerichtet, müssen aber jeweils strikt getrennt voneinander ausgeführt werden.“ Die Akteure in diesem System können nach Spielregeln frei und gleichgestellt planen und agieren, die besonders motivations-, leistungs- und wohlfahrtsfördernd sind.

Aufgrund des Zuwachses an grenzüberschreitenden Problemen in der internationalen Politik entsteht als vierter Typ der Governance der Governance-Typus „integrierter Aufgaben- und Problem-Lösung“. Er adressiert überlappende Issues/politische Agenden und wird als (global) *public policy* bezeichnet (Prekert 2014; Lehr 2010). Hier ist die Identifikation der Probleme sachverhalts-orientiert und strebt nach wirksamer Lösung. Dadurch entsteht ein Koordinationssystem, das mehrdimensional geprägt ist „mit operativer Freiheit, institutionellem Schutz und sachlicher Koordinationsorientierung“ (von Prittwitz 2015, 4-5). Beispiele für diesen Governance-Typus integrierter Aufgaben- und Problem-Lösung finden sich in der gesundheitlichen Versorgung von Flüchtlingsfrauen in den *refugee camps* sowohl in den Transitländern als auch in ihren neuen Aufnahmeländern. Nicht nur mobilisieren Akteure Ressourcen und entwickeln im Rahmen der *Global Health Governance* notwendige Strategien für den dringenden Schutz der Flüchtlingsfrauen als eine doppelt gefährdete Gruppe in prekärer Lage. Gefragt sind auch langfristig die Einführung angemessener *Resettlement*- und Integrationsmaßnahmen in den Aufnahmeländern, um ihre Trauma-Erfahrungen behandeln zu können (Hasenkamp 2019). Das System hat insgesamt zwar hohe Leistungs- und Wohlfahrtspotentiale. Dennoch lauert eine Gefahr, wenn das System sich transformiert entweder in machtbestimmte Governance, wenn das Ausnutzen von Machthabern den kollektiven Handlungsdruck zum eigene Machtgewinn vorliegt oder in die Richtung *plural Governance*

(siehe unten), wenn beim kollektiven Handeln Probleme oder Dilemmata auftauchen (vgl. von Prittwitz 2015; Prekert 2014, 203).

Als fünfter Typ der Governance ist die *plurale Governance* zu nennen. Plurale Governance bezieht sich auf die Involviertheit pluraler Akteure im Governance-Prozess, der verschiedene oder gar konkurrierende Ansätze bietet für die Handhabung gemeinsamer Anliegen. Diesen Typ findet man z. B. in der hybriden Governance im Prozess der Transition, in der polyzentrierten Governance zur Regulierung der Konflikt-Mineralien (Prekert 2014), in einem hochkomplexen Sicherheitsumfeld wie im Nahen Osten und in der Sahel Region (z. B. im Libanon, siehe Hazbun 2017, 657; in Mali, siehe Hasenkamp 2025) oder im Fall der partizipatorischen (*urban*) Governance, deren Prozess oft von Konflikt und Differenz geprägt ist (Beaumont und Nicholls 2008, 87). In Mali z. B. sind neue Formen des Regierens als hybride Governance entstanden, herbeigeführt von der (Dys-)Funktionalität der staatlichen (Un-)Ordnung. Oft sind externe Akteure (wie ausländische Geber-Regierungen, internationale Organisationen (IO), transnationale NGOs) sowie lokale Stammführer und Rivalen in Räumen begrenzter Staatlichkeit wichtige Mitspieler. Ihre Aktivitäten folgen einen *bottom-up*-Ansatz und bewegen sich durch Bildung verschiedenartiger Netzwerke entweder in kooperativer oder in konfrontativer Weise, die den Aufbau politischer und sozialer Ordnung fördern oder umgekehrt untergraben können (vgl. Risse und Lehmkuhl 2006, 13-14; Risse 2007; Katzman 2017; Hazbun 2017).

Gleichwohl ist zu betonen, dass es keine strikte Trennung zwischen den oben genannten Typen von Governance-Struktur gibt. Vielmehr können sie durch die Dynamik der Interaktionen zwischen den Akteuren und den zunehmenden kollektiven Handlungsdruck entweder zu einem anderen Governance-Typ wechseln oder es entstehen neue Formen der Governance-Struktur. So könnte z. B. das integrierte Problemlösen sich in Richtung machtbestimmter Governance bewegen, wenn das kollektive Handeln zum Problemlösen zugunsten der Machtkalküle der dominanten Gruppe neigt. Auch könnte die plurale Governance sich aufgrund ihrer komplexen Struktur und der konkurrierenden Positionen zwischen den Akteuren wandeln in den Typ des strittigen Austausches.

Hinzu kommt, dass der soziokulturellen und historischen Einbettung sowie politischen und ökonomischen Entwicklung laut einigen Governance-Studien mehr Aufmerksamkeit geschenkt werden muss (Cusack 1997; Koehler 2012). Wie einige Studien in der Normforschung hervorgehoben haben, benötigt die Rezeption globaler Normen im lokalen Kontext einen günstigen oder/und konformen Nährboden, der sich aus der veränderten Wertevorstellung von Individuen, dem veränderten Verhalten von Akteuren zu Gunsten der Implementierung globaler Normen sowie der Allianz gleichgesinnter Akteure ergeben hat. Aus diesem Grund ist es sinnvoll, einen heuristischen Rahmen zu wählen, der eine Prozessanalyse auf zwei Ebenen ermöglicht. Die erste Ebene nutzt das Denk-Prinzip von James Coleman's „Badewanne“, das den Zusammenhang verdeutlicht zwischen Governance-Struktur als sozialem Phänomen (auf der Makroebene) und der Motivation, den Handlungsoptionen, dem Kalkül der Akteure sowie den sozialen Interaktionen (auf der Mikroebene). Die zweite

konzeptuelle Ebene wählt drei Faktoren, die in der Funktionsweise der genannten Typen von Governance-Struktur in Bezug auf die Aufsätze präsent sind: die Kontroversität einer Norm (uV_1) (Details siehe den nächsten Abschnitt), die Reichweite der Politisierung (uV_2) und der Grad der Kontrolle (uV_3). Der erste Faktor, „der Grad der Kontroversität“, erfasst die Anerkennungsfähigkeit der globalen Norm im lokalen Kontext. Dieser Faktor spielt besonders im Governance-Typ „strittiger Austausch“ eine große Rolle aufgrund unterschiedlicher Wahrnehmungen von Akteuren zu der betroffenen Norm sowie ihren Abgrenzungsstrategien.¹¹ Der zweite Faktor betrifft die Reichweite der „Polarisierung“. Unter „Polarisierung“ versteht man die Forderung, dass ein Thema in der Sphäre der Politik behandelt werden soll (Zürn 2018, 139).¹² Polarisation kann jeweils auf Mikro-, Meso-, und Makro-Ebene geschehen, zwar durch Sensibilisierung von Individuen, Mobilisierung von Organisationen und öffentliche Debatten. Je nach Akteur-Typen und Grad der Kontroversität eines bestimmten Themas kann Polarisation beträchtliche Einflüsse auf die Leistungsfähigkeit von Governance nehmen und somit die Frage der Legitimität von Governance in den Vordergrund rücken. Als dritte Faktor ist der Grad der Kontrolle zu nennen, der im Prozess des Normwandels im Governance-Typ „Machtbestimmte Governance“ besonders ausgeprägt.

Diffusion und Fragmentierung als Formen des Normwandels

Wovon sind Relevanz und Funktionsweise einer Norm abhängig? In Anlehnung an Webers (1922) und Kelsens (1959) Definitionen, und auch aus Sicht der Liberalismus- und Konstruktivismus-Schulen in den IB sind es drei folgenden Dimensionen: 1) Grad der Bewusstheit (Gewohnheiten, Bräuche, Sitten, Recht/Gesetz; 2) Dimension der Gültigkeit (als Grundnorm für Regulation anderer Normen eines moralisch-religiösen Systems, für einzelne Gruppen/soziale Positionen, für Beziehungen zwischen einzelnen Gruppen, oder für die ganze Gesellschaft); 3) Grad der Verbindlichkeit (zwischen Kann, Soll und Muss). Je stärker die Ausprägung in diesen drei Dimensionen, desto höher ist die Wahrscheinlichkeit der Entstehung

¹¹ Roos und Zaun (2014, 45, 48-50) führen den Begriff „*robustness*“ ein, um die Rolle der Norm sowie ihre definitorische Spezifität bei der Implementierung einer Norm deutlich zu machen. Die vier Dimensionen von „*robustness*“ sind: (i) Spezifität der Definition; (ii) Bindungskraft; (iii) Kohärenz zwischen innenpolitischen Gesetzen und Völkerrecht; (iv) Konkordanz des Verständnisses zwischen Akteuren. Der Begriff bietet einerseits interessante Einsichten zur Frage der Norm-Eigenschaften sowie zur Entwicklung globaler Normen im lokalen Kontext. Allerdings ist die Nützlichkeit dieses Begriffs für die Erklärung der Normdiffusion umstritten. Erstens ist die Operationalisierung dieses Begriffs mit vier Dimensionen nicht unproblematisch, da sie unterschiedliche Paradigmen „in einem Topf“ einbringt. Zweitens kann der Begriff verwirren, da man ihn mit einer erklärenden Variable verwechseln kann. In der Summe bieten die ersten und vierten Dimensionen Anregungen für die Schilderung des Faktors „Kontroversität einer Norm“.

¹² Für die Definition des „Politischen“ verweist Zürn auf zwei Traditionen, die die Sphäre der Politik unterschiedlich konzipiert haben. Das Politische wird verstanden entweder als die Fähigkeit, kollektive verbindliche Entscheidungen zu treffen (Max Weber, Carl Schmitt, David Easton und Niklas Luhmann sind Verfechter dieser Linie). Oder es handelt sich dabei um öffentliche Debatten, in denen ein richtiger Kurs für die Sicherung des Gemeinwohls und Problemlösung gefunden werden soll. Colin Hay (2007, 79) versucht eine Verbindung zwischen den beiden Traditionen und bezeichnet die politische Sphäre als „*the realm of public choice*“. Zitiert nach Zürn 2018, 139.

und Befestigung eines regulativen Regimes. Jedoch kann ein Normwandel ausgelöst werden, wie Sandholtz (2008) argumentiert, wenn normative Systeme Spannungen erfahren in zwei nacheinander folgenden Situationen. Spannungen werden durch zwei Typen von Konflikten erzeugt: 1) Konflikte zwischen der Allgemeingültigkeit der Regeln und den spezifischen Erfahrungen bei der Normumsetzung; 2) Konflikte zwischen einzelnen Regelwerken. Infolge der solchen normativen Konflikte wird über die Bedeutung und Anwendung von Regeln gestritten. Somit ist der Prozess des normativen Wandels wie ein Zyklus, in dem Akteure Regeln mit Aktionen und Argumenten verknüpfen und umzugestalten versuchen (Sandholtz ebd.).

Solche Spannungen lassen sich in den Kontroversen um globale Normen im 21sten Jahrhundert beobachten. Sie sind virulent geworden. Das Verhältnis zwischen globalen und lokalen Normen, Elemente ganzer verschiedener Wertsysteme, auf die sich die Gruppen-Identität von Gemeinschaften stützt, ist komplex: Zum einen können lokale Normen globale Relevanz gewinnen, wenn sie breite Resonanz auf internationaler Ebene finden. Zum anderen können globale Normen unmittelbar mit lokalen Wertsystemen zusammenprallen. Unterschiedliche oder unvereinbare Weltanschauungen und Wertvorstellungen prägen das Verhältnis des Staats, der Gesellschaft und Individuen/Personen in einer gegebenen Sozialordnung, so dass die Einhaltung der lokalen Normen globale Normen verletzen kann.¹³ Das Konzept der „globalen Norm“ umfasst Ideen mit unterschiedlichen Graden an Abstraktion und Spezifikation in Form von fundamentalen Werten und Überzeugungen, organisierenden Prinzipien und standardisierten Verfahren (vgl. Wiener 2009). Ihre Funktion ist es, Kooperation zwischen Staaten sowie politisches Handeln und Regulierung auf innenpolitischer Ebene im Interesse der breiten internationalen Gemeinschaft zu lenken (Kratochwil 1989; Martinsson 2011; Jenks 2017). In der Lesart des Sozialkonstruktivismus versteht man eine Norm dann als global, wenn mindestens ein Drittel der Mitglieder der VN-Staatengemeinschaft das betroffene Abkommen ratifiziert und in ihre Gesetze übernommen hat (Finnemore und Sikkink 1998).¹⁴ Hier haben globale Normen zunächst einen verbindlichen vertragsrechtlichen Charakter (*treaty norms*), dessen Robustheit (*robustness*) erst bewiesen werden kann durch seine Institutionalisierung, die Aufnahme und Sozialisierung von Akteuren (Roos und Zaun 2014, 49-51). Insbesondere stuft die völkerrechtliche Literatur jene Normen als Gewohnheits- und *jus cogens*-Normen ein, die auf dem Konsens und der Praxis der Staaten basieren und oft einen *soft-law*-Charakter haben, also ohne verbindlichen Rechtsanspruchs-Charakter auskommen müssen (zu *Customary International Law (CIL)*) und *jus cogens*-Normen im Völkerrecht siehe Giba-Matthews 1996; Roberts 2001, 770; Beaulac 2006, 382-84; Petsche 2010). Beispiele für solche Normen sind das Verbot unmenschlicher Behandlung sowie das Verbot des Tötens.

¹³ Das Festhalten am Kastensystem in Indien z.B. mit einer Grundhaltung der Diskriminierung gegenüber dem untersten Kasten als „*the untouchables*“ z. B. steht im Gegensatz zu den globalen Normen „Gleichheit“ und „Menschenwürde“, die in internationalen Menschenrechtskonventionen fest verankert sind.

¹⁴ Dabei ist die Zahl „ein Drittel“ als solche pragmatisch gewählt.

Das internationale Gewohnheitsrecht gilt heute als wichtiges Referenzsystem für „richterliches Prüfungsrecht“ (*judicial review*) und Rechtsprechung.

Globale Normen haben ferner eine instrumentale Funktion: sie sollen die Rechte und Pflichten der Staaten regeln im Interesse des Gemeinwohls (Krasner 1983, 2; Sills 2002, 1; Giesen und van der Pijl 2006, 10; Jenks 2017). Dadurch entsteht nach Cohen (2012) ein globales Gatekeeper-System, das zur Erosion staatlicher Souveränität geführt hat. Erwartungen entstehen insbesondere gegenüber staatlichen Akteuren: Sie sollen sich bei ihrer Machtausübung angemessen verhalten und Verantwortung tragen für die Einhaltung globaler Normen im Rahmen der gemeinsamen Governance der Menschlichkeit (*governance of humanity*, siehe Franck 2000, 12; Jenks 2017, 4). Insofern haben globale Normen aus Sicht des Konstruktivismus sowohl identitätsstiftende Funktion als auch mittels der Überzeugungsarbeit (*persuasion*) eine präferenzbildende Funktion in der Entscheidungsfindung der Akteure (Finnemore und Sikkink 1998, 891; Katzenstein 1996, 29; Klotz 1995, 451). Sie haben das Verhalten von Staaten und internationalen Organisationen verändert. Sie reichen von Regulationen auf innenpolitischer Ebene wie Einführung des universellen Wahlrechts, Demokratie, Menschenrechte, arbeitsrechtliche Standards, Anti-Sklaverei-Gesetze bis hin zum Gewaltverbot, Monitoring bei nationalen Wahlen und Artenschutz auf internationaler Ebene.

Im Zuge der Evolution von Governance mit ihren verschiedenen Typen ist anzunehmen, dass die normativen Konflikte in einer veränderten post-liberalen Weltgemeinschaft mit konkurrierenden Normsystemen zunehmen können. Galten globale Normen wie Demokratie, Rechtsstaatlichkeit und Menschenrechte lange als ein unanfechtbares internationales Normsystem, so werden ihre Relevanz und Umsetzungsmöglichkeit im translokalen Raum durch die Begegnungen mit verschiedenen lokalen Rechtssystemen, wie die Studien von Normforschungen belegt haben, häufiger hinterfragt. Die dadurch entstehende plurale Tendenz zur Normumsetzung und diversen Governance-Praktiken enthält dennoch Chancen für Reflektionen über mögliche institutionelle Reformen (Details siehe den nächsten Abschnitt). Hier gilt das Augenmerk zwei Erscheinungsformen des Normwandels – Diffusion und Fragmentierung, die **Teil III** in einigen Fällen aus einer translokalen Perspektive erläutert.

Erstens wird **das Phänomen der Normdiffusion** als Ergebnis von Prozessen der Institutionalisierung, Sozialisierung und Verinnerlichung und auch als Prozess einer dauernden Anpassung oder aber, gegenläufig, der Kontestation betrachtet. Die Synopse der Aufsätze im **Teil III** wird verdeutlichen, dass die Normdiffusion in den betrachteten Fällen ein höchst gemischtes Bild aufweist. Auf einer Seite stellt sich die Normdiffusion als ein dynamischer Prozess dar, getrieben von politischen und wirtschaftlichen Kalkulationen und innovativen Ansätzen, die Konvergenz globaler Normen begünstigt haben (z. B. im Umweltregime). Auf einer anderen Seite stößt die Normdiffusion oft an den kulturellen und institutionellen Grenzen, die eine Annäherung zwischen globalen Normen und lokalen Auffassung erschweren (z. B. Friedensmission und Entwicklungszusammenarbeit in Westafrika/Mali sowie Gerechtigkeitspolitik in Ostasien). Zwei Gründe lassen sich identifizieren beim Auslösen der

normativen Konflikte gegenüber einer globalen Norm. Ein erster Grund liegt in den Eigenschaften einer Norm, die einen „*Twilight*“-Charakter hat mit einer Mischung von moralischer und wertneutraler Qualität. Es sind verschiedenartige Normen, die entweder neutral verfahrensmäßige, inspirierende sind, oder regulative, moralistische und konstitutive. Wenn eine globale Norm die Gruppen-Norm im lokalen Kontext herausfordert, löst dies oft heftige Gegen-Reaktionen aus. Treibende Kraft ist häufig der Wunsch, die eigene Identität bzw. Kultur zu bewahren. Zum Beispiel fordern Normen wie Demokratie oder Frauenrechte die kulturelle Identität und das Wertesystem einer lokalen Gemeinschaft mit einer patriotischen, autoritären oder patriarchalischen Kultur heraus. Die Selbst-Identifikation der betroffenen Gemeinschaft steht somit in Frage. Ein weiterer Grund für das Auslösen der Kontroversität liegt an den Abgrenzungsstrategien von Akteuren. Für die Erklärung dieser Abgrenzungspolitik eignet sich der Ansatz der „*social identity theory*“ (SIT).¹⁵ Der Ansatz nimmt an, dass diese Sehnsucht nach Rechtfertigung der Zugehörigkeit (*belongingness*) einer Gruppe die Individuen motiviert, Gruppen-Normen einzuhalten. Dadurch wird die spezifische Identität einer Gruppe erzeugt und Anerkennung und Respekt gegenüber dem anderen werden maximiert.¹⁶ Die Verinnerlichung als Ausdruck der Eigenschaft eines Individuums begünstigt Abwehr-Reaktionen: Widerstand wird geleistet gegen jeglichen externen Einfluss bzw. Diffusion globaler Normen, unabhängig von den Reaktionen Dritter, solange die Perzeption der Gefahr einer Dissolution der sozialen Verbundenheit besteht. Im Fall eines hohen Grads an Kontroversität kann die Normdiffusion mit einer „Polarisierung“ rechnen, in der eine soziale Gruppe eine kollektive Position einnimmt, die stärker ist als die durchschnittliche Position von Individuen dieser Gruppe (Symons und Altman 2015, 71). Insofern hilft der SIT-Ansatz, die Einordnung der Zugehörigkeit, die Verbindung mit gleichgesinnten Individuen und Akteuren auf verschiedenen Ebenen sowie die Entwicklung der Abgrenzungsstrategie bei der Rezeption globaler Normen zu erklären. Die verschiedenen Reaktionen bei der Norm-Rezeption wirken auf Dauer auch auf die Entwicklung öffentlicher Meinung, die die politische Entscheidung zur Norm-Übernahme oder Norm-Ablehnung beeinflussen kann (Symons und Altman 2015, 72).

Als zweite Erscheinungsform des Normwandels ist **normative Fragmentierung** zu nennen. Der Aufstieg der nicht-demokratischen Schwellenländer mit ihren autoritären Narrativen sowie der Bedeutungszuwachs lokaler und transnationaler Akteure in diversen informellen und formellen Governance-Praktiken haben diesen Prozess neben der Normdiffusion be-

¹⁵ Die SIT beschreibt Mechanismen, mit denen Individuen ihre positive soziale Identität pflegen und verbinden diese mit dem internen identitätsstiftenden Prozess einer Gruppe oder einer Gemeinschaft. Somit postuliert der SIT-Ansatz eine universelle Sehnsucht nach dem Erhalt einer Mitgliedschaft in angesehenen sozialen Gruppierungen. Siehe Tajfel 1978; Turner und Giles 1981; Turner 1987, 37-41; Crocker und Ria 1990; Straub et al. 2002.

¹⁶ Ein fortgeschrittener Prozess sozialer Identifikation ist erreicht, wenn die Internalisierung einer Norm als Teil der persönlichen Merkmale einzustufen ist. John Turner (1982) bezeichnet dies als *Referent Information Influence* (RII).

günstigt, indem globale Normen wie Demokratie, Nachhaltigkeit, Strafgerechtigkeit zunehmend pluralistisch, aber kontrovers interpretiert oder gar verzerrt instrumentalisiert werden können. Die Implikationen einer solchen Tendenz zur Normfragmentierung für das GG-System und die GG-Forschung sind zunächst zwiespältig. Auf einer Seite wird z. B. in der Demokratie-Forschung dafür plädiert, dass im Vergleich zu *“electoral democracy”* das Konzept der *“embedded democracy”* bevorzugt wird, welche fünf interdependenten Systeme beinhaltet als wesentliche Elemente einer konsolidierten Demokratie, nämlich, Wahlsystem, politische Rechte, bürgerliche Rechte, horizontale Verantwortung und effektive Governance (Merkel 2004, 33ff).¹⁷ Anders als andere globale Normen besitzt Demokratie-Norm eine besondere Eigenschaft, die sowohl eine normative als auch eine operative Dimension umfasst. Für Merkel vertritt Demokratie besonders ein Wertsystem, das offen und pluralistisch für den Schutz der Grundrechte ihrer Bürger steht. Sie verkörpert ein institutionalisiertes organisiertes politisches Leben, indem die Vertretung bürgerlicher Anliegen durch die Gewaltenteilung garantiert werden muss.¹⁸ Die Diffusion der Norm „Demokratie“ unter dem Banner der *“4. Welle der Demokratisierung”* besteht zunächst aus der Einführung eines Wahlsystems und des Aufbaus von Institutionen wie einem unabhängigen Justizsystem (Polillo und Guillén 2005; Krook 2007). Im Laufe der Zeit haben einige Studien jedoch gezeigt, wie Diffusion von Demokratie stattfindet, beispielweise in der Form der Erneuerung der Verfassung oder in der Form einer schrittweisen Reform durch Autokraten, die innenpolitische Gegner besänftigen sollen (Weyland 2010; Elkins 2010; Gilardi 2012). In diesem Fall wird die Demokratie-Norm oft verzerrt und instrumentalisiert als Vorhang zur Legitimation der herrschenden Klasse. Erfahrungsgemäß bahnt solche Entwicklung für die Entstehung verschiedener Sub-Typen von Demokratien an wie illiberale und hybride Demokratie. Ein weiteres Beispiel für Normfragmentierung findet man beim Verständnis von *“Kriminalität”* in der globalen Bekämpfung gegen organisierte Kriminalität. Infolgedessen – und entgegen der Annahme vieler Wissenschaftler – ist die globale Kriminalitäts-Governance laut Jakobi (2013) in jenen Bereichen am wirksamsten, die am wenigsten an normative Spannungen gebunden sind. Auf einer anderen Seite beobachtet man, wie die Verbreitung normativer Fragmentierung der Konzipierung einer globalen Rechtsordnung neue Impulse verleihen kann. So zeigen Canfield et al. (2021) in ihrer Studie zum transnationalen Recht, wie transnationale Akteure die Natur und Autorität des Rechts in der heutigen globalisierten Welt verändern. Die daraus entstehende Normfragmentierung wird z. B. mit der Einführung neuer Konzepte wie translokale Legalitäten (*translocal legalities*) erklärt.

¹⁷ Das Entscheidende der „Demokratie“ als einem Typ eines politischen Systems im Gegensatz zu totalitären und autoritären Regimen ist laut Robert Dahls *„Polyarchy“* (1971, 1) *„the continuing responsiveness of the government to the preferences of its citizens, considered as political equals“*. Für Bürger bedeutet diese grundlegende Anforderung uneingeschränkte Möglichkeiten, ihre Präferenzen durch regelmäßige Wahlen ohne Diskriminierung in den politischen Prozess einfließen zu lassen. Jedoch ist für Wolfgang Merkel (2004) Demokratie als eine solche – *“electoral democracy”* – zu einfach gedacht.

¹⁸ Aus Sicht der Theorie der relativen Normativität bei Dworkin (1986) lassen sich die ersten und fünften partiellen Regime von Merkel als *“legal rules”* einordnen, die sich von politischen und bürgerlichen Rechten und politischer Verantwortlichkeit als *“legal principles”* unterscheiden.

Institutioneller Wandel

Als dritter Aspekt der Evolution von Global Governance vor dem Hintergrund der Pluralisierungstendenz zur Normumsetzung sollen die Lern- und Anpassungsfähigkeit sowie die daraus resultierenden möglichen Veränderungen von politischen und sozialen Institutionen aus einer translokalen Perspektive näher beleuchtet werden. Dank der breiten Anerkennung und Verrechtlichung globaler Normen in der inneren Rechtsordnung ihrer Mitgliedstaaten haben internationalen Organisationen wie die VN, finanzielle, handels- und entwicklungspolitische Institutionen (nämlich, Weltbank (WB), Internationaler Währungsfonds (IWF) und Welthandelsorganisation (WTO)) und internationale Regimes wie Menschenrechts- und Umweltregime als Teil des GG-Systems seit dem Ende des Ost-West-Konfliktes an Bedeutung gewonnen. Sie haben ihre institutionellen Aufgaben zu erfüllen, in denen die Kooperation zwischen Staaten und die Sozialisierung von Mitgliedstaaten zur Einhaltung völkerrechtlich verankerter Normen für die Sicherung des Friedens und zum Schutz der Menschenrechte durch institutionalisierte Mechanismen wie Monitoring, informelle *persuasion*- und Peer-Druck-Methoden gefördert werden. Allerdings gerät die institutionelle Arbeit von IOs zunehmend unter Druck nicht nur durch das Entstehen vielfältiger transformativer Innovationen sowohl in lokal verwurzelten Initiativen als auch in translokalen informellen Netzwerken und Allianzen. Es handelt sich dabei um gemeinsame Ideen, Aktivitäten und Zielvorgaben, die von einer Vielzahl von öffentlichen und privaten Akteuren (darunter besonders lokalen Stakeholdern) de-zentral ins Leben gerufen und koordiniert werden. Sie sind somit translokal: lokal verwurzelt und global vernetzt. Sie bieten gleichzeitig neue Chancen für die bestehenden Regimes, mit Hilfe von Partizipation und Deliberation bessere Strategien für die Bewältigung institutioneller Hürde zu entwickeln als Beitrag zur Erreichung der Nachhaltigkeitsziele, die auf kontextsensiblen und nachhaltigen lokalen Ökonomien basieren (Loorbach et al. 2020; Kok et al. 2022).¹⁹ Auch werden die IOs oft zur Zielscheibe der Politisierung, wenn sie bei der Erfüllung ihrer Aufgaben von Mitgliedstaaten als strittig wahrgenommen oder missachtet werden. Fragen der Stabilität, Funktionalität und Legitimität in ihren alltäglichen Governance-Praktiken drängen zunehmend in die öffentlichen Debatten.

Zur Erklärung des institutionellen Wandels im komplexen GG-System mit der Verbreitung der privaten partizipativen Governance-Praktiken im translokalen Kontext, wie es oben gezeigt wird, werden neben den bekannten **institutionell-konstruktivistischen Ansätzen** besonders der Aspekt der **institutionellen Diffusion** in vier Phasen – Selektion von Ideen, Lernen, Adoption und Anpassung thematisiert (vgl. Schleifer 2014; Hasenkamp 2020).²⁰ Aus

¹⁹ Als Beispiel zeigt sich die Durchführung des FIT4FOOD2030-Programm (2017-2020), das in mehreren Standorten 24 Übergangs-Experimente eingeführt ist zur Förderung der Nachhaltigkeit. Siehe Kok et al. 2022.

Sicht der institutionell-konstruktivistischer Ansätze gepaart mit der Perspektive der Legitimitäts- und Vertrauens-basierten Governance findet ein institutioneller Wandel statt entweder ausgelöst allein durch einen der folgenden Faktoren oder durch das Zusammenwirken dieser Faktoren: wirtschaftliche, gesellschaftspolitische, politische, historische und legitimitäts- und vertrauensbasierte Governance. Hinsichtlich der institutionellen Diffusion werden anhand vier Phasen folgende Fragen gestellt: Woher kommen die Ideen für neue institutionelle Designs? Welche Lehre kann man daraus ziehen von den Praktiken anderer Institutionen? Welche Adoptionsmuster (z. B. Verhandlungs- und Machtverteilungs-Muster) lassen sich beobachten? Wie reagiert eine Institution auf eine Krise? Ist sie robust und handlungsfähig? Das Ergebnis einer transnationalen partizipativen Governance im Bereich der nachhaltigen Ökonomie hat deutlich gezeigt, dass Vorbild von Netzwerken und geographischer Nähe eine wichtige Rolle gespielt haben im Prozess institutioneller Diffusion. Insbesondere wird hervorgehoben, dass je inklusiver eine institutionelle Diffusion ist, desto stärker ist die politische Autorität der institutionellen Designer, da sie dadurch legitime Entscheidungsbefugnis in diesen Arenen erlangen können (Schleifer 2014).

Policy-Lernen aus Ko-Evolutions-Perspektive

Ein Vorteil der koevolutionären Perspektiven auf Governance liegt darin, dass sie den Blick auf neue Mechanismen des Lernens und der Transformation lenkt, um Governance-Konfigurationen als erweiterte Netzwerke kohärent und holistisch betrachten zu können (vgl. van Assche et al. 2021). Hier wird Lernen nicht als Wissensvermittlung von einem Ort zum anderen Orten verstanden. Stattdessen ist Lernen ein kontingenter und relationaler Prozess: Es handelt sich um den Erfahrungsaustausch, bei dem man sich gemeinsam weiterentwickelt. Im Fokus stehen einige Lernformen auf der individuellen und Mikro-Ebene, welche sonst im Schatten der bekannten Lernformate standen - wie Innovation und Policy Diffusion, Lernende Organisation und Knowledge Transfer. Daher wurden sie lange kaum systematisch erfasst.

Es lassen sich Typen des Lernens unterscheiden: 1) Lernen durch Vergleich; 2) Lernen durch Nachahmung; 3) Lernen durch Reflektion über die Vergangenheit und Gegenwart; 4) Lernen durch die Wissensvermittlung von Experten; 5) Lernen durch Experimentieren; 6) Lernen durch dialektische Übungen. Für die Unterstützung der Argumente in diesem Rahmenpapier sind die Lernformen 2, 4 und 5 näher zu beschreiben.

Der Lern-Typ Nachahmung ähnelt dem der institutionellen Diffusion; hier können Entscheidungsträger unter Druck die Lösung eines anderen kopieren. Es handelt sich oft um eine „begrenzte Emulation“. Eine solche Nachahmung findet sich insbesondere in Krisen-Zeiten, bei denen die Art der politischen Probleme und der Wissensproduktion unbekannt sind. Unter solchen Bedingungen können Entscheidungen von der Wahrnehmung der „politischen Dringlichkeit“ (*policy urgency*) und anderer Faktoren bestimmt werden, die gesellschaftliche Kosten verursachen, einschließlich der Erosion des gegenseitigen Vertrauens zwischen poli-

tischen Entscheidungsträgern und der Öffentlichkeit (Hasenkamp 2024). **Beim Policy-Learning durch Wissensvermittlung von Experten** existiert eine Informationsasymmetrie, in der Experten als Lehrer und Moderator Entscheidungsträgern und der Öffentlichkeit gegenüberstehen. Sie helfen Entscheidungsträgern, Unsicherheit zu reduzieren und Entscheidungen zu legitimieren (Rowe and Shepherd 2002 zitiert in Dunlop and Radaelli 2013). In Governance-Systemen werden Experten um einflussreiche Positionen konkurrieren, welche die Lernmuster prägen. Die Dominanz bestimmter Experten und ihr Fachwissen können auch das Lernen behindern, weil Experten Alternativen und unterschiedliche Denk- und Argumentationsweisen an den Rand drängen können (vgl. Van Assche et al. 2021). Schließlich versteht man **Lernen durch Experimentieren** so, dass Lernen durch Ausprobieren geschieht. Es ist zeitlich und räumlich begrenzt und gebunden an Organisationsstruktur und Ressourcen (Huitema et al., 2018; Nair & Howlett, 2016, zitiert in Assche et al. 2021). Ziel ist es, Lehren aus dem Experiment zu ziehen, obgleich ein solches Experiment oft mit Risiken verbunden ist.

3. Synopse der Habilitation unter dem Aspekt unterschiedlicher Governance-Bedingungen²⁰

Vorgehensweise

Einfluss auf die Aussagen des Rahmenpapiers hat die Wahl der hier betrachteten Untersuchungseinheiten, die unterschiedliche Governance-Strukturen aufweisen, und die Wahl der betrachteten Normen. Im Fokus stehen die Normen Demokratie, Rechtsstaatlichkeit und Transparenz im Kampf gegen Korruption, Menschenrechte (Frauenrechte/Selbst-Bestimmungsrecht auf ihre Körper, Rechte auf Wasser, Entwicklung und Gesundheit), Strafgerechtigkeit, und Nachhaltigkeit. Hinzu kommen Normen wie territoriale Integrität und Grenzen zwischen Staaten, die auf den ersten Blick als völkerrechtliches anerkanntes Prinzip gelten. Ihre Lesart wird je nach Perspektive von lokalen und translokalen Akteuren unterschiedlich interpretiert. Die Wahl der für diese Betrachtung verfügbaren Untersuchungseinheiten wird durch deren kulturelle und sozioökonomische Kontexte und ihre Governance-Struktur Wirkung ausüben. Die Governance-Strukturen entsprechen im Fall China und Japans dem Typ der machtbestimmten Governance, im Fall Mali dem Typ der pluralen Governance und schließlich im Fall der europäischen Länder (Deutschland, Großbritannien und Schweden) dem Typ der Bound Governance. Hinzu kommen die andere Regierungsform und ökonomische Struktur. Eine wiederum andere Governance-Struktur zeichnet die Regimes für Gesundheit und Klima aus, nämlich der Typ „integrierte Aufgaben- und Problem-Lösung“. Dieser Typ von Struktur wird unzureichend von der existierenden Normforschung berücksichtigt in seinem Beitrag für die Verbreitung globaler Normen im lokalen Kontext.

²⁰ Die verwendeten Literatur-Hinweise in diesem Teil sind meistens in den jeweiligen Aufsätzen zu finden.

Die Länder sind in den Regionen Asien, Europa und Westafrika verteilt; sie unterscheiden sich kulturell. Zwei der Länder stammen aus Ostasien, nämlich China und Japan. Das buddhistisch-konfuzianisch- taoistische China differiert von Japan, das zwar ebenfalls buddhistisch-konfuzianische Elemente aufweist, aber stark vom Shintoismus geprägt ist.

Für die Analyse der Normlokalisierung benutzt das Rahmenpapier die Prozessanalyse (*process-tracing*). Die Prozessanalyse beabsichtigt, die Funktion möglicher (kausaler) Mechanismen sowie mögliche konstitutive Beziehungen zwischen den unabhängigen Variablen zu entdecken, die für die Evolution von Governance und den Normwandel auf translokaler Ebene (beide als abhängige Variable) verantwortlich sind.¹⁹ Je nach Ansatz wird die Synopse präsentiert anhand der wichtigen Aspekte von Forschungsergebnissen. Hierfür kommt ein heuristischer Rahmen mit zwei konzeptuellen Ebenen zum Einsatz. Die erste Ebene fragt nach Zusammenhängen und spürt im Prozess auf, wie Normeigenschaften zu Situationsdefinitionen der lokalen Akteure führen, die aber durch Governance-Leistungen beeinflusst werden können. Die geänderten Definitionen von Handlungsoptionen und Präferenzen verändern das Verhalten der Individuen, deren Verhalten sich an transnationalen gleichgesinnten Akteuren orientiert, dann aggregiert betrachtet werden muss, also als soziales Phänomen. Auf der zweiten Ebene wird die Rolle der Norm- und Governance-Variablen in diesem Prozess geprüft, etwa „Kontroversität“, „Politisierung“ und „Kontrolle“ und weiterer Faktoren.

Übersicht der kumulativen Habilitation

Die insgesamt zwölf Publikationen umfassen drei Journal-Artikel, neun Beiträge für Sammelbände und zwei Publikationen mit Beteiligung anderer Autoren.

Nr.	Titel	Status/Ort der Veröffentlichung	Review	Wortzahl
1	The prospect of democracy in China. One-man leadership and institutional change	Autorin und Herausgeberin, Veröffentlicht, Kapitel eines Sammelbands, London: I.B. Tauris, 2020 , S. 11-40	Blind Peer reviewed	15044
2	China's autocracy, global democracy, and their limits in an age of uncertainty	Autorin und Herausgeberin, Veröffentlicht, Kapitel eines Sammelbands, London: I.B. Tauris, 2020 , S. 201-215	Blind Peer reviewed	7460
3	Realizing the Chinese Dream beyond China. A prospect connecting the domestic dimension with the international one	Autorin und Herausgeberin, Veröffentlicht, Kapitel eines Sammelbands, London: I.B. Tauris, 2020 , S. 120-124	Blind Peer reviewed	2205

Nr.	Titel	Status/Ort der Veröffentlichung	Review	Wortzahl
4	Eliminating and raising tigers and flies. The paradox of China's anti-corruption campaign	Autorin und Herausgeberin, Veröffentlicht, Kapitel eines Sammelbands, London: I.B. Tauris, 2020 ; S. 77-100	Blind Peer reviewed	11809
5	Renegotiating the city: refugee resettlement between surveillance, austerity, and activism in German urban communities	Veröffentlicht, Journal Artikel/Special Issue, Globalizations , 2024 , 21:2, 226-252, DOI: 10.1080/14747731.2021.1977459	Blind Peer reviewed	12327
6	Menschenrechte und nachhaltige Entwicklung in der Politik des Klimawandels - überlappende Dimensionen, neue Ansätze und ihre Implikationen	Veröffentlicht, Autorin und Herausgeberin, Kapitel eines Sammelbands, Münster: Lit Verlag, 2017 , S. 39-67		10869
7	Rethinking Human-Nature Relationships: Daoism's Contribution to Transcultural Sociotechnical Imaginaries	Ko-Autorin mit Zhanli Sun; Veröffentlicht; Journal Artikel/Special Issue, The Professional Geographer , 2023 , 75:2, 269-277, DOI: 10.1080/00330124.2022.2075404	Blind Peer reviewed: Initial submission, April 2021; revised submissions, October 2021, and April 2022; final acceptance, April 2022	5657
8	Bridging Ethics and Cross-Border Reproduction Technology Through Transnational Health Governance?	Veröffentlicht, Journal Artikel, Journal of Business Diversity 2020 , Vol. 20(4): 126-144	Peer reviewed	12095
9	Do Peace Missions in Africa Matter?	Co-Autorin mit Stacey M. Mitchell, Akzeptiert, Kapitel eines Sammelbands, London: Routledge, 2025 , S. 131-148	Peer reviewed; Im finalen redaktionellen Prozess (Stand: Jan. 2025)	7888
10.	The Power of Regional Peripheries: The Making	Akzeptiert, Kapitel eines Sammelbands, London: Routledge, 2025 , S. 239-256	Peer reviewed;	8053

Nr.	Titel	Status/Ort der Veröffentlichung	Review	Wortzahl
	and Unmaking of Legalization of Human Rights in Mali		Im finalen redaktionellen Prozess (Stand: Jan. 2025)	
11	Transitional Justice in Ostasien: Die Suche nach Gerechtigkeit aus globaler und lokaler Perspektive	Veröffentlicht, Kapitel eines Sammelbands, Wiesbaden: Springer VS-Verlag, 2018 , S. 495-522	Peer reviewed	11605
12	Governing uncertainty during the COVID-19 pandemic. Change in science-policy interfaces and gender-specific effects in Europe	Veröffentlicht, Kapitel eines Sammelbands, London: Routledge, 2024 , S. 117-135	Peer reviewed	8931
			Gesamt	113.943

Governance zwischen Hierarchie, Trägheit und Austausch

Die Funktionsweise verschiedener Governance-Strukturen zeigt in einigen der hier betrachteten Felder häufig einen hohen Grad des Zusammenwirkens von Kontroversität der Normen, themen-übergreifender Politisierung und verstärkter staatlicher Kontrolle. Dies könnte entweder die Legitimität, Organisations- und Leistungsfähigkeit der in Betrachtung gezogenen Governance-Formen beeinträchtigen und somit den Wechsel zu einem anderen Governance-Typ begünstigen (wie im Fall der multinationalen Friedenssicherungsmissionen und der Profilierung regionaler informeller Governance in Mali zeigt). Oder die Entwicklung von Governance könnte völlig auf eine stärker vertikale Richtung zulaufen, etwa in Form der machtbestimmten Governance, deren Kontroll-Mechanismen gerade in unsicheren Zeiten im Namen der Sicherung der Stabilität und zur Gewährleistung nationaler Identität verstärkt eingesetzt werden.

Globale Bekämpfung von Terror zwischen Integrierter Problem-Lösung-Governance und Hybrider Governance – Lehren aus Mali

Die globale Bekämpfung von Terror gelangte nach den 911-Terror-Anschlägen auf die Agenda globaler Sicherheit. Die USA schmiedete Koalitionen. Eng verbunden mit Migration und Menschenrechten sind zahlreiche militärische und entwicklungspolitische Programme und Initiativen eingeführt worden sowohl in den VN-Foren und als auch in wichtigen Geber-

Organisationen und -Ländern. Allerdings sind in den Augen vieler Kritiker solche Bemühungen in der Form einer integrierten Problem-Lösung-Governance trotz breiten Engagements gescheitert. Als Grund wird angeführt, dass sie verengt Sicherheitsinteressen des Westens bedient hätten, aber lokale Belange unzureichend berücksichtigt hätten. Von Afghanistan und Syrien bis Mali liefern Interventionen bittere Lehren. Westliches Engagement schmolz dort nach teils jahrzehntelangen Friedensmissionen und Nation-Building-Bemühungen zusammen und wird nun ersetzt von Formen der regionalen und translokalen hybriden Governance.

Die Buchkapitel **“Do Peace Missions in Africa Matter?” (T9)** und **“The Power of Regional Peripheries” (T10)** zeigen, wie Mali - einst Lieblingskind der internationalen Geber-Gemeinschaft – Schritt für Schritt in hybride Governance-Praktiken mit wachsender Unsicherheit geraten ist zwischen dem Machstreben seines Militärregimes, *ad hoc*-Allianzen und Konkurrenz unter verschiedenen Islamist-Gruppen mit ihren transnationalen Agenden und lokalen Konflikten um Ressourcen zwischen ethnischen Communities. Mali bleibt hinter der Fassade des Sicherheits- und Entwicklungsengagements internationaler Akteure ein schwacher Staat, gefangen im sogenannten Fragilitätsdilemma. Trotz neuer regionaler Initiativen mit Nachbar-Ländern (Burkina Faso, Niger und Mauretanien) ist es nach wie vor abhängig von externer Hilfe und militärischer Unterstützung. Selbst unter der neuen Patronage durch die Russische Föderation seit Dezember 2023 hat sich die Situation kaum geändert. Seine Aufnahmefähigkeit zur Bewältigung der vielschichtigen Herausforderungen in den Sicherheit-Entwicklung-Migration-Klima Zusammenhängen ist begrenzt, denn Mali sieht sich ausgesetzt in der Dynamik eines sich verändernden Prozesses, indem seine fragilen politischen, sozio-ökonomischen, und rechtliche Rahmenbedingungen ein Nährboden geworden sind für mehrere konkurrierende regionale Vorstellungen in einer „größeren Sahelzone“ mit seinen Nachbarländern (insbesondere Algerien, Senegal, Nigeria, Burkina Faso, Niger und Mauretanien) und der Tschadseeregion. Dort sind neue Formen des Regierens als hybride Governance zu bezeichnen, herbeigeführt von der (Dys-)Funktionalität der staatlichen (Un-)Ordnung, wobei die grenzüberschreitenden Praktiken von verschiedenen Akteuren und informeller Institutionen die verschwommene politische Realität der Region stark geprägt haben.

Malis Governance-Struktur kann in vier Analyse-Einheiten erfasst werden: 1) das Politik-Schema von externen Akteuren und deren neoliberale Ideologie; 2) die Zentralregierung und ihr Verhältnis zu lokalen Anführer und Islamisten; 3) die Regulierungsaufgaben der translokalen Märkte, die von traditionellen grenzüberschreitenden Handelsrouten bestimmt sind; sowie 4) die sozialen und ethnischen Gruppen und die Einzelnen, welche um ihre Existenzgrundlage (z. B. Zugang zu Wasser) kämpfen müssen (vgl. Goodhand und Sedra 2010; Dodge 2013, 1189). Entscheidend für die Funktion der Governance-Struktur in Mali sind Verhandlungen zwischen internationalen Akteuren, Malis politischen Eliten (Zentralregierung und lokale Stämme), konkurrierende transnationalen Islamisten und der lokalen Bevölkerung. Das Funktionieren dieser hybriden Governance ist in zweifacher Hinsicht fragil,

bedingt durch die strukturellen Schwächen der zentralen Regierung. Zum einen haben lokale ethnische Einheiten traditionell Autonomie und betonen ihren Machtanspruch gegenüber der Zentralregierung. Zum anderen ist die Zentralregierung infolge der westlichen militärischen Intervention als Teil des globalen Anti-Terror-Kampf angewiesen auf Unterstützung der Geber-Länder. Die Regierung unterliegt nicht selten der neoliberalen Ideologie für die Herstellung der Sicherheitslage und Durchführung entwicklungspolitischer Aufträge. Unsere Analyse unterstreicht daher die Wichtigkeit einer Bottom-up-Strategie für Friedenssicherung, die sensibel ist für lokale und vergleichende Ansätze (z. B. die Einbeziehung von vielfältigen und konkurrierenden diskursiven Praktiken der Repräsentation und des lokalen Wissens von Konfliktlösungsmethoden).

Politik des Klimawandels und Nachhaltigkeits-Governance: Konvergenz zwischen Menschenrechten und Nachhaltigkeit

Mit Hilfe eines kritischen diskursiven und deliberativen Governance-Ansatzes erhellt der Beitrag „Menschenrechte und nachhaltige Entwicklung in der Politik des Klimawandels – überlappende Dimensionen, neue Ansätze und ihre Implikationen“ **(T6)** Verbindungen zwischen einigen globalen Normen. Es handelt sich dabei um die Integration globaler Normen wie wirtschaftliche Rechte, das Recht auf Gesundheit und das Recht auf Entwicklung in die Klima-Governance zur Wahrung des globalen Gemeinwohls. Dort lassen sich die Governance-Praktiken zwischen dem Typ „Aushandeln und Argumentieren“ und dem Typ „Bound Governance“ bezeichnen. Die Beispiele der Risiken- und Vulnerabilitätsanalyse im Bereich „*global health*“ und der Analyse der REDD+Mitigations-Maßnahmen (*Reducing Emissions from Deforestation and Degrading Forest and Conservation of Forest Carbon Stocks, Sustainable Management of Forests and Enhancement of Forest Carbon Stocks*) in Entwicklungsländern verdeutlichen, dass eine Verknüpfung von Maßnahmen zu Folgen des Klimawandels und Gesundheitswesens sowie internationale Kooperation zugunsten des Ausbaus eines CO₂-Handelssystems und innovativer Investitionen ökonomische und ökologische Nachhaltigkeit fördern können. Dadurch entsteht im Klima-Regime eine Art der Policy-Fusion mit innovativen Ansätzen – zugunsten des Schutzes wirtschaftlicher Rechte sowie der Rechte auf Gesundheit und auf Entwicklung. Zu diesen Policy-Ansätzen gehören z. B. neue Formen der Governance-Praktiken zur Förderung nachhaltiger Entwicklung und Menschenrechte in vielen translokalen Übergangs-Governance (siehe Loorbach et al. 2020; Kok et al. 2022) sowie die Aufwertung indigenen Wissens zur Förderung des Selbst-Bestimmungsrechts lokaler Akteure.

Transnationale Gesundheits-Governance als Vorbild zur Sicherung des Selbst-Bestimmungsrechts von Frauen

Die Reproduktion als Teil der Gesundheits- und Familienpolitik hat in den letzten Jahrzehnten eine beispiellose Dynamik erlebt, da sie als Ort der Biopolitik und technologischen Innovation oft von Paradoxien und anhaltenden Spannungen begleitet wurde. Wissenschaftlerinnen und Wissenschaftler sind sich einig, dass die Narrative zur Frage der Reproduktion unabhängig von anti- oder pro-Geburtenraten-bezogenen Maßnahmen unterschiedliche biopolitische Rationalitäten beinhalten, die vom frühen Neo-Malthusianismus, verflochten mit Strategien der (nationalistischen) sozioökonomischen Entwicklung, über feministischen Aktivismus bis hin zu Vermarktung und Regulierung reichen.

Im Journal-Artikel "Bridging Ethics and Cross-Border Reproduction Technology Through Transnational Health Governance?" (T 8) fragt sich die Autorin, ob Reproduktionsfragen in der heutigen globalisierten High-Tech-Welt angesichts der vielfältigen Kontroversen, ethischen Spannungen, politischen Paradoxien und Ambivalenzen anders angegangen werden können. Anstatt individualisierte, fragmentierte Reproduktionsakte zu betrachten, ermutigt dieser Beitrag dazu, die Natur, Logik und den Zweck der Reproduktion im Hinblick auf ihre Assemblagen, Veränderungen, Vielfältigkeiten, Materialitäten und Prozesse neu zu kartieren (Deleuze und Guattaris *A Thousand Plateaus*, 1987, zitiert in Hasenkamp 2020; Taylor und Ivinson, 2013, zitiert in Hasenkamp 2020). Dabei hebt die Autorin das Potential eines transnationalen Gesundheits-Governance-Rahmens hervor, der eine Neugestaltung der onto-epistemologischen Argumentation bietet. Er deckt Dinge auf und schärft unseren Blick, wie Formen der Wissensproduktion und -darstellung „heimsuchen“ (z. B. die Objektivierung unfruchtbarer Eltern und Leihmütter; Streichung weiblicher Entscheidungsfreiheit usw.) und das Bewusstsein für die Normalisierung des biopolitischen Automatismus Teil unserer Denkweise geworden ist, dem menschliche Personen und die Gesellschaft unterliegen. Vor allem können folgende Ideen den Aufbau einer transnationalen Governance im Bereich Globale Gesundheit als Wegweiser dienen: 1) die Idee der Freiheit, die mit „Natalität“ verflochten und in Arendts politischer Ontologie zu finden ist (*The Human Condition 1998*, zitiert in Diprose und Ziarek 2018); 2) Emmanuel Levinas Vorstellung von Verantwortung gegenüber „dem Anderen“; 3) Derwalls Reflexion über „Respekt“ (1977), und die Neudefinition von Persönlichkeit und Gesellschaftsvertrag. Sie sollen den Gesellschaften helfen, mit ethischem Pluralismus kritisch auseinanderzusetzen und unverantwortliche Praktiken zu unterlassen.

Volatilität der Governance-Praktiken in unsicheren Zeiten – Pandemie-Politik in Europa und ihre Folgen

In unsicheren Zeiten kann die Funktionsweise eines Governance-Typs zu einem anderen Governance-Typ übergehen, selbst wenn diese Veränderung eine kurze Lebensdauer hat. **Das Ergebnis des Buchbeitrags "Governing Uncertainty during the Covid-19 Pandemie" (T12)** hat belegt, wie die Pandemie-Politik in Großbritannien, Deutschland und Schweden

trotz der unterschiedlichen Veränderungen des Verhältnisses von Politik zur Wissenschaft ähnliche geschlechtsspezifische negative Folgen hat, die sich aus staatlichen Lockdown-Maßnahmen ergaben. Die Entscheidungsträger neigten dazu, die Mechanismen von der machtbestimmte Governance zurückzugreifen, selbst wenn die untersuchten Länder zu der Kategorie der bound governance stehen, die sich verpflichtet sind, Gesetze und Regeln einzuhalten. Daher merkt die Autorin an, dass die Pandemie unzureichend als Chance betrachtet wurde. Somit verpasst man die Chance, die Unsicherheit neu zu betrachten durch z. B. die Einführung eines antidisziplinären Ansatzes, der transformativ und geschlechtersensibel ist.

Normative Fragmentierung und Inkompatibilität

Die betrachteten Fälle (**T1, T2, T3, T5, T6 und T11**) zeigen, wie globale Normen wie Demokratie, Asyl-Recht und Frauenrechte von verschiedenartigen Akteuren im komplexen GG-System interpretiert und benutzt werden – mit Folgen für Normdiffusion und -fragmentierung.

Demokratie in China

Im Unterschied zu Befunden früherer empirischer Studien (Barro 1999; vgl. Boyle et al. 2002) zeigt China sich *widerstandsfähig* gegen die Diffusion der Demokratisierung. Dies geschieht trotz seines steigenden Lebensstandards und der verstärkten Einbindung in internationale Kooperation. Die Theorie der Demokratie von Seymour M. Lipset erwartet, dass mit erhöhtem Lebensstandard in der Gesellschaft der Ruf nach mehr bürgerlichen und politischen Grundfreiheiten und Rechten (z. B. das Eigentumsrecht) und politischer Partizipation laut wird. Dieser theoretische Strang argumentiert aus einer soziologischen und behavioristischen Perspektive und versucht die Rolle der wirtschaftlichen Entwicklung als Teil der sozialen Voraussetzungen für Demokratie zu erklären. Dies sei ein wichtiger Wendepunkt für das Entstehen grundlegender politischer Reformen hin zu einer Demokratie.²¹ Diese Erwartung scheitert in China bislang. Hier stellt sich die Frage: Wie wird in China „Demokratie“ als eine globale Norm wahrgenommen und politisch gehandhabt?

²¹ In seinem Aufsatz „*Some social requisites of democracy: Economic development and political legitimacy*“ (1959) versucht Seymour M. Lipset, das Entstehen von Demokratien zu erklären mit sozialstrukturellen Bedingungen, v.a. Faktoren wie wirtschaftlicher Entwicklung, die die Aspekte der Industrialisierung, Wohlfahrt, Verstärkung und Bildung umfasst, sowie mit politischer Legitimität. Er definiert Demokratie „as a political system which supplies regular constitutional opportunities for changing the governing officials“ (1959, 71). Diese Definition impliziert einige wesentliche Bedingungen der Demokratie: 1) ein politisches Format, das sich auf einem Wertesystem und Institutionen (z. B. Parteien, freie Press usw.) stützt, die von allen akzeptiert und legitimiert sind; 2) regierende politische Eliten; 3) Eliten, die das Mandat der Opposition üben und versuchen, an die Macht zu kommen (ebd. 71). Eine breit angelegte Länderstudie (mit mehr als 100 Ländern im Zeitraum zwischen 1960 und 1995) stärkte Lipsets These. Sie belegt, dass steigender Lebensstandard eine stärkere Tendenz zur Demokratie prädiert (Barro 1999).

Das Buchkapitel “The Prospect of Democracy in China” (T1) zeigt, dass China unter Präsident Xi Jinpings Ein-Mann-Leadership auf die Revisionist-Linie von Mao zurückkehrt. Die Diffusion der Demokratie als eine globale Norm in heutigen China ist schwieriger denn je, was von folgenden politischen, wirtschaftlichen, kulturellen und historischen Faktoren bestimmt wird. Auf der Makro-Ebene erhebt die Kommunistische Partei (KP) nach wie vor einen Anspruch auf Alleinherrschaft. Dort zeichnet sich eine Governance-Struktur vom Typ „machtbestimmte Governance“ ab, die jeglichen externen Einfluss streng kontrolliert und minimiert, mit starker Hierarchie.²² Die breite Bevölkerung – auch die Mittelschicht – zeigt Loyalität gegenüber dem kommunistischen Regime. Sie sieht in ihrer Loyalität zur KP einen Vorteil: zum Schutz und Vermehrung ihres Reichtums und zur Sicherung ihres sozialen Status. Dies ist ihre Alternative zum Kampf für bürgerliche und politische Rechte.²³ Die breite Bevölkerung erkennt die KP als legitime Regierung an. Kritische Stimmen werden systematisch unterdrückt. Neue Technik wie Digitalisierung und damit verbunden „Künstliche Intelligenz“ helfen der KP, auch im Netz ein umfassendes Überwachungssystem einzuführen.²⁴ Dank der effizienten top-down hierarchischen Koordinationswege, der durchdringenden Organisation der Partei mit ihren fast 90 Millionen Mitgliedern sowie unzähligen Freiwilligen als Netz-Bürgern im Internet konnte die KP bisher ihr autoritäres politisches Modell mit ihrer Alleinstellung behaupten.

Seit 2012 wird Chinas Autokratie verstärkt unter Präsident Xi Jinping: Der Parteitag der KP im Oktober 2017 und vom März 2018 hat Xi zum Alleinherrscher gekrönt: Eine neue Diktatur wird erfunden, die China seit ihrer Reformpolitik ab Ende der 70er Jahre nicht mehr kannte. Kulturell ist die Akzeptanz der globalen Norm „Demokratie“ in der Volksrepublik (VR) China zunächst als schwach einzustufen. Die Spezifität der Definition mit ihren fünf partiellen Regimen nach Merkel – Wahlsystem, politische Rechte, Bürgerliche Rechte, horizontale Verantwortung und effektive Governance – ist zwar vorhanden. Sie wird aber von der KP selektiv nach ihrem Machtkalkül adoptiert in Form der Einführung der Dorfwahlen sowie der Übernahme von Verantwortung, die man in Chinas andauernder Reformpolitik und im Krisenmanagement zur Dämpfung sozialer Unruhe sehen kann. Es fehlen hier der Aufbau demokratischer Strukturen zur Gewaltenteilung sowie die Einführung von Programmen zum Schutz der politischen und bürgerlichen Rechte als Grundstein einer Demokratie. Hinzu kommt, dass die politische Kultur in China laut der Typologie von Almond/Verba (1965, 16ff) eine Untertanenkultur ist, in der sich die Bevölkerung gefühlsmäßig mit dem politischen Regime identifiziert. Die stark vom Konfuzianismus geprägte hierarchische Sozialordnung hindert ferner die Bürger, ihre Interessen gegenüber Eliten zu artikulieren und durchzusetzen. Zu Beginn der Reformpolitik Ende der 70er Jahre war die Mehrheit der Bevölkerung damals

²² Siehe Hong Kong Free Press 2016#.

²³ *China morning post*, 07. März 2018.

²⁴ Siehe Stefan Braun. 2018. „Bittersüße Welt. In der Stadt Shenzhen lernt Merkel Chancen und Risiken der Digitalisierung kennen.“ *SZ*, 26./27. Mai, S. 8.

zunächst politisch desinteressiert. Der allmählich steigende Wohlstand stärkte das Vertrauen zwischen der KP und der Bevölkerung, dessen Vermehrung und Sicherung die wichtigste Legitimitätsressource der KP ist. Da die KP gleichgesetzt wird mit dem politischen System Chinas, ist eine demokratische Kultur mit partizipativen und pluralistischen Orientierungen der Bevölkerung fremd. Das weitgehende Fehlen einer aufgeklärten Bildungsschicht verschlechtert zudem die Aussichten für das Erlernen einer demokratischen Kultur in der Gesellschaft. Insofern ist das Meinungsbild in der Öffentlichkeit zur Frage der Demokratie einstimmig: Viele sind der Auffassung, dass das westliche demokratische Modell nicht zu China passe. Es bringe viel Unruhe und gefährde die soziale und politische Ordnung.

Allerdings ist Demokratie aus historischer Perspektive kein fremdes Phänomen in China. Sie galt früher als ein wichtiges westliches Skript der individuellen Freiheit und Modernität. Vor mehr als 100 Jahren, als die erste Republik in China entstand (1911), experimentierten mehrere Regierungen im Wechsel mit einem parlamentarischen und einem präsidentiellen System. Machtkämpfe und der Bürgerkrieg zwischen den Nationalisten und der KP, die Invasion Japans sowie der Beginn des Zweiten Weltkriegs zerstörten den ersten Demokratisierungsversuch. Später siegte die KP über die Nationalisten und gründete 1949 die Volksrepublik China. Der Ära der totalen Herrschaft unter Mao Tse-Dong folgten wirtschaftliche Reformen in den 70er Jahren, geleitet von Deng Xiaoping. Trotz der demokratischen Bewegung Ende der 70er Jahre und moderater Reformen, eingeführt von Politikern wie Zhao Ziyang und Hu Yaobang, wird die westliche Demokratie oft von Eliten und der Masse der Bevölkerung belächelt und abgelehnt. Auch wird die Demokratisierung Taiwans als „*soap opera*“ belächelt, die viel Chaos gebracht habe. Dadurch verstärkt sich die In-Group-Identität in der Bevölkerung in der Volksrepublik.

Es gibt eine Diskrepanz der Mentalitäten zwischen dem Festlands-China und dem demokratischen Taiwan. Während Chinas Gesellschaft der Mentalität eines Boxer-Aufstands mit nationalistischer Rhetorik gegen westliche Demokratie und Rechtsstaatlichkeit verhaftet bleibt, zeigt Taiwans Erfahrung, dass Demokratie möglich ist in einer vom Konfuzianismus geprägten autoritären Kultur. Einer langwierigen, aber erfolgreichen Diffusion der Norm steht ein weitgehendes Scheitern gegenüber. Dabei existieren viele kulturelle und historische Parallelen zwischen beiden Ländern.

China als alternativer Norm-Gestalter

Im Sinne von Max Webers Norm-Verständnis ist der Grad der Bewusstheit, die Gültigkeit sowie der Grad der Verbindlichkeit der Demokratie-Norm in China schwach. Es könnte der nötige soziokulturellen Nährboden fehlen. Gerade mit dem Aufstieg Chinas zur Wirtschaftsmacht und seinen weltweiten Engagements entsteht zunehmend ein Nexus der Allianzen zwischen Autokraten, neben der und gegen die liberal-demokratische Welt. China orientiert sich an einer traditionell sino-zentrischen Auffassung und, wie Jürgen Osterhammel an-

merkt, will sich „auf Ebene von Global Governance nicht länger nur in bestehende Strukturen einfügen, sondern – wie es dies jahrhundertlang in seiner Chinese World Order 1.0 getan hatte – Regeln und Normen selbst mitgestalten.“²⁵ Somit verwundert es nicht, dass in der VR China ein relativ hoher Grad an Konkordanz zwischen den Akteuren herrscht gegenüber der westlichen liberalen demokratischen Welt. Diese Akteure vertreten die Position, Chinas Autokratie sei überlegen und effizienter als westliche Demokratie.

In dieser Hinsicht machen **die beiden Buchkapitel “China’s autocracy, global democracy and their limits in an age of uncertainty” und “Realizing the Chinese Dream beyond China” (T2 und T3)** deutlich, dass die Normlokalisierung in China geprägt ist von einem hohen Grad an Kontrolle und einem niedrigen Grad an Kontroversität. Das Resultat: Demokratie in China erwies sich als schwierig durchzusetzen. Mit anderen Worten ist die Governance-Leistung im Fall Chinas mit dem Typ „machtbestimmte Governance“ stark: nicht nur ist es der KP gelungen, mittels wirtschaftlicher Reformen weite Teile der Bevölkerung Chinas aus der Armut zu befreien. Das stärkt ihre Legitimation. Die Alleinherrschaft der KP findet große Zustimmung in der Bevölkerung und sie konnte die Diffusion der Demokratie in China aufhalten. Chinas *soft power* mit seinem autokratischen Entwicklungsmodell beginnt, sich über die Region hinaus zu verbreiten. Allerdings gibt es Bedenken, dass Xis Schachzug hin zu einer Diktatur eine Erosion der wirtschaftlichen Erfolgsgeschichte Chinas auslöst, da sie die Norm der kollektiven Eliten-Führerschaft seit dem Beginn der Reform-Ära allmählich untergräbt. Die Machtkonzentration auf eine Person, wie es bei Mao war, wird massiv den politischen und wirtschaftlichen Spielraum einschränken und positive Änderungen verhindern. Jedoch bietet Xi eine Vision für China bis 2050 als große Macht, die „in der Lage ist, die Welt anzuführen.“²⁶ Trotz der Diversifizierungs-Strategie vom Westen und ungeachtet der steigenden Konfrontation mit den USA wird China seine jahrzehntelange Entwicklungsstrategie durch die asymmetrischen merkantilistischen Ansätze kaum ändern. Denn sie hat China geholfen, seinen Modernisierungskurs mit dem Label “China Model” über die Region hinaus zu verbreiten. Mit seinem grandiosen „Made in China 2025“-Plan möchte Xi China mit den führenden Industrienationen gleichziehen und diese sogar übertreffen. Nicht zuletzt versucht China seit geraumer Zeit, internationale Verbindungen der Autokraten (z. B. in Afrika und in Lateinamerika) mittels wirtschaftlicher und finanzieller Kooperation aufzubauen (Muno et al. 2020). Somit stellt sich Chinas Autokratie als erfolgreiches Entwicklungsmodell dar und löst eine „reverse wave“ zur Demokratisierung aus, deren Dynamik und Potential zur Diffusion beachtlich ist. Mit anderen Worten, eine zukünftige „Chinesische Weltordnung 2.0“ hat unmittelbar Folgen für Demokratien in der Welt. Sie wird mit hoher Wahrscheinlichkeit Demokratie als globale Norm untergraben. Insofern ist China in der Lage, einen Alternativ-Diskurs zur „Demokratie“ auf regionaler und internationaler Ebene zu betreiben.

²⁵ Zur Chinas politischer Geschicktheit als sanfter Hegemon siehe Jürgen Osterhammel 2017. „Der Sanfte Hegemon. China gibt sich als dynamischste Großmacht der Welt, zugleich aber auch als jene mit der größten historischen Tiefe. Selbst lange geschmähte Despoten werden neuerdings als Erneuerer verehrt.“ *Süddeutsche Zeitung*, 3. Nov. 2017, S. 9.

²⁶ Kai Strittmatter. 2017. „Totale Kontrolle.“ *Süddeutsche Zeitung*, 21./22. Okt. 2017, S. 4.

Pluralistische Entwicklung des Narrativs "Nachhaltigkeit" im Klima-Regime und ihre Wirkungen

Die Norm „Nachhaltigkeit“ hat aufgrund des grenzüberschreitenden Klimawandels eine globale Aufwertung erlebt und sich seitdem entwickelt zu einer fest verankerten Zielvorgabe in der Politik des Klimawandels. Wie **die Aufsätze „Menschenrechte und nachhaltige Entwicklung in der Politik des Klimawandels“ (T6) und “Rethinking Human–Nature Relationships: Daoism’s Contribution to Transcultural Sociotechnical Imaginaries” (T7)** gezeigt haben, lassen sich

im internationalen Klimaregime eine pluralistische Tendenz zur Normentwicklung beobachten. Daraus ist eine Vielzahl von transformativen Innovationen und Divergenz-Maßnahmen zur Anpassung und zur Verringerung der Treibhausgas-Emissionen (Mitigation) entstanden. Zum Beispiel beinhaltet „das Recht auf eine gesunde Umwelt“ sowohl das Recht auf Umwelt wie die Verfassung von Ekuador es explizit formuliert, als auch die Verantwortung der Menschen gegenüber der Umwelt. Ein solcher Rechtsanspruch löst mittels der Personifizierung der Umwelt sogar eine unberechenbare Dynamik aus: Er stellt eine unmittelbare Beziehung zwischen Menschen und der Umwelt her und erweitert den Raum des Politischen zur Frage der „*personhood*“ mit der Berücksichtigung der „*nonhuman*“-Kategorie als Akteur (Youatt 2017, 39). Dadurch werden die Universalität säkulare Gesetze sowie die Souveränität eines Staates partiell herausgefordert (Youatt, *ibid.*). Ebenso macht der Diskurs vom „Recht auf Gesundheit“ aufmerksam darauf, dass arme Länder mit den Klimafolgen nicht allein gelassen werden sollen und präventive und nachhaltige sozio-politische Maßnahmen notwendig sind, um ein belastbares Gesundheitssystem zu sichern. Allerdings gibt es verschiedene politische Auffassungen zur „nachhaltigen Entwicklung“: Während die VertreterInnen der EU und Japans für ein Programm der „ökologischen Modernisierung“ (*ecological modernization*) plädieren, sind die Vertreter des „*Green Radicalism*“ als erweiterter Nachhaltigkeits-Diskurs der Meinung, dass die reichen Industrienationen und der wohlhabende Teil der Menschheit ihren Konsum einschränken und ihren Lebensstil grundlegend ändern sollen. Auch innerhalb der Menschenrechtskategorie gibt es Konkurrenz um die Festlegung von Prioritäten für die Umsetzung (z. B. Recht auf Gesundheit versus Recht auf Entwicklung). Dies birgt Konfliktpotentiale für die Umsetzung.

Trotz der zunehmenden normativen Konflikte kann die Berücksichtigung der Elemente von nicht-europäischen Denktraditionen wie Daoismus dem Verständnis des durch Technologie veränderten Verhältnisses zwischen Menschen und Natur doch einen neuen Impuls geben. Dies kann geschehen durch verstärkte transkulturelle Dialoge und Einführung alternativer Paradigmen, in denen Ideen wie Effizienz, tiefe und neue Ökologie (wie sie in der Daoistischen Tradition zu finden sind), radikale Hermeneutik, gegenseitig Einbettung (Tang 2019, zitiert in Hasenkamp 2023) und Selbst-Identifikation in einer digitalisierten Umgebung einfließen können für die Umgestaltung des Nachhaltigkeits-Regimes. Allerdings offenbart die Tendenz zu einer solchen (Post)-Humanisierung der Klimapolitik zwar die überlappenden

Dimensionen beider Policy-Agenden und schafft einen Raum zur Artikulation eines gemeinsamen Policy-Rahmens. Ihre begriffliche und normative Grundlage bleibt jedoch fragmentarisch: Nachhaltige wirtschaftliche Entwicklung, das Recht auf Gesundheit, das Recht auf Entwicklung, das Recht auf Selbst-Bestimmung sowie das Recht auf eine menschenwürdige Lebensgrundlage, als globale anerkannte Normen, werden je nach Kontext durch Interessen der Akteure vereinzelt oder gar konkurrierend artikuliert und in Verbindung gebracht. Aber diese Normen werden nicht koordiniert. Hinzu kommt, dass die Entstehung und das Funktionieren beider Regimes (Nachhaltigkeits- und Menschenrechtsregimes) bisher separat in Foren mit unterschiedlichen Akteurs-Konstellationen, Agenden und Perspektiven stattfanden.

Alternative Narrative von Gerechtigkeit und Entwicklung: Inkongruenz-Erfahrung aus Mali

Am Beispiel von zwei Mis-Kongruenz-Fällen zeigt **das Buchkapitel "The Power of Peripherie in Mali" (T10)**, wie alternative Narrative von Gerechtigkeit und Entwicklung normative Konflikte entflammen können gegenüber den globalen Normen. Infolge verschlechterter Sicherheits- und wirtschaftlicher Situation in Mali sahen die lokalen Gemeinschaften auf dem Land gezwungen, sich für eine Seite entscheiden zu müssen, um ihren Lebensunterhalt zu verteidigen. Hinzu kommt, dass der starke Einfluss der salafistischen Ideologie auf die malische Gesellschaft auch eine treibende Kraft gespielt hat, da die Islamist-Eroberer einige dringende Ungerechtigkeiten und Kriminalitätsprobleme effizient bewältigen konnten. Allerdings brachte die Verbreitung von konservativem Islam mit seinem Schwerpunkt auf Koranlehre und Indoktrination Gefahren mit sich, indem sie beispielsweise Druck auf den Zugang zu Bildung ausübte und die Art der angebotenen Ausbildung. Dies führte zur Schließung von Hunderten von Schulen im zentralen und nördlichen Teil Malis während der Besatzungszeit von Islamisten im Jahr 2012.

Der zweite Fall handelt es sich um die Freilassung von Sophie Pétronin, der letzten französische Geisel im Herbst 2020, die im Ausland festgenommen wurde. Die 75-Jährige humanitäre Helferin wurde vier Jahre zuvor im Norden Malis von Aufständischen gefangen genommen. Die Bedingungen des Geiselaustauschs, Pétronins Religionsbekehrung, ihre Ablehnung gegenüber ihrem Entführer zu verurteilen und insbesondere ihre heimliche Rückkehr nach Mali, um ihre Arbeit dort fortzusetzen, lösten in den französischen sozialen Medien breite Kritik und eine Welle von Kritik aus. Beobachter sehen den Pétronin Fall als Aufforderung an die Frage der Grenzen der Identitätsbildung zwischen sich selbst und dem anderen, nämlich, das Narrativ über das Wesen von „Terroristen“. Der Fall verriet vor allem einen weiteren Kontrapunkt zur Maskulinisierung des Konflikts. Es entlarvte die unangenehmen Situationen und Risiken, mit denen viele humanitäre Helfer konfrontiert sind bei ihrer täglichen Arbeit in den Peripherien Malis. Humanitäre Helfer wurden oft dafür kritisiert, blind gegenüber den politischen Auswirkungen ihrer Aktivitäten zu sein. Dies führt dazu, dass lokale Ressentiments gegen sie entstehen.

Gerechtigkeit in Ostasien: Ein anderes kulturspezifisches Verständnis?

Im Blick auf die Region Ostasien ist zu prüfen, ob eine andere globale Norm, die ebenfalls die Wertevorstellung und das Selbstverständnis dortiger Gesellschaft herausfordert, ähnliche Ergebnisse bei der Normlokalisierung hervorruft.

Die Bedeutung des Diskurses über Gerechtigkeit (Justice) als globale Norm in den Bereichen „Gender“, „Strafrecht“ und „Transitional Justice (TJ)“ in Post-Konflikt-Kontexten wächst seit dem Ende der 80er Jahre. Treibende Kräfte sind das Engagement zivilgesellschaftlicher Akteure für den Menschenrechtsschutz, darunter die Aktionen der transnationalen Frauenbewegung (vgl. Sikkink 2011; Htun und Weldon 2012, 548). Die Verbindung zu anderen normativen Strängen wie der Anwendung des humanitären Völkerrechts, dessen Verletzung in den bewaffneten Konflikten ebenfalls als Menschenrechtsverletzung gilt, hat dazu beigetragen, dass der Geltungsbereich der Gerechtigkeit über die nationale Ebene hinausreicht. Die Wirkungen dieser Aufwertung der Gerechtigkeit als ein globaler Sammelfluss für die verschiedenen normativen Stränge („Justice Cascade“, Sikkink 2011) sind beachtlich: Politische Eliten werden für ihre Gräueltaten zur Rechenschaft gezogen (z. B. im Fall Pinochet), was den Verlust der Immunität der Staatsmänner und eine Einschränkung des Souveränitätsrechts impliziert. Die Aufnahme der Gendergerechtigkeit gegen jegliche Gewalt besonders gegen Frauen in bewaffneten Konflikten (*gender-based violence (GBV)*) in das *Römische Statut* (1998) des Internationalen Strafgerichtshofs (IStGH) und somit als Teil seiner Mandate bezeichnet einen historischen Durchbruch für den Schutz der Frauenrechte (Chappell 2011; Sikkink 2011; Sikkink und Kim 2013). Des Weiteren zeichnet sich ein Politikwandel in vielen Ländern ab, nämlich mit der Einführung zahlreicher Maßnahmen gegen GBV und zur Förderung der Geschlechter-Gerechtigkeit und –Gleichheit (z. B. Gender-Mainstreaming-Policy).

Der Beitrag „Transitional Justice in Ostasien“ (T11) greift den Ansatz des kritischen Feminismus zurück und zeigt, warum die Einhaltung der Gerechtigkeitsnorm in Ostasien schwierig ist, besonders im Bereich „TJ“ aus einer Geschlechter-sensibler Perspektive.

Die geltenden Normen des Justizsystems in den ostasiatischen Gesellschaften sind Würde und Liebe zu Mitbürgern (*ren*) und das Konzept des *li* (moralische Kodes und Werte), dazu die Übereinstimmung mit menschlichen Gefühlen und Regeln des *Commonsense*. Die Idee der Bewahrung des kollektiven Gemeinwohls hat stets Vorrang vor den Rechten des Einzelnen, auch wenn sie im Konfuzianismus häufig von der herrschenden Klasse als politisches Instrument missbraucht wurde. Es gibt eine allgemeine Aversion gegen Gerichtsverfahren. Daher wird es sogar heute noch als beschämend empfunden, vor Gericht zu ziehen, nicht nur von den direkten Beteiligten, sondern auch von deren Familie und Angehörigen. Prozedurale Gerechtigkeit war dem stark konfuzianisch geprägten Rechtssystem völlig fremd. Das verlangsamte die Weiterentwicklung des Rechtssystems gravierend. Heute stellt es eine bedeutende Hürde dar für Rechtsreformen und den Schutz der Menschenrechte (Yu 1997; Hanson 2001).

Die Geschlechter-Gerechtigkeit wird aus Sicht der lokalen Sitten und der Logik der „Angemessenheit“ konstruiert, die wiederum in Stereotypen der Gender-Beziehungen befangen ist (Baker 2007, 249, zitiert in Hasenkamp 2017a). Es gibt kontrastierende Sichtweisen hinsichtlich der „Trostrfrauen“ in Japan. Zum Beispiel wurde Vergewaltigung während eines Krieges geschichtlich gesehen als akzeptierter Nebeneffekt bewaffneter Konflikte, als traditionelle Belohnung der Sieger statt als Verbrechen. Zudem traf der Krieg auf kulturelle Voraussetzungen. So stellt Linda Zatlín (2001, 36, zitiert in Hasenkamp 2017a) in ihrer Untersuchung der Geschichte von Kunst und Kultur in Japan fest, dass man das formalisierte System der Prostitution in Japan, das durch die Erotik visueller Kunst entstanden ist, betrachten kann als wichtige Komponente der kulturellen Vorbereitung für die Ausbeutung in Japans Bordellsystem im Krieg und für diesen Einsatz der „Trostrfrauen“. Diese Kategorisierung der Trostrfrauen als eine kulturell verwurzelte Form des Prostitutionsgeschäfts während des Zweiten Weltkrieges erlaubte es Nationalisten, das Eingeständnis der Regierung, an „Zwangsprostitution beteiligt gewesen zu sein, aggressiv abzuweisen und sogar Politiker und Historiker anzugreifen, die für eine Entschuldigung eintraten (Halpin 2006, zitiert in Hasenkamp 2017a).

So erwies sich eine Wiedergutmachung für die ehemaligen Trostrfrauen und Opfer des vergangenen Unrechts dort als utopisch; sie wurde behindert vom Faktor Zeit (Verjährung, Aussterben der Zeuginnen) und den kulturellen und strukturellen Einwänden sowie dem Kalkül der Regierungen. Beim Umgang mit der Trostrfrauen-Frage lassen sich spezifische Charakteristika der ostasiatischen Gerechtigkeitsysteme beobachten. Diese Charakteristika behindern das Streben nach korrektiver und restaurativer Gerechtigkeit.

Konkurrierende normative Storytellings in der Schnittstelle zwischen Urban-Governance und Flüchtlingspolitik

Der Journal-Aufsatz „Renegotiating the City“ (T5) untersucht wie Städte in Deutschland als ein der Hauptaufnahme-Länder in Europa nach dem Flüchtlingszustrom von 2015 durch unterschiedliche Maßnahmen umgestaltet worden. Dies geschieht durch die Untersuchung verschiedener Schwerpunktthemen und ihrer Entwicklungen und Auswirkungen sowohl auf der Makro- als auch auf der Mikroebene auf der Grundlage eines theoretischen Konstrukts, das die Stadt als einen volatilen Raum betrachtet wird. Obwohl Städte unterschiedliche adaptive und neuartige Ansätze entwickelt haben, um auf die Ankunft von Flüchtlingen zu reagieren, lassen sich in unseren Städtetichproben mehrere Gemeinsamkeiten und Besonderheiten beobachten: Eine Bewertung des Krisenmanagements der Städte offenbart Inkonsistenzen und Widersprüche in ihren verschiedenen konkurrierenden normativen Storytellings, nämlich die Stadt als Orte der Sicherheit, der Bürokratie und der Sparmaßnahmen-Politik und Heiligtumspraktiken mit der Mobilisierung der Solidarität. Die anhaltende Unbeweglichkeit von Flüchtlingen hat zur Entstehung von Gegenräumen für Stadt- und Flüchtlingsaktivismus geführt, der mit der Bewältigung vieler Herausforderungen

zu kämpfen hat, die sich aus neoliberaler Sparpolitik, Sicherheitsbedenken und Kriminalität, kulturellen Unterschieden und der Pandemiekrise ergeben.

Institutioneller Wandel

Politik der Gender- und Strafgerechtigkeit in Ostasien: Interaktionen zwischen formellen und Informellen Mechanismen und ihre Implikationen

Im Vergleich zu Lateinamerika und Europa ist in Ostasien die Aufarbeitung der Vergangenheit kaum im kollektiven Bewusstsein verankert. Die Erinnerungskultur von Gesellschaften bietet ein zerrissenes Bild mit widersprüchlichen Auffassungen und Interpretationen. Selbst wenn die Errichtung des Internationalen Strafgerichtshofs (IStGH) die Institutionalisierung der Strafgerechtigkeit und somit die Diffusion der globalen Norm begünstigt, variieren die Artikulation und Funktion der Gerechtigkeitspolitik von einem Kontext zum nächsten. Die Herausforderungen liegen, wie Winfried Hassemer (2011) hervorhebt, in der Rechtsordnung einer Gesellschaft: das jeweilige Verhältnis von Gerechtigkeit und Rechtsstaat, die Möglichkeiten des (Straf-)Rechts und Anforderungen, die eine Rechtskultur an das Konzept einer „gerechten Lösung“ richtet. Die Streitpunkte betreffen nicht nur, wie die Altlasten von Ungerechtigkeit mit Hilfe internationaler und nationaler Rechtskonzepte und -instrumente bearbeitet werden können. Es geht auch darum, wie das Prinzip der Komplementarität, sprich, die Tätigkeit des IStGH im Fall des Unwillens oder der Unfähigkeit des nationalen Justizsystems, berücksichtigt werden kann (Ambos 2006) und wie die internationale Gemeinschaft Staaten darin unterstützen kann, Verantwortlichkeitsvermögen zu bilden. Zwei Beispiele in dieser Debatte sind das Schicksal der Trostfrauen in Japan und politische Ungerechtigkeiten unter dem Mao-Regime (Hundert-Blumen-Bewegung, Anti-Rechts-Kampagne, der Große Sprung und Kulturrevolution). Beide werden in den vorliegenden Aufsätzen behandelt.

Trotz ihrer kulturellen feinen Unterschiede hat die Governance-Struktur in Japan und China die Form einer *machtbestimmten* Governance, in der die Politik der Gerechtigkeit gleichzeitig ein Symbol der Herrschaftsübung darstellt zur Gewährleistung des Souveränitätsrechts, der inneren Sicherheit und der Stabilität. Das Resultat der Gerechtigkeitspolitik in Ostasien, wie der **Beitrag „Transitional Justice in Ostasien“ (T11)** deutlich zeigt, wird bestimmt durch folgende interne und externe Faktoren: 1) Substanz dominanter innerstaatlicher Normen; 2) beteiligte Akteure und ihre Ressourcen; 3) innenpolitische Bedingungen; 4) Überschneidung bedeutender internationaler Veränderungen mit innenpolitischen politischen und ökonomischen Entwicklungen.

So haben die folgenden Faktoren die Aufarbeitung des vergangenen Unrechts in den beiden Fälle erschwert: die negativen Langzeitwirkungen der zweieinhalb Jahre dauernden Tokioter Prozesse gegen japanische Kriegsverbrechen auf die kollektive Erinnerung in Japan, die Vernichtung von Beweisen durch die japanische Armee, die unaufrichtige Einstellung der japanischen Regierung zur Kriegsverantwortung, die sich vor allem im Blockieren des Zugangs zu möglicherweise belastenden Quellen zeigte, und Vorurteile gegenüber Trostfrauen. Nicht

zuletzt hängt das Schicksal der Trostfrauen in ihrem Streben nach Gerechtigkeit am meisten von der Entwicklung der strategisch-militärischen Allianz der Vereinigten Staaten mit Japan ab, besonders vor dem Hintergrund der sich verändernden regionalen Machtkonstellation mit dem aufstrebenden China und Nordkorea, das im Besitz von Atomwaffen ist. Auch sind die politischen Eliten in den Nachbarländern mitverantwortlich für das Ausbleiben der Aufarbeitung. Sie nutzen die Vergangenheit oft nach innen, um nach außen Politik zu machen. China zum Beispiel spielt gern die Karte des „Opfers“ und heizt das Gefühl des Patriotismus und Ressentiments gegenüber Japan auf, damit die Bevölkerung von sozialen und Umwelt-Problemen abgelenkt wird und das Ideal des Kommunismus hochgehalten werden kann (Tepperman 2013).

