

Patterns of Dynamic Multilevel Governance and the Insider–Outsider Coalition

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As a sustained subfield of social movement studies devoted to theorizing transnational campaigning develops, there could be some mutual benefit from ongoing exchanges with international relations theory (IR).¹ In particular, two theoretical dialogues are potentially fruitful: first, the debates about norms and ideas in IR could benefit from engagement with debates over framing and collective beliefs in the social movements literature. Second, the political opportunity structure debates in social movement theory could be usefully informed by IR literatures that explore the dynamic interaction of domestic politics and the international system. This chapter will focus on the second of these two dialogues.²

Social movement theorists are increasingly aware that social movements operate in both a domestic and an international environment: they speak of “multilayered” opportunity structure including a “supranational” layer, or a “multilevel polity,” or highlight how international pressures influence domestic opportunity structures (Oberschall, 1996; Klandermans, 1997; Marks and McAdam, 1996; McAdam, 1996; Tarrow, 2002; della Porta, Kriesi, and Rucht, 1999; Meyer, 2003). In this volume, Tarrow and McAdam use the term *scale shift* to describe this move of contention from the national to the transnational level, and identify the mechanisms and paths through which it occurs. McCarthy and Johnson discuss the sequencing of transnational and national mobilization. The conclusions to this volume also highlight multilevel opportunity structures.

Most authors writing about transnational opportunity structures see international institutions as targets or constraints, not as opportunities or

arenas for social movement activity. Most of the chapters in this volume focus on transnational collective action *against* international actors and international institutions. From a theoretical point of view, and thinking about the whole universe of possible transnational contention, however, transnational opportunity structures, just like domestic opportunity structures, need to be seen as presenting both threats *and* opportunities. Some forms of transnational contention, like those on human rights issues discussed in this chapter, use opportunities available in international institutions in campaigns against states.

Few social movement theorists do research that looks inside of international institutions to understand how social movements work there and what kinds of impact they have had. As studies of transnational campaigning increase, I believe that social movement theorists will find it useful to take international institutions more seriously as actual arenas for social movement activity, not just as targets. Social movements may sometimes be capable of transforming opportunity structures at the international level and of using international institutions to change domestic opportunity structures, what Imig and Tarrow (2001) call "domestication." As social movement theorists explore how national mobilization and transnational mobilization interact, they may find it useful to consider the IR literature on transnationalism.

Since the mid-1990s, there has been a flurry of academic activity in the international relations field around a reemergent transnationalist research agenda, alternatively focused on "new transnationalism," transnational networks, global civil society, transnational social movements, or world polity. Despite their differences, these diverse literatures all make the common point that transnational relations in which nonstate actors play a prominent role are an increasingly significant part of international relations. The transnationalist research program is intrinsically linked to broader concerns within constructivist IR theory (and some neoliberal institutionalism) with the influence of ideas, norms, and identity on world politics (Katzenstein, 1996; Finnemore and Sikkink, 1998; Goldstein and Keohane, 1993; Lumsdaine, 1993; Finnemore, 1993; 1996). But this literature also engages an older debate in IR theory about how domestic politics and the international system interact. This older debate may be particularly useful as social movement theorists contemplate the interaction of domestic and international opportunity structures.

IR LITERATURES ON DOMESTIC POLITICS AND THE INTERNATIONAL SYSTEM

We can classify the IR literatures into three categories in terms of how they address the relation of domestic politics and the international sys-

tem: (1) theories that grant primacy to the international level; (2) theories that grant primacy to domestic politics within constraints imposed by the international system, and (3) more genuinely interactive theories.³ Most literatures grant primacy to either the international or the domestic, and then hold constant the other for the purposes of their research. Peter Gourevitch recognizes that the body of research that explores the interactions of levels is "the least well developed, and that place that particularly requires further analysis" (2002:310). For many research puzzles, it is entirely appropriate to focus on either a domestic or an international problem, and hold the other constant. But I will argue that for some international issues, including the study of transnational social movements, an interactive approach is necessary to understand the potential for change and innovation in the international system.