In ihrem Streben nach Wiedergutmachung und Aufarbeitung haben die Opfer politischen Unrechts ein entweder autoritäres oder liberales Entschädigungsmodell angewandt (Pils 2007). Ziel ist es, ihre politische Reputation durch eine Wiedergutmachung seitens der Regierung wiederherzustellen. Das autoritäre Modell erkennt die Legitimität des KP-Regimes als unangefochtenen Patron der Gerechtigkeit an und erarbeitet andere Methoden, um sich Gehör zu verschaffen. Diese wären unter anderem die Rückkehr zur traditionellen Methode der Petition (*shen yuan*) oder der korrigierenden Re-Evaluation (*ping fan*) und eine Dialogstrategie mit dem Ziel, die KP-Regierung zu einer erneuten Untersuchung der Geschehnisse von 1989 zu bewegen. Opfer von politischen Kampagnen wählten oft einen versöhnlichen Weg, um ihren Ruf durch symbolische und materielle Entschädigung vom Staat wiederherstellen zu lassen. Im Vergleich dazu basiert die liberale Methode auf den Grundrechten des Einzelnen, einschließlich der Meinungsfreiheit, und wählt eher die Konfrontation mit den Autoritäten (Pils 2007). Ein solcher Konfrontationskurs endet jedoch oft mit politischen Schikanen, Hausarrest oder anderen Strafen. Insofern bleibt die offizielle Übernahme politischer und juristischer Verantwortung durch die kommunistische Regierung bislang Wunschdenken. Die korrigierende und wiedergutmachende Gerechtigkeit (*corrective and restorative justice*) als Teil der *Transitional Justice* scheint unbedeutend zu sein in einem Gerechtigkeitssystem mit chinesischen Charakteristika (Yu 1997). Hinzu kommt, dass es zwar vereinzelte internationale Kritik an China mit der Forderung nach Aufklärung des Tiannanmen-Massakers gab. Aber es fehlt bisher ein internationaler Druck auf die chinesische Regierung zur umfassenden Aufarbeitung des Unrechts, besonders unter dem Mao-Regime (1949–1976). So ein Druck wird schwieriger aufgrund des Aufstiegs Chinas als führende Autokratie auf der globalen Bühne.

Die beiden Fälle (Ungerechtigkeiten in China und das Trostfrauen-System des imperialistischen Japans während des Zweiten Weltkriegs) zeigen, dass trotz transnationalem Aktivismus für Gender-Gerechtigkeit und für Menschenrechte das Bemühen um umfassende Aufarbeitung sowohl im japanischen als auch im chinesischen Kontext scheitert. Globale Normen wie „Strafgerechtigkeit“ können zwar als kultureller Anreiz im Sinne der Konformitätsnorm fungieren und somit das Verhalten der Verantwortlichen in Politik und Gesetzgebung sowie zivilgesellschaftlicher Akteure beeinflussen. Gerade internationaler Druck kann

mittels *naming and shaming* Einfluss auf innenpolitische gesetzliche Konfigurationen und Gerechtigkeitspolitik ausüben und stellt Ressourcen und Kanäle für Mobilisierung bereit. Allerdings haben sowohl kulturelle als auch kontext-bedingt politische und wirtschaftliche Faktoren eine wichtige Rolle gespielt. Die geostrategischen Interessen von externen Akteuren wie den USA haben verhindert, eine politische und juristische Aufarbeitung zum Trostfrauen-System unter dem imperialistischen Japan durchzuführen. Die Interaktionen zwischen globalen Normen und dem örtlichen Phänomen offenbaren Verbindungen zwischen dem Gesetz und seinem jeweiligen sozialen Kontext, die keinem quasi mechanischen oder universellen Prozess zugeordnet werden können. Fragen der Vergangenheit wurden daher oft bewusst zurückgedrängt, so dass eine kritische Aufarbeitung unmöglich war und die Schatten der Vergangenheit multilaterale Strukturen zur Vertrauensbildung für Kooperation in Ostasien erheblich erschwerten.

Anti-Korruptions-Kampagnen unter Xis Ein-Mann-Leadership in China und ihre institutionellen und transnationalen Implikationen

Aus neoinstitutionell-konstruktivistischer Sichtweise untersucht der Beitrag **“The Prospect of Democracy in China” (T1)** das Funktionieren des Typs der machtbestimmten Governance von einem kollektiven Eliten-Führungssystem zu einem Ein-Mann-Leadership unter Xi. Aufgezeigt werden mögliche kausale Mechanismen zwischen institutionellem Wandel, Entwicklung der Präferenzen von Akteuren und Entscheidungsprozessen. Der legitimitätsbasierte Vertrauen-Governance-Ansatz macht vor allem deutlich, dass die Legitimität der Kommunistischen Partei (KPCh), gekoppelt mit ihrer Alleinherrschaft, von ihrer politischen Performance abhängt, ob also die Regierung Krisen und sonstige Probleme bewältigen kann für den Erhalt des „Gemeinwohls,“ der Werte und Normen einer politischen Gemeinschaft. Darauf baut das Vertrauen zwischen der KP bzw. der Regierung und der Gesellschaft. In diesem Sinn wird die Entwicklung der Institution ein Ort des Erzeugens von Legitimität.

Xis Streben nach Anerkennung und einer konsolidierten Autorität zeigt sich vor allem in seinen Anti-Korruptions-Kampagnen. Der **Beitrag “Anti-Korruptions-Kampagnen” (T4)** macht deutlich, dass die Bemühungen zur Korruptionsbekämpfung unter Xi dazu beigetragen haben, die Herrschaft der KPCh neu zu organisieren und half ihm, seine Legitimität wiederherzustellen. Allerdings mangels eines unabhängigen institutionalisierten Check-and-Balance-System stellt sich heraus, dass das Ausmaß der Korruption sehr hoch ist nach subjektiver Akzeptanz und Anpassung. Insofern lassen sich seine Bemühungen interpretieren als ein mächtiges politisches Instrument zur Beseitigung seiner politischen Rivalen und zur Einleitung rigoroser Regierungsreformen hin zu einer totalitären Herrschaft. Vor dem Hintergrund des Aufstiegs des globalen Antikorruptionismus (Sampson 2015, zitiert in Hasenkamp 2020) könnte Chinas Beteiligung an einer transnationalen Anti-Korruptionenkampagne ein Wendepunkt für China sein, innovative Antikorruptionsmaßnahmen einzuführen, die entscheidend sein könnten für eine schrittweise Reform der Rechtsstaatlichkeit und soziale Einstellungsänderung.

Policy-Lernen durch Fusion, Emulation, Wissenskumulation und Experimente

Ko-Evolution zwischen Nachhaltigkeits- und Menschenrechtsregimen

Aus der Perspektive der Ko-Evolution lassen sich die Ergebnisse der Analyse in zwei Punkten fassen. Erstens zeigt die Analyse Überlappungen zwischen Menschenrechten und nachhaltiger Entwicklung auf normativer, konzeptueller und praktischer Ebene. Es fällt auf, dass der Artikulationsprozess der Normen in beiden Regimen auf internationaler und regionaler Ebene stark verschmolzen ist: Die Humanisierung der Klimapolitik greift menschenrechtspolitische Aspekte des Umgangs mit verletzlichen Gruppen wie indigenen Völkern und ärmeren Bevölkerungsgruppen auf, nämlich Diskurse über das Recht auf Gesundheit, auf Entwicklung und auf eine gesunde Umwelt. Bei der Gerechtigkeitsfrage sowohl im Bereich „*global health*“ als auch in den Klimaverhandlungen wird besonders auf Teilhabe-Rechte der betroffenen bzw. verletzlichen Gruppen hingewiesen. Auf praktischer Ebene ist zu vermerken, dass Expert*Innen in den involvierten Bereichen wissenschaftliche Beiträge geleistet haben zur Analyse der Umweltrisiken und Vulnerabilitäten im Bereich „*global Health*“ und zur Einführung der REDD+ Mechanismen. Dadurch sind neue Ansätze und Instrumente entstanden, die eine Realisierung der Co-Benefits hinsichtlich des Menschenrechtsschutzes und Nachhaltigkeit in der Klimapolitik begünstigen.

Zweiten: bei den Governance-Praktiken zur Förderung nachhaltiger Entwicklung und Menschenrechte beteiligen sich eine Vielzahl der Akteure auf verschiedenen Ebenen. Multilaterale innovative Initiativen auch im Rahmen der Nord-Süd-Zusammenarbeit sind entstanden. Zum Beispiel bietet REDD+ große Chancen für privatwirtschaftliches Engagement im Bereich Klimaschutz, dessen mögliche positive Auswirkungen auf die lokale Bevölkerung und Biodiversität nicht zu unterschätzen sind. Seit 2005 sind 200 REDD+Pilotprojekte in mehr als 40 Entwicklungsländern ins Leben gerufen worden. Finanziert werden diese Projekte durch 91 Geber-Organisationen, darunter Industrienationen, entwicklungspolitische Organisationen, Firmen und internationale Organisationen. Die mit Unterstützung Norwegens durchgeführten REDD+ Governance-Praktiken in Tansania und Mozambique sind gekennzeichnet durch eine Mischung von verfahrensmäßigen Regulierungen nach internationalen Vorschriften und nationalen existierenden Governance-Praktiken mit (schwachen) neo-liberalen Elementen. Dieser Befund widerspricht der vereinfachten Annahme, dass die staatliche Autorität im Zeitalter der neoliberalen Deregulierung stark abgenommen habe. Vielmehr ist eine veränderte Rolle des Staats in einer post-nationalen Multi-Level-Governance-Struktur festzustellen.

Allerdings nimmt der Grad der Komplexität und der Fragmentierung solcher Governance-Praktiken zu, wie im Fall des REDD+Regimes zu sehen ist.²⁷ Aufgrund der Fragmentierung des REDD+Regimes sind die Länder oft vielen methodischen und technischen Herausforderungen ausgesetzt. Daher wurde im Mai 2010 die „REDD+ Partnerschaft“ gegründet, um einen Erfahrungsaustausch zwischen Entwicklungs- und Geberländern zu ermöglichen.

Die Auswertung des Falls „Menschenrechte und Nachhaltigkeit in der Politik des Klimawandels“ zeigt: Wo eine Regierung politisch und wirtschaftlich motiviert ist, und eine starke Präferenz hat für die Aufnahme der selektierten Normen, zeigt sich ein hoher Grad der Einhaltung der Normen. Für die Funktionsweise des Klimaregimes wird dadurch die Konvergenz zwischen Menschenrechts- und Entwicklungsnormen ermöglicht, die zu einer Art der Policy-Fusion geführt hat.

Insofern weist die Funktionsweise des Klimaregimes zwei Typen von Governance Struktur auf, dessen Leistung zum Beitrag der Implementierung globaler Normen als stark zu bewerten ist. Trotz der Konfliktpotentiale und Fragmentierung ermöglicht die Kombination beider Typen von Governance Struktur es den beteiligten Akteuren, lösungsorientiert zu handeln.

Policy-Lernen von Friedensmissionen in Mali

Der Beitrag **“Do Peace Missions in Africa Matter?” (T9)** zeigt deutlich, dass nicht nur das koloniale Erbe Malis eine sorgfältige Lektüre im malischen Kontext verdient. Die schwerwiegenden negativen Folgen der Umsetzung von multi-dimensionalen integrierten Friedensmissionen sollen auch nachgearbeitet werden. Dazu gehört die Verschlechterung der UN-Legitimität, der Unterordnung des Schutzes der Zivilbevölkerung und Häufung der Menschenrechtsverletzungen. Die Arbeit von MINUSMA zeigt die anhaltende Besorgnis über die Konsequenzen der engen Zusammenarbeit zwischen UN-Friedenseinsätzen und Ad-hoc-Terrorismusbekämpfung beim Kampf gegen gewalttätigen Extremismus. Darüber hinaus sorgt die Beteiligung der chinesischen Friedenstruppen in MINUSMA sowie der zunehmende Einfluss Russlands in Mali, Niger und anderswo auf dem Kontinent für Bedenken, da sie die Wahrscheinlichkeit der Ausbreitung illiberaler Konfliktbearbeitungs- und Friedensförderungspraktiken in der Region erhöht.

²⁷ Esteve Corberer und Heike Schröder (2011, 90) merken dazu an: “REDD+ is a governance process with multiple actors, interests and activities, involving several sources of formal and informal power and authority (...) which all influence each other and may or may not coincide in their interests and vision regarding how such strategy (...) should actually look like.” Zitiert in Hasenkamp 2017.

Policy-Lernen durch Imitieren und Wissen von Experten während der Covid-19 Pandemie

Das **Buchkapitel "Governing uncertainty during the Covid-19 Pandemie" (T12)** trägt bei zur Diskussion über institutionelles Lernen und Wissensnutzung bei der Bewältigung pandemiebedingter Unsicherheit. Sein Ergebnis zeigt, dass die „Pandemiepolitik“ trotz der Unterschiede bei den sich ändernden Schnittstellen zwischen Wissenschaft und Politik in verschiedenen europäischen institutionellen Umgebungen zu ähnlichen geschlechtsspezifischen Folgen und Belastungen geführt hat. Diese Erkenntnisse enthüllen die Unzulänglichkeit des politischen Rahmens und der Maßnahmen zum Verständnis und Umgang mit COVID-19 und den damit verbundenen Unsicherheiten. Das Kapitel betont die Notwendigkeit, interdisziplinäre Forschung durchzuführen, um eine ganzheitliche Denkweise, deliberative Politikgestaltung sowie reflexives Lernen und Kommunikation zu fördern, die konsistent, nachvollziehbar und geschlechtersensibel sind. Die Übernahme dieser Ansätze kann Einführung einer integrierten Perspektive ermöglichen, die disziplinäre Grenzen beim Verständnis von Unsicherheit überschreitet.

4. Translokale Governance als Ausweg? Diskussion und Perspektiven

Diskussion

Das Rahmenpapier verfolgte das Ziel, anhand der Empirie aus zwölf Aufsätzen die Evolution von Governance in Zusammenhang mit Normwandel, institutionellem Wandel und Policy-Lernen aus einer kombinierten Perspektive von "Translokalität" und "Ko-Evolution" zu beleuchten.

Die Erkenntnisse lassen sich in fünf Punkte bündeln. **Erstens** wird gezeigt, dass die Grenzen zwischen verschiedenen Governance-Formen durchlässig sind. Diese Volatilität lässt sich besonders in Krisenzeiten wie die Covid-19-Pandemie beobachten. **Zweitens** wirft die verschärfte Normfragmentierung in verschiedenen Kontexten die Fragen auf, wie das GG-System mit den neuen Formen zwischen informellen und formellen Governance seine Leistungs- und Anpassungsfähigkeit sowie Legitimation gewährleisten kann. **Drittens** ist zu vermerken, dass institutioneller Wandel, wie die anti-Korruptions-Kampagnen in China gezeigt haben, sowohl als Herausforderung als auch als Chance betrachtet werden kann und dass dessen Verlauf von einem Zusammenwirken von endogenen und exogenen Faktoren abhängt. **Viertens** werden dank der Perspektive der Ko-Evolution verschiedene Formen von Policy-Lernen in Form einer Typologie systematisch erfasst. **Schließlich** ist zu betonen, dass der analytische Rahmen mit den Konzepten "*co-evolution*" und "*translocal orderings*" ein stärker holistisches Verständnis der Evolution komplexer Governance-Systeme und des normativen Wandels auf Makro-, Meso- und Mikroebene bietet. Mit "translocal orderings" ist

gemeint, dass die Suche nach Bedeutung (*meaning-making*) in translokalen Kontexten erforderlich ist beim Umgang mit konkurrierenden Normen-Systemen. Daher dient der Rahmen als Grundlage für die Neuausrichtung des globalen Governance-Systems, welcher Wege aufzeigen kann für die Abmilderung der grundlegenden Diskrepanz zwischen dem Erfordernis nachhaltiger und strategischer Perspektiven auf globaler Ebene, auf einer Seite, und oft taktischer und emotionaler lokaler Reaktion, auf der anderen Seite. Die Einführung „sekundärer Regeln“ nach H. L. A. Hart (1994, 81) zur Festlegung von Verhandlungsregeln zwischen verschiedenen konkurrierenden Wertesystemen sowie die Entwicklung einer Typologie institutionellen und politischen Lernens, das in verschiedenen translokalen Initiativen zu finden ist, bilden die ersten Schritte zu dieser Neuausrichtung. Sie behandeln sowohl die Inkompatibilität als auch die Komplementarität konkurrierender Governance-(Sub-)Systeme. Auch können sie auf die Probleme der Dysfunktionalität von internationalen Organisationen eingehen durch einen integrativen Ansatz zwischen der formellen und informellen Governance, indem die Leistung verschiedener Governance-Strukturen und Divergenz-Strategien lokaler Akteure bewertet und verglichen wird für geeignete institutionelle Reformen.

Weitere Studien sind gefragt hinsichtlich des Zusammenhangs zwischen verschiedenen Typen globaler Normen (darunter der Frage ihrer Robustheit), den Governance-Leistungen zum Beitrag der Sozialisierung der globalen Normen oder des kulturellen Widerstands im lokalen Kontext. Dadurch lassen sich differenziertere Einsichten in die Heterogenität lokaler Praktiken und der Ursachen ihrer Heterogenität gewinnen.

Perspektiven

Über die Antworten hinaus sind einige Implikationen auf praktischer, normativer, und methodologischer Ebene zu nennen.

In Anbetracht der Wichtigkeit des Policy-Lernens nicht nur durch Wissen von Experten sondern auch durch Experimentieren soll das Potential einer translokalen Governance am Beispiel des Klima-Regimes nochmals in die Erinnerung gerufen werden. Merkmal dieses Regimes ist, dass es eine dezentralisierte demokratische Governance-Struktur hat, in der die betroffenen und nicht selten marginalisierten Gruppen mittels Transfers von Knowhow und gerechter (*equitable*) Partizipation befähigt werden, frühzeitig präventiv zu handeln gegenüber Risiken und unvorhersehbaren Klima-Katastrophen. Ferner ist zu erwähnen, dass Experimente wie "*re-narrating*"-Methoden als Raum für Aufarbeitung des vergangenen Unrechts und Peacebuilding eingeführt werden können. Omer (2020, 195-196) beobachtet, dass traditionelle Peacebuilding-Tools zur Bewältigung des vergangenen Unrechts in lokalen Post-Konflikt Gesellschaft kontraproduktiv geblieben sind, da der lokalen Bevölkerung die nötige rechtliche Grundlage fehlt. Daher ist es sinnvoll, einen Raum zu gestalten, indem die

Betroffenen ihre Erfahrungen aus alternativer Perspektiven zu erzählen. Eine solche *“re-narrating”*-Methode fordert nicht nur Perspektivenwechsel. Sie benötigt auch eine Bereitschaft, Anderen aktiv zu zuhören.

Die Diffusion globaler Normen als Grundgerüst des GG-Systems wird oft mit der Übertragung westlicher Normen assoziiert. Die zunehmende Kontestation und Norm-Fragmentierung bieten jedoch eine Chance, intra- und transkulturelle Dialoge und Reflektionen zu fördern. Gerade vor dem Hintergrund einer diskontinuierlichen Welt(un)ordnung wächst die Sehnsucht nach einer Ordnung, die in einem global verfassungsäquivalenten Rahmen verankert ist. Dabei geht es um die Frage, wie Post-Modernität in eigener Regie gestaltet werden kann. Hier beobachten einige Analytiker, dass der Einfluss nicht-westlicher klassischer Denker wie Confucius, Sun Tze und Ibn Khaldoun, die kolonialen Erfahrungen und die Unterdrückung durch Militärregime in vielen Entwicklungsländern das Framing politischer (Abwehr)-Diskurse stark geprägt haben, so dass alternative Erzählungen zur Gestaltung der Welt- und Sozialordnung mit neuen Ideen und spezifischen Anliegen (z. B. Betonung der Nicht-Einmischung in die inneren Angelegenheiten) präsentiert werden. Dies lässt sich vergleichen mit Ideen der westlichen individualistischen Agenda (Buzan und Achava 2010, 10ff; Qin 2010; Chong 2010, Arkun 1984, 160ff). Dies kann hilfreich sein, weil die Parallele als eine Gemeinsamkeit gelesen werden kann.

Versuche der Modernisierung nach eigenen Rezepten sind häufig gescheitert. Solche Rezepte nehmen oft Erzeugnisse westlicher Wissenschaft und Technologie sowie politische Ideologien selektiv mit Begeisterung auf (z. B. Sinisierung der westlichen Wissenschaft und Technologie zum Zweck der Modernisierung Anfang des 20sten Jahrhunderts in China (Chung-Ti-Shi-Yùn); Pan-Arabismus in den fünfziger und sechziger Jahren des 20. Jahrhunderts). Die Gründe sind u. a. interne Machtkämpfe, Naivität der Intellektuellen gegenüber dem westlichen epistemologischen System, Mangel an kritischen Denkern bzw. Intellektuellen sowie das Fehlen kritischer Auseinandersetzungen mit den eigenen Wertsystemen (vgl. Tadjbakhsh 2009; Arkun 1984). Mohammed Arkun (1984, 242-243) zeigt z. B., wie trotz einer Vielzahl kreativer Intellektueller und politischer Bewegungen das Modernisierungsprojekt in Ägypten und in Iran zum Scheitern verdammt war. Passivität und Naivität der Intellektuellen waren dafür mitverantwortlich. Hinzu kommt, dass die islamische Theologie nicht zeitgemäß neu ausgelegt wurde und dass es im islamischen Kontext kaum wirkungsmächtige unabhängige Denker wie Voltaire, Montaigne und Max Weber gab, um einen Kampf gegen die Orthodoxie und Dominanz politischer und religiöser Eliten (z. B. die *Ulama*, also die Religions- und Rechtsgelehrten) konsequent durchzuführen. Dies ist Ausdruck einer ausgebliebenen Modernisierung, wie sie in einigen arabischen und afrikanischen Entwicklungsländern zu sehen ist. Nicht zuletzt muss die Lebensdauer bzw. Robustheit einer globalen Norm in der gesamten GG-Architektur thematisiert werden. Dies betrifft besonders die globale Norm „Demokratie“: Angesichts deren erkennbarer Unzulänglichkeit, Probleme zu bewältigen, vertreten einige Analytiker die These, dass die Staatsform Demokratie nun ihren Gipfel überschritten habe. Ob dies zutrifft, bleibt abzuwarten. Eine globale Norm könnte

erodieren extern durch einen konkurrenzfähigen Gegen-Diskurs oder intern durch die Verletzung der eigenen Prinzipien. China mit seiner Autokratie gilt einigen als erfolgversprechendes Entwicklungsmodell in Konkurrenz zu Demokratie.

Diese Erkenntnisse tragen zur Weiterentwicklung (onto)-epistemischer, theoretischer und methodologischer Entwicklungen bei und bieten neue Erkenntnisse in den Bereichen Internationale Beziehungen/Normdiffusion, Internationale politische Ökonomie und Vergleichende Governance-Forschung. Durch eine ausgewogene vielseitige und transdisziplinäre Perspektive bietet dieser analytische Rahmen eine vielversprechende Agenda für zukünftige Forschung.

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The prospect of democracy in China

One-man leadership and institutional change

Miao-ling Lin Hasenkamp

Introduction

Being the second largest economic power of the world, China's centralized market system has set up a development model of authoritarianism without fundamental political reform. Some authors call such a model a Chinese brand of 'authoritarian mercantilism' (Meyerson 2010; Petersmann 2011), whose well-tailored mercantilist policies (including massive subsidies, forced technology transfer, pilfering of intellectual property, and denial of access to Chinese markets) have fostered the basis of the political legitimacy of the CCP's rule. Drawing lessons from Mao's brutal dictatorship, the reformist leader Deng Xiaoping had installed, in the aftermath of the Tiananmen event, a collective leadership guided by the principles of top leader's term limit (one generation, two terms and ten years – Yi Dai, Lian Zen, Shi Nien), the nomination of successors in a cross-generational manner and leaders' age limit (no older than sixty-seven years). Indeed, the clarification of the successor question constructed the basis for political stability and economic prosperity of the communist regime for the next twenty-five years. Despite its double-edge repressive and reform measures, the CCP has been able to weather a series of social and economic crises and launched several reform efforts at the local and elite levels since the 1980s. For instance, regular village committee elections strengthened local governance and the 2007 internal party mobilization for suggesting Hu's successor demonstrated the CCP's attempt to introduce some democratic elements in its recruitment policy. As such, the CCP's elite rule has increasingly gained recognition and is regarded as a stabilizing force against a backdrop of uncertainty, crises and turbulence (Shi 1999; Schubert 2006). Towards the end of 1990s, in view of virulent corruption, mounting social inequality and unrest, the CCP even allowed competing voices to suggest different reform models ranging from a strong leadership under the CCP, a system of consultation guided by the rule of law, to incremental democracy.

Yet, the change from the collective elite rule towards one-man leadership under President Xi Jinping in 2017/2018 has silenced those arguments for pluralism and civil society. Here arise questions regarding the real face of institutional change in China: How far can existing theories explain the patterns and development of institutional change during the reform era? What are the factors that have pushed for the institutional transformation towards a one-man rule? Why has Xi decided to break the norm of collective rule set up by Deng? Does democracy still have a chance? This chapter uses neo-institutional and constructivist approaches to analysing institutional change under Xi's rule and the prospect of democracy in China.

To date, a variety of economic, political and comparative studies on China highlight China's modernization paths and its rise as a great power (Shin and Cho 2010; Liu 2010; Ding 2009; Shi 2008; Chu et al. 2008; Huang 2008; Peerenboom 2007; Zheng 2004; Whiting 2001; Fewsmith 2001; Shirk 1993). One group of studies explains China's development path through the prism of mainstream development thinking. Zheng (2004) explores how China's leaders have embraced global capitalism and market-oriented modernization. With successful reform measures and tactic investment strategies, China has not only survived globalization. It has also reinvented itself through outside influence by establishing a capitalist system with Chinese characteristics (Zheng 2004; Scott 2002). Another group of studies adopts rational choice institutional and historical approaches to explain institutional change and the flexibility of China's leadership to carry out market reforms and to tackle social crises without fundamental political reform (Shirk 1993; Whiting 2001). Susan Shirk (1993) demonstrates that Chinese communist political institutions are more flexible and less centralized than their Soviet counterparts. An analysis of detailed histories of economic reform policy decisions suggests how the political logic of Chinese communist institutions justified its focus on economic growth and shaped those decisions (Chow 2004: 129ff). Backed by the Chinese people's desire to abandon the planning system, the CCP resumed its modernization efforts (in the fields of agriculture, industry, science and technology, and defence), announced by Premier Zhou Enlai in December 1964, which were interrupted by the Cultural Revolution. Furthermore, in challenging mainstream views of China as an anachronistic and authoritarian regime, several comprehensive empirical studies have shed light on China's performance in human rights issues and grassroots movements either from a comparative perspective in the context of the developing world (Peerenboom 2007) or from a bottom up micro perspective (Ahlers and Schubert 2012). Peerenboom (2007) shows China's efforts in improving its legal system and detects non-liberal variants of the concept of the rule of law in different Asian countries while pursuing a similar developmental path. In particular, in the midst of various economic and social crises, Chinese moderate elites have looked to the Western mainstream democracy and the rule of law theories and presented several models that might serve as a road map for the next stage of institutional change. It turned out to be that, knowing the political correctness of the primacy of the party over the law, suggestions have been largely limited to uphold Chinese cultural and political integrity and to launch its own style of political reform. Hu Angang, a vocal apologist for the government, for instance, made 'collective rule the centerpiece of his book on the superiority of the Chinese political system.'¹

Though many observers suggest that China's collective leadership has become institutionalized which played an important role in stabilizing political and economic developments, Xi's move towards dictatorship has surprised the world. Some critiques warn that such a regression may signal the beginning of the end of China's successful authoritarian rule. Others attempt to shed light on Xi's motivation and the long-term effects of such a move.² The existing literature and analyses have provided insights into the nature, development and features of the CCP's rule. However, a solid theory-based explanation of the CCP's change from collective rule to a strongman leadership appears to be overdue. This chapter attempts to address this deficit and uses new institutional (choice) and constructivist approaches to trace this change. It examines the basic tenets of the functioning of the China model of institutional reforms as well as the reasons for its move towards one-man rule. It aims to provide a synthesized approach to explaining some aspects of China's current political developments and to assessing the prospects and limitations of a systemic change in China. It is argued that the drastic move towards a one-man rule reveals the continuing anxiety and paranoid in China's ruling circles that have haunted the CCP since the collapse of the Soviet Union. It constitutes not only a necessary surviving strategy for the CCP to restore its authority and legitimacy through strengthening law enforcement and adopting assertive diplomacy. Xi's total control of all levels of power proves to be tactically necessary in order to keep his enemies at bay. Paradoxically, Xi's move may destabilize the CCP's rule resulted from the likelihood of calamitous mistakes and the ensuing crisis situations.

To follow my arguments, the first section elaborates an institutional choice and constructivist framework and presents four variants of the theories of institutional change. The second section examines the three basic tenets of the Chinese model without ignoring negative social, political and ecological consequences as a significant malaise, situational and structural, behind China's economic successes. It then presents six models of political developments suggested by Chinese intellectuals and explains their applicability in light of evidence found in several reform efforts at national and local levels. The third section detects the (dys)functioning of collective rule and traces the driving factors responsible for the change towards Xi-ism. In recalling the preconditions of democratization found in theoretical explanations and historical experience, the final section summarizes the chapter's findings and draws a dim prospect of democratic reform under Xi's rule.

Tracing China's development model: New institutional and constructivist approaches as a theoretical framework

Through mutual engagement and accommodation, the combination of new institutional and constructivist (legitimacy-based and trust governance) approaches is supposed to explain China's institutional change. A mid-way synthetization of institutional and ideational approaches, according to Robert Lieberman (2002), shall facilitate the development of more convincing accounts of political change. It involves not just better self-critical understanding about the interactions of ideas, norms, agents

and structure in the time span of a given historical setting. It also helps a genuine cross-fertilization and collaboration within the ambit of work on the China model.

To be sure, both rational choice institutionalism (RCI) and historical institutionalism (HI) as forerunners of new institutionalism have revitalized the hard-core institutionalist tradition. The rational choice (RC) perspective can be defined as the analysis of the choices made by rational actors under conditions of interdependence. It is the study of strategic action of rational actors, using tools such as game theory (Immergut 1998: 12). In their efforts to build general theory through the micro-macro link, institutional choice models allow the analysis of social behaviour that is constrained by social institutions. For instance, in her analysis of the management of common pool resources (CPRs), Elinore Ostrom (1990) shows not only how varied institutional structures affect rational decision-making, but also how rational decisions affect the institutional structures themselves. She argues that when individuals make choices, they affect not only the current operational situation (i.e. the adoption of their current behaviour). Their decisions also affect the operational rules (institutions) that govern future operational situations. In other words, by imputing *ex ante* preferences to individuals without worrying much about their larger sources, RC institutional theory emphasizes the role played by regulative, normative and cultural-cognitive processes in shaping social behaviour and social structure (Scott 2002). At the same time, as RC is motored by rational actor considered as 'an atom unconnected to the social structure in which he or she is embedded' (Shepsle 1989: 134–5), this approach has been criticized as having ignored the sources of preferences and beliefs as results of socially constructed ideas and rules (Katznelson and Weingast 2007: 5). In comparison, with its focus on historical context, HI argues that preferences are shaped primarily by macro-level dynamics. As argued by Kathleen Thelen (2002: 93–4), a good deal of historical–institutional scholarship shows that the impact of institutions is often heavily mediated by features of the overarching political or historical context. For instance, a strong professional bureaucracy in the context of a one-party state plays a very different role and has a very different impact on politics comparing with a strong professional bureaucracy in the context of a democracy. Moreover, HI's focus on temporality and sequencing has helped establish the validity of particular causal claims and provided a more holistic and differentiating picture of the order in which various games get played in comparison with the order of moves in a particular, more or less well-defined game found in the RC tradition (Thelen 2002: 98).

Despite their distinct features and different emphasis, the common interest of RCI and HI in exploring institutions and preferences has opened some overlapping possibilities for the strengthening of their explanatory power. As suggested by Katznelson and Weingast (2007: 2), as institutions often generate sufficiently strong incentives for actors, we can derive a form of preference based on the compelling logic of institutions embedded in particular historical situations. As such, the overlapping dimension of RCI and HI enhances our understanding of how a given institutional milieu both constrains and shapes the repertoire of available preferences.

In view of RCI's and HI's respectively distinct features and their common focus on institutions and preferences, institutional change can be approached as follows. According to Bruce Gilley (2008: 259), institutional change can be defined as 'changes to the governing structure of a state'. The use of this term leaves open the evolutionary

endpoint of such changes and the possibility that the magnitude of such changes may be as great within certain regime types as across them. Within the RCI, while economic institutionalism explains changes to institutions in light of the demands of economic interests at the micro and macro levels (Frey 1976; North 1990; Acemoglu and Robinson 2005), sociopolitical institutionalism focuses more on social or political power than on economic interests (see, for example, Bueno de Mesquita 2003). HI focuses on historical process of institution (its genesis, reproduction and change) and explains the impact of prior events, where exogenous technological change or endogenous facets of the institutions themselves trump conscious social control (Thelen and Steinmo 1992; Mahoney 2001; Thelen 2002: 98–9). Furthermore, in taking a more nuanced and historically informed focus on institutions, RCI examines how players mutually anticipate the actions of others and select strategies that respond to those decided by others. An exploration of the dynamics of adaptation and accommodation strategy choices may also help explain institutional change. For instance, in his study of emerging economies, Zhichang Zhu (2018: 371) finds that an actor-centred, process-oriented and uncertainty-sensitive reorientation backed by the notions and theory of ‘uncertainty’, ‘adaptive efficiency’ and ‘entrepreneurship’ may well enrich the methodological toolkit of RCI while explaining institutional change. For Katznelson and Weingast (2007: 8 and 10), these induced preferences concerned with instruments at times can be observed with sufficient regularity that they can be legitimately imputed as ends towards an individual’s fundamental goals or underlying preferences. Meanwhile, despite their explanatory strengths, institutional choice approaches suffer from the absence of any subjective normative coherence to institutional change. They have been also criticized as being limited to reductionism, reliance on exogenous factors and excessive emphasis on order and structure (Lieberman 2002). For instance, Michael Collier (1999) notes the failure of Ostrom’s CPRs analysis (1990) to clarify specific causal mechanisms that link institutional structures to actual decision-making processes.

Constructivism with its varied ideational perspectives may well provide these causal linkages. According to Nicholas Onuf (1997: 7), a principal constructivist tenet is that people (agents) and society (structure) co-constitute each other in a continuous process. Rules as general prescriptive statements are always implicated in this process, which make people active participants (as agents) in society. As such, rules form agent’s relations into the institutionalized arrangements, or institutions that give society a recognizable pattern or structure. Any change in a society’s rules redefines agents, institutions and their relation to each other. It follows that any such change also changes the rules, including those rules agents use to effectuate or inhibit changes in societies. Therefore, a main goal of constructivism is to provide both theoretical and empirical explanations for the constitutive processes of the emergence, maintenance and change to social institutions. Theoretical explanations focus on the analysis of the interaction of rules, agents and structures. Constructivists examine how these interactions constitute or cause individual behaviour by providing agents with direction and incentives for action, and how these interactions influence changes to institutions (rules) (Adler 1997: 329). In challenging the tendency of institutional theories to take the interests and goals of political actors as given, constructivist ideational accounts of politics consider actors’ understanding of their own interests is apt to evolve as the

ideological setting of politics changes. Hence, a focus on ideas suggests the possibility that human agency can defy the constraints of political and social structures and create new political possibilities (Smith 1992).

In accommodating both the institutionalist and constructivist perspectives, we introduce a further approach to explain institutional change, namely, the legitimacy-based and trust governance approach, which accords its central explanatory power to the role of popular preferences based on the common good demands of a political community (Roland 2004). According to Bruce Gilley (2008: 259ff), legitimacy is the degree to which citizens treat the state as rightfully holding and exercising political power. It puts forth the critical importance of ideas, norms or values, which are viewed as part of the common good aims of a political community. Once established, legitimacy furthers the emergence and maintenance of trust between citizens and government, which is a rational compact based on a fair exchange of information and the public's ability to evaluate government performance. As argued by Valerie Braithwaite and Margaret Levi (1998), a strong government can itself be a source of trust, which can be found in the evidence how the establishment of clear goals and accountability procedures within government agencies facilitates greater public commitment. However, despite its effective economic performance, a strong government with repressive measures violating civil and political rights cannot fully guarantee the maintenance of citizens' trust, not to mention the maintenance of political legitimacy in a longer term.

Derived from David Easton's (1965) model of political systems, the legitimacy-based approach conceptualizes institutions as being at the centre of an endogenous system of performance (outputs), legitimacy and feedback. Institutions then are the infrastructure for generating the performance, on which legitimacy is based. Maintaining legitimacy means managing institutions to generate valued performance and enhance trust among citizens. When that performance fails, pressures grow for more radical institutional change. In this sense, the legitimacy-based trust governance approach is explicit in modelling institutions endogenously, where they are both a consequence and a cause of legitimacy (Gilley 2008: 259–60). In particular, from a historical and empirical viewpoint, it is unlikely that any one perspective mentioned above (economic, sociopolitical, historical and legitimacy-based/trust governance) alone is ever sufficient in explaining institutional change. As noted by Gilley (2008: 262), the South African case shows that the fall of apartheid was not only a direct result of the *delegitimation* of the regime, but also an indirect result of how that *delegitimation* generated structural conditions that magnified the impact of illegitimacy (the rise of a reform faction within the National Party, or the application of economic sanctions, that is international pressure). In other words, we can describe the relationship between the structural and legitimacy-based theories of institutional change in terms of four variants (Gilley 2008: 261ff). Legitimacy and structural factors may be causally autonomous in their effects on institutional change (Variants 1 and 2). Or they may be causally interdependent (Variants 3 and 4). In the latter case, either one could be the critical cause. The structural factors can be further deductively ordered into domestic and international circumstances and factors. As emphasized by Gilley (2008: 261), both structural (Variants 2 and 4) and legitimacy-based (Variants 1 and 3) theories

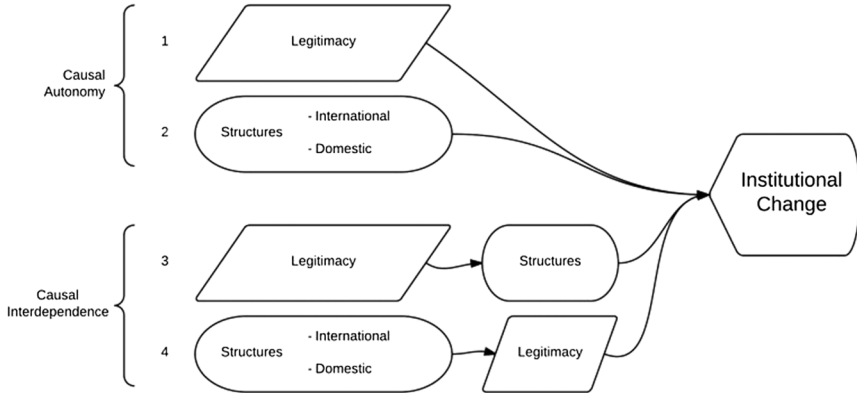


Figure 2.1 Four variants of the theories of institutional change (Gilley 2008: 261, with an addition of a sub-category of structures).

of institutional change can be justified deductively. From the structural perspective, the demands of legitimacy may run into a situation of inertia without the means with which to act (Variant 4). Skocpol’s study (1979) of state weakness and international pressures in explaining revolutions shows that legitimacy may be driven by those structural factors themselves (Variant 4). In many cases, changes in power relations play a critical role in creating the openings in which new scripts can become more central (Thelen 2003: 217). Similarly, Gilley (2008: 261) continues, the argument for the legitimacy-based theory of institutional change can likewise be made deductively, either in the autonomous or interdependent way. Legitimacy might have autonomous effects (Variant 1). It may also lurk in the fabric of economic, sociopolitical or historical accounts of institutional change (Variant 3). Figure 2.1 illuminates these four variants of the theories of institutional change.

Which approach to institutional change – legitimacy-based or structural – can best explain the pattern of post-1989 institutional change in China? What can the case of China tell us about the theory of institutional change? The following sections first describe and explain major features of the China model’s institutional change. It then highlights the driving forces that have pushed for the change from collective rule towards a strong leadership under President Xi in the post-reformist era.

Exploring a Chinese model of institutional change

The China model and its basic tenets

The past two decades have seen a proliferation of academic terms in describing and explaining China’s development paths with new sorts of combination: state authoritarianism, neo-authoritarianism, Leninist corporatism, commercial Leninism, single party capitalism, developmental state, Confucian capitalism, Confucian Leninism, plural authoritarianism, soft authoritarianism etc. Despite their seemingly

contrasting combination of political ideological and economic terms (which appeared unthinkable forty years ago) and a lack of consensus about what the China model really is, these terms, as observed by Ding Shuai-Liang (2009: 41), have demonstrated at least two essential aspects of China's modernization paths: a political one involving its nature, characteristics and structures of power; and an economic one involving its rules, characteristics and institutions. In this sense, we assume that Variant 4 of the theories of institutional change may turn out to be the proper one to explain China's modernization and its ensuing institutional change. Namely, legitimacy may be driven and enhanced by those structural factors themselves. The ensuing institutional reforms remain under the control of the overarching power of the CCP, what some analysts have called 'institutional tactics for democracy' (Shi 1999) or 'contained institutional change' (Gilley 2008).

Regardless of the beginning doubts about the sustainability of such a model, the post-1989 period has at least witnessed a China model in the making, whose relatively stable structures can be discerned in three iron angles: the Leninist one-party rule and its overarching power structures; social control with Chinese characteristics that regulates the relationship between state and society; and a state-controlled market economy.

First, despite its much improved international reputation as a global player and a wide range of reform efforts (including some democratization steps within the CCP, legal reforms, local democratic elections, etc.), the core power structures of the communist regime remain a political monopoly, guided by Leninism and ruled by the CCP (Ding 2009: 44ff). Following the Leninist doctrine, a one-party state consists of a hierarchical disciplinary order in regulating party and state affairs, led either by a strong leader (during the Mao and Deng era and since 2012 led by Xi) or by a group (between the mid-1990s and 2012 led by Jiang Zemin and Hu Jintao). Since the end of the 1970s, while some elements of Leninism have been largely diluted or modified (i.e. with the introduction of the economic opening policy and several elements of capitalism), China's political development has demonstrated a high degree of continuity of the one-party rule through the CCP's successful crisis management and the implementation of adaptation strategies (e.g. the introduction of property laws and financial and political measures against inflation). Meanwhile, the 19th party congress in October 2017 that 'called for the strengthening of the party's leadership role in almost every aspect of public life'³ and the ensuing modification of the Constitution in removing the term limits of presidency in March 2018 has destroyed some beginning reform efforts to separate powers between the party and the state and to further partial intra-party democracy once listed as a priority by late leaders Deng, Jiang and Hu (details about Xi's move back to the past in imitating Mao's totalitarian rule will be discussed later in the chapter).

The second iron angle of the China model is what Ding (2009: 47–54) has called 'a social control system with Chinese characteristics'. There are six components of this social control system including traditional control mechanisms and the new Social Credit System (SCS) planned for launch in 2020. The first one involves a state bureaucratic control system, which has survived, been rebuilt and enhanced following a variety of domestic political turbulence, social unrest, international isolation and

changes in the international system during the past decades. The second component of this social control system is the establishment and cooperation of the CCP and its Youth Corps. The third one involves the organization of specific control units found in every working unit (in cities and rural areas, in private and public sectors), which has been endowed with the power and mission to monitor its employees and employers. A further control mechanism deals with a comprehensive social control network which can be found in the form of 'residents committees', 'residents units', 'township control units (*chen guan duei*)' etc. Although the establishment and definition of the tasks of '*chen guan duei*' cannot be found in any officially written legal documents (including the *Constitution* of People's Republic of China (PRC) after the amendment on 14 March 2004 and relevant legislation documents), *chen guan duei* have become the forerunner of the Chinese social control system. Both the third and fourth control units have emerged and evolved against the backdrop of a Leninist-Stalinist control system with Mao's blueprint. Whereas these control units with a strong Maoist tradition suffered from disorganization and functional weaknesses during the 1950s and 1960s, since the 1970s, they have successfully adapted to new circumstances (increasing interactions between China and the external world, new economic lifestyle, rapid social changes, etc.) and become revitalized supported by modernization efforts. For instance, the power of *chen guan duei* has been refined and expanded particularly with the task to monitor migration flows from the rural areas to big cities within China.

Besides the physical control, China has extended its control system into the wireless world. With the help of information technology, internet police have been charged to undertake non-physical control and to filter messages communicated among laptops and smart phones. In a 2018 propaganda conference, Xi urged 'unity of thinking' and insisted that the internet must be 'clean and righteous', devoid of content that 'upsets the CCP's preferences'.⁴ These remarks reflect an intensified censorship policy under Xi since 2017 that pursues the goals to improve state-sponsored propaganda and to suppress 'political criticism, Western culture and anything that could lead Chinese people questioning the wisdom of their leadership'.⁵ Finally, in a 2014 policy document published by the State Council, the Chinese government has planned to launch a SCS that will enable the state to monitor and evaluate its citizens' daily activities. It involves what Botsman (2017) calls a marriage 'between communist oversight and capitalist can-do' while pursuing the aim to establish a nationwide trust system and to build a culture of 'sincerity' in every sphere of public and private affairs (e.g. government affairs, social and commercial sincerity and the construction of judicial credibility). As noted by Botsman (2017), the Chinese government adopts a 'watch-and-learn approach' and has given a licence to eight private companies to come up with systems and algorithms for social credit scores. For instance, the Ant Financial Services Group (AFSG), an affiliate company of Alibaba, has introduced Sesame Credit, with which people will be rated based on five categories (i.e. credit history, fulfilment capacity, personal characteristics, behaviour and preference, and interpersonal relationships). With these rating categories, the system not only scrutinize behaviour, it also shapes it in nudging citizens away from purchases and behaviours the government dislikes in order to make their score go up.⁶ Moreover, while posting critical voices and links mentioning Tiananmen Square has continuously been dangerous in China, it now

could directly worsen a citizen's rating. A further kicker of this 'Big Brother' system is that citizens' score will be indirectly influenced by the posting (negative or positive) of their online friends (Botsman 2017). Contrasting opinions have emerged towards this newest social control scheme. On the one hand, some welcome such regulation efforts that uphold the moral standards designed to reduce risks in digital economy, can prevent irrational behaviour and violence, and result in more effective oversight and accountability.⁷ Other observers see the SCS as being like 'Amazon's consumer tracking with an Orwellian political twist' and compare it to 'Yelp reviews with the nanny state watching over your shoulder'.⁸ Increasingly, such a SCS began to shape the mind-set of the Chinese population in a bizarre digitalized world, whose effects bring an illusion of security and can already be observed in normal cultural and business exchanges between the Chinese young generation and their European counterpart. A Chinese intern in Hamburg expressed her insecure feelings due to the lack of surveillance and face recognition systems in the public sphere in Europe.⁹

Whereas the first and second iron angles of the China model have created an environment of political and social stability, the third iron angle – a state-controlled market economy – has provided fresh air, blood and dynamics for an effective functioning of the whole system (Ding 2009: 58). As such, the development process of the China model is constituted by close interactions among these three iron angles. To be sure, a state-controlled market economy has been a common phenomenon in most East Asian economic development (Japan, Taiwan, South Korea, Singapore, Hong Kong and Vietnam), in which the government has explicitly and implicitly controlled those strategic key sectors including bank, finance, energy, communication, defence and education affairs (Wade 1990; Aoki et al. 1996; Kojima 2000). China has been following the 'flying geese' (FG) development model of Taiwan and Singapore. In the midst of industrialization process since 1978, the CCP not only has a strong grip in those key sectors (developed as a form of party capitalism) while elaborating strategies for attracting huge volumes of foreign direct investments (FDI), establishing alliances (such as joint ventures) and following a clear division of labour (found in the Sino-Japanese economic relations, see Kwan 2002; UNCTAD 2013). The CCP has also been strongly involved in corporate governance ranging from the recruitment and employment of managers to the control of shares etc. Meanwhile, as observed by Ding (2009: 60–1), China has created a variation of the East Asian economic development model: the scope and degree of market intervention controlled and manipulated by the communist officials in those sectors such as real estate, finance, stock and energy sectors in the post-1990s can no longer be compared with the development experience found in Taiwan and Singapore. For foreign investors in China, the definition of market gaps and demands are often *less* important than the fostering of contacts with the mayors and CCP's officials. In this light, the China model provides a compelling example of an economic miracle and the likely durability of one-party rule in the developing world. The state-controlled economic reforms have improved the living standard of millions of people, thereby pushing the emergence of a middle class with strong purchase power the global market can no longer ignore. At the same time, increasing social inequality, the slowdown of domestic economic growth resulted from recent trade barriers set by China's key partners (notably the United States and the EU) and the transformation

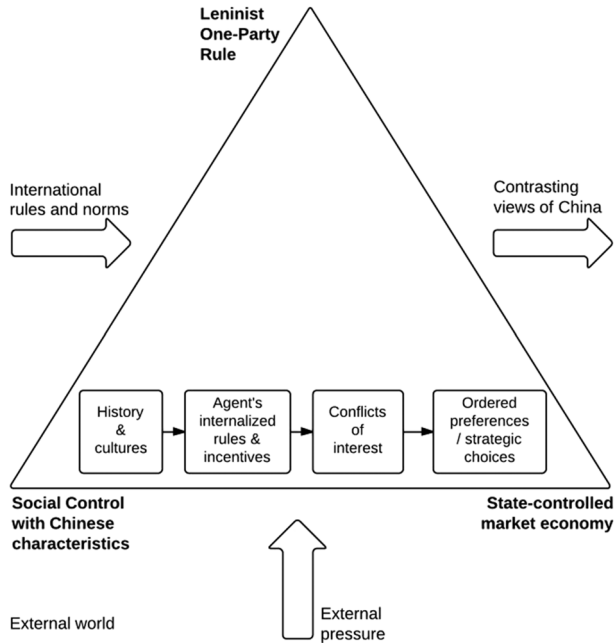


Figure 2.2 *The China model with its iron triangles – an institutional-constructivist framework.*

towards a totalitarian rule under President Xi have cast shadows upon the further development of this model.

Viewed from an institutional–constructivist perspective, Figure 2.2 illustrates how the China model works.

To be sure, China’s post-Deng era has seen two phases of political and institutional change. The first phase has been characterized by the continuation of China’s productive exchanges with the West which have helped China change itself and contributed to China’s domestic prosperity and its rise to global economic power (Gewirtz 2017). Under former presidents Jiang and Hu, China remained open to Western ideas and kept a *low* profile in international affairs set by Deng. Signs of political and social pluralism began to emerge and have been tolerated by the CCP. For instance, reform-minded thinkers and conservative hardliners within the CCP have debated over the direction of political reforms; social movements, local non-governmental organizations (NGOs), philanthropic associations and blogs fighting against social inequalities and environmental pollution have emerged. Nevertheless, the Chinese government has been less eager to publicize its engagement with Western-style innovations and maintains that China’s economic miracle was the CCP’s achievement alone.¹⁰ It has presented its own development discourses in emphasizing the collective right to develop and uphold traditional values and norms such as ‘harmony’ and ‘trust’ found in the Confucian teaching. In particular, it has propagated nationalism and patriotism in countering Western pressure and

protesting against Japan's revisionist efforts towards its past aggressor role during the Second World War (Hasenkamp 2018).

The second phase of change began with President Xi's gradual move towards one-man rule since November 2012. Backed by the slogan 'China Dream,' a fundamental change is taking place (for more details about the China Dream, see Chapter 7). Measures are introduced to reorganize the top leadership, suffocating liberal thinking within the CCP and in society, monitoring NGOs' activities and strengthening internet censorship. The policy change also can be found in China's aggressive diplomacy coming from Xi's 'own aspirations, beliefs and strategic requirements.'¹¹ This diplomacy is designed to vault China to world greatness through even bigger spending in military and space projects as well as the launching of overseas infrastructure programmes (i.e. the One Belt and One Road Initiative (BRI)). Meanwhile, though Western media has declared Xi being the most powerful leader on the world stage, Xi's move towards dictatorship and increasingly aggressive diplomacy have prompted concerns and mistrust worldwide.¹²

Both phases witness how China's history and culture have shaped actors' incentives and rules, the scope of conflict of interests among different factions and the outcome of elites' ordered preferences. Gerrit Gong (2001) particularly upholds the role of history by offering value *what* individuals and countries remember and *what* they forget. The spread of social media and public opinion has further nationalized individual feelings under the banner of nationalism and patriotism. At the same time, as noted by Callahan (2004: 200), instead of nurturing greater democracy or freedom, such popular politics might add 'another dimension to the broad forms of governance that rely on culture and history for political and economic projects'. The way how Chinese history and culture provide values and incentives can be described in a set of complex and incompatible pictures with the following characteristics: a China-centric identification of greatness and superiority, nationalization of victimhood and suppression of the dark past through forgetting and a volatile potential of destruction and violence.

First, the Chinese mind has been and remains convinced of its rightful place as a Middle Kingdom with an enduring allure of its rich old civilization. The Chinese history with its past twenty-four dynasties has shown how it has survived from foreign occupation, subordination, civil wars and internal division while absorbing different foreign cultures and cultivating barbarian peoples. After more than a century of 'national humiliation' (Callahan 2004; Kingston 2013) and backwardness, the restoration of its greatness constitutes a compelling legitimate basis for contemporary Chinese leaders. Secondly, China's collective psyche has been beleaguered by those unprecedented turbulent events of the past century (i.e. loss of territories, Japan's aggression and atrocities, civil war, political turmoil and violence during the Mao era (notably the Great Leap Forward and the Cultural Revolution between 1966 and 1976)). These events have defined China's mind-set which is characterized of a psyche of victimhood with a persistent humiliation narrative as well as conscious forgetting and silencing towards its dark past.¹³ The enormous sufferings of the Chinese people at the hands of Western and Japanese imperialists and Mao's dictatorship are unique. However, the painful remembering began belatedly and selectively almost three decades ago, very often for political expedient reasons (Kingston 2013; Hasenkamp

2018). Despite the hosting of the 2008 Beijing Olympics celebrated as an end to China's humiliation, deliberate acts of humiliation continue to be used as the bedrock of the founding of modern China and serve as a rally call for nationalism and an easy political cause for elaborating grand strategy (Callahan 2004; Kingston 2013; Wu 2015). Thirdly, China's historical experience has revealed a high degree of volatility of self-destruction and violence which has provided a facilitating bedrock for revolution and systemic change. Their root causes often lie in economic scarcity, severe social tensions, class antagonisms, blind dedication to deified leaders and the political cause, and conflicts between the state and the mass/society. Several studies reveal for instance why the Cultural Revolution can be described as 'a social revolution at all levels of society' and how social tensions and the Red Guard factionalism have led to *uncontrolled* violence, destruction and barbarism (Lee 1978; Chan et al. 1980). Albeit its strong economic performance and growing political influence, China remains vulnerable to the danger of domestic instability due to the high volatility of social conflicts and the unsettled dark past, as its future depends on how the narrative of history and culture might be framed, selected and manipulated for political purpose.

Coupled with the historical ghost of victimhood and a specific set of cultural traits (i.e. national pride and destruction), the exposures of structural and ecological malaise and the mounting social unrest as consequences of rapid economic development have further challenged the legitimacy of the CCP's rule. A brief look at the dark sides behind China's economic successes reveals inherent structural drawbacks of the China model.

Structural and ecological malaise and suggestions for reforms

From a macroeconomic and sociopolitical perspective, China's development model bore consequences reflecting the shadow of China's economic miracle in four areas: the continuing exploitation of marginalized rural areas and socially marginalized groups, structural corruption, ecological destruction and the lack of transparency and rationality in the sphere of public policy.

First, following Huang's analysis of two Chinas (2008), there exist an entrepreneurial rural China and a state-controlled urban China. In the 1980s, rural China gained the upper hand, and the result was rapid as well as broad-based growth. However, in the 1990s, urban China triumphed: the Chinese state reversed many of its productive rural experiments with long-lasting damage to the economy and society. It follows that a weak financial sector, income disparity, rising illiteracy, slowdowns of productivity and reduced personal income growth turn out to be the product of a capitalism with Chinese characteristics. While GDP grew quickly in the past three decades, the marginalized rural areas, regions and social groups (peasants, workers and particularly migrant workers and women) remain exploited and excluded from the accumulation and distribution of economic wealth. China's poor political governance and its bureaucratic centralized system are responsible for the increasing social disparity between the rich and the poor.

Secondly, though the conventional wisdom holds that corruption is damaging for maintaining social trust, empirical studies reveal its crucial role in serving as

an incentive for officials and stimulating China's economic reforms and growth (Bergsten et al. 2008; Wang and You 2012). However, its omnipresence at every level of government and the loss of control on the part of the CCP deeply involved in collective profit-sharing in both business and state affairs have constituted structural barriers for China's further economic developments. The ensuing negative political and social effects have particularly threatened the CCP's political legitimacy. Despite the state government's efforts in carrying out a series of anti-corruption campaigns and trials (in 1982, 1986, 1989, 1993 and since 2013 under Xi's leadership), their deterrence effects remain largely limited (for more details about the CCP's anti-corruption campaigns and its relationship to economic development, see Chapter 5). As long as there exist no *independent* anti-corruption institutionalized channels in regulating social and public affairs, the scope and degree of corruption and the filtration of corruption in every aspect of social life will continue (Quade 2007; Ding 2009: 134). Thirdly, behind the GDP growth, China's inhabitants (particularly those socially marginalized groups) have been suffering ecological deteriorations in various forms (water, air, land pollutions and food poison) as negative or (un)intended consequences of economic development. The corresponding violations of social and economic rights (including the rights of producers and consumers in the global chains of capitalism) have not only prompted a surge of social protests, but also the emergence of environmental activism (e.g. following the poison protests in 2011, see Kelly 2006).¹⁴ Finally, in the sphere of public policy (ranging from the issues of public health, education, religion and cultural affairs to population control, etc.), as Chinese intellectuals have been continually prevented from engaging in discussions in an open, rational and creative manner, many problems remain unaddressed and intentionally covered, which have often led to outbreaks of tragic crises. Ding (2009: 135–6) calls the obstruction of an active role of intellectuals in the public arena and the consequent lack of transparency and rationality in the articulation and implementation of public policy as 'an institutionalized *bêtise*'.

In view of the poor political governance and existing institutionalized *bêtise*, various discourses surrounding possible political reforms emerged within the CCP circle towards the end of the 1990s. Moderate and conservative CCP intellectuals have proposed the following six models.¹⁵

The first model emphasizes that it is necessary for China to become a strong, authoritarian state to restore its national greatness and to concur against the United States. Wang Huning, the CCP's famous strategist under the presidents Jian, Hu and Xi, has proposed the idea 'neo-authoritarianism' and argued already in the late 1980s that a nation as big and poor as China 'needed a firm hand to push through modernization before it could consider becoming a democracy'.¹⁶ Wang doubts the adequacy of the US democracy for China and suggests an *enlightened* autocracy that would be 'highly effective in distributing social resources' in order to 'promote rapid economic growth' through the centralization of party rule and tight control of society.¹⁷ The second model involves a political system which should be guided by the principle of the rule of law with consultation. Supporters of this model like Pan Wei view that political reforms are necessary for the fight against corruption, misuse of power, increasing social disparity. The goal is to revitalize the political legitimacy of the CCP. Such a consultative political system based on the rule of law consists of several

institutional reforms: the establishments of an independent state bureaucratic system; an independent judicial system; independent anti-corruption institutions as well as a social consultation system; and the legal protection of the freedoms of opinion and associations. In this system, the CCP should play a leading role to manage the timing and phases of the transition from a non-democracy towards institutional change.

The third model is – what Kang Xiaoguang calls – a cooperation state with a combination of authoritarianism, liberal market economy, corporatism and a welfare state. Kang argues that such a power-sharing system between the state, the market and society should be based on the principles of autonomy, cooperation, checks and balances, and participation. To be sure, to adapt to the globalized age, Chinese leaders have encouraged individual firms to build an entrepreneurial class at different levels (Zheng 2004). A unique, country-specific formula for cautious deregulation, state ownership and selective government intervention in the economy has been the case for Chinese economic development. Two examples help illustrate the emergence and growth of Chinese entrepreneurship backed by state-supported adaptation and regulation strategies. They also show how economic growth successfully follows from an *adept* tailoring of economic policies and institutions to their local contexts rather than from an application of universal economic principles (Huang 2008). First, the success of Lenovo as a product of Hong Kong institutions becomes a story of rule of law and market-based finance.¹⁸ As noted by Huang (2008), that corporate success in China requires a combination of Chinese management and foreign legal status, which is ‘probably the cleanest illustration of the massive distortions in China’s business environment’. In other words, China’s success has *less* to do with creating efficient institutions and more to do with permitting access to efficient institutions *outside* of China (Huang 2008). In view of China’s corporate success stories, Western researchers have begun to argue that microeconomic and macroeconomic successes do *not* depend on adoption of Western-style financial and legal institutions. Instead, *informal* finance is nearly as good as market-based financial institutions in channelling capital to the private sector (Allen, Qian and Qian 2005, cited in Huang 2008). Another example deals with the growth of township and village enterprises (TVEs) in rural China during the reform period, which has been praised as the emergence of ‘local state corporatism’ growing out of the statist tradition (Oi 1992, cited in Whiting 2001: 11). However, as Susan Whiting (2001: 12) reminds us, local state officials in China do intervene actively in local economies, and they do so in highly politicized ways. As a result, publicly owned TVEs, while experiencing dramatic growth, share many of the same pathologies of state-owned enterprises (SOEs) throughout the developing world.

The fourth model, as suggested by Wang Shaoguang and Hu Angang, is based on the theory of democratic institutional building which pursues the goal of ‘good governance’ in fostering the government’s capacities in eight areas: the capacity of safeguarding state security and public order (coerce capacity); the capacity of mobilizing and dispatching social resources (collect capacity); the capacity of fostering and consolidating national identity (legitimacy capacity); the capacity of maintaining economic and social orders (regulatory capacity); the capacity of retaining the control, supervision and coordination within state institutions (leadership capacity); redistribution capacity; the capacity of bringing the demand of citizens participation into the channel of official

institutions (administrative capacity); the capacity of coordinating different interests and formalizing public policies (integration capacity). The evidence has shown that at least the CCP has proved to be successful in demonstrating their legitimacy capacity and leadership capacity in the past two decades. Gilley (2008: 263) mentions that, in most cross-national comparative studies of legitimacy, or the closely related concepts of political trust or support, China's party state has been ranked with high legitimacy. Following a series of institutional reforms including bureaucratic downsizing, party institutionalization, major central-provincial and corporate tax reforms, bureaucratic centralization, semi-competitive elections in self-managing villages, enhanced legal institutions, the rise of the regulatory state, and the discussions of an independent anti-corruption institution (2007), a stray of hope emerged as if China would begin to move towards more democratic institutional reforms. However, as long as the CCP's constitutional monopoly of political power remains, such institutional reform can be described as 'contained institutional change' (Gilley 2008: 264). In combining with the role legitimacy may play for the launching of institutional change, Gilley (2008: 264) observes that the party's programme of institutional change has successfully responded to public preferences at the macroscopic level. As such, the post-Mao state's emphasis on bureaucratic efficiency and state strengthening is consistent with the post-Mao public's emphasis on what Inglehart and Welzel (2005) call 'modernization' values, which are empirically strong in contemporary China: economic development and national defence. In other words, we can argue that CCP's trust governance has functioned well. Its significant but contained institutional change so far has enhanced the political legitimacy of the CCP, which might have obstructed fundamental steps for democratization. In particular, at the local and microscopic level, various studies show how the party has responded to social demands for more efficient rule. For instance, in their cross-province study of the organization and administration of population control policies, Y. Huang and Yang (2002: 30) find that the shift to more professionalized and non-coercive institutions was driven by public demands. Concerned about the legitimacy problem, there was a perceived political need to shift the contentious issue from the political arena to an administrative 'neutral' zone.

Furthermore, Yu Keping proposed a fifth model based on the theory of incremental democracy, which regards democratization as a gradual process through the introduction of an *electoral democracy*. It upholds the importance of fostering a socialist market economy, of putting the CCP also *under* the rule of law, and of emphasizing grassroots democracy. Despite the contrasting views of the impacts of semi-competitive village elections,¹⁹ some elements of electoral democracy have been introduced since the end of 1980s. Even though the CCP still organizes such elections, which contrasts with the principle of democracy, according to Shi (1999: 386ff), elections in rural China did create uncertainty for village rulers. Such uncertainty is the driving force of political and institutional change. Evidence has shown that candidates in many places have even begun to purchase votes, testimony to the ability of the elections to put an entrenched power at risk. In Shandong Province, turnover in the 1995 elections reached 30 per cent. It indicated that voters ousted between 9,900 and 19,800 incumbent CCP officials from office. At the same time, in countering Shi's argument (1999) that views such local village elections as an institutional tactic for the CCP to maintain its power, Chen

Jie and Yang Zhong (2002) re-examine voters' subjective motivations and get a more differentiating picture. They find that people with stronger democratic orientation and a keener sense of internal efficacy are less likely to vote in those semi-competitive elections. In comparison, people who are identified with the regime and have affective attachments to the CCP are likely to vote in the elections. Here we detect the emergence of more or less pluralist voices within Chinese village voters, which may pave the way for further incremental democratization.

The final model suggested by Wang Guixiu is a rigorous one that should follow the imperative of the rule of law supported by democratic principles in order to effectively address the existing political, social and ecological malaise of the old system. Instead of the CCP's power monopoly, further decentralization backed by citizens' participation should be introduced. However, China's current political development might have from the very beginning countered such a suggestion, as it would not only pose a fateful challenge to the one-party state rule. It also implicates social and political instability and insecurity following a systemic change without or with a democratic CCP, which is unthinkable in current China.

The six models suggested by the CCP's intellectuals show that some pluralist voices inside the CCP cadre emerged at a time when the CCP's was confronting the impasse of its rule while tackling a variety of domestic and foreign challenges. Some elements of certain models have been put into practice while some models have proven to be unfeasible in the Leninist system. At the same time, Xi's move towards a one-man rule proposed by his political counsel Wang Huning has confirmed the full embracement of the first model, thereby putting aside any space of deliberation and experiments of other models. Herein arise the questions of the motivation, scope and implications of such developments that mark an end of the 'two-term limit' of power transfer set up by Deng in order to prevent a return to totalitarian dictatorship during the Mao era.

The emergence and consolidation of one-man leadership

The years 2017 and 2018 mark a historical shift in China's political developments that bring back old rules of power transfer in the CCP's senior leadership circle. In October 2017, the 19th National People's Congress (NPC) adopted 'Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era' in the CCP's *Charter*, giving Xi a status unmatched except by Mao and Deng. NPC's decision appeared to pave the way for Xi's 'perpetual presidency' after his second five-year term in office. Later, in March 2018, during the opening of its annual parliamentary session, the NPC decided to scrap the two-term limit for the state president and vice-president and allowed Xi to retain the presidency as long as he can and will. Also, the NPC has confirmed the sixty-nine-year-old Wang Qishan – the retired former anti-corruption head – to become vice-president, thereby breaking the norm of age limit in nominating senior cadres to a new five-year term. In short, Xi has laid cards on the table and decided to break the collective party decision-making norm in the post-Deng era.²⁰

Reactions and explanations vary following Xi's move towards one-man rule. Domestic sympathizers and Western admirers regard such a grand measure of reform

as a guarantee for political stability of the CCP's rule. For them, China under Xi now feels strong enough to demonstrate a successful China model and 'to express itself in terms of its foreign policy and its international position' by putting aside Western values regarded as 'emotional private enjoyment'.²¹ For instance, Xi has aggressively claimed China's territorial ownership in the South China Sea and is ready to challenge the US dominance in Asia. China also has begun to challenge the US leadership in the fields of military, technology and space affairs.²²

In comparison, worrying and opposing voices consider China as being in jeopardy due to the three transformations China faces today (i.e. its changing role becoming a 'feisty competitor', the debt problem and its ageing population),²³ coupled with many uncertainties Xi's move has triggered. Critics raise their concerns with such a shift that not only threatens past painstaking efforts to institutionalize peaceful party and government leadership transitions every ten years. They also view Xi as becoming 'the most dangerous rival' against an open society, whose policy of social control suffocates vibrant forces in economy and society and subdue the destiny of individuals to the party state's interests.²⁴ In particular, observers consider Xi's move as an exposure of the consequences of the fierce, often bloody power struggle inside the CCP dating back to Mao's era. The shift from one-party rule to one-man rule obviously reveals CCP's failure to institutionalize power transfer of political leadership, leaving Xi no other choice than the overturning of the existing rules and taking the risk of possible backlash from his potential political rivals.²⁵ Ultimately, such a move has proved to be a key survival strategy for Xi to fight against coups and assassination bids and to restore the CCP's legitimacy, as its elite leadership has fallen prey to concurring corrupt factions which have profited from the state-led economic boom, while fighting against each other for power maintenance (Mahalingam 2017; Shu 2018).

A close look at the specific circumstances and scope of Xi's move towards one-man rule unveils the real face of the past collective elite rule, Xi's motivation and its implications. We recall the legitimacy-based theory of institutional change mentioned above which is deduced from mutually reinforcing economic, sociopolitical, or historical factors (Variant 3, see 'Tracing China's development model: New institutional and constructivist approaches as a theoretical framework'). Viewed from this prism, we assume that, following the third view mentioned above, Xi's power concentration involves a political instinct for survival and is the natural consequence of CCP's failure to institutionalize its power transfer since Mao. His decision to scrap the term limit of presidency serves to restore the unity of the government and the CCP's political legitimacy.

To be sure, empirical and comparative studies show that one-party rule is the most resilient system when compared with other types of authoritarian regimes (military regime and one-man rule). The reason for its durability lies in its institutional arrangements (e.g. the existence of congress of party representatives or/and political central committee) that can carefully balance a power system among different factions of the party while exercising its power. Within this system, as no single faction can attain a political monopoly, consensus emerges in terms of the regulation of power-and profit-sharing among the ruling class' different factions. Once consolidated, such collective rule cannot be easily challenged or divided by external forces. As emphasized

by Shu (2018), this is the real face of an 'elite rule', which has ensured China's political stability in the past decades. At the same time, its collective power- and profit-sharing can lead to virulent collective corruption, as no single faction is willing to undertake disciplinary measures to break up the chains of mutual cover-up. The CCP increasingly is trapped in a state of inertia. It therefore becomes unable to cope with its structural governance problems and to address the rising tensions and frustrations between the ruling class and the ruled. Being a fresh designated successor, Xi witnessed in 2008, how Hu has lost control of solving the CCP's governance problems caught not only in the ruthless power struggle between Hu's faction and Jiang's faction but also in a vicious circle of collective corruption (Shu 2018).

Three driving forces have shaped Xi's authoritarian approach based on tactic, political and strategic calculations. The first and foremost force is a political instinct to eliminate political rivals. Similar to the past violent bloody power struggle (dating back to Lin Biao, Liu Shaoqi and Hua Guofeng during the Mao era and later Hu Yaobang and Zhao Ziyang during the Deng era), speculations emerged telling the story how Xi has survived from several attempted coups and assassinations between 2012 and 2015, planned by his rivals (i.e. Zhou Yongkang and Bo Xilai from the faction protected by the former president Jiang). After those incidents, friends close to Xi noticed his determination to 'clean up the Communist Party, to clean up the Chinese hierarchy's abuses of power and corrupt behaviour'.²⁶ Later, Zhou and Bo were under investigation due to their corrupt behaviour (for details, see Chapter 4). As Xi has broken the balanced power- and profit-sharing rule, there is no way back for him to have compromises with other rival factions, not to mention to consult with them concerning the successor question. Secondly, Xi wants to prevent any scenario of collapse of the CCP's rule; he wants to consolidate control, and to restore the CCP's legitimacy through vigorous reform measures. These measures include ideological campaigns at all levels by deifying the CCP's historical mission to make China great again and by cultivating a cult of personality surrounding Xi, the recruitment of reform-minded members, and the introduction of new institutional units aimed to suppress critical voices and political rivals, also in the name of the anti-corruption campaigns. For instance, in rebuilding the Standing Committee, Xi has recruited five new members in October 2017 who are either can-do reformers or adept at coping business and financial issues. Observers interpret such personnel arrangements as a significant sign of Xi's new focus on trade and economic issues in the forthcoming trade quarrels with the United States after the phase of power consolidation during his first term.²⁷ Thirdly, Xi has accelerated China's foreign political influence activities through a multiple channels including the launching of the BRI as well as cultural promotion (e.g. via more than 500 Confucius institutes in foreign countries) and media propaganda work which also serves as a means of facilitating espionage. China's assertive foreign policy is guided by the concept 'united front' and directed by the State Council Information Office and CCP Central Committee Foreign Affairs Commission. Praised as 'magic weapons', the assertive foreign policy strives to influence overseas Chinese and China-friendly representatives who will effectively 'influence, subvert, and if necessary, bypass the policies of their governments and promote the interests of the CCP globally' (Brady 2017: 3; Hoover Institution 2018). The ultimate purpose of this aggressive foreign policy in accelerating

China's political influence abroad is to extend China's global influence and to expand its economic and military agenda, thereby enhancing the CCP's domestic legitimacy and Xi's rule at home.

The implications of Xi's policy are fourfold. The scrapping of the term limit gives him time and space to consolidate his control and to reorganize the CCP's rule. The ensuing institutional change and expansionist agenda abroad have helped the party state to restore and to maintain its legitimacy, thereby ensuring the PRC to be able to outlast the former Soviet Union while preparing for the celebration of its 70th anniversary in October 2019. Promoting a cult of personality and enhancing social control via modern information technology signify a clear farewell to any prospects of democratic deliberations in terms of the development of a vibrant civil society and the establishment of democratic institutions. Under Xi, China experiences a fundamental change from an opening reformist country towards a surveillance bottlenecks state, in which even in the higher education system, the ideological work now determines *everything*. This may have already limited free academic research and exchanges between Chinese students and academics and their international counterparts.²⁸ Xi has full control of the CCP's members and the people behind him to pursue the China Dream and he certainly will do his best to justify his rule through best performance. Nevertheless, the high degree of power concentration has created its own bottlenecks. Officials become 'unsure how to execute policies or afraid to deviate from top-down demands'²⁹ and society becomes subordinated to the will of the new emperor. It constantly finds itself in a state of fear and anxiety. The declining economic growth, accompanied by uncertainties, resulted, in part, from Xi's rule and the US-China trade quarrels may provide occasions for social discontent and tensions in a highly suppressive party state. The fourth implication of Xi's policy is that China's extensive foreign influence activities have changed the power constellation in the international system. They mark the rise of authoritarian regimes now being able to counter the spread of democracy and to provide an attractive template for the diffusion of authoritarianism.

Conclusion and discussion: Does democracy still have a chance in China?

This chapter has highlighted the functioning of a China model of institutional change. The intertwining structural and legitimacy-related factors decisively shape the institutional change in China's Leninist state-party system. While the collective elite rule in the post-Deng era provided political stability and allowed concurring voices to help the CCP to address a variety of external and domestic challenges, it delegitimized itself by losing the control of its own virulent corrupt behaviour. This occasion provided a facilitating moment for Xi to step in and to take a full grip of power. As such, the change from a consensual elite rule to one-man rule is the result of crisis management. Xi further uses historical narratives to glorify the CCP's mission to bring China back to the central stage of world politics, justifying the legitimacy of such

a one-man rule. Under Xi, the CCP can reassure its permanent arbitrary power *beyond* the PRC's constitution. The institutional change herein has demonstrated the dynamic of China's special characteristics in regulating the state–society relationship, in which society is required to be obedient towards the party state, just like the ancient Chinese society did towards its emperors. However, the drastic move towards a one-man rule reveals the continuing anxiety and paranoia in China's ruling circles that have haunted the CCP since the collapse of the Soviet Union.

What can be the outcomes and impacts of such a shift towards a dictatorship in China? The question of the China puzzle reappears, with which Western opinion in the past often got China wrong through the recurring warning that China would eventually hit the wall if it does not become a democracy. In order to better understand China, Martin Jacques' suggestion to question the appropriateness of a Western paradigm and to recognize China as both a civilization state and a nation-state may be a good starting point to consider China differently, while discussing the impacts of Xi's strong leadership and the prospects of democracy in China.³⁰

Reflecting upon the 'third wave of democratization' (Huntington 1991) in the 1990s, Herbert Kitschelt (1993: 413–14) revises three fundamental theoretical premises for explaining regime change. First, while conventional thinking has been preoccupied with identifying structural 'preconditions' of democratization (i.e. economic development, property rights, class configurations, cultural patterns, and state institutions), Przeworski et al. (2000) find that economic development does not generate democracies but democracies are much more likely to survive in wealthy societies. Therefore, one has begun instead to pay attention to the process of political interaction and bargaining between stalwarts of an existing non-democratic regime, reform elites and outside democratic challengers. One assumption of revisionist thinking is that the process of transition is a better predictor of eventual regime outcomes than structural preconditions that precede the advent of liberalization. Secondly, whereas conventional thinking insists on the importance of democratic norms and orientations as preconditions of democratization, new approaches argue that popular democratic commitments are the result, not the prerequisite of democratization. Democracy is the contingent outcome of conflicts that depends on actors' initial resources, not their values. Hence, the key factor leading to the emergence and consolidation of democracy is not legitimacy, but the absence of alternatives to democracy that significant political actors view as feasible and preferable. Thirdly, in rejecting the pessimism of structural and normative analyses of preconditions to democracy, authors like Przeworski (1991) favour the use of game-theoretic tools to throw light on the timing of democratization and concern with the cognitive mapping of strategic situations and a 'hermeneutics' of strategic interaction that has often been neglected by conventional game theory.

In synthesizing the revised theoretical premises, following Daron Acemoglu and James Robinson (2005: viii), two favourable circumstances for democracy can be identified: (1) when there is enough social unrest in a non-democratic regime that cannot be defused by limited concessions and promises of pro-citizen policies. The outbreak of social unrest, in turn, depends on the living conditions of the citizens in the given non-democracy, the strength of civil society, the nature of the collective action problem facing the citizens in non-democracy, and the functioning of non-

democratic political institutions that determine what types of promises made by the elite appear to be credible; (2) when the costs of democracy anticipated by the elite are limited, so that they are not tempted to use repression to deal with the discontent of citizens. These costs may be high when inequality is high, when the assets of the elite can be taxed or redistributed easily, when the elite have a lot to lose from a change in economic institutions and when it is not possible to manipulate the form of the nascent democratic institutions to limit the extent to which democracy is inimical to the interests of the elite. Moreover, these factors influence whether, once created, democracy is likely to survive. For instance, greater inequality, greater importance of land and other easily taxable assets in the portfolio of the elite, and the absence of democratic institutions that can avoid extreme populist policies all are more likely to destabilize democracy.

In other words, Acemoglu and Robinson's approach to democratization stresses not only the role of crises, but also the importance of social unrest, the threat of revolution and generally the *de facto* power of those without *de jure* political power in inducing a transition to democracy. And their approach finds support in the historical experience of systemic change both in Latin American and in China. The Latin American experience with democratization supports the notion that the threat of revolution and social unrest was important and is broadly consistent with the comparative statistics with respect to inequality (Acemoglu and Robinson 2005: 53–6). The change of dynasty from one emperor to another in Chinese history also demonstrates the crucial role of crises and social unrest. There is one famous Chinese proverb: If you don't get the heart of peasants, you'll lose the power, as the threat of peasant revolution will become real. The Chinese elite know well this inherent logic of their history. Furthermore, contrasting experiences highlight the significance of uncertainty and contingency of democratization, and therefore also choice, and even leadership (Gourevitch 1993). The early democratic experiment undertaken by the first republic in East Asia, namely, the Republic of China (ROC) under the Sun Yet-Sen and Yuan Shi-Kai regimes in the post-1911 period provides an example for the way democratic institutions can be kidnapped by local militia elite groups. Later, the dream of democracy turned out to be a nightmare of civil wars and instability, aggravated further by the Japanese invasion between 1931 and 1945.

The illustration of the China model as well as the analysis of the six institutional models demonstrate that reform-minded voices within the CCP are ready to adopt certain democratic elements with civil society's participation. For them, a well-tailored democratic design should serve as an exit strategy for the CCP to address social discontent and tensions and to remain in power. Nonetheless, the emergence of pluralist voices in the Chinese society during the post-Deng era has signified the beginning of the disfranchisement between the state and the party. In their second round of the East Asia Barometer surveys conducted in nine countries in 2006 and 2007, Shin and Cho (2010) find that the majority of East Asians do not equate democracy exclusively with political freedom. Their finding is illuminating: the prevalence of substantive or *communitarian* conceptions of democracy is one important characteristic of the cultural democratization unfolding in East Asia. That said, it is possible to imagine, in case of the emergence of crisis situations triggered by widespread social unrest as

a radical response against the suppressive bottlenecks state, the power vacuum in a post-Xi era could well provide chances for experimenting a Chinese style of democracy with strong communitarian elements.

Regarding theoretical implications, the case of China explicitly defeats the hypothesis of the role of economic development and property rights as a prerequisite for democratization. Still, we observe a strong degree of interdependence between structural factors and legitimacy/trust governance (Variant 4), which had facilitated the launching of a series of institutional reforms, well managed by the CCP elite during the Jiang's and Hu's presidencies. Furthermore, in the Chinese context, evidence will be needed to explore if the causal autonomy of structural factors (Variant 2) alone can cause institutional change in terms of the role of social unrest and the threat of revolution.

Notes

- 1 His book was published in 2013, just after Xi's coming to power. Cited in Palmer (2018).
- 2 Mitchell and Clover (2018); Palmer (2018).
- 3 Wang Qishan, former anti-corruption chief, summarized Xi's speeches during the CCP's 19th Congress and argued that the advocacy for the 'indiscriminate' separation of party and government affairs in the past had led to the weakening of the party's leading role. Cited in Mai (2017).
- 4 Martel (2018).
- 5 Ibid.
- 6 Millions of people have already signed up in this publicly endorsed government surveillance system. As noted by Botsman, there are two reasons for explaining citizens' voluntary participation in this system. First, citizens might fear of reprisals if they decide not to join this system. Secondly, there is a lure of gaining, special privileges' through the reward of being, trustworthy' on Sesame Credit. For instance, if their score reaches 600 and beyond, they can have a variety of special offers including getting a fast-tracked application to a coveted pan-European Schengen visa (at 750). See Botsman (2017).
- 7 Wang Shuqin from the Faculty of Philosophy and Social Science at Capital Normal University in China regards the moral standards the system assesses and financial data as a bonus to establish a faithful system. Cited in Botsman (2017). In a similar manner, the Chinese science fiction writer Cixin Liu regards the SCS as a necessary mechanism to prevent the outbreak of irrational behaviour of the mass in the digital world. See Freund (2019: 13).
- 8 Johan Lagerkvist, a Chinese internet specialist at the Swedish Institute of International Affairs and Rogier Creemers, scholar specializing in Chinese law and governance at the Van Vollenhoven Institute at Leiden University observe the disquieting development of this surveillance system in China. Here cited in Botsman (2017).
- 9 Sources based on a casual talk in February 2019 between the author and her house doctor, whose daughter's company based in Hamburg had recruited a Chinese intern for several months in 2018/19.
- 10 See Deuber (2019: 2), Osnos (2016).

- 11 Said Shi Yinong based in Renmin university. Here cited in Perlez (2017).
- 12 See Deuber (2019).
- 13 Despite some efforts to investigate murder, cannibalism and destruction during Cultural Revolution following the failure of the Great Leap Forward, the CCP continues to suppress remembrance and historical reckoning of the era and its excesses. For instance, a retired cadre from the province Guangxi showed AFP his unpublished manuscript and stated: 'In 10 years of catastrophe, Guangxi not only saw numerous deaths, they were also of appalling cruelty and viciousness.' In small towns such as Wuxuan, residents decide to suppress the history with cruelty and cannibalism which was not caused by economic reasons, but by 'political events, political hatred, political ideologies, political rituals', said X. L. Ding, a Cultural Revolution expert at the Hong Kong University of Science and Technology. Here cited in Agency France Press (AFP) (2016). See also Wong (2016), Schrittmatter (2018).
- 14 See the coverage 'Environmental activism in China. Poison Protests. A Huge Demonstration over a Chemical Factory Unnerves Officials', 20 August (2011).
- 15 Sources based on an internal document of a CCP's think tank (1999/2000).
- 16 Cited in Perlez (2017). A former college professor, Wang was recruited by Jiang Zemin after the pro-democracy movement erupted on Tiananmen Square. Since then, he has been successful in climbing the ladder of Beijing's brutal politics and is regarded as 'the brain behind three supreme leaders', said Yun Sun, a China expert at the Washington-based Stimson Center. See Perlez (2017).
- 17 See Huang (2015).
- 18 As noted by Huang (2008), Lenovo is the most prominent product of what is known as 'round-trip' FDI: 'foreign' capital that is first exported from China and then imported back into China. The true contribution of China's open-door policy is not just about allowing foreign entry, but also about allowing Chinese exit. It enabled some of China's own indigenous entrepreneurs to find an escape valve from a very bad system.
- 19 In November 1987, an *Organic Law of Village Committees* was adopted by the Standing Committee of the NPC. Its implementation began in 1989, which stipulated that the chairman, vice-chairmen and members of village committees should be directly elected by the residents of the village.
- 20 Said Andrew Polk at Trivium, a Beijing-based consultancy. See Mitchell and Clover (2018).
- 21 In his book *China's Future*, Frank Sieren emphasizes China's exceptional capacity in tackling diverse challenges with its authoritarian rule. See Osterhammel (2018).
- 22 Martin Jacques, author of the global bestseller *When China Rules the World: The Rise of the Middle Kingdom and the End of the Western World*, sees China setting up an excellent example for developing countries to get rid of dependency and poverty, cited in Mogul (2018). See also *The Economist* (2014).
- 23 George Magnus, author of the new book, *Red Flags: Why Xi's China is in Jeopardy*, warns that the BRI initiated by Xi could leave the participating countries in debt. See Mogul (2018).
- 24 Kevin Carrico observes that there have been many steps backwards under Xi. Cited in Mitchell and Clover (2018). George Soros, the founder of the Open Society Foundations, regards Xi as the most dangerous rival for an open society. See Zick (2019: 3).
- 25 Observers like Susan Shirk note that Xi's move risks a backlash from other ambitious politicians. He behaves more like Mao than one originally thought. Cited in Buckley (2017).