Among the more interactive IR work, I would include work by Thomas Risse that focuses on the importance of "domestic structures" for understanding international outcomes. In a 1995 volume, Risse argues that domestic structures mediate transnational interactions. By domestic structures, he means state structure (centralized vs. fragmented), societal structure (weak vs. strong), and policy networks (consensual vs. polarized) (Risse-Kappen, 1995). Risse argues that the impact of transnational actors on outcomes "depends on the domestic structures of the policy to be affected and the extent to which transnational actors operate in an environment regulated by international institutions" (2002:258). Transnational actors must gain access to the political systems of their target state and contribute to the winning coalitions in order to change decisions. Risse now recognizes that this argument to some extent resembles the social movement argument that political opportunity structures are an important factor for explaining the success of movements (2002). In recent work, Brysk also argues that globalization offers both constraints and opportunities, and that the impact of globalization at the domestic level varies in different types of states (2002). This is a promising line of argument, but we still need to more closely examine how particular global constraints or opportunities interact with different kinds of domestic structures to produce different characteristic patterns of interaction.

One sophisticated vision of domestic/international interaction is the two-level game model, first proposed by Robert Putnam (1988), and later developed by Evans, Jacobson, and Putnam in the edited volume *Double-Edged Diplomacy: Bargaining and Domestic Politics* (1993). This model has the virtue of being truly interactive and dynamic. For many international issues, the two-level game continues to be a useful model of how the international and the domestic interact. Della Porta and Kriesi (1999) have adapted the two-level model to study the interactions of social movements in a globalizing world. For many issues, however, the two-level

game's concentration on a chief negotiator or head of government as the linchpin mediating between the international and the domestic simply misses what is most important theoretically and empirically. Social movements interacting in the domestic and international realm often bypass heads of governments and engage directly in cross-table lobbying. In other words, the *metaphor* of the two-level game may be useful to social movement theorists, but the actual mechanisms the theory proposes are less so.⁴

In *Activists beyond Borders*, Margaret Keck and I developed one type of alternative to the two-level game that we called the "boomerang effect," where nonstate actors, faced with repression and blockage at home, seek out state and nonstate allies in the international arena, and in some cases are able to bring pressure to bear from above on their government to carry out domestic political change (Keck and Sikkink, 1998). The major dynamic of the boomerang is a form of international collective action where domestic social movements and nongovernmental organizations (NGOs) provide most of the initial impetus and information for getting issues in their country onto the international agenda. Once on the international agenda, however, the issue develops an international constituency of its own. While state-to-state negotiation can be a part of the boomerang, to focus solely on this, as Putnam's two-level game model does, misses much that is most interesting about the interaction.

Thomas Risse and I later expanded the boomerang effect into what we called the spiral model (Risse and Sikkink, 1999). The spiral model integrated the boomerang into a more dynamic five-phase conceptualization of the effects of domestic-transnational linkages on *domestic* political change. The idea of a boomerang suggested that social movements engaged in a single move, while the spiral model recognized that this was a longer-term process that involved a series of different kinds of political moves.

In the short term, one can analyze the dynamics of social movement activity as groups operating rationally within international and domestic contexts of opportunities and constraints (Finnemore and Sikkink, 1998). But social movement theorists have long recognized that social movements not only operate within existing domestic opportunity structures, but they can also make or expand existing opportunity structures (Tarrow, 1996; Gamson and Meyer, 1996). The same is the case at the international level. Over a longer term, the goal of many transnational activists is to transform or recreate the very opportunity structures within which they work.

The boomerang effect and spiral model are useful to describe many forms of international and domestic interactions. But other patterns of international-domestic interactions do not fit the boomerang or spiral.