- 26 Cited in China uncensored staff (2012). Based on another source Boxun, Zhou and Bo as rivals planned to take down Xi by killing him and performing a coup d'état. Bo fell in early 2012 due to a murder case in which his wife was involved and corruption accusation. After the failed plots, the former security Caesar Zhou was first put under house arrest and later accused of corruption affairs. See Boxun (2013).
- 27 See Buckley (2017), Mogul (2018).
- 28 Based on the author's personal observation while contacting a Chinese cooperation partner based in Beijing. Further observations of China's fundamental change, see Strittmatter (2019: 24–31).
- 29 Buckley (2017).
- 30 See EN 22.

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China's autocracy, global democracy and their limits in an age of uncertainty

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To what extent has China's authoritarian regime influenced, by example or by action, other states to develop authoritarian features? How can China's growing influence be evaluated? Is there a causal link between China's rise, persistent and competitive authoritarianism, the democratic recession, and the rise of authoritarian populism in old and young democracies? These are questions which require comparative empirical and longitudinal research for getting satisfactory answers. The findings of this volume and the existing literature have provided some first hints while addressing these questions.

As this volume has demonstrated, China is not on a road towards democracy. Its internal development counters two important findings gained from empirical research on democracy: First, the CCP's authoritarian rule has resisted the contemporary wave of democratization, in spite of Western engagement efforts towards China and a continuous rise in the number of democratic states.¹ Secondly, though comparative studies on democratization observe a strong correlation between economic growth and democratization, China's emerging middle class stands loyally behind the CCP's rule. This signals a limit of the economic theory of democracy. It also urges us to rethink institutional, sociocultural and economic prerequisites of democracy (e.g. the existence of a democratic culture with civil society's participation and engagement, see Hadenius and Teorell 2005; Congleton 2003: 44).

The following paragraphs present two synthesized accounts in highlighting the relationship between China's autocracy, its influence abroad, persistent authoritarian regimes and the democratic recession in old and young democracies. First, in spite of its rising authoritarian influence, China falls short of establishing a solid authoritarian nexus due to the lack of transparency, credibility and consistency of its global engagements. Secondly, democracy is less challenged by the rise and persistence of authoritarian regimes than by its own structural weaknesses and varied crises it faces at home.

China's autocracy and its political influence: Is the deepening of authoritarianism inevitable?

China's growing influence on the global stage marks a success for competitive authoritarianism and becomes a factor in contributing to authoritarian survival and diffusion (Levitsky and Way 2010; Bader 2015a). Its political weight can be felt in diverse fora of international cooperation. Prior to the 13th summit of G20 in December 2018, China and other powerful authoritarian regimes (Russia, Turkey, Saudi Arabia, etc.) had constituted 60 per cent of the world's economic performance – a facilitating environment for China to promote authoritarianism.² Studies on diffusion have shown different mechanisms that support the spread of ideas – democratic or authoritarian alike – and the pursuit of interests of powerful states (e.g. through learning, emulation, competition, coercion, control, conditionality and persuasion (Barry 2012; Burnell 2010; Bader 2015a; Levitsky and Way 2006, 2010). While they view geographical proximity and regional peer pressure as crucial for such diffusion process (Miller 2013), evidence also demonstrates how regime change takes place depending on the degree of leverage, linkage and organizational capacity powerful states have beyond the region (Levitsky and Way 2010; Tolstrup 2013). For Levitsky and Way (2010: 26–32ff), 'Leverage refers not to the exercise of external pressure, *per se*, but instead to a country's vulnerability to such pressure.' If a target state lacks bargaining power and is heavily affected by punitive action of powerful states, leverage is high. In conceptualizing 'linkage to the West', Levitsky and Way (2010: 26–32ff) define linkage 'as the density of ties (economic, political, diplomatic, social, and organizational) and cross-border flows (of capital, goods and services, people, and information)' between target states, powerful states and multilateral institutions dominated by leading Western democracies and non-Western autocracies. In particular, the existence of historical links, gatekeeper elites as well as state capacity in resisting external influence or organizing the scope of diffusion are important factors in shaping regime outcomes.

By including the aspect of legitimacy in the study of authoritarian diffusion, Ambrosio (2010) suggests a framework in terms of ideology and interests, in which the appropriateness and effectiveness of autocracy can be assessed. Namely, the stronger an authoritarian regime is legitimized, the more assertive is its leadership in exercising its influence at home and abroad. Also, the more effective a regime exercises its political and economic influence abroad, the more many states will follow its model. The Belt and Road Initiative (BRI) introduced by President Xi Jinping in 2013, for instance, has become a Chinese version of the Marshall Plan. Not only has it found broad domestic support. It also reveals China's ambition 'to write new rules, establish multilateral institutions' through connecting Africa, Asia and Europe and expanding infrastructure projects on an unparalleled scale that reflect Chinese interests and 'reshape "soft" infrastructure.'³ The impacts of China's offensive engagements in Africa are paramount: through the BRI, student and journalist exchange programmes, China has been able to present itself perceived as 'a civilized, democratic, open, and energetic country'. Following a newspaper source *Business Daily* based in Kenya, in March 2018, China constitutes 72 per cent of Kenya's bilateral debt with foreign states, eight

times more than France – a traditional donor in Kenya. As noted by the John Hopkins University, between 2000 and 2015, a credit sum of US\$94 billion have flown from China to Africa.⁴ More initiatives are on the way: China plans to set up international courts in Shenzhen and Xi'an, which are the former hub of the original Silk Road. The aim is to resolve commercial disputes related to the BRI area. A further example is the Asian Infrastructure Investment Bank (AIIB) initiated by China. As China has successfully gained support from Germany and other important Western states as members, in summer 2017, the AIIB has obtained a high credibility score by the international rating agencies, who have given the World Bank and other multinational banks the same rank.⁵

The elaboration of novel concepts has further helped enhance our knowledge of authoritarian diffusion and its effects (Kneuer et al. 2018; Tansey 2015; Melnykovska et al. 2012; Ambrosio 2012). Tansey (2015: 141) suggests to strictly define 'autocracy promotion' as the existence of 'a clear intent on the part of an external actor to bolster autocracy as a form of a political regime as well as an underlying motivation that rests in significant part on an ideological commitment to autocracy itself'. Furthermore, the use of the concept 'authoritarian gravity centres' (AGC) detects how authoritarian regimes use regional organizations (ROs) or create new ROs for the pursuit of their interests, thereby contributing to the building of AGC across different regions. As observed by Kneuer et al. (2018), AGC such as the Gulf Cooperation Council (GCC) and the Bolivian Alliance for the Peoples of Our America (ALBA-TCP) have served as 'a transmission belt and a learning room for disseminating autocratic elements'. Tansey et al. (2017) present the concept 'autocratic linkage' to detect how the strengthening links between autocrats have facilitated authoritarian survival and diffusion.

Indeed, powerful authoritarian regimes such as China often use (inter)-regional fora and launch new initiatives to counter Western influence and pursue their interests (Ambrosio 2012, 2008). Guided by 'Shanghai Spirit', both Russia and China have considered the Shanghai Cooperation Organisation (SCO) as an important channel to exercise their power and to pursue their geostrategic and economic/energy interests in Central Asia. The SCO's adoption of the principles of 'diversity' and 'non-intervention' and a common authoritarian rhetoric of a 'fight against terrorism and separatism' has proved to be effective in legitimizing authoritarian rule and justifying repressive measures against political opposition groups, minorities and dissenters (e.g. China's 're-education camps' in Xinjiang,⁶ see also Ambrosio 2008). Also, China's decade-long dialogue relations and cooperation with the Association of Southeast Asian Nations (ASEAN) in different issue areas have posed a challenge against traditional US dominance in the region.⁷

For its regional counterparts, the so-called 'Beijing consensus', 'China option' (*Chong guo fan an*) or 'China model' has become a source of inspiration. In October 2018, Vietnam has followed China's mode of one-man leadership and elected Nguyen Phu Trong as its new president, who is also the leader of the ruling Communist party. Despite the territorial conflicts with China and deep-rooted anti-Chinese resentments in the local population, Trong has pledged to strengthen its relations with China. As such, his presidency will differ from his predecessors' pro-Western foreign policy.⁸ Similarly, some elected governments have looked to their regional counterparts and

resorted to neo-nationalist rightist discourses while incorporating authoritarian elements into their rule.⁹

In view of rising authoritarian influence reflected in China's comprehensive global engagements and the persistence of hybrid regime, scholars of democratization and comparative politics have begun to reconsider the validity of the 'transition paradigm' (Carothers 2002; Diamond et al. 2014). Evidence reveals that a stable democracy is not necessarily a natural outcome following the installation of democratic institutions and regular elections. Several longitudinal empirical studies unambiguously unravel the limited effects of Western linkage and leverage policies through foreign aid, economic sanction or military intervention while promoting democracy abroad (Knack 2004; Escribà-Folch and Wright 2015). The lack of effectiveness might be resulted from the narrow focus of Western aid policy on the requirement of introducing democratic institutions as a core leverage and linkage attribute without paying appropriate attention to the power structure and resource allocation in target states. Instead, China's growing influence has not only confirmed the results of early studies of the resilience of a one-party regime in countering Western influence. It also has helped entrench the persistence of hybrid regimes through ongoing autocratic linkages at bilateral, regional and multilateral level, thereby bringing the third wave of democratization in the post-Cold War era into a state of stagnation or even recession. In this sense, we observe a mutually reinforcing relationship between the rise of China, its expanding influence and the persistence of hybrid regimes.

Notwithstanding, the results of several empirical studies of autocracy promotion offer a highly ambivalent picture of the effects of leading authoritarian regimes' engagements abroad. Melnykovska, Plamper and Schweickert (2012: 75) use three dimensions – leadership or participation of regional organizations, economic cooperation, direct interference and threat – to examine autocracy promotion. Their qualitative study shows the impacts of different strategies Russia and China have implemented in Central Asia. Unlike Russia's dominance mode of operation in its exercise of influence, 'China's doing-business approach towards its neighbours in Central Asia may have – although unintentionally – even positive effects in terms of improving governance and undermining autocratic structures'. Bader's study (2015b) illuminates a strong causal link between China's economic support and authoritarian survival involving also a one-party system similar to that of the CCP. However, one observes a strong degree of variation of the effects of China's economic cooperation upon other types of regime (electoral military regime or dictatorship) due to different circumstances in target states and the difference of scope and content of interactions.

The authors in this volume have also pointed out ambivalent effects of China's rise on democracy promotion and authoritarian diffusion. On the one hand, China's engagements in Africa have detrimental effects on Western democracy promotion efforts. Not only has China's party-state regime encouraged autocrats to follow its model by strengthening their political control and suppressing dissident voices at home. It also has provided authoritarian leaders (e.g. in Zimbabwe and Sudan) with alternative choices to resist Western democracy promotion programmes (i.e. with the requirements of good governance, the rule of law and respect of human rights). On

the other hand, echoing the results of several empirical studies, this volume finds *little* evidence of China's influence in building an authoritarian nexus in Latin America.

Herein arises the question of the reasons of the limited influence of leading authoritarian regimes like China in building a solid nexus of autocracy, intra- or cross-regionally. Four reasons may account for such limitations.

First, as found in several comparative empirical studies of diffusion of authoritarianism (Chou et al. 2017: 175; Ziegler 2016; Way 2016, 2015; Muno et al. in this volume), the limited direct influence of authoritarian external actors (e.g. Russia in Central Asia and China in Latin America) is due to the lack of consistency of autocracy's foreign support. The case of Russia shows that Moscow supports 'opposition and greater pluralism in countries where anti-Russian governments are in power, and incumbent autocrats in cases where pro-Russian politicians dominate' (Way 2015).

Secondly, despite the adoption of a common authoritarian rhetoric, powerful authoritarian regimes lack a clear-defined consistent political ideology and a credible agenda to promote autocracy. For instance, since the 1990s, China has presented several political ideas that were to demonstrate China's unique role as a great power and possible contribution to world peace and prosperity. The idea of 'building a harmonious society' pervaded at all levels was considered as the CCP's attempt to restore Chinese traditional values and to address social conflicts resulting from former president Jiang Zemin's success in driving the country towards 'moderate prosperity'. As such, China's political elites and scholars were also eager to explore the applicability of this concept that could be adopted as a guideline for international cooperation (e.g. the suggestion of a Chinese School of the Theory of International Relations (IR)). At the same time, under the shibboleth 'harmony', it can reach out to different peoples with different meanings. It covers a variety of different ideological colours (with inspiration in socialist, republican and liberal principles articulated in Chinese ancient texts (i.e. Confucian, Taoist, legalist, and Buddhist ones)) with which the CCP may risk to lose control in dictating its scope and content.¹⁰ Later, the 'harmony' discourse was replaced by Hu Jintao's concept of 'the scientific outlook of development' and Xi's discourse of global engagement through the BRI. By connecting with the glorious past after the rupture of revolution, CCP's ongoing discursive deliberation efforts prove to be selective by picking up hierarchical and paternalistic aspects of its heritage. They have been mainly driven by the CCP's calculations to legitimize its top-down monopoly of decision-making power, to combat excess capacity at home and to effectively pursue its interests through expanding China's presence at the global level. The propaganda of different political discourses has thus raised concerns about its content, appropriateness, consistency and credibility. Critics point out that President Xi's Silk-Road'-project can be of dual use: usable not only for an expanded commercial presence, but also for political and military purposes. Particularly in some key Belt and Road countries, Beijing have been successfully using its projects to give China both favour and leverage among its clients, tying them to its military ambitions. Following a confidential plan reviewed by the *New York Times* in December 2018, Pakistan and China for instance have agreed to expand their projects planned in the so-called China-Pakistan Economic Corridor that include new military and space cooperation. While Pakistan might have found alternative sponsor to help address its domestic economic

desperate situations in facing the recent decision of United States to suspend billions of dollars of security aid, some Pakistani officials have expressed their concerns of losing sovereignty to its deep-pocketed Asian ally which may leave Pakistan little choice but to go along with China.¹¹ As such, the new Sino-Pakistani military cooperation has confirmed 'the concerns of a host of nations who suspect the infrastructure initiative is really about helping China project armed might'.¹² Furthermore, evidence shows how China's intensive engagements in Africa have been able to gain cross-issue support in international fora such as in the UN Human Rights Council during its regular universal periodical review procedure.¹³

Thirdly, the lack of transparency and increasing discrepancy between the rhetoric and motivation found in China's growing involvement in global development cooperation (e.g. lending and debt release measures) have further evoked critiques of the consequences of its investment activity for world trade and economy. Analysts find that in extreme cases, China has used 'debt-trap diplomacy' to 'extract strategic concessions – such as in the territorial disputes in the South China Sea or silence on human rights violations'.¹⁴ In other words, China lends into very high risk environments with a hidden motivation to create leverage used for purposes *unrelated* to the original loan. For instance, in 2011, Tajikistan got an undisclosed debt release from China in exchange for 1,158 square kilometres (447 square miles) of disputed territory.¹⁵ This evidence immediately echoes what some commentators warn against rising authoritarian influence named as "sharp power" that pierces, penetrates, or perforates the political and information environments in the targeted countries' (Cardenal et al. 2017: 6). In view of the high risks Belt and Road countries may encounter, commentators urge Western countries to be vigilant towards China's lending activities, particularly in the forum of multinational banks (e.g. the AIIB), in which the Chinese leadership may easily facilitate the creation of a world order that would make human rights and democratic values obsolete.¹⁶ Similarly, in view of Beijing's cultural and informational influence in open democratic societies (e.g. in the United States and Australia), observers suggest to promote 'constructive vigilance' between China and democratic states that should serve as the basis for protecting the integrity of democratic institutions, core values, norms and laws (Hoover Institution 2018: ix). Moreover, in its 2018 annual meeting, the twenty-two members of the Paris Club have urged China to respect international rules and to apply for a membership of the Paris Club.¹⁷ In this respect, China's authoritarian influence remains limited as long as its behaviour is constantly under suspicion and its status as a reliable lender has not yet established.

Finally, China's growing influence might constitute a disquieting reality, coupled with the increasing assertiveness of other authoritarian regimes and the shortcomings and crises leading democracies face. Namely, with their growing influence abroad, autocrats' arbitrary rule may be justified while pursuing their political interests abroad, thereby running the risk of violating international norms and impeding the functioning of institutions that defend human rights and democracy. Some recent cases illustrate such a risk of cross-border despotism. One is the 'political murder' of the Saudi dissident journalist Jamal Khashoggi in the Saudi Arabia's general consulate in Turkey. Another is the disappearance of Interpol's chief Meng Hongwei during

his visit to China. These cases reveal not only how unscrupulous authoritarian rulers pursue their political interests through cross-border arbitrary arrest and killing, kidnapping and manipulation of information. They also make visible the vacuum of a reliable global authority that can effectively scrutinize state behaviour on behalf of international norms.¹⁸ Meanwhile, the 2019 turmoil in Hong Kong shows how autocracy's imperious style and concentration of power through breaking the promise of 'One State, Two Systems' and eroding people's civil liberties and political rights can backfire. Ultimately, the drawbacks of such authoritarian rule (i.e. the lack of a democratic check-and-balance system) have contributed to the Chinese government's mishandling of the crisis and misreading of the scope of discontent in Hong Kong.¹⁹

Considering the limits autocracy faces, the inevitability of the deepening of authoritarianism remains open. This view suggests that autocracy may pose fewer challenges for democracy than many have assumed at the beginning (Way 2016). Instead, we need to understand why some authoritarian regimes remain persistent, why among some young democracies, elected governments have moved towards an authoritarian rule and what are the driving forces that have caused the democratic recession in some old democracies.

The Looming of an authoritarian and populist age? Reviving democracy as a survival strategy

In spite of the rising number of democratic states, the quality of democracy which looks beyond electoral process and ensures pluralism and civil liberties decreases. According to its 2017 Democracy Index, the Economist Intelligence Unit (EIU) saw democratic erosion in eighty-nine states. It found the 'democratic recession' in some of the oldest democracies in the world (notable in Western Europe) reflected in declining popular participation in elections and politics, declining trust in democratic institutions, a growing influence of unelected and unaccountable institutions, and a widening gap between political elites and electorates.²⁰ It seems that democracy is *less* challenged by the rise of autocracy on the global stage than by a variety of crises and structural weaknesses it faces at home.

Anti-democratic voices have been viewed as heretical and illusionary in the post-Cold War era with the triumphal claim 'The End of History'. But contemporary voices appear to echo old critiques from philosophical, theological and technocratic perspectives which can be traced back to the ancient, enlightenment and inter-war periods. The warnings found in the work of Plato, Thomas Aquinas and Thomas Hobbes as well as French observers during the inter-war period regarded democracy as bringing a disastrous 'every man's struggle against all' (Hobbes, *Leviathan*, i. xv.: 79), running the risk of being ruled by the mob, therefore being constantly in a state of conflict and incompetent to tackle problems.²¹ Critics point to democracy failure trapped in a variety of mutations and contradictions engendered by neoliberal globalization, technological change and the rise of social media, the construction of a technocratic state, and fear of multi-ethnic democracy (Runciman 2018; Mounk

2018; Doyle 2018: 185; Zuboff 2018). Both young and old democracies as well as the authoritarian world witness the end of 'an absolute victory of the democratic principle'²² and see their societies are torn between the erosion of civility and their realization of the necessity to reinvent democracy 'in a form that will match the new abstract mode of social cohesion' (Doyle 2018: 188). Not only do old democracies (i.e. the United States and France and Germany) experience an unprecedented crisis of their representative politics, which, cut from the symbolic, is increasingly mired in insignificance (Gauchet 2017a, IV: 721, here cited in Doyle 2018: 189). As such, they attest the rise of authoritarian populism as a reaction to counter the feeling of the loss of common purpose in a globalized and digitalized world. Some young democracies in Europe, African and Latin America also become frustrated about the unsatisfied translation of democratic dividends into tangible outcomes in the people's daily life and have therein injected authoritarian elements into their democratic institutions (Brazil, Poland and Hungary as the most prominent examples). Democracy malaise appears to provide autocracy in Asia and Central Asia its best justification to boost their reign at home.

Though the causes of the authoritarian turn in some elected governments, the persistence of autocracy and democracy malaise differ greatly, depending on the specific historical, sociocultural, economic and political context involved, commentators highlight some direct and indirect links between them and reveal how the banalization of liberal democracy as an ensemble of relatively general principles (popular sovereignty, individual rights, etc.) takes place with serious repercussions (e.g. by leaving room for the rise of radical and authoritarian discourses). First and foremost, the identification of different root causes helps explain why some elected governments have become illiberal democracy and authoritarian regimes remain resilient. They include weak democratic prerequisites (e.g. the existence of illiberal civil societies which regard democracy as an alien and incompetent governance system and the lack of resources), parallel regional diffusion effects (Miller 2013), and broad public silence and ignorance towards the past dictatorship (Way 2015; Ziegler 2016). Due to the lack of judicial and non-judicial issues implemented to redress legacies of its past military repressive regime, Brazil, for instance, has voted to be subject to an authoritarian populist control. Also, in Eastern Europe, the weak consolidation of democracy has paved way for authoritarian populist parties' coming to power whose policies have violated democratic principles.²³ Diamond (2008) further dissects the causes of the 'democratic recession' in critical states which include the crime-infested oligarchy in Russia and the strong-armed populism of Venezuela. In this sense, the spread of authoritarian populist politics is both a product of democratic processes and a cause of the democratic recession.

In particular, in his efforts to bring out what is historically specific in modern democracy, Marcel Gauchet writes of a 'banalization' of liberal democracy, whose complex composite between democratic and liberal traits with the mode of representation often has been taken for granted without properly considering its dynamics of evolution and inherent tensions.²⁴ In dissecting democracy's ailments, Wendy Brown's theory of de-politicization (2006) and Gauchet's theory of de-symbolization (2017) well elucidate how the construction of a technocratic state driven by neoliberal capitalism

has leered out the meaning of 'the political', thereby making the state increasingly detached from the society, whose meta-power of institution is deemed to sustain the state's legitimacy while exercising its power. For Brown, de-politicization of democracy involves 'a process of which personalizes political phenomena (such as social conflict, inequality and marginalization), and culturalizes or even naturalizes them' (cited in Doyle 2018: 190). Seen from this prism, the discourse of securitization has been used to divert attention from the structural failures of Western societies (e.g. unemployment and cultural fragmentation).

Coupled with the de-politicization of democracy, de-symbolization of the political that sees the convergence of market fundamentalism and the extension of individual rights has caused another symbolic mutation found in the crisis of representative politics (Doyle 2018: 191–2). As discussed by Doyle (2018: 190–1),

We have seen how Gauchet's work deepened the distinction (between the ground power of society and the explicit power of the state), introducing the question of society's meta-power of institution through his discussion of the symbolic logic of processual autonomy which makes all human societies create their durable worlds of meaning. Gauchet's discussion of contemporary neo-liberal capitalism ... provides a much more deeply theorised account of the coherence of the new culture that underpins it and operates at a deeper level than that of (Foucault's) governmentality, that is, a deeper level than that of institutions. It addresses the existence of an underlying level of the political, on which the totally de-symbolised mode of neo-governmentality associated with neo-liberal culture ultimately relies despite the false appearances. This approach opens up a totally different understanding of the economic rationalisation of the state denounced by Brown or of the discourse of security which has accompanied the depoliticisation of democracy.

In other words, as neoliberalism has become 'thinkable and believable' in the contemporary form of social life (Gauchet 2017: 605), the convergence of two seemingly contradictory forces – the right-wing market fundamentalism and the left-wing extension of individual rights – has paradoxically contributed to the loss of explicit common political purpose. The older vision of societal inclusion has been displaced and replaced by a proliferation of 'micro-political projects of individual emancipation which pushed for the recognition of the specific needs of various segments of society subject to discrimination' (Doyle 2018: 192). Hence, as rights movements go forwards, democracy faces a paradox, in which democratic politics have been driven by greater individual aspirations and running the risk of becoming degraded in its original republican meaning of collective self-determination (Gauchet 2015: 178, here cited in Doyle 2018: 192).

Ultimately, the combined forces of de-politicization and de-symbolization have contributed to all the pathological manifestations of democracy which are the results of the loss of control in striking a proper balance among various tensions and contradictions. They can be detected in four forms: (1) the crisis of representative politics that sees the alienation of traditional class-based constituencies now embracing

populist parties and the increasing social fragmentation and unresolvable ideological conflicts; (2) the construction of a technocratic state which has lost its social meaning in serving explicit common collective purpose; (3) the resurgence of neo-nationalism and radicalization as a response to protest democracy's failure to invent a new symbolic mode of collective existence against the backdrop of a digitalizing and globalizing world; (4) the decay of the US leadership in the democratic world, whose neo-nationalist isolationist politics under the President Trump have eroded the principle of multilateralism in international cooperation and triggered aggravating effects upon democracy,²⁵ thereby feeding the growth of the political influence of powerful authoritarian regimes such as China on the global stage.

Even though democracy has seen its best days, commentators have not lost their optimism regarding its future. As noted by Gauchet in his recent work *'Le nouveau monde'* (2017), the current crisis democracy faces is not ultimately the truth of democracy's history. Instead, it also paves the way for a renewal. Hence, the future of democracy will depend on the extent to which it can effectively tackle those challenges and reinvent itself through creative design of norms, institutions and procedures. Any failure to revive democracy through the restoration of society's meta-power of institutions while redefining a new mode of symbolic representation may offer opportunity for autocracy to attract more democratic states to install authoritarian and neo-nationalist elements in the name of guaranteeing collective interests and people's sovereignty.

A variety of ideas have emerged to revive democracy: some have suggested to support good governance – the rule of law, security, protection of individual rights and shared economic prosperity – and free civic organizations. Others have proposed to reimagine the principle of 'popular sovereignty' and introduce a new constitution with innovative institutional designs that will enhance participation and democracy's credibility (Diamond 2008; Peonidis 2013). In the midst of the search of renewal strategies, as Doyle reminds us (2018: 232), it is of ultimate importance to interrogate the question: 'How can we regain sovereignty over our historical existence?' If democracy cannot provide proper answers to this question, the challenges posed by China will become direct and pressing.

Notes

- 1 The number of democratic states increases gradually and witnesses some breakthroughs: twenty-six states in 1956, 63 states in 1991, 87 states in 2009, and 103 in 2015, a year which saw transition to democracy in Tunisia solidified, and positive breakthroughs in Myanmar, Burkina Faso, Nigeria and Sri Lanka. It is worth mentioning that in 2015, more than the half of the world population lived in a democracy (56 per cent). In contrast, almost 40 per cent of the world population lived in an autocracy (open and closed autocracy), most of them in China (four out of five people in the world that live in an autocracy live in China). The rest world population lived in country in transition or no data. See Roser (2018). See also Miller (2018).
- 2 At the first summit of G20 bringing together the leading and emerging economies together in 1999, the democratic world had a dominant position with 85 per cent of the world's economic performance. See Hulverscheidt (2018: 17).

- 3 For Jonathan Hillmann, director of the Reconnecting Asia Project at the Center for Strategic and International Studies based in Washington, BRI is 'about more than roads, railways and other hard infrastructure'. BRI, originally known as 'One Belt, One Road (OBOR)'-Initiative came into existence in 2013 with the aim to connect Asia, Africa and Europe. It covers almost all aspects of Chinese engagement abroad. According to one analysis, in the past five years, China has spent more than 210 billion for this project, the majority in Asia. Here cited in Kuo and Kommenda (2018).
- 4 Sources cited in Strittmatter (2018: 9).
- 5 See Horta (2018).
- 6 China has fiercely defended its crackdown and re-education camps in the far western province of Xinjiang as necessary for security. Shohrat Zakir, a high-ranking Xinjiang government official, has justified the mass internment of the mostly Muslim Uyghur minority group deemed to fight against "terrorism and extremism" in its own way, and in accordance with the United Nations resolutions'. See Westcott and Fang (2018).
- 7 See, for instance, the ASEAN-China Joint Statement on Comprehensively Strengthening Effective Anti-Corruption Cooperation, signed in 13 November 2017 in Manila, Philippines at the 20th ASEAN-China Summit. ASEAN-China Dialogue Relations commenced when China was invited to attend the opening session of the 24th ASEAN Ministerial Meeting (AMM) in July 1991 in Kuala Lumpur, Malaysia. Later China was accorded full Dialogue Partner status at the 29th AMM in July 1996 in Jakarta, Indonesia. See ASEAN Secretariat Information Paper, Overview of ASEAN-China Dialogue Relations, August (2018).
- 8 For coverages concerning the spread of autocracy and neo-nationalism in Vietnam, the EU (Poland, Hungary) and Latin America, see Perras (2018: 8), Petzold (2018), Sabatini and Galindo (2017).
- 9 In October 2018, Brazil has followed Cuba, Bolivia and Venezuela and voted for an authoritarian populist president who is ready to recur to repressive measures and violence against dissenters and in fighting crime. See the Economist (2018). Even within the EU, the neo-nationalist populist governments in Poland, Hungary and Italy have violated democratic norms and the EU's laws through the adoption of laws restricting freedom of expression, violating the principle of academic autonomy and the EU's criterion for household stability. Hungary's high education policy (e.g. the abolition of gender studies as a master study programme) directly collides with the academic autonomy, whose new regulations have brought some renowned universities such as Central European University (CEU) into a state of complete uncertainty. See Münch (2018: 23).
- 10 For angry farmers who are upset about poverty and corruption and anxious middle classes who worry about their property, the promise of 'building a harmonious society' becomes an olive branch either to criticize or to defend CCP's authoritarianism. For the CCP's hardliners it means repression even in the name of 'harmony'. Delury observes a boom of articles featuring 'harmony' in their titles from around 30 in 2003 to 6,600 in 2005. At least, under the banner of 'harmony' as an ideological framework, the ideal becomes an interesting test case 'to see how the resurgence in native Chinese values and statecraft thought might affect the future of the Chinese polity'. See Delury (2008).
- 11 Pakistan has been the flagship site of the BRI since 2013, with some \$62 billion in projects planned, some of them had clear strategic implications. For instance, a Chinese-built seaport and special economic zone in the Pakistani town Gwadar has given China a quicker route to get goods to the Arabian Sea. See Abi-Habib (2018).
- 12 Ibid.

- 13 Cited in Kuo and Kommenda, EN3. Being able to profit from China's investment policy in Africa, Zambia for instance, has praised China's newly introduced point system in regulating citizens' social behaviour. See SZ (2018: 7).
- 14 Cited in Kuo and Kommenda, EN3.
- 15 Ibid.
- 16 See Horta, EN5.
- 17 See Gammelin (2018: 22). Information about the Paris Club, see Committee of the Abolition of Third World Debt (CADTM) (2016).
- 18 See Kornelius (2018b: 4), Deuber (2018: 4).
- 19 Protests and clashes with the police in Hong Kong incited by a bill that would have allowed the extradition of criminal suspects to the mainland see Myers, Buckley and Bradsher (2019); Deubner, Giesen, and Strittmatter (2019: 11–13).
- 20 Based on sixty indicators, the EIU since 2006 has ranked the quality of democracy in 167 countries on a scale of 0 to 10 since 2006. Therein states' political development and performance are assessed in four categories: (1) authoritarian regime (0–4); (2) hybrid regime (4–6); (3) flawed democracy; (4) full democracy. In 2017, old democracies such as France and the United States have seen the democratic recession at home marking a score of 7.80 and 7.98, respectively. Eastern European transformation countries such as Hungary (6.64) and Poland (6.67) are on the brink of becoming a hybrid regime. See the Economist Intelligence Unit (2017).
- 21 For an overview of the limits of democracy found in the anti-democratic critiques in the nineteenth and twentieth centuries, see Sara Gebh, *Aus Angst vor Konflikt. Zur Kontinuität vormoderner und moderner Demokratiekritik*; Michel Dormal, "Vertrauensblick zu einer anderen Instanz von Bessermachenden". *Der Formwandel der Demokratie- Kritik nach dem Ersten Weltkrieg*. Both papers have been presented during the 27th scientific convention of the German Political Science Association (DVPW), Frankfurt am Main, 27 September (2018).
- 22 See Tocqueville²¹ (2018).
- 23 In the midst of a failing economy, Brazil has elected Jair Messias Bolsonaro as its next president, see EN9. According to Eliane Brum, the reason why the majority of Brazilian population have decided to vote for an authoritarian populist leader is due to the ignorance and silence of the Brazilian society towards the legacies of its repressive military regime between 1964 and 1985. For some observers, Bolsonaro turns out to be Latin America's latest menace. Brazil's decision to be subject to a radical rightist leader who has even admired dictatorship (i.e. Carlos Alberto Brilhante Ustra) marks a heart attack for the young democracy. See Brum (2018: 2), Herrmann (2018: 4); Herrmann and Schoepp (2018: 9).
- 24 See EN18.
- 25 See Kornelius (2018a: 4).

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Realizing the Chinese Dream beyond China

A prospect connecting the domestic dimension with the international one

Miao-ling Lin Hasenkamp

Part 1 has highlighted that China's governance reforms at home and the allure of autocracy beyond the region have a twilight character. China's authoritarian capitalism has been unique in transforming an autarchic agricultural society into an important buffer for the global economy, albeit serious problems of corruption (see Chapter 5). But it is not a normal economy with open markets, free individual choices and social mobility. Instead, the CCP party-state regime has been successful in controlling the economic and social life of its people with skilful propaganda tools, thereby justifying and reinforcing its legitimacy of political reign. During the reform era, China experienced several phases of allowing concurring voices for the discussion of possible reform models while tackling economic and financial malaise and social unrest (see Chapter 2). The changing understanding of rule of law at the CCP elite level has further facilitated the emergence of an environment of individual legal action through such channels as Administrative Litigation courts (see Chapter 4). At the same time, the transformation of collective elite rule towards one-man rule under Xi's leadership has revealed the instability of the Chinese political system which has been constantly subject to fierce power struggle between different factions. Ultimately, Xi's move towards a one-man leadership paradoxically proves to be both a necessary survival strategy in saving a corrupt regime and a destabilizing force for the CCP while enhancing its repressive rule throughout the country (Chapter 2).

With the spread of Xi-ism found in the absolute loyalty of state media, local governments and business to follow Xi's leadership, the Chinese people see no other choice than consume what the government wants them to read, to watch, and to believe (Chapter 3). The study of career mobility of the provincial chiefs shows that by controlling the propagandists' careers and their work, the CCP has installed powerful mechanisms for social control. Furthermore, the comprehensive double-edged anti-corruption campaign in the midst of vigorous governance reforms as well as the localization discourse of human rights have marked CCP's tactic political efforts in tackling social discontent towards corruption and deterring the diffusion power of

international norms (i.e. the rule of law, anti-corruption and human rights norms, see Chapters 4–6). If the Chinese model tells unambiguously a successful story of countering Western influence and presenting an alternative development model with its autocracy, several questions inevitably come to the foreground: What motivates China to become great? Has China already begun to engage the world? If yes, what are its strategies and tools? Is China in the zenith of its long march towards political and technological supremacy?

China Dream between aspiration and reality

From 2013 onward, international politics has seen some new propaganda storm and several important events in re-shaping geopolitical and economic relations in the international system: notably President Xi's inaugural presidential speech in referring to 'the China Dream' in March 2013 and the launching of the offensive (One) Belt and (One) Road Initiative (OBOR or BRI) in linking Eurasia and African regions (discussions about BRI see also Chapter 2 'The China Model and Its Basic Tenets'; Chapter 9 'India and China: Overcoming the great wall of mistrust'; Chapter 11 'China in sub-Saharan Africa: Implications for democracy promotion'; and section 'China's Autocracy and Its Political Influence: Is the Deepening of Authoritarianism Inevitable?' in Chapter 12); the damaging US–China trade disputes and tensions since 2018; and China's ambition to lead in advanced industries ranging from 5G technology, artificial intelligence (AI), to biotechnology and quantum computing.

In his first address to the nation as head of state on 12 March 2013, Xi mentioned the term 'the China Dream' several times which is regarded as a guideline for the realization of the Chinese road:

We must make persistent efforts, press ahead with indomitable will, continue to push forward the great cause of socialism with Chinese characteristics, and strive to achieve the Chinese dream of great rejuvenation of the Chinese nation. ... To realise the Chinese road, we must spread the Chinese spirit, which combines the spirit of the nation with patriotism as the core and the spirit of the time with reform and innovation as the core.¹

While Xi did not explicitly explain what 'the China Dream' means, observers share the opinion that Xi's vision of 'the China Dream' is to liberate China from the past humiliation and to make China a strong nation again with a strong military and technology. The Chinese Dream pursues objectives with a twin set of goals: 'to create a well-off society by 2020 and to achieve rejuvenation of the Chinese nation by 2050 via national rejuvenation and socialist modernization.'² Xi's ambition to make China great again is not new in the CCP's leadership legacy. As noted by Julian Gewirtz, in the midst of China's long march towards technological supremacy, Xi builds up the framework defined by his predecessors which sees technological progress both as a means to economic and military prowess as well as 'an ideological end in itself – offering final proof of China's restoration as a great power' after decades of humiliation.³

Later, BRI was introduced to serve as a roadmap in realizing the Chinese Dream. BRI proves to be a powerful economic and foreign policy strategy. It consists of two major routes – one overland and one maritime involving the building of six major economic cooperation corridors and several key maritime pivot points across Eurasia, the Indian Ocean, Africa and Oceania. In March 2015, China issued a BRI action plan which has been coordinated by the National Development and Reform Commission in close cooperation with the Ministries of Foreign Affairs and Commerce. In funding the initiative, besides China's policy banks which have provided massive funds for Chinese enterprises to operate along the axes, the Asian Infrastructure Investment Bank (AIIB) was established for the initiative, funded by countries globally. Through BRI, China obviously intends to create a facilitating environment for exercising its political and economic influences, globally and regionally, in the following respects: (1) Renminbi is expected to become the main trading and investment currency in new OBOR markets for facilitating the expansion of the Chinese banks that shall serve the globalization of the Chinese economy, including online retailing and the collection and use of big data; (2) OBOR should help expand China-controlled telecommunication networks and service globally; (3) OBOR is deemed to address China's domestic energy needs through generating and transmitting mining and energy projects; (4) OBOR shall also help expand China's Beidou satellite navigation system in the coming years. In spite of China's ambitious claims that OBOR will include sixty-five countries, 4.4 billion people and about 40 per cent of global GDP, the current realities remain pedestrian: in February 2016, China has reportedly established seventy-five overseas economic and trade cooperation zones in thirty-five countries.⁴ Greece and Italy's recent engagement with BRI in 2019 has prompted the West's serious concern over China's growing strength as illustrated by BRI. Guy Verhofstadt, the EU's lead Brexit negotiator, criticized Italy's decision to join BRI being 'antithetical' to European interests.⁵

Furthermore, the trade tensions and negotiations between the United States and China since 2018 have considerably strained the world economy, leaving the world's two largest economies further apart with deteriorating economic effects on both sides. It also has put President Xi under intense internal pressure. On the part of the United States, President Trump's combative approach is supposed to secure a historic trade deal with China that would ensure the import of billions of dollars' worth of American farm products into China and stop Beijing from 'stealing' technology from US companies.⁶ On the part of China, Xi's leadership has been challenged by his rivals and opponents with the accusations that Xi has exposed the 'core interests' of the ruling system to American interference. However, Xi's authoritarian rule to mobilize internal resources – even at the cost of realizing his 'Chinese Dream' – might well provide advantages for China to survive from the damaging US–China trade war in the longer term. As put by Junhua Zhang, regardless of the high pressure from the United States, China will *hardly* alter its decade-long development strategy through the adoption of *asymmetric* nonmarket economy approaches, which will enable China to continue to catch up with and even surpass the leading industrial nations.⁷ This is the essence of Xi's grandiose '*Made in China 2025*' Plan, which is related directly to the question how Beijing pursues its dream through upgrading its technologies.

China's ambition to take the lead in advanced technologies like AI, autonomous vehicles, robotics and 5G is no longer a secret. Its receipt for success dwells in China's adherence to a state-led industrial policy which, as US intelligence sources say, relies mainly 'on intellectual property theft, forced technology transfers, cyberespionage and discriminatory treatment of foreign investment'.⁸ These concerns over unfair trade practices have led to the introduction of Trump's tariffs on the import of Chinese goods and the blocking of Huawei and other Chinese tech giants from access to US market. As there is no clear way out to strike a trade deal between the United States and China, the changed environment of global trade in blocking Huawei's deployment of 5G technology in the Western sphere has already had deterring effects upon Xi's pursuit of his China Dream through unflinchingly supporting Huawei and the domestic semiconductor industry.

In light of the beginning fervent rivalry between the West and China surrounding 5G technology which ensures a promise of more economic growth and more power for whichever lead country in the future, Part 2 closely looks at how China has been exercising its political influence, globally and regionally. At the global stage, in many ways, China has been profiting from the geopolitical consequences of the US decline in abandoning its commitment to a liberal democratic world order, thereby facilitating China's pursuit of interests abroad with an authoritarian appeal and mercantilist spearhead, as found in Huawei's successful expansion in world markets. The studies of the US foreign policy construction of China, bilateral relationship between China and India, and China's engagements in Latin American and Africa have indicated the upcoming of concurring regional powers, in which identity construction and alliance building are undergoing a volatile change (see Chapters 8–11). The enemy of yesterday could become a potentially attractive partner today as the United States has lost its moral leadership in dictating regional and international cooperation. That said, China's one-man leadership is not immune to any crises and incidents. Like democracy's erosion whose causes often have a home-made character (e.g. Russia's oligarchic economy in support of Putin's rule), China's march towards a dictatorship spotlights the essential instability of its political system and may prepare for the beginning of the end of its economic miracle which has been dictated by a strong collective elite leadership prescribed by Deng Xiaoping. Hence, the challenges posed by China's rise may turn out to be less pressing as one has assumed in the beginning. Instead, attentions are needed to look at not only the effects of Xi's power concentration but also at the inherent drawbacks and recession democracy faces today. On the part of the democratic world, at stake is the reinvention of democratic participation through innovative institutional designs that should encourage citizens and non-citizens alike to reinvigorate deliberation processes while tackling highly complex intertwined problems and searching for compromises and solutions. In so doing, the spread of autocracy and exclusive nationalist discourses may be timely contained in an age of ambiguity and uncertainty.

Notes

- 1 Cited in BBC News (2013).
- 2 Jash (2016).

- 3 Gewirtz (2019).
- 4 For more details about the reactions towards BRI see Wade (2016), Wilson (2016).
- 5 TeleSur (2019).
- 6 Swanson (2019).
- 7 Zhang (2019).
- 8 McBride and Chatzky (2019).

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Eliminating and raising tigers and flies

The paradox of China's anti-corruption campaign

Miao-ling Lin Hasenkamp

Introduction

Corruption rewards inefficiency; it harms economic development and social trust. In the Chinese context, corruption shows a different face: multifaceted and complex, ready to defy such conventional wisdom. Observers describe it as the 'East Asian paradox' (Wang and You 2012; Wedeman 2006). Not only is corruption deeply interwoven with processes of economic reform. Several studies show how corruption constitutes an important venue that counterbalances local resistance to reforms (Sands 1989; Yu 2008; Trinh 2013). Dong and Torgler (2010) even identify a *positive* relationship between corruption and economic development, 'which is driven primarily by the transition to a market economy'. Corruption-related behaviour in different forms is also needed in many informal social relations (*guanxi*) due to shortage of supplies of services or goods (e.g. the necessity of paying a bribe in order to have a good doctor in China's crowded medical facilities or to get into good schools).¹

The downsides are manifold. Virulent corruption violates social norms and influences citizens' attitudes towards the government and its institutions (Licht et al. 2007; Eek and Rotstein 2005; Newton 2006). Ordinary Chinese citizens often find themselves becoming victims of corruption either found in unsafe food or in rising housing prices resulting from, for instance, a deal between a local government and a shady businessman. Furthermore, the proliferation of elite networks among entrepreneurs and state officials has seen its best days in ruthlessly stealing public goods for personal rent-seeking (Osburg 2018). As a result, Beijing lost control in curbing collective corruption and mounting social discontent and tensions have gradually eroded the CCP's legitimacy to rule.

In view of this crisis of governance, since November 2012, President Xi Jinping has given the anti-corruption agenda top priority. In comparison with the CCP's early clean-action campaign, Xi's vigorous crackdown has left both civilian and military 'tigers' (notably the former security boss Zhou Yongkang and Xi's former political rival Bo Xilai), 'cats and flies' at all levels taken down and getting punished. A 2018 report issued

by the Ministry of Supervisor and Central Discipline Inspection Commission claimed to have tackled 406,000 cases between January and September, leaving 387,000 employees and party members receiving punitive measures.² In particular, the establishment of the National Supervision Commission (NSC) in March 2018 has transformed China's previous dual-track anti-corruption system into a centralized one, marking the decreasing political influence of local leaders (Deng 2018). Beijing also has extended its overseas campaign by launching such projects as 'Sky Net' and 'Fox Hunt' in order to hunt down fugitive venal officials. According to a China's top anti-graft watchdog, till June 2017, 2,873 fugitives had been captured from over 90 countries and regions which helped recover some US\$130 million. In 2016, over 1,000 fugitives were brought back to China for justice. Several commentators praised President Xi's efforts being 'a very good reference for other Communist parties', whose success can ensure 'China's sustained development' and lead to 'increasing prosperity and national credibility'.³

Some old and new questions arise: To what extent is the phenomenon of corruption in China different from other countries? What is the relationship between the ongoing economic reform, corruption and anti-corruption in reform China? How can this link be explained with the existing theory of corruption? What are the effects and implications of Xi's crackdown at both domestic and transnational levels? This chapter adopts a combination of neo-institutional economic approaches, cultural norms, social capital and leadership theory to decipher this specific relationship in China. It recurs to primary and secondary sources and aims to explore new terrains of theorizing corruption and to explain the dilemma the Chinese government faces between its anti-corruption crackdown measures and economic reforms including progressive regulations at the financial market. This chapter presents three arguments:

Argument 1: Corruption in China involves a *specific* paradox with many tensions. Corruption and economic development are two sides of one coin, shaped by vertical leadership and informal social networks with utility-forging holes.

Argument 2: Anti-corruption efforts under Xi have served to reorganize the CCP's rule and helped it to restore its legitimacy. Nonetheless, due to the lack of an independent institutionalized check-and-balance system, the level of corruption turns out to be a matter of subjective acceptance and adaptation, as long as it follows cultural rules found in the interaction between economic and non-economic activity and its costs do not disturb the profit-sharing of economic development. Ultimately, anti-corruption efforts become a powerful political instrument for President Xi in eliminating his political rivals and launching rigorous governance reforms towards a totalitarian rule.

Argument 3: Facing the rise of global anti-corruptionism (Sampson 2015), the gradual approach of China's involvement in transnational anti-bribery campaign, however, may constitute a tipping point for China to introduce innovative anti-corruption mechanisms. They may prove to be decisive for incremental reform of the rule of law and social attitudinal change.

To follow our arguments, the chapter is divided into three sections. The first section constructs a theoretical framework with four parameters (economic, cultural and

social capital, institutional and leadership) that are supposed to highlight the specific relationship of corruption, economic development and anti-corruption in China. The second section analyses the anti-corruption crackdown under Xi and explores its transnational links and implications. The final section summarizes the findings and gives some theoretical and practical reflections derived from our examination.

Corruption, anti-corruption efforts and economic reform in China: Exploring their links

Varied studies from different disciplines (political economy, policy analysis, economics, sociology, organization studies, social psychology and cultural anthropology) have provided in-depth insights into the causes, types, features and effects of corruption in different contexts. From an economic and political perspective, 'corruption' is generally defined as distortion of public goods resulted from the diversion of state resources by officials into funding private benefits. The World Bank Group (2012) calls corruption 'the abuse of public office for private gain'. In the post-Enron period, corruption is defined in a broader and stricter way: For Transparency International (2009), corruption involves 'the abuse of entrusted power for private gain'. International Conventions such as the United Nation (UN) Convention and the Organisation for Economic Cooperation and Development (OECD) Convention as well as the Council of Europe also cover bribes, kickbacks, embezzlement, misappropriation of property and obstruction of justice.⁴ Vito Tanzi defines corruption as 'the intentional non-compliance with the arms-length principle aimed at deriving some advantage for oneself or for related individuals from this behaviour' (cited in Begovic 2005: 2). This definition provides a more sophisticated picture covering both economic and sociopolitical aspects. It contains three core elements: (1) the violation of the arms-length principle; (2) intentional bias; (3) the existence of some advantage. At least, this definition implicates certain forms of corruption (i.e. bureaucratic corruption and collective corruption, see Wedeman 2006) embedded in social interactions with expectations and obligations agreed among the involved individuals within certain political and social networks.

Particularly, the combination of economic, (neo)institutional and sociological approaches helps highlight the causes of corruption (i.e. the dilemma of institutional power in protecting transactions and (re)distributing resources, on the one hand, and the temptation of exploiting this power, on the other) as well as the role of norms and contextual factors in shaping and constraining corrupt behaviour (Lambrsdorff et al. 2005: 2–3; de Graaf 2007). Some studies show how weak public institutions and distortions in economic policies give rise to 'rent-seeking by public officials and the incubation of corrupt practices' (Ahmad et al. 2012: 277; Mo 2001). Others demonstrate how reinforcing factors (historical/colonial and social backgrounds and gender, educational, fiscal and economic factors) shape the scope of corruption (He 2000; Dong and Torgler 2010; Dong 2011). Dong and Torgler (2010) find that in the Chinese context, provinces with great anti-corruption efforts, higher educational attainment,

Anglo-American historical influence, 'greater openness, more access to media, higher relative wages of government employees and a greater representation of women in the legislature are markedly less corrupt'. Furthermore, organizational scholars adopt a macro-social perspective and regard corruption as a process of 'a gradual institution of misbehaviour which contributes to legitimizing behaviour and socializing others into it in such a way that it gradually becomes normalised', what Ashforth and Anand (2003, here cited in Breit et al. 2015: 319ff) call a 'culture of corruption'. In addition, social capital research has highlighted correlations between social trust, tolerance and respect, happiness in individual life, better working democratic institutions, more open economics, greater economic growth, and less crime and corruption both at individual and societal level (Rothstein 2013: 1010–11).

Overall, the growing literature on corruption has enriched our understanding of the various ways in which the abuse of power is performed, why corruption takes place and who it involves, and how it can be deterred and prevented. At the same time, as noted by Breit et al. (2015: 321ff), corruption research is often motivated 'by normative description and analyses of corruption' and tends to oversimplify its complexity. As a result, a creative engagement of theorizing corruption might have been long overdue. Efforts are still needed to examine the underlying causes and mechanisms as well as the circumstances of reinforcing factors in enhancing or deterring corruption. Against the backdrop of President Xi's ongoing anti-corruption campaign, a re-examination of corruption in China famously known as the 'East Asian paradox' or 'double paradox' (Wedeman 2012) may provide a timely occasion to explore new terrains for theoretical approaches. We turn to both well established and less known theoretical approaches and adopt four parameters that may give us a nuanced account of corruption in China with both theoretical and practical implications. These parameters are interrelated and involve economic, cultural and social capital, institutional and leadership ones. Whereas economic and (neo)-institutional parameters provide an institutional choice analytic frame in which rational individual choices are shaped by rules, mechanisms and factors defining the structure of expected costs and benefits (Vannucci 2015: 2; Collier 2002: 3), the cultural and leadership parameters look particularly at the differences in cultural traditions, social norms and networks, political opportunistic costs and individual moral preferences at the societal and leader level.

The reasons for the adoption of these parameters as an analytic frame are threefold. First, the analytic capacity of neo-institutional economics and sociology lies in their common concern of highlighting from inside the corrupt relationship. Both approaches underline the role of norms, trust and reciprocity in economic transactions. While there are no clear-cut boundaries between New Institutional Economics (NIE) and New Economic Sociology (NES), their different views of the role of institutions prove to be complementary. For NES, institutions are socially constructed, whose underlying normative preconditions as well as the formation of networks and relationships constrain the free choice of individuals. As noted by Lambsdorff et al. (2005: 6), all action (including economic one) 'is socially situated, and cannot be explained by individual motives alone; it is embedded in ongoing networks of personal relations rather than carried out by atomised actors'. In comparison, NIE pays attention to institutional preconditions/setting that facilitate corrupt transactions. For NIE,

institutional arrangements are used to minimize transaction costs and to safeguard transactions against opportunistic behaviour. Hence, institutions are created to maximize the benefits of economic action. NIE's concern is then to examine how institutions emerge, how they are designed and evolve as a 'consequence and result of maximising behaviour', and thus, lastly, 'how they economise on transaction costs' (Lambdsdorff et al. 2005). Secondly, a cultural and social capital parameter helps highlight the different and elusive face of 'corruption' in the Asian/Chinese context, as corruption occurs often in the form of graft, which, as part of social interactions understood as *quanxi*, has its own social meaning and function. Derived from the social norm 'reciprocity', it is associated with a moral dimension and legal culture which may be demonized in the West as 'immature, primitive, backward, subjective and irrational'; compared with Western laws which are seen as 'developed, modern and advanced, objective and rational' (Lindsey 2002, cited in White 2006: 4). The strength of this parameter lies in its explanatory capacity in illuminating the relationship (either in correlation or a causal one) between cultural differences, social norms/social capital, interiorized values and corruption. It also upholds the importance of the quality of social capital and the ethics of a given network in shaping the scope and form of corruption (Callahan 2005; Tantardini and Garcia-Zamor 2015). Thirdly, a close view of China's top-down reform efforts intertwined with the emergence and development of virulent corruption as well as the ensuing anti-corruption campaign reveals the central role of leadership in contributing to the phenomenon of structural corruption. The existing leadership literature from organizational studies in general shares the view that a strong centralized leadership normally tends to nurture corruption and that shared leadership backed by the concept of balance of power 'can provide a buffer against corruption' (Pearce et al. 2008: 354). Meanwhile, the role of leadership in fostering or reducing corruption in the Chinese context may prove to be at best elusive. The inclusion of a leadership perspective in the combined economic-institutional and cultural approaches provides powerful tools in explaining the paradox of the CCP's rule between power maintenance, tolerance towards corruption and crackdown efforts against 'evil' corruptors.

The four parameters are supposed to explain the relationship between economic development, corruption and anti-corruption efforts during China's reform era. The following paragraphs sketch the underlying assumptions and approaches and highlight the empirical relevance and limitations of each parameter.

The economic parameter

The economic parameter emphasizes that corruption is the outcome of rational individuals' choice to deviate from laws and/or informal norms for the pursuit of their self-interest. Corrupt exchanges in the form of a principal-agent-client model at the micro level can be briefly described as follows: following the theory of individual utility maximizing, an individual will be involved in corruption 'in a world of scarce resources' (Rose-Ackerman 1978: 5), imperfect information and many risks if for him 'the benefits associated with the act are expected to outweigh the costs' (Soreide 2014: 26). Three prerequisites are necessary while defining corruption as an 'abuse

of entrusted power': (1) delegation of decision-making power from the principal/ the truster to another actor (the agent) for pursuing the principal's interests; (2) the trust-giving or betrayal of trust, internalized rules and incentives, the control of agent's actions, supervision and enforcement mechanisms due to 'asymmetric information.' Corruption occurs when an agent decides to have an exchange with a corruptor and the latter will obtain confidential information and have access to resources the corruptor would otherwise not be entitled to; (3) In such a corrupt exchange, the agent receives as a reward money or other valuable resources (Collier 2002: 4; Vannucci 2015: 7–8).

Driven by such economic incentives, according to Heidenheimer (2017) and Gordon White (1996, here cited in He 2000: 245), there exist three categories of corruption, which can also be found in the Chinese context: (1) 'Black corruption', whose practices include graft, bribe, embezzlement, extortion, smuggling, tax evasion, etc. These practices constitute an important part of economic crimes whose purpose is to increase personal wealth. (2) 'Grey corruption' involves the misuse of public power, in which leaders of public institutions use their power to increase the revenue of their institutions and improve the situation of their staffs. Carl Friedrich (1972) regards such practices as corrupt, as they damage the interests of the excluded groups, institutions and the general public. (3) Practices of 'white corruption' can be identified in a variety of informal *guanxi* and networks including both nepotism and favouritism found for instance in the personnel recruitment and promotion. They apply and interpret laws in a way that benefit their relatives and friends. Based on the principle of reciprocity, such practices usually are accepted and expected, as the maintenance of such networks is considered as essential for receiving and giving favourable treatments at both public and private level. Nonetheless, such practices are condemned by those excluded, although they would hardly hesitate to engage in such practice 'should they have an opportunity to do so' (He 2000: 245).

The explanatory strengths of an economic parameter lie in its capacity to explore the relationship between economic development, corruption and anti-corruption. From a macroeconomic perspective, Graeff and Svendsen (2013: 2829ff) show damaging effects of corruption upon economic wealth, as 'corruption in itself means that resources end up in the wrong places and not in socioeconomically optimal investments'. As such, corruption entails higher transaction and control costs economic actors have to invest which will bind resources to non-productive purposes (see also Vian 2008). Moreover, one observes that corruption in general is higher in poor countries. The 2009 *Transparency International Corruption Perceptions Index (CPI)* showed that the ten least corrupt countries (such as New Zealand, the Netherlands and Canada) had an average real GDP per capita of \$36,700. In comparison, the ten most corrupt countries (such as Haiti, Turkmenistan and Afghanistan) had an average real GDP per capita of \$5,100' (cited in Bai et al. 2014). In particular, several studies have explored the circumstances under which corruption has negative effects upon firm growth and anti-corruption has effects upon economic development (for details see the next section). Evidence also shows a strong correlation between the degree of market liberalization and expected reduced corruption (Lin et al. 2018). In underdeveloped financial market, corruption proves to be an important mediator to get things done. Lin et al. (2018: 1ff) point out that corruption can boost shareholder

value in *less* regulated financial markets. As institutions support market transactions that work poorly, for investors and shareholders, influencing officials ‘can be the only way to access essential resources.’ In such cases, corruption becomes grease payments which firms must pay to build ‘connections’ with officials that lubricate ‘bureaucratic gears’ to ‘get things done’ (Fisman 2001; Wei 2001; McMillan and Wooldruff 2002, here cited in Lin et al. 2018: 1). Despite of the strengths of the economic variable to highlight the relationship between corruption, economic development and anti-corruption, it often falls short of providing convincing explanations *why* economic incentives may not induce corrupt behaviour. The tools provided by a cultural and social capital help address this weakness.

The cultural and social capital parameter

The cultural and social capital parameter assumes that corruption is related to the functioning of endogenous cultural norms, ethical preferences, the forms of social capital at individual and collective levels (Licht et al. 2003; Callahan 2005; Tavits 2005; Baquero 2015; Vannucci 2015). For Licht et al. (2003: 6), corruption, together with the rule of law and accountability, constitutes ‘social norms’ of governance. These norms specify behaviour seen ‘as desirable or legitimate in the shared view of societal members and whose violation elicits at least informal disapproval’ (Cialdini and Trost 1998; Cooter 1998, here cited in Licht et al. 2003). Ethical standards derived from these norms have been labelled in different ways in the literature on corruption: moral costs in economic theory, cultural norms in comparative politics, quality of social capital, and ethical preferences in networks which provide a compelling perspective in elucidating the relationship between corruption, economic development and anti-corruption. ‘Moral cost’ can be understood as normative barriers found in an agent’s preferences and identifications with the public organization’s values and purposes. As noted by Vannucci (2015: 11), the higher the moral cost for an agent, the stronger he/she will psychologically suffer and feel guilty in case of infringement, ‘perceived as a betrayal of public trust, independently from its detection.’ In particular, derived from several empirical examinations, scholars suggest to look at the forms and quality of social capital and the ethics of each network’s inside/outside distinction that foster or reduce corruption (Callahan 2005; López and Santos 2014; Baquero 2015). Following Nahapiet and Ghoshal (1998: 243ff), social capital theory assumes that ‘networks of relationships constitute a valuable resource for the conduct of social life’ in providing their members with ‘the collectivity-owned capital, a “credential” which entitles them to credit, in the various sense of the word’ (Bourdieu 1986: 249, here cited in Nahapiet and Ghoshal 1998). Much of this social capital ‘is embedded within networks of mutual acquaintance and recognition’ (Nahapiet and Ghoshal 1998) and has many different attributes and forms. For the clarification of virulent corruption in China, we suggest to look at the structural/organizational and relational dimensions of social capital whose distinction lies in the consideration of the macro and meso perspectives (Nahapiet and Ghoshal 1998; Tantardini and Garcia-Zamor 2015). Whereas structural/organizational social capital concerns the pattern of networks between actors or units, relational social capital focuses on the particular relations

people have, such as trust, respect, friendship and *yi-chi* (brotherhood in the Chinese context) that influence their behaviour (Nahapiet and Ghoshal 1998: 244). Corruption and political scandals, as research shows, can have strong effect on citizens' attitudes towards leaders, governments and political institutions (Bowler and Karp 2004; Seligson 2002, cited in Newton 2006: 2). Following social capital theory, there is 'a virtuous circle of high trust, well established social institutions, good government, and strong popular political support, which then helps to sustain social trust between citizens, foster community and civic participation, and encourage collective activity for the common good' (Newton 2006: 9ff). The combination of circumstances suggests that 'a mixture of high or rising social capital and poor government performance may cause political support to fall' (Newton 2006). As such, social trust is a core component of relational social capital and is normally used as a key indicator of it. Social trust between citizens contributes to economic growth and efficiency in market economics, stable and efficient democratic government, the equitable provision of public goods, social integration, cooperation and harmony.⁵

While exploring the relationship between social capital and corruption, four core principles of social networks and economic outcomes along both dimensions of social capital are worth mentioning here. The first principle involves norms and network density. As noted by Granovetter (2005: 33–5ff), norms are 'shared ideas about the proper way to behave; density is the proportion of the possible connections among those nodes that are actually present' (Granovetter 2005: 34ff). The denser a network is, the more unique paths can be found along which information, ideas and influence can travel between any two nodes. It follows that greater density facilitates the acceptance of ideas about proper behaviour, which 'also renders deviance from resulting norms harder to hide and, thus, more likely to be punished'. The second principle underlines the advantage of weak ties, as more novel and unique information flows to individuals through weak than through strong ties (Granovetter 2005: 34–5). Furthermore, Burt (1992) upholds the strategic advantage of 'structural holes' which involve the way different parts of networks are bridged. Within these holes, individuals enjoy 'with ties into multiple networks that are largely separated from one another'. Finally, attention is paid to the interpenetration of economic and non-economic action. Following Granovetter (2005: 35ff), when economic and non-economic activities are intermixed, 'non-economic activity affects the costs and the available techniques for economic activity'. Such mixing of activities (i.e. 'social embeddedness' of the economy) means 'the extent to which economic action is linked to or depends on actions or institutions that are non-economic in content, goals or processes'. They include for instance social networks, culture, politics and religion (Granovetter 2005).

In other words, the cultural and social capital parameter provides insight into the effects of culture and social capital upon economic and political performance, effects which are at best ambivalent and depend upon the forms and quality of social capital. On the one hand, social capital increases the efficiency of social action found in those networks with weak ties or structural holes. For López and Santos (2014: (1), 'the universalistic trust (linking and bridging social capital) constitutes a positive social capital that is negatively linked to corruption'. Graeff and Svendsen (2013: 2829) also find that in the European context, 'the augmentation of positive social capital could

work as an effective counterforce to corruption, even if it does not compensate for the economic loss caused by corruption.' On the other hand, trust (bonding) rooted in particularistic nodes can constitute a negative social capital which is related to the *uncivil* social capital of corruption, ethnocentrism and sectarianism (Nahapiet and Ghoshal 1998: 245; López and Santos 2014; Tantardini and Garcia-Zamor 2015: 599). López and Santos (2014) further find out that if cultures are characterized of favouring 'the legitimization of dependency relations and the formation of closed particularistic groups (power-distance and community factors)', they 'create a breeding ground for the development of these amoral rent-seeking structures'. The consequences are, as found in the culture of corruption, high economic costs resulting from 'rent-seeking' of many off-the-books transactions to carry on normal production of goods and services. Further consequences include the loss of social trust towards public officials and the entailed apathy of citizens regarding politics that can lead to an inertial state of governance with low stocks of social capital (Baquero 2015).

Meanwhile, in spite of the strengths of cultural arguments to unveil the structural and social embeddedness of corruption, they may easily become political instruments for local elites to defy external critiques in arguing that the involved cultural context (e.g. the Chinese context) has its own unique and uniform way of doing things and Western admonition for reform is a new form of cultural imperialism (Lindsey 2002, cited in White 2006).

The neo-institutional parameter

The neo-institutional parameter focuses on control mechanisms which 'allow the internal regulation of social interactions within corrupt networks, and their effects on individuals' beliefs and preferences' (Vannucci 2015: 18). Several studies have upheld the usefulness of institutional economics to develop a better understanding of why corruption occurs and the best policies to combat it (Collier 2002; Lambsdorff 2007). There are three different ways in elaborating an institutional analytic frame. The first one consists of 'both internal (agency) and external (structural) worlds' (Collier 2002: 3). The external world refers to the institutional (rule) structure that influences an agent's perceptions and decision-making (the internal world). Another way of elaborating a neo-institutional frame refers to the *informal* 'institutional framework', in which corrupt practices between agent and corruptor take place and several enforcement mechanisms may be applied to regulate such practices with sanctions attached to them (Vannucci 2015: 19). Lambsdorff (2007) argues that rather than being deterred by penalties, corrupt actors are more influenced by other factors such as the opportunism of their criminal counterparts and the danger of acquiring a reputation of unreliability. At stake is the value of 'the word given' between corrupt partners which, under certain circumstances, can positively shape the actors' moral preferences. Vannucci (2015: 20) observes for instance how 'personal or idiosyncratic sources of trust and loyalty towards counterparts can generate an ethical preference towards "integrity in corruption"', which constitutes a moral stance that to be trustworthy while managing bribes has already a value in itself. Driven by such moral conviction, first-party control occurs when the informal norms of corruption are violated and cause discomfort or

feelings of guilt for those who have internalized their obligations in corrupt deals. If all partners share similar internalized norms and respect reciprocal trust, corrupt exchanges can be successfully maintained (Vannucci 2015).

A further way of elaborating an institutional frame is oriented towards policy choices. It adopts an integrated theory from political science and economics and makes a distinction between individualist and institutional approaches (Nas et al. 1986: 107ff; Thompson 2018). Corruption is regarded *both* as a process and as ‘a product of individual and structural variables that interact to produce both positive and negative consequences’ (Nas et al. 1986). The individualist approaches focus on ‘*quid pro quo* exchanges’ (Thompson 2018) and include ‘considerations such as greed and the likelihood of detection and prosecution’ which may help suggest one set of policies for reducing corruption (Nas et al. 1986). At the institutional level, ‘bureaucratic constraints, citizen participation, and the congruence of legal structures and social demands’ all offer a competing set of concerns for examination. The strengths of the neo-institutional parameter dwell in its emphasis on the close connection between patterns of corruption and the legitimate functions of institutions. For Thompson (2018: 495), corruption has at best a contradictory function to fulfil: it ‘benefits the institution while undermining it’. Hence, the neo-institutional parameter compellingly reveals the necessity to launch reforms which ‘should be directed toward finding alternatives for the functions the corruption serves’. Nonetheless, both individualist and institutional approaches might have overlooked the role of self-interested or enlightened executive leadership which may prove to be the key to comprehensively understanding corruption.

The leadership parameter

The leadership parameter upholds the role of executive leadership (centralized or shared leadership) in reducing or fostering corruption. Derived from mainstream leadership theories from different perspectives (notably philosophical, psychological, organizational, behavioural ones), it helps illuminate how individual characteristics (i.e. leaders’ responsibility disposition) in relation to other factors such as locus of control and Machiavellianism have influenced corrupt activity. To date, analysts have adopted leadership theories to explain and compare the influence of different types of leadership in shaping corporate management behaviour. Pearce et al. (2008: 354–5) summarize the results of three empirical studies and suggest that decentralized, shared leadership ‘may indeed provide a more robust leadership system than relying only on leadership that is traditional, more centralized and vertical in nature’ (Pearce et al. 2008: 355). Meanwhile, despite the broad application of leadership theories and recognition of their usefulness in identifying the circumstances and factors that shape corporate behaviour in top management teams, they have not yet been sufficiently considered in explaining executive corruption at political leadership level. China’s case might well provide an opportunity to test the generalizability of the merits of shared leadership with positive organizational outcomes found in the existing literature. The detection of the real face of China’s collective shared leadership system installed by the reform father Deng Xia-Ping (see section ‘The Emergence and Consolidation of

One-Man Leadership' in Chapter 2) might demonstrate a countering example of the efficiency of shared leadership in fighting against corruption.

Most related to our purpose, the approaches and assumptions of three leadership theories are worth mentioning here. Behavioural theory as the first leadership theory focuses on the causes and effects of leaders' behaviour. Derived from motivation study, House and Howell (1992, here cited in Pearce et al. 2008: 355ff) distinguish two types of leaders with two distinct responsibility dispositions. Leaders with personalized power orientation and low responsibility disposition desire positions of power for the purpose of personal aggrandizement instead of pursuing the benefit of the collective (Conger 1990; Hogan, Curphy and Hogan 1994, here cited in Pearce et al. 2008: 355ff.). In contrast, leaders high in socialized need for power tend to have a high responsibility disposition. They exhibit 'greater integrity when confronted with ethical decision-making dilemmas' (Pearce et al. 2008) and will consequently be less likely to get involved in corruption. The second and third theories involve a transactional-transformational paradigm and highlight how leaders behave in a given institutional setting: either they are transactional (self-interested and culture-bounded) individuals/actors or ready to move beyond their self-interests for the good of the group, organization or society inspired by a transformational vision. As noted by Bass (1985, 1997), whereas transactional leaders work within the cultural constraints of the setting or organization, transformational leaders are motivated to change the context and the organization.

Supported by these three theories, we assume that, in China's party state, empowering leadership from above has created effective shared leadership. However, such leadership against the backdrop of increasing interdependence between politics and economics has also facilitated the building of concurring networks, in which leaders' high desire for their personal aggrandizement often outweighs their commitment to achieving objectives for the betterment of the collective entity. Due to a low level of responsibility disposition, the CCP's shared leadership becomes immersed in a perverse culture of corruption which has not only triggered an outcry of the loss of moral standards in society. It has also deteriorated the CCP's political legitimacy to rule.

In sum, the four parameters with their respective approaches and assumptions are deemed to provide tools for explaining the relationship between corruption, economic development and anti-corruption in the Chinese context. The following section is charged with two major tasks. It first identifies and analyses the specific characteristics of this relationship without ignoring its transnational link and implications. It also tests the applicability of the combined perspective with four parameters.

Corruption and anti-corruption as driver of economic growth in reform China? Recent developments and implications

Though Chinese corruption might have its own unique features, actors involved are not limited to employees in the public sector. They also include any Chinese state functionary engaging in public activities whose corrupt practices 'refers to

both economic (embezzlement, misappropriation of public funds, and bribery) and disciplinary corruption (violation of social norms and the dereliction of duty) that are damaging to public interests' (Ko and Weng 2011: 359). Practices of the three categories of corruption mentioned above have sharply increased since the launching of its reform opening policy towards the end of the 1970s unto the post-Deng era. A close look at these phenomena reveals a high degree of interdependence of economic, institutional, cultural and social capital as well as leadership factors shaping the scope and content of corruption in reform China. Four characteristics can be identified in relation to the ensuing anti-corruption campaigns.

First, during its 1978 to late-1980s marketization reform, corruption had a political function to counter local leaders' resistance against reform measures. As observed in Trinh's case study (2013: 1ff), 'The opportunities for corruption that stemmed out of the reform process had counter-balanced the political anti-reform resistance coming from the local governments.' Local elites had been able to profit from gains from corruption which replaced lost privileges, 'regulated incentives, and created new forms of relationships that eventually allowed reforms to happen', thereby providing the process with much-needed momentum. As such, corruption has helped tie the gains of local leaders with those of the entrepreneurial class, 'resulting in a public-private network and a vested interest in the continuation of reforms' (Trinh 2013). With the opportunities opened for corruption, graft prevailed due to the growth-focused system which demands performance at all levels. Every official and party secretary is required to achieve high performance for securing promotion, thereby facilitating the establishment of a meritocratic system. In view of such virulent practices of graft, President Jiang Zemin therefore used structural reforms to keep it at bay. Deregulation and competitive measures were introduced towards state-owned enterprises (SOEs) and military business.⁶ In spite of enhanced anti-corruption and market reform efforts, towards the end of the 1990s, China's rank and score in Internet Corruption Perception Index still rose from fifty-four (1996) to eighty-five (1998).⁷

Secondly, particularly viewed from the economic parameter, the relationship between corruption, economic growth and anti-corruption in China is at best complex and elusive. There exist at least three types of such relationships. The first one, as found in several studies (Wang and You 2012; Bai et al. 2014), involves a substitution relationship between the degree of financial regulation, corruption and firm growth in the private and state-owned firms. Bai et al. (2014) for instance find that 'the negative effect of growth on bribery is larger if firms are more mobile'. The study of Wang and You (2014ff) further confirms this relationship. In China's Southeast and Central regions, it appears that corruption has contributed to firms' growth in *underdeveloped* financial markets, which also led to fast economic growth. Hence, one expects that pervasive corruption deters firm growth 'where there are more developed financial markets'. Another type of relationship involves a positive correlation between anti-corruption efforts and economic growth. In the branch of Research and Development (R&D), Dang and Yang (2016: 39ff) detect positive effects of anti-corruption upon firm behaviour as intensive anti-corruption crackdown 'raises the cost of seeking for political bond and strengthens the incentive for firm innovation'. Different factors may play a crucial role in defining this *positive* correlation. They include the circumstances

when (1) intensive anti-corruption crackdown is issued in politically connected firms; when it takes place (2) in those non-SOEs and (3) in provinces with more intense anti-corruption efforts; (4) in regions with a more developed market economy. In other words, specifically in the branch of R&D, the factors of the degree of political connection and marketization, the types of firms, and the heterogeneity of regions have shaped the relationship between anti-corruption and economic growth. In contrast, several empirical studies (Chen and Zhong 2017; Wang 2016) detect a negative relationship between anti-corruption and economic growth as the third type of this complex relationship. Wang's study (2016) shows the increasing centralized anti-corruption efforts have an adverse influence on investment growth, thereby curbing economic growth particularly at the provincial level. Visits made by the CCP's Provincial Committee of Discipline Inspection (PCDI) as an important initiative also have discouraged business registration, marking a probable trade-off in anti-corruption and economic growth (Chen and Zhong 2017: 1).

Thirdly, driven by governmental money-pouring measures particularly under President Hu Jintao, a culture of (executive) corruption with strategic holes in China came into shape through network-building between politics and economics. Viewed from the cultural, social capital and leadership parameters, the mutual rent-seeking behaviour and the power struggle among different political factions and business groups have left most anti-corruption measures inefficient, serving at best as political tools for the CCP to restore its political legitimacy. Due to the concern of the rising unemployment rate resulting from market reforms as well as the global financial crisis, Hu reversed Jiang's policy and purposefully poured money into big SOEs that 'could create a rapid increase of production.'⁸ As government, party bureaucracies and SOEs increase, many senior cadres participated in managing lucrative side business. Concurring factions and interest groups (i.e. SOEs, big banks, the Party and government bureaucracies, local governments and the military) coordinated with or concurred against each other while making fortunes. In particular, their business relationships have been sustained through highly gendered practices such as male solidarity, brotherhood, paternalism, mutual aid and *yiqi* (honour or a sense of duty that defines personal relationship). Members of those networks are expected to maximize their profits, 'to put their brotherly relationship above all other commitments, sharing their success and using positions of power to the advantage of their associates' (Osburg 2018: 153). Consequently, some top leaders and their families were able to gain huge fortunes: For instance, between 2007 and 2012, the former security boss Zhou Yongkang reportedly accumulated a fortune of \$145 billion (for details, see the following subsection); the former premier Wen Jiabao and his family obtained a fortune of \$30 billion. In other words, the scale of executive corruption became astronomic and turned out to be out of control. Besides executive corruption, the results of extensive fieldwork reveal the micro-level operation of corruption resulting from *guanxi*-practices embodied in informal institutional mechanisms that facilitate the contracting process of corrupt exchange (Li 2011: 1). As argued by Li (2011), the participants of corruption view *guanxi*-practice as an alternative operating mechanism 'in which risk of exchange safety is controlled, and moral costs and cognitive dissonance are reduced.'

Fourthly, corruption proves to be a natural by-product of China's unprecedented economic miracle, as long as it has spurred, not stalled, growth. Following the logic of Deng's reform principles – good cats are those who catch mice, regardless of their colour (e.g. black or white), what some consider to be the weaknesses of China's economy have been its strengths. At least, with its state-controlled capitalism, the CCP's centralized authoritarian rule has set up an unusual development model, in which unbalanced growth 'isn't evidence of a looming risk so much as a sign of successful industrialization. Surging debt levels are a marker of financial deepening rather than profligate spending'.⁹ In this respect, a tacit social contract between the Chinese government and its people appears to have fulfilled its mission in the post-Deng era: Derived from the lessons learnt from the 1989 Tiananmen crackdown, the Chinese people have been told to keep an abstinent position towards politics. As long as the CCP's leadership tackles a variety of challenges and improves the living standards of the majority, the people tolerate corruption within certain limits. The benefits of the CCP's authoritarian rule dwell in its adaptation and ability to rapidly correct course, including the adoption of anti-corruption measures. At stake is the central question of whether the party-state regime 'can strike the right balance between state intervention and market forces'¹⁰ for the maintenance of its political legitimacy. Meanwhile, an Ipsos survey conducted in 2017 shows that the Chinese people are mostly concerned with the moral decay in their land.¹¹ Coupled with rising unemployment and debts, the loss of social trust, particularly towards corrupt party functionaries, has gradually cast a shadow upon the CCP's capacity to lead China.

Anti-corruption campaign: Past and recent developments under Xi and its political and transnational implications

A review of the CCP's past anti-corruption efforts reveals that they have been strongly shaped by highly interlinked economic, political, institutional and leadership concerns. Two features of such efforts can be identified. First, as noted by Quade (2007), 'serious attempts at anticorruption enforcement have been periodic in nature'. In explaining the timing of anti-corruption campaigns from 1981 to 1997, Quade detects a plausible correlation between changes in macroeconomic policy and the intensification of anti-corruption enforcement. There are four major anti-corruption campaigns, starting respectively in 1982, 1986, 1989 and 1993, which 'coincided with the end of an inflationary peak and the beginning of a macroeconomic austerity period'. As such, for Quade, the aforementioned anti-corruption campaigns had an economically driven function and were used 'primarily to combat economic overheating and not corruption itself'. Secondly, most anti-corruption campaigns have been a 'clean-up' action, 'seen as a kind of campaign-style enforcement, rather than enforcement by law' (Li 2010). Consequently, although the clean-up strategic action might have success in keeping corruption 'under control' in areas such as cadre control, self-purification and remedy, it remained limited to deter low-level corruption, but not high-level, high stakes corruption, and might even encourage inflation of the size of bribes and could hardly fix the fundamental problems embedded in the redistribution structure (Li 2010; Wedemann 2006).

With the coming to power of President Xi Jinping – who has made anti-corruption campaigns as one of his main goals – in November 2012, a new era has begun with a new focus on and appreciation of the strength of the 1980 Criminal Law of the People's Republic of China (PRC Criminal Law). In general, China's anti-corruption laws are stipulated in this *Law* which contains provisions on offences of bribery and corruption. Following modernization efforts in 1997, it is supposed to provide a vigorous legal framework in curbing and eliminating corruption. Derived from this strengthened legal framework, Xi's anti-corruption campaign has been undergoing institutional change serving first and foremost to purge corrupt networks controlled by 'big tigers' in the central government and to restore the CCP's legitimacy to rule. Unlike the previous anti-campaign efforts deemed as selective and largely limited to the investigation of local functionaries and businessmen (local 'flies'), Xi's strike is comprehensive and harsh. It involves not only investigations into *all* sectors of government including state functionaries at the ministerial/provincial level and top leaders within the CCP, the economy and the military, but also judicial, administrative and party discipline reforms with a preventive character (Transparency International 2018: 5–6). In his 2017 report to the National People's Congress (NPC), the Procurator-General of the Supreme People's Procuratorate (SPP) Cao Jianming noted that there were 47,650 persons charged for corruption or dereliction of duty; 10,472 state functionaries have been investigated and punished for taking bribes.¹² According to sources provided by China's SPP and Central Commission for Discipline Inspection, between 2012 and 2015, there is a continuing growth in the number of cadres disciplined by party, which stands in a sharp contrast to the decreasing number of people prosecuted by the procuratorate.¹³

Famous cases involved the investigation and punishment of several big tigers including the former permanent committee member of the Political Bureau Zhou Yunkang (2007–12), Ling Jihua and Bo Xilai (the former party chief in Chongqing, who was famous for his campaign for red songs and clampdown on local snakeheads, mafia bosses and criminal leaders). Following network measurement and recursive selection models (Lu 2017: 5–7; 8–12), there exists strong evidence indicating that Xi's anti-graft strike does appear to be a political purge (Lu 2017: 11). The fall of Bo Xilai between 2012 and 2013 is a good example in giving his many enemies and leaders in the CCP good news and made their lives, 'despite its destabilising drama and surprise, in the end much easier in managing the horse-trading around the leadership transition in late 2012'.¹⁴

The extent to which Xi's anti-graft campaign has served as a political instrument still remains to be carefully compared in different cities at both central and local levels. Evidence shows at least several incompatible, contrasting multiple goals Xi's campaign might pursue. On the one hand, as all top CCP leaders share the consensus that 'the big tigers' have become regime troublemakers, the lack of self-protection practices across factions as well as factional warfare has helped Xi to justify his strike deemed as necessary disciplinary measures for the restoration of CCP's legitimacy. In particular, unlike the past campaigns, Xi's strike has centralized anti-corruption control through an institutional change from the past dual-track to a single anti-corruption agency model. As observed by Deng (2018: 58; 60–6ff),

the establishment of NSC in 2017 upholds a party 'leading control system', in which local officials are now obliged to follow directions, principles and goals set up by the central government's measures including the following steps: (1) the centralization of control agencies; (2) the expansion of the party's Discipline Inspection Committees (DICs); (3) the creation of a balanced cooperative system between the NSC and DICs; (4) intentional vagueness while applying anti-corruption laws for the sake of party control; (5) clear top-down instructions while enhancing the party rule (Deng 2018: 66). A direct effect of such centralization efforts is the substantial decreasing influence of local party leaders in anti-corruption. On the other hand, analysts have doubted the real purpose of Xi's strike which obviously is not limited to a power struggle. In spite of Xi's claim in stating that the campaign was launched to 'meet people's demands' (Xi 2015, here cited in Lu 2017: 12), one cannot help avoid assuming that anti-corruption attracts public attention away from the pressure from slowing economic growth. A vicious circle appears to emerge in the midst of Xi's ongoing anti-graft strike. As found in several empirical studies, the CCP's centralized anti-corruption control system not only has some negative effects upon local economies (Lin et al. 2018; Chen and Zhong 2017; Lu 2017; Wang 2016). The CCP's increasing ideology-driven interventions in those SOEs as well as in private enterprises have slowed down investors' activities, thereby inducing a surge of the unemployment rate regarded as unprecedented in the post-Deng era.¹⁵ In this regard, the outcry from the former president Jiang in admonishing Xi to rethink his harsh strike is deemed as an urgent warning against Xi's policy which might have already hurt the dearest bones of China's economy.

Meanwhile, since mid-2014, the global fight against transnational bribery has opened new perspectives for Xi to internationalize China's anti-corruption efforts. Analysts observe that, in spite of China's adoption of a gradual approach, whose weak legal framework falls short of implementing Article 16 (referring to criminal liability) anchored in the United Nations Convention Against Corruption (UNCAC), China's interests in and impact upon international cooperation in the field of anti-corruption is viewed as 'both a normative challenge to OECD standards and an opportunity for engaging China more effectively' (Lang 2017; see also Gintel 2013). The increasing involvement of China's companies (often SOEs) in transnational bribery has become a serious international problem. As shown in those large-scale infrastructure deals that mark China's development strategy both domestically and abroad, bribery has been prevalent. Also, China has become a popular hub for money laundering which has posed a significant challenge not only for OECD efforts to curb transnational bribery, but also for China's efforts 'to reign in the venality of its own bureaucracy' (Lang 2017: 4). A series of high-level cases undertaken by the US authorities recently reveal how China has continued to harbour 'common systematic bribery and nepotism schemes' (Wedeman 2014; SEC 2016, cited in Lang 2017: 4). It turns out to be that China's cooperation is essential for the global fight against transnational bribery. In several cases, European states have begun to cooperate with China on extradition, joint policy action and fight against cybercrime. Nonetheless, Xi's anti-corruption campaign has failed to fundamentally promote the rule of law, thereby leaving most cases handled by opaque party disciplinary bodies, which relies on strong political leadership and

supervision and makes cooperation with state executive and judiciary less meaningful (Lang 2017; Deng 2018).

In this respect, the effects and implications of Xi's ongoing anti-corruption campaigns are far from clear. Empirical research and analysis of official statistics between 2012 and 2016 show that Xi's high-profile anti-corruption campaign 'has fallen short of its stated goal and appears to be doing more harm than good to the image of China's Communist party'.¹⁶ Viewed from the economic parameter, many of the micro effects of Xi's anti-corruption drive have already been well documented including the change of government officials' consumption behaviour and the ensuing slowdown in the restaurant trade, a big dip in sales of luxury goods, a decrease in land transaction and economic growth in the private sector (Chen and Zhong 2017; Lu 2017). It seems that fighting graft too hard just might destroy China's economy too.¹⁷ From the perspective of social capital and public trust, though the campaign's stated aim is to hold all levels of Chinese officials accountable for abuses of power, a new study finds that 'the higher the number of reported graft cases in a prefecture, the more people in the area perceive Beijing as being more corrupt than their local government'.¹⁸

Reasons for the Chinese people's persistent mistrust towards the ruling party might well dwell in the CCP's centralization of power which, in the eyes of the Chinese people, is mainly responsible for corrupt practices of local governments and the CCP's failure of tackling them. In the longer term, the campaign's scope and length may have lasting damaging effects upon the party leadership's image.¹⁹ Ultimately, despite Xi's high-profile leadership, the CCP's remains trapped in a difficult fight resonating what the former party elder Chen Yun once said: 'Fight corruption too little and destroy the country; fight it too much and destroy the Party'.²⁰

Concluding remarks and discussion

This chapter has adopted four parameters (economic, cultural and social capital, institutional and leadership ones) to explore the relationships between corruption, economic growth and anti-corruption in the Chinese context. Its findings are fourfold with economic, social, institutional and transnational implications, respectively.

First and foremost, corruption has played an important 'greasing-the-wheels' function in the reform China. The past periodic anti-corruption campaigns served to steer economic overheating and introduce symbolic clean-up action without being able to address the root causes of graft, which are linked to negative social capital with the emergence and building of strategic corrupt networks and promotion pattern led by the big tigers. Meanwhile, as the CCP's political legitimacy has been eroded by the spread of virulent corruption reflected in the high interaction between economics and politics, Xi's high-profile anti-corruption campaign turned out to be necessary in order to rescue the CCP from its (self-made) political crisis. However, despite its centralizing disciplinary power, Xi's anti-corruption crackdown proves to be detrimental for economic growth, particularly in the private sector and land transaction market. Coupled with the ongoing trade war launched by the US president Donald Trump,

China's economic slowdown and rising debts may prove to be decisive in shaping Xi's anti-corruption course in the near future.

Secondly, at the level of cultural and social capital, Xi's anti-corruption drive might have helped purge corrupt networks and change the consumption behaviour of state functionaries. Such top-down leading control system still falls short of addressing the issue of social trust and the perceptions of corruption in the Chinese context. As long as the CCP continues to rule *beyond* the law and the Chinese people remain deprived of obtaining legal education concerning the rule of law, the lack of institutional and social trust between the ruling party and the ruled continues to pose a fundamental challenge for the party-state regime (Hakhverdian and Mayne 2012). In this regard, the author suggests to introduce legal and civic education as first steps to help redefine the relationship of social trust and corruption in terms of *guanxi*-practices and to address increasing social mistrust triggered by Xi's move towards dictatorship.

Thirdly, at both institutional and leadership levels, Xi's centralization power can have both strategic advantages and damaging effects upon the CCP's rule. On the one hand, Xi has pushed for governance reform by centralizing the anti-corruption control system and promoted action-oriented reformers (see Chapter 2, section 'The Emergence and Consolidation of One-Man Leadership'), thereby signalling his intention to address China's social and economic needs. On the other hand, Xi's Mao-style, ideology-driven interventions into the activities of the SOEs and private economies have deviated from pragmatism embraced by his precedents. Some observers suggest that, in order to deter corruption effectively, the Chinese government will eventually have to embrace with more rule of law. Some practical reform steps would prove to be helpful, including 'creating a civil code to define acceptable commercial practices, basic property rights and the status of private companies.'²¹ In the longer term, China will need more sweeping – and more politically sensitive and courageous – reform steps 'to ensure that private actors have more access to major resources, like land and financing, without having to rely on personal connections to local officials.'²²

Finally, China's interest in the global fight against transnational bribery can provide opportunities to engage China for gradually orienting towards OECD standards which may help create a facilitating domestic environment for the generation of institutional and social trust. Derived from a cross-national comparative context, Rothstein and Stolle (2008) detect a causal mechanism between societies with effective, impartial, and fair street-level bureaucracies and generalized trust. Though it will definitely be a long way for China to go in introducing any *independent* legal institutions for tackling corrupt practices, these institutional characteristics may well serve as a plausible reference for reform-minded elites in their search to re-design the social contract with their people, at least in a post-Xi era.

Notes

- 1 Noted by Minxin Pei in his talk with Robert Siegel. See Siegel (2017).
- 2 See Zhongguo Jijian Jiancha Bao (2018).

- 3 Commented respectively by Do Tien Sam, editor-in-chief of the China Research Journal based in Vietnam, Peter J. Li of University of Houston, and Macharia Munene at Kenya's US International University. See Xinhua (2017).
- 4 See The World Bank Group (2012); Transparency International (2009); OECD (2007).
- 5 'Chapter 1: Social trust and its origin', available at <http://essedunet.nsd.uib.no/cms/topics/2/1/> (accessed 20 June 2018).
- 6 See Overholt (2015).
- 7 Adapted from Transparency International's 'Internet CPI'. Cited in He (2000: 246).
- 8 Overholt (2015).
- 9 Huang (2018).
- 10 Ibid.
- 11 Cited in Strittmatter (2019: 24–31).
- 12 See www.spp.gov.cn/gzbg, cited in global legal insights, 'Bribery & Corruption 2018 / China' (2018).
- 13 Cited in Lockett (2016).
- 14 See Brown (2013).
- 15 See Deuber (2019: 1).
- 16 See EN13.
- 17 Cited in Sudworth (2014).
- 18 Ni Xing and Li Zhen at the Institute of Governance and Public Affairs of Guangzhou's Sun Yat-sen University conducted this study. Their study surveyed 83,300 people nationwide by telephone and was published in the latest edition of China's Journal of Public Administration. Cited in Lockett (2016).
- 19 Ibid.
- 20 Cited in Osnos (2014).
- 21 Huang (2018).
- 22 Ibid.

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Renegotiating the city: refugee resettlement between surveillance, austerity, and activism in German urban communities

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ABSTRACT

This paper investigates the politics of refugee arrival and integration at urban level in Germany following the migration influx in summer 2015. How have cities redefined themselves? How have newcomers and residents with different subjectivities constructed their identity, social belonging, and justified their rights-claiming? What kind of changes can be observed in city's social spaces? Supported by critical geography, securitization, ethnographic approaches, the paper aims to identify the grey areas of the urban social spaces and presents two accounts centred on: (1) city as sites of bureaucratic politics, austerity urbanism and surveillance; (2) city as sites of sanctuary/solidarity practices. It argues that the refugees' arrival offers the chance for German cities to envision a social project through engaging a politics of 'bounding' which involves the re-framing of refugee displacement in relation to urban development by covering both the lived (camp) experiences of those on the move and local population's needs.

KEYWORDS

Moral urbanism; refugee resettlement and integration in Germany; austerity urbanism; surveillance measures and crimigration; identity- and boundary-making in German cities

Introduction

The refugee influx starting in August 2015 has changed the outlook of many German cities: More than five years after the German Chancellor Angela Merkel's famous words '*Wir schaffen das*' (we'll make it), many cities find themselves in a post-euphoric state of disillusion and pragmatism. Several integration reports and survey results show first positive effects of local governments' adaptive crisis management and integration efforts.¹ However, the federal government's increasingly restrictive measures and the polarization of debates surrounding migration control reveal a gradually changing climate in Germany resulting from policy practices between securitization, austerity urbanism, sanctuary/urban moralism, and refugee activism. How have cities redefined themselves? How have newcomers and residents with different subjectivities constructed their identity, social belonging, and justified their rights-claiming? What kind of changes can be observed in city's social spaces?

This paper aims to unearth some of the myriad ways in which German cities are reshaped by different kinds of action in the aftermath of the 2015 refugee influx. It does so through examining several focus issues and their developments and effects at both macro- and micro-levels based on a theoretical construct that considers the city as a volatile space. Although cities have elaborated different adaptive and novel approaches to respond to refugees' arrival, several commonalities

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and specificities can be observed in our city samples: An assessment of cities' crisis management reveals inconsistency and contradictions of their role as sites of security, bureaucratic and austerity politics, and sanctuary practices. The endurance of refugee immobility has prompted the emergence of counterspaces for urban and refugee activism which struggles to manage many challenges posed by neoliberal austerity urbanism, security concerns and crimigation, cultural differences, and the pandemic crisis. Due to the strict federal rules and the limits of their capacities and resources, many cities have experienced worsening social segregation and increasing discontent from residents and local firms as a form of urbanized asynchronicity. Hence, the paper suggests that the refugees' arrival offers the chance for German cities to rethink a social project through engaging a politics of 'bounding'. It involves the re-framing of refugee displacement in relation to urban development through opening new negotiation spaces with the federal and state authorities and adequately addressing both the lived (camp) experiences of those on the move and local population's needs and expectations (Engler, 2021; Mayer, 2016; Sturm, 2007).

A rapidly growing literature in migration and refugee studies has highlighted the multi-level refugee governance and its effects upon refugees' situations in the German and European contexts particularly in the aftermath of the 2015 irregular flows (Bohn & Alicke, 2016; German Expert Council, 2018; International IDEA, 2018; Johansson, 2016; Lippert-Rasmussen & Vitikainen, 2020; Soederberg, 2018; Vollmer & Karakayali, 2017). Whereas some of them remain descriptive due to its reporting character, efforts from a comparative and interdisciplinary perspective have begun to collect broad data in city samples and target groups and to develop adequate methodologies for in-depth theory-based analyses. For instance, scholars depict the difficulties of gaining access to target groups including collecting correct information. They, therefore, suggest introducing alternative survey instruments and elaborating new rights discourses (e.g. the right to be heard) as a remedy to address the problems of data gathering (Kühne et al., 2019; Moraru, 2020). This paper builds on these ongoing research efforts and will contribute to highlighting the emerging new urban social (counter)spaces with critical voices found in the contentious politics of migration in the conjuncture of bureaucratic regulations/security measures, citizen initiatives and refugee activism, and daily integration challenges. Its original insights lie in the identification of grey areas of the city's contradicting bordering and integration practices which shows the juxtaposition of 'the state of exception' as a primal form of modern government (Agamben, 2005) accompanied by the emergence of vibrant novel social spaces as a form of urban resistance and informality.

The paper has four parts: Section II first lays out a theoretical frame derived from critical geography, urban studies, and ethnographic story-telling approaches. Herein the city is reframed as a volatile space between surveillance/austerity urbanism, on the one hand, and urban moralism and refugee activism, on the other. Furthermore, this section will give some methodological notes that justify the selection of city samples and describe the process of data generation process including the design of a survey with local practitioners as a target group. In light of this theoretical construct, Section III first shows a brief history of migration flow in Germany that has reshaped many cities' social and economic life and policy development. It then analyses policy evidence from several selected city samples surrounding two major aspects: (1) cities as mediators and implementers guided by bureaucratic rigidity, economic austerity and surveillance while addressing various concerns and needs faced by asylum-seekers and local population; (2) cities as sites of urban informality including urban moralism/sanctuary practices, identity- and boundary-making, and refugee activism. Besides examining the changing face in three major cities (notably Berlin and Hamburg as city-state, and Mannheim), exemplary evidence in other cities serves to support the paper's

major argument (notably the ‘anchor centres’ meaning ‘Centre for Arrival, Decision, Repatriation (AnKER)’² in Heidelberg and Bamberg, the launching of several collaborative initiatives for enhancing integration work in Berlin, München, Düsseldorf, Münster, and Magdeburg). The conclusion reflects upon the moving frames of cities’ negotiation process from a welcome culture towards a more nuanced picture of disillusionment accompanied by rising concerns of political, socio-economic, and cultural challenges. It also gives several thoughts for future research concerning the design of data gathering and possible pathways for conducting cross-disciplinary studies.

Reframing the city: old and new spatiality between surveillance, austerity urbanism, and sanctuary

Scholarly efforts and artist performance to highlight the city’s changing face influenced by migration influx have revealed the increasing ambivalence of cities as a site of arrival, sanctuary, solidarity, and securitization (Darling, 2008, 2013; Hancock, 2012; Wood, 1994). Asylum as a spatial experience becomes gradually detached from the territorial framing of the nation-state. Instead, it moves towards a re-territorialization in both interior and exterior spaces (e.g. urban borderlands) that (re)produce and maintain refugees’ immobility (Engler, 2021). These discussions have opened new venues for re-considering the refugee experience as an overlapping dimension of the bureaucratic/instrumental and social spaces. Interdisciplinary efforts that combined the approaches of different disciplines (law and politics, ethics, urban geography and forced migration) have provided nuanced accounts of sovereignty, welcome, hospitality, surveillance and othering process intertwined with different negotiating lines *within* the city. The reassertion of ‘sanctuary’ as a public good, for instance, have helped create a micro-politics of cultural change and enhance a recognition of the city’s relational responsibilities by recurring to the historical roots of sanctuary that provided protection for fugitives in biblical times (Darling, 2008; Goodall, 2011, p. 7).

As such, ‘cities’ might be viewed as an assemblage with several layers. First and foremost, the city is a useful analytical category, whose concepts and standpoints are subject to change depending on the functions and visions they are designed for and associated with. For instance, ‘the mobility turn’ found in geography studies as a favourite explanation frame helps trace cities’ changing functions. In this mobility frame, space is created and ‘constructed as a result of the flows of people, goods, services, systems and the interactions between them’ (Hannam et al., 2006: 2ff; cited in Nyers & Rygiel, 2012, p. 7). Secondly, cities are mediators between (national) bureaucratic politics, economic rigidity, and translocal politics of presence. Thirdly, against the backdrop of globalization, cities turn out to be ‘the junction boxes for international interactions at the local level’ (Clark et al. (2008) cited in Darling, 2009), attract ‘strangers’ coming together, amid ‘continuous contestations of who belongs and to whom the city belongs’. In light of these layers, our theoretical frame constructs ‘city’ as contestation sites between bureaucratic politics, surveillance and austerity urbanism, on the one hand, and sanctuary/urban moralism and informality, on the other hand.

City as sites of bureaucratic politics, surveillance and austerity urbanism

Derived from the rational policy model (Allison, 1968, pp. 35–36) that categorizes government action as ‘acts’ and ‘choices’, the city as a milieu of bureaucratic politics has its main tasks to correctly implement government’s policy as organizational outcome. In a federal political system like that of Germany, the city also enjoys a certain degree of autonomy to decide its own local affairs

based on the subsidiarity principle, where concurring groups/actors bargain and compete against each other, so that their preferred course of action might get adopted. Meanwhile, controversial voices within the city concerning emergency plans, established policy frames, organizational structures and modes of decision-making can cause institutional crises. For instance, at the height of the 2015 refugee influx, new laws were introduced in Germany as a response to local actors' critiques seeking to negotiate a decent accommodation for asylum-seekers, thereby causing constant change of complex social-political orders (Hinger et al., 2016). Following the organization of a protest camp in 2016, the city government in Bochum broke the rule and agreed to allow asylum-seekers living in the mass reception centres to visit German language courses.³

Cities have also become a site of securitization and surveillance. Analysts observe that the emergence of new risks and the consideration how to tackle them would require a shift of paradigm in security policy (Daase, 2002, p. 9), in which the focus should be put on coping with the *security paradox* and crisis prevention, instead of threat prevention. Unlike the security dilemma found in the traditional (neo)realist rationale, a *paradox* signifies a situation 'in which the condition of possibility is also the condition of impossibility' (Kessler & Daas, 2008, p. 212). Driven by the logic of coping with the security paradox, risk politics has become a central component particularly in the nexus of policy fields between security and migration. As observed by Pécoud and de Guchteneire (2006), a largely shared feature of contemporary migration policies is their restrictive nature. *Irregular* migration is commonly understood, in security terms, as a 'problem' and many countries encounter this 'risk' with a tendency moving from the creation of 'the state of exception' to the generalization of a security paradigm as the normal technique of government (Agamben, 2005, p. 11). Terrorism-related concerns have further fuelled this trend and put borders in the spotlight, reflecting the porosity of borders and calling for greater surveillance. In multiple ways, the city has been involved in several collaborative security and surveillance measures ranging from the strengthened coordinated anti-terror control in exchange of information about terrorist suspects, restrictive migration and border policy including deportation measures, criminalization towards irregular migrants to externalization measures of establishing refugee camps outside the border (resulted from the deal between the EU and Turkey in 2016).

Furthermore, cities are places of the politics and power of austerity urbanism, which has framed public policy particularly in metropolitan and regional capitals for regulating and allocating limited resources. As an analytical concept originally applied in the US context, austerity urbanism describes 'the intensification of existing neoliberal practices that have resulted in deeper and wider entrenchment of pro-market solutions to housing provisioning, whilst implementing additional fiscal retrenchment of the social state' (Peck, 2012; cited in Soederberg, 2018, p. 2). It also represents a structural frame within which urban movements operates along the logic of profit-oriented deregulation and 'growth first' strategies. As part of neoliberal reform efforts pushed by the European Union, Germany's state and city governments have introduced entrepreneurial modes of governance in more and more policy areas (e.g. the outsourcing of security tasks in refugee camps to private security firms mandated either by state or by city governments) and new toolkits for dealing with social polarization. Such governments' actions have paved a path for converging asylum regime, bordering policy and city's austerity practices leading to the endurance of camps, displacement and a massive shortage of affordable social facilities (e.g. housing and public services, see Mayer, 2016; Sowa, 2020). Consequently, the city's most vulnerable are subjected to the violent bordering practices of such neoliberal practices that reinforce the 'hierarchy of mobility' as undocumented and unhoused persons are displaced, and rich residents' property rights upheld as borders are spatially enforced in city space.

Against the backdrop of considering ‘migration’ in rigid security and economic terms, ‘refugee’ as a concept becomes increasingly controversial. This is due to the dynamic of refugee flows and the ensuing policy responses which have challenged the state-centred conception of citizenship and blurred the distinction between migrants and refugees (Mountz, 2011; Scheinert, 2017). The 1951 *Geneva Convention Relating to the Status of Refugees (GC)* has set out core elements of the legal definition of ‘refugee’ with the focus on providing protection from persecution on grounds of one of five reasons (race, religion, nationality, opinion or group membership). It also has upheld key provisions that interdict discrimination and criminalization for illegal entry and *non-refoulement*, i.e. forced return to the country of origin. Between 2013 and 2014, Germany introduced *Temporary Humanitarian Admission Programme (THAP)* for Syrian refugees. Besides humanitarian criteria, it added ties to Germany (e.g. family ties) and ability to help rebuild Syria after the end of the conflict as criteria to obtain an asylum status. In particular, as from January 2020, a new federal law has entered into force involving the training or employment toleration (*Ausbildungs- und Beschäftigungsduldung*) for those refused asylum-seekers whose deportation is temporarily suspended under certain conditions. The law guarantees them a reliable residence status for a certain period of time by means of *Duldung* if they complete vocational training or pursue employment.⁴ The introduction of these new regulations signifies a shift in the concept of ‘refugee’: It has evolved from that of a recipient of humanitarian aid to that of a recipient with different layers, whose admission status will be determined by a set of requirements covering not only humanitarian and economic elements but also temporality, membership and territorial mobility. This development highlights not only ‘how movement cannot be analyzed without reference to class and capital, how mobility in asylum seeking is both socially stratified and socially stratifying’ (Ihring, 2017, here cited in Scheinert, 2017, p. 133). Despite the opening of a new window for those refused asylum-seekers to stay in Germany for a certain period of time, it also shows a reinforcing hierarchy of refugee status with the quota refugee occupying a lower position (i.e. no *non-refoulement* for refused Asylum-seekers from Afghanistan which is regarded as a third safe country) and the perpetuation of a hierarchy of citizenship status within the host country against the backdrop of an increasingly rigid bureaucratic politics faced by refugees and their local employers (Pettigrew, 1998; Zetter, 2007).⁵

City as sites of solidarity/sanctuary practices and politics of presence

In countering the prioritization tendency of refugee categories and addressing the heterogeneity of refugees’ (im)mobilities, the emergence of diverse solidarity/sanctuary practices and politics of presence/urban informality has reshaped the city’s outlook found in street protests with the slogans ‘welcome culture’ and ‘We have room’. ‘Solidarity’ as a concept has both interpretative and normative dimensions. As noted by Ahmed (2004, p. 189), solidarity ‘involves commitment and work, as well as recognition that even if we do not have the same feelings, or the same lives, or the same bodies, we do live on common ground’. The common ground may be construed as an inspiration for justice and the empathy towards fellow citizens and strangers rooted in the religious and moral convictions. Hereafter ‘solidarity’ can be reframed through analysing how the crisis is changing policy measures undertaken by state and civil society actors as well as public (mis)perceptions. As such, the normative ground of solidarity will be re-energized through the endeavour to improve risk and safety management.

Besides solidarity practices, four aspects of urban sanctuary practices can be identified: legal, discursive, identity-formative and scalar (Bauder, 2016, pp. 1, 7–10ff). The legal nature of urban sanctuary involves the engagement of the municipal legislative body (i.e. city council) supporting sanctuary initiatives. The emphasis on the discursive aspect of sanctuary initiatives ‘involves challenging exclusionary refugee discourses that often circulate through national media and national political debate’ (Bauder, 2016, p. 7). Moreover, Bauder considers the evolving transformative process of political identity and subjectivities as well as the imagination of the city as a space of belonging, not only for citizens but also for newcomers. Cases of Canada’s sanctuary city show how solidarity expressions and practices have enabled the formation of a collective urban community that makes no distinction between citizens and migrants, or between residents with or without status (Bauder, 2016, p. 8). A further aspect common to sanctuary-city policies ‘involves rejecting national approaches towards migration and refugee admission’ (Bauder, 2016, p. 9). At best, many urban sanctuary initiatives prove to be an attempt ‘to rescale migration and refugee policies and practices from national to local scales’ (Bauder, 2016, p. 10). Such *rescaling* efforts assert ‘a form of power and politics at the sub-national level’ (Sassen, 2008, p. 314; here cited in Bauder, 2016, p. 10) which strives to gain a space of autonomy and may constitute a threat to national sovereignty.

In other words, as cities embrace specific values and become a site of arrival, sanctuary and solidarity, the question at stake is how cities promote a language of hospitality that introduces a form of ‘moral urbanism’ in justifying governments’ ordering responses to asylum requests (Carrière, 2017; Darling, 2013). Different forms of moral urbanism may emerge, depending on how asylum is articulated, thereby shaping the expectations of both citizens and noncitizens alike. For instance, since 2005, Sheffield has become the first sanctuary city in the UK, becoming ‘a place with a “welcoming tradition” through a series of high-profile events of refuge and their reiterative embedding in the public imaginary’ (Darling, 2013).

Besides various urban solidarity/sanctuary practices, cities are also sites of activism among non-citizen migrants. Analysts use different terms to highlight this phenomenon. For instance, ‘the politics of presence’ and also on way through which ‘urban informality’ can be viewed as producing ‘political significance’ and ‘a different relation to citizenship’ for forced migrants allows for migrant perspectives into or about the city, rather than the other way around. Similarly, other scholars focus on how migrants ‘contribute to the differential positioning of cities’ (Schiller & Çağlar, 2009), ‘how immigrants have transformed the metro region’ (Teixeira, 2017; Johnson, 2015), and how migrant civil society can be ‘new voices in the struggle over community development’ (Theodore & Martin, 2017). Likewise, Isin’s (2009, p. 367) term ‘activist citizenship’ upholds the newly emerging types of citizen subjectivities. In those new spaces, non-citizen migrants engage in making claims to belonging, to rights and to being political through a variety of strategies. Isin and Rygiel (2007, p. 189ff.) notice an enactment of a form of citizenship ‘from below’ as political beings and *de facto* as citizens (e.g. being new ‘*Berliner*’), in spite of the lack of legal status, political membership or documentation of belonging. In this ‘spaces of abjection’, ‘peoples who are disenfranchised from citizenship (whether formally through status or informally through poverty and war) are finding new ways of claim-making in such spaces’ (Isin & Rygiel, 2007, p. 189ff.). Examples of such new types of citizen subjectivities emerging in relation to (im)mobility include: displaced peoples, slum-dwellers, refugees, non-status and irregular migrants, and the Sans-papiers, grass-roots-organizers in shantytowns and ‘the squatter citizen’.

In sum, city’s multifaceted outlook can be approached through framing it both as sites of bureaucratic politics/surveillance/austerity urbanism, on the one hand, and sites of solidarity/

sanctuary practices and politics of presence, on the other. This theoretical frame is supposed to offer an interdisciplinary prism for illuminating the changing face shaped by the 2015/2016 refugee influx in the selected German cities.

Some methodological notes

With the methods of participatory observation, semi-structured interviews, storytelling, and a stratified target group survey, the field data gathering took place between March 2017 and April 2021 which includes several primary sources from the perspectives of refugees, municipal integration officer and community organizers. Derived from the hermeneutic tradition, the use of ethnographic description and understanding allows ‘textualists’ to pay attention to ‘the way in which the ethnographer’s own field experience is translated into ethnographic report and a new degree of awareness about the way in which the ethnographies are constructed’ (Aunger, 1995, p. 97). Theoretical perspectives concerning refugee integration and storytelling as social practices will further complement the research frame through reflecting upon participants’ cultural, social and political contexts as well as studying unstated fleeing experiences and interactions between community workers and refugees (Cooper et al., 1983; Hansen & Kahnweiler, 1993; Perry, 2008). Focal participants during the author’s field work were several refugee families (from Syria and Libya), municipal officers charged with the task of integration, community voluntary workers, and professionals involved in monitoring refugee integration work. Finally, the conduct of a stratified target group survey helps gather accurate data concerning refugee integration measures and their effects upon the city. By applying the random walk method, a relatively high score of participation among respondents (68% with 17 received responses out of 25 target persons and groups in our city samples) that match the characteristics of being engaged with refugee resettlement at the community level enables the generation of correct and projectable inferences. The result of this survey thus provides a segment of city’s changing face which covers not only a comparison of community workers’ and local population’s changing perceptions towards refugees prior to the 2015 refugee influx and after several incidents of police violence and criminal acts between 2016 and 2021. It also reveals a nuanced picture of the city’s changing role particularly concerning the question of its moral duty. Table 1 provides an overview of the field work information.

Cities as sites of migration flows in post-war Germany – history, specificity, and structural change

Germany’s migration flows in the post-War era were mainly driven by labour migration, accompanied by several irregular migrant/refugee waves triggered by important political events and wars in the neighbouring regions. Between the mid-1950s and 1973, over 2.6 million ‘guest workers’ from Turkey, Italy, Greece, and Spain arrived to support a burgeoning manufacturing industry, most of them were supposed to return to their country of origin (Wiesbrock, 2010, p. 37). In the early 1970s, despite an economic downturn, the number of migrants falling into the category of family reunification continued to rise. At that time, Germany had gradually turned into a country of immigration, a fact which was ignored by politicians and society until 2005, as the major ruling twin sister parties – the union of Christian democrats and Christian socialists continue to embrace a restrictive refugee policy since the 1970s. Towards the end of 1980s, the dissolution of communism and its aftermath brought another wave of migration flow of ethnic Germans from the

Table 1. Interview and target group survey sampling chart (between March 2017 and April 2021).

	Number of Interviews		Stratified target group survey	Total	Participatory observation
	Men	Women			
Local Government		2	3	5	
Asylum-seeker	2	2		4	
Local stakeholders (Business, NGOs, community workers)	2	3	19	24	
Local migrant communities	2	1	3	5	
Joint local and migrant events					5
Main organizations of key informants	(1) Wir Zusammen (Düsseldorf);	(2) Applied University in Hamburg	(3) Diehl Foundation with the focus on social work (Magdeburg)	(4) Refugee Support e.V. (based in Münster); (5) Refugio München	

former Soviet Union with a special status. The refugee influx from the former Yugoslavia in the 1990s has triggered several political bargaining processes leading to several reform steps of the refugee policy. Finally, an inflow of highly skilled migrants since 2001 was deemed to address the labour shortage particularly in the sector of information and technology.

In receiving newcomers with heterogeneous backgrounds, municipalities are responsible for various tasks ranging from tackling housing, education, job training and integration issues to regulating social welfare issues. Many cities have introduced an integration commissioner (*Integrationsbeauftragte*) and the formation of a foreigners'/migration council (*Ausländer- or Migrationsbeirat*). The latter is supposed to represent the interests of the local population with migration background. In the course of the past regular and irregular migration flows, a structural change gradually took place on urban level whose rationale has moved away from the activation of welfare state towards the promotion of networked self-governing communities as the 'social space' (Kamleithner, 2009; Rose, 1996; cited in Pütz & Rodatz, 2013, p. 173). As Pütz and Rodatz (2013) observe, two overlapping dimensions come into play. On the one hand, spatial security policies serve to control increasingly marginalized urban spaces and specific (migrant) inhabitants. In the aftermath of the 9/11 terrorist attacks, Muslim communities are often regarded as risks. On the other hand, the city government has launched a number of initiatives that connect the principle of 'from help to self-help' with migrants' economic potential and encourage residents of marginalized neighbourhoods to take their own economic, social, and cultural leadership. In this context, the community or 'ethnic networks' are conceived as resources being driver for economic integration. From the perspective of refugees, administrative distribution decisions, the existence of ethnic and family networks, and better job perspectives have usually motivated them to move to certain regions and big cities. Consequently, the social life of the continually growing minority communities with a self-governing function has become part of many cities' sub-cultures (e.g. the Turk and Arab neighbourhoods in Duisburg and Berlin as well as the ethnic Germans from Romania in Mannheim, see Swiaczny, 2000, pp. 65, 69). Migrants also have increasingly played an important role in the city's integration work and economy. Results of two recent studies show how refugees and high-skilled migrant labour often brings the decisive (entrepreneurial) mindset including the readiness to take risks to the table. For instance, the Migration Founders Monitors finds that the number of migrant founders is particularly high in Berlin and in North

Rhine-Westphalia (NRW). Whereas Berlin as an ‘international start-up hotspot’ attracts first-generation migrants, second-generation migrants shape the start-up scene in NRW.⁶ Meanwhile, the promotion of economic integration and ethnic communities’ self-governing leadership particularly in big cities often has not produced benefits the city has expected. Several studies highlight the impacts of the varying degrees of integration among different groups of migrants in German cities. For instance, Mannheim (i.e. ethnic Germans from Romania) and Duisburg (the Turk communities) witness how an insular social life of those densely clustered ethnic communities has reinforced their structural and social marginalization.

Since August 2015, Germany has become home to more than 1.5 million asylum-seekers with Syria, Iraq, Afghanistan, and Turkey being the top sending countries. 425,000 of them are from Syria and many of them are young male applicants and unaccompanied minors. This wave of irregular flow has fundamentally changed the composition of Muslim communities in Germany today: Families of Turkish origin now make up only 45 per cent of Muslims. Every fifth Muslim now comes from the Arabic-speaking Middle East.⁷ Following the so-called EASY quote system, asylum-seekers are assigned to a central facility, and eventually to local authorities in different states. The 2017 Königsteiner key (*Königsteiner Schlüssel*) assignment quote based on tax revenues and total population saw Nordrhein-Westfalen (NRW) state receiving most asylum-seekers (21.14%), followed by Bayern (15.43%) and Baden-Württemberg (12.97%). Hamburg usually receives 2.5% of the total sum of asylum-seekers each year. So far, this assigned quota norm across German regions has functioned efficiently without large deviation. Meanwhile, German large cities (e.g. Munich and Mannheim), particularly those city-states (i.e. Berlin, Hamburg and Bremen) become overburdened and face unique challenges, as they remain newcomers’ preferred destination due to ethnic networks and larger job markets. The geographic boundaries in Berlin and Hamburg further have posed a great challenge, as they remove ‘the potential for greenfield development or the settlement of their allotted arrivals in less populous regions’ (Katz et al., 2016, p. 2).

City as sites of bureaucratic politics, austerity urbanism and surveillance: evidence from Hamburg, Berlin, Mannheim, Heidelberg, and Bamberg

By considering the city as ‘sites of bureaucratic politics and surveillance’, its changing face can be understood through an evidence-based analysis in the city samples with the focus on three issues: (1) strengthened migration and security control through the (re)arrangement of anchor centres and the tendency of criminalization towards refugees; (2) refugee resettlement measures related to housing and urban development; (3) city as policy mediator and collaborator to enhance integration as part of post-neoliberal urban policy.

Strengthened security and migration control

Against the backdrop of a militarized European border regime along the Mediterranean coasts and the routes through the Balkan states, cities become an important arena being involved in massive border enforcement, in which the re-scaling of spaces and borders takes place for securitization measures. Besides enhanced policing efforts in public spaces and infrastructures of mobility supported by the Federal Police Force, cities cooperate with European agencies for cross-border data sharing. Furthermore, in case of immigration status violation, cities have report obligation vis-à-vis border authorities, thereby making difficult for undocumented migrants and for migrants who are unsure about their status, to access public services and resources. In other words, the

construction of a ‘Fortress Europe’ found in its downscaled politics of exclusion has facilitated a gradual change of cities, neighbourhoods and public institutions by turning themselves into urban borderlands (Lebuhn, 2019), thereby making vulnerable groups easily to become prey of shadow economy. A news coverage issued in 2019 gave an estimate of 200,000–600,000 undocumented people living in Germany. Especially in big cities such as Hamburg, undocumented people including those rejected asylum-seekers represent a significant size whose precarious living situation (with limited access to the health care, overcrowded housing, being subject to the arbitrariness of landlords and employers, and the fear of imprisonment and deportation) has not yet received sufficient attention in public debates.⁸

In particular, in responding to federal and state governments’ policy decision to restore sovereign control of migration flow through establishing arrival centres for asylum-seekers (Ankerzentren), cities have provided different types of buildings to guarantee a fluent functionality of the social space for efficiently accommodating newcomers and proceeding asylum application. In Heidelberg, for instance, the re-arrangement of arrival centres has enabled a speedy asylum decision (within 48 h). Based on a categorization effort among asylum-seekers in three groups (Cluster A with strong protection needs, Cluster B with refugees coming from the third safe countries as well as Cluster C with refugees coming from other countries), asylum requests should be examined in a required form of interview and written procedure. In its research report issued in February 2021, the Federal Office for Migration and Refugees (BAMF) drew a positive balance of anchor facilities’ work in Bavaria and other federal states by stating that asylum procedures of first-time applicants in those centres are ‘processed on average five days faster than in the other BAMF locations’ – on average 77 instead of 82 days.⁹ However, the Heidelberg model has been criticized for having impeded refugees from seeking timely qualified consultation. The whole asylum procedure runs the risk of failing to comprehensively assess asylum seekers’ situation, thereby violating refugees’ rights and claims for protection (Moll, 2016, pp. 63, 71). Similarly, an oppositional politician considered the anchor centres’ disenfranchisement practices as a political failure, in which asylum-seekers have to live in very confined spaces during the entire procedure and are ‘cut off from independent counselling structures and civil society’.¹⁰

Moreover, a close look at the location of those buildings serving as arrival centres (e.g. in former barracks outside the inner city) reveals how the ‘*espace instrumental*’ (Lefebvre, 2000, p. 282; cited in Devlin, 2021, p. 139) of a military camp manifests the functionality of state authority in efficiently managing accommodation based on logistical requirements, instead of addressing individual needs. As such, individuals easily become part of subjectivizing logistics and are prevented from participating in urban life. Most anchor centres in Bavaria are located in former barracks. In Bamberg, for instance, after the withdrawal of the US army, the people of Bamberg first hoped for cheap housing. But things turned out differently. In 2015, the Balkan Centre for refugees from the former Yugoslavia was established on the large former barrack grounds. In 2018, it became an anchor centre, which has accommodated asylum-seekers from Syria, Iraq, and Iran. It also prepared for voluntary repatriation or deportation to sending countries. During the coronavirus crisis, there have been only about 600 people in the facility. Originally, the facility was to be expanded for 4500 places. After criticism from residents and the city of Bamberg, the centre is asked to receive no more than 1500 asylum-seekers.

Despite the reduced number, local activists repeatedly criticized the facility as mass accommodation. For years, the Bavarian Refugee Council has been calling for decentralized accommodation for asylum seekers. ‘The problem is that the people are isolated from the outside world. We can’t just go in there as aid and support organizations. We only get a glimpse of what’s going on inside.’¹¹

Evidence shows how such exclusion and isolation practices have shaped and exacerbated newcomers' alienation feeling, paved the way for conflicts not only among heterogeneous groups of asylum-seekers in the facilities, but also between asylum-seekers and security staff. At some centres in Mannheim, conflicts between refugees and security staff were reported after several Arab men complained that the latter interfered with their family affairs concerning the issues of language courses and medical consultation for their women and children. Refugees from the anchor centres tell the Bavarian and Munich Refugee Councils about serious abuses, fatal living situations and experiences of violence (e.g. in Ingolstadt). For ANKER-Watch, a monitoring initiative based in Bavaria, those reported incidents highlight the structural problems associated with the cooperation between the government and private security companies. Derived from the logics of austerity urbanism, such cooperation often falls short of guaranteeing the quality and professionalism of the employees hired by the security companies.¹²

In several extreme cases, immobility and exclusion practices have played out in contributing to alienation and radicalization tendency of some young male asylum-seekers, whose terrorist attacks and crime between 2015 and 2020 (e.g. terrorist plot at a Berlin Christmas market in 2016) have prompted local population's rising security concerns. Consequently, 'crimigration' as new topoi in public (mis)perceptions casts shadow upon the preparedness of local engagement for refugees. The result of the author's target group survey carried in April 2021 confirms for the first time the emergence of the association of refugee with criminality in public (mis)perceptions since 2016 (16.67%) comparing with the early public opinion towards refugees prior to the 2015 refugee influx (0%). In October 2020, a young tolerated refugee from Syria had attacked a gay couple in Dresden. During the trial, while Abdullah al H. H. does not regret what he did in killing 'infidels', a psychologist reports on his religious fantasies whose root causes might be traced back to his realization that he would be deported and had no prospects in staying in Germany.¹³ The death of Aman Alizada in a camp near Hamburg in August 2019 and the death of Qosay K. following a policing control in Hamburg in April 2021 further confirm the devastating negative effects of security and (im)mobility control refugees often are subject to during and after their stay in urban borderlands.¹⁴ Hence, several reinforcing risk factors can be identified as being responsible for the increase of this group's susceptibility to crime: precarious living conditions, mass housing, solitude and the absence of female family members, few opportunities for legal employment, and often an insecure prospect of remaining in the country.¹⁵

Housing for refugees intertwined with austerity urbanism

In his essay *Making Heimat*, Saunders cautions that arrival cities are 'where the new creative and commercial class will be born, or where the next wave of tension and violence will erupt'. Indeed, tension and conflicts have occurred while addressing the housing issue for many asylum-seekers in Hamburg, Berlin, and Mannheim, which is strongly intertwined with neoliberal austerity measures, top-down regulation attempts, and resistance from the local population. Hamburg and Berlin as city-states have received more asylum-seekers per square kilometre than other federal states. This turns out to be a big problem, as both cities have the densest urban population and the lowest availability of development land (Katz et al., 2016; Wolff, 2018). Though both cities face the similar problem, they have undertaken different paths of solution with different outcomes.

Hamburg is the only German state that created a streamlined housing *and* asylum support system incorporated in the Central Coordination Unit for Refugees (*Zentraler Koordinationsstab Flüchtlinge* (ZKF)) in October 2015. The ZKF is tasked with the management of all stages of refugee

resettlement that includes accommodation/housing programmes, preliminary integration measures, coordination of local voluntary work, and organization of citizen participation. As of April 2016, Hamburg had accommodated 39,000 asylum seekers. As a canal city, it has its own specific borough infrastructure. Given the fact that a majority of residential land in Hamburg is fully developed, the local government approved new policies to build housing for asylum-seekers in non-residential areas. Several emergency measures were launched including tent cities on its periphery and confiscating commercial property for refugee housing. However, housing needs continued to grow throughout 2015. In 2016, as the local government looked for new housing sites (e.g. in a commercial area in Hamburg's affluent district Eppendorf), a number of neighbourhood initiatives mobilized to protest the city's plan and to file lawsuits against the city. Under the disguise of nature reserve policies, those lawsuits were driven by a feeling of 'not in my backyard' against the presence of asylum-seeker housing. Even though the city won almost 40 lawsuits, the construction delay imposed by the legal proceeding had pushed the city planner to change the plan by locating asylum seeker housing sites in poorer neighbourhoods. It followed that many of the follow-up housing units are far outside of the city, which, according to an asylum seeker housing site manager, has made any prospect of a good integration work even difficult (cited in Wolff, 2018, p. 13). Later, an agreement was reached in June 2016 between the local initiative 'Hamburg for Good Integration' and the Hamburg Senate. This agreement stipulated how new housing locations will be distributed throughout rich and poor neighbourhoods. It also defined a goal of housing no more than 300 asylum seekers at a given site that should avoid the emergency of a 'planned ghetto' (Wolff, 2018, p. 15). Later, further agreements were reached between the city and various stakeholders (demand groups and housing companies) to ensure the creation of heterogeneous resident structures at the locations of the refugee shelters with the perspective of housing and successful integration.¹⁶ In so doing, Hamburg attempted to strike a balance between the incorporation of the urgent refugee housing issue into its decade-long strategy of social integration¹⁷ and top-down urban governance often with the aim of regulation, marketization and co-optation (Kuhn, 2014; cited in Scheller & Larsen, 2020). Still, as the outcome of the target group survey reveals, due to the failure to consequently introduce heterogeneous resident structures, the housing market and the social index in the neighbourhoods (e.g. in Eidelstedt) affected by large-scale refugee shelters have considerably deteriorated.

Compared with Hamburg's situation, Berlin's refugee policy has been framed through a rigid budget policy. As a neighbourhood city, it received 55,001 and 16,889 asylum-seekers in 2015 and in 2016, respectively. Being an arrival city, Berlin is famous for its lengthy process of asylum-seeking procedure, combined with incidents of inappropriate treatments towards asylum-seekers and its already-crowded and extremely regulated housing market (i.e. the 2020 law on rent cap). In general, the housing process for migrants goes as follows: newcomers register and declare first their intent to seek asylum at the State Office for Health and Social Affairs (known as the LaGeSo). From there, they are assigned to large *Lager* (reception centres), which housed hundreds to thousands of asylum seekers at a time. The primary *Lager* is located in a hangar at the former Tempelhof airport. In 2016, in response to record delays at the LaGeSo location, the LaGeSo had announced a second location at Tempelhof itself. Two years after the initial influx of displaced persons arrived in Berlin, in July 2017, 28,000 of the 80,000 registered refugees remained without access to stable rental housing and continued to stay in precarious housing situation (LAF, 2017; cited in Soederberg, 2018, p. 4). In September 2020, Berlin still faced an instable accommodation situation for refugees, accompanied by continuous changes of operators and contact persons. This has led to a growing accommodation work taken over by the state-owned companies, which in turn

has undermined the principle of subsidiarity deemed to ensure the priority transfer of social work to voluntary operators.¹⁸

The main reason for the continuous instable accommodation situation for refugees can be traced back to the 2001 bank crisis and 2008 financial crisis, whose consequences have obliged the Berlin Senate subject to austerity measures supposed to solve its legitimization crisis through adopting a market-facilitating approach to housing issues. In spite of the effort of introducing a Refugee Management Coordination Centre (under the aegis of LaGeSo) and the counsel of the private consulting firm McKinsey & Company, the understaffed LaGeSo failed to alleviate backlog, to address the deteriorating housing conditions, and to ensure new arrivals to have access to vital services including healthcare, food, and (follow-up)-shelter (Soederberg, 2018, p. 7). Following the information of helpers who work with asylum-seekers, for residents in the camps, the most important thing has been to find permanent apartments. ‘Everybody is waiting for the delivery of mails [*sic*]. A letter can decide about your destiny in one second.’¹⁹ The feeling of anxiety and uncertainty seems to become a normal part of life in the camps in Berlin.

In particular, the Berlin Senate’s intervention to regulate the housing market appears to have made the housing situation in Berlin even unpredictable. Its intention to stop the uniquely rising rent price (in comparison with other German metropolitan cities) through the law on rent cap was deemed to address the specific needs of its inhabitants, whose average income is far below than that of other cities. The city government faces the problems of a decreasing number of housing supply due to its past rent cap law and the shift of inhabitants’ preferences moving to the suburb areas (e.g. Potsdam) which is the consequence of the continuing lockdown measures during the pandemic.²⁰ In view of the unsolved housing problems, serious concerns remain regarding sharpened social segregation among social groups with low income, as refugee migrants have been regarded as concurring applicants for getting less expensive housing in the city.²¹

Mannheim has been connected with the scene when foreigners arrived at the central station welcomed by crowds of cheering Germans, not only in the 1960s, when ‘guest workers’ from southern Europe came to meet the demands of Germany’s booming economy but also in September 2015. With the facility of refugee ‘turnstile’, the summer 2015 saw more than 80,000 refugees arriving in around 150 special trains via the Balkan route. While the majority were immediately assigned to surrounding regions, around 12,000 were temporally sheltered in Mannheim’s three former US army barracks that make up a fifth of the total city area. Unlike other German cities, Mannheim has seen itself becoming a migration society. Already in 1974, it introduced a city’s commissioner who should be charged with the task of migration and integration issues. During the period of refugee influx, the city’s commissioner has coordinated a day-to-day town meeting bringing together senior members and community groups at the same table. The aim has been not only to help qualified newcomers having access to the workplace, but also to establish community networks.

Meanwhile, with its 44% population having migrant background, Mannheim has continuously experienced ethnic tensions between Muslim and Jewish communities. Local authorities have also faced an unprecedented unequal burden of resettlement and integration work as most asylum-seekers want to move to the city. Furthermore, Mannheim’s specific infrastructure for receiving asylum-seekers has been under criticism as it facilitates the formation of ghetto inside the city. The advantage of its unusual set-up turns out to be a disadvantage. On the one hand, the barracks have provided far safer and sturdier accommodation for refugees than the makeshift tent cities and container clusters found in Hamburg or Berlin. On the other hand, the camp risks having a ‘ghetto character’ and creating a parallel society which directly undermines the city’s integration drive. Urban planners have been alarmed following the Cologne attacks on New Year’s Eve in

December 2016 that highlight the risks of housing refugees in already segregated communities as well as the challenges of cultural differences concerning the protection of young women's safety in the public sphere.²² Later, in the midst of the discussion if the State Baden-Württemberg should follow Bavaria's decision and establish anchor centres, Mannheim made it clear that it only would agree to make its Coleman barracks available if it did not have to receive asylum seekers in temporary and follow-up accommodation.²³ With a close look at the situated materiality of the reception centre and its policy framework, Mannheim's spatial politics towards refugees can be considered as 'the outcome of risk-benefit calculations', whose spatiality contributes to its residents' immobility, containment and suspension (Nettelbladt & Boano, 2019, p. 78).

City as mediator and collaborator between federal policy action and local activism

Despite the city's contradictory politics in pursuing neoliberal austerity as well as self-governing integration strategy, it has fulfilled two functions being a mediator in addressing the BAMF's policy errors and collaborator in supporting urban and refugee activism to foster institutional change. For instance, the ombudsman service in Hamburg has dealt with complaints from asylum-seekers against the BAMF's reportedly wrong asylum decisions. In its 2nd yearly report between 2018 and 2019, 139 cases have been under examination involving either asylum-seekers' housing problems or problems with the (state) authority. Meanwhile, due to the rising number of complaints against the BAMF's decisions, local courts face the challenges of a lack of resources and competence.²⁴ Furthermore, the city has been active in supporting urban and refugee activism found in a post-identitarian mobilization of diverse actors whose work is aware of the connection of different critical issues and their thematic boundary (e.g. housing, refugee, precarization, racism, sexism and diverse social backgrounds). For example, the Berlin Senate has provided helping hands in carrying out an independent complaint management project to improve the housing situation in refugee camps. The project began with the organization of a monitoring group (Future Factory Heinersdorf) which was initiated by a group of refugee women. Later, the group found broad support from its neighbourhood administration (i.e. Pankow) and numerous institutions and organizations.²⁵ During this process, the Senate Department for Integration, Labor and Social Work (SenIAS) has acted as a strategic collaborator to help create pragmatic bonds that encourage not only refugees' participation, but also push for grassroots-oriented institutional reforms and programmes tied to specific needs of citizens (Scheller & Larsen, 2020, p. 122).

Nonetheless, criticism has emerged from communal practitioners concerning the city's integration work. They not only critique the disproportionality of refugee resettlement burden the city has to face. Also the lack of an integrated approach to develop programmes from an intersectional prism that address the related issues of sexualized and racist violence both refugees and local population face has reduced the probability to think about those intertwined issues together while managing available resources in a more efficient manner. Following the comments of some survey participants conducted in April 2021, one detects several disillusioned voices as follows.

It is illusory to accept every refugee who wants to come to Germany. Aid must be targeted more strongly at the countries of origin ... With the current policy, many resources are spent on very few people. An extreme example: Costs for the accommodation of unaccompanied minor refugees amount to 60,000 to 80,000 € p.a. For this, one can maintain an entire school in the countries of origin.

Why the cities? Why not distribute the people in rural areas where they can have direct contact with the people who live there? Why do we allow some primary schools to suffer under the burden of refugee work? ... From my point of view, there is no reason why cities in particular should provide settlements.

In Hamburg it was said that ‘refugees must finally get out of the DIY stores’ because they had been housed very badly there. At the same time, Schleswig Holstein (SH) complained that they had beds and places ready, but the refugees did not come or did not stay. Scholz²⁶ managed that miserably at the time. He kept the people in the DIY stores instead of organising appropriate places for them in the SH’s suburb and rural areas.

The most important prerequisites for integration are language acquisition, job and housing. Many language courses had to be cancelled due to Covid-19; refugee children are also affected negatively due to the lack of face-to-face teaching.

To sum up, the examination of the focus issues found in the city samples demonstrates a high degree of contradiction and ambivalence of the city’s borderland and resettlement practices. The emerging local discontent concerning the disproportionality and inefficiency of the city’s resource management, unequal burden-sharing between cities and rural areas as well as the integration problems some primary schools face on a daily basis has further exposed how many German cities are re-organizing their lives with newcomers. But it is only part of the story.

Cities as sites of sanctuary/solidarity practices: forms, models and their effects

Similar to US cities (e.g. Los Angeles, San Francisco and New York), which claim themselves as solidarity city and were opposing national restrictive measures and deportation practices particularly under the former President Donald Trump, there are also initiatives that stand up for solidarity in German cities such as Hamburg, Berlin, and Hannover. The solidarity and sanctuary practices in our city samples can be approached from the following aspects: (1) legal and discursive action through rights-claiming; (2) formation of new subjectivities through identity- and boundary-making; (3) rescaling efforts found in urban and refugee activism.

Legal and discursive action

During the refugee influx in summer 2015 and immediately after the fire in the Moria camp in Greece in September 2020, initiatives have been formed in some German cities to declare themselves ‘Solidarity Cities’ whose idea is ‘to create networks and spaces of solidarity in the cities and influence urban politics’.²⁷ Inspired by the solidarity cities movement in America and other European cities, these initiatives have defined the goals of their action through presenting the slogans found in their counterparts such as ‘no deportation!’, ‘don’t ask, don’t tell’, and ‘access without fear’. As such, these initiatives have encouraged refugees and non-refugees alike to claim their rights through their presence in the city (i.e. no one should be subjected to special control because of their residence status, the colour of their skin or their appearance). Specifically, these initiatives have opened new social spaces by enabling the formation of self-organised networks among refugees, migrants, tenants, the urban poor with the slogan of ‘City for All’.

For instance, in Munich, where radical rightist groups gather together for street protests, civil society takes a stand for tolerance and cohesion with slogans such as ‘Munich is colorful’.²⁸ A new initiative FindingPlaces emerged in Hamburg as a result of partnership between Hamburg’s Hafencity University (HfC) and MIT’s CityScienceLab that seeks to bridge concurring concerns through community input. Residents from each of Hamburg’s seven districts supported the city’s search for identification of possible sites for additional housing in the framework of workshops at HfC. Since then, more than 30 such locations had been vetted and approved by Hamburg’s

city government, allowing for 7000–8000 of a target 20,000 units. Indeed, FindingPlaces' collaborative approach has enabled people with different viewpoints 'to come together and meet face to face and hopefully develop a better understanding of the values and concerns that they may not have agreed with initially'.²⁹ Further examples can be found in the organization of an event between different stakeholders in Hamburg on 10 December 2017 designed to enhance the city's sanctuary role in providing rights protection as well as in the presentation of a closing project 'Migration in my town' in Münster. During the 2017 meeting in Hamburg, migrant and refugee organizations have presented their activities including the support for undocumented persons. Together with representatives from Brighton/UK, Los Angeles/USA and Barcelona/Spain, the event has provided a platform that networked local and international (migrant) activism and called for the city government to adopt an inclusive integration approach. The project in Münster involved an international comparative study of integration work between Norway, Germany and the Netherlands with three workshops that addressed respectively the issues of migration work, integration at the job market as well as critiques against racism.³⁰ The participants noticed that, while both the state and the city have provided a facilitating institutional environment, the real integration work begins and can be pursued only through interactions between refugees and local population including enhanced local and refugee activism (see the next sub-section).

Furthermore, several academic initiatives came into existence thanks to the support either from the federal government or from grass-roots social and educational actors. They aimed to create a facilitating learning environment for high-skilled refugee academics to equip themselves with further training and qualification suitable for the job market. Funded by the Federal Ministry of Education and Research (BMBF) till the end of 2022, 'Academics in Solidarity', for example, is a nationwide mentoring project for refugee and vulnerable academics based at Freie Universität Berlin, which links researchers with mentors in Germany and transit countries (i.e. Jordan and Lebanon). The project also offers training for further academic qualification and reintegration into the academic labour market. A further example is the organization of a series of discussions 'Science and Escape: Exchanges between Refugee Academics, German Students and Scholars' in Magdeburg between 2016 and 2017, which was a collaborative effort between students, the faculty staff of a local university, and social work actors (i.e. Otto-von-Guericke-University, Roncalli-Haus, and the Caritas association).

City as a volatile space of identity- and boundary-making

The varying pathways of migrants' presence in different city spaces and their role as scale-maker in influencing the cities' (re)positioning within national fields of power have gradually changed the criterion of identity- and boundary-making both for inhabitants and for refugees themselves. The city sees itself experiencing an oscillating self-identification process while addressing multiple challenges. City spaces (including the emergence of counter-spaces) thus become elastic, fluid, increasingly networked, unreal, even filled with many contradictions. The results of the author's target group survey and several integration reports at the city scale confirm the dynamic of such a contrasting identity- and boundary-making process, which praises either the virtue of mixing categories, transgressing boundaries and inverting customs reflected in the diversity of cultural adaptations or insists on *new* exclusionary solidarities with binary construction (i.e. citizens versus non-citizens) along the lines of religion, gender, country of origin or ethnic identity (Krzyszowski & Nowicka, 2020).

More than five years after the 2015 refugee influx, many local voluntary workers consider themselves to have become more tolerant and that they have learned how to deal with intercultural dissonances concerning the role of gender in the family and society.³¹ In Berlin, many residents begin to call newcomers as new Berliners. In Hamburg, migrant students are eager learners in an international preparatory class and have been part of a pilot programme (i.e. six-year primary school – schools shape the future). As revealed in the author's target group survey, 75% of respondents share the opinion that the 2015 refugee autumn has changed the face of their city with a varying degree ranging from 'very strong', 'strong' to 'moderate'.

Meanwhile, political elites of the ruling union parties have distanced from their advocacy of welcome culture politics and claimed that '2015 is not allowed to happen again' – a statement with a twofold political meaning. First, Ms Merkel's famous words 'We'll make it' has been a political struggle for her in the past five years at both domestic and European levels. Today, she would prefer not to be associated again with the theme 'refugee'.³² Second, this statement has become a powerful weapon for different factions within the union parties: Ambitious candidates for the coming federal parliamentary election can be empowered to pursue a back-to-the track restrictive migration policy deemed to appeal potential voters of the rightist populist party (Alternative for Germany (AfD)) which was a big winner of the 2017 parliamentary election due to its anti-refugee position.

Furthermore, a recent study unravels how Islamophobia as a transnational European exclusionary project has shaped old migrant groups' attitude towards refugees (Krzyzowski & Nowicka, 2020). Another study shows how the construction of 'good citizens' through the German language course training has reproduced and enhanced Eurocentric norms (Heinemann, 2017). Concerns also arise with regard to the question of local young women's safety in the public sphere resulting from the encounter of different value systems. In the aftermath of those criminal offence cases committed by (rejected) young male asylum applicants, the association between the number of refugees and the rise of crime offence has been a topic of discussion. Consequently, as shown in the target group survey, respondents' perceptions towards refugees associated with solidarity sink since 2016 (from 23.53% to 16.67%). Political and economic challenges and cultural differences including women rights and different education styles have become the top themes of refugee integration issues. Some scenes from several primary schools, for instance, reveal the existence of conflict potentials and false expectations at school, not only between refugee students and local students but also between refugee parents and teachers. Many refugee parents have expected that it is teachers' duty to punish their children at school in case of disobedience.³³ Following the results of a recent study, refugee students might get lost along the way in the German school system as a consequence of the interplay of diverse factors: the distribution of refugees landing in schools located in deprived areas, a lack of time for parent-teacher conferences, overburdened and less qualified teachers for diversity-sensible teaching. The threat of ghettoizing already deprived schools and further segregation only reinforces the existing boundary-making process that sees inequality and digital discrepancy students with migration background face in the German school system.³⁴ The covid-19 lockdown measures have further worsened such situation in making the year 2020 a lost year for integration reflected in much less employment for refugees during the crisis, cancellation of many language courses, and the lack of adequate resources for remote learning in accommodation facilities.³⁵

From the perspective of refugees, while the arrival in Germany was supposed to be the final station of their long fleeing route within Europe, the forced (im)mobility they have experienced between the first registration centre, different camps, and the long waiting time for the clarification

of their status have strained the psyche of many refugees. Furthermore, the connection with their home country via internet has often created a unique subjectivity with a cross-spatial mindset in relation to the city, coupled with the reality of legally required *immobility*, discrimination and frustration experience, and new challenges posed by a lengthy bureaucratic asylum application process. Once obtaining officially the refugee status, many refugees pursue the goal to apply for citizenship in the future through labour and social integration.

Rescaling efforts in urban and refugee activism

Notwithstanding the increasingly contested identity-negotiation process, a number of novel urban initiatives have emerged at the scalar level which are either supported by federal and local actors or led by refugees (long time and new) and migrants' communities themselves with significant effects to lend allyship to non-directly affected communities, advocates and activists. The initiative '*Wir Zusammen*' (*we together*), for instance, has gathered 234 big, middle and small enterprises to work on refugees' economic and social integration at the workplace. Based in Düsseldorf, '*Wir Zusammen*' was launched and pushed personally by Chancellor Angela Merkel in winter 2015, as she saw the necessity to include firms and corporations from different branches to work on a long-term strategy for refugees to have access to the labour market. The initiative includes corporate and state actors as well as a number of partners whose cross-branch expertise is deemed to help the firms recruit and train refugees and local staff for cultivating an inclusive working place. Its interim report between 2016 and 2019 shows specifically how its efforts to fight against racism and anti-refugee position at the workplace have created a platform for enhanced dialog and experience exchanges between firms, refugees and partners from different walks.³⁶ In a similar vein, a philanthropic foundation in Magdeburg has incorporated the idea of refugees as potential *Stifter* (agency) into its social work. During a coffee meeting, refugee families and children were invited to join a parlour game with senior habitants. Encounters like this might well pave the way for an intergenerational and -cultural integration work.³⁷ In addition, a cooperative integration work between local networked refugee advocacy and experts in Munich has proposed methods such as intercultural commuting which aim to create new understandings of different behaviours that arise from different life contexts – in education, at work, at school, and in all areas of life between local population and refugees.³⁸ Meanwhile, discontent has emerged from local firms whose refugee employees (particularly from the sub-Saharan African countries and Afghanistan) still face deportation measures due to rigid interpretations of the 2020 law of training and employment toleration. In an open letter, 42 local firms in Allgäu/Bavaria have complained about the state government's ignorance of their needs in April 2021. A Swabian initiative 'Right to stay through labor' points out the drawbacks of the new refugee law whose proclaimed goals to offer refugees new perspectives for work and to obtain residence right turn out to be a false promise.³⁹

Besides urban activism and resistance organized by local actors, refugee leadership in advocating for refugees' own political presence through imagining the city as a space of belonging has gradually gained relevance. As the co-founder of the movement 'Seebrücke' (sea bridges) – a movement that campaigns for safe escape routes and de-criminalization of sea rescue, Tareq Alaows announced at the beginning of 2021 that he would be the first refugee from Syria to run for the Bundestag. His intention was to give a political voice to those who are on the move and who live in Germany as refugees. A further example of refugee activism is the engagement of Anas Aboura based in Hamburg. Like Alaows, Aboura comes from Syria and fled to Germany in October 2015. His work

involves networking with a number of organizations within Hamburg to plan culturally *inclusive* events. He wishes for a collaborative approach to resettlement, incorporating mentorships and cultural exchanges.⁴⁰ Aboura is not alone in expressing his desire for a deeper cultural exchanges. Amal, Berlin! as a mixed editorial team provides German-speaking readers with the exile journalists' view of German society. It also publishes articles on both the Arabic and the farsi/dari pages that appeal Iranian and Afghan Berliners.⁴¹

In spite of the spread of refugee activism on urban level, it can easily become target of hate and resentment in social media and at street. Despite the support Alaows has received for his candidacy, he has been subject to harassment and discrimination, including death threat against his family in Syria.⁴² Furthermore, concerns arise regarding politically tainted local engagement (Schmid et al., 2019) and the lack of volunteers for social engagement in certain boroughs in some cities (e.g. Berg Fidel in Münster), where migrant communities have a high percentage. As many engaged senior volunteers retire from their decade-long social engagement, they have problems to find a successor for their work. The lack of willingness of certain migrant communities to get involved in community work might have paved the way for social fragmentation, in which ethnic tensions for instance between Turks and Kurds take place from time to time.⁴³

Altogether, the emergence of new subjectivities, contradictions and tensions found in the identity- and boundary-making process and various forms of activism shows how the integration policy in our sample cities has become increasingly contested. Very often, the city as a volatile space has witnessed the co-existence of different contrasting worlds whose binary construction goes alongside the fault lines of (non)-citizenship, gender, and heterogenous ethnic and socio-economic backgrounds in an increasingly reified manner.

Discussions and reflections

As shown above, the city samples' securitization, urban austerity and solidarity practices are characterized by a high degree of ambivalence and volatility in the multi-layered urban spaces embedded in a neoliberal static exclusionary border regime. Notwithstanding the solidarity acknowledgement and the emergence of a variety of initiatives organized and led by different stakeholders, many cities experience the limitations of their understanding of citizenship and national identity, capacity and resources to tackle daily challenges of integration and discrimination problems. As shown in Table 2, some commonalities, differences, and unparalleled specificities can be identified in our city samples regarding the multifaceted changes in urban spaces.

First, refugees' fleeing and asylum-seeking experiences, alongside the city's responses to accommodate and integrate them, have prompted the creation of volatile spaces, in which control, deportation, and sanctuary practices go hand in hand leading to the juxtaposition of contrasting realities. Cities like Hamburg, Berlin, Mannheim, Heidelberg, and Bamberg have realigned camps whose spatiality in terms of organizational and legal barriers has produced an espace instrumental (Lefebvre, 2000; cited in Devlin, 2021) refugees are subjected to for efficient asylum-procedures which has hindered access for civic groups to help address asylum-applicants' needs. As such, the functionality of those anchor centres embedded in a reasoning of neoliberal austerity urbanism contributes to the isolation, distancing and immobility of their residents, reinforcing the endurance of segregation as a manifestation of urbanized asynchronicity (Sturm, 2007). The tendency of criminalization, security control, rigid bureaucratic reasoning, political and economic challenges, cultural differences perceived by the local population, and the pandemic lockdown measures have further exacerbated such segregation. At the same time, the 'camp' and the resulting urban borders or

Table 2. An overview of the refugee resettlement developments and the entailing changing face of German cities.

	Hamburg (canal city-state)	Berlin (neighbourhood city-state)	Mannheim (arrival city)	Düsseldorf/Magdeburg (MD)/Münster (MS)/Munich	Bamberg/ Heidelberg (anchor centre and first reception centre)
Bureaucratic politics, securitization and urban asterism practices	A significant size of undocumented people with precarious labour and housing situations; crimigation and police control (death cases of Aman Alizada and Qosay K.); anchor centre in Rahlstedt	Long asylum application process and instable accommodation situation in the Lager	Arrival city for guest workers and refugees via the Balkan route; refugee camps in three former US army barracks with a ghetto character ; Conflicts between refugee families and security staff	Monitoring work of ANKER-Watch and Munich Refugee Council; local firms' discontent against the state government's deportation measures (Allgäu/Bavaria)	Anchor centres as an instrumental space ; Heidelberg model for speedy asylum decisions
	Central Coordination Unit for Refugees (ZKF); neighbourhood initiatives and lawsuits; Hamburg for good integration ; Heterogenous housing structure Ombudsman service dealing with refugees' complaints against the BAMF's asylum decisions	Unpredictable housing situation for both refugees and inhabitants	Spatial politics based on strict risk-benefits calculations		disenfranchisement practices reinforcing refugees' isolation, alienation and immobility
	Disproportionality of refugee resettlement burden between the city and rural areas; integration problems at school	Independent monitoring management system (supported by the Future Factory Heinersdorf and the neighbourhood administration in Pankow) designed to improve the housing situation in refugee camps	High density of ethnic networks with a self-governing function (ethnic Germans from Romania); structural and social marginalization of those clustered ethnic communities		Corona cases in anchor centres; integration problems at school
Sanctuary and Solidarity practices	Solidarity City; FindingPlaces' collaborative approach	Solidarity City; New Berliners; 'Academics in Solidarity' based at Freie Universität		Intercultural commuting (Munich); Munich is colourful ; concerns about discrimination and hostile position towards refugees; 'Science and Escape: Exchanges between Refugee Academics, German Students and Scholars' in MD	
	Aboura's advocacy for collaborative cultural integration	Amal Berlin!		Wir Zusammen (Düsseldorf); Refugee as Stifter (MD); refugees as active agency Lack of communal volunteers/ local leadership in integration issues; social fragmentation and ethnic tensions (MS)	

demarcations are permeable and changeable (Gelardi, 2021), which prompt the emergence of (counter)-spaces for negotiating diverging interests and deliberating action, as found in the various forms of solidarity practices and refugee activism (e.g. protest from local firms and the Alaows and Aboura cases).

Secondly, Berlin and Hamburg have experienced a high degree of disproportionality of refugee resettlement burden in relation to rural areas aggravated by continuing housing problems. In view of the failure of official approaches of planning better ‘camps’, different grass-roots movements arise aiming to connect camp accommodation with housing issues. Whereas different stakeholders in Hamburg has collaboratively pushed for the implementation of heterogenous housing structures, Berlin has experimented the introduction of a housing monitoring management system – a movement initiated by refugee women. Thirdly, though the anchor centres in Bavaria have deviated from the total forms of barracking (in comparison to those in Mannheim), a broad networked counter-space of urban moralism has emerged that regularly monitors the centres’ security control and promotes intercultural learning (e.g. ANKER-watch and the method of intercultural commuting).

To sum up, our analysis has exposed the convergence of reinforcing neoliberal austerity urban forces with the increasing permanence of border and asylum regime *inside* the city as a response to accommodate irregular migrant flows since 2015. The entailing manifestation of social segregation as a form of urbanized asynchronicity will not only impede the promotion of binding force that cities and city districts can exert upon their inhabitants. The city’s contradicting role as both the implementer of borderland regime and collaborator of integration initiatives has also weakened its potential in empowering the refugees as actors and elaborating comprehensive sustainable urban strategies for collective welfare and flourishing.

Conclusion

This paper has set out to identify the grey areas of the changing face of the city in Germany following the refugee influx in summer 2015. It finds that, despite official integration endeavours, the city has manifested multiple contrasting realities trapped in a volatile space of tensions between securitization surveillance, austerity measures, and urban sanctuary practices. As such, German refugee politics is at best contradictory, fragmentary, and ambivalent: Whereas some municipalities experience novel forms of urban and refugee activism, the endurance of refugee immobility resulting from the functionality of anchor centres, the crimigration tendency, and the unsolved housing problems embedded in a strict neo-liberal austerity urbanism have hindered possibilities for re-framing refugee issues from a relational and integrated perspective that is ready to challenge the limits of the traditional understanding of citizenship and to incorporate urban and refugee activism into the city’s increasingly fluctuating but vibrant spaces.⁴⁴

As the configuration of migration control, people on the move, refugee resettlement, urban development, and socio-economic and demographic change unfolds, a number of research challenges remain concerning the questions of fieldwork design and particularly the paradigm used in the migration and urban studies. In spite of a careful design to conduct the random stratified target group survey, the fieldwork of this study has encountered limitations to obtain reliable data that can represent diverse fleeing and asylum-seeking experiences of heterogenous refugee groups. Further work is hence encouraged to sharpen its cross-disciplinary tools and methods for adequately designing research scope and sampling and generating reflexive theory-based outcomes (particularly vis-à-vis a hard-to-reach and hard-to-interview population). At stake are the

issues concerning the connection of city's integration efforts with refugees' fleeing experiences (including addressing their root causes) and to take seriously the implications of refugees' informal politics and the entailing dialectics of boundary- and identity-making in relation to long-term urban planning. For instance, the consideration of law as a tool of resistance through the prism of judicial activism can open a new path of rethinking the (il)legality of migrants' status and state action. In a similar vein, the use of performance art in experimenting the constellation of in-between spaces can help tackle tensions and contradictions many cities face and inspire them to liberate from the rigid reasoning of post-neoliberal urban governance through discovering the potential of diversity and informal citizenship based on the principle of equal dignity.

Notes

1. See for example the state government Baden-Württemberg's 2018 integration report; Expert Council on Migration and Integration (SVR) (2018). Target group stratified survey conducted by the author in April 2021, details see the methodological notes below.
2. The term 'anchor centres' first appears in the federal government's coalition agreement in 2018. Refugees are to be accommodated here until they are either distributed to municipalities or deported to their country of origin in case of rejection of their asylum application. The first seven centres came into being on 1 August 2018 in Bavaria, which are existing facilities (in Bamberg, Schweinfurt, Deggendorf, Donauwörth, Zirndorf, Regensburg, Manching). Later, anchor centres were also established in Saxony and Saarland. Some facilities in other federal states (e.g. in Baden-Württemberg and Hamburg (in Rahlstedt)) are called 'Landesaufnahmestellen' (state reception centres) or central first reception facility and are viewed to have the same function as anchor centres. See RNZ, 24.04.2018, p. 8; Philipp Woldin (2019).
3. See Nadja Schlüter (2021).
4. See Federal Ministry of the Interior, Building and Community (2019).
5. See also Nina von Hardenberg (2021).
6. See the 2021 Study of Migrant Founders Monitors, 27th April. 'Refugee: Success Factor for a Successful Integration', DIW, Uni Saarland, Uni Münster, published on 23 May 2019, available at Flüchtlinge: Erfolgsfaktoren für eine gelungene Integration | marktforschung.de (visited on 6 April 2021).
7. See Federal Office for Migration and Refugees (BAMF) and the German Islam Conference (2021).
8. See Rainer Link (2019); 'Menschen ohne Papiere in Hamburg,' available at <https://hamburgasyl.de/themen/menschen-ohne-papiere-in-hamburg/>.
9. See BAMF (2021).
10. Says Ulla Jelpke from the Left Party in an interview with the Funke-Zeitung. See Finanznachrichten (2021).
11. Says Thomas Bollwein of the Bavarian Refugee Council. See Bavaria Radio (2020).
12. See the website of ANKER-Watch <https://www.anker-watch.de>, supported by several refugee councils based in for example in München and Würzburg.
13. See Wiebke Ramm (2021).
14. See Stefan Buchen et al. (2021) and Peter Burghardt (2019).
15. NDR Info (2018).
16. 'Cooperation agreement. Mixing housing makes for good neighborhoods and integration.' City Hamburg, press office of the department for urban development and housing, 17 July 2018.
17. See City Hamburg (2007).
18. LIGA Berlin (2020).
19. Barbara Caveng, a Swiss artist who works with asylum seekers, describes the life situation in the camps. Cited in Zanghi (2016).
20. The law on the rent cap in Berlin (MietenWoG Bln) has been in force since February 2020. The Federal Constitutional Court's ruling is based on the reasoning that sees the responsibility of such legal regulation residing in the competence area of the federal government, instead of the state government. See Heidtmann and Müller-Arnold (2021).

21. See Stefan Luft (2017).
22. See Philip Oltermann (2016). Several comments of the target group survey conducted by the author in April 2021 also share this concern.
23. See RED/DPA/LSW (2018).
24. See Freie und Hansestadt Hamburg (2019).
25. See Berlin Senate Administration for Integration, Labor, and Social Issues (SenIAS) (2019) and Future Factory Heinersdorf (2018).
26. Olaf Scholz, Hamburg's former mayor and the federal government's Vize Chancellor between 2017 and 2021.
27. See Federal Centre for Political Education (bpb) (2019).
28. See Effern (2020).
29. Alexis Zanghi (2016).
30. See *Westfälische Nachrichten (WN)* (2018).
31. Information retrieved from 'Fünf Jahre "Wir schaffen das". Euphorie, Ernüchterung und Pragmatismus.' German Radio Programme 'Zeitfrage', 2 September 2020.
32. See Nico Fried (2020).
33. Comments from the author's target group survey conducted in April 2021.
34. See SVR (2018).
35. FN 32; Alexander Hagelüken (2020).
36. Information obtained through the author's interview with a representative of 'Wir Zusammen' during an annual spring conference for small and medium-sized enterprises in Frankfurt on 16 March 2018. Further information see www.wir-zusammen.de.
37. Information gained through a participatory observation in Magdeburg in March 2017 and an expert interview in April 2021.
38. See Interview zum Interkulturellen Pendeln – Refugio München (refugio-muenchen.de).
39. See notes 4 and 5.
40. Zanghi (2016).
41. See <https://amalberlin.de/de/project-de/>.
42. In April 2021, Alaows decided to retreat from his candidacy supported by the Green Party based in Oberhausen and Dinslaken. See note 3.
43. See Völker (2018).
44. Insight gained from several participatory observations and interviews conducted between December 2018 and September 2019.

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3. Menschenrechte und nachhaltige Entwicklung in der Politik des Klimawandels – überlappende Dimensionen, Neue Ansätze und ihre Implikationen

Miao-ling Lin Hasenkamp

Der Klimawandel hat nicht nur verheerende Auswirkungen auf die Lebensgrundlagen betroffener Gruppen und Gemeinschaften. Er offenbart auch die Verletzlichkeit des menschlichen Zusammenlebens. Besonders verschlechtert sich dadurch die Ungleichheit (*inequity*) zwischen Armen und Reichen bei der Gesundheitsversorgung nicht nur innerhalb eines Landes, sondern auch zwischen reichen und unterentwickelten Ländern. Laut Schätzungen der Weltgesundheitsorganisation (WHO) aus dem Jahr 2014 sind die Folgen des Klimawandels für die Gesundheit gravierend: Bedingt durch Hitze, Unterernährung, Malaria oder Durchfallerkrankungen, und Luftverschmutzung werden in den Jahren 2030 bis 2050 jährlich 250.000 Menschen sterben.² Die Herausforderungen durch die unabsehbaren Risiken des Klimawandels für den Menschenrechtsschutz in den Bereichen „global health“ und „Entwicklung“ als Teil der wirtschaftlichen, sozialen und kulturellen Rechte (WSK-Rechte) rücken zunehmend auf die Tagesordnung internationaler Politik.

Im internationalen Klimaregime ist eine Vielzahl an Anpassungs- und Mitigations-Maßnahmen entstanden. Anthropogene Ursachen des Klimawandels sind, so die Meinung der meisten ExpertInnen, zurückzuführen auf Entwicklungsfaktoren wie wirtschaftliches Wachstum, technologischen Fortschritt, demographischen

¹ Der Beitrag ist eine erweiterte Fassung von einem Aufsatz, der bereits in einem anderen Sammelband veröffentlicht wurde. Siehe Hasenkamp, Miao-ling Lin. (2015): „Menschenrechte und nachhaltige Entwicklung in der Klimapolitik – überlappende Dimensionen und ihre Implikationen,“ In *Menschenrechte, Bildung und Entwicklung – Bestandsaufnahme ihrer Zusammenhänge*, herausgegeben von Hasenkamp, Miao-ling Lin und Malte Brosig, Opladen/Berlin/Toronto: Budrich UniPress Ltd., S. 231-54.

² Martina Merten. „Verheerende Auswirkungen auf Gesundheit“, *Ärzte Zeitung*, 11.12. 2015.

http://www.aerztezeitung.de/politik_gesellschaft/gesundheitspolitik_international/article/901265/klimawandel-verheerende-auswirkungen-gesundheit.html (10.07.2016)

Wandel und herrschende Governance-Strukturen. Unter dem Leitprinzip „nachhaltige Entwicklung“ scheint die Klimapolitik sich zunächst mit einer rein technischen und ökonomischen Frage zu befassen: Wie müssen wirksame Mechanismen aussehen, um weitere Umweltschäden zu vermeiden oder sich an die veränderten Mensch-Natur-Verhältnisse anzupassen? Allerdings gewinnt hier die menschenrechts- und gerechtigkeitspolitische Agenda zunehmend an Bedeutung: als moralischer Imperativ in den internationalen Klima-Verhandlungen (vgl. Aminzadeh 2006-2007; Ratgeber 2010). Zum einen geht es um den Menschenrechtsschutz für die von den Klimaveränderungen betroffenen Länder bzw. Gruppen, die um ihr Existenzrecht kämpfen und internationale Unterstützung fordern. Zum anderen lassen sich drei zentrale Themen bei der Umsetzung der Klimapolitik für eine dauerhafte umweltverträgliche Entwicklung erkennen: „die Frage nach Quantität und Qualität des weiteren Wirtschaftswachstums, die Frage der Stabilisierung des globalen Ökosystems und die Frage der sozialen und intergenerativen Gerechtigkeit“ (Simonis 2000: 141). Dabei geht es nicht nur aus menschenrechtspolitischer Sicht um die Gewährleistung der sozialen und wirtschaftlichen Rechte, darunter der Rechte auf Gesundheit und auf Entwicklung. Sie weisen auch hin auf die Verbindungen zwischen Menschenrechten und nachhaltiger Entwicklung.

So sind neue Ansätze entstanden. Zum Beispiel beinhaltet „das Recht auf eine gesunde Umwelt“ sowohl das Recht und den Anspruch der Umwelt, wie die ecuadorianische Verfassung explizit formuliert,³ als auch die Verantwortung der Menschen gegenüber der Umwelt für den Erhalt eines nachhaltigen Ökosystems. Ebenso macht der Diskurs vom Recht auf Gesundheit aufmerksam darauf, dass die armen Länder im Umgang mit den Klimafolgen nicht allein gelassen werden sollen und präventive und nachhaltige sozio-politische Maßnahmen notwendig sind, um ein belastbares Gesundheitsversorgungssystem zu sichern.

Allerdings offenbart die Tendenz einer solchen Humanisierung der Klimapolitik zwar die überlappenden Dimensionen beider Policy-Agenden und schafft einen Raum für die Artikulation eines gemeinsamen Policy-Rahmens. Ihre begriffliche und normative Grundlage bleibt jedoch fragmentarisch: Nachhaltige wirtschaftliche Entwicklung, das Recht auf Gesundheit, das Recht auf Entwicklung, das Recht auf Selbst-Bestimmung sowie das Recht auf eine menschenwürdige Lebensgrundlage werden je nach Kontext durch Interessen der Akteure vereinzelt oder gar konkurrierend artikuliert und in Verbindung gebracht, aber nicht koordiniert. Hinzu kommt, dass die Entstehung und das Funktionieren beider Politikfelder bzw. Regime bisher separat in Foren mit unterschiedlichen Akteurskonstellationen, Agenden und Perspektiven stattfanden. Die Erhaltung biologischer Vielfalt z. B. hat andere Kontextbedingungen, institutionelle Gefüge und Akteurskonstellation als die Kampagne für den Schuldenerlass zugunsten ärmsten Länder der Welt. Im Umweltbereich sind vor allem die so genannten *epistemic*

³ Siehe Art. 12-15; Art. 71-74 und Art. 395-415.

community von großer Bedeutung für den Wissenstransfer als Basis für die Entwicklung der strategischen Aktionsprogramme. Dennoch weisen beide Regime eine unverkennbare Gemeinsamkeit auf, wobei Koalitionen gleichgesinnter Akteure, darunter die Vernetzung und Aktivitäten von nichtstaatlichen Organisationen (NGOs) auf der Grundlage vom Informationsaustausch die Agenda und Politik beider Regime beeinflusst haben. Somit lässt sich vermuten, dass die Humanisierungstendenz der Klimapolitik die Handlungsmöglichkeiten der NGOs und lokalen AktivistInnen erweitert. Dadurch eröffnen sich neue diskursive Artikulationen und Strategien zwischen Menschenrechten, globalem Gesundheitswesen, und nachhaltiger Entwicklung in der Klimapolitik.

Mit Hilfe eines kritischen diskursiven und demokratischen Governance-Ansatzes erhellt dieser Beitrag die Verbindung zwischen wirtschaftlichem Recht, dem Recht auf Gesundheit, und dem Recht auf Entwicklung, auf der einen Seite, und der Klima-Governance zur Gewährung des globalen Gemeinwohls auf verschiedenen räumlichen und gesellschaftlichen Ebenen, auf der anderen Seite. Am Beispiel der Risiken- und Vulnerabilitätsanalyse im Bereich *global health* und der Analyse der REDD+Mitigations-Maßnahmen (*Reducing Emissions from Deforestation and Degrading Forest and Conservation of Forest Carbon Stocks, Sustainable Management of Forests and Enhancement of Forest Carbon Stocks*) in Entwicklungsländern argumentiere ich, dass verstärkte Aufmerksamkeit zur Verbindung zwischen Folgen des Klimawandels und Gesundheitswesen sowie internationale Kooperation zugunsten des Ausbaus eines CO₂-Handelssystems und innovativer Investition ökonomische und ökologische Nachhaltigkeit fördern können - zugunsten des Schutzes für wirtschaftliche Rechte sowie der Rechte auf Gesundheit und auf Entwicklung. Parallel dazu benötigt das Klima-Regime eine dezentralisierte demokratische Governance-Struktur, in der die betroffenen und nicht selten marginalisierten Gruppen mittels Transfer von *Know-How* und gerechter (*equitable*) Partizipation befähigt werden, gegenüber Risiken und unvorhersehbaren Klima-Katastrophen präventiv zu handeln.

Der Beitrag gliedert sich in fünf Teile. Zunächst wird die Kombination eines kritischen diskursiven und demokratischen Governance-Ansatzes vorgestellt. Im dritten Teil werden anhand der diskursiven Praktiken in beiden Regimen die verschiedenen Dimensionen der Nachhaltigkeit in Verbindung mit Menschenrechten (Rechte auf Gesundheit und Entwicklung) gebracht. Teil 4 analysiert die Erfahrungen mit der Risiken- und Vulnerabilitäts-Evaluation im Bereich *global health* und REDD+Mitigationsmaßnahmen; Teil 5 fasst das Ergebnis zusammen.

Kritisch-diskursiver und demokratischer Governance-Ansatz – Annahmen und Zwecke

In zweierlei Hinsicht verfolgt die Kombination eines kritischen diskursiven und demokratischen Governance-Ansatzes ihrem analytischen Ziel. Zum einen ver-

hilft die kritische Diskursanalyse (Critical Discourse Analysis (CDA)) dem Verhältnis eines Diskurses zum gesellschaftlichen und politischen Kontext (Genese, Entwicklung, Macht-Verhältnis und soziale Probleme) aufzudecken und zu erklären. Zum anderen bietet der demokratische Governance-Ansatz eine Perspektive an, in der die institutionelle Einbettung, der Verlauf und die Implikationen der diskursiven Praktiken im politischen Prozess sowie Möglichkeiten für Problemlösung erläutert werden können.

Die CDA nimmt an, dass es eine komplexe Beziehung zwischen Sprachen und Gesellschaft gibt. In dieser Hinsicht machen die Analytiker auf das Verhältnis zwischen Sprachen, Diskursen, Macht und Ideologie aufmerksam (Fairclough 1992, 1995; Thomas 1999; Wodak 2001). Für Fairclough, "language use as a form of social practice" (1992: 62) bedeutet, dass es eine dialektische Beziehung zwischen einem spezifischen diskursiven Ereignis und dem Kontext (Situationen, Institutionen sowie deren sozialen Strukturen) gibt, welcher dieses Ereignis rahmt und auch von diesem Ereignis beeinflusst wird (Fairclough 1992: 55). Titscher et al. (2000: 148) lehnen sich an die Idee Faircloughs und definiert den Diskurs als „a way of signifying experience from a particular perspective“ (ebd.).

Insbesondere wird die CDA als eine Art der soziopolitischen Analyse (van Dijk 2001: 300) verstanden. Die CDA bemüht sich, die Regelung für diskursive Praktiken, die RednerInnen und ihre institutionelle Einbettung und Machtposition, sowie benachbarte Wissensgebiete zu identifizieren und zu erklären (Foucault 1972: 50-52ff). Für Foucault besteht formales Wissen (*connaissance*) nicht nur aus Logik, akademischen und institutionellen Gesetzen, Verfahren und Regelungen. Das formale Wissen wird auch konstituiert von *savoir* - die unausgesprochene und unlogische Seite des Wissens (Scheurich and McKenzie 2005: 848). Daher hat die CDA die Aufgabe, diese Komposition und deren Entwicklung im Diskurs aufzudecken und zu lokalisieren.