Many labor and environmental activists do not seek out international allies because they face repression or blockage at home. To the contrary, they believe that key legislation and protections in their home countries risk being eroded by the transfer of decision-making powers to international institutions. This is what scholars of the European Union have called the problem of the democratic deficit. The idea of a democratic deficit is not limited to regional integration schemes, and is one of the main arguments in many neoliberal globalization protests.

As opposed to the boomerang model, where activists seek out international institutions as *more open* arenas to pursue their agendas, in the democratic deficit model activists are forced defensively into the international arena, and the brunt of their activity is aimed at protecting gains made within their domestic polities. So, for example, antiglobalization protesters oppose the power of the World Trade Organization (WTO) or the North American Free Trade Agreement (NAFTA) to overturn domestic environmental or labor legislation. They believe that these international institutions represent a democratic deficit when compared to domestic politics. Activists initially worked to defeat the treaties that set up the institutions, and when that failed, they continued to pressure global trade institutions to open to more democratic participation. How can we explain these two very different dynamics?

INTERACTION OF DOMESTIC AND INTERNATIONAL OPPORTUNITY STRUCTURES

To explore these characteristic patterns of interactions, I focus on an essential aspect of political opportunity structure at both the domestic and the international level—access to institutions, or how open or closed domestic and international institutions are to network or social movement pressures and participation. Although repression is often seen as a separate aspect of political opportunity structure, I see it as an aspect of access, since repression can be an extreme form of closing domestic institutions to political participation. Though less relevant internationally, repression can also be used to keep international institutions closed. When police used force against protesters at the WTO meeting in Seattle, local police were used to enforce the closure of an international institution. I recognize that social movement theorists conceive of political opportunity structure as a more multifaceted construct than just “access” and “repression,” but these elements appear in most discussions of the concept (McAdam, 1996). In order to develop a typology of the interactions of domestic and international opportunity structures, I limit myself to focusing only on openness and closure. This is related to della Porta’s

argument that a single variable like protest policing can serve as a barometer for political opportunities (della Porta, 1996).

Using the basic idea of closed and open structures at the domestic and international level as an analytical starting point, one can think of at least four different characteristic patterns of activism (see figure 7.1). This notion will help us explain what may appear as a paradox in social movement activism and scholarship: why for some activists, international institutions are part of the solution, and for others, they *are* the problem.

Here, *international opportunity structure* refers mainly to the degree of openness of international institutions to the participation of transnational NGOs, networks, and coalitions. Many IR scholars think there is a single international structure that can be defined by a predominant characteristic such as international anarchy or unipolarity.⁵ Neoliberal institutionalists also see anarchy as the defining characteristic of the international order, but believe that the nature of the “game” in certain issue areas created greater possibilities for international cooperation than realists would admit (Keohane, 1984). In this sense, we might say that neoliberal institutionalists see different international opportunity structures in different issue areas. But they do not systematically study how opportunity structures might vary at both the international and domestic levels. Both neo-realism and neoliberal institutionalism fit in what I call “category one” above, as theories that grant primacy to the international level.

The way I use international opportunity structure here implies that there is not a single international opportunity structure, but that opportunities vary over time and across intergovernmental institutions, which in turn is related to variation across issues, and across regions. So, for example, international institutions were considerably more open in the 1990s

FIGURE 7.1
Dynamic Multilevel Governance

		International Opportunity Structure	
		Closed	Open
Domestic Opportunity Structure	Closed	A. Diminished chances of activism	B. Boomerang pattern and “spiral model”
	Open	D. Democratic deficit/defensive transnationalization	C. Insider/outsider coalition model

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than in the 1960s; international institutions dealing with human rights are more open to transnational activists than those that deal with trade; and regional institutions in Europe are more open than those in Asia. Thus, for a particular network around a particular issue at a particular moment in time, one can specify how open or closed we expect international institutions to be. We can operationalize this understanding of international opportunity structure by looking at the formal and informal mechanisms or procedures for inclusions and participation in different international institutions. For example, the institutions connected to United Nations Economic and Social Council (ECOSOC) not only have provisions for NGOs to seek and be granted consultative status, but many have also developed practices that permit some NGOs to speak at meetings and present written materials for inclusion in the record. The WTO or the International Monetary Fund (IMF), for example, have no such provisions for NGO participation.