Demokratische Governance als ein konzeptueller Rahmen unterscheidet sich von anderen Formen der Governance wie Global Governance (GG) oder Internationale Governance.⁴ Für unsere Analyse handelt es sich bei der Demokratie um einen Prozess öffentlicher Willensbildung und Entscheidung auf der Basis der Autonomie und Gleichheit. Denjenigen, die von dieser Entscheidung betroffen sind, wird der Zugang zu fairer Partizipation und Einflussnahme gewährt. Bei der Demokratie geht es vor allem um normativ gerechte Lösungen zu finden (Zürn 1998: 5). Unter Governance versteht man die Formulierung, Festlegung und Einhaltung von Gemeinwohl-orientierten Regelungen. Sie ist Output-orientiert. Zur

⁴ Unter „internationale Governance“ versteht man die dezentralisierte Steuerungsform, die auf unterschiedliche Organisationen und weitere Foren (vor allem Vertragsorgane wie Menschenrechtsausschuss) verteilt. Die Beseitigung von überlappenden und konkurrierenden Aktivitäten internationaler Organisationen wird als wichtiger Schritt auf dem Weg zu einer erfolgreicherer „International Governance“ angesehen. Siehe Bogdandy 2005: 32.

Bewältigung der globalen Probleme lassen sich in der GG-Architektur drei Strukturmerkmale finden: 1) die Aufgabenteilung zwischen nationalen und internationalen Regelungsstrukturen; 2) die institutionelle Ausgestaltung der internationalen Regelungsstrukturen sowie 3) Regelungsstrukturen für die Beteiligung der nichtstaatlichen Akteure an internationalen Foren (Genschel 2005: 77). Daraus entwickelt sich „eine gemeinwohlorientierte Regelung *außerhalb* von Institutionen, welche unter den hierarchischen Mustern staatlicher Herrschaftsgewalt operieren“ (Bogandy 2005: 28). Im Vergleich dazu wird bei der demokratischen Governance die Delegation der Regulierungsmächte von staatlichen Akteuren gesteuert sowohl nach oben an supranationale Organisationen als auch nach unten an zivilgesellschaftlichen Akteure. Die Entstehung und Entwicklung der Policy-Netzwerke und Normensetzungsaktivitäten werden „als Strategie interpretiert werden, die mehrere politische „Luftballons“ gleichzeitig steigen lässt – in der Hoffnung, dass zumindest einige von ihnen das gewünschte Ziel erreichen“ (Aden 2002: 311). Für Hartmut Aden (ebd.), die Parallelität mehrerer Formen von Normsetzung wird als die pragmatische Suche nach einem geeigneten institutionellen Normsetzungskontext betrachtet. Die Entstehung der Parallelität der Normensetzungsaktivitäten zwischen dem Globalen und dem Lokalen wird als „Globalisation“⁵ gekennzeichnet. Dies lässt sich mit einem Begriff von James Rosenau (2000) verknüpfen: „governance of *framgregation*“. Rosenau bündelte damit die Gleichzeitigkeit von Fragmentierung und Integration in der transnationalen Politik. Somit entsteht eine Vielzahl von hierarchischen und horizontalen Policy-Netzwerken, die sich für die Gewährleistung des Gemeinwohls - Menschenrechtsschutz und nachhaltige Entwicklung - einsetzen.

Vor dem Hintergrund einer post-nationalen Weltgesellschaft mit Merkmalen wie fortgeschrittenen Entterritorialisierung versucht ferner demokratische Governance zwei Strukturprobleme der GG zu handhaben. Mit dem Begriff „*disenfranchisement*“ werden erstens die Möglichkeiten und Hindernisse der Partizipation für ärmere Entwicklungsländer und zivilgesellschaftliche Akteure in internationalen politischen Prozessen wie in der Klimapolitik aufmerksam gemacht (Fisher und Green 2012: 66). Zweitens bietet demokratische Governance einige institutionelle Vorschläge an, die die Logik des Null-Summe-Spiels zwischen nationaler Souveränität und Supranationalität schwächen und dabei die demokratische Legitimation stärken soll. Der Ansatzpunkt liegt in einer gemischten Verfassung, die Mehrheitsentscheidungsverfahren, deliberative und aggregative Verhandlungsmechanismen enthält (Zürn 1998: 15-23). Mit anderen Worten, jenseits des Nationalstaates versucht demokratische Governance mittels einer fairen Partizi-

⁵ Globalisation ist gekennzeichnet durch „development of diverse, overlapping fields of global-local linkages...[creating] a condition of globalized panlocality...what anthropologist Arjun Appadurai calls deterritorialized, global spatial „scapes“ (ethnoscapes, technoscapes, finanscapes, mediascapes, and ideoscapes)...“ (Gabardi 2000: 33-34).

pation, angemessenen Repräsentation, normativ gerechte Policy-Outcomes zu erzielen. Sie basiert auf einer politischen und moralischen Vision der reflektiven Selbst-Regulierung, die von selbst-regierenden Individuen und Organisationen betrieben wird. Diese Akteure sind bereit, ihre rationalen Interessen zu verfolgen, wenn es universalistische Anreize gibt für gemeinwohlorientiertes Verhalten (vgl. Zürn, ebd: S. 24).

Wie lässt sich die überlappenden Dimensionen zwischen Menschenrechten und nachhaltiger Entwicklung in der Politik des Klimawandels erklären? Als Fokus stehen die Risiken- und Vulnerabilitäts-Evaluation, welche sich mit den negativen Auswirkungen des Klimawandels auf das Gesundheitswesen beschäftigt, sowie die REDD+Mitigationsmaßnahmen in der Klimapolitik. Dabei folge ich Spuren von überlappenden Dimensionen zwischen dem Recht auf Gesundheit, dem wirtschaftlichen Recht, dem Recht auf Entwicklung und nachhaltiger Entwicklung mit Hilfe des oben genannten Ansatzes. Es werden erstens die Verbindungen zwischen beiden Regelungswerken (Menschenrechts- und Umweltregimen) reflektiert. Zweitens wird die Rolle der *epistemic community* in der Klimapolitik analysiert. Schließlich werden der nichtstaatliche Aktivismus sowie die (inter)nationalen Aktionsprogramme vorgestellt, die in der Risiken- und Vulnerabilitätsanalyse sowie in den REDD+Mitigations-Maßnahmen zu finden sind, um dann die Durchführung dieser Instrumente und deren Lehre aus der Praxis für die globale Klima-Governance zu erläutern.

Menschenrechte und nachhaltige Entwicklung – Diskurse in der Klimapolitik und die *epistemic community*

Bevor ich die Risiken- und Vulnerabilitäts-Evaluation im Bereich „global health“ und die REDD+Mitigations-Maßnahmen vorstelle, als Basis für die Erläuterung der überlappenden Dimensionen zwischen Menschenrechten und nachhaltiger Entwicklung, gehe ich ein auf die diskursive Entwicklung der Begriffe „Recht auf Gesundheit“, „wirtschaftliches Recht“, „Recht auf Entwicklung“, „Recht auf eine gesunde Umwelt“, und „nachhaltige Entwicklung“.

Das Recht auf Gesundheit, verankert im Sozialpakt, findet sich im Artikel 12 (1): „Der Vertragsstaaten erkennen das Recht eines jeden auf das für ihn erreichbare Höchstmaß an körperlicher und geistiger Gesundheit.“ Das heißt, das Recht auf Gesundheit ist ein grundlegendes Recht einer Person, das bereits im Menschenrechtsregime anerkannt und institutionalisiert ist. Insbesondere bildet sich Gesundheit in einem besonders engen Wechselverhältnis zu anderen Menschenrechten: Nicht nur stellen sich Mangel- und Unterernährung, unzureichender Zugang zu sauberem Trinkwasser, gesundheitsgefährdende Lebens- und Arbeitsbedingungen oder fehlende Bildung als Menschenrechtsverletzungen dar. Ohne Gesundheit können die betroffenen Personen bzw. Gruppen weder andere Menschenrechte (e.g. das Recht auf Bildung) wahrnehmen noch am gesellschaftlichen, wirtschaftlichen und politischen Leben teilhaben. Allerdings wird der Anspruch

auf Gesundheit generell nicht als ein solches fundamentales Recht anerkannt, da er nicht als das wichtigste fundamentale Recht wie das Recht auf Leben wahrgenommen wird, sondern schließlich als ein Recht des Kapitals (*droit capital*).⁶ Aus juristischer Sicht ist das Recht auf Gesundheit eine „norme-cadre“, welche durch die funktionalen Normen präzisiert werden soll. Daher definiert die WHO in ihrer Präambel (1948) den Begriff „Gesundheit“ in einer visionären Weise wie folgt: „ein Zustand des vollständigen körperlichen, geistigen und sozialen Wohlbendens und nicht nur die Abwesenheit von Krankheit oder Gebrechen“. Diese ganzheitliche Sicht von Gesundheit hebt die Tatsache hervor, dass involvierte Akteure außerhalb des konventionellen Gesundheitssektors ein Gutteil jener Politik betreiben, welche die Gesundheit bestimmt und auf die sozialen Determinanten von Gesundheit einwirkt.

Auf der Policy-Ebene wird ferner Gesundheit je nach Kontext differenziert betrachtet, um die sozialen Determinanten (u. a. allgemeine sozioökonomische, kulturelle, und ökologische Bedingungen) zu identifizieren und deren Funktion und Interaktionen zu verstehen. Dabei unterscheidet man *public health* von *global health*. Unter *public health* versteht man „the science and art of promoting and protecting health and well-being, preventing ill-health and prolonging life through the organized efforts of society.“⁷ Gesundheitsexperten müssen geeignete Aktionsprogramme entwickeln, um einen gesünderen Lebensstil des Einzelnen zu fördern, Krankheiten zu verhindern und die Gesundheitsversorgung der lokalen Bevölkerung zu verbessern und zu gewährleisten. Mit anderen Worten umfasst *public health* drei zentrale Bereiche: Gesundheitsförderung (von Fragen der Ungleichheit, der Behausung und des Lebensstils bis hin zur Überwachung spezifischer Krankheiten und Risiken); Gesundheitsschutz (gegen infektiöse Krankheiten, Chemikalien und Umweltschäden); und das Management eines effektiven Gesundheitsvorsorgungssystems. Die involvierten Fachdisziplinen reichen von Medizin, Epidemiologie, Ökonomie/Management, Statistik, mathematische Modellbildung, Umweltforschung, Sozialwissenschaften, hin zu Themen wie Menschenrechten, Entwicklung, Handel, städtischer Planung und Armutsbekämpfung.

Im Vergleich dazu betrachtet man *global health* in einem globalen Kontext, in dem gesundheitliche Probleme grenzüberschreitenden Charakter haben und zu deren Bewältigung internationale Kooperation erforderlich ist. Ziel der Maßnahmen im Bereich „global health“ ist vor allem, einen gerechten Zugang zur Gesundheitsversorgung nicht nur zwischen den Nationen, sondern auch zwischen

⁶ Siehe Miao-ling Hasenkamp 2007. Agenda Misfit. Inkongruente Menschenrechtsdiskurse in einer asymmetrischen Beziehung. Das Recht auf Gesundheit in Afrika als Beispiel. Tagungspapier des Arbeitskreises “Soziologie der internationalen Beziehungen (SiB)”, DVPW, Berlin 16.-17. November.

⁷ Weitere Information über die Tätigkeits- und Expertise-Bereiche der *public health* siehe die Website von der Fakultät der *public health, the Royal Colleges of Physicians of the United Kingdom*, www.fph.org.uk

den Gesellschaften zu ermöglichen. Die WHO beschäftigt sich seit Mitte der neunziger Jahre zunehmend mit der Operationalisierung des Rechts auf Gesundheit. Sie setzt dabei drei Schwerpunkte: 1) Unterstützung für Regierungen bei der Entwicklung eines auf Menschenrechten basierenden Gesundheitswesens; 2) Stärkung der Fähigkeit der WHO, ihre Tätigkeit mit dem menschenrechtsbasierten Ansatz zu verfolgen; sowie 3) Förderung des Rechts auf Gesundheit als internationales Menschenrecht.⁸ Auf der Suche nach Umsetzungsmöglichkeit stellen allerdings VertreterInnen im Gesundheitssektor fest, dass auf regionaler Ebene zunächst eine konzeptionelle Klärung zwischen realistischem und idealistischem Ansatz nötig ist, um schließlich den Umfang und die Komponenten des Gesundheitsschutzes zu definieren. Zum Beispiel zeigte das erste Treffen eines afrikanischen Netzwerks im Bereich „Gesundheitswesen“ im Jahre 2005, dass das „Recht auf Gesundheit“ noch in einer Phase der Definition und vergleichender Evaluation der existierenden nationalen Gesundheitspolitik steckte. Dennoch wurde dadurch ein Zeichen gesetzt: Das Recht auf Gesundheit sei eine pragmatische Strategie für Afrikas Entwicklung (vgl. Bélanger 2005).

Die Grundlage der wirtschaftlichen Rechte auch als Teil der WSK-Rechte findet sich im Artikel 22 der *Allgemeinen Erklärung der Menschenrechte (AEMR)*. Dort heißt es: „Jedermann hat als Mitglied der Gesellschaft Recht auf soziale Sicherheit und hat Anspruch darauf, durch innerstaatliche Maßnahmen und internationale Zusammenarbeit unter Berücksichtigung der Organisation und der Hilfsmittel jedes Staates in den Genuss der für seine Würde und die freie Entwicklung seiner Persönlichkeit unentbehrlichen wirtschaftlichen, sozialen und kulturellen Rechte zu gelangen.“ Nach seiner Ratifizierung als *Sozialpakt* im Jahr 1976 gelten die WSK-Rechte als eine Säule des UN-Menschenrechtsregimes. Somit sind sie kodifizierte Rechte mit verbindlichem Charakter im Völkerrecht. Trotz der Trennung zwischen *Zivilpakt* und *Sozialpakt* und des darauffolgenden Ideologiestreits zwischen den westlichen Demokratien und dem damaligen Ostblock bekräftigte ein Konsens auf der Wiener UN-Menschenrechtskonferenz von 1993 die Unteilbarkeit der Menschenrechte. Zu den Komponenten des wirtschaftlichen Rechts gehören: 1) das Recht auf Arbeit, das faire Arbeitsbedingungen, das Verbot von Kinder- und Zwangsarbeit sowie das Recht auf die Bildung von Gewerkschaften hervorhebt; 2) das Recht auf Teilhabe an den Errungenschaften des wissenschaftlichen Fortschritts und seiner Anwendung sowie 3) das Recht auf den Schutz des geistigen Eigentums. Für die Gewährleistung dieser WSK-Rechte tragen die Staaten die Hauptverantwortung. In drei Dimensionen von Pflichten – Unterlassen, Schützen und Gewährleisten – verpflichten sich die Staaten durch Gesetze, Verordnungen, arbeitspolitische Maßnahmen und internationale Zusammenarbeit, diese Rechte einzuhalten. Insbesondere wird die diskursive Entwicklung der WSK-Rechte verstärkt in Verbindung gebracht mit dem Diskurs der

⁸ Siehe World Health Organization. 1994. *International Conference on Population and Development, Cairo Programme of Action*. http://www.unfpa.org/icpd/icpd_poa.htm

„Corporate Social Responsibility“ (CSR). Im weltweiten Standortwettbewerb steigt der öffentliche Druck, dass lokale, nationale und transnational agierende Unternehmen (TNCs) bei ihren Investitionstätigkeiten auf die Einhaltung der Sozialstandards achten müssen.

Obwohl dem Recht auf Entwicklung bisher der verbindliche Charakter im Völkerrecht fehlt und es eher den Status des internationalen Gewohnheitsrechts zugesprochen bekommt, ist seine rechtliche und normative Grundlage breit verankert in der *Charta* sowie Menschenrechtsdeklarationen und -konventionen der UNO; darunter Artikel 55-56 der *Charta*, *AEMR*, *Zivilpakt (ICCPR)*, *Sozialpakt (ICESCR)* und in der *Deklaration des Rechts auf Entwicklung (UNDRD)* von 1986.⁹ Wie im Artikel 22 der *AEMR* zu lesen ist, wird das Recht auf Entwicklung als Individualrecht gedeutet. Selbst wenn in den beiden Menschenrechtskonventionen (*ICCPR* und *ICESCR*) kein Recht auf Entwicklung explizit formuliert wird, sind die aufgelisteten Prinzipien und Rechtskategorien dort ein wichtiger Wegweiser für das Verständnis des Rechts auf Entwicklung. Neben dieser individuellen Rechtsdimension enthält das Recht auf Entwicklung auch einen kollektiven Aspekt, indem eine gerechte wirtschaftliche Ordnung zwischen Nord und Süd angestrebt werden soll. Die anhaltende Ungleichheit in der Weltwirtschaftsordnung rechtfertigte in den 70er Jahren die Bemühung der Entwicklungsländer, besonders der „least developed countries“ (LDC), das existierende Wirtschaftssystem zu ändern und neue Normen wie die Pflichten der Industrienationen gegenüber den Entwicklungsländern im Rahmen der internationalen Zusammenarbeit einzuführen. Beispiele dafür sind die Verabschiedung der *Deklaration und Aktionsprogramm für den Aufbau einer Neuen Weltwirtschaftsordnung (NIEO)* von 1974 und die Verabschiedung der *Charta der wirtschaftlichen Rechte und Verpflichtungen von Staaten*. Diese *Charta* betont, dass jeder einzelne Staat die Verantwortung hat, nicht nur die wirtschaftliche, soziale und kulturelle Entwicklung der eigenen BürgerInnen zu fördern, sondern auch die der Entwicklungsländer. Insofern enthält das Recht auf Entwicklung als Kollektivrecht sowohl eine interne als auch eine externe Dimension. Die interne Dimension fokussiert auf die Aufgabe eines Staates gegenüber seinen BürgerInnen, deren Menschenrechte und fundamentale Freiheit zu sichern. Die externe Dimension verpflichtet die internationale Gemeinschaft, sich für den Aufbau einer gerechten internationalen Wirtschaftsordnung einzusetzen. Die Barrieren der Entwicklung für die Entwicklungsländer sollen abgebaut werden (vgl. Mathews 2011).

Neben dem Recht auf Entwicklung ist das Recht auf eine gesunde Umwelt in den regionalen und internationalen Menschenrechtsregimen verankert. Im Zusatzprotokoll der *Amerikanischen Menschenrechtskonvention (AMRK)* - dem *Protokoll von San Salvador* über wirtschaftliche, soziale und kulturelle Rechte - wird unter anderem das Recht auf Gesundheit, das Recht auf Nahrung, und vor allem das

⁹ Siehe *Declaration on the Right to Development*, U.N. GAOR, 41st Sess., Dec. 4, 1986, Annex, Agenda Item 101, 97th plen. mtg. at 1, U.N. Doc. A/RES/41/128 (1987) (hier UNDRD).

Recht auf eine gesunde Umwelt garantiert.¹⁰ Ebenfalls ist im Artikel 24 in der *afrikanischen Menschenrechtscharta* das Recht auf eine gesunde Umwelt erwähnt: „All peoples shall have the right to a general satisfactory environment favourable to their development.“ Hier lassen sich die Interdependenz und Unteilbarkeit zwischen Menschenrechten und Entwicklung nicht mehr verkennen. Das Recht auf eine „safe, clean, healthy and sustainable environment“ stellt sich als Bedingung und Forderung für Entwicklung des Einzelnen und der Gemeinschaft als Ganzes dar. Zwei wichtige internationale Rechts-instrumente heben diesen Aspekt der Interdependenz und Unteilbarkeit auch hervor: die *International Labor Organization (ILO)-Konvention 169* vom 1989 und die *UN Deklaration über Rechte indigener Völker (UNDRIP)* vom 2007.¹¹ Die *ILO-169* erkennt mit Bezug zu indigenen Gemeinschaften das Recht auf eine intakte Umwelt an. Sie gewährt den indigenen Völkern “the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development.”¹² Die Adoption der *UNDRIP* war ein positives Ergebnis der Zusammenarbeit zwischen dem Wirtschaftlichen und Sozialen Ausschusses (ECOSOC) der UNO und anderen UN-Institutionen, u. a. *the Permanent Forum on Indigenous Issues*.¹³ Die *UNDRIP* ist jedoch völkerrechtlich nicht verbindlich. Sie appelliert ausdrücklich an die Staaten neue Ansätze aufzunehmen bei der Handhabung mit globalen Problemen, besonders im Hinblick auf “participatory approaches in their interactions with indigenous peoples that will require meaningful consultations and the building of partnerships with indigenous peoples.”¹⁴ Ein Fehlen solcher partizipatorischen Ansätze kann verheerende ökologische und soziale Folgen bei Investitionstätigkeiten von ausländischen Rohstoffindustrie-Firmen in Urwald-Gebieten auslösen. In seinem Bericht über den Umweltschutz in Verbindung mit der *ILO 169* und *UNDRIP* hat der UNO-Sonderberichterstatter James Anaya feststellen müssen, dass Beispiele der Zerstörung und Degradation des Ecosystems vorhanden sind „caused by extractive industries, as well as the

¹⁰ Im Artikel 11 steht, dass jedem das Recht auf eine gesunde Umwelt zusteht. Die Erfüllung soll von der staatlichen Seite gewährleistet werden: "The States Parties shall promote the protection, preservation, and improvement of the environment." Siehe *AMRK*, Protocol of San Salvador.

¹¹ United Nations Declaration on the Rights of Indigenous Peoples (*UNDRIP*), General Assembly Resolution 61/295, 13. September 2007.

¹² Siehe *ILO-Konvention „concerning Indigenous and Tribal Peoples in Independent Countries (No. 169)*, 27 Juni 1989, Art. 7(1).

¹³ United Nations Permanent Forum on Indigenous Issues, *Frequently Asked Questions: Declaration on the Rights of Indigenous Peoples*, available at <http://www.un.org/esa/socdev/unpfii/documents/FAQsindigenousdeclaration.pdf>.

¹⁴ United Nations Permanent Forum on Indigenous Issues, *Frequently Asked Questions: Declaration on the Rights of Indigenous Peoples*, available at <http://www.un.org/esa/socdev/unpfii/documents/FAQsindigenousdeclaration.pdf>.

devastating resultant effects on indigenous peoples' subsistence economies, which are closely linked to these ecosystems" (UNHCHR 2013: 8). Daher ist die kausale Beziehung zwischen Menschenrechten und nachhaltiger Entwicklung nicht mehr zu übersehen: wenn Umweltzerstörungen vorliegen, besonders in Urwald-Gebieten, sind die Rechte betroffener Individuen, Gruppen und Gemeinschaften auf eine intakte Umwelt und nachhaltige Entwicklung unmittelbar gefährdet.

Diese *holistische* Betrachtung (unter Berücksichtigung der kollektiven und individuellen Dimensionen) begünstigt die Verbindung zwischen Menschenrechten und Entwicklung und wird verstärkt in den Diskursen der Klimapolitik artikuliert. Schon auf der Konferenz der Vereinten Nationen für Umwelt und Entwicklung (UNCED) 1992 in Rio de Janeiro haben VertreterInnen der UNO-Mitgliedstaaten das Recht auf Entwicklung mit dem Prinzip der Nachhaltigkeit verknüpft. Später der Absatz 11 des Wiener Schlussdokuments 1993 sieht vor: „Das Recht auf Entwicklung sollte so verwirklicht werden, dass den Bedürfnissen gegenwärtiger und künftiger Generationen in den Bereichen Entwicklung und Umwelt gleichermaßen Rechnung getragen wird.“ Seit dem Anfang des 21. Jahrhunderts betonen die Entwicklungsländer in ihren Bemühungen um den Ausbau eines post-Kyoto Klimaregimes das Recht auf Entwicklung. Gleichmaßen wird nach einer gemeinsamen Lösung gesucht, in der das wirtschaftliche Wachstum für die Entwicklungsländer mit Mitigations-Maßnahmen gegen den Klimawandel alliiert betrachtet werden soll. Diese *verbündete* diskursive Entwicklung findet ihren Ausdruck in den Ansätzen wie *climate marketization* als Unterkategorie von *Mainstream-Nachhaltigkeit* und *equitable modernization* als Unterkategorie von *erweiterten Nachhaltigkeit* (Stevenson und Dryzek 2014: 79).

Das Konzept „nachhaltige Entwicklung“ wird im Bericht „*Our Common Future*“ von UN *World Commission on Environment and Development (UNWCED)* von 1987 so definiert: „...development that meets the needs of the present without compromising the ability of future generations to meet their own needs.“ (UNWCED 1987: 43). Mit dieser Definition ist ein Konsens entstanden, der betont, dass wirtschaftliche, ökologische, und soziale Auswirkungen von Entwicklung integriert behandelt werden müssen. Zusammen mit anderen Diskursen wie Menschenrechte, Freiheit und Demokratie betrachtet die internationale Gemeinschaft „nachhaltige Entwicklung“ inzwischen als ethischen Code für das Überleben und den Fortschritt der Menschheit (Lafferty und Langhelle 1999). Hinzu kommt, dass die anhaltende politische Debatte über Nachhaltigkeit (bezüglich ihrer Begrifflichkeit und normativen Ziele) und die Suche nach geeigneten Instrumenten zur Verwirklichung ihrer Ziele haben dazu geführt, dass die diskursive Artikulation und Sinndeutung „nachhaltiger Entwicklung“ gleichzeitig ein offener und dynamischer Prozess ist (vgl. Lafferty and Langhelle 1999: 26).

In ihrer Analyse zu politischen Diskursen in den Klimaverhandlungen (Workshops und informelle Sitzungen) seit der Bali-Konferenz von 2007 konstatieren Hayley Stevenson und John Dryzek (2014: 78-82ff), dass es zwei Kategorien von

Diskursen über „nachhaltige Entwicklung“ gibt. Beide Kategorien haben sich im Laufe der Klimaverhandlungen unterschiedlich bewegt zwischen den Räumen der Öffentlichkeit, *Empowerment* und Marginalisation. Die *Ad hoc Working Group on Long-term Cooperative Action under the Convention* (AWG-LCA) hat die *Mainstream* Nachhaltigkeit als Diskurs stark betrieben. VertreterInnen von der EU und Japan haben für ein Programm der „ökologischen Modernisierung“ (*ecological modernization*) plädiert. Es soll einen Übergang zu Ökonomien mit niedrigem Kohlenstoffdioxid (CO₂) durch innovative Technologie und verbesserte Energie-Effizienz ermöglichen. Dabei werden der private Sektor und nationale Aktionsprogramme mit Diversifizierungs-Strategien eine zentrale Rolle spielen sowohl für die Gewährleistung der wirtschaftlichen Entwicklung als auch für den Umweltschutz. Daraus ableitend wird später der Ansatz „*climate marketization*“ eingeführt. Insbesondere heben VertreterInnen der USA die Bedeutung des geistigen Eigentumsrechts, finanzieller Beiträge vom privaten Sektor und handels-basierten Technologie-Transfers hervor. Hierfür sollen Entwicklungsländer sich bemühen, günstige Handelsbedingungen zu schaffen für private Investitionen durch den Abbau der Handelsbarrieren und den Schutz des geistigen Eigentums (Stevenson und Dryzek 2014: 79).

Im Vergleich dazu wird der *erweiterte* Nachhaltigkeits-Diskurs wenig effektiver weitergeleitet vom öffentlichen Raum in den ermächtigten (*empowered*) Raum. „Gerechtigkeit“ - ein wesentliches Element des Diskurses „*equitable modernization*“ - spielt eine zentrale Rolle in sämtlichen Diskussionen der *UN Framework Convention on Climate Change* (UNFCCC). Kaum ein Mitglied von der Koalition der Entwicklungsländer G77 ist bisher daran gescheitert, das Gerechtigkeits-basierte Prinzip der „*common but differentiated responsibility*“ (CDR) in die öffentliche Debatte zu bringen (Stevenson und Dryzek 2014: 79). Dennoch bleibt das auf Gerechtigkeit basierte Prinzip inhaltlich umstritten. Es wird zwar mehrfach betont, dass *Gerechtigkeit* (*equity*) sich als ein günstiges Handlungs- und Differenzierungsprogramm für Entwicklungsländer und besonders für LDC darstellt. Dennoch bleibt der Diskurs „*equitable modernization*“ staats-zentrisch ohne Berücksichtigung der herrschenden Ungleichheit in der innenpolitischen Sphäre, geschweige denn die Wichtigkeit der Beteiligung von zivilgesellschaftlichen Akteuren. Zum Beispiel, Indien weigert sich die Rolle der Zivilgesellschaft in den Klimaverhandlungen zu stärken. Ein weiterer Diskurs der erweiterten Nachhaltigkeit „*natural integrity*“ findet in einem Statement von VertreterInnen der NGOs. Eine Repräsentative von *Friends of the Earth International* bittet um Aufmerksamkeit auf den Unterschied zwischen natürlichen Wäldern und Plantagen bei der Elaboration des REDD-Mechanismus. Jedoch zeigt sich in den Klimaverhandlungen ein geringer Grad der Inklusivität und Rücksichtnahme bei den Diskursen, die von NGOs vertreten sind. Oft werden sie im Verhandlungsraum vernachlässigt aufgrund der knappen Redezeit und vieler Statements von staatlichen VertreterInnen. Schließlich findet „*Green Radicalism*“ als erweiterter Nachhaltigkeit-Diskurs seine Zustimmung bei der bolivianischen Delegation. Zusammen mit anderen Mitgliedern der *Bolivarian Alliance for the Peoples of our*

America (ALBA) vertritt Bolivien die Ansicht, dass die gegenwärtige Governance-Struktur nicht geeignet sei für eine erfolversprechende Klimapolitik (Bolivien, Workshop Dez. 8, 2008, Poznan, hier zitiert in Stevenson und Dryzek 2014: 81). Der Grund: das Weltwirtschaftssystem bleibt weiterhin auf Profit ausgerichtet, das vom Wettbewerb und Kapitalismus betrieben ist. Diesem Diskurs „*Green Radicalism*“ schließen sich auch zivilgesellschaftliche Akteure wie kirchliche VertreterInnen an. In seiner Umwelt-Enzyklika fordert Papst Franziskus die reichen Industrienationen und der wohlhabende Teil der Menschheit auf, ihren Konsum einzuschränken und ihren Lebensstil grundlegend zu ändern (Papst Franziskus 2015).

Diskursive Strategien der epistemic community in der Klimapolitik

Der Diskurs „nachhaltige Entwicklung“ wird ferner stark geprägt von *epistemic communities*, die Strategien verfolgen, um die Autorität und Legitimität ihres Fachwissens zu etablieren und zu stärken. Dennoch zeigen sich innerhalb dieser *epistemic communities* Gruppierungen, welche je nach Framing der Themen ihre defensiven oder offensiven Strategien artikulieren als Grundlage für die Identifikation bzw. Mobilization mit FachkollegInnen.

Für die Bestandsaufnahme des Klimawandels als Phänomen sind die WissenschaftlerInnen und ExpertInnen mit ihrer Expertise und Glaubwürdigkeit auf der Spitz der Hierarchie der Klima-Governance. Sie präsentieren sich als autoritäre Stimme, um den Stand der Dinge zu evaluieren und potentielle Lösungen anzubieten (Hitzler 1994, hier zitiert in Lefsrud und Meyer 2012: 1480-81). Ausgehend von der *public policy*-Forschung und Organisationsstudien nennen Lianne Lefsrud und Renate Meyer (2012: 1481ff) fünf diskursive Strategien von WissenschaftlerInnen und ExpertInnen auf: Autorisierung, Rationalisierung, moralische Evaluation, *mythopoiesis* (Produktion der Mythen), und Normalisierung. Nicht selten benutzen ExpertInnen auch Science-Fiction und Emotion als diskursive Strategien. Während sich Autorisierung, Rationalisierung, und Normalisierung als Formen der autoritären Instanz darstellen, wird moralische Urteilsbildung zum *Ethos* und *mythopoiesis*/Emotion zum *Pathos* zugeordnet. Aufgrund der Heterogenität der Expertise beim Framing der Themen und die konkurrierenden Stellungnahmen haben ExpertInnen gezielt oppositionelle oder destruktive Strategien – antagonistische Identitäts-*framing* - genutzt, um die Gegenposition von FachkollegInnen zu schwächen oder gar zu delegitimieren.

Wie konstruieren ExpertInnen ihre Ansicht zu Ursachen des Klimawandels? Welche Lösungsansätze sind nach ihrer Meinung geeignet für den Umweltschutz? Hierzu lassen sich grob zwei Gruppen von ExpertInnen finden, die gegenseitige Positionen vertreten und sich bemühen, die Meinung der anderen zu delegitimieren. Auf einer Seite stehen im Rahmen des UNO-Systems die ExpertInnen von des *International Panel for Climate Change (IPCC)* und von der *International Strategy for Disaster Reduction (ISDR)*, die die Notwendigkeit eines

interdisziplinären und integrierten Wissenssystems als Grundlage für politische Aktion beim Umgang mit dem Klimawandel unterstreichen. Für die ISDR-ExpertInnen bietet zum Beispiel „nachhaltige Entwicklung“ geeignete Rahmenbedingungen für die Integration dreier überlappenden Issues: Katastrophen-Management, Klimawandel und Internationale Entwicklung (McBean 2010: 1203). Die letztere bedeutet die Förderung der WSK-Rechte und Armutsbekämpfung. Auf der anderen Seite haben Lefsrud und Meyer (2012: 1497-98) in ihrer Analyse zur diskursiven Konstruktion durch ExpertInnen folgendes festgestellt: Fachleute innerhalb der Erdöl-Firmen, verwandter Industrien, Regierungsregulationsbehörden sowie professionellen Vereinen haben einen defensiven institutionellen Ansatz entwickelt. Ihr Ziel ist es einerseits die Stellungnahmen von IPCC/ISDR-ExpertInnen zu erwidern und andererseits ihre eigene institutionelle Arbeit aufrechtzuhalten. Diese skeptische Haltung und institutionell *defensive* Arbeit gegenüber dem IPCC variieren. Sie hängen davon ab, inwieweit die Politik der Industrien, Regulationsbehörden und Branchen von der Klimapolitik auf verschiedenen Ebenen betroffen ist. Es verwundert daher nicht, dass die von Insidern betriebenen Herausforderungen („*insider-driven challenges*“, Lefsrud und Meyer 2012: 1498) und Meinungsverschiedenheiten die Konsensbildung und Herausbildung eines gemeinsamen Aktionsplans erschwert haben.

Die Analyse der diskursiven Entwicklung in beiden Regimen – Menschenrechts- und Umweltregime – zeigt, dass, trotz der Meinungsverschiedenheiten zwischen UNO-ExpertInnen und Fach-ExpertInnen, die überlappenden Dimensionen beider Diskurse bei der normativen Rechtfertigung nicht zu übersehen sind. Die folgende Darlegung über die Risiken-Vulnerabilitäts-Analyse im Bereich „global health“ sowie über die REDD+Mitigations-Maßnahmen wird verdeutlichen: Ein Verbund von verstärkter Informationsarbeit sowie umweltpolitischen Maßnahmen wie der Einführung eines CO₂-Handelssystems können gleichzeitig nachhaltige wirtschaftliche Rechte der Rechte auf Gesundheit und Entwicklung sowie eine nachhaltige Entwicklung fördern.

Menschenrechte und nachhaltige Entwicklung als *Overlapping Issues*

Risiken- und Vulnerabilitäts-Evaluation im Bereich „global health“

Die negativen Folgen des Klimawandels auf Land, Tieren, Pflanzen und menschliche Gesundheit im Form extremer Wetterlagen, veränderter Übertragungsrouten infektiöser Krankheiten, Miss-Ernte, Unterernährung usw. werden zwar zunehmend von Wissenschaft, Politik und Medien ernst genommen. Rätselhaft bleibt nach wie vor die Interaktion zwischen sozioökonomischen Faktoren und Umweltfaktoren, welche direkt und indirekt auf das Ökosystem, Gesundheit bzw. den Zugang der Bevölkerung zur Gesundheitsversorgung wirkt. Seit langem

benämigen AnalytikerInnen verschiedener Fachdisziplinen das Fehlen an umfassenden empirischen Datenerfassungen hinsichtlich des gekoppelten Umwelt-Gesundheits-Systems, die als Grundlage dienen sollen für die Evaluation der gesundheitlichen Vulnerabilität und Risiken, den Vergleich zwischen bestimmten Orten und für die Entwicklung der effektiven Maßnahmen zur Reduzierung von Risiken und für Anpassungsmaßnahmen (vgl. Turner II et al. 2003; Patz et al. 2005). In der Wissenschaft und Politik bemüht man sich besonders in den Bereichen „disaster risk reduction“, „Anpassung an Klimawandel“, „Umweltmanagement“ und „Armutsbekämpfung“. Trotz dieser Bemühungen um die Reduzierung der sozioökonomischen Vulnerabilität gegenüber den Umweltrisiken steigt die Vulnerabilität, sowohl die des Einzelnen wie die von Gemeinschaften. Daher plädieren ExpertInnen für ein Ende der isolierten Arbeit in den einzelnen Bereichen und für eine enge Zusammenarbeit. Ein besserer Informationstausch zwischen den involvierten Fachdisziplinen solle entstehen und es erleichtern, eine integrierte transdisziplinäre Risiken- und Vulnerabilitätsanalyse zu entwickeln (Costello et al. 2009; Briggs 2008; Thomalla et al. 2006).

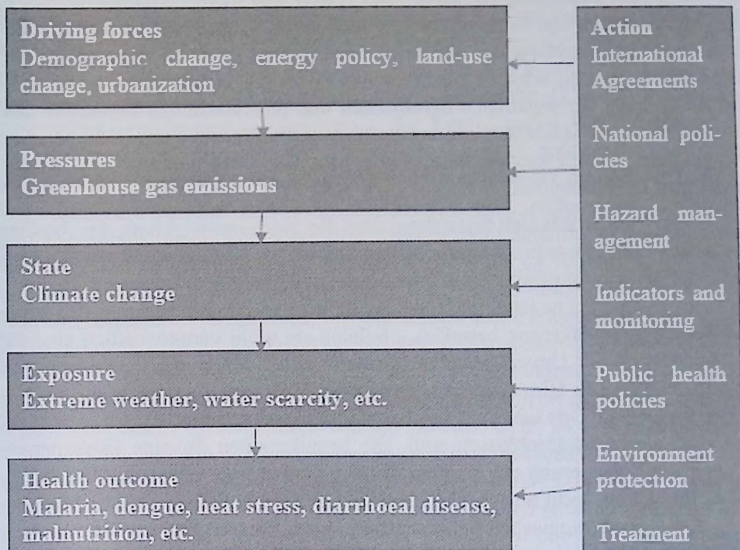
„Vulnerabilität“ als Begriff bezieht sich auf den Grad der Verletzbarkeit von Individuen und Systeme. Es geht dabei auch um die Unfähigkeit des Einzelnen und von Systemen, ausreichend auf negative Auswirkungen des Klimawandels zu reagieren (Ebi et al. 2006). Im Bereich „Gesundheit“ wird menschliche Vulnerabilität gegenüber dem Klima so definiert: „as a function of a) sensitivity, which includes the extent to which health, or the natural or social systems on which health outcomes depend, are sensitive to changes in weather and climate (the exposure-response relationship) and the characteristics of the population, such as its demographic structure; b) the exposure to the climate-related hazard, including the character, magnitude, and rate of climate variation; and c) the adaptation measures and actions in place to reduce the burden of a specific adverse health outcome (the adaptation baseline), the effectiveness of which may influence the exposure-response relationship“ (Ebi et al 2006: 1931). Unter Berücksichtigung der genannten Aspekte zeigt die Vulnerabilitäts-Forschung in den letzten Jahrzehnten einen progressiven Prozess, der sich nicht nur mit der Identifikation der Umweltrisiken für Gesundheit und der Entwicklung der Adaptationsstrategien befasst. Sie berücksichtigt auch zunehmend den Aspekt der sozioökonomischen Vulnerabilität und führt Konzepte wie „Widerstandsfähigkeit (*resilience*)“ ein, um Umweltrisiken längerfristig reduzieren zu können (Füssel und Klein 2006; Füssel et al. 2006; Turner II 2010). Allerdings stellt sich eine Analyse sozialer Vulnerabilität nach wie vor als große Herausforderungen dar. Es ist schwierig, soziale und ökonomische bedingte Vulnerabilitäten *quantitativ* zu erfassen (Cutter et al. 2003). Diese Erkenntnis führt unmittelbar zu der Ansicht, dass *diverse* Ansätze als Basis für komplementäre Informationen zur Vulnerabilitäts-Forschung notwendig sind, um die Komplexität, die Interdependenzen, und die Unsicherheiten (*uncertainties*) des gekoppelten Menschen-Umwelt-Systems entziffern zu können (Vescovi et al. 2005; Eakin und Luers 2006). Dabei gibt es drei

Hauptaufgaben bei der Vulnerabilitäts-Forschung. Erstens geht es um die Identifikation der Bedingungen, welche die Menschen oder Orte verwundbar machen gegenüber extremen Naturereignissen.

Zweitens geht man von der Annahme aus, dass die Vulnerabilität einen sozialen Zustand der gesellschaftlichen Belastbarkeit gegenüber Umweltrisiken darstellt. Drittens werden bei der Vulnerabilitäts-Analyse das Aussetzen (*exposure*) von Individuen und Systemen vor Umweltrisiken und die gesellschaftliche Belastbarkeit integriert betrachtet mit Fokus auf bestimmte anfällige Orte und Regionen (Cutter et al. 2003: 242-43).

So sind tatsächlich einige interessante Ansätze entstanden zur Risiken- und Vulnerabilitätsanalyse im Bereich „global health“. Als erstes Beispiel zeigt die sogenannte „integrierte Umwelt-Gesundheits-Auswirkungsbewertung (*integrated environmental health impact assessment (HIA)*)“. Nach David Briggs (2008) wird die integrierte umweltbedingte HIA definiert „as a means of assessing health-related problems deriving from the environment, and health-related impacts of policies and other interventions that affect the environment, in ways that take account of the complexities, interdependencies and uncertainties of the real world.“ Ferner entwickeln Kovats et al. (2005) ein DPSEEA-Modell, in dem die Umweltrisiken, gesundheitliche Folgen und mögliche Aktionen zur Bewältigung dieser Gesundheitsprobleme auf verschiedenen Ebenen mittels einer Form der Aussetzen-Antwort-Beziehung (*the exposure-response-relationship*) geschildert sind (siehe Abbildung 3.1). Diese Veranschaulichung entspricht der Anforderung der Aktion auf drei Ebenen, vorgeschlagen von der Lancet-Kommission bei der Zielformulierung eines integrierten transdisziplinären Ansatzes zur Reduzierung der umweltbedingten negativen Auswirkungen auf die menschliche Gesundheit. Erstens sollen *Policies* implementiert werden, um die CO₂-Emission zu reduzieren und die globale Erwärmung unter Kontrolle zu bringen. Zweitens soll eine bestimmte Maßnahme ergriffen werden, um mit der Verbindung zwischen dem Klimawandel und dem veränderten Bild der infektiösen Krankheiten klar zu machen. Drittens müssen geeignete Systeme im Bereich „public health“ aufgebaut werden, die in der Lage sind, umweltbedingte negative Auswirkungen auf Gesundheit zu bewältigen (Costello et al. 2009: 1693).

Abbildung 3.1: The DPSEEA framework for environmental health risk assessment (Kovats et al. 2005: 1410)



Ein weiteres Beispiel zeigt das Ergebnis einer Analyse, die mittels des *Livelihood-Vulnerabilitäts-Indexes* (LVI) die Vulnerabilität in zwei Bezirken in Mozambique untersucht (Hahn et al. 2009): Während ein Bezirk verwundbar ist wegen knapper Wasserressourcen zeigt ein anderer Bezirk seine Vulnerabilität in der soziodemographischen Struktur. Hahn et al. heben die Bedeutung eines solchen pragmatischen Ansatzes hervor, da er ermöglicht, die Vulnerabilität der untersuchten Orte zu überwachen, Hilfsprogramme zu entwickeln sowie die Effektivität der möglichen Programme zu überprüfen besonders für die Regionen, die bisher wenig erforscht sind bei der Anwendung des LVI-Modells mit Aufnahme neuer Szenarien für einen Basis-Vergleich (Hahn et al. 2009).

Nicht zuletzt ist der Ansatz „Gesundheitspluralismus“ (*health pluralism*) zu erwähnen, der kulturspezifische Heilmittel berücksichtigt besonders in den Post-Konflikt- oder/und Post-Katastrophen-Kontexten (Tribe 2007). Der Begriff „Gesundheitspluralismus“ bezieht sich auf „a multi-layered or diverse range of explanatory health beliefs, and a concomitant wide range of coping-strategies and help-seeking behaviours, as well as a varied range of designated helpers and healers“ (Tribe 2007: 21-22). Am Beispiel Sri Lankas weist Rachel Tribe (2007: 22) auf die Unangemessenheit der (*alleinigen*) Anwendung des westlichen individualisierten Diagnose- und Therapie-Modells wie der posttraumatischen Symptom-

Diagnosis (PTSD) bei der Behandlung traumatisierter Menschen nach dem Bürgerkrieg und der Tsunami-Katastrophe hin. Sie plädiert für die Berücksichtigung der komplexen Beziehung zwischen einer Kultur und ihren Heilungsritualen, in der die Individuen und Gemeinschaften nach ihren Bedürfnissen mittels Erzählung und Erfahrungsaustausch ihr Leiden gemeinsam zu bewältigen versuchen. Mit anderen Worten schließt der „Gesundheitspluralismus“-Ansatz zwar nicht die Anwendung der westlichen psychischen und physikalischen Methoden aus. Vielmehr sollen Flexibilität und kulturelle Sensibilität als Prinzipien beachtet werden beim Heilungsprozess besonders in den vom Krieg und Katastrophen geschädigten Gesellschaften.

Als Zwischenfazit läßt sich feststellen, dass die Weiterentwicklung der Ansätze zur Analyse der Umweltrisiken und Vulnerabilität hat beitragen können zur Aufdeckung von *overlaps* zwischen Klimawandel und gesundheitlicher Anfälligkeit. Es fällt auf, dass die negativen Folgen des Klimawandels am stärksten die ärmeren Teile der Bevölkerung betreffen, obgleich sie nicht verantwortlich sind für die Entstehung der Umweltschäden (Costello et al. 2009; vgl. Nicholson und Chong 2011: 122). Hinzu kommt, dass gerade diese verwundbaren Bevölkerungsgruppen und Orte oft vom Entscheidungsprozess und vom Zugang zu Macht und Ressourcen ausgeschlossen sind. Die Implikationen für eine Governance-Lösung zur Reduzierung der Vulnerabilitäten liegen daher offensichtlich in jeglicher Bemühung nicht nur um die Identifikation der Mechanismen zur Verstärkung der sozio-ökologischen Vulnerabilität. Auch die Marginalisierung als eine Ursache sozialer Vulnerabilität soll ernsthaft bekämpft werden (Adger 2006: 276).

Zu betonen ist, dass öffentliches Interesse und Aufklärungsarbeit, ziviles Engagement und wissenschaftliche Kooperation gestärkt werden müssen, um den Dialog über die Folgen des Klimawandels sichtbar machen zu können. Die Lehre aus dem Ausbruch der Ebola-Krankheit in Westafrika zwischen Dezember 2013 und Juli 2014 hat gezeigt, dass die Notfall-Hilfe durch die NGOs zwar zu loben war. Jedoch offenbarte diese Krise auch die Grenzen und Mängel lokaler und nationaler Gesundheitsversorgung, darunter unangemessene Führung und Koordination, eingeschränkte Finanzmittel, Wissensmängel im Bereich *public health* sowie mangelhafte Prävention und das Fehlen eines Überwachungssystems infektiöser Krankheiten (Tambo et al. 2014). AnalytikerInnen heben daher die Bedeutung praktischer Optionen hervor, nämlich, verstärkte Bildung im Bereich *public health*, Informationsarbeit, Partizipation der *stakeholders*, Wissenstransfer mittels einer integrierten und transdisziplinären Evaluationsarbeit sowie Aufbau eines Frühwarnungs- und Überwachungssystems, um den Ausbruch solcher infektiösen Krankheiten wie SARS und Ebola in der Zukunft zu vermeiden oder frühzeitig unter Kontrolle zu bringen (Kovats et al. 2003; Ebi und Burton 2008; Tambo et al. 2014; Alexander et al. 2015).

REDD+Mitigations-Maßnahmen

Im Laufe der Klimaverhandlungen (von der Einführung des UNFCCC (1992) in Rio de Janeiro bis zur *Conference of Parties* (COP) 13 auf Bali (2007)) drängten einige Themen immer wieder in den Vordergrund, welche die beteiligten Parteien möglichst schnell behandeln mussten.¹⁵ Zum Beispiel erkannte man, dass aufgrund der Folgen der Waldzerstörung - als Auslöser für 12 bis 17 Prozent der weltweiten Treibhausgas-Emissionen - der Kampf gegen Waldzerstörung als Top-Punkt in die Agenda der Klimaverhandlungen aufgenommen werden musste. Daher wurde die Einbeziehung der Klimarelevanz der Wälder in einen UN-Klimabeschluss im Jahr 2007 beschlossen und seitdem verhandelt. Der REDD+Mechanismus, der finanzielle Anreize dafür schafft, Verbrennung von Waldgebieten zu vermeiden und dadurch Emissionen zu verringern, wurde danach Schritt für Schritt eingeführt. Ziele von REDD+Mitigations-Maßnahmen sind unter anderem: 1) Kompensationszahlungsmethoden zu entwickeln für Mess- und überprüfbare Emissionsreduktion; 2) den Wäldern einen höheren *monetären* Wert zu verleihen; 3) Länder zu unterstützen und zu belohnen, die Entwaldung verringern; und 4) die Norm-Einhaltung der *Convention on Biological Diversity* (CBD) zu fördern. Insbesondere wurden seit der COP 16 in Cancun/Mexico (2010) Aktionsansätze definiert, in denen der REDD+Mechanismus durch nationale Programme und Strategien umgesetzt werden soll.¹⁶ Damit soll vermieden werden, dass die Entwaldung innerhalb eines Landes auf andere Regionen verlagert wird. Die Eigenverantwortlichkeit der Länder soll über die Handhabe von REDD+ gestärkt werden. Desweiteren wurde in Cancun beschlossen, dass die Umsetzung von REDD+ die Beteiligung der indigenen Völker voraussetzen soll. Damit sollen der Schutz der Rechte indigener Völker und nachhaltige Entwicklung ihrer Lebensgrundlage sowie der Erhalt der Artenvielfalt und der Naturwälder gesichert werden. Wie die Umweltorganisation *World Wild Fund for Nature* (WWF) kommentiert: wenn die REDD+Strategie gut durchdacht, transparent und verantwortungsbewusst umgesetzt wird, kann REDD+ „einen echten Beitrag leisten, das Klima, die Natur und die Rechte der Menschen zu schützen.“¹⁷

Mit dieser Zielsetzung wird eine Infrastruktur für den REDD+Mechanismus durch den UN-Klimahandlungsrahmen und verschiedene multilaterale Initiativen (wie UN-REDD, *Clean Development Mechanism* (CDM), *Forest Carbon Partnership Facility Programm* (FCPF), *Free Prior Informed Consent* (FPIC) und Partnerschaften) geschaffen. Zum Beispiel, mit ihrem FCPF arbeitet die Weltbank eng mit dem UN-Programm zusammen. Ziel der Weltbank ist es, REDD+

¹⁵ Für einen historischen Überblick zur Klimapolitik siehe Gupta 2010.

¹⁶ Siehe Cancun-Beschlüsse 2010.

¹⁷ Siehe WWF "Was ist REDD+", <http://www.wwf.de/themen-projekte/waelder/wald-und-klima/redd-politik/> (abgerufen am 10. Juni 2015).

als Marktmechanismus einzuführen, „to jump-start a forest carbon market“ (Gilbertson 2010: 28).¹⁸ Finanziert werden die Vorbereitungsprogramme und Pilotprojekte aus einem großen Fonds, den die Weltbank mit ihrer eigens für den Emissionshandel eingerichteten Programm - dem FCPF - übernimmt. Dadurch wird auf Projektebene ein freiwilliger Kohlenstoffmarkt mit freiwilligen Standard-Systemen eingeführt. Nun bekommen Unternehmen Möglichkeiten, REDD+ als CSR-Maßnahmen umzusetzen. Beispiel dafür ist die Investitionstätigkeit von der Marriott Hotelkette im Juma-Reserve-Gebiet in Brasilien. Dort ließ sich das Unternehmen nach dem *Climate Community Biodiversity Alliance (CCBA)*-Standard zertifizieren. Mehr noch: Marriott finanzierte REDD+Implementierung mit jährlich 500.000 EURO in den ersten vier Jahren.¹⁹ Mit anderen Worten, REDD+ bietet große Chancen für privatwirtschaftliches Engagement im Bereich Klimaschutz, dessen mögliche positive Auswirkungen auf die lokale Bevölkerung und Biodiversität nicht zu unterschätzen sind. Seit 2005 sind 200 REDD+Pilotprojekte in mehr als 40 Entwicklungsländern ins Leben gerufen worden. Finanziert werden diese Projekte durch 91 Geber-Organisationen, darunter Industrienationen, entwicklungspolitische Organisationen, Firmen und internationale Organisationen. Norwegen startete damals auf der Bali-Konferenz seine *International Climate and Forest Initiative*.²⁰ Neben dem freiwilligen Kohlenstoffmarkt unterstützen die Geberländer die Entwicklungsländer dabei, Referenzniveaus für ihre Waldfläche und die Abholzung sowie die Wald-Degradierungsniveaus zu ermitteln, Monitoring-Systeme zu errichten und nationale REDD+Strategien zu entwickeln. Die Ergebnisse solcher an *Safeguards* orientierten Nord-Süd-Zusammenarbeit bieten interessante Einsichten. In einer neuen Studie zeigen Eero Palmujoki und Pekka Virtanen (2016), dass die mit Unterstützung Norwegens durchgeführten REDD+ Governance-Praktiken in Tansania und

¹⁸ Details über die Funktionsweise eines CO₂-Handelssystems siehe Betsill und Hoffmann 2011.

¹⁹ Vgl. Projektarbeit (2009): "Reducing Emissions from Deforestation and Degradation in the Cofan Bermejo Reserve Ecuador: An assessment of Forest Carbon Sequestration capability and potential entry into an carbon market. Project members: Heather Abbey, Carolyn Ching, Tyson Eckerle, Scott Webb, and Emily Wellborn. Donald Bren School of Environmental Science and Management, University of California, Santa Barbara, S. 22-23.

²⁰ Siehe Norwegian Ministry of the Environment / Norwegian Ministry of Foreign Affairs (2007): The Government of Norway's International Climate and Forest Initiative (NICFI). 10 p. Available at http://www.noruega.no/NR/rdonlyres/B605128D7D944ED781FD45684C22AD61/122347/engelsk_thegovernmentofNorwaysclimateandforestinit.pdf (abgerufen am 16.06.2015). Weitere Information über NICFI siehe Climate Funds Update: Norway's International Climate and Forest Initiative, <http://www.climatefundsupdate.org/listing/norway-s-international-climate-and-forest-initiative> (abgerufen am 16.06.2015).

Mozambique gekennzeichnet sind durch eine Mischung von verfahrensmäßigen Regulierungen nach internationalen Vorschriften und nationalen existierenden Governance-Praktiken mit schwachen neo-liberalen Elementen. Dieser Befund widerspricht der vereinfachten Annahmen, dass die staatliche Autorität im Zeitalter der neoliberalen Deregulierung stark abgenommen hat (ebd.: 59). Vielmehr ist eine veränderte Rolle des Staats in einer Post-nationalen Multi-Level-Governance-System festzustellen.

Allerdings nimmt der Grad der Komplexität und der Fragmentierung des REDD+Regimes zu, da eine Vielzahl von Ansätzen und Handlungen wie *monitoring, reporting, and verifying (MRV)*-Praktiken entstanden sind, die die durch Waldzerstörung und Degradation verursachten Treibhausgas-Emissionen reduzieren sollen. Esteve Corberer und Heike Schröder (2011: 90) merken dazu an: "REDD+ is a governance process with multiple actors, interests and activities, involving several sources of formal and informal power and authority (...) which all influence each other and may or may not coincide in their interests and vision regarding how such strategy (...) should actually look like." Aufgrund der Fragmentierung des REDD+Regimes sind die Länder oft vielen methodischen und technischen Herausforderungen ausgesetzt. Daher wurde im Mai 2010 die „REDD+ Partnerschaft“ gegründet, um einen Erfahrungsaustausch zwischen Entwicklungs- und Geberländern zu ermöglichen. AnalytikerInnen erwarten positive Auswirkungen durch die Verbindung des REDD+Mechanismus mit internationalen Emissionsmärkten, mit *Co-Benefits* nicht nur für die internationale Entwicklung, sondern auch für den Erhalt der Biodiversität sowie den Klima- und Menschenrechtsschutz (vgl. Ebeling und Yasué 2007: 1921; Brown et al. 2008).

Aus einer Governance-Perspektive gibt es ferner Bedenken, da der Erfolg der REDD+Umsetzung stark von der Funktionsfähigkeit vorhandener Governance-Strukturen eines Entwicklungslandes abhängt. Selbst wenn niedrige Raten der Entwaldung durch Mitigations-Maßnahmen erreicht werden, ist es kaum zu erwarten, dass korrupte Eliten vor dem Hintergrund einer schwachen Governance-Strukture die Profite, die sich durch REDD+Implementierung ergeben, mit der ärmeren Bevölkerung auf dem Land teilen (Ebeling und Yasué 2007: 1920). Jedoch kann die Umsetzung des REDD+Mechanismus langfristig positive Auswirkungen auf Armutsbekämpfung und Klimaschutz haben, da Initiativen und Fonds nicht nur gegen Korruption, sondern auch für die Verbesserung der Governance-Performance eingeführt werden. Das Beispiel Bolivien hat gezeigt, wie institutionelle Reformen im Waldsektor Korruption drastisch reduziert haben. Dadurch wurden die Praktiken im Waldmanagements-Bereich wesentlich verbessert (Ebeling und Yasué 2007: ebd.).

In welchem Verhältnis stehen Menschenrechte zu nachhaltiger Entwicklung bei der Entstehung und Umsetzung des REDD+Mechanismus? Einen unmittelbaren Zusammenhang findet man in den *Safeguards*, die im Jahr 2010 im Rahmen eines Verhandlungstextes der AWG-LAC erarbeitet wurden. Die Adoption der *Safeguards* zielt darauf ab, Missbrauch und Rechtsverletzung von und durch REDD+

zu verhindern.²¹ Sie enthalten zum Beispiel den Respekt für das Wissen und die Rechte indigener Völker und lokaler Gemeinschaften unter Berücksichtigung nationaler Gesetzgebung und der *UNDRIP*. Mit besonderem Verweis auf indigene Völker und lokale Gemeinschaften sollen die Teilhabe-Rechte aller Betroffenen transparent und effektiv geschützt werden. Hierfür haben besonders die *Safeguards* den *Free Prior Informed Consent (FPIC)* hervorgehoben. Ferner ist, wie bereits gezeigt, auf die *ILO Convention 169* zu verweisen, die seit Jahrzehnten für den Schutz des Landrechts für indigene Völker eintritt.

Nach mehr als einem Jahrzehnt Praxis bleibt die Bilanz der REDD+Mitigations-Maßnahmen allerdings umstritten. Drei Kritikpunkte mit markt-technischem und menschenrechtlichem Bezug sind hier zu erwähnen. Erstens geht es um die Frage der Fairness der Emissionsminderungen. Aufgrund der unterschiedlichen Ansätze zur Finanzierung der REDD+Strategien (z. B. markt-basierte versus fonds-basierte Finanzierung) haben die beteiligten Länder von einer Verhandlung zur nächsten stets über die Ausgestaltung der Finanzierung oder Methoden zur Messung von Emissionen durch vermiedene Entwaldung gestritten. Ausgeblieben ist ein standardisiertes Verfahren für die Berichterstattung zur Einhaltung von Schutzbestimmungen für Biodiversität und Menschenrechte, das Vergleichbarkeit und Transparenz liefert. Wie der WWF kommentiert, liegt es somit im Ermessen der Länder, wie und worüber sie berichten.²² Zweitens stehen nicht selten nationale Strategiepläne externen projektbasierten REDD+Interventionen gegenüber, die mangels Konsultation bei der lokalen Bevölkerung Widerstand und Protest ausgelöst haben. Daraus ergibt sich die dritte kritische Bemerkung: Trotz der Cancun-Beschlüsse und der Festlegung der *Safeguards* ist die Beteiligung indigener Völker bei der Planung und Durchführung des REDD+Mechanismus unzureichend. Aufgrund des *land grabbing* werden Menschenrechte systematisch verletzt: das Recht auf Subsistenzmittel, die Rechte auf Nahrung und Wasser sowie das Recht auf Teilhabe - sowohl am Entscheidungsprozess als auch am Gewinn und schließlich das Recht auf Achtung des traditionellen und lokalen Wissens (*indigenous knowledge (IK)*).²³ Nicht selten haben die beteiligten Länder und Organisationen das Selbstbestimmungsrecht indigener Völker verletzt. Aufgrund

²¹Verhandlungstext zu den REDD+ *Safeguards* der AWG - LCA. FCCC/AWGLCA/2010/14.<<http://unfccc.int/resource/docs/2010/awglca12/eng/14.pdf>> (abgerufen am 15. 06.2015).

²²Siehe WWF "Was ist REDD+", FN16.

²³Beispiel dafür ist ein gescheitertes REDD+Pilotprojekt in Indonesien, das die australisch-indonesische *Kalimantan Forest and Climate Partnership (KFCP)* im Kampf gegen den Klimawandel auf Torfmoorflächen mit einer Fläche von 120.000 Hektar im Landkreis Kapuas geplant hatte. Für Dorfbewohner, das Projekt war an ihnen vorbei geplant worden. Nach wachsender internationaler Kritik wurde das Vorzeigeprojekt Ende Juni 2013 eingestellt. Siehe „Klimapolitik in Indonesien. Missglückter Waldschutz“ *Tageszeitung (TAZ)*, 25.08.2013. <<http://www.taz.de/Klimapolitik-in-Indonesien!/5060552/>> (abgerufen am 30.05.2015)

der Marktlogik, welche hinter dem REDD+ Mechanismus im Falle einer Aufnahme in den Emissionshandel steht, haben Kritiker REDD+ gar als eine neue Form des Kolonialismus kritisiert (weitere Kritik siehe Kravchenko 2008). Hinzu kommt, dass innerhalb vieler indigener Gemeinschaften keine Einigkeit besteht, was die Zustimmung zu REDD+ betrifft. Das heißt, es kann Spannung innerhalb der Gemeinschaften oder zwischen Gemeinschaften entstehen (Godden 2011: 16).

Angesichts der fehlenden Konsultation der indigenen Völker ist im Rahmen des UNFCCC indigener Aktivismus auf globaler, transnationaler und lokaler Ebene entstanden. VertreterInnen indigener Völker ergriffen die Initiative: Sie schufen 2000 ein Forum für indigene Völker – das *International Indigenous Peoples' Forum on Climate Change (IIPFCC)*. Es erhielt sofort den Beobachter-Status und ist indigenen AktivistInnen zugänglich, die sich für Rechte indigener Völker in den Verhandlungen einsetzen. Auch haben transnationale und indigene AktivistInnen Gegenbewegungen auf lokaler Ebene mobilisiert, die verstärkt auf den menschenrechtlichen Aspekt von REDD+ hinweisen. Die *Tarapoto-Erklärung*²⁴ z. B. artikulierte im Jahr 2008 Kritik und Besorgnis über die geplante Einführung von REDD+ und auch die Sinnhaftigkeit von REDD+ als Mittel der Klimagestaltung. Mehr noch: Netzwerke von AktivistInnen und die Weltbank haben das traditionelle Wissenssystem (IK) als Schlüsselrolle für den Walderhalt und Klimaschutz aufgenommen. „Indigenous people have a sacred relationship with forest lands. Societies have to work with them in making plans about forests“, betont Peter Walpole, Direktor des *Asia Forest Network*.²⁵ In ihrem Entwicklungsprogramm hat die Weltbank das IK als Grundlage für die Armutsbekämpfung in Afrika miteinbezogen (vgl. Gorjestani 2002). Allerdings bleiben die Effekte solcher Zusammenarbeit in manchen Kontexten zunächst ambivalent: Die Gefahr der Marginalisierung indigener Völker bleibt bestehen trotz der institutionellen Anpassung. Dies führt Anne-Marie Jackson (2008: 12-13ff) im Blick auf Neuseeland an. Sie weist darauf hin, dass der Erfolg des taiāpure-Ansatzes in Neuseeland zwar die Inklusion der Weltanschauung der Māori-Community im Bereich Fischerei zugunsten des Umweltschutzes begünstigt hat. Jedoch werde die verschleierte Machtbeziehung zwischen den Behörden und der Māori-Community ausgeblendet; das berge die Gefahr einer weiteren Marginalisierung der Māori-Community. Im Sinne des Gramscianischen „Hegemonie“-Begriffs verweist diese verschleierte Machtbeziehung auf das Fortbestehen einer Machtkontrolle, in der „the powerful control the powerless by romanticising the powerful's values and concepts and in doing so; the powerless take them on and espouse the values as

24

Tarapoto

Erklärung

Peru.

http://www.katoombagroup.org/documents/newsletters/TA_vol2_no3/Tarapoto_Declaration_PERU.pdf (abgerufen am 15. 06.2015).

25

Zitiert im Marwaan Macan-Markar (2007): „Environment: Indigenous People Make Best Forest Custodians,“ <http://ipsnews.net/news.asp?idnews=39701> ((abgerufen am 24. Oktober 2007).

their own, and as such, in fact further the grip of the powerful group" (Jackson 2008: ebd.).

Überlappende Dimensionen zwischen Menschenrechten und nachhaltiger Entwicklung

Die Analyse der diskursiven Entwicklung und der Beispiele Risiken- und Vulnerabilitäts-Evaluation in der Praxis von *global health* und REDD+Governance hat gezeigt, dass überlappende Dimensionen zwischen Menschenrechten und nachhaltiger Entwicklung auf normativer, konzeptueller und praktischer Ebene deutlich erkennbar sind (siehe **Tabelle 3.1**). Es fällt auf, dass der Artikulationsprozess der Normen in beiden Regimen auf internationaler und regionaler Ebene stark verschmolzen ist: Die Humanisierung der Klimapolitik greift menschenrechtspolitische Aspekte des Umgangs mit den verletzlichen Gruppen wie indigenen Völkern und ärmeren Bevölkerungsgruppen auf, nämlich Diskurse über die Rechte auf Gesundheit, auf Entwicklung und auf eine gesunde Umwelt. Bei der Gerechtigkeitsfrage sowohl im Bereich „global health“ als auch in den Klimaverhandlungen wird besonders auf Teilhabe-Rechte der betroffenen bzw. verletzlichen Gruppen hingewiesen. Auf praktischer Ebene ist zu vermerken, dass Fachexpertinnen in den involvierten Bereichen institutionelle und wissenschaftliche Arbeiten geleistet haben zur Analyse der Umweltrisiken und Vulnerabilitäten im Bereich „global health“ und zur Einführung der REDD+ Mechanismen. Dadurch sind neue Ansätze und Instrumente entstanden, um die Realisierung der *Co-Benefits* hinsichtlich des Menschenrechtsschutzes und Nachhaltigkeit in der Klimapolitik zu begünstigen. Im Bereich „global health“ wird zwar bemängelt, dass im Allgemeinen den negativen Folgen des Klimawandels auf die Gesundheit wenig Aufmerksamkeit geschenkt wird. Dennoch hat die Ebola-Krise (2013-2014) eine bittere Lehre erteilt: Präventive Bildungsmaßnahmen, Informationsarbeit, integrierte transdisziplinäre Zusammenarbeit sind von zentraler Bedeutung, um den Schutz des Rechts auf Gesundheit sowie die Reduzierung der sozioökonomischen und ökologischen Vulnerabilitäten zu ermöglichen. Hinzu kommt, dass trotz der Heterogenität der Meinungen und der daraus resultierenden defensiven Strategie innerhalb der *epistemic community* die Bedeutung des traditionellen Wissens (IK) langsam einbezogen wird in den Kampf gegen Klimawandel und Armut. Schließlich läßt sich feststellen, dass sich in den nationalen Aktionsprogrammen und lokalen Gegenbewegungen Strategien der *Verbündung* gegen externe ökonomische Dominanz und Intervention entwickelt haben.

Tabelle 3.1: Normative und empirische Überlappungen zwischen Menschenrechten und nachhaltiger Entwicklung (Quelle: eigene Darstellung)

	Public Health and disease prevention	REDD+
International human rights law	ICESCR (the rights to health, to education and to water); ICCPR	ICESCR; ICCPR; UN Declaration of the Rights of Indigenous Peoples; the right to development
International environmental law	UNFCCC; Kyoto Protocol	UNFCCC; UNFF; UN Convention to Combat Desertification and the Convention on Biological Diversity
The function and contribution of epistemic community	Risk and vulnerability assessments (Turner II et al. 2003; Patz et al. 2005; Covats et al. 2005)	Legitimation strategies and use of emotionality and metaphor (Lefsrud and Meyer 2012)
Non-state actors activism	Globalization of public health; global awareness and action	International indigenous Peoples' Forum on Climate Change (IIPFCC)
(Inter)governmental action plans and policies	Health Impact Assessment (HIA); Dialog zwischen Gesundheitsfrage und Klimawandel	Ad-hoc Working group on long-term cooperation action (AWG-LCA)

Schlußfolgerung

Mittels der Analyse der diskursiven Entwicklung, der Risiken- und Vulnerabilitäts-Evaluation und der REDD+Mitigationsmaßnahmen hat der Beitrag gezeigt, dass die überlappenden Dimensionen zwischen Menschenrechten und nachhaltiger Entwicklung die Entstehung und Artikulation neuer Ansätze für politische Aktion in der Klimapolitik ausgelöst haben. Während im Bereich „*global health*“ einige pragmatische Ansätze bei der Vulnerabilitäts-Forschung entstanden sind, besteht die Herausforderung darin, inwieweit die Erkenntnisse aus der Vulnerabilitätsanalyse in die Governance-Praktiken aufgenommen werden können für die Entwicklung von Anpassungsmaßnahmen und eines widerstandsfähigen Systems (Adger 2006). Allerdings ist die Wirkung solcher politischen Programme für den Menschenrechts- und Umweltschutz umstritten. Es zeigte sich, dass internationale Kooperation zugunsten des Ausbaus eines CO₂-Handelssystems und innovativer Investition ökonomische und ökologische Nachhaltigkeit fördern kann -

zugunsten des Schutzes wirtschaftlicher Rechte und des Rechts auf Entwicklung. Jedoch ist die Frage nach der Repräsentation verletzlicher Gruppen und ihrer Interessen in den einschlägigen internationalen Gremien und Foren zum Klimawandel noch nicht institutionell geklärt. Ähnliches gilt auch bei der Entwicklung der Anpassungsmaßnahmen für eine verbesserte nationale Gesundheitsversorgung. Dort ist marginalisierten Gruppen oft der Zugang zu Ressourcen und die Partizipation an Entscheidungsprozesse verweigert. Daher plädiert Theodor Ratgeber (2010) für eine stärkere substanzielle Partizipation indigener Völker und sieht eine geeignete Strategie dazu in der Mobilisierung im Zeichen des Menschenrechtsparadigmas. Ausgehend von diesem Paradigma benötigt das Klima-Regime ferner eine dezentralisierte demokratische Governance-Struktur (vgl. Lidskog und Elander 2010), in der die betroffenen und nicht selten marginalisierten Gruppen mittels Transfer von Know-How und gerechter (*equitable*) Partizipation befähigt werden, präventiv gegenüber Risiken und unvorhersehbaren Klima-Katastrophen zu handeln.

Für die indigenen Gemeinschaften zeigt sich eine mögliche Form solcher dezentralisierten demokratischen Governance in der Idee einer *nachhaltigen Selbstbestimmung* über eigenes Land im Bereich des Wasser-Managements und der Fischerei. Gestützt auf ihr IK-System und innovative Technologie wird indigenen Völkern der Status der Ownership ihres Lands gewährleistet für die Durchführung eines nachhaltigen Managements ihrer Lebensgrundlage. Dadurch können substanzielle *Co-Benefits* erzielt werden, nicht nur im Blick auf den Umwelt- und Klimaschutz, sondern auch zur Förderung der Rechte indigener Völker (vgl. Cortassel 2008: 108f.).

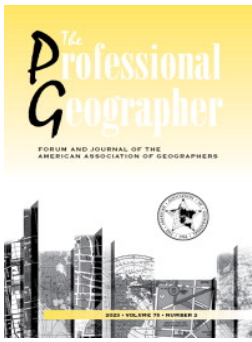
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Rethinking Human–Nature Relationships: Daoism’s Contribution to Transcultural Sociotechnical Imaginaries

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Humans’ imaginaries toward nature have profound implications for environmental governance and natural resource management strategies. Driven by relentless technological advancement, such imaginaries have undergone a series of transformations. Through a phenomenological and social constructivist perspective, this article aims to explore and explain the dynamics of transcultural sociotechnical imaginaries found in the connection between Western posthumanism’s relational perspective on humans, nonhuman entities, and agency, on the one hand, and the emphasis on human–nature unity in the Chinese Daoist tradition, on the other hand. We argue that, by displacing an anthropocentric and Eurocentric frame, such transnational deliberation efforts grounded in a relational, geo-centered, and mediated frame offer planetary viewpoints to tackle the vast challenges currently faced by humanity. This discourse provides an alternative way of thinking to approach current environmental governance and natural resource management practices in the context of the increasing interconnectedness and cultural plurality of globalization. Hence, this article suggests exploring the potentials of the ideas of dwelling, landscapes, new ecologies, and mutual embeddedness suggested by Daoism and critical more-than-human geography at a local scale, which will pave the way for pragmatic pluralism and cultivate new attitudinal dispositions and capacity for systemic change. **Key Words:** Daoism, environmental governance, human–nature relationship, postenlightenment, sociotechnical imaginaries.

The human–nature relationship (HNR) forms the nexus of human geography and the emerging sustainability science (Pattison 1964; Kates et al. 2001). The way it is perceived and framed has profound implications for environmental governance and natural resource management strategies. Although the shared sociotechnical imaginaries that see the design and fulfillment of scientific and technological projects as a major driver of modernity in promoting humans’ welfare, diverse views of the HNR in different cultural traditions have shaped different policy responses in tackling societal and environmental challenges. For example, divergent responses to the COVID-19 pandemic in the East and West can be attributed to the influence of different cultural values (Velamoor and Persad 2020; Anttiroiko 2021). As for environmental governance, anthropocentric management practices based on dualistic human–nature perceptions differ vastly from ecocentric practices that emphasize the intrinsic value of nature (Kortenkamp and Moore 2001; Nisbet, Zelenski, and Murphy 2009). Meanwhile, the disillusionment with the exploitation of the world brought by technological mastery found in the Western Enlightenment tradition has triggered a series of post- and transhumanist movements,

attempting to redefine the humanist project in relation to nature, particularly in light of transcultural dialogue with the other. Transhumanists’ pursuit of self-perfection through technological advancement might echo alchemy in folklore and religions in traditional societies. Similarly, the posthuman convergence agenda that describes the inextricable entanglement between humans and the world perceived as everything in shaping our lives is associated with East Asian Daoism’s pledge to align human behavior with the flow of nature. Such a transcultural dialogue aimed at overcoming the human–nature antagonistic relationship and creating a posthuman subject could pave the way for highlighting blind spots of socioeconomic practices rooted in Western human-centered thinking and providing new sociotechnical imaginaries (Jasanoff and Kim 2009; Wenning 2014; Ni 2020).

In this study, we address the dynamics and potentials of new transcultural sociotechnical imaginaries, particularly in terms of the role the Daoist tradition can play in the process of looking for solutions to govern and sustain the human–nature system. We highlight how the Daoist’s views can address the drawbacks and discontents found in the European modernity project, driven by human-

centered rationalist thinking. As both traditions have contrasting positions in terms of perceptions of the HNR, an examination of how these different perceptions interact with technology against the backdrop of posthuman convergence has the potential to weave compelling new sociotechnical imaginaries as powerful resources for policy action. Inspired by several philosophical and transnational critiques of environmental justice (notably posthumanism's relational perspective on humans and nonhuman entities), this study pursues two aims. First, we use several key aspects of phenomenology and critical geography to trace the changing HNR influenced by technology and science along diverse intra- and transcultural interactions, with a focus on socially constituted human experiences with nature (Bird 1987). Second, the study aims to uphold the relevance of transcultural sociotechnical imaginaries by presenting what Daoism can offer (e.g., uselessness and situated affectivity amidst more-than-human materialities and embeddedness activism; see Ho 2007; Kwek 2018).

We argue that, by displacing an anthropocentric and Eurocentric frame, transnational deliberation of sociotechnical imaginaries grounded in a relational, geo-centered, and mediated frame offers planetary perspectives to tackle the crisis of "the human." Such efforts, made possible by the increasing interconnectedness and cultural plurality of globalization, address the limits of current environmental governance practices. They also take seriously the ideas of dwelling, landscapes, new ecologies, and mutual embeddedness on a local scale, as suggested by Daoism and critical more-than-human geography, whose resources for rethinking the HNR have not yet been fully exhausted. Hence, the transcultural encounter proposed in this study paves the way for pragmatic pluralist thinking and cultivates new attitudinal dispositions and the capacity for systemic change.

To advance our arguments, we adopt hermeneutics and content analysis based on primary and secondary sources (e.g., the philosophical works of representative thinkers, empirical studies of ecological engagements, and policy reflections). The following sections first highlight the meaning of sociotechnical imaginaries shaped by technology and science from a phenomenological and social constructivist perspective. We then demonstrate how such imaginaries have evolved through intra- and transcultural reflections, and how Daoism's egalitarian agenda has inspired critical environmentalists and thinkers seeking to overcome the limits of Western rationalist paradigms and to highlight posthumanist movements' pitfalls of perpetuating Cartesian dualism while tackling technological and ecological challenges. The final section summarizes the study's claims and discusses their implications.

Understanding Different Human–Nature Relationships

Throughout human history, nature has been imaginatively constructed in various ways, including as an outward reality existing in itself, an immense reservoir of analogies, a mysterious (mother) earth nurturing and killing nonhuman and human beings (observed by primordial society), a kind of stimulant for human endeavors, and a visible universe containing images, signs, and resources for exploitation (both in the Chinese Daoist and European contexts). These imaginaries, reflected in different culturally specific stories and folklore, constitute an important mediating force in shaping the human experience of exploring and transforming the environment while pursuing humans' (instrumental) goals and dreams. With the development of science and technology, the controlling image of the European Enlightenment modernity project has become the defining model, both in terms of radically separating humans from their environment and of promoting the idea of the sacredness of nature (Williams 2010).

Such dynamics of technology's influence on the HNR can be approached from a phenomenological and social constructivist perspective by using the concept of "sociotechnical imaginaries" (Jasanoff and Kim 2009) as an overarching frame. This concept, as suggested by Jasanoff and Kim (2009), builds on "the growing recognition that the capacity to imagine futures is a crucial constitutive element in social and political life" (120). Several studies have recurred to this concept in highlighting how imagination can function as producing as a means of "systems of meaning that enable collective interpretations of social reality" (Jasanoff and Kim 2009, 122). For instance, Miller (2020) showed the realization of imaginaries of sustainability found in London's and New York's "smart city" projects. Meanwhile, existing studies have not drawn sufficient attention to the role of technology in changing the imaginaries of the HNR in a more culturally sensitive manner. Our study addresses this deficiency and proposes two approaches to shed light on possible sociotechnical imaginaries with the consideration of several culturally specific features. First, echoing Daoist thinking that views nature as a subjective power, radical phenomenology suggests taking seriously "the things themselves." That is, this approach offers an opportunity to investigate the "facticity" of human existence in relation to nature by contesting the ontological outlook of (post)humans as self-interested, autonomous subjects in the technological system. The human–technology relationship is regarded as a mediator in shaping the discourses of the HNR (Coeckelbergh 2011). Technology can thus be approached in three different ways: (1) embodiment (technology being part of us); (2) hermeneutic (as an in-between tool for

interpreting nature); and (3) alterity (being the other) relationships. In particular, this radical phenomenological method considers literary experience as an event of expanding the horizons of humans' imaginaries while pondering the world and reflecting on the meaning of humans' existence.

Second, symbolic interactionism, with its theories of action and agency (Blumer 1980), provides another powerful tool to highlight the dynamics of the HNR shaped by technology and culture. It assumes that the process of social interaction produces the meaning of things. Meanings are modified through an interpretive process that involves self-reflective individuals symbolically interacting with one another (Denzin 2004). Herein, *agency* constitutes the locus of action, "whether in the person, in language, or some other structure or process" (Denzin 2004, 81). *Human action* then produces experiences that are filtered and selected reflexively as meaningful imprints. What counts is the recognition of the place in which an autonomous, reflexive individual (re)constructs and assesses his or her actions in a meaningful manner. For instance, the concept of landscape is used to signify the symbolic environment created by a human act of conferring certain meanings on nature and the environment (Greider and Garkovich 2010). Attention is directed toward seeing how the physical environment is transformed into landscapes that "reflect people's definition of themselves and on how these landscapes are reconstructed in response to people's changing definition of themselves" (Greider and Garkovich 2010, 1). The strength of this phenomenological social-constructivist perspective lies in its sensitivity to the specificity of world phenomena in diverse contexts and scales. In the next section, we examine how it might be used to analyze transcultural encounters while dissecting the dynamics of the HNR as cultural resources for environmental governance.

Tracing the Human–Nature Relationship Along Intra- and Transcultural Reflections and Encounters

Culture in the age of information technology can no longer be thought of as comprising "islands" or "spheres" that constitute particular ways of life. Within the multicultural conglomerate of the global village, the emergence of an altered cultural constitution has rendered classical boundaries (e.g., modernity vs. orientalism) elusive, thereby challenging both the indigenous perceptions of HNR and the prevailing thinking of modernity. The term *transculturality*, as Welsch (1999) put it, best represents this new form of (post)modern cultural conditions, in which mixes, permeations, and entanglement constitute the structure of individuals' identities and lifestyles. For

instance, the imminent transformation of the human body through genetic engineering–nanotechnology–robotics (GNR) technologies will inaugurate a posthuman future in which culture might either have to adapt to this process or sink into oblivion. From a broader historical perspective, the evolution of Western cosmological and metaphysical thinking has displayed an inclination to refer to non-European origins, thereby launching a dialectic process in reflecting on and challenging prevailing ways of thought, and helping stimulate change (Clarke 2002). The following two subsections show how such intracultural dialectic interactions within the European Enlightenment tradition occurred and how Daoism as an exotic attractor has helped shape transcultural sociotechnical imaginaries in support of critical post-humanist endeavors to overcome dualism and to pursue both human and nonhuman flourishing as an integrated proenvironmental agenda.

Disillusionment with Technology in the European Enlightenment Tradition

Technology has been a driving force in shaping the normativity, structures, and functions of the European modernity project, which is characterized by a progressive, dialectic process. It has proven to be a key reference for the industrial and technological expansion that has taken place across the globe. At the same time, the Enlightenment modernity project and its dominant paradigm—emancipation from and control of nature, technological rationality and reductionism, and the creation of a capitalist-driven second nature—have been subject to several stages of subjectivization and reification with several concurring claims and discontents.

First, the triumph of science and technology in discovering nature and improving human life generated the great nature–culture divide by shaping humans' perceptions of their selves and societies "as rather different from nature, and rather special" (Jones 2009, 309). In many ways, technology supports humans' yearning for demystifying and controlling nature, as seen, for example, in the photographs of the earth taken from space and the ensuing rise of cartography, geographic information systems, remote sensing, and physical geography. Some Enlightenment thinkers, such as Adam Smith, insisted that ethics must be derived from "man as man" and attempted to ground ethics in a "scientific" humanist approach.

Second, some atypical Enlightenment thinkers (i.e., the Romantics), such as Jean-Jacques Rousseau and Jonathan Wordsworth, underlined the importance of passion for nature. They embraced the idea of the "noble savage," admiring the lifestyles of native peoples as well as the idea of what Edmund Burke called "second nature," which suggests the cultivation of human nature by custom, habit, and tradition (Chandler 1984; Bruiger 2006). In the

second half of the nineteenth century, the construction of “second nature” as a projection opening onto a vast, wholly aestheticized landscape (e.g., the innovative symbolism in Charles Baudelaire’s poetry and Jules Verne’s scientific romance *Paris in the Twentieth Century*) was a compelling project for romantic writers, enabling them to escape the bitterness of bourgeois civilization (Benjamin 2006; Williams 2010). The triumph of “technological rationality” during the blossoming modernization of the twentieth century, however, has distorted the Romantics’ imagination of a new world with second nature. Instead, as the ideal of second nature has been driven by the pursuit of production as commodities, human activity has changed the earth’s surface by generalizing all capitalist relations with nature, thereby reinforcing the transformation of natural resources into organs of the human will over nature, or of human participation in nature (Moored et al. 2008; Smith 2010). The exaggeration of human activity at the expense of nature, for instance, has caused degrading effects on many small cities’ situations in the Global South. Despite political decentralization efforts, neoliberal governance shaped by the interplay of regional and local politics has failed to address the challenges faced by those cities, namely, environmental problems, underdevelopment, a lack of financial and human resources, and a lack of political clout (Véron 2010). Similarly, Genus et al. (2021) found that European energy systems continue to be subject to a techno-economic imaginary that has shaped not only the expectations of energy research and its conduct, but also the integration of social sciences and humanities research with energy policymaking, including its framing and policy focus.

Third, postmodernism and later the trans- and posthumanist movements, address the crisis of rationality and human alienation from nature as expressions of discontent with the failure of Enlightenment project (Watson 1984; Habermas 2014). They attempt to develop new sociotechnical imaginaries where human capacity can freely expand in a way that allows the construction of a sustainable transformation framework, including the introduction of methods such as the performativity of expectations by finding space and new approaches reforming nonhuman actors’ behaviors (e.g., urban water governance through sustainable drainage systems as less repressive disciplinary mechanisms; Benko and Philosophy Documentation Center 2005; Jones and Macdonald 2007). Unlike the human/culture–nature distinction, the political implications of the posthuman convergence as a process of becoming are found in how it incorporates nonhuman entities and agents into a political arena by opening up alternative sociotechnical and agricultural imaginaries, (re)shaping competing worldviews on this interface (Neimanis, Åsberg, and Hedrén 2015; Chen 2017). Nonetheless, despite

posthumanists’ endeavor to develop a material-semiotic mode of responsivity as one instance of gut sociality toward more-than-human beings, critics unravel the posthumanist convergence agenda, remaining trapped in Cartesian dualism that leaves humans relationally superior (Neimanis and Philosophy Documentation Center 2013; Kessler 2019).

In view of the contestation of binaries and the ceaseless quest to fulfill modernity’s ideal, several intercultural encounters have witnessed the emergence of novel approaches understood broadly as either pro- or antitechnology. Inspired by images, metaphors, and ideas from Daoist texts, phenomenological thinkers such as Martin Heidegger presented the idea of “dwelling,” which emphasizes the coconstitution of subject and object, self and environment. It anticipates a “poetic way of dwelling immanently within the world” (Nelson 2014), which upholds the “spontaneity” of living in the technological world, together with other beings (Cooper 2014). Furthermore, postcolonial theory problematizes the Eurocentrism of technological rationality and “the epistemic violence created by framing the Anthropocene as a universalizing and silencing concept” (McEwan 2021, 77). In a similar vein, postmodern feminism and posthumanists develop tools to address internal fractures within the humanities. For example, the introduction of the idea of “leakiness” is deemed to provide a compelling ground for postmodern ethics that radically questions dualistic schemes of thought (e.g., man/reason/culture vs. woman/matter/nature; Braidotti 2015, 2019). Finally, a series of prominent UK smart city initiatives might prove to be courageous forerunners by implicitly rejecting the strong normativity of traditional technologies of urban planning and adopting an ontology of efficiency and emergency that introduces initiatives as bundles of experimental local practices oriented toward societal reordering (Cowley and Caprotti 2019). Despite these new possibilities provided by the critical posthuman agenda and the tools it has developed, comprehensive ethics are still needed to help humans better tackle multiple technological challenges and interact with more-than-human entities in a digital world (Benko and Philosophy Documentation Center 2005).

Contribution of the Chinese Daoist Tradition in Shaping the Novel Terrain of Transcultural Sociotechnical Imaginaries

At a historical crossroads in which humans face multiple uncertainties and climate change challenges, efforts to resume such intercultural encounters and rethink what various non-European traditions have to offer in cultivating pluralist views of the HNR and promoting human and nonhuman flourishing as an integrated agenda are already overdue. Daoism, an indigenous Chinese religion and philosophical

tradition represented by the two thinkers Laozi and Zhuangzi, appears to be in a facilitating position to connect with posthumanist aspirations and fulfill those tasks. As noted by Stables (2017), despite those critical intracultural discontent movements against technological rationality in the Western (post-)Enlightenment tradition, the posthumanist's convergence agenda still remains trapped in entrenched binaries with the danger of lapsing into antirealism or ignoring the complexity of current realities. In this regard, the Daoists' doctrines and practices might provide a helping hand to address posthumanists' fallacy.

From a historical perspective, together with Confucianism, Buddhism, neo-Confucianism, and popular religious practice, Daoism as part of Chinese philosophical traditions represents a completely different worldview, one that is based on the ideas of harmony, human perfectibility, and system fit with nature. During its modernization process, however, modern China has increasingly adopted pragmatic approaches with worldly and utilitarian elements, leading to environmental degradation. Its experience with ecological disasters in the 1960s caused by building hydrological infrastructure like large-scale dams to control floods and irrigate farmlands has proved to be a serious deviation course against its own tradition (Marks 2011).

To date, Daoism (or Taoism) offers a cosmic landscape whose worldview upholds the core value of *Ziran* (meaning literally “that which is so of itself,” similar to the self-identification of deity [*causa sui*] in the Western monotheist tradition) and the idea of the unity of humans and nature (*Tienren Heyi* 天人合一). As such, it contrasts with European human-centric thinking, the legalism, and dominant Confucianism in the Chinese tradition, which is concerned with regulating a hierarchical social order. The last passages of Chapter 25 of Laozi's *Daodejing* (the founder of Daoism and his classical work) demonstrate how the Dao (the way) as a core concept of Daoism functions in connecting humans with the earth, heaven, and nature's rules:

Humans have the earth as their model,

The earth has heaven as its model,

Heaven has the Dao as its model,

And the Dao has its model from *Ziran* (*Dao fu ziran*).

Derived from this cosmological understanding of the HNR, Daoism prominently upholds noninstrumental values in terms of the use of technology. Its technological paradigm provides a cosmic landscape shaped by two contrasting but complementary and interdependent natural forces, black and white (*yin*

and *yang*) in the universe. *Yin* represents darkness, passivity, femaleness, coldness, and so on, whereas *yang* represents light, activity, maleness, heat, and so on. Their correlations and the varying degrees of the decreasing force on the part of *yin* and the correspondingly increasing force on the part of *yang* (or inversely) constitute nature's basic rules serving to guide human affairs. The dialectic logic of the *yin–yang* forces echoes posthuman attempts through destabilizing the limits and symbolic borders posed by the notion of the human and grappling with the meaning of coexistence with nonhuman entities and agency. Following nature's rules, this paradigm is thought to enhance the efficiency of human action and achieve well-being. One of Zhuangzi's stories illustrates the merits of this alternative conception of efficiency, which provides insightful implications for contemporary environmental governance.

The story involves Zhuangzi's warning against the danger of developing a “machine heart” (*jixin*) through the (over)use of technology. The story dates back to the spring and autumn periods (c. 771–476 BCE), and describes how a businessman suggested to a farmer that he use a mechanical device to replace primitive and labor-intensive irrigation practices. The farmer, however, countered with the argument that the usage of machines can lead to “machine heart” (i.e., the way humans think and act is changed by their technology use); thus, they chose not to use the device. This story opens up several issues about the character and role of technology in the Daoist tradition, which at first glance might appear to be technology-averse. Zhuangzi's message is clear: The use of technical devices is morally dangerous and could alter beliefs in and philosophy of nature. This story should not simply be interpreted as articulating Daoism's antitechnology position, however. Rather, Daoism places respect for the natural laws (i.e., Dao) at the forefront of guiding human behavior (Graham 2001).

Based on this technological paradigm, Daoism advocates *wuwei*—that is, to let “nature take its own course” and to “go with the (natural) flow”—as a method and an attitude. It praises the virtue of “unassertive action” and “the art of doing nothing.” With the idea of nonaction, Daoism aims to avoid the pitfalls associated with the socially dominant paradigm of appropriation and control. Instead, it offers a novel modus operandi in which humans are asked to leave nature alone; to adopt a patient, gradual, and enduring attitude that is attentive to the local and the particular; and to be willing to develop environmental ethics with the ideas of “hybridity” and “diversity in unity” (Girardot, Miller, and Xiaogan 2001).

Recent environmental movements have returned to conceptual resources provided by the Daoist tradition that place economics within a wider socioecological fabric, emphasize efficient technologies,

challenge metaeconomic assumptions, and advocate systemic wisdom (Girardot, Miller, and Xiaogan 2001; Alexander 2008). Nature is regarded as a subjective power that informs human life (Miller 2013). In following this path, not only do humans need to “save,” “live in harmony with,” or even “get back to” nature, but they are also asked to be receptive to experiencing the world as being-under-way, to cultivate an ecological consciousness, and to introduce “deep ecology” that respects nature as it is (Cooper 1994; Nelson 2014; Zhou and Huang 2017). Several contemporary initiatives have adopted the idea of “unassertive action” (e.g., passive conservation strategies) to maintain the sustainability of ecosystems and restore biodiversity (Guerrero and da Rocha 2010; Benayas and Bullock 2012; Bechara et al. 2016). For example, the Half-Earth Project, with its proposal to leave half of the Earth’s surface as a human-free natural reserve to preserve biodiversity, partially echoes the philosophy of leaving nature alone (Wilson 2016). Furthermore, natural farming (Fukuoka 1985) and “zero budget” natural farming (Khadse et al. 2018) aim to completely end our reliance on chemical inputs by drastically reducing human interventions during crop growth. These practices seek to unite humans and nature, echoing, consciously or unconsciously, the Daoist tradition, which assumes that nature is inherently capable of recovering from human actions and influences (e.g., human-induced climate change; Weller et al. 1998). All these initiatives present a strong contrast with the proactive market- and technology-driven solutions, such as payment for ecosystem services to preserve natural resources, carbon capture and sequestration to mitigate climate change, and agricultural bioengineering to address the food security issue.

In particular, inspired by Daoism, alternative visions of the self in relation to nature and technology have opened up new spaces for transcultural dialogue, in which different imaginaries found in diverse indigenous knowledge systems can be shared. In so doing, the European Enlightenment’s modernity project struggles to renew its unfulfilled mission by adopting a postanthropocentric perspective, in which the identity of humanistic practices, including the design of environmental governance, will be reshaped by a posthuman subjectivity stressing “heteronomy and multifaceted relationality” (Braidotti 2015) rather than autonomy, objective rationality, and self-referential sovereignty.

Herein, the Daoist tradition can support the posthuman materialist agenda by critically reflecting on its decisions for possible paradigm shifts. It has its roots in relational ontological and epistemological paradigms: Nature is associated with multiple imaginaries, one of which is the human striving to achieve oneness and unity with nature. Both humans and nonhuman beings are viewed as equally active

and interactive agencies; this view echoes the naturalist and romantic passions for nature in the European Enlightenment tradition. This way of thinking can enable humans to elaborate on environmental ethics that focus on the local as well as the particular through cherishing the value of “diversity in unity.” In particular, it underlines the importance of the principle of unassertive action (*wuwei*) and suggests the adoption of the Daoist’s technological paradigm to guide human action.

In sum, the examination of the development of the HNR and how it is influenced by technology through transcultural encounters has revealed the potential of Daoist contributions to consequently pursuing alternative ecopolitics and methodologies in connecting with posthumanist ecocentric endeavors. The UK smart city initiatives have their counterparts in Daoism’s emphasis on the local and particular. Although it has a constant struggle with binaries, the increasing relevance of the posthuman relational agenda in the European (post)modern tradition, which pledges to change the scientific rules of species supremacy and rejoices in the radical otherness of nonhuman species as a source of wonder and new beginnings, unambiguously echoes Laozi’s and Zhuangzi’s advocacy of unity with nature. Such convergences and connectivity have often occurred in transcultural spaces driven by a common aspiration to save humans from their present predicament and uncertainty and to liberate them from the specter of human extinction vis-à-vis the multiple current environmental and technological challenges.

Conclusion and Discussion

This article aims to examine the changing HNRs influenced by technology and how Daoism as a non-European thought can contribute to shaping this process. We find the merits of transcultural dialogue in expanding humans’ sociotechnical imaginaries guided by Daoism’s rules and driven by posthumanists’ proenvironmental passions through experimenting with a new onto-epistemology. The methods it adopts include alternative paradigms for the idea of efficiency, deep and new ecologies (as found in the Daoist tradition), radical hermeneutics, mutual embeddedness (Tang 2019), and the ideas of how to redefine the self in relation to the digital environment and nature from a postanthropocentric perspective. The ensuing cognitive and paradigm shifts inspired by such efforts, as already found in critical geography and the emerging more-than-human geography (Panelli 2010) might further devise alternative governance systems capable of coming to terms with both global social and environmental changes.

At the same time, caveats concerning the question of who defines the frame of the worldview and establishes the criteria and norms of governance should not be ignored. At stake is the embracing of a pluralist onto-epistemological reasoning that encourages future research to engage in creative sociotechnical imaginaries through following Daoism's rules and the posthuman ethical imperative. Such research endeavors should continue to displace standardized mechanisms while tackling the multiplicities and materialities of human affairs, with the ultimate goal of redesigning sustainable environmental governance. The Daoist emphasis on the local and the particular (e.g., hybrid management) could possibly provide useful guidance for a well-socialized dualist mind to step out of its comfort zone and focus on the small-scale effects of global activity at the local level. ■

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Bridging Ethics and Cross-Border Reproduction Technology Through Transnational Health Governance? A Materialist Feminism and Philosophical Reflection

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To what extent can innovative reproductive technology contribute to meeting the needs of intended parents and to address women's health and care issues in different milieus? This paper adopts a combined critical materialist feminism and philosophical perspective and examines the discourses and policy developments found in the cross-border assisted reproduction technology (ART), the US's and the World Bank's development and family planning policy in Africa. The paper argues for re-framing an ontological and epistemological space of 'the political' which can provide a robust ethical basis for accommodating diverse conflicting requirements and setting rules in a transnational shared health governance.

Keywords: transnational health governance, ethics of respect, responsibility and natality, bioethics and assisted reproductive technology (ART), donors and family planning policy in Africa

INTRODUCTION

Reproduction as a site of biopolitics and technological innovation has seen unprecedented dynamics accompanied by paradoxes and ongoing tensions in the past decades. Analysts agree that, regardless of anti- or pro-natality measures, those discourses involve different biopolitical rationalities ranging from early neo-Malthusianism intertwined with strategies of (nationalist) socioeconomic development, feminist health activism to marketization and regulation (Roberts, 2003; Waldby and Cooper, 2006; Frey, 2011; Murphy, 2012; Klich-Kluczewska, 2017). States and donors underlined the successes of twentieth-century population programs found in a moderate and rapid decline in the birth rate in those countries and regions which implemented coercive and selective measures through education work and contraceptives. Nonetheless, population control and the related reproductive health issues have found no global consensus whose discourses remain heavily laden with ideology, emotion and ethical tensions (Connelly, 2008, p. 368-369; Solinger and Nakachi, 2016, p. 20, 22-26). Particularly, controversies accelerate while addressing the question of regulating rapidly developing assisted reproductive technologies (ART). They are associated with commercial practices that appeal to same-sex couples and women with infertility problem and deemed to promote their reproductive goals and well-being. At stake is the challenge how to remap social contracts and balance a complex matrix of competing claims of dignity of personhood in terms of reproductive freedom and justice¹ and resource-allocation (Amironesei and Bialecki, 2017, p. 3). Furthermore, many developing countries (notably in Sub-Saharan Africa (SSA)) continue to suffer from weak provision of reproductive health service due to the lack of resources affected by the US's recurring ideological opposition to abortion. Even the feminist contribution to empowering women might have

become part of biopolitical arrangements as found in its politicized discourses regarding technical details of reproductive health (Murphy, 2012; Takeshita, 2014, p. 250-251).

In view of these multifaceted controversies, ethical tensions, policy paradoxes and ambivalence, we are intrigued by the concern whether reproduction issues can be approached differently in today's high-tech globalized world. The questions arise: To what extent can innovative ART suit the needs of intended parents and to efficiently address women's health and care issues in different milieus? Can a transnational health governance system derived from a combined ethico-onto-epistemology (Barad, 2007) with transformative agendas (i.e. an ethic of care; redefinition of the relationships of personhood, society and technology as well as sustainable bioethical governance) provide sources to address those tensions and paradoxes?

This paper contributes to continuing ongoing reflection found in the existing literature. It focuses on the hidden face of systemic power (Stone, 1980) and explores the space of an ethico-onto-epistemology in multiple complicated webs of biopolitics. Instead of looking at individualized fragmented acts of reproduction, it encourages to remap the nature, logic and purpose of reproduction in terms of its assemblages, change, multiplicities, materialities, and processes (Deleuze and Guattari's *A Thousand Plateaus*, 1987; Taylor and Ivinson, 2013). In so doing, it pursues two main objectives. First, it aims to uncover those things that "haunt" forms of knowledge production and representation (e.g. objectification of infertile parents and surrogates; deletion of female agency etc.) and to raise awareness against the normalization of biopolitical automatism human persons and society are subjected to. Secondly, it aims to re-think the co-constitutive entanglement between knowledge domains surrounding reproduction issues and to highlight the manifestation of open and heterogeneous configurations and resources a transnational health governance frame can provide through re-designing its onto-epistemological reasoning. Inspired by the ideas of freedom intertwined with "natality" found in Arendt's political ontology (notably *The Human Condition* 1998, see Diprose and Ziarek 2018), Emmanuel Levinas' notion of responsibility towards "the Other", Derwall's reflection upon "respect" (1977), and the redefinition of personhood, this frame will help the societies accommodate ethical pluralism and refrain from irresponsible practices. Part I sketches the utility and limits of the combined materialist feminist and Deleuzian philosophical methods to address the reproductive issues. Part II highlights and compares the story-telling of the focus cases from the (neo)positivist and the combined feminist and philosophical perspectives. In Part III, I show the design of transnational health governance with its basic principles and point out the possibilities this frame can provide for tackling multiple challenges and managing a range of reproduction practices.

WEAVING THE PLANE OF IMMANENCE: A DIFFERENT ONTO-EPISTEMOLOGY IN APPROACHING REPRODUCTION ISSUES

The choice of new material feminisms and empiricisms as theoretical and methodological orientation is derived from the conviction that the existence of being as a process of becoming shown in multiple entanglements can no longer be approached in reductionist and binary thinking. As part of the critical endeavor, both approaches encourage us to view reproduction "in terms of change, flows, mobilities, multiplicities, assemblages, materialities and processes" (Taylor and Ivinson, 2013, p. 665). The following paragraphs present several key notions and methods of the new material feminisms and empiricisms which offer a different onto-epistemology for "laying out a different plane of thought" (St. Pierre, et al., 2016, p. 100) while approaching the reproduction matter.

The newness of new materialist feminisms and empiricisms lies in their efforts to break with the foundationalist tradition through theorizing the *co-constitutive* relationship between cultural discourse and materiality (Fox, 2015, p. 8-9). In comparison with post-structuralists' ignorance of "the reality of the body", the turn to matter within health sociology which includes various aspects of materiality (e.g. the tissues of the body, physical and biological stuff etc.) has shifted the research focus away from the textuality and social construction and moving towards the materiality of social production. In particular, new material feminisms' account to displace the human as the principal ground of knowledge and to bestow matter the status of 'agency' which is alive and active in the process of social production has

marked a radical ontological shift with transformative epistemological implications. The diffusion of object/subject and the idea of experiencing ego-loss urge us to rethink everything what we take for granted, to think *outside* normalizing discursive-material structures that limit us, and to create “conditions under which something new, as yet unthought arises” (St. Pierre, et al., 2016, p. 104). As such, an emergent field of enquiry - the posthumanities - have justified its efforts to redefine and to expand humanities’ boundaries which are based on the convergence of posthumanism and post-anthropocentrism while pursuing emancipatory agenda (Braidotti, 2019; Deleuze and Guattari, 1977). Deleuze and Guattari, for instance, have laid out a pre-philosophical “plane of immanence” or a body without organs (BwO) which is composed of unformed matter and involves a healing process whose major task is “to destroy the oedipalized and neuroticized individual dependencies through the forging of a collective subjectivity, a *nonfascist* subject” (Seem, 1977, p. xxii-xxiii, in Deleuze and Guattari, 1977). In this plane of immanence, new frontiers of knowing are opened through providing new concepts and parameters. As noted by St. Pierre et al. (2016, p. 103), these concepts cannot function and thought “on Descartes’ plane that grounds much social science work”.

Meanwhile, concerns arise with regard to the changing meaning of the body and its blurred lines with genetic manipulation reflected in enhancement technologies (Wilson, 2016a; Ranisch, 2014). The critics of posthumanists know that the prospects of technological advancement in shaping human life and inducing a moral vertigo are unavoidable, they thus demand foresight and vigilance while confronting the hardest questions “posed by cloning, children designing, and genetic engineering” (Sandel, 2007, p. 9, here cited in Ranisch, 2014, p. 4; Wilson, 2016a). Bearing in mind those caveats, we see new promises provided by the new materialist feminisms and empiricisms whose posthuman knowledge claims, as Braidotti (2019, p. 31) puts it, “go beyond the critiques of the universalist image of ‘Man’ and of human exceptionalism and offer diverse ontological outlooks...” These outlooks are relational, processual, realist, and cyborg. They assume radical immanence in upholding “the primacy of intelligent and self-organizing matter” (Braidotti, *ibid.*; Deleuze and Guattari, 1977; DeLanda 2006, cited in Price-Robertson and Duff, 2015; Haraway, 1989, p. 150). In other words, in place of many reified binaries, new materialists propose an “orientation to reality as multiple mediated process or becoming” (Brown and Stenner, 2009, p. ix, cited in Price-Robertson and Duff, 2015, p. 2) and begin to indicate how this new orientation may rejuvenate social research with a number of new approaches and concepts.

Approaching the Reproduction Matter in a Rhizomatic Reality

Among those new concepts and methods, the rhizomatic system (Deleuze and Guattari, 1987, p. 6-7) and its principles including the notion of “assemblage”, and the feminist method of “spooking, sparking and spinning”² are deemed as useful while approaching materialities and multiplicities of reproduction. “Rhizome” with its form of multiple roots means “many things” in the world and represents a powerful image to break with dualist thinking through attentively reading the existence of a multiplicity in a structure whose growth “is offset by a reduction with its laws of combination” (Deleuze and Guattari, 1987, p. 6) for the maintenance of a unity of totalization. In this rhizomatic system, one observes the layers upon layers of “the relationally interconnected, dynamically and quantitatively as well as qualitatively differentiated constituents of rhizomorphic reality”.³ Inspired by Turner’s series of paintings in London, Deleuze and Guattari (1977, p. 132-137) consider such a rhizomorphic reality as an embodiment of a something ageless fleeing process toward an eternal future with changing meaning, where the wall of a fascist dream shatters and everything “becomes mixed and confused, and it is here that the breakthrough – not the breakdown – occurs” (Deleuze and Guattari, *ibid.*, p. 132). In this process, the humans are encouraged to know how to leave, to scramble the codes of the established order, and to overcome the capitalist barrier and to invent new paths “leading toward a new solution concerning the future of man” (Deleuze and Guattari, *ibid.*: 134; see also Haraway, 1987, p. 150).

Mindful of Deleuze and Guattari’s relational ontology, health sociology has gained new impulses by viewing what a body *can* do, rather than what it is (Fox, 2015, p. 9). The body can no longer be regarded as an independent entity. Instead, as part of a multi-layered posthuman predicament that “includes the environmental, socio-economic, and affective and psychic dimensions of our ecologies of belonging”

(Guattari, 2000, here cited in Braidotti, 2019, p. 32), the body is “situated within a network of biological, psychological, cultural, economic and abstract relations to other bodies, objects, technologies, ideas and social organizations” (Fox, *ibid.*). As Fox (*ibid.*) puts it, “these relations affect and are affected by others in the assemblage”, which is “a distinctive, emergent composite, systemically open, substantively heterogeneous and of uncertain duration” (Amironesei and Bialecki, 2017, p. 4). As such, the idea of assemblage has inspired social scientists to develop new approaches in two major ways. First, the processes involving the creation (i.e. “territorialization”) and transformation or dissolution (i.e., “deterritorialization”) of assemblages have become focus of analysis that emphasizes heterogeneity, fluidity, and processes of becoming. Second, its theory may focus on hybrid entities and novel conceptions of subjectivity, identity, and agency which is resulted from some innovative steps through conceptual *mélanges* of the material and the discursive in combining “texts, discourses, bodies, affects, technologies, non-human ‘things’, and physical and social contexts” (see Duff, 2014, p. 27–35, here cited in Price-Robertson and Duff, 2015, p. 5ff). For instance, for DeLanda (2008, p. 253, here cited in Price-Robertson and Duff, *ibid.*), all assemblages can be characterized according to two dimensions: the first one identifies the “role which the different components of an assemblage may play, a role which can be either material or expressive”. The second dimension comprises varied processes which determine either “the emergent identity of the assemblage” or its destabilization “opening the assemblage to change” (DeLanda, 2008, *ibid.*). Another example is to illuminate the functions of assemblages through drawing “cartographies of the power relations operational in and immanent to the production and circulation of knowledge”. In so doing, we might reflect upon ‘what kind of knowing subjects’ we are in the process of becoming and the discourses underlying the process (Braidotti, 2019, p. 32).

Following the Deleuze, Guattari and DeLanda’s assemblage models, we might describe a reproduction/health assemblage such as:

- 1) Organ/body tissues - biomedicine - prospective parents/donors - ART providers and their service – affective economy/commodification/transnational surrogacy – state regulations/economic inequalities – values (autonomy and freedom) and rights
- 2) Family-planning policy and contraceptives – donors and SSA – pharmaceutical industry - family tradition – ideology and faith – women’s reproductive freedom - North/South health equity

From a DeLandian or Deleuzian perspective, “reproduction” in a health assemblage is associated with an ill-health assemblage, in which the problem of “infertility” or “childlessness” can be solved through undertaking various reproductive procedures provided by ARTs in order to enhance measurable capacity of a body (through In-Vitro-Fertilization (IVF) measures), thereby forming new relations. A reproduction assemblage then is constituted from the myriad of physical, psychological, economic, socio-political relations, ethical questions, and the affects that surround the body (of the prospective mother or the surrogate), prospective parents and children/babies, ART industry and service during an episode of family-making or transnational surrogacy. Furthermore, one can use critical feminist methods found in the science and technology studies (STS) to dissect the process of becoming in the reproduction assemblage. They involve a process of “spooking, sparking and spinning”: *Spooking* means “finding those things that ‘haunt’ forms of knowledge and representation” where female agency is absent while assessing work done or exploring sexist representations of women (Bauchspies and de la Bellacasa, 2009, p. 335). *Sparking* means efforts “to restore meaning creatively, making those same absences or silences collide, ironize, and creatively work together” (Bauchspies and de la Bellacasa, *ibid.*). *Spinning or weaving* resorts to new approaches to address familiar issues in new spotlight and “moving away from critique of patriarchal approaches, and instead ‘hearing forth’ (Morton, 1985) new insights” (Bauchspies and de la Bellacasa, *ibid.*). Hence, a new materialist feminism’s reading of the functioning of ARTs helps illuminate how prospective parents and surrogates involved are easily subjected to (innovative) bio-political experiments and transnational commodification process regarded increasingly as disciplinary automatism that might risk not only to erase the uniqueness of human person but also to downgrade “natality” as a process of new beginning (Arendt’s *the Human Condition* 1998).

The utility of new materialist feminisms and empiricisms in providing us with a different onto-epistemological reasoning and supporting our argument can be tested in the following comparative reading of three cases between the traditional rationalist thinking in forging a powerful nationalist/developmental and biopolitical agenda, on the one hand, and the new materialist feminisms and empiricisms, on the other hand. Such a comparative reading will provide alternative perspectives while examining the threats, paradoxes and ethical conundrums (non)-human agency faces today found in the reproduction matter.

WOMEN'S REPRODUCTIVE HEALTH: A COMPARATIVE READING OF THREE CASES

In spite of many path-breaking efforts in promoting women's reproductive freedom, it remains one of the most controversial social and political issues. Indeed, the progress of contraceptives and ARTs and the related abortion and procreation legislation have given women considerable sexual and reproductive freedom in both developed and developing worlds to make choice concerning their body and life. According to a statistics issued by the World Health Organization (WHO), each year, 74 million women are unintentionally pregnant. The birth control market therefore is huge and highly competitive. Emerging innovative products are ready to challenge traditional birth control pills, thereby possessing a great potential to give women a new sense of power in their sexual relations.⁴ Furthermore, a booming bioeconomy concerning the stem cells research and transnational surrogacy (e.g. the IVF-use in Mexico, India, Ghana and Denmark) has facilitated the ongoing high-quality embryology knowledge and skills transfer and begun to change the intimate boundaries of families, thereby challenging the notion of personhood and agency with consequences of social transformation (Mohr and Koch, 2016; Gerrits, 2016; Schurr and Miltz, 2018; Gaddie, 2018).

Meanwhile, the convergence of feminism and bioethics has flared up a bitter conflict in the border area between civil law, gender equality, ARTs, bioethics, and market liberalism. As found in the bioethical law revision efforts at the French national assembly in autumn 2019, the debates were centered not only on the extension of Medically Assisted Procreation (PMA) which shall guarantee the right to artificially fertilized oocyte implantation for *all* women.⁵ They also involved the question of the legal status of children born from surrogacy abroad. Several national judiciary decisions already have sent confusing messages. Whereas the German Federal Supreme Court granted a gay couple dual paternity for a child born in California to a surrogate mother, the same Court denied years later a German woman's maternity rights to a child born to a Ukrainian surrogate mother but hastened to add that she could adopt the child.⁶ Such inconsistent views surrounding the legal status of children born from surrogacy abroad only reveal an uncomfortable alliance between individual freedom and self-responsibility in shaping new family models and the ensuing booming motherhood market. This alliance unambiguously challenges the frontiers of bioethics and facilitates the emergence of what Sylviane Agacinski (2019) calls "a disembodied man" from the carnal to a made body in a progressive techno-medical era. More thrillingly, one day in front of the *only* abortion clinic in Mississippi shows how bitter the debate is about abortions in the US. On their way to the clinic which was "like running the gauntlet", the women and the doctors were continually harassed by pro-life activists.⁷ To date, those faith-based pro-life movements have influenced the US government's aid policy abroad particularly under the republican administrations. Rights groups have criticized that the US expansion of the global gag rule under the Trump administration will "punish women" worldwide.⁸ Moreover, feminists' efforts in fighting for women's reproductive freedom increasingly face threats from rightist extremism which views white women's sexual emancipation and feminism being responsible for the declining birth rate in Western societies and has thus justified its racist/discriminatory violence against migrants as well as against women.⁹ In other words, the reproduction matter manifests itself in a multi-layered rhizomatic reality, in which the neo-liberalization of life takes place in multiple assemblages intertwined with intractable ethical tensions, incompatible and concurring views, economic and social inequalities, policy paradoxes, and violence. Had women's reproductive biology been successful to disengage itself from the competitive state's nation-building project (Waldby and Cooper, 2006), it now has become part of naturalized

technologically assisted kinship (Thompson, 2005) with concurring extensive biomedical research interests, global commodification, clinic labor, policy instrument and even a justification ground for violence from rightist radicalism.

Recalling this paper's aim to explore new conceptual and theoretical resources through a different ethico-onto-epistemological outlook while understanding and analyzing the multiplicities of reproduction, we choose three cases which represent two variants of reproduction/health assemblage as shown above: ART and transnational surrogacy, family-planning programs of the US and the World Bank in SSA. In each case, a tailored comparative reading goes as follows: whereas the perspective of an ideological economic development thinking unravels the myriad of the reproduction issue involved, the view of the new materialist feminisms and empiricisms helps shed light on the blind spots and impasses of the neo-Malthusian perspective in terms of the following dimensions: the changing meaning of the material functioning of the reproduction assemblage and the cartography of its power relations and underlying discourses.

Cross-Border ART, Surrogacy and Their Controversies

For prospective parents, rapid progress in medical science and technology have opened a new horizon to overcome their experience of infertility “as a crisis of the self, the spirit and the body” (Ryan, 2003) and to pursue their interests through getting access to a host of ARTs, so that they can have a child to which they are biologically connected. As observed by several authors (Präg and Mills, 2015; Krawczak, 2016; Wilson, 2016b; de Wispelaere and Weinstock, 2017, p. 131), social demand for ARTs has grown rapidly as the related treatments become safe and socially acceptable. Europe is the largest market for ARTs, though a wide variation of state regulation exists ranging from some form of legislation to complete coverage of treatment via national health plans (Präg and Mills, 2015). Normally, legal marriage or a stable union is required to have access to ARTs. Only half of European countries permit single women and few grant further access to same-sex couples.¹⁰ Among those key treatments of ARTs, in vitro fertilization (IVF), frozen oocyte replacement, egg or sperm donation, egg sharing and stem cells research involve cases such as women being at risk to react adversely to the fertility drugs, gay male parenthood, surrogate motherhood, and delaying motherhood.

From the prism of the economic development discourse, ART and cross-border surrogacy are regarded as a useful means for prospective parents to realize their parenting aspirations. It is derived from the rationality paradigm which underlines the fundamental values of individual freedom and autonomy, intertwined with the early nationalist agenda in the reasoning of a competitive welfare state and becomes mostly driven by a neoliberal biomedical politics. Its task is supposed to account for “the conditions under which goods should not be sold, but also for what kinds of goods should not be for sale in a market economy” (Panitch, 2019). As such, this perspective sees state regulation evoked as a remedy “serving different goals of assuring quality care and preventing medical malpractice” (Charkravarthi, 2016). However, as reproduction practices with ART demonstrate a high level of complexities and ethical controversies reflected in those ongoing amendment efforts of bioethics laws (e.g. the personhood debate), conflicting judicial decisions, cross-border surrogacy, and the commodification tendency of body parts, the rationalist economic approach increasingly falls short of providing adequate explanations and solutions while addressing the questions of safety and equity of treatments, embryonic personhood, and commercialization of childbirth and family formation (Baylis, 2014; Hudson et al., 2011, here cited in Charkravarthi, 2016). For instance, this approach cannot convincingly explain why women at a local clinic in Gujarat/India have been *active* in the decision-making to participate in surrogacy regardless of recent national efforts to deter trans-border surrogacy practices (Africawala and Kapadia, 2019). Furthermore, the functionalist thinking of this utility-driven discourse might be attentive to the scope of the problem caused by global surrogacy arrangements including welfare, commodification, health risks, and serious rights consequences (Melo Martin, 1998; Bromfield and Rotabi, 2014, p. 124; Reddy and Patel, 2015). However, its moral neutrality, inaction or inability to rigorously address a variety of ethical and legal conundrums resulted from the lack of social consensus and international regulation has made bioliberals easily to become prey of transhumanists' agenda of human enhancement (Palk, 2015, p. 40

and p. 47; Ranisch, 2014, p. 7), thereby running the risk of treating the human being as a malleable biological entity and sinking into the mindless contingencies of the evolutionary process.

Against such a danger of complicity on the part of neo- and bioliberalism whose focus remains to support individuals' desire "to benefit from enhancement technologies for themselves and their offspring" (Ranisch, *ibid.*, p. 4), the new materialist feminisms and empiricisms highlight the global divisions of racialized and gendered reproductive labor increasingly shaped by the mode of bio-economy and – technology (Thompson, 2005). Not only have they uncovered paternalistic intervention and serious rights consequences vis-à-vis unprotected patients and surrogates. They are also concerned with stratified reproduction, non-normative and stigmatized fertility and childbearing (Sharp, 1998; Rapp, 2001; Oaks, 2002; Morgan, 2011; Johnson and Simon, 2012; Baylis, 2014). In particular, early feminist scholars like Robyn Rowland warn against the optimistic view that ART automatically further the feminist cause.¹¹ Hence, critical material feminism calls for an analysis that begins with systemic power, instead with individual choice. The question at stake is not just whether ART could help individual women compete with men in the working place (with the choice of freezing their eggs or the use of an artificial womb). The concern also involves whether technology "would enhance women's lives through women's agenda to make them equal"¹² and "help women as a class in all parts of their lives"¹³ to share responsibilities with men. Furthermore, a materialist framework would facilitate an engagement with epigenetic research by broadening ideas of reproduction (beyond in-utero effects) to relational and political views of gender and sex (Warin and Hammarström, 2018) and by interrogating the cartography of the power relations and their underlying discourse in the reproduction assemblages (e.g. the positioning of the white women and women of color in the reproduction hierarchy in relation to 'the neoliberal trend toward privatization and punitive governance' (Roberts, 2014, p. 319)).

The USAID Programs of Family Planning in Sub-Saharan Africa (SSA)

Against the backdrop of strategic medicalization whose managerial conditions, motivations, and practices exert the greatest force of today's healthcare,¹⁴ the majority of the world's fertile population use some mode of contraception: 64% of in-union or married women of fertile age were using some mode of contraception. However, contraceptive use was particularly low in Africa where only 33% of women are projected to use the products so far.¹⁵ For decades, donor countries have programmed family planning and reproductive health assistance to support Africa. Being the world's largest bilateral donor of family planning assistance, United States Agency for International Development (USAID) works in 24 high-priority countries and the Francophone West Africa region, where the need for family planning is greatest.¹⁶ Its programmes, as upheld in its 2019 overview (p. 2), are guided by "principles of voluntarism, informed choice and the restrictions on abortion that are articulated in legislative and policy requirements and program guidance". USAID claimed to have contributed to enhancing the use of contraceptive use with an increase of 32 percent in the 31 focus countries in the developing world. Following the Guttmacher Institute's estimation, in FY 2019, the U.S. international family planning assistance budget have reached 24.3 million women and couples with contraceptive services and supplies, helping prevent 14,700 maternal deaths and 7.2 million unintended pregnancies (USAID, 2019, p. 1). In particular, USAID considers family planning "as a fundamental element of any long-term, socioeconomic development strategy", and key to the Sustainable Development Goals (SDGs) achievement, notable the goals 3.7 and 5.6.¹⁷ As such, it underlines the relevance of family planning being among the most cost-effective interventions to foster human development which helps not only end poverty, but ensure healthy nutritional outcomes and enhance gender equality (Starbird et al., 2016, p. 3-4).

Meanwhile, the US government's ideology-driven policy requirement has strongly limited the scope of USAID's action. As noted by Starrs (2017, p. 485), the global gag rule (also known as the Mexico City policy) imposed by conservative republican administrations has caused serious disruptions to US overseas family planning efforts. Under the Trump administration, the anti-abortion policy applies not only reproductive health. Its scope has been also extended to global health assistance exerted by *all* departments and agencies. Thus, the current gag rule represents a wider attack on global health aid writ large, particularly for those foreign NGOs who receive US funding to work on a broad range of health

programmes in SSA (Starrs, 2017, *ibid.*). For the International Planned Parenthood Federation (IPPF) and Reproductive Health Uganda (RHU) as an affiliation to the IPPF, the global gag rule undermines people's human rights by restricting their choices and forces NGOs to end part of their activities in providing sexual and reproductive health services in the poorest and hardest to reach communities. They warn this cut will have a negative effect particularly on the most vulnerable groups who have been benefitting from family planning service: teenage girls.¹⁸

From the perspective of the economic development discourse, several studies have highlighted how the USAID's conditionality-setting policy between life protection, ideology-driven policy, and NGOs engagements proves to be inadequate. The USAID's policy, according to these studies, falls short of considering the issues of attitudinal resistance, limited access as well as externality costs including "gender differences in fertility preferences combined with imbalance in household decision-making".¹⁹ Little evidence shows that the global gag rule has ever been effective in reducing abortion. Instead, a study found that, during the gag rule years, both fertility and abortion rates were higher than during the non-gag rule years in Ghana's rural and poor populations (Jones, 2015, cited in Starrs, 2017, p. 485). This was due to the declines in the availability of contraceptive services for women, as many foreign NGOs refused to let the US government muzzle their abortion advocacy efforts and were forced to reduce staff and services. Further studies unravel attitudinal resistance remaining a barrier, as strong demand for children exists in many African households due to high child mortality and insecure legal rights for women. Even though access to contraceptives has been improving, it is still limited particularly in western Africa (Scribner, 1995; Cleland, et al., 2011; Canning, et al., 2015).

Inasmuch this economic development lens has detected different factors in shaping the USAID's family planning programmes and pointed out their drawbacks, it has been mostly guided by the modernity-driven rationale, often coupled with a nationalist inspiration, which falls short of providing in-depth insights into the multi-faceted reproduction matter in SSA. An intervention of the new materialist feminisms and empiricisms might well help address the shortcomings of the economic development lens through interrogating power dynamics, medical traditions, privatization tendency of the health sector, structural inequality, attitudinal formation, peoples' relative access to and use of wealth and resources at different levels. As such, it illuminates the power relationships, ethnicities, ages, abilities, and the interconnectedness of social, cultural, and commercial determinants of health in shaping the reproduction matter in SSA (Sai and Newman, 1989; Inhorn, 1994; Turshen, 1999; Herten-Crabb and Davies, 2020). For instance, Grimes (1998, p. 375ff) pinpoints that the USAID's policy is "a narrowly focused policy, based on a simplistic definition and analysis of population growth in the less developed world" which is provided by professional demographers, research centers and foundations who have been under ideological influences. As the framing of the population debate has been problematic which has led to a false problem-setting, the ensuing policies have been driven "as much by self-interest on the part of the developed world, as by a genuine concern for alleviating poverty in the less developed South" (Grimes, *ibid.*).

In particular, several materialism feminist and empirical studies with country-specific focus have grappled with the issue of the disappearance of public health in the form of state services and the growth of a private market in health care which has served urban elite and enhanced the commodification and pharmaceuticalization tendency (Turshen, 1999; Biehl, 2007). Indeed, an unexpected alliance of activists, policy makers, and corporate actors with pharmaceutical innovation has facilitated the provision of free care and maternal care health (MCH) services (e.g. Brazil and South Africa). However, the emergence of a pharmaceutically-centered model of public health has done little favor to the local service providers, whose efforts to realize treatment involve a constant negotiation in light of global drug market, thereby exposing the inadequacies of reigning paradigms and the deficiencies of national and local infrastructures in forging novel state-civil society relations (Biehl, 2007, p. 1083-1084; Schneider and Gilson, 1999). Furthermore, a feminist response to several collected stories concerning the theme of fertility in post-colonial southern African nations in the late twentieth century reveals "the shifting relationship between corporeal embodiment and political agency", whose approach with the concept of „transcorporeality“ reflects the inspiration of new materialist theories by creating "spaces for complex,

ambivalent perspectives on women's agency to emerge", in which the long history of environmental health and reproductive rights in post-colonial contexts has become even complicated.²⁰

The World Bank's Family Planning Support in SSA

For decades, the World Bank (WB) has been a significant multilateral donor and adviser of population assistance to Africa. Its loan to the region began in 1974. By the middle of 1992, the WB has approved almost \$290 million in loan which represented 18.5 percent of total population lending (World Bank, 1993, cited in National Research Council, 1993, p. 156). The majority of these funds supported combined population, health, and nutrition projects which viewed family planning being best introduced through health efforts. Since the mid-1990s, the WB has incorporated development and anti-poverty programs into its lending policy through adopting a comparative and multi-sectoral approach. In its various reports and working papers, the World Bank identifies synergies between family planning and development issues and assesses government policies in SSA in four areas that would lower fertility and raise contraceptive use, namely, girl schooling, child health, women's legal status, and family planning services (World Bank 1992; Scribner, 1995; Cleland et al. 2006; Robinson et al. 2007). It also upholds the importance to address a variety of conflicting health-care priorities in Africa which involve ethical debates and have a moral dimension "with the health and welfare of individuals and families at stake" (Sai and Newman, 1989: 4). Particularly, it warns continuing social and economic inequality in Africa as informality persists remaining the major part of total employment (at around 75 percent) from 2000 to 2016 notwithstanding economic growth or the changing nature of work (the World Bank, 2019, p. 7-8). Hence, for the WB, tackling informality, limited access to health services due to socioeconomic inequality, and the absence of social protection continue to be the most pressing concerns for emerging economies in SSA.²¹

As viewed from the economic and development prism, the World Bank's intervention has proved to be an important impetus in promoting changes in population policy in many countries of the region (e.g. changes in the choice of contraceptive method by family planning acceptors). Empirical studies examining family planning efforts find that socioeconomic setting and program efforts are strongly associated with the availability and accessibility of family planning which again influence the level of contraceptive prevalence rates (CPR). As observed by Sharan et al. (2009, p. 3-4), significant progress was apparent in the 1990s that saw high levels of CPR and the ensuing onset of fertility decline not only in Southern Africa (e.g. Namibia, Zimbabwe, Kenya, and Malawi) but also in East Africa (notably in Uganda, Rwanda, Tanzania, and Zambia). Nonetheless, overall progress in the region remains modest: total fertility rates stagnated in the first decade of the 21st century, especially in Zambia, Kenya, Ghana, and Cameroon. There also existed a widening gap between actual and wanted fertility after 2000 (in Uganda and Rwanda), which was due to the obfuscation of the family planning program and probably a shift in desired family size (Lancet, 2006, p. 1824; Sharan et al., 2009, p. 11). These evidence-based studies not just provide a useful history of intertwined factors in shaping donors' and governments' family planning efforts in SSA. They also point out the challenges the WB faces, namely, the limits of its policies to address those unmet needs and the stagnating or declining use of contraceptives in several sub-regions (notably in western Africa, see Cleland et al., 2011). Still, their indicator-based analysis might fall short of providing a critical view by explaining why the family planning community as part of reproductive assemblages becomes under-funded and how inappropriate rent-seeking service suppliers have hindered family planning services to reach the informal sector and poor population in SSA.

The materialist feminism perspective invites us to trace the drawbacks found in the rigid economic rationale while analyzing family planning and reproduction issues in SSA. Murphy (2012), for instance, detects the uneasy links between economic logics, new forms of racialized governance, U.S. imperialism, family planning, and the proliferation of feminist health projects which have followed complex and discomfiting itineraries. She specifically warns the ambivalence of alternative feminist practices aimed at empowering women. Though the practices and ideologies of alternative health projects have found their way into WB guidelines, state policies, and commodified research, they were also integral to late-twentieth-century biopolitics. Similarly, Grown et al. (2016, p. 313ff) observe missed opportunities for

multi-dimensional action for support for family planning and reproductive health care due to the sector-specific focus and “existence of development programme ‘silos’”. To date, support for family planning and reproductive health care constitute a very small share of total aid that is gender-focused in the health sector (Hsu et al., 2012, cited in Grown et al., 2016, *ibid.*). An analysis of the OECD-data finds that the sectoral allocation of aid (both in health and in education) has been effective in reducing maternal mortality and the female–male gap in youth literacy. Such findings have reinforced other research on aid in these two sectors (Riddell, 2012, cited in Grown et al., 2016: *ibid.*). In this regard, donors are required to rethink the logics of their engagement that would clearly prioritize health programs linking to economic interventions, instead of commonly referring to increasing women’s economic status “as a pathway to improving reproductive health outcomes” (Grown, et al., 2016, *ibid.*).

Furthermore, a close look at donors’ past funded projects reveals that only half of those projects succeeded. Among the failed projects, for example, fight against Malaria across Africa has faltered whose infection rate had risen 12 percent by 2004. The reasons for such failure often lie in the huge discrepancy between donors’ pledge and action as well as the contingency of some programs “subject to political considerations, such as what kinds of insecticides to use, whether to buy cheap generic drugs or how much poor people should pay for mosquito nets”.²² Against the backdrop of considering the use of contraceptives as a criteria of measuring the progress of global family planning efforts, a feminist technology assessment of menstrual-suppressing birth control pills even helps uncover a cross-cultural essentialist consensus (e.g. in the US and in Zambia, see Aengst and Layne, 2014, p. 179-180). This consensus involves a warning against the danger of the new technologies in “doing away with women’s normal hormonal menstrual cycle”, which shapes women’s own knowledge of how their body parts work and thus represents womanhood. Being cognizant of how both the notions of ‘normal/abnormal’ are culturally shaped, such a critical assessment is particularly oriented against the expansion of drug regimes in helping women comfortably to fit the demands of a patriarchally shaped world.

In sum, the comparative reading of the story-telling in three cases unambiguously shows the potential of new materialist feminisms and empiricisms that challenges the normalization of biopolitics and opens new spaces and resources while addressing the multifaceted reproduction matter. It also urges us to rethink the space of “the political” found in the reproduction politics which is intertwined in a variety of ethical tensions and policy paradoxes and has suffered from a high level of health inequity. In the next section, given the promises new materialist feminisms and empiricisms offer, we propose to re-frame an ontological and epistemological space of “the political” which is relational and processual and can provide a new orientation while addressing the reproduction matter at transnational level.

GOVERNANCE OF BIOETHICS IN TRANSNATIONAL SPACE: CHANCES AND LIMITS

Reproduction constitutes one of the important political issues in the global governance architecture reflected in the dynamics of domestic politics and international cooperation between high-income, low- and middle-income countries. The comparative reading of the reproduction practices shown above reveals how the type of global governance has gradually moved from a state-centered management of structural allocation mechanisms to transnational governance, in which state and non-state actors (including NGOs, private corporations and foundations, and local groups and individuals) interact on different scales in a rhizomatic reality of reproduction assemblages. Even though „governance“ as a key concept has been re-articulated with an emphasis on pushing forward transformative agendas,²³ the current frame remains often trapped in a reified way of thinking, leading to inappropriate problem-solving setting and leaving many ethical controversies and policy problems unresolved. Hence, re-framing an ontological and epistemological space of “the political” which is derived from a paradigm of inter-relational humanity (i.e. respect, recognition of the uniqueness of and responsibility towards “the matter/the unborn”) may well constitute a first step to explore new concepts and tools for constructing a robust ethical basis. This endeavor of reframing can be processed in three consecutive steps: Connecting of bioethical thinking with aesthetics which is more sensitive to life’s creative evolution (Hynes, 2013; Zylinska, 2014); disclosing

“natality” as an event and its link to politics through the revision of “the political” (Arendt’s *The Human Condition (HC)*, 1998), and establishing bioethics as part of governance practices (Montgomery, 2016).

First, to connect bioethical thinking with aesthetics, new materialist and empiricist thinking has problematized the analysis of “life” bound to the rigid scientific paradigm. It invites to take seriously the ecology of human and nonhuman bodies and the material world in general. This thinking thereby facilitates the opening to the more ethico-aesthetic potentials of what we call “life”. As such, bioethical thinking might become an experiment field more sensitive to life’s creative evolution which involves a form of *life’s unfolding* and concerns the very nature of existence in time, of duration, emergence, reproduction, and being alive (Thompson, 2005; Hynes, 2013; Zylinska, 2014). Like an ontological choreography, the alliance of bioethics and bioart not just undermines the metaphysical understanding of life. It also challenges the traditional humanist value-based ethics, whereby “human life” should be protected at all cost. Meanwhile, the posing of this challenge does not automatically mean a devaluation of human value-based ethics. Instead, it opens venues for enacting a different ethics of life, having recognition respect for persons (Darwall, 1977) and various life forms, taking responsibility for them (i.e. humans, animals, organs, cells, bacteria, and virus), and enhancing self-respect. As emphasized by Zylinska (2014), “the protection of life’s unfolding constitutes the first condition of this ethics” which might offer new possibilities in addressing a variety of ethical tensions. For instance, the debates surrounding “personhood” can be approached in a more contextualized and sensible manner focusing on the being of a person and its materialities; the concept of human dignity can be used as an avenue for exploring differing philosophical approaches that promote transparency, and encourage dialogue while tackling highly controversial issues such as stem cell and ART debates (Beckwith, 2001; Caulfield and Chapman, 2005).

As a second step, a novel ontological dimension is needed to redefine “the political” for organizing democratic plurality and elaborating an ethics of care. Of good use is a view through Hannah Arendt’s disclosure of “natality” as an event between agents and Emmanuel Levinas’ responsibility ethics. To be sure, the event of natality is *less* a saving act of human existence from determinism than a reference to the way that the very appearance of human beings in a world interrupts the cyclic time of nature (*zoe*), and the passing of linear (historical and biographical) time (*bios*) (Arendt, 1998: 96-98ff). For Arendt, both *zoe* and *bios* as aspects of life determine the path one takes. It should be paved by reflective thinking and the act of judgement with the aim to address the paradox humans face due to a reduction of human agency and political freedom taking place in the midst of increasing human powers through technological and humanistic inquiry. In this way, the event of natality through speech and public action reveals “the fundamental *unique distinctness of each person and the plurality of human existence*” (Diprose and Ziarek, 2018, p. 41).

This model of inter-relationality in upholding the relevance of the creativity and imagination of human existence can be reinforced by Levinas’ responsibility ethics whose major concern with the Other has priority over any act. In this Levinasian phenomenological project proclaiming *Being as an Otherness*, what is at stake is the issue of alterity (i.e. found in time, existence, the other person, language, and God). As noted by John Lechte (1994, p. 117ff), Levinas uses “transcendence in the sense of rupture, and opening up to the Other, as opposed to the Western tradition’s reduction of the Other to the Same in its drive to objectify and universalise”. Even though there is a constant danger of presenting this Other of Western thought being inescapably another version of the Same, Levinas’ search for a way of presenting the irreducible Other in philosophy can already be found in his lectures (*Time and the Other* 1948/1990) that point out femininity as the modality of alterity he was looking for. In other words, though Levinas never uses the concept “care” in elaborating his project, the ethics of care and Levinas’ efforts of rendering the Other intelligible have a lot in common. They can be illustrated either in the mother-child relationship or in the mother earth-humans relationship whose paradigm unambiguously reveals the vulnerability and dependency of the self/human being. Similar to Arendt’s disclosure of “natality”, both ethics cherish the particularity of every person and every situation and underline the importance of a responsive attitude towards the Other and the world. Inspired by this frame of reasoning, ARTs and transnational surrogacy can be approached through a fresh perspective: as the increased use of ARTs, the

tendency of commodification of body parts and surrogacy imply a decrease in humans' control over their reproduction, it is necessary to look not just to broad social policy, but also "to the details of relationships to delineate the social attitudes and patterns that are at risk of being undermined" (Sherwin, 1989, here cited in Krause, 2017, p. 91). In considering the relationships of all parties involved, care ethicists such as Stephanie Collins underline that these inherent value relationships ought to be treated as moral paradigms; valued, preserved, or promoted; and "acknowledged as giving rise to weighty duties" (Collins, 2015, p. 47, here cited in Krause, *ibid.*). Derived from such moral paradigms, clinical ethics concerning ART and living organ donation can put emphasis upon "strengthening the tacit pact between doctors and patients, rather than putting doctors in charge of enforcing societal values" (Berthiau, 2013, p. 105).

In a third and last step in this endeavor of designing an emancipatory ethco-onto-epistemological frame, bioethics can be considered as a governance practice with distinctive institution and structures (Montgomery, 2016), which have both country-specific and transnational nature. The UNESCO *Universal Declaration on Bioethics*, the work of national ethics/bioethics committees as well as transnational efforts to collaborate research projects in enhancing North-South health equity (e.g. Deutscher Ethikrat, 2018; Bisht, et al., 2012) provide vivid examples for such practices, in which various legitimating narratives evolve. They include statements against scandal, the need to restrain irresponsible science, the accommodation of pluralist voices as well as the resistance to the neutrality position bioethics often tends to do. For instance, the 2016 global summit of national ethics/bioethics committees has grappled with global health issues and illustrated the interconnected nature of public health decisions with ethical considerations and questions of justice at a global scale. A further example can be found in those socio-scientific research works that provide not just reflections upon dominant modes of thinking about public health and infectious disease governance (e.g. the hygiene and antimicrobial politics in Hong Kong during the 2003 SARS crisis and the 2020 global COVID-19 crisis). They also urge us to rethink socioeconomic relations and policy practices that exacerbate human-animal-microbial interactions, thereby triggering the outbreak of the pandemic in an unusual manner (Price-Smith, 2009; Voelkner, 2019, p. 375).

In sum, in taking a plane of possibilities provided by a combined materialist feminist and philosophical perspective, we see that reproduction can be approached in a widened horizon with novel concepts and tools available for in-depth explanation and application. This plane proves to be attractive in its readiness to accommodate diverse conflicting normative requirements and to set rules in transnationally shared health governance among different stakeholders.

DISCUSSIONS AND FUTURE RESEARCH

Since the outbreak of the Covid-19 pandemic in spring 2020, public debates appear to be increasingly driven toward the direction trapped in the assumed dilemma between guaranteeing public health through restrictive measures, on the one hand, and ensuring economic security, on the other. Yet this juxtaposition is misleading by a reification of terms, of "health" versus "economy". In countering such a misleading narrative, a joint study by economists and life scientists using scenario calculation and modelling estimates the effects of containment measures against the coronavirus upon economic development (Dorn et al. 2020). The study shows that the interest of society in the protection of public health is not principally opposed to the economic interests of the broad population. For example, a strategy without political restraints for society and apparently with less economic costs would soon lead to serious deterioration of public health and would thus, in any society not willing to accept such loss, trigger a series of harder restraints. Hence, a nuanced balancing policy response to pursue the common interests of public health *and* economic security is required.

In light of the results this paper shows, future research should consider how the economic rationale can avoid such binary misleading thinking, be re-defined, and incorporated into the emancipatory reasoning the paper has proposed. Some hints lie already in the suggestion to place reproductive technologies "within a temperate, affordable, sustainable and just health care system" (Ryan, 2003). Another hint can be found in an ethnographical field work that unravels the contradiction of the

entrepreneurialism discourse pledged by donors in portraying female informal workers as entrepreneurs in low-income countries (e.g. in India, see Boeri, 2018).

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ENDNOTES

1. See Galloway, K. (2019). *Assisted Reproductive Technologies (ART) and Human Rights*, Available at <http://rightnow.org.au/opinion-3/assisted-reproductive-technologies-and-human-rights/> (accessed on Sept. 15, 2019).
2. See Daly, 1990 (1978), here cited in an interview with Susan Leigh Star by Bauchspies and de la Bellacasa, 2009: 334.
3. See Olivier, B. (2015). *What is “rhizome” in Deleuze and Guattari’s thinking?* Available at <https://thoughtleader.co.za/bertolivier/2015/06/15/what-is-a-rhizome-in-deleuze-and-guattaris-thinking/> (accessed on 28. Feb. 2020).
4. Besides many start-ups companies that develop new products such as a birth control creme named Amphora, universities and research institutes work also very hard on innovative contraceptives partly on hormonal and partly on alternative basis. For instance, Cardiff University develops a patch that uses tiny needles to release hormones over six months. A laboratory at Northwestern university attempts to control ovulation from the outset. See Berndt, C., Dostert, E. and Werner, K. (2019). Pillenknick, *Süddeutsche Zeitung* (SZ), Dec. 24-26, p. 17.
5. See Berthiau, 2013; Tellerreport. (2019). *The debate: France at the time of PMA for all*, Sept. 10, available at https://www.tellerreport.com/news/2019-09-10---the-debate---bioethics-law--france-at-the-time-of-the-pma-for-all-r1lqi_DrIr.html (accessed on Jan. 25, 2020).
6. See Haniman, J. (2019). Mutterschaftsmarkt, SZ, Sept. 30, p. 10.
7. See Hof, E. von (2019). Gottes Hohn (God’s mockery), SZ, 2. Aug., p. 8.
8. See Gottbrath, L.-W. (2019). US expansion of global gag rule will ‘punish women’ worldwide, *Aljazeera*, 26 March. Availabe at <https://www.aljazeera.com/news/2019/03/expansion-global-gag-rule-punish-women-worldwide-190326182044232.html> (accessed on 24 Feb. 2020).
9. During a terror attack in Hanau in Germany in February 2020, Tobias R. killed nine persons with migration background, his mother and later himself. As a lone radical rightist, he was reported to have blamed feminism being the reason for the sinking birth rate in Europe. Such an anti-feminist attitude can also be found in other terror attacks (i.e. in Christchurch in New Zealand and in El Paso in the US. See Haaf, M. (2020). “Im Feindinnenland”, SZ, 21. Feb. p. 6.
10. European nations such as Britain, Spain, Portugal, the Netherlands, Ireland, Belgium and Scandinavian countries, have authorized medically assisted procreation for all women. See Agency French Press in Paris (2019). “French MPs approve IVF draft law for single women and lesbians”, Sept. 27, available at <https://www.theguardian.com/world/2019/sep/27/french-mps-approve-ivf-draft-law-single-women-lesbians> (accessed on Jan. 26, 2020).
11. Rowan reminds us that “high-tech procedures are controlled by male-dominated institutions.” Cited in Gershon, L. (2015). *Reproductive Technology, Motherhood, and Feminism*, available at <https://daily.jstor.org/reproductive-technology-motherhood/> (accessed on May 26, 2019).
12. Layne 2010, cited in Gupta, S. (2014). *Is There such a Thing as Feminist Technology?* Available at <http://ignite.globalfundforwomen.org/gallery/there-such-thing-feminist-technology> (accessed on May 26, 2019).
13. Cited in Gershon 2015.
14. See Applbaum, K. (2009). *Pharmaceutical Marketing, Capitalism, and Medicine: A Primer (Part I-III), Somatosphere (Science, Medicine, and Anthropology)*, available at http://somatosphere.net/2009/pharmaceutical-marketing-and-capitalism_28.html/ (accessed on June 28, 2019)

15. The data is based on a 2015 statistic. See Ugalmugale, S. & Swain, R. (2019). *Contraceptives Market Size by Product [Drugs {Oral Contraceptive Pills, Injectable Contraceptives, Topical Contraceptives}, Devices {Condoms (Male, Female), Diaphragms, Contraceptive Sponges, Vaginal Rings, Subdermal Implants, Intra-uterine Devices (Copper, Hormonal)}], By Age (15-19, 20-29, 30-39, 40-49)*, Industry Analysis Report, Regional Outlook, Application Potential, Price Trends, Competitive Market Share & Forecast, 2019 - 2025. Available at <https://www.gminsights.com/industry-analysis/contraceptives-market-report> (accessed on Jan. 2, 2020).
16. Of the 24 priority countries, 23 are also supported with Maternal and Child Health programs designed to maximize opportunities for integration and synergy. See USAID, 2019.
17. Both goals support “universal access to sexual and reproductive health-care services, including for family planning” and “universal access to sexual and reproductive health and reproductive rights,” respectively. See the United Nations, About the Sustainable Development Goals, available at <https://www.un.org/sustainabledevelopment/sustainable-development-goals/> (accessed on Feb. 28, 2020).
18. According to the WHO, about 16 million girls aged 15 to 19, and one million girls under the age of 15, give birth every year. Most of them live in low- and middle-income countries. Teenage pregnancy has a larger economic cost to countries “as they lose out on the income an educated young woman would have earned” if she is forced to drop out of school, “spelling a life marked by early marriage and low-skilled jobs”. See Mutiga, M. (2017). How the US ‘global gag rule’ threatens health clinics across Kenya and Uganda, *the Guardian*, Jan. 24, <https://www.theguardian.com/global-development/2017/jan/24/how-the-us-trump-global-gag-rule-threatens-health-clinics-across-kenya-and-uganda> (accessed on Sept. 25, 2019).
19. See Glick, P. & Linnemayr, S. (2016). *The economic rationale for investing in family planning in Sub-Saharan Africa*, May 10, available at <http://blogs.worldbank.org/health/economic-rationale-investing-family-planning-sub-saharan-africa> (accessed on Sept. 18, 2019). See also Canning et al. 2015; Cleland et al. 2011.
20. As noted by Stobie, the stories collected in the book *Opening Spaces: Contemporary African Women’s Writing* (1999) focus on environments as interconnected and organic systems in which human and more-than-human bodies are all enmeshed actors (Alaimo, 2010, p. 2) through the interactions between natural symbolism and the artifice of narrative form. In light of a scene wherein a pregnant woman’s corpse mysteriously gives birth after she is whipped to death, Zimbabwean author Yvonne Vera portrays the authors of the collected stories being “witnesses, in that seemingly impossible birth” of African feminist fiction. Cited in Stobie C. (2017). *The Birth of ‘New’ Materialism? Abortion and Southern African Women’s Writing*. Available at <https://findingafricaseminar.wordpress.com/2017/02/16/the-birth-of-new-materialism-abortion-and-southern-african-womens-writing/> (accessed on Apr. 27, 2020).
21. See Oyatoye, I.F. (2019). *Taking stock: Financing family planning services to reach Ghana’s 2020 Goals*. March 18, <https://blogs.worldbank.org/african/taking-stock-financing-family-planning-services-to-reach-ghanas-2020-goals> (accessed on April 26, 2020).
22. See Associated Press. (2007). *Examples of Failed Aid-Funded Projects in Africa. Oil Pipeline, Fishing Processing Plant are few of the unsuccessful ones*. http://www.nbcnews.com/id/22380448/ns/world_news-africa/t/examples-failed-aid-funded-projects-africa/#.XQyvcC35x-U (accessed on June 15, 2019).
23. “Governance” as a concept has experienced several dynamic conceptual evolutions. It can be either viewed as a problem-solving approach to address the shortfalls of public and private institutions to function efficiently or as a sum of collective means and action in providing transformative agendas while addressing the needs of society as a whole. Dodgson et al. (2002, p. 6) define it broadly as the actions and means adopted by a society to promote collective action and deliver collective solutions in pursuit of common goals.”

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CHAPTER 7: DO PEACE MISSIONS IN AFRICA MATTER?

By Miao-ling Lin Hasenkamp and Stacey M. Mitchell

INTRODUCTION

Several empirical peacebuilding studies in Africa have shown that tensions, limitations, and contradictions over ideas and the prioritization of and impact of various components of peace agendas prevent peace missions from meeting their expectations and objectives.¹ This chapter addresses the puzzle of why peace missions fail to consistently achieve sustainable peace.

Peace missions are defined as those that cover peacekeeping and peacebuilding missions, including the work of fact-finding missions, political missions and in some cases special rapporteurs. For this study, a condition for long term peace is assumed to include the domestic legalization of human rights prohibitions against political violence, including prohibitions against torture. Peace missions are now the subjects of much criticism, including for their “tone-deaf” attitude to the needs of local communities and a multitude of allegations of sexual misconduct perpetrated by peacekeepers. Moreover, the long-time presence of peace missions in countries like Mali and Sudan did not prevent these countries from collapsing into humanitarian disasters.²

This chapter first addresses the concept of the peace mission, what it is and what it is intended to achieve. The discussion of peace missions largely addresses UN missions although regional missions are also assessed. Following a discussion of the UN’s *Rule of Law Indicators*,³ the theoretical framework used by this study is explained. Emphasis is placed on the “Local/Comparative” peace paradigm and the ways in which it improves on other International Relations (“IR”) paradigms as a means of testing this volume’s fourth hypothesis about the influence of international intervention on the inclusiveness of *congruence*.

The Local/Comparative paradigm shares with constructivism an emphasis on the notion of peace processes as multidirectional and multilayered. This perspective also neatly aligns with the legalization theory on which the authors of this volume rely. This chapter then turns its focus to the examples of peace missions conducted in Mali and Burundi and assesses the impact these missions have had strengthening the domestic communities of practice involved in the domestication of laws prohibiting domestic political violence.

The authors find some evidence that suggests that the more closely peace missions incorporate local interests and agendas, the greater the likelihood that the development of civil society and the other necessary components of *congruence* will occur, although the extent to which these components effectively impact a state's implementation of and compliance with international human rights prohibitions against torture, extrajudicial killings and disappearances remains uncertain. This is an observation that applies equally to regional missions, including those conducted by the African Union ("AU") and the Economic Community of West African States ("ECOWAS"). As implied, the results achieved by this study are tentative. Peacebuilding is a long-term project whose successes are neither immediate nor necessarily permanent and are most frequently contingent on the "good will" of the international community as well as the interests of the target (recipient) states.

PEACE MISSIONS IN AFRICA

Peace missions encompass several different actions, including peacekeeping, peace enforcing, and peacebuilding activities along with the work of special rapporteurs, aid missions, and various fact-finding investigative missions, including those conducted at the request of the United Nations Human Rights Council ("HRC") and its Security Council ("UNSC").⁴ The UN's Department of Political and Peacekeeping Affairs is also engaged in several political missions in Africa. The Special Envoy for the Great Lakes Region, the Special Envoy for the Horn of Africa, the UN Support Mission in Libya, and others work tirelessly to improve political inclusiveness, help consolidate institutional reforms, and other tasks.⁵

Peace missions are intended to help conflict and post-conflict countries build and consolidate institutions that resolve and prevent conflicts and ensure stability and development. These institutions include legal and political institutions, economic institutions, and social justice mechanisms, including truth and reconciliation commissions.⁶ Additionally, peace missions now have a greater focus on ensuring gender equality.⁷

In recent years, the UN has focused more directly on the rule of law in transitional countries. The UN's *Rule of Law Indicators* is not intended to assess states' compliance with international laws and standards, rather it provides guidance for states on how to monitor and improve performance on a number of rule of law indicators, two of which are similar to the components of *congruence* examined by this study: judicial independence and access to justice.⁸ The focus of the *Rule of Law Indicators* rests with the justice system—courts, police, prisons. Specifically, "[f]or each institution, the instrument includes a number of indicators to measure how the system treats minorities, victims, children in need of protection

or in conflict with the law, internally displaced persons, asylum-seekers, refugees, returnees, and stateless and mentally ill individuals.”⁹

In his quantitative assessment of UN peace operations and the rule of law in Africa, Blair finds that these missions have a positive impact on rule of law in post-conflict countries over a short period of time, specifically the three-year period after the signing of a peace treaty, having mostly to do with UN personnel rather than the presence of troops, and tend to work better when the UN engages with local populations.¹⁰

While his study adds strength to the argument that the involvement of local communities in a peace process is essential for its sustainability, as well as the important role the UN has in the establishment of rule of law in post-conflict countries, it says little about *why* rule of law falters over time. Certainly, a UN presence is better than no presence for many of these countries, but even with a UN presence, why have so many governments in recent years collapsed into violent civil war and authoritarian rule?

Some of this discrepancy may be attributable to the relative absence of non-governmental organizations (“NGOs”) in the rule of law process. As the authors of this volume contend, NGOs and other local associations are integral to explaining human rights laws in practice. Shutting out civil society and societal engagement weakens rule of law *regardless* of a UN presence or for that matter, the presence of a regional peace mission.¹¹ Moreover, what does the presence of mercenary groups, like the Wagner group, and participants from authoritarian governments in peace missions have on rule of law in African countries? The trajectories of rule of law are clearly a consequence of a complex set of actors and institutions.

Although the UN has taken a lead role in conducting peace missions, regional organizations in Africa have become more involved in peace processes over the past few decades. It has been suggested that peace and security initiatives launched by the ECOWAS and the AU in Mali, Côte d’Ivoire, and Libya were effective and demonstrated the role of African agency in the application of Responsibility to Protect on the continent, including the Responsibilities to Prevent, to React and to Rebuild.¹²

Arthur attributes the relative successes of ECOWAS peace missions in Côte d’Ivoire and Togo in the early 2000s to lessons learned from the peace missions ECOWAS conducted in the 1990s. A lack of consensus among leaders of ECOWAS states about the legality of the use of ECOMOG (the ECOWAS Ceasefire Monitoring Group) in conflict situations and the need for UN approval,¹³ problems with the financing and logistics of missions, and allegations of impropriety on the part of ECOMOG made early ECOMOG efforts in Liberia and Sierra Leone only partially successful.¹⁴ Since that time, Arthur argues that

ECOWAS has come into its own with respect to maintaining neutrality in its missions and has a working knowledge of what is required to conduct a successful and sustainable peace mission, including the support of all parties to the conflict for a peaceful solution and greater efforts towards disarmament.¹⁵

As of the time of this writing, however, efforts by ECOWAS, the AU, and other regional organizations to effectively respond to the wave of coups d'état in Western Africa over the past few years have proven less-than-successful. The involvement of the Wagner group as a spoiler in these conflicts makes intervention even more problematic. Adding insult to injury is the defense pact reached between the military governments of Niger, Mali, and Burkina Faso—all members of ECOWAS—to respond to any attempt to remove them from power with force.¹⁶ By 2023, the AU suspended all States party involved in recent coups, including Niger, Sudan and Mali.¹⁷

THE MODEL USED BY THIS STUDY

Many approaches to understanding and explaining peace missions seldom focus on the importance of local “buy in” in the process. This omission is problematic given that these theories also have a prescriptive function for policymakers.¹⁸

Realism with its focus on state security and its preference for short term peace is ill-suited as a vehicle for understanding what is necessary for a peace mission to succeed. The chief emphasis is placed on maintaining internal security and stability of the state at the expense of longer-term issues of reconciliation or conditions of structural violence.¹⁹ As the authors of this volume make clear, achieving stability without the creation of rule of law merely kicks the can down the road and avoids the tougher decisions about the kinds of institutional development that would most benefit that country.

At the same time, realism can explain the shifting collectives of actors—states/organizations—who participate in these missions and why. With Mali, for example, the policymaking behavior of powerful states like the US or France amidst a resurgence of terrorist activities and political coups in the Sahel, illustrates the significance that national security continues to have in starting or ending peace missions. For Burundi, it is the “national interests” of the leadership of Burundi that have come to dominate peace processes, which is to say the government’s resistance to a regional or international peace mission, observer mission etc. The choice of this government is geared towards a selective and strategic peace process, one which involves a *national commission vérité et réconciliation* that addresses violence perpetrated by Tutsi-led regimes of the distant past.²⁰

The liberalist approach to peacebuilding has been the dominant model. And while it focuses on internal dynamics within a state, it largely assumes a more Western perspective in which the intent of the

international community is to rebuild and remake the post-conflict state. The idea of a one-size-fits all model is problematic for obvious reasons. Institutional legacies of political, economic, and social development are unique in each country. To assume that the majoritarian system of government, for example, will work just as well in Uganda as it does in the United States is preposterous.

As Jeng argues, the liberal peace project is ethnocentric and mirrors the “very society that determines its content, praxis and operational hierarchy.”²¹ In particular, the relationship between international law and its postcolonial application in former colonies “creates a strong basis for alternative thinking – that considers and engages propositions from Third World perspectives on international law and their relevance to the need for conceptual recasting of approaches to violence and conflicts. This is particularly compelling given that a significant part of postcolonial African statehood has been characterized by the eruption [...] of violence and conflicts.”²² Resentment, and the ineptitude and inefficacy of many liberal peace missions, plus the common perception of international law as universal, leaves many African states few options and very little agency.

Constructivism, with its focus on objective and subjective qualities of policymaking, gets closer to understanding why peace missions so often fail to achieve their objectives. McCandless and Donais contend that what is necessary is a multi-level dialogue between actors engaged in the peace process. Absent a continuing interaction between international, state, and non-state actors, peace missions will fall flat. As they suggest, “in a globalised setting norms—far from being simply ‘transmitted’—emerge and evolve through complex systems of interaction and channels of influence that run not only top-down and bottom-up, but also horizontally across borders, types of actors and networks.”²³

The local approach to peace missions is based on the idea that a bottom-up approach towards peace missions is essential to achieve local ownership of the peace building process.²⁴ Like constructivist approaches to peace building, the assumption that prevails in this subset of IR peace literature is that not all societies are alike, each has its own patterns of political, economic, and social development that require acknowledgment and understanding. Peace missions in all their many forms serve as critical junctures in the institutional development of a country. Kurtenbach, Hoven, Paris, Mac Ginty, and Jabri suggest that the incorporation of domestic perspectives and background knowledge in a peace project is necessary for its success in the creation of rule of law and the other outcomes that are expected to ensue from a mission.²⁵ As van Leeuwen et. al. state, “[l]ocalized peacebuilding is expected to gear intervention towards everyday experiences of violence and local understanding of how to deal with these, would make peacebuilding more sustainable as a result of local ownership and legitimacy.”²⁶

Moreover, van Leeuwen et al. argue that the concept of “local” is ambiguous. Whether we’re talking about civil society, traditional institutions, or indigenous leaders there is no one local authority per se, but a mixture of groups across a country with competing interests and agendas.²⁷ Rather than “essentialize” the local, peace building requires an understanding of the complex nature of local institutions, and how their interaction with national and international institutions impacts and is impacted by these institutions; “the local community is made and remade, making it hard to identify and generalize about the local’s actual nature.”²⁸ Rather than focus merely on national leaders, peace missions would be more successful in encouraging and supporting local actors and non-state institutions in their processes of negotiation and competitions for legitimacy.²⁹

Conceiving of the local community in this way aligns the Local/Comparative paradigm well with this study’s theory of legalization. Aside from the fact that the local perspective acknowledges institutional change and development as a process that mandates input from the public, not merely political elites, or outside interests, it also posits local community as something that is not static, but subject to constant change in relation to the environment in which local institutions operate and people live.

When it comes to the legalization of civil and political liberties in post-conflict states several factors impair the work of local institutions as an important aspect of the fledgling communities of practice which impact lawmaking in that state. Institutional legacies of division and exclusion (colonial and post-colonial), regional politics, conditions of internal instability, and how peace missions are conducted impact legalization processes. International and regional intervention—in whatever form it takes—is itself a product of global politics. The authors of this chapter delve into the work of peace missions in Mali and Burundi and examine how these missions have been conducted as well as the intersectionality of these missions with local and regional politics, and global and regional policy trends and agendas.

MALI

Between 2013 and 2024, international and regional peace missions aimed to support Mali in restoring peace, combatting terrorism, monitoring human rights, creating conditions for the provision of humanitarian assistance, and preparing for free, inclusive and peaceful elections. These missions took place against the backdrop of a significant global change in security strategy, priorities, and Great Power engagements.³⁰ Because the concurring intervention and engagement efforts failed to consider regional complexities, these missions enhanced the authoritarian rule of the Malian government and left the prospect of human rights promotion at best unfulfilled.³¹

In January 2012, a Tuareg Movement known as the *Mouvement national pour la libération de l'Azawad* ("MNLA"), along with Islamic armed groups such as *Ansar Dine* ("Defenders of the Faith"), *al-Qaida in the Islamic Maghreb* ("AQIM"), the *Mouvement pour l'unicité et le jihad en Afrique de l'Ouest* ("MUJAO"), and Malian deserters from the armed forces, initiated a series of attacks against government forces in the north. After the 2012 coup, the Heads of State and Government of ECOWAS appointed the President of Burkina Faso, Blaise Compaoré, to mediate in the crisis. ECOWAS organized an African-led International Support Mission to Mali ("AFISMA") with German and French forces in February 2013.

Concurrently, Mali interim authorities asked for UN assistance to build their capacity in the areas of political negotiation, elections, governance, security sector reform and humanitarian assistance. The UN Multidimensional Integrated Stabilization Mission in Mali ("MINUSMA"), authorized by UNSC Resolution 2065 (December 20, 2012), was established in July 2013. MINUSMA's mandate was to provide coordinated and coherent support to the ongoing political and security processes, including support for the planning, deployment and operations of the AFISMA Mission. Following MINUSMA's road map, the essential tasks for Mali's Transitional Government consisted of restoring territorial integrity and organizing free and fair elections. Despite improved security situations following the re-hatting of peace operations from the French and African military operations alongside the Malian army to the UN-led MINUSMA in northern areas, serious challenges remained, including those stemming from terrorist activities and ongoing military operations in some areas.³²

Because of the high losses sustained by MINUSMA, and with French support, Mali and its regional neighbors formed the Group of Five Sahel Joint Force ("FC-G5S") in 2014 to fight terrorist organizations in the Sahel. As part of the military pillar of European Union ("EU") action in Mali the EU deployed its training mission ("EUTM Mali") to strengthen the capabilities of the Malian Armed Forces.³³ FC-G5S became a favorite partner with whom Western allies and EUTM Mali liked to work to provide financial support and capacity-building, all of which was considered as part of the global "burden-sharing" of security challenges between the US and its allies.

In November 2019, the AU's Peace and Security Council conducted a mission in Mali, together with the EU's Political and Security Committee to assess the situation and identify the support needed for promoting peace and security in Mali and for stabilizing the Sahel region.³⁴ The EUTM's Fifth Mandate in March 2020 upheld its strategic objectives in supporting FC-G5S to improve its military education system and to strengthen regional cooperation.

The efforts of international and regional *ad hoc* coalitions to restore and stabilize Mali marked a return of Europe to peacekeeping in Africa as well as greater Chinese involvement in African peace

missions. Whereas Chinese and African personnel were mostly involved in MINUSMA operations on the ground, Europeans were deployed predominantly in coordinating activities and in strategic roles guided by a limited approach to avoid further overseas casualties. Unequal burden-sharing as well as an unstable political context shaped by competing, even incompatible agendas among diverse government and non-government armed factions, limited the effectiveness of MINUSMA. The 2015 *Algiers Accord* was disrupted several times among its signatories by fighting on the ground. External observers and most of Mali's population regarded the *Accord* as an elite affair being enforced by international partners.³⁵

A series of global crises since 2019 exposed the harsh reality of existing unequal relations between the developed world and the Global South and the recurring anti-Western resentment dating back to colonial times for many African societies. For Mali, two coups took place during this time: the first in 2020, a second in May 2021. In the second coup the military replaced the transitional interim government set up after the 2020 coup. Since then, Mali's relationship with the West has sharply deteriorated. The presence of international peace missions is increasingly put under scrutiny.³⁶ MINUSMA ended its mission in December 2023. The military junta regime officially invited Russia's Wagner group to fight against Islamist groups. The brutal operations conducted by the Wagner group have provoked international concern.³⁷

At the end of the day, the data from the Institute for Democracy and Electoral Assistance ("IDEA") indicate that between 2015 and 2022, the components of *congruence* improved only slightly for a few of the indicators, with little to no change for the rest.³⁸ Can this purely be attributed to the failure of peace missions in Mali? Likely not, but the fact that few of Mali's missions focused on granting agency to local institutions and actors means that the work to establish rule of law in Mali remains an unfinished product.

Table 7.1: Congruence in Mali³⁹

<TABLE 7.1 HERE>

BURUNDI

The 2000 Arusha Peace and Reconciliation Agreement ended the civil war and called for the implementation of a new consociational system of government.⁴⁰ Accompanying these changes was the

instillation of the UN Operations Mission in Burundi (“ONUB”) which began in 2004.⁴¹ ONUB’s mandate included demobilization and disarmament of rebel forces, promoting cease-fire agreements between fighting forces and the government, and enabling these and other conditions for the Arusha Agreement to be implemented, as well as providing advice and assistance for the Transitional Government. ONUB was succeeded by the United Nations Integrated Office in Burundi (“BINUB”) which worked to strengthen conditions for long-term peace in Burundi, including (but not limited to) helping re-establish rule of law, strengthening democracy, helping the government coordinate democracy initiatives with donor countries and demobilizing rebel forces and reforming the security sector.⁴² BINUB remained in Burundi until December 2014 at which time it handed off its authority to a UN country team, consisting of a host of actors and based on the UN Development Assistance Framework (“UNDAF”).⁴³

For a time, Burundi made progress.⁴⁴ A separate UN mission to oversee the 2015 elections in Burundi—the UN Electoral Observation Mission in Burundi (“MENUM”)—began its work in the country in January 2015 and ended its mission in December that same year. Conditions deteriorated in 2015 after former *Conseil National pour la Défense de la Démocratie-Forces pour la Défense of Démocratie* (“CNDD-FDD”) rebel leader and President Pierre Nkurunziza declared his intent to run for another term. Opponents, civil society and even members of the CNDD-FDD ruling party challenged his plan because it violated the terms of the Arusha Agreement, which limited presidential terms to two. Backed by the Constitutional Court, however, Nkurunziza successfully ran and was re-elected. Whether these results are attributable to flaws in the consociational design or to the fact that Nkurunziza is a former rebel leader, they quickly prompted an increase in political violence, threats to individual physical integrity and security and reduced Burundi’s status from a hybrid democracy to an authoritarian state. MENUM declared that the July 2015 elections proceeded in a peaceful manner, although the environment in which the elections took place “was not conducive for an inclusive, free and credible electoral process.”⁴⁵

The 2015 elections and all activities that have occurred since exemplify rule *by law* of the CNDD-FDD regime. Burundi’s constitution has been changed three times since 2005; the latest version permits the president to serve more than two terms of seven years each, so long as these additional terms are not consecutive to the first two. The constitution also increases the legislative power of the CNDD-FDD relative to the opposition.⁴⁶ Critics of these changes at the time noted that they permitted then-President Nkurunziza to potentially stay in power until 2034, and that the referendum itself was illegitimately conducted.⁴⁷ Changes to the Penal Code and Code of Criminal Procedure in 2013 and 2018, respectively, reflect the government’s rule by law tendencies and their response to the sharp deterioration of stability in Burundi.⁴⁸

These changes transpired *despite* the presence of UN missions after 2015, including the UN Office of the Special Envoy for Burundi (“OSEB”) which ended in 2021 at the request of the Government of Burundi.⁴⁹ Additionally, a UN fact-finding mission—the UN Commission for Inquiry (“COI”)—was created in 2016 to examine the violence that followed the 2015 election. Regarding the use of torture, the COI found that, “Such violence was aimed at intimidating, controlling, repressing, or punishing women and men for their supposed or actual political opinions, their refusal to join the ruling party or their links with an armed movement.”⁵⁰ Despite its urgent need in the country, the COI was ended in 2020. A UN Independent Investigation in Burundi (“UNIIB”) was established in 2015 pursuant to HRC Resolution S-24/1 to investigate the situation on the ground. Their final report contains strikingly similar findings to reports of the COI, including their conclusion that the violations of human rights, “are ‘patterned’.”⁵¹

Looking at the six components of *congruence* examined by this study, the data show some improvement for the authority of local institutions, independence of the judiciary, control of corruption, public access to information and institutions of justice, but overall, these numbers indicate very weak communities of practice in Burundi.

Table 7.2: Congruence in Burundi

<TABLE 7.2 HERE>

Although civic engagement has declined, several qualitative studies indicate that the work of civil society in Burundi and other types of local organizations (or “local peace committees” to use the term relied on by van Leeuwen et. al.), paints a different picture, which demonstrates progress on the creation of dialogue and cooperation between communities as well as the complexity of the involvement of local actors in the peace building process.⁵² Féron writes about the valuable contributions that women’s groups in Burundi make through their networks of groups and civil society organizations that focus on conflict mediation and prevention.⁵³ They serve as a “rich source of new ideas and creative approaches, that also have the advantage of being rooted in local context.”⁵⁴

The work of the *bashingantahe* traditional conflict resolution institutions, and a variety of other institutions at the local level, such as the *Commissions Justice e Paix*, and *MiParec* work on programs meant to resolve disputes, reintegrate ex combatants, raise awareness about human rights and/or foster

dialogue and forgiveness between individuals.⁵⁵ Many “peace clubs” were created by national and international organizations to increase reconciliation and avoidance of conflict. The competition between these institutions for greater authority at the local levels has diminished the legitimacy of traditional institutions like the *bashingantahe*.⁵⁶

The work of local peace communities (and their support by national/international peacebuilding NGOs and institutions) is essential to grounding the peace and reconciliation processes in Burundi. These local actors in Burundi operate below and, in a manner, distinct from the governing apparatus. Although they cannot directly deal with macro-level inequities resulting from long-term conditions of structural violence,⁵⁷ they approach disputes over land, marriage, theft, and violence against women in a pragmatic manner and with an understanding of the larger constraints imposed on them by the state. Their ability to investigate violent state misbehavior, for example, or address political issues of representation between groups is limited. At the same time, these local peace committees, and (inter)national NGOs have “worked on strengthening local capacities for advocacy, training in democracy, good governance, the rule of law, and citizen participation in policy decisions, notably women and youth.”⁵⁸

DISCUSSIONS AND PRELIMINARY CONCLUSIONS

Peacekeeping efforts in Mali demonstrate how the interests of external powers and neighboring states and a general lack of consideration of competing heterogeneous local perspectives in peace processes, hinders constructive legalization practices at both national and local levels.⁵⁹

The ongoing crisis in Burundi remains the subject of international and regional concern. No regional or international peacekeepers are presently in Burundi, although the African Commission on Human and People’s Rights conducted a fact-finding mission to Burundi in December 2015. Their report verified the allegations made by the COI that acts of torture, political violence, and murders were taking place in the country.⁶⁰ The fact that the government repudiated these findings⁶¹ and has not changed its policies may be reflective of the AU’s lack of influence.⁶²

The interplay of changing regional dynamics and international interests, and the lack of appreciation for local and regional contexts have been mutually reinforcing in shaping the outcomes of UN/regional missions in Mali and to a lesser extent, Burundi. In the case of the latter, the impact that the UN, outside donors, and NGOs had on improving the work of local peace communities has *not* translated into larger changes in the governing system or stemmed the tide of serious human rights abuses.