Domestic opportunity structure here refers primarily to how open or closed domestic political institutions are to domestic social movement or NGO influence. It varies primarily across countries, but it also varies over time and across issues within countries. As in the case of international opportunity structures, we can operationalize it by looking at the formal and informal mechanisms or procedures for participation on different issues. So, for example, domestic political opportunity structures are "closed" if social movements experience repression or exclusion in authoritarian regimes. But knowing if a country is democratic or authoritarian is only a starting point for understanding how open domestic institutions may be. As della Porta and her colleagues have demonstrated, protest policing varies dramatically across countries and may be a useful proxy for how open or closed countries are to social movements (della Porta and Reiter, 1998). But there may also be significant differences across issues within a single country.⁶ Sometimes we can find specific laws or institutions (or note the absence of these) that determine the degree of openness or closure on particular issues. So, for example, amnesty laws close off the issue of legal accountability for past human rights abuses. Democratic countries with amnesty laws thus may still be "closed" opportunity structures around issues of such legal accountability. Likewise, laws or practices of Central Bank autonomy and insulation essentially "close" off decisions about domestic monetary policy from societal actors.

This issue of variation on closure helps address the main critique of the domestic structures argument in IR. Critics point out that domestic structures are not as useful to explain outcomes, because some movements have been much more effective than others within the same political opportunity structure (Keck and Sikkink, 1998; Risse, 2002). But this is

only the case if a domestic opportunity structure is seen as static or permanent across issues. Domestic opportunity structures that vary across issues could help explain differences in movement effectiveness.

Likewise, the issue of openness or closure is relative, in the sense that activists compare the openness of domestic institutions to that of international institutions. Here I adopt the position of McAdam, Tarrow, and Tilly (2001) that opportunities and threats are not objective structural factors, but are perceived by activists. Thus, both opportunities and threats need to be visible to potential challengers. Activists need to perceive and compare opportunities and threats at both the international and the domestic levels. Some social movement theorists have tended to assume that most international institutions are “relatively inaccessible” (della Porta and Kriesi, 1999). This may be the case if we compare international institutions to the quite open political opportunity structures of Western democracies (in other words, if we focus mainly on box D). But if we take the whole range of domestic political opportunity structures—including quite authoritarian countries—and the whole range of international institutions, there are frequently situations where international institutions may be more accessible than domestic polities. In some international institutions, NGOs are not only consulted, they can speak and help draft resolutions and treaties. This is still much less than the participation of social movements in democratic societies, but may look attractive to social movement activists likely to be imprisoned for speaking in their home countries. Once activists become familiar with international institutions, and thus the opportunities they offer become visible, they may perceive more opportunities at the international level than at the domestic. Or, through a process of “attribution of similarity,” activists may watch other social movements that act internationally, and identify them as sufficiently alike to justify using similar actions (McAdam, Tarrow, and Tilly, 2001:334).

This figure yields four different characteristic types of activism. While in practice these certainly come in mixed forms, it may be useful to begin to specify the nature of each of the pure forms. These categories tell us something about (1) the probability of international and domestic activism; (2) the type or focus of such activism, and (3) to a lesser degree, the likelihood of effectiveness of such activism.