Even though peace and conflict studies indicate the limitations and inadequacies of realist approaches to understanding and tackling the multifaceted challenges peace missions face, realism

remains a legitimate framework for understanding how and why some states chose to engage in these missions as well as the scope and strategy of their engagements. Mali showcases how international and regional actors, particularly under French leadership, have been efficient in mobilizing resources to re-shape the scope and agendas of MINUSMA and AU's involvement in countering the actions of diverse Islamist groups. Moreover, the intervention experience in Mali impacted the AU's policies on peace and security including its creation of an African Standby Force to enhance the African capacity for immediate response to crises.⁶³

Analysts have highlighted serious negative consequences of implementing multidimensional integrated peace missions. These include the deterioration of UN legitimacy, the subordination of the protection of civilians, and for Mali, increases in human rights violations.⁶⁴ Karlsrud notes that under such circumstances, the emphasis on the human rights due diligence framework in MINUSMA's work demonstrates lingering concerns about the increasingly close cooperation between UN peace operations and *ad hoc* counter-terrorism actors in countering violent extremism action.⁶⁵ Moreover, the participation of Chinese peacekeepers in MINUSMA as well as Russia's increasing influence in Mali, Niger and elsewhere on the continent increase the likelihood of the spread of illiberal conflict management and peacebuilding practices in the region.⁶⁶

The increasing entanglement of peace missions and counter-terrorism operations has changed the UN's peacebuilding paradigm, both in discourse and practice. The shift from a primary focus on institution building to the immediate protection of civilians led to the adoption of a more reactive approach to security incidents with limited goals in accordance with the US and its Western allies' counterterrorism doctrine. This shift has been to the detriment of elaborating a long-term people-centric strategy.⁶⁷ It is under such an international environment that international and regional *ad hoc* coalition peace efforts in Mali took place. It is not surprising that the outcome of the UN missions in Mali fell prey to the vicious circle of foreign counterterrorism strategies with a perverse result: the higher the US aid levels to personalist regimes with weak institutional capacities, the higher the recurring cases of terrorist attacks. Not only have the UN and the West suffered a loss of credibility and reputation, but the vacuum they left in the region created fertile soil for the spread of illiberal peacebuilding activities.⁶⁸

For Burundi, the UN missions were geared towards implementing the Arusha Peace Agreement and maintaining stability. Underlying these missions was an appreciation for efforts to maintain the multiparty government. Although attempts have been made to enhance local institutions, including civil society and mediation groups, there is a disconnect between the work of these organizations and the national government. Although the data reflect stronger public components of *congruence*, studies

suggest that these components are constrained and unable to effectively impact the policymaking and accountability processes.

The adoption of a local/comparative approach might well support liberal actors to find a balanced match in addressing both immediate security challenges and the root causes of the conflicts in Africa. Bottom-up and space-sensible historical comparative accounts can help illuminate the root causes of a deep domestic crisis fueled by long standing ethnic grievances and the increasing disenfranchisement of segments of the population. The issues of geography/spatial perceptions and framings in shaping the interactions among different actors, chronic corruption, religious extremism, and the colonial legacy of Mali all deserve a careful reading in the Malian context.⁶⁹

The dynamics of emerging trans-local peace communities involved in diverse conflict resolution and transitional justice initiatives in Burundi as well as the growing attention to women's potential contributions as security actors in preventing and countering violent extremism in the private sphere in Mali offer evidence of the merits of adopting a bottom-up peacebuilding perspective sensitive to local/comparative approaches (e.g. the inclusion of diverse and competing discursive practices of representation and local knowledge of conflict resolution methods).⁷⁰

¹ Burundi has experienced contradictions of international peacebuilding efforts despite its successful political transition to a multi-ethnic power-sharing system (such as it is). See Devon Curtis, "The international peacebuilding paradox: Power sharing and post-conflict governance in Burundi." *African Affairs* 112(446) (2013): 72-91; also, Devon Curtis and Albert G. Dzinesa, *Peacebuilding, Power, and Politics in Africa* (Ohio University Press, 2012); Séverine Autesserre, *The Trouble with the Congo: Local Violence and the Failure of International Peacekeeping* (New York: Cambridge Univ. Press, 2020) and *The Frontlines of Peace: An Insider's Guide to Changing the World* (Oxford: Oxford Univ. Press, 2021).

² Amnesty International ("AI"), "Human Rights in Mali, 2022," at Human rights in Mali Amnesty International, accessed March 2, 2023, (accessed May 5, 2023). In Mali, a military junta runs the government and is suspected of several egregious human rights violations, including tortures, disappearances, and scores of civilian deaths. or Sudan, the State of Emergency proclaimed by the military government under Lieutenant General Abdel Fattah al-Burhan, commander of the Sudanese Armed Forces led to mass protests, killings, and the resignation of Prime Minister Abdalla Hamdok in January 2022. The current battle has created a mass exodus of millions of people to neighboring countries. Amnesty International is just one of many organizations that have written numerous reports about the violence. See AI, "Sudan: UN Human Rights Council's Special Session on Sudan Should Establish an Investigative Mechanism," (New York: Amnesty International, May 2023) at Sudan: UN Human Rights Council's special session on Sudan should establish an investigative mechanism - Amnesty International, (accessed July 4, 2024); also, Enrica Picco, "The Fallout in Chad from the Fighting in Darfur," International Crisis Group (August 10, 2023) at The Fallout in Chad from the Fighting in Darfur | Crisis Group, (accessed September 28, 2023).

³ The United Nations Department of Peacekeeping Operations ("UN Peacekeeping"), *The United Nations Rule of Law Indicators: Implementation Guide and Project Tools*, 1st ed (New York: United Nations Publications, 2011).

⁴ Peacekeeping, peacemaking, peace enforcing, and peace building missions all differ with respect to their purpose, their targets, as well as their ability to use force. For an excellent explanation of these differences, see Raymond Taras and Rajat Ganguly, *Understanding Ethnic Conflict* 4d (Abingdon: UK; New York: Routledge, 2010), chapter 4.

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- ⁵ United Nations Peacekeeping Operations, Special Political Missions, and Other Political Presences | (unmissions.org), (accessed September 29, 2023).
- ⁶ For an excellent assessment of the complexities surrounding security sector reforms and peace missions in Africa, see the volume *Africa Security Review* 26(2) (2017).
- ⁷ These reforms have come from the highest level and include a zero-tolerance approach to gender violence and exploitation. See, for example, UNSC Resolutions 1325 (2000) and 1820 (2008); also, Sara E. Davies and Sarah Teitt, "Engendering the Responsibility to Protect: Women and the Prevention of Mass Atrocities," *Global Responsibility to Protect* 4(2) (2012): 198-222. For further information about the UN's zero-tolerance policy, see UN General Assembly, *Special Measures for Protection from Sexual Exploitation and Abuse Report Of The Secretary-General*, A/75/754, (February 15, 2021).
- ⁸ UN Peacekeeping, *Rule of Law*, v.
- ⁹ UN Peacekeeping, *Rule of Law*, 4.
- ¹⁰ Robert A. Blair, *Peacekeeping, Policing, and the Rule of Law after Civil War* (Cambridge, UK: Cambridge Univ. Press, 2020), 90-121.
- ¹¹ IDEA data indicate that civil society engagement dropped substantially in several African countries over the past two years, including in Sudan, South Sudan, Burundi, Eswatini, Central African Republic and Zimbabwe. IDEA, *Global State of Democracy Indicators, 2019-2021*, at Global State of Democracy Indices | International IDEA, (accessed September 4, 2023).
- ¹² Kwesi Aning and Fifi Edu-Afful, "African Agency in R2P: Interventions by African Union and ECOWAS in Mali, Cote D'ivoire, and Libya," *International Studies Review* 18 (2016): 120–133.
- ¹³ Peter Arthur, "ECOWAS and Regional Peacekeeping Integration in West Africa: Lessons for the Future," *Africa Today* 57(2) (Winter, 2010): 2-24. The ECOWAS Charter, its Protocol on Non-Aggression as well as the Charter of the Organization of African Unity (Article 3), addressed the importance of state sovereignty, and the peaceful resolution on disputes. See, Arthur, "ECOWAS," 10.
- ¹⁴ Arthur, "ECOWAS," 14-16.
- ¹⁵ Arthur, "ECOWAS," 17-19.
- ¹⁶ Reuters, "Mali, Niger and Burkina Faso sign Sahel security pact," September 16, 2023, at Mali, Niger and Burkina Faso sign Sahel security pact | Reuters, (accessed September 29, 2023).
- ¹⁷ Political Geography Now, Map Update: Record Number of African Union Members Suspended (Sep. 2023) - Political Geography Now (polgeonow.com), (accessed September 29, 2023).
- ¹⁸ For an excellent assessment of the different IR perspectives on peace missions, see Henry F. Carey and Onur Sen, "Introduction: Bridging the Conceptual and Theoretical Divides on Peace and Peacebuilding," in Carey, *Peacebuilding Paradigms*, 1-28.
- ¹⁹ For studies on peacemaking that adopt a realist stance, see Naazneen H Barma, *The Peacebuilding Failure: Political Order in Post-Conflict States* (Cambridge: Cambridge Univ. Press, 2017); also the work of Norrin M. Rippman, "Two Stages of Transition From a Region of War to a Region of Peace: Realist Transition and Liberal Endurance," *International Studies Quarterly*, 49(4) (December 2005): 669-693 and Rippman, "Realism, Rationalism, and Peace: A Top-Down and a Staged Perspective," in Carey, *Peacebuilding Paradigms*, 47–58.
- ²⁰ The *Commission vérité et réconciliation*, or CVR was created by the Nkurunziza regime in 2014. Its purpose is to address the partial genocide perpetrated by the Tutsi-led Micombero regime in 1972-1973.
- ²¹ Abou Jeng, *Peacebuilding in the African Union: Law, Philosophy, and Practice* (Cambridge University Press, 2012), 4.
- ²² Jeng, *Peacebuilding*. Jeng examines whether an alternative approach to peacebuilding can be generated under the Constitutive Act of the African Union. Using a pluralist constructivist approach that challenges the dominance of international law on peacebuilding in post-colonial Africa, he contends that the AU's more integrative approach, which combines peace and security, may have more success.
- ²³ Timothy Donais and Erin McCandless, "International Peace Building and the Emergence of the Inclusivity Norm," *Third World Quarterly* 38(2) (2017): 291-310, 305; see also, Erin McCandless and Timothy Donais, "Generations of Constructing Peace: The Constructivism Paradigm and Peacebuilding," in Carey, *Peacebuilding Paradigms*, 126-144.
- ²⁴ The idea of placing greater focus on local dynamics in peace processes is inspired by the writings of Johan Galtung (for example, *Peace by Peaceful Means: Peace and Conflict, Development and Civilization* [International Peace Research Institute Oslo; Sage Publications, Inc., 1996] and Galtung and Paul D. Scott, *Democracy, Peace,*

Development, [Transcend Univ. Press, 2008]) and Séverine Autesserre (for example, *Peaceland: Conflict Resolution and the Everyday Politics of International Intervention* [Cambridge: Cambridge University Press, 2014] and *The Trouble with the Congo*).

²⁵ Hoven, "Paradigm Partners"; Sabine Kurtenbach, "Why is Liberal Peacebuilding so Difficult? Some Lessons from Central America," *European Review of Latin American and Caribbean Studies* 88 (April 2010): 95-110; Roland Paris, "Saving Liberal Peacebuilding," *Review of International Studies* 36 (2012): 337-65; Roger Mac Ginty, "Where is the Local? Critical Localism and Peacebuilding," *Third World Quarterly* 36(5) (2015): 840-56; Vivienne Jabri, "Peacebuilding, the Local and the International: A Colonial or a Postcolonial Reality?," *Peacebuilding* 1(1) (2013): 3-16; Roger Mac Ginty and Olivier P. Richmond, "The Local Turn in Peace Building: A Critical Agenda for Peace," *Third World Quarterly* 34(5) (2013): 763-83; Thania Paffenholz, "Unpacking the Local Turn In Peacebuilding: A Critical Assessment Towards An Agenda For Future Research," *Third World Quarterly* 36(5) (2015): 857-74.

²⁶ Mathijs Van Leeuwen, Joseph Nindorera, Jean-Louis Kambale Nzweve, and Corita Corbijn, "The 'Local Turn' and Notions of Conflict and Peacebuilding – Reflections On Local Peace Committees In Burundi And Eastern DR Congo," *Peacebuilding* 8(3) (2020): 279-299, 280. The value of considering a local perspective in peacebuilding is not in and of itself always a good idea. The authors point to literature that raises issues about who determines which local communities should have a voice in peace processes and how their participation is to proceed. See Van Leeuwen et. al. "'Local'," 281 and the studies by Oliver P. Richmond, including "The Romanticisation of The Local: Welfare, Culture and Peacebuilding," *The International Spectator* 44(1) (2009): 149-69; see also, Birgit Bräuchler and Philipp Naucke, "Peacebuilding and Conceptualisations of the Local," *Social Anthropology* 25(4) (2017): 422-436.

²⁷ Van Leeuwen et. al., "'Local'," 282-283.

²⁸ Van Leeuwen et. al., "'Local'," 283. They suggest that the concept of "local" needs to be deconstructed by outside actors to understand who among these local actors speaks for whom and why, who is claiming legitimacy and why, and so on.

²⁹ Van Leeuwen et. al., "'Local'" 282-284.

³⁰ John Karlsrud, "From Liberal Peacebuilding to Stabilization and Counterterrorism," *International Peacekeeping*, 26(1) (2019): 1-21.

³¹ Karlsrud, "From Liberal"; Marc Lanteigne, "China's UN Peacekeeping in Mali and Comprehensive Diplomacy," *The China Quarterly* 239 (2019): 635-655. Harold Cheung, "The Rise of Illiberal Peacebuilding and Authoritarian Modes of Conflict Management," *The Cornell International Affairs Review*, XIII (Fall 2019): 4-41.

³² See UN MINUSMA *History*.

³³ See EUTM <https://eutmmali.eu/eutm-mali-mission/> (accessed on March 1, 2024).

³⁴ See UNGA, HRC, *Report of the Independent Expert on The Situation of Human Rights in Mali*, A/HRC/43/76, 24 Feb.-20 March 2020, Agenda item 10.

³⁵ International Crisis Group, "Mali: An Imposed Peace?" Report 226, (May 22, 2015); Yvan Guichaoua, "A Northern Kno: Untangling Local Peacebuilding Politics," *Insight on Conflict* (Aug. 31, 2016).

³⁶ Bernd Dörries, "Alienation" *Süddeutsche Zeitung*, (June 22, 2022), 4.

³⁷ Human Rights Watch, *World Report 2024. Mali. Events of 2023*, 2024, <https://www.hrw.org/world-report/2024/country-chapters/mali> (accessed on March 12, 2024).

³⁸ For all measures of these components of *congruence*, the data remain in the poor category (0 to .399).

³⁹ For information on how these variables are measured, see Chapter 2 of this volume.

⁴⁰ The civil war between the Tutsi military and several Hutu rebel groups in Burundi began in 1993 after the assassination of Hutu president-elect Melchoir Ndadaye. The agreement was signed in 2000 and went into effect in 2004 after the last rebel groups signed on. Stef Vandenginste, "Legal Loopholes and the Politics of Executive Term Limits: Insights from Burundi," *African Spectrum* 51(2) (2016): 39-63.

⁴¹ An AU peacekeeping mission operated in Burundi from 2003 to 2004 and was replaced by ONUB. The AU offered to send troops to address the violence in 2015, but the plan was rejected by President Nkurunziza. Mark Cauldwell, "AU Proposes Peacekeepers for Burundi," *Reuters* (December 18, 2015).

⁴² UNSC, Resolution 1719 (2006).

⁴³ United Nations Office in Burundi, "Closure of BINUB," at Closure of BNUB | BNUB (unmissions.org). (accessed March 12, 2024).

⁴⁴ Stacey M. Mitchell, *Institutional Legacies, Decision Frames and Political Violence in Rwanda and Burundi* (London: Routledge, 2018), 213-214.

⁴⁵ MNUB, Preliminary Statement at unmissions.org, (accessed March 12, 2024).

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- ⁴⁶ Human Rights Watch *Burundi: Events of 2018*, (2019), available at: <<https://www.hrw.org/world-report/2019/country-chapters/burundi>>, (last accessed February 28, 2021). The 2005 constitution requires 2/3s of the National Assembly and 3/5ths of the Senate to pass a law. Articles 180 and 191 of the 2018 constitution make it so that now only 3/5s of each body of the legislature is needed to pass a law. Constitution of Burundi (2018), available at: <https://www.constituteproject.org/constitution/Burundi_2018.pdf?lang=en> (last accessed February 4, 2021); also, *Constitution of Burundi* (2005), available at: <https://www.constituteproject.org/constitution/Burundi_2005>, (last accessed February 4, 2021).
- ⁴⁷ *Al Jazeera*, “Burundi Backs New Constitution Extending Presidential Term Limits,” (May 22, 2018)
- ⁴⁸ The 2018 revisions grant police wider latitude in how they conduct searches, monitor, and surveil suspects. Law N°1/09 (2018) includes several provisions that violate rights enshrined in the constitution, including article 25 prohibiting torture. HRC, A/ HRC/39/CRP.1, 564-565.
- ⁴⁹ The OSEB was asked to leave in 2019 by Nkurunziza, who then passed away in 2020. His successor, General Évariste Ndayishimiye followed through with his request. Julia Steers, “Why Burundi’s Ongoing Political Tensions Risk Devolving into Ethnic Violence,” *World Politics Review* (2019): 1-5.
- ⁵⁰ HRC, *Report of the Special Commission of Inquiry on Burundi*, A/HRC/45/32 (13 August 2020) 11, available at:<<https://undocs.org/en/A/HRC/45/32>> (last accessed January 3, 2021)
- ⁵¹ UNHCR, *Report of the United Nations Independent Investigation on Burundi (UNHCR) established pursuant to Human Rights Council Resolution S-24/1*, A/HRC/33/3,7 Section 132 (September 20, 2016).
- ⁵² On this point, see also Popplewell’s discussion about civil society associations in Burundi. Rowan Popplewell, “Civil Society, Hybridity and Peacebuilding in Burundi,” *Third World Quarterly* 40(1) (2019): 129-146.
- ⁵³ Élise Féron, “Reinventing Conflict Prevention? Women and the Prevention of the Reemergence of Conflict in Burundi,” *Conflict Resolution Quarterly* 27 (2019): 239-252.
- ⁵⁴ Féron, “Reinventing,” 250.
- ⁵⁵ Van Leeuwen et. al., “‘Local’,” 287-288.
- ⁵⁶ Van Leeuwen et. al., “‘Local’.” Attempts to make the traditional *bashingantahe* more inclusive contributed to its loss of legitimacy in the rural areas of the country. Popperwell, “Civil Society,” 136-138.
- ⁵⁷ One type of policy that has caused more harm than good are the government’s villagization policies. In their present iteration they are referred to as “peace villages.” The goal is reconciliation, assimilation, and development. However, these villages understandably created conflict and mistrust among populations given Burundi’s past histories of conflict and current and past government misrule. Andrea Purdekova, “Respacing for Peace? Resistance to Integration and the Ontopolitics of Rural Planning in Post-War Burundi,” *Development and Change* 48(3): 534-566.
- ⁵⁸ Van Leeuwen et. al. “‘Local’,” 291. Kasherwa, contends that greater involvement of the youth in the peace process in Burundi is especially necessary as they constitute a vast majority of the population (66% under the age of 25). Amani C. Kasherwa, “The Role of Youth Organizations in Peacebuilding in the African Great Lakes Region: A Rough Transition from Local and Non-Governmental to the National and Governmental Peacebuilding Efforts in Burundi and Eastern DRC,” *Journal of Peace Education* 17(2) (2020): 123-160.
- ⁵⁹ Karlsrud, “From Liberal”; Peter Albrecht and Signe Cold-Ravnkilde, “National Interests as Friction: Peacekeeping in Somalia and Mali,” *Journal of Intervention and Statebuilding*, 14(2) (2020): 204-220.
- ⁶⁰ African Commission, *Final Communiqué Fact-Finding Mission of The African Commission on Human and Peoples’ Rights to Burundi 7-13 December 2015*, available at: <achpr-com-fact-finding-mission-burundi-13-12-2015.pdf> (peaceau.org) (last accessed November 13, 2020)
- ⁶¹ African Commission, *40TH Activity Report of The African Commission on Human and Peoples’ Rights* (2016), 10, available at: <file:///C:/Users/smitshell64/Downloads/actrep40_2016_eng.pdf> (last accessed November 13, 2020)
- ⁶² A similar claim can be made about the East African Court of Justice (“EACJ”). A case was filed with the EACJ challenging the 2015 ruling of the Constitutional Court allowing Nkurunziza’s bid for a third term. The case was dismissed by the EACJ on the grounds that the EACJ did not have the authority to overrule the Constitutional Court’s decision. East African Community “Press Release: First Instance Division Dismisses Case Challenging Decision of The Constitutional Court of Burundi On Presidential Term Limits,” available at: <<https://www.eac.int/press-releases/561-980-119-first-instance-division-dismisses-case-challenging-decision-of-the-constitutional-court-of-burundi-on-presidential-term-limits>> (accessed November 2, 2020).
- ⁶³ See Katharina P. W. Döring, “The Changing ASF Geography: From the Intervention Experience in Mali to the African Capacity for Immediate Response to Crises and the Nouakchott Process,” *African Security*, 11(1) (2018): 32-58.

⁶⁴ In his 2020 report, the UN's Independent Expert notes arbitrary arrest cases by MINUSMA's peacekeepers, summary executions, enforced disappearances, torture, ill-treatment and arbitrary arrests by the Malian defense and security forces. Terror acts committed by armed groups vis-à-vis local populations are documented, too. See UNSC/HRC 2020, FN 33; also, Louise W. Moe, "The Dark Side of Institutional Collaboration: How Peacekeeping-Counterterrorism Convergences Weak the Protection of Civilians in Mali," *International Peacekeeping*, 28(1) (2021): 1-29 and Karlsrud, "From Liberal."

⁶⁵ Karlsrud, "From Liberal," 9.

⁶⁶ See for example Cheung, "The Rise."

⁶⁷ Karlsrud, "From Liberal," 3-4.

⁶⁸ Cheung, "The Rise."

⁶⁹ See Matthieu N. Guerrero, *Understanding Mali: Lessons for Policymakers* (Maxwell Airforce Base, Alabama: School of Advanced Air and Space Studies, June 2014); Katharina P.W. Döring and Jens Herpolsheimer, "The Spaces of Intervention for Mali and Guinea-Bissau," *South African Journal of International Affairs*, 25(1) (2018): 61-82.

⁷⁰ See Jenny Lorentzen, "Women as 'New Security Actors' in Preventing and Countering Violent Extremism in Mali," *International Affairs*, 97(3) (2021): 721-738.

CHAPTER 13: THE POWER OF REGIONAL PERIPHERIES: THE MAKING AND UNMAKING OF LEGALIZATION OF HUMAN RIGHTS IN MALI

By Miao-ling Lin Hasenkamp

INTRODUCTION

This chapter tests this volume's hypothesis about regional stability as a contributor to the legalization of human rights laws prohibiting torture and political violence. This author focuses on Mali against the backdrop of several overlaps between a dysfunctional state and bad governance, increasing ethnic tensions and the spread of jihadists' violence and protection economies including arms and drug trafficking, and climate degradation.

Mali was once portrayed as the darling of Western donors for its democratic institution-building and civil engagement initiatives including security sector reforms, youth activism and women empowerment programs to promote human rights and good governance.¹ Several coordinated multidimensional and regional peace-keeping missions and military training measures to halt terror and restore regional stability following the 2012 coup of separatist Tuareg and rebel groups in northern Mali were once hailed as setting up a new model of external security interventions. Paradoxically, behind the façade of multi-actors' security and development engagements, Mali remains a weak state trapped in the so-called "fragility dilemma," and is not only in critical need of external assistance and military support, but has limited absorption capacity to tackle the multi-layered challenges found in the security-development-migration-climate nexuses.² Its fragile political, socio-economic and legal environments mirror the dynamics of a changing process of several competing regional imaginaries in a "wider Sahel region" in connection with its neighboring countries (notably Algeria, Senegal, Nigeria, Burkina Faso, Niger, and Mauritania) and the Lake Chad region, where cross-border practices of various actors and informal institutions have shaped the region's fuzzy political reality.

The evidence is alarming: Mali has experienced three coups within 10 years. The current coup leader Assimi Goïta, expelled the former interim government in 2021. By 2023, Goïta's unelected transition government also pushed out France, Mali's closest partner and former

colonial ruler, and embraced Russia as a new security partner. Despite some backlashes in fighting against jihadists and rebel groups, The junta has solidified its power and created a climate of suppression through suspending political activities and arresting critics.³ Observers and civil society actors note shrinking civic spaces, serious rights violations and impunity practices committed by non-state militant actors (which are tolerated by the Malian transition authorities), and rising hostility towards human rights defenders, international institutions and civil society organizations.⁴

What kind of specific regional structures and trans-local dynamics and rationales, post-colonial, geo-political and socio-economic elements, and borderland interplays have contributed to perpetuating the Sahelian conflicts surrounding the coordination of regional and international counter-insurgency initiatives, on the one hand, and the Malian government's bad governance, the shock of climate insecurity, and the power dynamics among local tribes and transnational Islamic jihadist groups, on the other?

An emerging interdisciplinary literature seeks to grapple with this complex picture by moving beyond the state-centric security and human rights framework which so often limits its focus to development-induced or norms-guided governance reforms and regime stability and neglects the micro-regional dynamics of conflicts and local needs.⁵ Studies have begun to delve into places and relationships between borderlands and political violence where non-state actors are *actively* constructing transnational regions either in opposition or complicity with state actors.⁶ However, despite the rich theoretical inputs and insights these studies offer, we nonetheless know little about the ways in which those trans-local dynamics and actors driven by their own security, economic, and cultural imaginaries at the margin of the political maps have affected democracy, participation, human rights, and justice practices. Following the tumultuous events over the past decade that eroded the hegemony of powerful tribe families,⁷ questions arise concerning the challenges and opportunities that the politics of the uprising in Mali has generated and how international actors can learn from Mali's experience.

Through a combined interdisciplinary perspective that covers the fringe regionalism, assemblage-thinking/borderwork, and post-colonial geopolitical economic approaches, this study contributes to identifying alternative expressions, flows, and factors articulated and re-framed by state and non-state actors and agencies whose knowledge systems and positions, strategic and tactic policy practices through categorization and pragmatism have paradoxically exacerbated tensions and governance fragility in conflict-hit northern and central Mali.⁸

This chapter contends that the elusive and displacement nature of the human rights legality model in Mali is the byproduct of competing demarcations of a fuzzy region-making process and security practices rooted in states' peripheries and alternative, overlapping sources of legitimacy and identity. This chapter's analysis of two focus cases underscores that the contingency, limitations, disillusion, and potentials of human rights narratives and promotion resulted from the spatial and social dynamics of collaboration, conflict, and rule-manipulation within a highly fluctuating Sahelian imaginary. The first of these cases highlights the nexuses of anti-terror/climate insecurity, development, migration, drug and securitization issue-framing. It focuses on local actors' resistance capacities and their fight for survival against the backdrop of the Tuareg's aspiration for independence and political tactics and communal farmer-herder violence. The second case examines the *mis-congruence* tendency of local actors' justice and humanitarian agendas. It explains how the embracement of Islamic-based justice and consultation methods to address local tribes' grievances and humanitarian needs has helped uncover the racialized inequalities of the crisis and the limits and potential of local norms in proceeding human rights legalization practices.

This chapter uses content-based and case study analysis of primary and secondary sources, including interdisciplinary Africa-related critical security, post-colonial economic sources as well as annual country reports issued by Freedom House and the US, among others. First, the accounts offered by the literature are examined and combined to explain the development of cross-border violence and the fuzzy picture of the legalization practices of human rights in Mali. Next, the two cases this chapter examines are introduced with a focus placed on the evolving policy nexuses and local participation and accountability practices from the perspectives of all actors involved. This chapter concludes with a discussion of the theoretical and policy implications of the changing landscape of security regionalism and its effects upon human rights.

UNPACKING MALI AS A FRINGE ACTOR IN THE AFRICAN SAHEL'S BORDERLANDS FROM A RELATIONAL AND MULTI-LAYERED PERSPECTIVE

The outbreak of the Malian crisis in 2012 brought the Sahel region into the international spotlight. Despite the 1964 Organization of African Unity agreement that recognized the principle of intangibility of borders, Africa's borders reveal the legacies and scars of colonialism.⁹ Scholars have noted how these borders function, how they have been re-framed and exploited by various actors who have initiated different regional projects driven by their own cultural and spatial

imaginaries, interests and specific interpretations of (in)security. One of the major characteristics in the Sahel region is that the further away from the center and the closer to the periphery and fringes, the more diluted the sovereign's power. Borders are not fixed and well-defined.¹⁰

For local populations, particularly pastoralist groups in the periphery, the notion of territorial borders or national identity has been absent, as their cross-border movements (transhumance) for trade and exchanges as part of their livelihood have long been acknowledged as a valuable economic activity. Meanwhile, compounded by climate change and the farmer-herder conflicts, the mobilities of groups such as Hausa-Fulani are increasingly viewed as problematic, even potentially dangerous in the context of political concerns associated with overgrazing, water weaponization on the part of farmers, influxes of violent extremism, human trafficking, and "illegal" migration to the European Union ("EU"). Borders are often perceived as dangerous and volatile, acting as creative interfaces, in which geo-political/security and socio-cultural imaginaries and informal economic networks interact and conflict with each other along a logic of dominance, appropriation and control of the periphery, and the external frontiers.¹¹

There exist at least four visible and illegible imaginaries elaborated by four groups of actors in the Sahel. External security providers are the *first* group. They perceive the Sahel as a region constituted by fluctuating boundaries of networks of organized crime and terrorism which pose threats to regional and global security. The West, international organizations, and powers such as China and Russia have been involved in bilateral or multilateral cooperation with different security priorities (see Chapter 7 of this volume). The *second* group consists of regional government elites of the Sahel who prefer to construct a "shadow regionalism" to enhance their own legitimacy and guarantee each regime's survival. Once coming to power, coup leaders might undertake negotiation efforts with trans-local Islamist insurgents to generate their political legitimacy. The regional imaginary of the Islamic jihadist rebels as the *third* group involves the revival of a system of norms and rules based on a projected Sahara-Sahelian Islamic identity inspired by the current "global jihad" narrative and memories of several pre-colonial prosperous Islamic kingdoms (e.g. Songhai Empire of the 15th-17th centuries). As the *fourth* group, local communities aim to pursue the goal of safeguarding a specific system of spatial and socio-cultural organization based on transborder and transnational networks and kinships.¹²

The increasingly displacement tendency of human rights legalization in Mali can be traced to the changing dynamics of the fluid micro-region-building process in the broader Sahara-Sahel region initiated and adapted by these four groups. To explain how the concurring regional

imaginaries have interacted and played out in shaping this fuzzy picture, this study introduces a relational and multi-layered perspective which draws on theoretical insights from regionalism studies, assemblage thinking, post-colonial and critical political economy studies to build a methodological framework. Such a relational perspective, as noted by Woods et al., permits a closer look at the interrelated patterns of region-making processes whose boundaries become increasingly elusive and illegible.¹³

The concept of “fringe regionalism,” as Matthies, Raineri, and Russo note, offers a lens for understanding how diverse micro-regions “have been framed and governed as buffer areas separating distinct regional organizations and regional security areas,” thereby prompting the emergence of competing narratives.¹⁴ Our focus is then to look at formal and informal institutions and exchanges in specific physical sites and portals within Mali’s borderlands, detect and then analyze practices which perform connective functions across the Sahel. In so doing, the emergence of new identities and regional narratives connected to the cross-border networks can be approached in a holistic manner. The discursive, normative and material struggle among these four groups is having obvious effects on security, conflict, the legalization of human rights in Mali and elsewhere, not to mention regional instability. Baldaro proposes the concept of “bifurcated regionalism” to disentangle the different region-building initiatives at work in the area. It follows that the Sahel appears to be condemned to instability as an unintended result of a competing process of *interregionalism* and insurmountable regional rivalries that have hindered the functioning of effective regional cooperation initiatives.¹⁵

Secondly, assemblage thinking with its accounts of the exteriority of relations (e.g. EU-Mali arrangements to control Mali’s borders), (de)territorialization, coding, borderwork, and multiplicity helps to identify the norms and mechanics through which individual places and borders endure and change in the context of trans-local region-building processes. Assemblage thinking also permits better understanding of how these elements (re)produce political violence and security responses and impact development and human rights legalization practices. The use of “borderwork,” for instance, understood as constitutive of sovereignty in the grey zone, involves new forms of bordering practices and unpacks how they overlap and evolve in Mali and in the broader Sahara-Sahel region, where new forms of security governance emerge and are increasingly interwoven with the agendas of development, migration, and climate insecurity issues.¹⁶

Lastly, adopting the post-colonial center/periphery model and critical political economic views serve as powerful tools to dismantle reified binaries, to reveal the power of the marginal, to question “the claims of any culture to possess a fixed, pure and homogeneous body of values” and to expose them” as historically constructed, and thus corrigible formations.”¹⁷ They also address socio-economic challenges intertwined with the struggle for power and the region’s strategic resources (e.g. water, gold, petroleum, and uranium). Several field research results and observations have urged the need to address the root causes of the perpetuating insecurity which are of a social and economic nature.¹⁸

While the Tuareg problem in the Sahel can be regarded as one of unresolved territorial questions in post-colonial times, cross-border relations and flows that were established during the colonial period continued to flourish after independence and dominate social, economic and political life in the Sahara-Sahel region. Notwithstanding the hardening of international boundaries in offering the populations in the borderlands opportunities for trade, migration and financial transactions, the old and new trends of licit and illicit trade patterns and the erosion of state capacity to exert sovereign control of these borderlands have provided a nurturing environment for non-state players to strengthen their capacity of taking control of state policies.¹⁹

As this zone of fragility expands and the involved non-state actors increase, observers see the emergence and spread of sophisticated protection economies developing along the high-value trafficking routes. These protection economies crowd out legitimate economies in the region. It follows that these actors often profit from an illicit though lucrative trade based on price differentials and currency fluctuations. As protection becomes a commodity, those involved are enriched by illicit trafficking and can engage with state institutions at different levels in accumulating resources, controlling and/or protecting regional illicit flows. Consequently, these groups have little incentive to support the consolidation of good governance or state control.²⁰ As the trafficking of illicit goods traverses the Sahara, including the Sahel region, local tribes and communities are forced either to take sides with competing fractions of insurgents and traffickers for survival or to mobilize themselves for resistance through self-defense militarization.²¹ Moreover, state officials easily get involved in this lucrative protection economy, leaving room for the involved rebel groups and traffickers to augment their power in spite of state actors’ knee-jerk response to strengthen law enforcement mechanisms.

Supported by this methodological framework, the following section highlights how the legalization practices of human rights in Mali have been disrupted because of the insecure

environments found in the new forms of micro-regional security governance interwoven with the extremist and criminal networks and corrupt state behavior.

HUMAN RIGHTS LEGALIZATION PRACTICES BETWEEN RULES-MAKING AND -UNMAKING IN THE MALI-SAHEL PERIPHERY: ACTORS, POLITICS, AND ADAPTATION

Though the familiar labeling of “ungoverned space” in the Mali-Sahel periphery remains popular in policy circles, academic debates, and policy discussions have gradually been aware of the overlapping and competing micro-regional networks of informal governance and the changing patterns of interactions among the big players driven by their different regional projects.²²

According to the Fragile States Index 2023, major Sahelian countries (notably Chad, Mali, Niger, and Nigeria) are among the top 20 most fragile states in the world.²³ They all share an inability to successfully handle security threats, high degrees of fragmentation of state institutions along ethnic lines, continuing economic decline, weak state legitimacy and bad governance complete with violations of civil, political and social rights. However, behind the dominant “violent borderlands” discourse and statements such as “the Mali-Sahel periphery is a ‘lawless zone,’” and “Mali is a failed state,” exists a complex system involving trans-local dynamics of security governance interwoven in global political economy, policy-nexuses with development, migration, and climate variability, and interactions among various actors to tackle justice issues and to carve out adaptative livelihood strategies.

Evolving Policy-Nexuses Between Security, (Livelihood) Development, Migration, and Climate Change: Shifts and Discontinuity

The priority of external security providers in the Mali-Sahelian periphery has been to offer military assistance for combatting regional instability, stopping northbound illegal migration, and reducing terrorist threats. Following the refugee crises between 2014 and 2016, the EU, for example, spent more than one billion Euro for military assistance to support the Sahelian states to stop migration flows through Niger or Mali as transit zones to Europe. However, this is not a main priority for local inhabitants. Besides extremist violence, they have been suffering from a serious downturn of local migration-related economies including smuggling-related and accommodation business in transit cities such as Agadez in Niger. Local tribal communities also increasingly confront precarious livelihood situations as consequences of global climate change. The past experiences towards the end of 1990s showed that frustrated Tuaregs can quickly become militant, although

such a tendency contrasts with the Tuareg's traditional tolerance culture.²⁴ Regional observers and experts suggested adopting a balanced approach to addressing the complex security-migration-development nexus to not only tackle the precarious insecurity situation in the region through an effective functional regional arrangement, but also enhance state capacity to incorporate human security principles into its development agenda by including education, infrastructural development and health care as the keys to reducing non-military and violent threats that affect the well-being of individuals and communities.²⁵

The G5 Sahel was created in 2014; its goal, to strengthen regional cooperation on security and development. Supported by France, Germany and the EU, this regional body was supposed to elaborate common projects focused on infrastructure, food security, agriculture, pastoralism, and physical security. Several commentators suggest that, if molded in the interests of a development agenda, the G5 Sahel together with its Joint Force could mark a shift in the security geography in Africa and bring about positive change to the disadvantage of extant regional bodies such as African Union ("AU") and the Economic Community of West African States ("ECOWAS").²⁶

The G5 Sahel initiative has been criticized as "yet another excuse to get more 'boots on the ground'," ²⁷ transforming security regionalism in West Africa through "spatialisation of security and securitization of space," ²⁸ and overriding rational forum shopping logic and leaving traditional partners behind, which are embedded in the African Peace and Security Architecture.²⁹ The G5 has very little to offer for Africa's development problems, not to mention Africa's human rights and justice issues in the peripheries.³⁰

Rising anti-Western hostility in the region has hindered state-level development cooperation talks, leaving room for junta leaders in the Sahelian states to combat extremism themselves and to clear the migration routes free in cooperation with Russia.³¹ Russia and China are not newcomers in the region. They have been involved in the industrialization process of the Sahelian states since the 1950s and 1960s.³² Today Moscow provides security solutions to fragile states without political strings attached, making Russia a preferred security partner. However, Moscow's opportunistic use of private military diplomacy has exposed the limitations of these partnerships in addressing the peace and development challenges African host countries face.³³ Moreover, countries tied to Russia, especially those with ties of a security nature must confront diplomatic risks of potential political deadlock and economic strife against the backdrop of the intense geopolitical tensions between Russia and its Western counterparts.³⁴

Regional national governments have adapted to this new environment of security governance with and without Western support. Despite extant unequal power relationships, the EU-Malian bilateral agreement granted the Malian state actors agency to subtly negotiate and resist European technologies and rationalities of border externalization, thereby enacting new forms of sovereignty.³⁵ Following its 2020 coup Mali's ruling military optimized its political position, diversifying and expanding strategic partnerships. Shortly after Mali's second coup in June 2021, France threatened to pull out its 5,100 troops if the coup leaders made a deal with the same Islamist insurgents the troops are fighting.³⁶ As of 2023, the junta's rupture with France was greeted by most of the Malian population with enthusiasm, particularly young people who consider France responsible for propping up corrupt elites for decades.³⁷

With Russia's enhanced support, Mali's military junta took an authoritarian turn, domestically and regionally. Under the banner of maintaining public order, it imposed an infinite ban in April 2024 on political parties and associations. These measures indicate that Malian authorities have no interest in a transition to civilian rule. Together with Burkina Faso and Niger, Mali left the ECOWAS and launched a new mutual defense agreement, the Alliance of Sahel States ("AES") in September 2023. In so doing, the junta leaders of all three countries freed themselves from their obligation to hold elections in full cooperation with ECOWAS.

The three countries present a vision of integration within a confederation framework in the AES' grounding *Liptako-Gourma Charter*, which is markedly different from their early cooperation schemes involving mutual aid. For the region's observers, such a confederation project could bring the three countries together in an institutional framework that would enable the pooling of resources, facilitate a common perception, and accelerate the march towards a potential or eventual union. Nonetheless, concerns over the political and legal ramifications of this arrangement immediately arose. The current regimes of these states are the product of military coups d'état. They may or may not be legally able to take measures to alter the political status of their regimes. AES further confronts unfavorable internal and external factors ranging from the lack of domestic support of the different communities, weak institutions, weak economies, and foreign interference, to terrorist threats posed by diverse terrorist and insurgent groups including Boko Haram, the *Groupe de Soutien à l'Islam et aux Musulmans* ("JNIM") and the Islamic State in the Greater Sahara ("ISGS").³⁸

As the third layer of security assemblage, Islamic jihadist and rebel groups, notably ISGS and JNIM, have demonstrated their resistance capacity through several cooperation, re-alliance

and coordinated actions, posing significant security and financial risks not only to the US and Europe, but also to government forces and civilians in the Sahel-Sahara. Violence and attacks linked to these groups have surged nearly sevenfold since 2017.³⁹ Compounded by environmental degradation and transnational organized crime, the continuing collapse of international counterterrorism support, weakening leadership in regional cooperation and fragile state structures have created a vacuum in which violent extremism and armed militancy can expand.⁴⁰

ISGS has maintained a foothold in the region since 2015. Its former movement, namely, the Movement for Oneness and Jihad in West Africa (“MUJAO”) was a splinter group of *al-Qa’ida* in the Islamic Maghreb (“AQIM”). For a time, a special relationship between ISGS and JNIM existed. JNIM is the converging result of several AQIM’s franchises including its Sahara wing, *Al-Mourabitoun*, *Ansar Dine*, and *Katiba Macina*. These sub-groups are directly or indirectly involved in transnational organized crime networks by way of their providing access to well-established smuggling operations across the regions and taxing the routes that drug traffickers rely on to move their products.⁴¹ As observed by regional experts, the composition of JNIM is noteworthy, as its leaders represent Tuareg, Fulanic, and Arab jihadists from the Sahel and Maghreb. This breadth of ethnic and geographic representation awakened the impression that they can build a united front with expanding influence. However, each fraction within JNIM has its own shifting interests, territorial influence, and motivations.⁴² Notwithstanding intra-group diverging interests between JNIM and ISGS and despite the early defection and public disagreements over who joined the Islamic State, this did not hinder the local wings of two global jihadi movements from communicating or even cooperating on the ground in the Sahel.

The historical ties between local clans and tribes facilitated crossovers of personnel and coordinated actions and allowed for a great ease in cooperation by transcending the group labels. For instance, an important JNIM commander, Almansour Ag Alkassoum, who acted as JNIM’s *emir* in the Gourma region, played a role in arranging an important meeting with ISGS regarding ISGS’ excessive civilian-targeted violence against Imghad Tuareg and Dawsahak communities amid the jihadi groups’ conflict with two pro-government Tuareg militias.⁴³ Besides the amicable personal relations among factions’ leaders, ISGS and JNIM commonly undertook several attacks in the areas of In-Delimane in northern Mali and in central Mali between 2017 and 2019, although neither group claimed responsibility. In several other attacks, both groups claimed responsibility signifying their ambition to expand their extremist ideology and working toward the greater cause of establishing an Islamic State.⁴⁴

By 2019 the relationship between JNIM and ISGS began to erode. An internal ISGS weekly *Al Naba* newsletter in May 2020 officially acknowledged violent clashes between JNIM and ISGS. Since then, these conflicts intensified in central and northern Mali and in the borderlands between Mali and Burkina Faso and along the Burkina Faso-Niger border region. To Nsaibia and Weiss, two major factors were responsible for the growing tensions between the two groups. The first was a deep-seated ideological difference between JNIM and ISGA with regard to the implementation of *Shari'a* law.⁴⁵ Secondly, the JNIM/ISGS clashes resulted from the restructuring efforts of the Islamic State, as ISGS became more integrated into the Islamic State's overall structure as part of its West Africa Province. ISGS field commanders and the Islamic State's spokesman complained about JNIM's purported willingness to negotiate with the Malian government and about *al-Qa'ida's* killings of the Islamic State's men while working together with the Malian government in May 2020. Later, the Islamic State called JNIM "guard dogs" for Algeria and accused the group of working with "nationalist and secular groups."⁴⁶

The meta-narratives, logics and actions undertaken by militant Islamic groups have revealed how micro- and cross-border regionalism functions. For ISGS and JNIM, the border itself is largely meaningless. Their expressions have more to do with reach and expansion than with size and scale. They also relate to material accumulation, cognitive and historical spaces rather than to a clearly demarcated territorial span.⁴⁷ Regardless of their internal divergence and conflicts, ISGS and JNIM have made Salafism the fastest growing strand of Islam in Africa through exploiting distinct historical narratives and theological justifications to legitimize their jihads and to expand land where the *Shari'a* law as part of Islamic jurisprudence can reign.⁴⁸

Finally, local communities in the peripheries (as the fourth layer of security assemblage) suffer from multiple threats and risks posed by Islamic extremists' and other armed groups' attacks, the Malian government's actions supported by external security providers, and varied forms of socio-economic and climate insecurities. A BBC-source shows that one year after the 2015 peace agreement between the Malian government and a coalition of mainly ethnic Tuareg armed groups from northern Mali, the number of deaths caused by armed violence surged between 2016 and 2019.⁴⁹ Since the 2013 external intervention in Mali, the situation has deteriorated, with many young Malians joining extremist groups because of a failure of peacekeeping efforts to address the conflict's root causes.⁵⁰

Moreover, Malian security forces have been involved in egregious human rights violations, including extrajudicial killings, tortures and arrests based on ethnicity. Tuaregs, easily

identifiable by their lighter skin, faced harsh conditions under *Shari'a* law between April 2012 and January 2013 during the occupation by Islamic jihadists allied with Tuareg separatists. Despite this, many Tuaregs now reject living under the Malian army and tribal militias like Ganda Koy, whose discriminatory practices have reignited their push for independence. Additionally, there is growing dissatisfaction among Tuaregs with their own leaders, who have enriched themselves instead of serving their people. For local activists like Fatimata Walet Oumar, a priority for the Tuareg people is education for the poorest children to challenge the dominance of powerful Tuareg families.⁵¹

Local communities are calling for stronger, coordinated leadership between central and local authorities to facilitate meaningful mediation processes. Several local initiatives have emerged to support dialogue and reconciliation efforts in particular communities. However, as field analysis shows, the leaders behind these initiatives have been instrumentalized and are not necessarily the right individuals for the role. In such a volatile environment, opportunities for mediation and dialogue can quickly collapse into deadlock, deepening the conflict and divisions among communities.

Many ethnic groups in the peripheries increasingly face climate-induced security issues, such as farmer-herder violence and the weaponization of water. Islamic water law, derived from the concept of *Shari'a* as "the watering source," states that water, pasture, and fire are *res communes* (common resources). It emphasizes the universal right of humans and their animals to quench their thirst (*shafa*) and the right of irrigation (*shirb*), ensuring all users can water their crops.⁵² At the same time and given global climate change, such issues of allocation and precedence of use can no longer be guaranteed. According to the EU's Normandy Index 2021,⁵³ the Sahel 5 are more likely to feel the effects of climate change, terrorism, and violent conflict than their sub-Saharan African counterparts. As the Sahel region becomes more arid, the volume of water available for grazing declines and the migration of herdsmen, normally belonging to Hausa-Fulani, has come to encroach on farming communities. Hausa-Fulani are attempting to stay longer on the land which challenges the inheritance rights of indigene farmers favored by national and state governments' laws. Reports of sabotage, such as farmers poisoning wells to kill Hausa-Fulani cattle as revenge for encroachment reveal how the use of water coupled by unjust governmental policies can cause the widespread resentment needed to motivate an escalation to violent and often deadly clashes among farmers and herdsmen.⁵⁴ Such local farmer-herdsmen conflict may even become more complex in the context of the Malian army's counterinsurgency measures. As the

Malian army has failed to defeat a “jihadist” insurgency dominated by Fulani, it has sponsored and trained an indigene Dogon militia to attack systematically Fulani villages, thereby causing further counterattacks.⁵⁵

The concurring regional imaginaries and complex interactions among the involved actor groups along the security-development and migration-climate insecurity-nexuses demonstrate how the micro-regional dynamics of conflicts and the lack of appropriately addressing local needs and climate-induced insecurity have reinforced the displacement tendency of the legalization practices of human rights by the governments of the Sahelian region more broadly and Mali more specifically. The examination of the multi-dimensional key issues driving instability in the Sahel underscores the necessity to adopt an interdisciplinary frame that includes the ecological and political economy of danger in which the dialectic of actors, land, and global politics, the heterogeneity of the interests involved, and the ensuing discursive struggles over the definition of threats linking to the mobilization of resources for establishing security mechanisms can be highlighted in a more systematic manner.⁵⁶

Meanwhile, along these different layers of security assemblage, two anecdotes involving justice and humanitarian work might shed some new light on how the Malian crisis and the power of the peripheries driven by non-state actors including transnational humanitarian workers can be explained from a bottom-up perspective.

Pursuing Justice between Cultural Re-Imagination, Displacement, and Mis-Congruence Practices

Under the banner of the Global War on Terror, the West’s focus on counterinsurgency measures and pragmatic alliance and negotiation politics as seen in the West’s ransom payments to the terrorist groups to free its hostages and the EU’s training support offered to the Sahel 5, for example, have failed to adequately pay attention to regional political rivalries (notably between Algeria and Morocco), local grievances and needs. Diverse fractions of jihadist groups were offered new playing grounds to accommodate competing localized interests and to recruit frustrated youth. Commentators note how the major Islamic jihadist rebels, despite their traditional discriminatory narratives against each other, have strengthened their resistance and survival capacity through the appropriation of the history of pre-colonial jihad as well as the attempt to assimilate local conflicts moving towards the cause of global jihadism. Some have turned out to be successful game changers as they have supported social and humanitarian

projects and introduced justice and consultation mechanisms to address local grievances, crimes and tribes' disputes.⁵⁷ At the same time, questions arise over the strict imposition of *Shari'a* laws introduced by these jihadist groups which apparently violate the rule of law and personal integrity rights as defined by the international human rights regime. The following two vignettes illustrate how human rights legalization practices have been displaced and reframed through the imposition of *Shari'a* and the attempt to free Malians from French colonial legacy in a way that strays from the *congruence* principles detailed throughout this volume. Specifically, the author of this chapter suggests that this deviation should be framed as "mis-congruence," in that it is an alternative to the Fullerian concept of *congruence* that focuses on the relationship between government and the governed.

Despite the failure of the 2012 attempt to install Islamic jurisprudence in an independent state of Azawad, many local communities turned their support to Islamic groups who can provide the judicial, health, and security services the Malian authorities have failed to deliver. Tronc, Grace and Nahakian explain how jihadists have exploited the excesses of law-enforcement officials by offering an alternative of justice, education, the management of natural resources and public goods to communities. Such offers have attracted a significant segment of the population, especially members of the most deprived communities, notably the Peul/Fulani communities.⁵⁸ Following the jurists' reasoning of the *Sunna*, God will punish people if they see injustice and do not act to correct it. It is this consensus that the Islamic *umma* in its entire history agreed upon the duty of commanding good and forbidding evil based on the *Shari'a* and of human reason.⁵⁹

Various studies have detected factors that have driven Malians to join or support radical Islamist movements. Besides ideology, concerns about economic and physical security amid deteriorating governance situations have pushed local communities to choose sides to defend their livelihood. The powerful influence of Salafist ideology in Malian society might have efficiently tackled some urgent injustices and crime issues, as observed by a youth activism field worker.⁶⁰ However, the proliferation of conservative Islam with its emphasis upon *Quranic* teaching and indoctrination has brought dangers by exerting pressure upon, for example, access to education and the *type* of education that is offered. This led to the closure of hundreds of schools across the central and northern parts in Mali.⁶¹

The second anecdote involves the release of Sophie Pétronin, the last French hostage detained overseas in the fall of 2020. The 75-year-old humanitarian worker was captured by insurgents in northern Mali four years prior. The terms of the hostage exchange, Pétronin's

religious conversion, her rejection to condemn her captors, and particularly her clandestine return back to Mali to continue her work sparked broad media criticism and a wave of outrage and disapproval in French social media. Observers see the Pétronin case as calling into the question “the boundary between self and other,” exposing the contra-productive narratives about the nature of “terrorists,” and offering a counterpoint to the masculinisation of the conflict.⁶² It exposed the uncomfortable situations and risks many humanitarian workers confront in their daily work in the peripheries in Mali. Humanitarian workers have been often criticized for “being blind to the political impacts of their activities, leading local resentment toward them to build.”⁶³

The failure to empower local actors and integrate local communities into project development processes further prompts a sense of resignation and learned helplessness in local communities.⁶⁴ The complex figure in the Pétronin case not only brings attention to the masculinized necropolitics of the Sahelian conflict, in which the exercise of the sovereign power has the capacity to decide “who is able to live and who must die.”⁶⁵ It also demonstrates that, as long as these disconnects exist between the external limited peacebuilding and development actions, on the one hand, and a lack of trust and communication between non-state armed groups, local communities, and the Malian government, on the other, the ability of transnational humanitarian workers to work even in territory controlled by non-state armed groups might stop short of guaranteeing their endeavour to support the needy in a fragile insecure environment.

CONCLUSIONS

This chapter set out to highlight the displacement tendency of human rights legalization in Mali which can be traced back to the changing dynamics of the fluid micro-region-building process in the Sahel-Sahara initiated and adapted by four actor groups moving along different layers of security assemblage at different levels. The results of both case analyses show the power of local actors in the peripheries in making and unmaking human rights rules found in the contingencies, limitations, disillusion, and potentials of mis-congruence practices vis-à-vis international norms. They also enhance our understanding of the interplay of micro-regional dynamics between external interventions, power struggles, crime and coping, and resistance, which in turn is a first step towards creating more sophisticated analytic tools to elaborate proper policy approaches.⁶⁶

Several points are worth mentioning here in terms of future methodological and policy developments. First, this study demonstrates the necessity of contextualizing the puzzle surrounding the Malian crisis through an interdisciplinary prism which can facilitate adopting a

holistic systemic approach to addressing the concurring regional imaginaries and the multiple security challenges in the Sahel-Sahara region.⁶⁷ Secondly, the *mis-congruence* practices found in the justice, social and educational actions pushed forward by the Islamic jihadist groups as part of the proliferation of the Salafist agenda might have efficiently addressed local grievances and needs in a volatile and insecure environment were it not for their authoritarian and exclusionist applications. Moreover, in view of the lack of trust and communication among the key actors in the region, competent visionary political and religious leaders are needed to undertake critical intra-cultural dialogues and legal debates, so that an appropriate water governance following the Islamic water law, for example, can be installed to tackle decade-long disputes and conflicts among herders' and indigene farmers' communities.

Finally, there are several lessons the West can draw from its past security and development interventions. More attention should be paid, first and foremost, to providing know-how knowledge and support for the delivery of public services, infrastructure investment, and governance reforms. In so doing, the youth in Mali as well as in the Sahel region might be able to construct their own future with alternative regional projects which are sustainable and culturally appropriate. Most importantly, local actors should not have to look to other entities to obtain conditions of social order and rule of law. At the end of the day, it is the responsibility of the state to promote and protect human rights by allowing for an open and fair political process and public input. Humanitarian missions must consider the situation in Mali as part of a broader struggle not only against Islamic extremism but also the conditions of structural violence that pervade these countries.

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Transitional Justice in Ostasien: Die Suche nach Gerechtigkeit aus globaler und lokaler Perspektive

Miao-ling Lin Hasenkamp

Zusammenfassung

Mit Hilfe einer feministisch-rechtlichen sowie kulturoziologischen Perspektive analysiert der Beitrag soziale Wahrnehmungen, politische Wurzeln sowie juristisch-rechtliche Entwicklungen im Prozess der Aufarbeitung von Unrecht in Ostasien. Ziel des Beitrages ist es, Normen und Mechanismen des Gerechtigkeits-Systems in Ostasien sowie ihre Interaktionen mit globalen Normen, sprich, Strafgerechtigkeit, Rechtsstaatlichkeit, Menschenrechte, und demokratischen Werte, zu identifizieren und zu beleuchten.

Schlüsselwörter

Transitional Justice und Erinnerungskultur in Ostasien • Strafgerechtigkeit – Korrigierende und Wiedergutmachende Gerechtigkeit (*corrective and restorative justice*) – Konfuzianische Rechtskultur – Politik der Gerechtigkeit – Transnationaler Aktivismus

1 Einführung

Die Bedeutung der „Transitional Justice (TJ)“ als Fokus der politischen Debatte und wissenschaftlicher Analyse ist seit dem Ende der 80er-Jahre und Anfang der 90er-Jahre enorm gestiegen. Die Genese dieses empirischen und wissenschaftlichen Bedeutungsgewinns geht zurück auf zwei wichtige politische Entwicklungen. Zum einen entstanden mit dem Ende der autoritären Militär-Regime in Lateinamerika Antworten auf diese unmittelbar nahe Vergangenheit. Zum anderen hat das Ende des

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Ost-West-Konflikts und der kommunistischen Regime in Osteuropa neue politische Räume geöffnet für vielfältige Optionen auf nationaler und internationaler Ebene (Roht-Arriaza und Mariezcurrena 2006; Teitel 2009; Forsythe 2011). Nicht zuletzt haben der Aufschwung der Menschenrechte als international anerkannte Normen und der damit verbundene transnationale Aktivismus zur Differenzierung und Vertiefung der Aufarbeitung der Vergangenheit in Bereichen wie individuelle Verantwortung, Kindersoldaten und sexueller Gewalt beigetragen. Der Begriff „TJ“ bezieht sich auf judikative und nicht-judikative Maßnahmen wie Strafverfolgung, Wahrheitskommission, Entschuldigungen, Wiedergutmachungsprogramm, Amnestien und eine Vielzahl von institutionellen Reformen in Post-Konflikt-Gesellschaften. Das Hauptanliegen der TJ, so David Forsythe (2011, S. 85), liegt in der Frage, was man nach den Gräueltaten tun sollte. Daher ist die Suche nach geeigneten politischen und judikativen Optionen wichtig, um die Wiederkehr systematischer Menschenrechtsverletzungen präventiv zu verhindern.

Im Vergleich zu Lateinamerika und Europa ist in Ostasien das Thema TJ bzw. die Aufarbeitung der Vergangenheit gegenüber dem weit zurückliegenden Zweiten Weltkrieg und den Gräueltaten in der Nachkriegszeit *wenig* verankert im kollektiven Bewusstsein von Gesellschaften wie in Japan und in China. Die Erinnerungskultur dort bietet ein zerrissenes Bild mit widersprüchlichen Auffassungen und Interpretationen. Die japanische imperiale Armee hatte während des Zweiten Weltkrieges zahlreiche Kriegsverbrechen in China, im pazifischen Raum und in Südostasien begangen: Zwangsarbeit, Errichtung eines Systems militärischer sexueller Sklaverei (Trostfrauen), Plünderungen, Vergewaltigungen usw. Vom Prozess des Internationalen Militärtribunal (IMT) in Tokio von 1946 bis 1948 blieb das ambivalente Bild einer angeblichen *Siegerjustiz*, das die Erinnerungskultur stark beeinflusst hat. Anstelle Recht und Gerechtigkeit für die Opfer zu sprechen, wurde in Tokio Politik gemacht, indem die Okkupationsmacht USA Schlüsselfiguren wie den Kaiser oder wirtschaftliche Eliten vor der Anklage schützte, um in Ostasien einen starken Partner zu besitzen (von Lingen 2009). Während des IMT-Prozesses wurden zwar japanische Verbrechen in den asiatischen Staaten und Japans Rolle als Kolonialmacht thematisiert. Aber das Gericht nutzte die Methode einer synoptischen Darstellung der Verbrechen, was in erinnerungspolitischer Hinsicht zu einer Verwischung des Bildes japanischer Kriegsgräuel führte (Totani 2008, S. 117). Die Wirkung dieses Prozesses zeigt, dass die japanische Regierung sich bisher weigert, die *volle* Verantwortung zu übernehmen und sich öffentlich zu Wiedergutmachungs-Maßnahmen zu verpflichten. Allerdings waren die letzten zwei Jahrzehnte geprägt von einigen Durchbrüchen bei der Aufarbeitung dieser Vergangenheit. Es entstand der *Asian Women's Fund* für die Entschädigung der „Trostfrauen“ (1995). Frühere Zwangsprostituierten klagten vor japanischen und US-amerikanischen Gerichtshöfen. Vor allem gelangten Zwangsprostitution und Sklaverei als „Verbrechen gegen die Menschlichkeit“ in das Römische Statut des Internationalen Strafgerichtshofs (IStGH, 2002). Er arbeitet seit 1998. Seine Befugnisse liegen in der Gerichtsbarkeit über Personen für die im Statut genannten schwersten Verbrechen von internationalem Belang. Somit ergänzt er die innerstaatliche Strafgerichtsbarkeit. Ferner entschied der

japanische Verfassungsgerichtshof zugunsten eines Rechts auf medizinische Kompensationsleistungen für die koreanischen *hibakusha* (Trostfrauen).

In China bleiben insbesondere Ungerechtigkeiten während des Mao-Regimes (Hundert-Blumen-Bewegung, Anti-Rechts-Kampagne, der Große Sprung und Kulturrevolution) weitestgehend unbehandelt und werden nur selektiv aufbereitet, ganz abgesehen von der Frage der Re-Evaluation des Tiananmen-Massakers von 1989. Zusätzlich zu den Leiden während der Hundert-Blumen-Bewegung (zwischen 1956 und 1957) und der Anti-Rechts-Kampagne von 1957, die demokratische Parteien und Intellektuelle verbannte, starben 25 bis 30 Millionen Menschen aufgrund der Hungernöte beim „Großen Sprung nach vorne“ (von 1957 bis zum Anfang der 60er-Jahre). Mao hatte Millionen Bauer mobilisiert, um Stahl und Eisen zu produzieren. Hinzu kommen die Opfer der Kultur-Revolution (1967–1976), die bis zum 4. Juni 1989 angebliche politische Feinde eliminierte.

Einige sehen die Rolle der USA in der Artikulation von Gerechtigkeitspolitik in der Region während der Nachkriegszeit und die Erwartungen an China als aufstrebende Supermacht des 21. Jahrhunderts als ausschlaggebend für die Innen- und Außenpolitik Japans und Chinas an. Während die Opfer immer noch an den Folgen der Ungerechtigkeit leiden und viele von ihnen anonym bleiben wollen, stellen sich die Fragen: Welche Möglichkeiten bietet das sich entwickelnde globale Justizsystem im Rahmen des ISTGHs zur Aufarbeitung dieser Ungerechtigkeiten in Ostasien, während die Regierungen in Japan und China sich immer noch weigern, sie systematisch zu bearbeiten und politische Verantwortung zu übernehmen? Gibt es kulturspezifische Rechtsauffassungen, die das Aufgreifen des vergangenen Unrechts und das Schaffen von Gerechtigkeit erschwert haben?

Im Zusammenhang mit der internationalen Strafrechtsjustiz gewinnt der ISTGH im Kampf für globale Gerechtigkeit an Bedeutung, der von politischen Entscheidungsträgern, Wissenschaftlern, und Aktivisten der globalen Zivilgesellschaft artikuliert und mitgetragen wird und die Entwicklung internationaler strafgesetzlicher Normen, der Menschenrechts-Definition und des humanitären Völkerrechts beeinflusst hat (Glasius 2002). Innerhalb dieses internationalen strafrechtlichen Regimes wird die Errichtung von Tribunalen (von den Nürnberger und Tokyo-Prozessen bis zu den Sondertribunalen für Jugoslawien und Ruanda) und des ISTGHs als Symbole des *irreversiblen* Aufkommens einer globalen Rechtskultur betrachtet, die sich immer *weniger* an staatlicher Souveränität orientiert, stattdessen den Schutz aller WeltbürgerInnen vor Machtmissbrauch und Menschenrechtsverletzungen zum Ziel hat und dadurch den Traum von einer internationalen Strafgerichtsbarkeit ermöglicht. Gegenüber dem verschiedenartigen Unrecht (von ethnischer Säuberung, Gewalt gegen Frauen bis hin zum Verbrechen gegen Menschlichkeit) haben diese Institutionen die Suche nach einem angemessenen Ausmaß von Gerechtigkeit im Sinne der Opfer zu ihrer Aufgabe gemacht.

Allerdings sind Bemühungen um einen theoretischen Rahmen globaler Gerechtigkeit zu einem heiklen Thema geworden. Längst haben wissenschaftliche Arbeiten aus diversen Disziplinen (Rechts- und Sozialwissenschaften, Philosophie etc.) diskutiert über die Entstehung eines internationalen Verfassungsrechts. Ein solches internationales Verfassungsrecht soll entstehen zum einen in den Verträgen

internationaler Organisationen, die legislative, judikative und exekutive Organe mit gegenseitiger Kontrolle konstituieren, zum anderen mittels der universellen Anerkennung unabdingbarer Menschenrechte und zusätzlicher Verfassungsrechten, wie dem *ius cogens* und *erga omnes* als Verpflichtungen des Völkerrechts (Petersmann 2004, S. 408). Als *ius cogens* bezeichnet man jene Normen der Rechtsordnung, die unter *keinen* Umständen geändert bzw. verletzt werden dürfen. Allerdings bleibt unklar, welche Normen innerhalb der Menschenrechte den *ius cogens*-Charakter innehaben. Als weitgehend unumstritten gelten das Verbot von Völkermord, von Sklaverei und Sklavenhandel, von Folter und Misshandlung sowie der Schutz der Menschenwürde (siehe Art. 53 und 64 in der *Vienna Convention on the Law of Treaties (VCLT)* aus dem Jahr 1969). Laut Richard Posner (2008) sind *erga omnes*-Normen obligatorische Rechtsprinzipien, bei deren Verletzung nicht nur der betroffene Staat, sondern auch Drittstaaten gegen den Staat, der die *erga omnes*-Normen verletzt hat, Anklage erheben können. Im Völkerrecht gehören zu den *erga omnes* Normen das Gewaltverbot, das Verbot von Völkermord, von Sklaverei und Sklavenhandel sowie Rassendiskriminierung. Plausibel erscheint, dass weitere Menschenrechtsnormen wie das Verbot von Folter, Anti-Diskriminierung basierend auf dem Geschlecht sowie willkürliche Verhaftung ebenfalls zu den *erga omnes*-Normen gehören. Allerdings wird die Prämisse der Anwendbarkeit dieses internationalen Verfassungsrechts als Grundlage für globale Gerechtigkeit in Frage gestellt. So entdeckt Martha Nussbaum (2004) zum Beispiel einige strukturelle Defizite in der vertragstheoretischen Anwendung für den Aufbau von Gerechtigkeitstheorien auf globaler Ebene. Sie schlägt vor, die kulturspezifischen Möglichkeiten in Betracht zu ziehen und ein Set von menschlichen Ansprüchen (ähnlich den Menschenrechten) als Minimum einer Gerechtigkeit für *alle* zu etablieren. Neben der Theorie von Umverteilung und Anerkennung fördert Nancy Fraser (2009) ferner eine dritte Dimension von Gerechtigkeit, nämlich Repräsentation, und visiert ein „post-westfälisches“ Mapping von politischen Sphären an, das sich ebenso an transnationale Solidarität, die grenzübergreifende Öffentlichkeit und demokratisches Framing anpasst wie an emanzipatorische Projekte. Gleichzeitig mahnen Analytiker wie Thomas Nagel (2005) vorsichtig, dass Konzepte und Theorien globaler Gerechtigkeit immer noch in der Anfangsphase stehen.

Trotz des Fortschritts bei der Festlegung der Standards und der Umsetzung erfordert die Einhaltung internationaler Normen immer häufiger eine enge Kommunikation und Zusammenarbeit zwischen Akteuren auf verschiedenen Ebenen. Daher ist es nicht verwunderlich, dass die Deliberation und Funktion des normativen Gerechtigkeitsrahmens doch von einem Kontext zum nächsten variieren. Die Herausforderungen liegen, wie Winfried Hassemer (2011) hervorhebt, in der Rechtsordnung einer Gesellschaft: das Verhältnis von Gerechtigkeit und Rechtsstaat, die Möglichkeiten des (Straf-)Rechts und Anforderungen, die eine Rechtskultur an das Konzept einer „Lösung“ richtet. Die Streitpunkte beinhalten nicht nur, wie die Altlasten von Ungerechtigkeit mit Hilfe von internationalen und nationalen Rechtskonzepten und -instrumenten adressiert werden können. Es geht auch darum, wie das Prinzip der Komplementarität, spricht, die Tätigkeit des IStGH nur im Fall des Unwillens oder der Unfähigkeit des nationalen Justizsystems, berücksichtigt werden

kann (Ambos 2006) und wie die internationale Gemeinschaft Staaten darin unterstützen kann, Verantwortlichkeitsvermögen zu bilden.

Ein Beispiel in dieser Debatte ist das Schicksal der Trostfrauen in Ostasien. Es kehrte in die Aufmerksamkeit der Welt zurück, als sich während der 1980er und frühen 1990er-Jahre der sozio-ökonomische und politische Hintergrund in der Region änderte (wirtschaftliche Aufholjagd in Ostasien, das Ende des Ost-West-Konfliktes sowie Demokratisierung in ehemaligen Militär- und kommunistischen Regimen). Hinzu kam ein steigendes Bewusstsein für Menschenrechte, auch gegenüber sexueller Gewalt in bewaffneten Konflikten sowie das Entstehen transnationaler Frauenbewegungen. Am 8. Januar 1992 brachen die ehemaligen „Trostfrauen“ aus Südkorea, die sogenannten „Großmütter“, zum ersten Mal ihr Schweigen und wagten sich an die Öffentlichkeit. Vor der japanischer Botschaft demonstrierten sie für ihre Rechte. Seither kommen sie regelmäßig zum Protest dorthin (an jedem Mittwoch um zwölf Uhr mittags). Seither lädt wiederholt die Trostfrauen-Debatte Spannungen zwischen Ländern auf, die ohnehin in Konflikten um Grenzen und Ressourcen stehen. Wie steht das offizielle Japan dazu? Selbst wenn es polarisierende Debatten zwischen nationalistischer und transnationaler Historiographie gibt (Halpin 2006; Chuh 2003; Kang 2003; Tanaka 2002; Thoma 2000), hat die japanische Regierung immerhin offiziell die Mitschuld des imperialen Japan durch die Errichtung und Kontrolle von Trostfrauen-Stationen eingestanden (1992), wo Frauen aus den von imperialen Japan besetzten oder kolonialisierten Gebieten (Korea, Taiwan, China usw.) gezwungen wurden, als Prostituierte zu arbeiten. In diesem Eingeständnis hieß es 1992, dass Japan moralische Verantwortung für das Leiden der Opfer trage. Gleichzeitig tauchen neben der Frage der Mitschuld weitere politische und rechtliche Fragen auf, die bislang ungeklärt geblieben sind: Selbst wenn das imperiale Japan kriminelle Taten wie Zwangsrekrutierung begangen hat: Inwiefern ist das Japan der Nachkriegszeit für diese Taten verantwortlich? Wie soll Japan das mutmaßliche Verbrechen und die moralische Schuld wiedergutmachen (Wakabayashi 2003, 227–28)? In welchem Ausmaß sollen zum Beispiel die beiden koreanischen Regierungen ebenso als schuldig betrachtet werden, da koreanische Mithelfer und Zuhälter halfen, Frauen zu beschaffen?

Ein weiteres Beispiel für die Herausforderungen der Deliberation und Funktion des normativen Gerechtigkeitsrahmens bieten die wissenschaftliche Bemühungen sowie individuelle Anstrengungen, die zahlreichen Ungerechtigkeiten besonders unter den Regimes von Mao und Deng in China aufzuarbeiten (Tiananmen Mothers 2009; Pils 2007; Shao 2007; Zhang et al. 2001; Yu 1997; Chiu 1991). Zum Beispiel fordern die Tiananmen-Mütter seit 1995 in ihrem jährlichen öffentlichen Brief an die kommunistische Regierung Verantwortung, Kompensation und Aufklärung für das Massaker vom 4. Juni 1989 (Tiananmen Mothers 2009). Individuelle Einsätze von Seiten der Opfer der Anti-Rechts-Kampagne haben auf die traditionellen Methode der korrigierenden Re-Evaluation (*ping fan*) zurückgegriffen, um ihre politische Reputation durch eine Wiedergutmachung seitens der Regierung wiederherzustellen. Dennoch bleibt die offizielle Übernahme politischer und rechtlicher Verantwortung durch die kommunistische Regierung bislang Wunschenken. Die Durchführbarkeit internationaler korrigierender und wiedergutmachender Gerechtigkeit (*corrective*

and restorative justice) scheint in der Konfrontation eines Gerechtigkeitsystems mit chinesischen Charakteristika an ihre Grenzen zu stoßen (Yu 1997).

Dieser Beitrag untersucht, wie die Vergangenheit in Ostasien aufgearbeitet wird – vor dem Hintergrund der Entwicklung der internationalen Strafgerichtsbarkeit und des transnationalen Aktivismus durch die Ermächtigung von Individuen, Schuldige anzuklagen. Unterstützt durch eine feministisch-rechtliche und kulturosoziologische Perspektive werden die rechtlichen Entwicklungen, soziokulturelle und politischen Ursprünge und Implikationen sowohl der „Trostrfrauen“-Debatte als auch der offenen Fragen von Ungerechtigkeit in der chinesischen Geschichte analysiert. Mit anderen Worten: ein direkter Vergleich der Aufarbeitung der Vergangenheit der beiden Fälle steht nicht im Fokus. Vielmehr geht es um einen Vergleich der Interaktionen zwischen globalen, regionalen, nationalen und lokalen Normen. Ziel des Beitrags ist es, die Normen und Mechanismen des Gerechtigkeitsystems im ostasiatischen Kontext sowie seine Interaktion mit den Normen der globalen Gerechtigkeit zu identifizieren. Der Beitrag vertritt die These, dass neue Türen für den Umgang mit Ungerechtigkeit in Ostasien geöffnet wurden – durch die Transnationalisierung von Normen der globalen Gerechtigkeit und Aktivismus (Menschenrechts- und Frauenrechtsbewegungen). Allerdings haben bislang mehrere Faktoren eine systematische Aufarbeitung sowie eine Wiedergutmachung für die Opfer verhindert: das dominante Gruppendenken, die kulturspezifischen Auffassungen von Gerechtigkeit, die Sicht von sexueller Gewalt und Sklaverei als Tabus sowie vielgestaltige politische, geostrategische und ökonomische Überlegungen.

Um dies zu belegen, werden im Folgenden zunächst die Entwicklung der Strafgerechtigkeit und die sich verändernde Rolle des Staates präsentiert. Strafgerechtigkeit wird dann mittels der Ausarbeitung eines ebenen-übergreifenden Schemas (aufbauend auf Normen, involvierten Akteuren, innenpolitischen Zuständen und den Schnittpunkten von wichtigen inneren und außenpolitischen Veränderungen) betrachtet, um das Funktionieren der Justizsysteme zu analysieren. Basierend auf diesem Schema werden die Normen und Mechanismen des Gerechtigkeitsystems untersucht. Die abschließenden Anmerkungen unterstreichen die Notwendigkeit *transformativer* Gerechtigkeit, wobei die diskursive Macht globaler Normen eine Rolle spielen kann, nämlich durch die Anwendung angemessener rechtlicher und politischer Strategien sowie durch eine kritische *intra*-kulturelle Reflektion von Gerechtigkeitspolitik auf nationaler und lokaler Ebene.

2 Strafgerechtigkeit – Neue Herausforderungen für den Staat

Die Idee von Gerechtigkeit, ihre Verbindung mit den Gesetzen, die Erwartung an die Gesetzgebung, der Aufbau von gerechtigkeitsbringenden Institutionen und Systemen werden inkrementell durch den sozialen, kulturellen und historischen Kontext geformt. Inmitten der Menschenrechtsbewegung und der Globalisierung wird der Staat als oberster Wächter der Strafgerechtigkeit hinsichtlich seines

Sicherheitsmonopols, dem Charakter seiner Zuständigkeit und Fragen von Souveränität und Legitimität in dreifacher Hinsicht herausgefordert.

Erstens werden die Sicherheitsleistungen unter dem Einfluss des Postfordismus und dessen ökonomischer Tendenz zum Outsourcing, zur Privatisierung und zu ehrenamtlichen Tätigkeiten ausgelagert. David Bayley (2001, S. 211–212) zufolge wird Sicherheit immer mehr durch kommerzielle Anbieter bereitgestellt – Sicherheit wird zur Ware, wird kommodifiziert. Auch Freiwillige werden in einigen Ländern von Regierungen und Behörden ermutigt, die Verantwortung für öffentliche Sicherheit gemeinsam mit der Polizei zu tragen. Mit anderen Worten, die Zuständigkeit für Sicherheit wird auch von nicht-staatlichen Akteuren mitgetragen. Die Strafprävention setzt den Akzent auf Wiedergutmachung statt auf Bestrafung. Gerade in Korrelation mit der Auslagerung und Kommodifikation der Sicherheitsleistungen wird ferner die traditionell staatszentrierte Strafjustiz durch Bewegungen wiedergutmachender Gerechtigkeit herausgefordert. Das Hauptanliegen dieser Bewegungen ist es, Kriminalitätsvorbeugung zu erreichen durch soziale Reintegration und öffentliches Bloßstellen anstatt von Ausgrenzung und Bestrafung. Während die Strafgerechtigkeit, welche auf Aristoteles' Theorie korrekativer Gerechtigkeit basiert, den Fokus auf Fehlverhalten und Schaden legt und soziale und moralische Verantwortung (kollektiv und individuell) zur Wiederherstellung einer gerechten Verteilung fordert und somit als Teil der Verteilungsgerechtigkeit betrachtet werden kann (Forde-Mazrui 2004; Shaw und Martin 1999; Dagan 1999; Coleman 1982), beinhaltet wiedergutmachende Gerechtigkeit die Aufteilung der Verantwortung zwischen Täter und Opfer und besteht auf Maßnahmen zur Verhinderung von Wiederholungstaten. Der Aufbau von Vertrauen in „Gemeinschaften“, die Wiederherstellung geschädigter sozialer und interpersonaler Beziehungen und eine Ausweitung des Umgangs mit Konflikten und Gewalt sind die essentiellen Elemente der wiedergutmachenden Gerechtigkeit (Verity und King 2008; Gumz 2004; Bottigliero 2005). Besonders in Transformationsgesellschaften wird die Bedeutung einer multidimensionalen Gerechtigkeitspolitik hervorgehoben, die nicht nur politische und sozioökonomische Friedens- und Demokratisierungsprozesse beinhaltet. Sie schließt auch den psychologischen Prozess der Heilung und Versöhnung ein, der Grenzen zwischen den Generationen, Geschlechtern, Rassen und ethnischen Gruppen überschreitet (Gray 2005–06; Labourne 2004; Asmal 2000). Drittens haben die Gründung des IStGHs und seine Einstufung der Sexualsklaverei als „Verbrechen gegen die Menschlichkeit“ die Straffreiheit der Staatsoberhäupter und die Staatssouveränität in Frage gestellt (Skjelsbæk 2001; Chinkin 1994). Obgleich die konventionelle Theorie des Strafrechts sich so entwickelt hat, ohne die Rolle der Opfer in die Analyse der Verantwortung und der Begründung von Bestrafung mit einzubeziehen (Fletcher 2000, S. 51–52), hat die steigende Aufmerksamkeit für das Leiden und die Definition der Interessen der Opfer die staatszentrierte Strafjustiz gezwungen, *alternative* Konzepte und Methoden zu entwickeln, um die Opfer in den Bestrafungsprozess zu integrieren.

Allerdings geht die dreifache Herausforderung der internationalen und nationalen Strafjustiz nicht unbedingt einher mit einer schrumpfenden Rolle des Staates in der Entwicklung und Ausführung von Strafjustiz. Zwei Gründe sind zu benennen. Zum

einen geht es bei der vielfältigen Auslagerungen von Sicherheitsleistungen und bei der Dezentralisierung des Justizsystems hauptsächlich um die Verlagerung von Autorität und die Rekonstruktion der Strafjustiz auf eine funktionale *dezentralisierte* Weise. Sie zielen darauf ab, auf lokale Bedürfnisse einzugehen, deren Moralität widerzuspiegeln und vorhandenes Wissen zu nutzen (Bayley 2001, S. 219–220). Abhängig von Faktoren wie der politischen Kultur (Individualismus oder kommunitaristischer Kultur), den vorhandenen Ressourcen und der Kapazität der Kommunen kann der Staat eine fördernde Rolle im Streben nach einer *transformativen* Agenda restaurativer Gerechtigkeit spielen. Entscheidend ist dabei, ein effizientes Management der Grenzen zwischen internationaler Strafjustiz und dem *eigenen* herrschenden Gerechtigkeitssystem zu gewährleisten. Zuletzt ist es immer noch der Staat, der die Fairness der Prozeduren und Prinzipien im Gerechtigkeitsprozess garantieren muss (prozedurale Gerechtigkeit), die durchsickern und die Praktiken auf Mikro-Ebene beeinflussen. Zum anderen gibt es gerade im Hinblick auf die Beteiligung zahlreicher Akteure an der Bereitstellung von Sicherheit und zum Schaffen von Gerechtigkeit einen neuen Trend hin zu einer bewussten, analytischen, ja sogar wissenschaftlichen Herangehensweise an die Entwicklung von Systemen, welche Konflikte bewältigen und sich der Ungerechtigkeiten zwischen Bürgern, Stakeholdern, Interessenvertretern und öffentlichen, privaten und Non-Profit-Organisationen und Unternehmen annehmen. Dies geschieht nicht nur auf innerstaatlichem, sondern ebenso auf internationalem und transnationalem Level. Als Beispiel nennt Lisa Binham (2009, 1–2) die Entwicklung einiger neuer Instrumente wie das *Dispute System Design (DAS)*, das im Bereich der angemessenen Konfliktbearbeitung (*appropriate dispute resolution – ADR*) benutzt werden soll, um das Justizsystem sowohl auf nationaler als auch auf globaler Ebene zu prüfen.

3 „Gerechtigkeit“ im Kontext Ostasiens – Eine feministisch-rechtliche und kultursoziologische Perspektive

3.1 Feministische Rechtsmethoden und die Frage der Geschlechtergerechtigkeit

Während die Theorie der Strafgerechtigkeit den Fokus auf die Interessen der Opfer legt, bieten die feministisch-rechtlichen Methoden nützliche Mittel im Umgang mit der „Frage der Frauen“, damit Frauen als Opfer und ihre Leiden, die möglicherweise von traditionellen Methoden ignoriert wurden, nicht in Vergessenheit geraten (James und Palmer 2002; Scales 1992; Bartlett 1990; Freedman 1989–1990). Bartlett (1990) identifiziert ein Set von feministisch-rechtlichen Methoden, die zum einen auf die Erfahrung der Exklusion von Frauen abstellen. Sie stellen zusätzlich „die Frage nach den Frauen“ und entwickeln praktische Ansätze für ein gesteigertes Rechtsbewusstsein. Jede dieser Methoden ist zugleich kritisch und konstruktiv und enthüllt Aspekte einer Rechtsfrage, die traditionelle Methoden tendenziell übersehen oder verdrängen. Neben den drei Theorien – rationaler Empirismus, Standpunkt-Epistemologie und Postmodernismus – bietet Bartlett unter dem Stichwort „Positionalität“ (*positionality*)

eine vierte, erkenntnistheoretisch anders ansetzende Herangehensweise, die sie für die beste Erklärung hält für die Klärung des moralischen Urteils, nämlich, was das Richtige ist in den Gesetzen. Positionalität beschränkt sich auf einem Wahrheitsbegriff, der auf Erfahrung beruht. Je nach Kontext und Situation ist die Definition bzw. die Wahrnehmung von Wahrheit veränderbar und Erweiterung möglich (Bartlett 1990).

Hinzu kommt: Da sich der Inhalt kritischer Rechtsstudien *weniger* als rein wissenschaftliche Unternehmung darstellt, sondern vielmehr als Ausdruck eines politischen Emanzipationsprojektes (Tushnet 1991, S. 1515), hat das interdisziplinäre feministische Forschungs- und Aktivismus-Programm mit den herrschenden Annahmen kritisch auseinandergesetzt. Zu den wichtigen Streitpunkten dieser Herausarbeitung gehören der Umgang mit dem Menschenrechtskanon, die Wahrnehmung von Frauen als Subjekt, die Rolle von Rechtsprozessen und Wahrheitskommissionen, die Bestandaufnahme des Ausmaßes sowie des Inhalts von Geschlechterungleichheit, von Unterdrückung, unsichtbarer Ungerechtigkeit wie Diskriminierung, sexueller Gewalt/Folter etc. (Nesiah 2006; James und Palmer 2002; Mckay 2000; Berlant 2000). Aus Sicht der Frauen und anderer marginalisierter Gruppen hat kritische feministische Arbeit die falschen Versprechungen des Nationalismus und die staatszentrierte und genderspezifische Version gegenüber der Vergangenheit aufgedeckt, die übereinstimmend mit grenzüberschreitendem Kapitalfluss, Neoliberalismus, und Staatsverbrechen (intern, extern und zwischen den Staaten) konfiguriert, und einen Diskurs der Erinnerung entwickelt, der die offizielle Version kontern (*the counter-memory*) soll (Kim-Puri 2005, S. 137; Henry 2011, S. 62 ff.). Im Kontext bewaffneter Konflikte und ihrer Folgen bezieht sich Geschlechtergerechtigkeit vor allem auf rechtliche Prozesse, die gleichberechtigt, nicht durch und für Männer wirken und die anerkennen, dass Frauen auf einzigartige Weise Leid erleben. Geschlechtergerechtigkeit wird jedoch oft zugunsten von Wiedergutmachung vernachlässigt und von patriarchalen Interessen angetrieben, welche die Mächtigen bevorzugt und die Unterdrückten entrechtet haben. Während die Frage der Straffreiheit und der Geschlechterungerechtigkeit immer noch darauf warten, beantwortet zu werden, hat die feministische kritische Forschung die Aufdeckung und Rekonstruktion der Wahrheit als grundlegende Komponente des Wiedergutmachungs-Prozesses im Rahmen der Geschlechtergerechtigkeit, rechtlicher Schritte und psychosozialer Heilung unterstrichen (Mckay 2000).

Des Weiteren unterscheidet sich feministischer Aktivismus auf verschiedenen Ebenen deutlich von der allgemeinen Menschenrechtsbewegung hinsichtlich der gewählten Konzepte, Methoden und Strategien. Einerseits ist es der transnationalen Frauenbewegung zu verdanken, dass Tabuthemen angesprochen wurden und grenzüberschreitende Sexualgewalt durch interdisziplinäre kritische Forschung und Wahrheitsfindung ans Licht gebracht wurde (Stetz und Oh 2001). Zum Beispiel hat die asiatisch-amerikanische transnationale Frauenbewegung die weit verbreitete Präsenz des multinationalen Kapitalismus deutlich gemacht, ebenso wie dessen Einfluss auf das Handeln von Staaten in multinationalen Operationen, die auf die Kontrolle von Frauen besonders in militarisierten und kolonisierten Situationen abzielen (Thoma 2000). Andererseits zeigen einige empirische Analysen, wie nationale Frauenbewegungen sich für

oder gegen internationale Agenden entschieden haben. Dieser Kontrast stellt die herrschende Annahme in Frage, dass globales Denken mit lokalem Denken gleichgestellt sei (Liu 2006).

Zusammenfassend lässt sich feststellen, dass kritische feministisch-rechtliche Ansätze sich als nützliche Mittel darstellen für die Aufdeckung und Aufarbeitung genderspezifischen Leidens im vergangenen Unrecht. Sie dienen vor allem als eine Grundlage für die Artikulation der Agenden und für die Allianz der transnationalen Opfer- bzw. Frauenbewegung für das Schaffen von Geschlechtergerechtigkeit im Kontext der Strafjustiz.

3.2 Das Gerechtigkeitsystem und Politik in Ostasien – Eine kultursoziologische Perspektive

Was sind die dominierenden Normen und Mechanismen in Ostasien, einer Region mit kommunitaristischer Kultur, die auf dem Konfuzianismus basiert, wenn Gerechtigkeit artikuliert, entworfen und umgesetzt werden muss?

Es lässt sich unlängst unter Sozial- und Rechtswissenschaftlern eine Wiederkehr des Interesses an Kultur und dem eng verwandten Phänomen, nämlich der Umsetzung sozialer Normen beobachten. Die Einnahme einer kultursoziologischen Perspektive ermöglicht es, kulturabhängige Variablen wie konservativer Autoritarismus, kulturspezifische Attribute und Kontrolle, welche Unterschiede in der Einstellung zu rechtlichen Fragen erklären können, zu identifizieren (Na und Lofius 1998). In seiner Untersuchung der Beziehung zwischen westlichen Normen und den japanischem Recht argumentiert Feldman (2006) zum Beispiel, dass sich die Relation zwischen Kultur und der Umsetzung sozialer Normen durch eine Konformität der Norm vermitteln lässt, welche die Übersetzung von westlichen Normen in die japanischen Gesetze erleichtert. Währenddessen existieren für einige Rechtswissenschaftler immer noch „tiefe Gräben“ zwischen Europa, den Vereinigten Staaten und Ostasien bezüglich grundlegender kultureller Auffassungen hinsichtlich der Fragen universeller Werte, Regeln und ihrer Umsetzung genauso wie zur Rolle des Staates und fundamentaler Muster der sozialen Ordnung, all das trotz der Betonung der Wichtigkeit von Kultur für ein komparatives Verständnis des Rechts (nach John Haley, zitiert in Feldman 2006, S. 812–13). In asiatischen, US-amerikanischen und europäischen Wissenschaftskreisen wird vor allem bemängelt, dass die erkenntnistheoretische Untersuchung der sozialen Einbettung von Gesetzen, verwandten Regeln und Verhaltensweisen im komparativen gesetzlichen Studien bisher unzureichend geblieben ist. Möglicherweise haben asiatische Rechtswissenschaftler es oft vernachlässigt, die der korrektiven Gerechtigkeit zugrundeliegenden Infrastruktur zu überdenken, bevor sie Regeln verschiedener Rechts-Regime von Gesetzen vergleichen, auswählen und kopieren (Deng 2006–07, S. 1). Es gibt wenige Studien, die Konfuzius' Arbeit analysieren und besonders die spezifischen Ideen, die Werte und Praktiken restaurativer Gerechtigkeit darin identifizieren und unterstützen können. Deshalb muss ein Vorbehalt bleiben: die ontologische und epistemologische Grundlage der Idee von Gerechtigkeit in Ostasien kann sich grundlegend von der

westlichen Tradition mit ihrem jüdisch-christlichen Hintergrund sowie der Aufklärung unterscheiden.

Aus dem Blickwinkel des Konfuzianismus kennzeichnen Gesellschaft und Staat fünf Hauptbeziehungen, die private und öffentliche Sphären umfassen (Beziehungen innerhalb von Familien, Freunden, zwischen Arbeitgebern und Arbeitnehmern etc.) und unterstreichen die Bedeutung des individuellen Lernprozesses für ein Verständnis des sozialen Ideals von Humanismus, Harmonie und Gerechtigkeit. Im Kontext der Gerechtigkeits-Fragen sind folgende der dominierenden Werte und Normen relevant: Würde und Liebe zu Mitbürgern (*ren*), Ehrlichkeit (*chong*), Gerechtigkeit (*yi*), Wissen, das Handeln im Streben nach Tugend und in der Ablehnung von Schlechtigkeit (*zhi chi*). Besonders reflektiert das Konzept des *li* (moralische Kodes und Werte) die konfuzianische Sicht von Regierung und sozialer Kontrolle. Das *li* ist von zentraler Bedeutung für die traditionelle chinesische Rechtskultur und das Rechtssystem. *Li* verkörpert Konfuzius' Idee von sozialer Ordnung und sozialen Beziehungen in einer harmonischen und gerechten Gesellschaft, die betont, dass *li* der Bevölkerung durch moralische Bildung beigebracht wird (Confucius 1971, 1893). *Li* ist eng mit *ren* verknüpft, welches der innere Geist des *li* ist. Wird das *ren* vernachlässigt oder missbraucht, wird *li* zu einem rein formalen Instrument ohne Substanz.

Der erste große Rivale des Konfuzianismus in der chinesischen Rechtstradition war der Legalismus. Die Legalisten hielten an der Prämisse einer schlechten Natur des Menschen fest und vertraten das *fa* (formelles Gesetz) als Hauptmittel sozialer Kontrolle. Sobald Ordnung und Harmonie durch Dispute und Verbrechen gestört werden, spielen *ren* und *li* eine wichtige Rolle bei ihrer Wiederherstellung. Diese wird am besten erreicht durch die Anwendung des *li*. *Fa* wird als Unterstützung genutzt, falls *li* allein nicht ausreicht um die Tat zu korrigieren. Für Konfuzius war es fundamental, in sozialen Interaktionen nach Harmonie und Wiedergutmachung zu streben. Abgeleitet von diesem Prinzip ist *wu song* (kein Rechtsstreit) die wichtigste Aufgabe des Gesetzes. Also ist das höchste Ziel des Gesetzes, im Gegensatz zur westlichen Tradition, die Schaffung von Harmonie und die Wiederherstellung des Friedens (Liu 2007; Liu und Palermo 2009).

Insbesondere galt im traditionellen China eine faire Lösung als vorrangiges Prinzip der Gerechtigkeit, die mit den menschlichen Emotionen übereinstimmen soll (*tian li ren qing*). Fairness basierte auf Wahrheitsfindung, wobei die (Menschen)-Rechte des Verdächtigen selten eine Rolle spielten. Die Idee eines rechtsstaatlichen Verfahrens war unbekannt, das Konzept der Rechte war also *nicht* rechtlich, sondern eher moralisch begründet. Traditionelle Chinesen kümmerten sich nicht darum, was rechtliche Kodes vorschrieben, sie zogen es vor, sich auf die ihrer Tradition entsprechende Vernunft zu verlassen. Mit anderen Worten, ein Gericht würde unter Umständen nicht dem rechtlichen Kodex folgen, stünde dieser im Konflikt mit dem, was im Commonsense als fair und richtig galt. Gesetzliche Regeln brachten üblicherweise „Gerechtigkeit“, was als vernünftige Lösung für die Konsequenzen eines Vergehens gesehen wurde. Gerichte wendeten oft Regeln außerhalb des Gesetzes an, um zu einer Lösung zu gelangen. Daher wurde das Gesetz und rechtliche Kodes im Einklang mit menschlichen Gefühlen und der konfuzianischen

Ethik übernommen. Das Ziel der Gerechtigkeit ist wiederum die Wiederherstellung und Aufrechterhaltung harmonischer sozialer Beziehungen und nicht das Festhalten an niedergeschriebenen Gesetzen (Liu 2007, S. 5–6).

Basierend auf diesen Überzeugungen existiert korrektive Gerechtigkeit, wie sie in der westlichen Tradition verstanden wird, in der Rechtstradition vieler ostasiatischen Länder nicht. In der langen Geschichte konfuzianischer Gesellschaften schlugen die Regeln des Gesetzes stets distributive Wege ein, um Dispute zwischen privaten Prozessparteien zu lösen, besonders im Schadenersatzrecht. Auch hatten die konfuzianischen Vorstellungen von Gesetz kein rechtliches Prinzip oder eine *ex post* Doktrin, an der man sich orientieren kann, um Konflikte privater Rechtsverletzung zu handhaben. Jegliche rechtliche Anpassung von Disputen folgte Besitzregeln anstatt Verantwortung. Daraus folgt, dass die Chinesen ebenso wie die Japaner nicht immer Schutz bei rechtlichen Mitteln suchen. Stattdessen spielt Vermittlung (*tiao jie*) eine wichtige Rolle in der Regulation von Disputen im Volk (Deng 2006–07; Nakamura 1959). Das Fehlen von korrekativer Gerechtigkeit hat die Übergangsjustiz seit der Rechtsreform in China von 1908 stark beeinflusst. Sogar heute tendiert die allgemeine Bevölkerung ebenso wie Anwälte, Richter, Politiker und Wissenschaftler dazu, bei der Bewertung eines privaten Disputs das Konzept des Eigentumsrechts oder des geregelten Interesses anzuwenden, anstatt die Rechte einer Person, dessen Wohlergehen oder seinen „natürlichen Status“ als Messlatte für Rechtsschutz zu verwenden (Deng 2006–07). Mit Blick auf diese spezifischen Eigenschaften der konfuzianischen Rechtsstruktur wird sogar vorgeschlagen, das Konzept des „Chinesischen Rechts“ einzuführen, um Chinas Rechtssystem zu analysieren (Li 1995–96).

Neben dem Konfuzianismus haben auch Buddhismus, Taoismus, Shin-Taoismus, religiöse Ansichten und Praktiken, unter dem starken Einfluss des frühen, von der Kosmologie inspirierten, Monotheismus und des naturalistischen Denkens, zur Formung der Rechtskultur in dieser Region beigetragen. Es können zwei Formen von Überschneidung zwischen Religion und Gesetz beobachtet werden: die Ideologie der Gerechtigkeit und die Ausführung gerichtlicher Rituale. Zuerst ist der Glaube in die Unvermeidbarkeit von Strafe eine der wichtigsten Grundpfeiler der chinesischen Gerechtigkeitsideologie. Ähnliche Werte durchziehen auch die chinesische religiöse Tradition. Sie argumentieren, dass sich Gerechtigkeit trotz Korruption und Inkompetenz unter Justizbeamten behaupten kann und jegliche Rechtsverletzender schließlich eine Form der Bestrafung erfahren im Zeitraums dieses Lebens oder späterer Leben nach der Logik der Wiedergeburt. Die zweite Form der Überlappung zwischen Religion und Gesetz findet sich im Bereich der Praxis. Dieser beinhaltet Instanzen wie vom Volk ausgeführte Rechtsrituale wie das Leisten eines Eids, das Köpfen von Hühnern, Anklagen aus der Unterwelt, um die Legitimität der eigenen Position zu bekräftigen, mutmaßliche Ungerechtigkeit zu behandeln und um Dispute aufzuklären. Diese Riten koexistieren neben anderen Formen von Rechtspraxis wie privater Vermittlung und Gerichten, und bilden so ein weitreichendes Spektrum an Praktiken (Katz 2008).

Zusammengefasst konstituieren historisch gesehen *ren*, *li*, die Übereinstimmung mit menschlichen Gefühlen und Regeln des *Commonsense* in ostasiatischen

Gesellschaften mit starker konfuzianischer Prägung die regierenden Normen des Justizsystems. Es gibt außerdem eine allgemeine Tendenz zur Aversion gegen Gerichtsverfahren (Wong 2000; Utter 1990; Rojek 1989). Stattdessen wurde eine versöhnliche Herangehensweise entwickelt, die Konflikte durch Vermittlung und rituelle Praktiken mit religiösen Elementen löst. Diese traditionelle Präferenz besteht weiterhin in den Gesellschaften von China, Japan und Südkorea (See 1982–83; Kim und Lawson 1979).

Gleichzeitig bleiben die Werte der konfuzianischen Rechtskultur ein kontroverses Thema. Einerseits bietet die Kombination von *ren* und *li* und damit die Konstitution eines wertvollen Erbes der konfuzianischen Tradition laut einigen Wissenschaftlern inspirierende Impulse für die Reform des modernen westlichen Gerechtigkeits-Konzeptes (Yun 2008; Braithwaite 2002). Andererseits haben Analytiker die Nachteile einiger ontologischer Annahmen der konfuzianischen Konstruktion von Humanität und sozialer Beziehungen aufgedeckt. Außerdem wurde das konfuzianische Gesetz streng für sein fehlendes Zivilrecht, nicht-existente individuelle Rechte sowie das Fehlen einer Idee von Zivilgesellschaft verurteilt, obwohl Feng Deng (2006–07, S. 25) solche Kritik als durch die aus der Perspektive der Gerechtigkeit entsprechend der griechisch-römischen Tradition wahrgenommen und als voreingenommen und unfair betrachtet.

Die vorangehenden beiden Abschnitte haben zunächst kurz die neuen Entwicklungen in der internationalen Strafjustiz beleuchtet, die das staatszentrierte Justizsystem vor neue Herausforderungen stellen. Aus einer feministisch-rechtlichen und kultursoziologischen Perspektive wurden die Stärken der rechtlich-feministischen Methoden gezeigt, die Idee der Gerechtigkeit in einen Kontext gesetzt und anschließend die vorherrschenden Normen und Eigenschaften der konfuzianischen Rechtskultur beschrieben. Der folgende Abschnitt soll die Grenzen und Möglichkeiten des Strebens nach Gerechtigkeit in Ostasien anhand eines ebenen-übergreifenden Analyseschemas an zwei Beispielen: „Trostfrauen“ und Ungerechtigkeit in China.

4 Die Suche nach Gerechtigkeit – Trostfrauen in Ostasien und Ungerechtigkeiten in China

Wie und unter welchen Umständen sind die Trostfrauen und Chinas historische Ungerechtigkeiten in den Fokus korrektiver und restaurativer Gerechtigkeit auf innerstaatlicher und globaler Ebene gelangt? Welche spezifischen Charakteristika der ostasiatischen Gerechtigkeitsysteme könnten das Streben nach korrektiver und restaurativer Gerechtigkeit behindert haben? In welchem Ausmaß beeinflussen globale Normen die Entwicklung von Gerechtigkeit und Politik in Ostasien?

Um diese Fragen zu beantworten wird ein ebenen-übergreifendes Schema mit vier kulturverwandten vermittelnden Variablen erarbeitet: dominierende innerstaatliche Gerechtigkeitsnormen und ihr Inhalt, lokale Akteure, die sich für Gerechtigkeit einsetzen, das Verhältnis innerstaatlicher Bedingungen (rezeptiv oder *aversiv*) zu globalen Normen, sowie die Überschneidung bedeutender internationaler Veränderungen mit innenpolitischen politischen und ökonomischen Entwicklungen (Feldman

2006). Abgeleitet vom soziologischen Institutionalismus, Normendiskurs, ökonomischem Rationalismus und kulturbasierten gesetzlichen Übertragungstheorien (Miller und Banaszak-Holl 2005, S. 191, 197; Posner 1983) können die Variablen „Substanz dominanter innerstaatlicher Normen“, „beteiligte Akteure und ihre Ressourcen“, und „innenpolitische Bedingungen“ dabei helfen, sowohl die Resistenz lokaler Normen als auch die Fähigkeit globaler Normen, Gerechtigkeitspolitik zu beeinflussen, nachzuweisen. Die Variable „Überschneidung bedeutender internationaler Veränderungen mit innenpolitischen politischen und ökonomischen Entwicklungen“ erklärt die Geschwindigkeit und Intensität der rechtlichen und politischen Entwicklung bezüglich beider Themen. Die Kombination dieser Bedingungen entfacht dynamische und konzentrierte Bewegungen mit gemischten Resultaten.

Die Anwendung dieses ebenen-übergreifenden Analyseschemas wird durch die folgenden Vermutungen begründet. Erstens fungieren globale Normen als kultureller Anreiz (Konformitätsnorm) und beeinflussen gleichzeitig das Verhalten der Verantwortlichen in Politik und Gesetzgebung sowie zivilgesellschaftlicher Akteure. Zweitens üben internationale Faktoren immer mehr Einfluss auf innenpolitische gesetzliche Konfigurationen und Gerechtigkeitspolitik aus und stellen Ressourcen und Kanäle für Mobilisierung bereit. Drittens spielen sowohl kulturelle als auch kontextuelle politische und wirtschaftliche Faktoren eine wichtige Rolle in der Formung von Gerechtigkeitspolitik. Die Interaktionen zwischen globalen Normen und dem örtlichen Phänomen, entworfen und gefördert von lokalen Akteuren, offenbaren unverkennbare Verbindungen zwischen dem Gesetz und seinem jeweiligen sozialen Kontext, die keinem mechanischen oder universellen Prozess zugeordnet werden können (Feldmann 2006).

4.1 Das Trostfrauen-System – Japans militärische Zwangsprostitution während des zweiten Weltkriegs

Schätzungsweise wurden 200.000 junge Frauen (zwischen elf und zweiundzwanzig Jahre alt) während des zweiten Weltkrieges (seit 1938) von Tokyos Heeresministerium aus den von Japan besetzten Gebieten (Korea, China, Taiwan, Thailand, Vietnam, Malaysia, Indonesien und den Philippinen) in rund 2000 Militärbordelle verschleppt und arbeiteten dort als Sex-Sklavinnen. Die Trostfrauen (*Yian-Fu*) waren praktisch Leibeigene des Kaiserreichs. Sie wurden systematisch sexuell missbraucht, häufig bis zum Tode, mit Geschlechtskrankheiten verseucht, exekutiert oder nach der Niederlage wie zerstörtes Kriegsmaterial an der Front zurückgelassen. Die Überlebenden fanden sich zunächst „begraben“ im Schweigen ihrer sich schämenden Familien und der Staatengemeinschaft. Dennoch wurde der Kampf der „Trostfrauen“ für Gerechtigkeit in Ostasien ein bedeutendes Thema, als in den 90er-Jahre die internationale strafrechtliche Verfolgung geschlechtsspezifischer Kriegsverbrechen im früheren Jugoslawien und in Ruanda Aufmerksamkeit erlangte. Nach mehr als vier Jahrzehnten des Stillschweigens brachen frühere Trostfrauen das Tabu und verlangten nach einer Entschuldigung und Wiedergutmachung für das Trauma. Die japanische Regierung bestritt zunächst jegliche

Verantwortung für die Zwangsprostitution (1991), gab später ihre Mittäterschaft zu und entschuldigte sich (1993). Das Thema „Zwangsprostitution“ wurde zwar in die japanischen Schulbücher aufgenommen. Es wurde aber später (1994) wieder aus den Schulbüchern entfernt, nachdem liberaldemokratische Politiker erfolgreich für diese Streichung gekämpft hatten.

Die Schaffung des „Asien Frieden- und Freundschafts-Fonds für Frauen“ (*Asia Peace and Friendship Fund for Women*) im Jahre 1995 betonte die Wiedergutmachung auf Basis moralischer Verantwortlichkeit. Von insgesamt elf Millionen japanischen Yen, die teils aus privaten und teils aus Regierungsgeldern stammten, erhielten 360 ehemalige Zwangsprostituierte Zahlungen, die jedoch *nie* als „Entschädigung“, sondern als „medizinische Unterstützung und Sozialhilfe“ bezeichnet wurden. 2001 hatte der ehemalige japanische Premierminister Junichiro Koizumi sein „tiefes Bedauern“ über die „unermesslichen und schmerzlichen Erfahrungen“ geäußert, die japanische Soldaten Frauen zugefügt hatten und somit zumindest eine gewisse Verantwortlichkeit zugegeben. Allerdings entpuppte sich der Fonds als falsche Hoffnung für die Opfer (Park 2002). Denn die japanische Regierung lehnte strafrechtliche und politische Verantwortung immer noch ab. Später lancierten frühere Trostfrauen ein Dutzend ziviler Klagen gegen die japanische Regierung sowohl vor japanischen als auch vor amerikanischen Gerichten, bisher erfolglos. Ende März 2007 wurde der Fonds aus Gründen der Verjährung aufgelöst. Ende April 2007 erklärte das höchste Gericht Japans, dass die ehemaligen Zwangsprostituierten kein Anrecht auf Entschädigung hätten. Bis heute hält die japanische Regierung historisches Beweis-Material zurück, das über die staatlich organisierte Zwangsprostitution aufklären könnte.

Die Forderungen der „Trostfrauen“ an die japanische Regierung umfassen die folgenden Punkte: 1) Untersuchung der Verbrechen, Zugang zu allen Dokumenten, Anerkennung der Wahrheit; 2) offizielle Entschuldigung, und offizielle Entschädigung für die Überlebenden und ihre beeinträchtigten Familien; 3) Aufnahme der japanischen Verbrechen in japanische Geschichtsbücher; 4) Bau eines Museums und eines Mahnmals; 5) Verurteilung der Verantwortlichen. Die Gerechtigkeitspolitik rund um das Thema der Trostfrauen kann wie folgt untersucht werden.

4.1.1 Normensubstanz in Bezug auf das Thema der Zwangsprostitution im Krieg

Das Scheitern des ehemaligen Internationalen Militärtribunals für den Fernen Osten, die Anklagen der Trostfrauen zu behandeln, bleibt es bis heute die Quelle des Problems. Die Gründe für die Erfolglosigkeit des Bemühens um Entschädigung liegen in erster Linie in den kontrastierenden Sichtweisen der vorherrschenden innerstaatlichen Werte hinsichtlich der „Trostfrauen“ und in der Anerkennung der von Japan verletzten internationalen Verträge. Einerseits wurde Vergewaltigung während eines Krieges geschichtlich gesehen als akzeptierter Nebeneffekt bewaffneter Konflikte verstanden, als traditionelle Belohnung der Sieger statt als Verbrechen. Wie George Hicks (1995) anmerkt, hat es immer während der Kriegszeit institutionalisierte Mittel gegeben zur Befriedigung primitiver sexueller Nötigung. Gerade unter konservativen japanischen Historikern existiert eine gemeinsame

konventionelle Moral mit der Auffassung, die Vergewaltigung als das unvermeidbar Böse des Krieges toleriert. Zudem stellt Linda Zatlín (2001, S. 36) in ihrer Untersuchung der Geschichte von Kunst und Kultur in der „floating world“ (*ukiyo-e*) in Japan fest, dass man das formalisierte System der Prostitution in Japan, das durch die Erotik visueller Kunst entstanden ist, so betrachten kann als wichtige Komponente der kulturellen Vorbereitung für die Ausbeutung in Japans Bordellsystem und für diesen Einsatz der „Trostfrauen“. Diese Kategorisierung der Trostfrauen als eine kulturell verwurzelte Form des Prostitutionsgeschäfts während des Zweiten Weltkrieges erlaubte es Nationalisten, das Eingeständnis der Regierung, an Zwangsprostitution beteiligt gewesen zu sein, aggressiv abzuweisen und sogar Politiker und Historiker, die für eine Entschuldigung eintraten, anzugreifen (Halpin 2006). Andererseits stellt der japanische Fall, so argumentiert Hicks (1995) weiter, ein so entsetzliches Beispiel von Missbrauch dar, dessen Ausmaß im Form der legalisierten militärischen Vergewaltigung an Frauen aus historischer Sicht einmalig ist.

Ferner lässt sich feststellen, dass Japan offensichtlich internationale Verträge gebrochen hatte, darunter das internationale Übereinkommen zur Unterdrückung des Frauen- und Kinderhandels von 1921, das Japan unterschrieben hatte, das Sklaverei-Abkommen von 1926, welches Japan an das Völkergewohnheitsrecht bindet, das Übereinkommen über die Gesetze und Gebräuche des Landkriegs aus dem Jahr 1907 und besonders das *jus cogens* gegen Zwangsprostitution. Daher ist es notwendig, Beweise zu finden, die eine *post hoc* Verfolgung japanische Kriegsverbrecher erlauben, da Japans Vorgehen weitaus perfider war als das anderer Armeen des 20. Jahrhunderts, die an Vergewaltigung und organisierter Prostitution beteiligt waren (Wakabayashi 2003, S. 224).

4.1.2 Beteiligte Akteure und verfügbare Ressourcen

Dank der transnationalen Frauenbewegungen sind zivilgesellschaftliche Akteure auf vielen Ebenen stark im Kampf für eine Entschädigung der Trostfrauen vertreten. Insbesondere vor dem Hintergrund der Gründung des IStGHs und der Einstufung von Zwangsprostitution als Kriegsverbrechen entwickelten sich neue Foren zur Information, Kommunikation und zur Ausarbeitung von Strategien. Die asiatisch-amerikanisch transnationale Frauenbewegung der 2000er und die Konferenz der Trostfrauen zum Beispiel konzentrierten sich darauf, sicherzustellen, dass die Beteiligte gut informiert waren und sich gut auskannten im Diskurs der Koalitionspolitik zwischen den Akteuren (Thoma 2000). Zusätzlich erlebte die internationale Kampagne rund um die Trostfrauen eine breite Welle des Mitgefühls und transnationaler Unterstützung von Seiten nationaler Abgeordneten in Nordamerika und Europa. Das europäische Parlament verabschiedete auf direkten Druck von Bürgern Resolutionen, um Japan zu ermahnen, mehr für die Wiedergutmachung von Ungerechtigkeit zu tun (Palmer 2008). Das Abgeordnetenhaus der USA genehmigte die nicht verbindliche Resolution 121, die sogenannte Trostfrauen-Resolution vom 30. Juli 2007. Es forderte eine unmissverständliches Geständnis der japanischen Regierung und eine Entschuldigung für die Verantwortung in Verbindung mit dem Trostfrauen-System. Als im September 2000 noch kein Fortschritt auf internationaler Ebene erkennbar war, versuchten fünfzehn frühere Trostfrauen, ihre Klage durch

Zivilklagen vor dem Amtsgericht einer amerikanischen Kommune (im *District of Columbia*) an die Öffentlichkeit zu bringen (*Hwang vs. Japan*). Unter Berufung auf das Gesetz *Alien Tort Claims Act (ATCA)*, das mehr als 200 Jahre alt ist, haben die amerikanischen Bundesgerichte seit 1980 ihre Jurisdiktion auf Fälle extraterritorialer Verletzungen des Völkerrechts erweitert. Allerdings entschied das Gericht, Japan habe Anspruch auf Souveränitäts-Immunität gemäß dem Internationalen Abkommen, sprich, dem *Foreign Sovereign Immunities Act (FSIA)*. Demnach stellen die Forderungen der Klägerinnen eine für ein Gericht nicht zu rechtfertigende politische Frage dar.

4.1.3 Innerstaatliche Bedingungen

Trotz des progressiven transnationalen Aktivismus und der Entschlossenheit früherer Trostfrauen, Wiedergutmachung und eine Entschuldigung einzuklagen, stellten die inneren Bedingungen in Japan sich als ungünstig heraus für die Aufarbeitung der Geschichte des Trostfrauen-Systems und der Einführung von Mitteln zur Wiedergutmachung. Dafür sind mehrere Faktoren verantwortlich: die negativen Langzeitwirkungen des IMT-Prozesses in Tokio auf die kollektive Erinnerung in Japan, die Vernichtung von Beweisen durch die japanische Armee, die unaufrichtige Einstellung der japanischen Regierung bezüglich der Kriegsverantwortung, die sich vor allem im Blockieren des Zugangs zu möglicherweise belastenden Quellen zeigte, und soziale Vorurteile gegenüber Trostfrauen.

Aus der Langzeitanalyse der Verarbeitung des Tokioter Prozesses innerhalb der japanischen Nachkriegsgesellschaft stellt Madoka Futamura (2008) fest, dass im Gegensatz zum Nürnberg-Prozess hatte der Prozess in Tokio für die Erziehung zur Demokratie *nicht* die gleiche positive Wirkung auf die Öffentlichkeit. Dabei vertritt sie zwei Thesen. Zum einen gelang es langfristig nicht, ein realistisches Bild von Japans Kriegführung in Ostasien zu schaffen. Zum anderen war die Forderung nach einer Zuweisung von Verantwortlichkeit für die Verbrechen nicht erfolgreich, da sie vor Gericht nicht erfüllt wurde und dadurch als Kollektivschuldvorwurf in der japanischen Gesellschaft weiterwirkte (Futamura 2008, S. 142). Durch die darauf folgende Weigerung (*ignorance*), die Tatsachen zur Kenntnis zu nehmen, wurde die Notwendigkeit verdeckt, sich individuell mit der eigenen Rolle während des Konflikts sowie der eigenen Zustimmungsbereitschaft zu Verbrechen auseinanderzusetzen. Die Langzeitwirkung des Fehlens an der individuellen Verantwortungsübernahme von Seiten der japanischen Regierung auf die japanische Gesellschaft zeigt sich in ihrer Unfähigkeit, aktiv mit der Kriegsvorgangeneit und mit den Opfern zu versöhnen, etwa in Form von Entschädigungen, öffentlichen Entschuldigungen oder Gedenkstättenarbeit.

Ferner versuchten Regierungsvertreter auf vielen Wegen, Verantwortung entweder abzulehnen oder abzuschieben – zum Beispiel durch die Behauptung, die Trostfrauen seien Freiwillige gewesen, die für private Unternehmen arbeiteten und über die die Regierung nur begrenzte Kontrolle gehabt habe (Hicks 1995). Zusätzlich behinderte die starre Einstellung der japanischen Regierung und der heimischen Gerichte die Versuche der Trostfrauen, durch Klagen vor japanischen Gerichten ihre Notlage bekannt zu machen (Park 2002, S. 38). Der Krieg ist in Japan ein weit

verbreitetes Tabu, sodass fast der Eindruck einer „nationalen Amnesie“ entsteht. Daher merkt Hicks (1995) an, das Schicksal der Trostfrauen bewiese erneut, wie Japan weiterhin zögert, seine Kriegsverbrechen zu gestehen. Notwendig sind nicht nur eine Entschuldigung und die Übernahme politischer und rechtlicher Verantwortung, sondern auch angemessene Kenntnisse *aller* Japaner ihrer eigenen Geschichte.

4.1.4 Überschneidung von innerstaatlichen und internationalen Veränderungen

Die Überschneidung zwischen der Aufmerksamkeit für das Thema, internationalen Umbrüchen und Bewegungen (z. B. UNO-Frauenrechts-Konferenz im Jahre 1995) haben die Kampagne der Trostfrauen zu einigen bemerkenswerten Durchbrüchen geführt, aber auch zu Rückschlägen. Da die Trostfrauen zum ersten Mal in den frühen 1990er-Jahren ernsthaft Entschädigung verlangten, besaßen viele von ihnen keine Familien mehr, über die sie „Schande bringen“ könnten. Insbesondere begannen die Einstellungen zu den Rechten der Frau sich in Asien zu dieser Zeit zu verändern. Sowohl Gruppen als auch Individuen begannen, dieses Thema der sexuellen Unterdrückung von Frauen in der Gesellschaft als Ganzes zu betrachten. Aus Sicht der Moralität, des Feminismus und des Patriotismus konnte dieses Thema dazu genutzt werden, die Emotionen gegen gängige Praktiken wie das anhaltenden Prostitutionsgeschäft anzuheizen (Vanderweert 2001). Außerdem wäre es ohne die transnationalen Frauenbewegungen als Motor der Transnationalisierung der internationalen Normen unmöglich gewesen, die herrschenden Strukturen in Verbindung mit den Trostfrauen zu skandalisieren und langsam umzuformen. Auch ist dem wissenschaftlichen Beitrag zu verdanken, diese Veränderungen mit Hilfe der feministisch-rechtlichen Ansätze und Dokumentationsanalyse zu reflektieren (Buckel 2008).

Allerdings hängt das Schicksal der Trostfrauen in ihrem Streben nach Gerechtigkeit am meisten von der Entwicklung der Allianz der Vereinigten Staaten mit Japan ab, besonders vor dem Hintergrund der sich verändernden regionalen Machtkonstellation mit dem aufstrebenden China und Nordkorea, das im Besitz von Atomwaffen ist. Das Thema der Trostfrauen hat auch andere Bündnispartner der USA in Asien beunruhigt. Tatsächlich war die Gerichtsentscheidung aus dem Jahre 2000 das Ergebnis einer Intervention des U.S. *State Department*, das eine Begründung der Interessen herausgab und das Gericht aufforderte, den Fall aufgrund der politischen Empfindlichkeit fallen zu lassen.

Hinzu kommt, dass gerade die anhaltende Feindseligkeit zwischen Nord- und Südkorea und die Unberechenbarkeit Nordkoreas ein Omen für die Region zu sein scheint, da die Notwendigkeit einer engen Zusammenarbeit zwischen Japan und seinem Nachbarländern hervorgehoben wird (Tepperman 2013). Dennoch bleibt eine solche enge Zusammenarbeit zunächst ein bloßer Wunsch. Die Gründe liegen nicht nur an mehreren Streitigkeiten um Inseln (Diayu/Senkaku-Inseln usw.) zwischen Japan und China und zwischen Japan und Südkorea. Vielmehr spielt das „Gespenst der Vergangenheit“ eine große Rolle. Japan hätte nach dem Vorbild Deutschlands eine politische *kollektive* Verantwortung übernehmen, eine klare und umfassende Entschuldigung ablegen und besonders auf das Leiden der Opfer und

ihren Angehörige eingehen können. Solange Japans Politiker auf einer Lesart der Vergangenheit nach Auffassung der Nationalisten und ihr Recht auf Besuch des Yasukuni-Tempels bestehen, wo dreizehn ehemaligen Kriegsverbrecher begraben sind, und sich daher einer umfassenden Entschuldigung und Entschädigung verweigern, bleiben das Misstrauen und die Angst seiner Nachbarländer. Das erschwert eine konstruktive Kooperation in der Region.

Allerdings sind auch die politischen Eliten in den Nachbarländern mitverantwortlich für das Ausbleiben der Aufarbeitung. Die Vergangenheit nutzen sie oft als Instrument. China zum Beispiel spielt gern die Karte des „Opfers“ und heizt das Gefühl des Patriotismus und Ressentiments gegenüber Japan auf, damit die Bevölkerung von den gegenwärtigen sozialen und Umwelt-Problemen abgelenkt wird und das Ideal des Kommunismus hoch gelobt werden kann (Tepperman 2013).

4.2 Ungerechtigkeiten in China

Seit den 1990er-Jahren scheint China sich dem globalen Trend transnationaler und restaurativer Gerechtigkeitsbewegungen widersetzt zu haben, obwohl die meisten Schwellenländer und Post-Konflikt-Gesellschaften sich der herausfordernden Aufgabe, vergangene Ungerechtigkeit aufzuarbeiten, gestellt haben. Als „Motor der Weltwirtschaft“ und als zweitgrößte Volkswirtschaft der Welt hat Chinas derzeitiger Status als aufstrebende Supermacht die politische Legitimität der Kommunistischen Partei (KP) gestärkt und stillschweigend die blutige Unterdrückung der Studentenproteste von 1989 gerechtfertigt. Einige chinesische Intellektuelle versuchen, mit dem Konzept des „moderaten Autoritarismus“ den Inhalt sowie die Eigenschaften des „chinesischen Modells“ zu definieren, das die Kontinuität des wirtschaftlichen Wohlstands und der sozialen Stabilität zu gewährleistet, ohne sich an fundamentale politische Reformen zu binden und somit die Herrschaft der Kommunistischen Partei sichert (Branigan 2008; Xu 2000).

Sicherlich wurden mit den wirtschaftlichen Reformen in der VR China ab 1978 auch ausgewählte Rehabilitations- und Neubewertungsmaßnahmen (*pin fan*) für die Opfer von Ungerechtigkeit eingeführt. Ein Gerichtsverfahren von 1980 befand Jiang Qing, Maos Witwe, neben anderen mächtigen politischen Persönlichkeiten, als schuldig für massive Verletzungen des Menschenrechts während der kulturellen Revolution. Dennoch hat China noch nicht begonnen, die Ungerechtigkeit in seiner Geschichte systematisch zu behandeln, anders als das nationalistische Regime in Taiwan, das durch eine Vielzahl an Maßnahmen wie Dokumentationen, Ausstellungen und der Einführung eines nationalen Gedenktags für das Leiden der Opfer seine Geschichte aufarbeitet. Man fragt sich: Besteht im chinesischen Volk ein allgemeines Desinteresse an diesen Themen? Wie setzen sich die Opfer und Aktivisten für Gerechtigkeit in der Wiedergutmachung und Entschädigung gegenüber dem KP-Regime ein?

4.2.1 Inhalt dominierender innenpolitischer Gerechtigkeitsnormen

Laut Ping Yu (1997) wird Gerechtigkeit im modernen China durch zwei dominante Faktoren charakterisiert: Konfuzianismus und Mao Zedongs radikale Theorie des Klassenkampfes. Die Idee kollektiver Sicherheit, die im Konfuzianismus häufig von der herrschenden Klasse als politisches Instrument missbraucht wurde, hat stets Vorrang vor den Rechten des Einzelnen. Sowohl das nationalistische als auch das kommunistische Regime nutzten diese Logik zur Rechtfertigung der gewaltsamen Unterdrückung politischer Dissidenten. Wie schon erwähnt halten die traditionellen konfuzianischen Ideen Individuen davon ab, Gerichtsverfahren anzustreben, diese werden als letztes Mittel zur Konfliktlösung angesehen. Daher wird es sogar heute noch als beschämend empfunden, vor Gericht zu ziehen, nicht nur für die direkten Beteiligten sondern auch für deren Familie und Angehörige. Prozedurale Gerechtigkeit war dem stark traditionellen konfuzianisch geprägten Rechtssystem völlig fremd. Das verlangsamt die Weiterentwicklung des Rechtssystems gravierend, was eine bedeutende Hürde für Rechtsreformen und den Schutz der Menschenrechte in China darstellt (Yu 1997; Hanson 2001). Zusätzlich verlassen sich heutige soziale Kontrollpraktiken stark auf Vermittlung, strenge Ausbildung im Recht und rigorose Organisationen und Strategien in örtlichen Verbänden. In den Fällen, in denen formale Gerichtsverfahren genutzt werden, haben die Chinesen eine Strategie entwickelt, die sich mit den vermeintlichen Ansprüchen ihres sozialistischen Systems überschneidet. Die Konsequenzen der chinesischen Form des Sozialismus und das damit einhergehende Mandat sozialer Verantwortung lassen auf eine Abwertung der Rechte des Einzelnen schließen (Rojek 1989). Gleichzeitig haben jedoch chinesische Anwaltsaktivisten, beeinflusst vom globalen Menschenrechtsaktivismus, für viele soziale Gerechtigkeitsprobleme die Idee des *wei chuan* (Rechtsschutz) entwickelt, um Gerechtigkeit für ihre Mandanten zu erreichen (Hsing und Lee 2009; Diaman et al. 2005).

Zweitens hat Maos Theorie des Klassenkampfes seinen Abdruck in Chinas Rechtssystem hinterlassen. Mao reduzierte die Gesellschaft in zwei Klassen: „das Volk“ und „der Feind“. Seine Theorie wurde durch die hierarchischen Ideen des Konfuzianismus untermauert, was zu einem Rechtssystem führte, das die Menschenrechte eher verletzt statt schützt. Unter Maos Führung waren Gesetze und das Rechtssystem Instrumente zur Unterdrückung, die nur der Bestrafung des Feindes und dem „Schutz“ des Volkes dienen. „Der Feind“ besaß keinerlei Rechte im Volksgericht. Obwohl Maos radikale Ansicht bezüglich Gerechtigkeit zum Teil im Jahr 1978 korrigiert wurde und viele der unter Mao misshandelten Führungskräfte der Revolution und Intellektuelle rehabilitiert wurden, beeinflusst die Reduktion des Volksfeindes weiterhin die chinesische Führung und die Gerichte (Yu 1997).

4.2.2 Involvierte Akteure, verfügbare Ressourcen und Methoden

Durch die beschränkten Möglichkeiten zur Vernetzung mit transnationalen Menschenrechtsaktivisten, ganz besonders mit chinesischen Dissidenten im Ausland, haben Einzelaktivisten, die Opfer vergangener politischer Kampagnen und

demokratischer Proteste sowie ihre Verwandten in ihrem Streben nach Wiedergutmachung und Aufarbeitung oft ein entweder autoritäres oder liberales Entschädigungsmodell angewandt (Pils 2007). Das autoritäre Modell erkennt die Legitimität des KP-Regimes als unangefochtenen Patron der Gerechtigkeit an und erarbeitet andere Methoden, um sich Gehör zu verschaffen. Diese wären unter anderem die Rückkehr zur traditionellen Methode der Petition (*shen yuan*) und eine Dialogstrategie mit dem Ziel, die KP-Regierung zu einer erneuten Untersuchung der Geschehnisse von 1989 zu bewegen. Einzelne Aktionen, ausgeführt von Opfern der vergangenen politischen Kampagnen, wählten oft einen versöhnlichen Weg um ihren Ruf durch symbolische und materielle Entschädigung wiederherzustellen. Im Vergleich dazu besteht die liberale Methode auf den Grundrechten des Einzelnen, einschließlich der Meinungsfreiheit, und wählt eher die Konfrontation mit den Autoritäten (Pils 2007). Zum Beispiel argumentieren einige kritische Intellektuelle bei der Untersuchung des Ursprungs und der Entwicklung der Anti-Rechts-Kampagne, die chinesische kommunistische Regierung trage, als Erbe von Maos Regime, eine Schuldenlast gegenüber den Opfern der Kampagne (Shao 2007).

4.2.3 Innenpolitische Bedingungen

Bis heute existieren bezüglich der Ereignisse des 4. Juni 1989 im chinesischen Volk großes politisches Desinteresse, ganz zu schweigen von der systematischen Aufarbeitung von Ungerechtigkeit. Mit dem Erfolg der chinesischen Wirtschaft einhergehend sind die Chinesen in erster Linie an der Vergrößerung ihres eigenen Reichtums interessiert und weniger besorgt um die Probleme korrekativer und sozialer Gerechtigkeit. Daraus folgt, dass das Rechtssystem und die Rechtspolitik für die KP zweitrangig bleiben. Das Verfahren gegen die „Vierbande“ 1980 veranschaulicht die „*made in China*“ Form von Gerechtigkeit – „erst das Urteil, dann der Prozess“. Das Gerichtsverfahren diente hauptsächlich dazu, den Eindruck zu vermitteln, die neue Regierung verpflichtete sich ernsthaft zu einem effektiven Rechtssystem. Trotzdem wurden Jiang und anderen Angeklagten viele prozedurale Rechte verweigert, die für ein faires Verfahren unabdingbar sind. Den Angeklagten wurden nur beschränkte rechtliche Beratung durch von der Regierung ausgewählte Anwälte gestattet, außerdem wurden sie gezwungen, gegen sich selbst auszusagen. Das chinesische Gericht demonstrierte weniger Interesse am Schutz der Rechte der Angeklagten und Opfer, sondern fokussierte auf die Ausübung seiner autokratischen Macht als Diener der KP.

Der Blick auf die Evolution der chinesischen Auffassung von Gerechtigkeit erklärt, wie massive Ungerechtigkeit wie das Tiananmen Massaker aus der Sicht des Volkes legitimiert wurden. Gemäß Maos Theorie des Klassenkampfes geht die Kategorisierung eines Menschen als „der Feind“ mit dem direkten Verlust seiner Rechte einher, so auch beim Tiananmen Massaker. Die Anführer der Studenten wurden zu Feinden des Volkes herabgestuft. Ihr Verbrechen war eine konterrevolutionäre Rebellion. Daher rechtfertigte die Regierung die Unterdrückung ihrer Aktivitäten als Schutz des Volkes (Yu 1997).

4.2.4 Überschneidung von innerstaatlichen und internationalen Veränderungen

Oggleich die internationale Gemeinschaft kurz nach dem 1989 Tiananmen-Massaker umfassende Sanktionen gegenüber China verhängt hatte, standen die wirtschaftlichen Beziehungen mit China seit 1992 wieder im Vordergrund. Bis heute bleibt das Waffen-Embargo gegen China von Seiten der Europäischen Union und der USA. Ausnahmen vom Waffenembargo scheinen jedoch zu einer Normalität geworden zu sein. So zeigten sich im Jahr 2003 Ausnahmen vom Waffenembargo im Wert von rund 413 Millionen Euro, die von EU-Staaten (darunter Frankreich, Großbritannien und Italien) genehmigt wurden. Bisher gab es vereinzelte internationale Kritik an China mit der Forderung nach Aufklärung des Tiananmen-Massakers. Einen internationalen Druck auf die chinesische Regierung zur umfassenden Aufarbeitung des Unrechts, besonders unter dem Mao-Regime (1949–1976) hat es bisher noch nicht gegeben.

Trotz der Verleihung des Friedensnobelpreises an den chinesischen Dissidenten Liu Xiaobo im Dezember 2010 besteht die KP auf ihrer kompromisslosen Gerechtigkeitspolitik. Trotz verschiedener Appelle und verstärktem Druck auf die chinesische Regierung durch Aktivisten und Regierungsvertreter werden die Möglichkeiten zur Entschädigung für die Opfer von Ungerechtigkeit in China immer kleiner – durch die steigende Abhängigkeit der internationalen Gemeinschaft von Chinas politischer und ökonomischer Macht.

5 Schlussfolgerungen

Der Beitrag untersuchte die Gerechtigkeitsysteme und ihre Politik in Ostasien. Unterstützt durch eine feministisch-rechtliche und kulturosoziologische Perspektive wurden Normen und Mechanismen identifiziert und die Gerechtigkeitspolitik am Beispiel des „Trostfrauen“-Themas und Ungerechtigkeiten in China reflektiert. Der Befund ist ein massives Versagen gegenüber der Norm der Gerechtigkeit in beiden Fällen, trotz des progressivem transnationalem Aktivismus und der Transnationalisierung internationaler Normen. Die politischen und wirtschaftlichen Kalküle dominieren die rechtlichen Aktionen. Innenpolitische Rechtsnormen, ungünstige innere Bedingungen mit einem kultur-spezifischen Verständnis von Gerechtigkeit und die Starrheit des bestehenden Gerichtssystems, beziehungsweise seine Instrumentalisierung durch die herrschende Klasse, blockieren das Streben der Opfer nach Gerechtigkeit und angemessener, umfassender Entschädigung.

Gibt es überhaupt Möglichkeiten für die globalen Rechtsnormen und die Transnationalisierung des Strafrechts, den Stillstand zu brechen? Mit Blick auf die Trostfrauen könnte David Palmers Vorschlag (2008) eines „*four-track*-Ansatzes eine Strategie sein. Er erkennt, dass das Streben nach korrekativer und restaurativer Gerechtigkeit nicht durch ein einziges rechtliches Arrangement, Forum oder System Erfolg haben kann. Ein „*four-track-Ansatz*“ könnte diesem Ziel dienen: Gerichtsverfahren, Maßnahmen durch den Gesetzesgeber und Staatsoberhäupter, Beratung zwischen einzelnen Regierungen sowie Druck sozialer Bewegungen. Zum Beispiel

sind Gerichtsprozesse sowohl im japanischen als auch im US-amerikanischen Gerichtssystem weiterhin möglich. Weitergeführte Verfahren können den geschichtlichen Ballast aufarbeiten und Richter dazu bewegen, eine weitsichtigere Interpretation von Fällen sowie die Anerkennung der Richtigkeit der Klagen zu akzeptieren. Außerdem bahnen sich bereits Konferenzen auf der Regierungs-Ebene zwischen der japanischen und der südkoreanischen Regierung an.

Im Hinblick auf die Ungerechtigkeiten in der Geschichte Chinas kann das Potential der diskursiven Macht globaler Normen mit ihrer transformativen Agenda nicht unterschätzt werden. Wie Hanson (2001) beobachtet, wird Chinas Vermögen, sein Potential voll auszuschöpfen und ein international verlässlicher Partner zu sein, stark davon abhängen, ob es gelingt, ein Rechtssystem zu schaffen, das global angesehen und lokal akzeptiert wird. Ein solches System existiert bis dato in China nicht und die Herausforderungen sind beträchtlich. Dennoch wirken globale Normen als besonderer kultureller Ansporn (Konformitätsnorm), sie besitzen bedeutende Möglichkeiten und Kapazitäten zur Beeinflussung von Gerechtigkeitspolitik auf verschiedenen Ebenen. Sobald eine ernsthafte Trendwende in der Überschneidung des Globalen und Lokalen erreicht ist, der den Schutzwall und die Beschränkungen lokaler Normen bricht und so eine kritische intra- und interkulturelle Reflexion von Gerechtigkeitspolitik auf nationaler und lokaler Ebene auslöst, können angemessene juristisch-rechtliche und politische Reformen eingeführt werden.

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7 Governing uncertainty during the COVID-19 pandemic

Change in science–policy interfaces and gender-specific effects in Europe

Miao-ling Lin Hasenkamp

During COVID-19's consecutive waves between 2020 and 2021 in Germany, public anxiety rose both due to the *lack of information* and *too much information* related to a novel virus and its variants. The pandemic generated many uncertainties, including unknown courses of virus mutation, and scientific and policy uncertainty. Under such circumstances, the introduction of an Expert Council by the newly elected German federal government in December 2021 constituted a breakthrough in incorporating cross-disciplinary expert knowledge into decision-making processes. Still, such change in science–policy interface (SPI) raises questions about the effects of government's emergency responses, particularly on marginalized and vulnerable groups. In this context, it is crucial to examine the relevant science-policy boundary structures and clarify their interactions (van Enst et al. 2014). Two questions are therefore at the core of this chapter: How has the COVID-19 pandemic changed the relationship between policymaking and knowledge production/utilization in Europe under conditions of multiple uncertainties? What policy-learning effects in relation to gender differences can be observed in different European countries?

Several studies have addressed the ways in which relevant scientific evidence has informed policy processes and public debates about the features of COVID-19, and the necessity and effects of containment measures (Bylund and Packard 2021; Forster and Heinzl 2021; Kelly et al. 2021; Weible et al. 2020). While early research observed how experts produce practical knowledge in the service of policymakers, attention has been shifting to the challenges posed by fast COVID-19 science, role conflicts, knowledge crisis, and the use of new approaches that emphasize the process of knowledge production itself (Almeida and Bascolo 2006: 7; Caulfield et al. 2021; Colman et al. 2021; Hopf et al. 2019). The pandemic provides an opportunity to rethink scientific and political uncertainty and society's relationship with science and nature, thereby reflect on what Matejova and Shesterinina (this volume) call *epistemic analytical uncertainty*.

This chapter highlights and compares the dynamics of SPIs in three European countries whose efforts to contain the pandemic, informed by different institutional settings, approaches, and knowledge parameters, may have had different effects on vulnerable groups. I follow the most different systems design (Anckar 2008) and examine the UK, Germany, and Sweden, as each is characterized by a different subtype of democracy. I adopt a combined interpretative and instrumental case

study approach to analyzing and comparing SPIs' dynamics in these countries. The data sources include public statements, news coverage, open and anonymous expert interviews, and empirical studies. The timeframe of this study is between the first wave of the COVID-19 pandemic in March 2020 and the fourth wave with the Omicron variant and its subvariants in Spring 2022.

The chapter contributes to the discussion of institutional learning and knowledge utilization in governing pandemic uncertainty. I argue that despite variation in the changing SPIs in different European institutional settings, “pandemic politics” has resulted in similar gender-specific consequences and burdens. These findings expose the inadequacy of the policy frame and action in understanding and handling COVID-19 and its associated uncertainties. The chapter emphasizes the necessity of conducting anti-disciplinary research to promote a holistic mindset, deliberative policymaking, and reflexive learning and communication that are consistent, accountable, and gender sensitive. The adoption of these approaches may facilitate the development of an integrated perspective that transcends disciplinary boundaries in understanding uncertainty.

The chapter has three major parts. I first review pandemic politics and its gender-specific effects in the UK, Germany, and Sweden. Based on the assumption that the COVID-19 pandemic was neither an unprecedented nor an unpredictable threat, the second section compares the changing SPIs in these countries through a combined framework of complexity theory and tri-dimensional policy-learning approaches. The conclusion discusses the findings and implications for future research.

COVID-19 in Europe: Governing uncertainty

Multiple meanings of uncertainty surrounding the pandemic

In a situation of uncertainty, as defined by De Groot and Thurik (2018: 2194), actors face ‘an unknown outcome and an unknown probability distribution.’ This characterizes the COVID-19 pandemic well. Unlike, for example, uncertainty over war-related payoffs, or enemies’ preferences and tactics (Bas et al. 2017: 166), uncertainty caused either by a pandemic itself or by related policy responses challenges rationalist and constructivist assumptions. As stated by Dirk Brockmann (2021: 30), ‘a pandemic usually is a highly dynamical, complex, biological, socio-economic phenomenon, in which our contacts, behavior and mobility decide the rate of new infections.’

Pandemics highlight contradictions of modern human existence, which is shaped by both biological and societal conditions. While humans are participants in local ecological contexts, they are also globally interconnected. As such, everyone is subject to the risk of becoming infectious anywhere on the planet (Hornborg 2021: 4). Hence, scholars suggest viewing the COVID-19 pandemic as a ‘complex global catastrophic risk’ (Kreienkamp and Pegram 2021: 1) and a ‘total social fact’ that we all partake in (Marcel Mauss cited in Lévi-Strauss 2014: 45).

The outbreak of the pandemic exposed the risk associated with economic globalization and the vulnerability of human existence. Yet, it also opened a possibility of radical social transformation, which prompted people to rethink their socioeconomic life vis-à-vis uncertain outcomes of the pandemic. In other words, the pandemic resulted in *ambiguity* or ‘the simultaneous presence of multiple valid, and sometimes conflicting ways of framing a problem’ (Brugnach and Ingram 2012: 61). Discussions surrounding the pandemic are thus inevitably steeped in *epistemic analytical uncertainty*, which can be dissected at science-policy, gender-specific structural, and spatial levels.

First, the early lack of information on the origin and evolution of COVID-19 variants sparked scientific and policy uncertainty characterized by contestation and politicization of different values and assumptions (Kreps and Kriner 2020). Decisionmakers and experts across different contexts faced a dilemma of communication with the public on something on which they did not have complete information. They variously acknowledged the difficulties of developing reliable models to predict the virus’ spread and evolution (Klauth 2021). At the same time, they chose to downplay uncertainty, which could backfire in light of public trust in science and policy (Kreps and Kriner 2020: 3; Kim et al. 2021: e1017).

Second, due to the complexity and time-variant nature of diseases, the global health crisis exposed and exacerbated a variety of structural inequalities with gendered dimensions. From the prism of feminist political ecology and economic management, questions arise concerning existing power relations (e.g., domination, exploitation, and conflict between societies and nature) and how gender-specific economic activity (e.g., essential workers from Central and Eastern Europe), leadership, and workplace interactions are associated with gender differences in COVID-19 infections (Goméz Becerra and Muneri-Wanngari 2021; Fortier 2020; Kabeer et al. 2021; Maak et al. 2021; Marvin and Yusupova 2020; Paul 2020). The focus on “‘production” instead of the sustainable reproduction of human life, for example, devalues care work and those who perform it’ (Bahn et al. 2020: 695). As such, care work based on practices of distribution, exchange, and reciprocity is organized in a hierarchical gender-segregated structure (Goméz Becerra and Muneri-Wanngari 2021; Yarrow and Pagan 2021). The pandemic increased women’s care burden and the risk of domestic violence, reduced reproductive health services, and exacerbated gender inequality (Adams-Prassl et al. 2020; Davies and Wenham 2020; Oxfam 2020; Phillimore et al. 2020; Tahir et al. 2021; van Rensburg et al. 2021).

Furthermore, women are mostly absent or invisible within the policy space in health regimes such as the International Health Regulations (Merianos and Peiris 2005) and the World Health Organization Blueprint on R&D for Health Emergencies (Davies and Wenham 2020). These and other regimes deepened uncertainty by not adequately considering ‘the likely gendered and other inequitable consequences of mobilizing care’ (Branicki 2020: 877). Derived from rationalist crisis management that reinforces a hegemonic legal order, gender relations reverted to traditional models despite the need for the participative and relational style of women’s leadership in combating COVID-19 (Harris 2020; Elsesser 2020). Consequently, the

pandemic constituted both a crisis of health and a crisis for feminism as it helped accelerate the embodied risk of inequality and justify paternalistic discourses and practices (Gómez Becerra and Muneri-Wannari 2021; Yarrow and Pagan 2021).

Third, as literally no one could escape uncertainty, uncertainty itself prompted the emergence of new spaces for adaptation, learning, and innovation. The disruption of old orders and systems (organic, political, social, and cultural) exposed the drawbacks of mainstream approaches that disregarded marginalized and vulnerable populations in policy responses and could not proactively tackle the new reality.

Pandemic politics and the anti-technocratic populist tendency in the UK

Although the British government claims that its policy action follows the science, there is an increasing discrepancy between knowledge use and policy action, resulting from anti-technocratic populism that underlies pandemic politics. The government's action shifted away from traditional centrism and towards 'polarized factions defined not by party, but by cross-spectrum contempt for technical governance' (Foster and Feldman 2021: 117). Analysts have observed that the adopted countermeasures reflect the change in the ethos of the ruling Conservative Party from restrictive intervention to unprecedented intervention in people's everyday lives as a "party of war" (Foster and Feldman 2021). It follows that, despite a robust research infrastructure quick to conduct evidence-based COVID-19-related studies, experts from a range of disciplines encountered increasing hostility. The SPIs showed a decoupling tendency between science and policymaking.

Shortly after the outbreak of the pandemic, Prime Minister Boris Johnson downplayed the seriousness of COVID-19 and opposed introducing draconian lockdown measures both for economic and political reasons (in defense of citizens' rights). His position was supported by some experts with scientific motivations who saw the merits of "herd immunity" as a health strategy. However, shortly after the publication of a working paper in mid-March 2020, that predicted a worst-case scenario with possible 550,000 deaths in the absence of any control measures, Johnson switched his strategy, announced a series of lockdown measures, and justified his policy action as scientific data changed. In spite of the initial confusion and belated decision to introduce lockdown measures in March 2020, the government rolled out an early vaccination campaign (in comparison with its European counterparts such as Germany). Most UK-constituent nations saw this as a positive development (University of Bristol and King's College London 2021).

At the same time, expert interviews and pandemic experience studies highlight how systemic failures found in the UK government's pandemic response generated scientific and policy uncertainty and (collateral) harm (Atkinson et al. 2020; Murphy et al. 2021; Phillimore et al. 2021; Williams et al. 2021). Experts like Allyson Pollock regretted not openly speaking against the government's measures to close schools during the first blanket lockdown in March 2020, 'because it was too politicized' (Devlin and Davis 2022). At that time, children were among the vulnerable groups, whose fear, ties with the school as a place of safety, and education were neglected.

Joeli Brearley, founder of the campaign group “Pregnant Then Screwed,” blamed the government to have failed to prioritize pregnant women as a vulnerable group for vaccines, thereby causing unnecessary death cases among pregnant women due to the lack of protection (Devlin 2021). Family members of COVID-19 victims in vulnerable groups accused the government of announcing “freedom day” in the pretence that COVID-19 was no longer dangerous. For them, “freedom day” was a politically motivated decision that left vulnerable people who trusted the government unable to make the right decision in response to breakthrough infections (Garfinkel 2022). Furthermore, during lockdowns, forced migrants with irregular status in the UK were reported to have particular difficulties as local charities and empowerment programs that supported them closed their doors and ceased to operate. Along with the uncertain duration of their asylum-seeking process, survivors of gender-based violence (such as human-trafficking) considered the pandemic ‘the worst thing that could happen to them after all the efforts they put into fleeing their countries as they became trapped by the lockdown without support’ (Phillimore et al. 2021: 11–12, 15).

In other words, despite the government’s decision to launch an early vaccination campaign to contain COVID-19, the gradual decoupling of scientific work from policymaking, tainted with an anti-technocratic populist tendency, brought devastating effects upon society, particularly for those vulnerable groups such as children, pregnant women, and asylum-seekers. Several bereaved group campaigns (e.g., the National Covid Memorial Wall and the Yellow Hearts to Remember) emerged due to the lack of transparency and consistency in the policy process, the erosion of political trust and expert authority, central–local tensions and coordination problems, and the neglect of psychological distress among vulnerable groups. Although such campaigning for justice saw its first success as political pressure followed the launch of government’s consultation work, the debates among different groups over how best to memorialize COVID-19 in the UK might run the risk of politicizing the pandemic and dividing the aggrieved (Booth 2022).

Confusing pandemic politics and policy-learning in Germany

Based on the joint decision-making and subsidiarity principles, Germany’s federal system is characterized by continual cooperation and bargaining between the federal government and the 16 state governments (Moore et al. 2008). The initial pandemic responses that centered on Chancellor Angela Merkel’s leadership were unanimously supported by state leaders. Later, however, some state governments deviated from Merkel’s restrictive position and strove to regain their autonomous governing competence, particularly during the third and fourth waves of the pandemic.

Germany’s COVID-19 responses reflected in the changing dynamics of SPIs can be summarized in four points. First, the concentration of executive power during the first and second pandemic waves led to a radical simplification of the relationship between politics, law, and science dictated by a single law – “the infection protection law” (*Infektionsschutzgesetz* (IfSG)) (Dostal 2020: 1). The use of

scientific expertise was limited to the application of epidemic and medical matters without broadly debating the appropriateness of the government's emergency action. Second, the third wave in Spring 2021 witnessed a mismatch of cooperation between the federal and state governments as Merkel insisted on the maintenance of hard lockdowns, whereas state leaders planned to drop the restrictions (Gammelin 2022: 2). Third, during Summer 2021, despite experts' warning, the federal government adopted an appeasement strategy to accommodate polarizing voices and protests linked to the impact of government measures on diverse human rights and socioeconomic issues. This strategy reflected policymakers' concern over voters' support in the upcoming General Election in September 2021.

From the fourth wave of the Delta variant to Omicron wave at the end of 2021, the federal and state governments were unable to jointly combat COVID-19 due to the lack of leadership in the transition period after the General Election and a concern over a protracted complex lawmaking process. Instead, old and new coalition partners of the federal government and state leaders assigned blame to their counterparts and justified their inaction with the excuse of avoiding further polarization in society (Seibt 2021: 4). Finally, following the formation of the new federal government in December 2021, for the first time, an Expert Council was installed to support the federal government's policymaking. However, the polarizing debates on compulsory vaccination and the failure to pass a related bill for citizens from the age of 60 in the Bundestag in April 2022 reinforced inconsistency driven by an ideology against state intervention in the fight against the pandemic (Becker 2022).

The weaknesses of Germany's federal system in tackling policy uncertainty, the resulting shift of the relationship between science and policy in favor of personalization and proliferation of expert authority, and the gendered effects of policy measures, particularly around school closures, came to the fore. The pandemic politics exacerbated existing dissatisfaction with Germany's federal status quo – its unbalanced lawmaking powers, revenue sources, and enforcement gaps due to growing complexity and density of regulations at various levels (Dostal 2020: 2; Moore et al. 2008). For instance, tensions arose between the application of IfSG and the protection of basic freedoms guaranteed by the German constitution. The German research infrastructure with long bureaucratic evaluation procedures and strict data protection laws hindered the conduct of comprehensive clinical studies whose results could have brought benefits for medical treatments and health policy (Bartens 2021: 23).

Public trust decreased in view of the government's inconsistent pandemic politics and lack of will to learn and openly communicate with the public. In September 2020, most of the population supported Merkel's lockdowns, but this changed during the fourth wave. The continual change and resulting lack of reliable regulations complicated local healthcare authorities' communication with the public. Debates about school closures, mandatory vaccination, and the accompanying social and ethical problems challenged policymakers to regain control over a highly dynamic disease while formulating strategies that could be implemented at calculable economic, societal, and political costs. Amidst such scientific and policy uncertainty, expert advice and judgments via diverse platforms emerged

as an important source for people to seek information and to orient themselves to a new reality. The increased visibility of expert authority facilitated personalization, proliferation, and connection of science directly with people's daily experiences. For instance, in February 2020, the "Coronavirus Update" organized by the Northern German Radio (NDR) became an important communication platform, where Christian Drosten as one of the leading figures in SARS research regularly answered COVID-19-related questions.¹

Similar to the UK, Germany increasingly confronted secondary effects of its health emergencies on women and other marginalized groups. Scholars began analyzing sex- and group-disaggregated data, detecting major gender-specific differences when it came to mental health: young women were considerably more likely (47%) than young men (33%) to say that their mental health deteriorated (Schnetzer and Hurrelann 2021). Surveys and news analyses revealed that children, elderly inhabitants in the caring facilities, mothers, and female employees were subject to collateral harms of policy uncertainty, inconsistency, and confusion. According to a Forsa survey published in September 2020, for example, a large majority of respondents believed that COVID-19 measures did not take children's interests seriously enough (58%) or at all (14%). In another Frontline 100 survey, 39% of women respondents reported to have experienced more intense domestic violence (Werner 2021: 8). Despite state governments' promise to keep schools open, many schools closed due to recurring outbreaks of COVID-19 (Saxony in November 2021). The teachers' associations worked to redress insufficient precautionary measures taken by state governments, specifically on the waiving of compulsory mask-wearing. Their complaints about the loss of control at school, the shortage of teaching staff due to the absence of many teachers who got COVID-19, and novel experience of giving legal advice to teachers who were skeptical of vaccination exposed tensions in many schools (Grill et al. 2022).

The Swedish outlier in pandemic politics

Unlike UK's "herd immunity" and Germany's executive enforcement measures, Sweden followed a voluntarist approach to slowing COVID-19 by emphasizing individual responsibility and mutual trust between the government and its citizenry. The role and influence of experts and knowledge use in Sweden also differed from those in the UK and Germany. Sweden's decentralized governance system, as defined by its constitution, involves a clear separation of government polity from the public policy process, in which experts and officials are employed within government agencies. Expert agencies are tasked not only with providing policy-makers with information and recommendations but also with implementation of policy decisions based on the formulation suggested by the cabinet (Byland and Packard 2021: 2). Given this structure, since the outbreak of COVID-19, the Public Health Agency (PHA, *Folkhälsomyndigheten*) has been in charge of designing policy responses through interdisciplinary collaborative work (with health economists and epidemiologists) that considers the overall impact of measures (Jonung 2020). The PHA, the National Board of Health and Welfare, the Civic Contingencies

Agency, and the government as major actors thus cooperated with county councils and regions to mitigate the harms caused by COVID-19 (Ludvigsson 2020).

The Swedish containment strategy resulted in the loss of lives of 0.06% of the population by September 2020, which was higher than Sweden's neighboring Nordic countries but lower than some European countries with hard lockdowns. In that sense, Sweden was an outlier and could have reduced cases and fatalities had it adopted flexible strategies (Baekkeskov et al. 2021; Gordon et al. 2021; Ludvigsson 2020). As a surge in cases hit Sweden during the second wave, the center-left government began to doubt the state epidemiologist Anders Tegnell's distinctive approach in handling the pandemic. For the first time, Prime Minister Stefan Lofven announced in November 2020 the most intrusive measures in "modern times" by banning public gatherings of more than eight people (Milne 2020). Later in January 2021, the government passed legislation that permitted more restrictions than allowed by existing laws. One year later, despite the soaring number of cases with the Omicron variant, as of 9 February 2022, Sweden celebrated the dropping of all restrictions with the slogan "Celebrate as if it were 2019."

Despite different intervention strategies, policy measures in Sweden and the UK caused the worst per capita mortality in Europe (Mishra et al. 2021). This evidence stirred domestic controversy in Sweden and brought its traditional science-policy relationship under scrutiny. The limitations of Sweden's technocratic response to the pandemic and its gendered consequences can be highlighted in terms of the danger of the "tyranny of experts" and Swedes' perceptions of uncertainty avoidance. Analysts warned against medical and technical solutions that were too slow to offer options based on public good (Baekkeskov et al. 2021; Bennett 2020; Bylund and Packard 2021). According to the 2019 Eurobarometer survey,² Swedes value effectiveness and honesty, accountability of elected politicians, the democratic process, and the rule of law. The PHA's decision to adopt a voluntarist method was thus initially supported by politicians and the public. Unlike other European countries whose lockdowns were enforced, the PHA trusted Swedes' self-responsibility and framed its approach as more tenable in terms of citizens' overall well-being, health, and fatigue 'rather than solely focusing on COVID-19' (Jasanoff et al. 2021: 94, cited in Laage-Thomsen et al. 2022). However, during the second and third waves, as cases and fatalities increased, particularly in nursing homes and marginalized residential neighborhoods, public pressure emerged around systemic shortcomings in elderly care and social services for migrant and refugee families. The pandemic exposed the deficiency of the PHA's "specialized knowledge" and the need for interdisciplinary research to improve care for neglected groups (Baxter et al. 2021; Bylund and Packard 2021).

Compared to Germany and the UK, Sweden did not confront large-scale anti-COVID and anti-vaccination demonstrations and the accompanying problems of polarization and social division. Swedes held an optimistic view of how the pandemic was managed, particularly the absence of hard rules in society (Shapoval et al. 2021: 3–7). Trust in technocracy underpinned the Swedish mitigation method, but the longer the pandemic lasted, the more ambiguous the Swedish model turned out to be. On the one hand, Sweden forged its own path derived from its experts'

assessments of the risks and trade-offs even in the face of contemptuous jeers from domestic and external critics. On the other hand, Sweden's hesitance to adopt strict lockdowns exposed its inflexibility to include alternative options that could have prevented the collateral harms from its policy responses.

Understanding the dynamics of SPIs in Europe: Complexity theory and policy-learning

In this section, I analyze and compare the dynamics of science-policy interfaces (SPIs) in pandemic politics in the UK, Germany, and Sweden. This analysis is informed by an integrated framework derived from complexity theory and tri-dimensional policy-learning with two explanatory factors: (1) actors' capacity to integrate cross-disciplinary knowledge and handle uncertainties and multiple, cross-scale dynamics; and (2) reflexive learning covering problem tractability, actors' certification, and making sense of knowledge use and policymaking.

Actors' capacity to address COVID-19 is a complex phenomenon. Complexity theory with its key concepts (e.g., cascade/tipping points and uncertainty/innovation) is useful for understanding the complexity of the pandemic and associated policy action (Amaral and Uzzi 2007; Brockmann 2021: 44; Feinstein and Waddington 2020). Drawing on Brockmann (2021: 44–47), complex systems can be addressed from a transdisciplinary perspective by using the method of complexity reductionism in order to discover common rules and principles. The adoption of an anti-disciplinary perspective is crucial as it engages with different perspectives and mindsets in relevant disciplines to avoid possible distortion of reality (Brockmann 2021: 44–47). As such, complexity theory suggests developing an integrated approach between health, social, economic, environmental, and institutional systems and building actors' capacity, for instance to minimize both policy and uncertainty costs through modelling uncertainty regularization (Henaff et al. 2019; Kuchenmüller et al. 2021; Wernli et al. 2021). In this sense, the practice of forging links between natural and social sciences and extracting mechanisms underlying different phenomena can help revise, extend, and repudiate traditional strategic planning ideas and practice (Amaral and Uzzi 2007: 1033; Brockmann 2021: 45–46).

Through this complexity lens as the first element of my analytical framework I assume that SPIs and their rationalities move between technocratic, decisionist, and pragmatic model of policy advice. Even though a technocratic model of using data-driven policy advice is highly desirable, the pandemic reality often saw both experts and policymakers facing different challenges. These ranged from the lack of data or, complexity and volatility of the available data (for experts), to the complex decision-making processes (for policymakers) marked by utilization of evidence and knowledge as well as power-seeking, consensus-building, compromise, and political feasibility (Sager et al. 2020 cited in Kuhlmann et al. 2022).

The evidence from the UK and Germany reveals that experts belatedly acknowledged the failure to combine and integrate different forms of knowledge and to develop contextually adequate measures. For instance, the chief advisor of the

Council of Ethics in Germany, Alena Buyx, admitted the Council's insufficient recognition of children's psychological burdens caused by school and day-care closures (Holl 2022). Researchers working for a joint pandemic socioeconomic panel had difficulties in gathering online data for generating reliable and representative research results, because they could not reach marginalized households that had no internet access (Dlf, 2022). The pandemic exposed the necessity and urgency of transdisciplinary research cooperation between social and natural sciences.

Policy-learning in pandemic uncertainty

Policy-learning in response to public confusion, frustration, and loss of trust and security provides a further useful lens for my analysis (Boin et al. 2020; Kelly 2021; Lavazza and Farina 2020). Policy-learning involves asymmetry of information with the expert as teacher vis-à-vis policymakers and the public, as facilitator to help policymakers reduce uncertainty and make sense of their decisions, and as agent whose activities are shaped by policymakers as principals (Rowe and Shepherd 2002 cited in Dunlop and Radaelli 2013). It also involves "bounded emulation" that takes place when policymakers copy somebody else's solution without learning (Lesch and Millar 2021). Such emulation occurs particularly in times of crises where the nature of policy problems and knowledge production is unknown. In such conditions, decisions can be driven by perceptions of "policy urgency" and can generate societal costs, including the erosion of mutual trust between policymakers and the public.

These different modes of learning are driven by three factors. First, *problem tractability* shapes the scope and outcome of learning by making technocratic approaches available and creating contestation spaces for policy debates (Dunlop and Radaelli 2013). Uncertainty is important here. When a community of experts in different areas produce and communicate knowledge to policymakers and the public in conditions of uncertainty, they become part of the decision-making process despite their disagreements. Absent uncertainty, their influence decreases as elected policymakers and their bureaucracies weigh the payoffs of different options to arrive at their decisions (Dunlop and Radaelli 2013; Weible et al. 2020: 231).

Second, the authority and legitimacy of key actors or venues identified as "teacher" facilitates learning. *Actors' certification* is commonly defined by organizational roles or institutional rules (Dunlop and Radaelli 2013). Yet, the COVID-19 pandemic revealed the limits of such expert authority, as experts proposed different public health policies based on concurring value systems. Such (incautious) assertions about scientific truth can in fact worsen the problem of the lack of information in the post-truth era and boost the spread of fake science (Feinstein and Waddington 2020).

Third, policy-learning is influenced by *subtle habit and attitudinal attributes change* in terms of information seeking, messaging, communicating, and managing crises. Education studies have shown the limitations of reasoned action in durable behavioral change (Schwanen et al. 2012). It may therefore be more useful to adopt a vigilant stance towards misinformation and emotional appeals to avoid cascading

effects and subsequent destabilization of social or other systems (Peters 2017). In the context of the COVID-19 pandemic, this means that it is important to contextualize and make sense of knowledge use through improving communication about uncertainty and its effects (Lowe et al. 2022). Managing COVID-19 then requires the engagement of highly certified groups of actors from different disciplines and specialized research organizations.

A comparative view of policy-learning through epistemic venue-shopping

The COVID-19 pandemic is characterized by the combination of low problem tractability, high actors' certification, and considerable habit change where epistemic, reflexive, and bounded emulation coexist. As I discuss below, the science–policy interactions (SPIs) during the pandemic have been indicative of these characteristics. As a result, the varying quality of policy-learning ranged from functional to dysfunctional to the adoption of myopic ad hoc emergency measures.

The science–policy interactions encompass *vertical venue-shopping*, *horizontal venue-shopping*, and *temporal–spatial venue-shopping*. Vertical venue-shopping involves an epistemic marketplace where decisionmakers, backed by public health agencies, apply scientific knowledge to policy deliberations. High level of scientific and policy uncertainty did not allow enough space for informed debates and contestation in the public space, leaving policy development susceptible to confusion and inconsistency driven by COVID-19's unknown mutation course. The cases of the UK and Germany reveal role conflicts, ambiguities, and tensions in interactions between scientific advisors and policymakers, which left hardly any room for exploring adequate pragmatic policy actions.

Horizontal venue-shopping captures interactions between policymakers, experts from different epistemic communities, and various social stakeholders. Policymakers tend to form myopic views due to policy urgency, information overload, and public pressure (Zaki and Wayenberg 2020). Emergency measures' (in) direct effects may be overlooked, not to mention the neglect of gender-specific socio-economic consequences of measures, such as lockdowns, risk perceptions, and communication of uncertainty among different agencies and actors. Serious harms may include the growing gender gap in essential sectors; failure to consider the needs and rights of vulnerable groups, including children, pregnant women, elderly groups, and socially marginalized groups; and the waning of public trust in governments' capacity to manage the crisis (Marvin and Yusupova 2020; Paul 2020; van Daalen et al. 2020).

Finally, the temporal–spatial venue-shopping considers sequences and scenes, based on which 'the cross-effects of ... dynamic changes' are elucidated (Ma et al. 2020: 499). Already in March 2020, following the outbreak of the COVID-19 crisis in Europe, experts' descriptions of possible scenarios made it clear that the pandemic has 'shaken the foundations of our social and economic co-existence – indefinitely' (Zukunftsinstitut 2021). The experience of an uncontrollable collapse of our daily lives as well as the world as we knew it exposed human

vulnerabilities and our limited capacity to capture the complexity and resulting uncertainty surrounding COVID-19 (Arias-Maldonado 2020; Kreps and Kriner 2020). Anticipation of possible recurring waves revealed the fragility of policy responses and knowledge use in light of COVID-19 whose nonhuman agency dictated human affairs.

In the UK, Boris Johnson's populist centralization strategy enhanced politicization and instrumentalization of knowledge use, eroding expert authority and posing challenges to policy-learning. The UK government's policy responses failed to engage with gender and neglected the differential secondary effects of the pandemic on vulnerable groups (i.e., children, pregnant women, the elderly, and asylum-seekers), leaving these groups disproportionately burdened by policy uncertainty and insecurity. Such neglect reveals the systemic drawbacks of the UK's health polity to timely design appropriate policy options.

In comparison, despite the cacophony of state and federal leaders, scientific and policy uncertainty in Germany was handled with gradual institutionalization, personalization, and proliferation of knowledge use. The pandemic politics exposed the existing structural deficiency of federalism and prompted the emergence of novel communication and school initiatives. Policy inconsistency due to policymakers' myopic views and limited learning capacity from the past pandemic experiences further hindered evidence-based knowledge generation. Due to persistent policy ambiguity, public trust sank particularly between the third and fourth waves.

Regarding Sweden, despite public pressure and critiques of its monopolistic discourses, the Swedish technocracy enjoyed broad trust both from policymakers and the public. Sweden's trust-based model, derived from its cultural self-identification, did not meet the pattern of "bounded emulation" and faced the problem of social polarization and division less in comparison to the UK and Germany.

There are two commonalities in pandemic politics in these cases. The path-dependent policy-making style and ideology-driven leadership found in rationalist crisis management represented a major pattern regardless of different institutional settings. All three countries failed to appropriately include gender-specific preferences and interests in their policy deliberation processes, not to mention the evaluation of uncertainty costs triggered by confinement measures. As the pandemic evolved with new variants, the three countries continued confronting a recurring scenario: the surge of cases and fatalities; the adoption of *decisionist* emergency action without conducting precautionary agent-based modeling and experiential assessment, changing COVID-19-related criteria and regulations, or making sense of knowledge use through clear and adequate communication strategies; and the passing of laws driven by the populist (the UK) and liberal (Germany) ideologies at the expense of public health. In other words, these cases exhibit limited and contingent epistemic policy-learning with a low level of bounded emulation: although lockdowns were imposed and removed, different institutional structures and approaches to coordination resulted in diverging policy-learning effects.

In view of the weaknesses shown in each SPI, the UK's government has been asked to rethink its libertarian "herd immunity" approach to address health inequalities and the consequences of long COVID cases for society by considering their

structural determinants and by taking seriously the implications of new variants' immune-evasive nature. Recent collaborative cross-disciplinary studies revealed the fragile protection of "herd immunity" shaped by a complex mix of exposures through infection and vaccination (Altmann 2022; Iwasaki and Ko 2022; Reynolds 2022). Such differentiating anti-disciplinary research provides evidence-based findings that can help overcome the anti-technocratic populist tendency and restore mutual trust between policymaking, epistemic communities, and the public. In doing so, the UK's preparedness systems can be improved through efficient planning and designing appropriate responses to future pandemics.

This study also points to the urgency of reforming Germany's federal system in terms of power-sharing, law-making, and competence definition in key policy fields and sectors. This includes the slimming of bureaucracy for medical and service research activities, adequate expert staffing in scientific boards, better data management in the public health sector, enhancement of public health services in marginalized neighborhoods (e.g., through health kiosk stations), and educational reforms adaptive to disruptive measures (e.g., school closures and childcare-policies). Sweden's technocratic governance, too, should be adapted to be more flexible, which is necessary for democratic legitimacy and long-term response efficacy (Baekkeskov et al. 2021; Bennett 2020; Pierre 2020).

Conclusion

This chapter highlighted how pandemic uncertainty reshaped SPIs in relation to gender differences in Europe. Despite the variation in changes of SPIs in pandemic politics in the UK, Germany, and Sweden, my empirical findings reveal similar gender-specific negative consequences and burdens resulting from governments' lockdown measures. The actors and agencies in examined cases fell short of regarding the pandemic as an opportunity to reframe uncertainty backed by an anti-disciplinary approach in transformative, gender-sensible, and inclusive ways (Leach et al. 2021: 137).

These findings prompt the question of if and to what extent democratic systems are ready to approach future outbreaks with a more precautionous and innovative mindset. Three key challenges can be identified for policy-learning and trust building and one suggestion for future research in global politics and policy science when addressing uncertainty.

First, we need to be open about how evidence-based approaches can support the status quo through institutionalization, particularly when policy ambiguities dominate and conditions are adverse due to politicization. Second, the COVID-19 pandemic revealed the inadequacy of institutional settings and structural deficiencies in old democracies in tackling multiple uncertainties. New models of public health governance and new forms of politics and communication initiatives are needed – their cores should be transformative, gender-sensible, and inclusive. Third, despite its policy ambiguity and the high level of mortality, Sweden's trust-based model highlighted the relevance of trust-building for an effective response. As governments rely on citizens foregoing multiple freedoms to facilitate

sustainable problem-solving, communicating uncertainty in a transparent manner and making sense of policy action prove to be a big challenge for robust democracies that need to accommodate different forms of public trust (i.e., trust, mistrust, and distrust).

Finally, the application of the theoretical framework introduced in this chapter revealed the limits of policy-learning caused by the policy urgency problem under high levels of uncertainty. Still, under such circumstances, various innovative communication and solidarity initiatives have emerged. Future research can expand this framework by considering gendered leadership and communication science accounts that argue for the adoption of alternative ways of managing uncertainty through reflection and empathy in global politics. New empirical and theoretical fronts with innovative ideas, such as a “world theater” attitude toward nature (Federal Cultural Foundation 2021), and practices of collaborative and participatory policymaking (Almeida and Bascolo 2006; Brugnach and Ingram 2012) serve as a powerful reference for how to best govern uncertainty with a robust preparedness in times of multiple crises.

Notes

- 1 See NDR, “Coronavirus-Update: Der Podcase mit Drosten & Ciesek,” <https://www.ndr.de/nachrichten/info/Coronavirus-Update-Der-Podcast-mit-Christian-Drosten-Sandra-Ciesek.podcastcoronavirus100.html>
- 2 Available at <https://europa.eu/eurobarometer/surveys/detail/2253>

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