The combined types of domestic–international interactions in figure 7.1 provide a way of thinking about multilevel governance that is neither “top-down” nor “bottom-up,” but a complex and dynamic process of interaction of domestic politics and international politics. A two-level interacting political opportunity structure produces outcomes that would be counterintuitive for those looking only at domestic political opportunity structure. For example, it is generally assumed that a state’s capacity

or propensity for repression will diminish domestic social movement activity (Tarrow, 1995; McAdam, 1996). But the boomerang model suggests that repression may simultaneously move actors into international arenas to pursue their activities. Some movement activists conceive of maps of political opportunities at both the domestic and international levels, where a blockage at the domestic level could lead to a move at the international level (sometimes with the object of opening space domestically). Repression is the most obvious form of blockage, but lack of responsiveness may also project groups internationally. For example, feminist groups and groups of indigenous peoples have often found the international arena more receptive to their demands than are domestic political institutions. This dynamic is not unlike the dynamic of some social movements in federal systems. So, for example, civil rights activists in the U.S. South, lacking the necessary power to defeat their segregationist opponents in a local conflict, used tactics designed to provoke the intervention of the federal government on behalf of integration (McAdam, 1982).

It is important to keep in mind that the figure doesn't describe a set of static conditions. First, the opportunities and resources are "perceived and constructed by activists" (della Porta and Tarrow, this volume). Even when international institutions would potentially be open to social movement demands, if the social movements do not perceive them as open, they will not be used. Second, once using international institutions has become part of the repertoires of action of some domestic social movements, other domestic social movements are more likely to perceive international institutions as open to their participation.

Finally, social movements are not "stuck" indefinitely in one box or another. Much of the most interesting bi-level social movement activity aims to move from one box to another. Activists in box A strive to move into box B or D by transforming either domestic or international opportunity structures to make them more open on these issues. With these points in mind, let us look at each of the individual boxes.

Box A: Diminished Opportunities for Activism

In box A, where activists perceive that they face closed opportunity structures both nationally and internationally, we would expect to see the least activism, and thus fewer chances of success. Examples could include such diverse issues as monetary policy or the situation of abortion rights activists in Latin America.

Advocates of careful monetary policy have made one of their institutional goals to secure closed opportunity structures both domestically and internationally for monetary issues. So, for example, the very idea of

Central Bank autonomy essentially is concerned with limiting access of domestic social and political groups to decisions about monetary policy. At the same time, the IMF has been one of the least open of the international institutions to pressures of NGOs and transnational networks. No formal mechanisms exist, like consultative status in ECOSOC, for NGOs or social movements to participate in any deliberation within the institution. Informal mechanisms for such participation are very weak, and run counter to the dominant ideology of the institutions, which sees all forms of such participation as some type of undesirable rent seeking behavior (O'Brien et al., 2000). We would expect less activism and less effectiveness in this area, and I believe that has been the case. The most successful activism in this area has been in the area of debt forgiveness, not monetary policy per se (see Donnelly, 2002). In this volume, also see Kolb's discussion of ATTAC's work on fiscal policy.

Campaigns for abortion rights in Latin America face related problems. Because of the political and moral power and influence of the Catholic Church, domestic politics in Latin America have been closed to activism on this issue. But efforts to move internationally have proved difficult, because although international institutions have been relatively open to women's rights issues, a coalition of the Vatican, some Muslim states, and the U.S. government under conservative Republicans with antiabortion agendas have closed international institutions on the issue of abortion rights. For example, this coalition held the Cairo population conference hostage for days arguing over minor language issues in the conference declarations, because they might have implications for abortion politics.

Activism is not absent or impossible for issues in box A; it just faces a more serious set of obstacles. In these cases, we would expect to see attempts to open both domestic and international opportunity structures on these issues. Where domestic actors face the most severe repression, they may be less likely to form transnational coalitions and use brokerage strategies, because domestic opportunity structures are so closed that it is difficult to maintain transnational linkages. This was the case in Guatemala in the 1980s, for example, where repression was so severe that domestic NGOs were unable to function, and international linkages were weak. The closure on international institutions, in turn, makes it difficult to attempt boomerang strategies, and gives activists few chances of finding international institutional footholds to advance their causes.

Nevertheless, change is possible in some cases. Human rights activists in the 1960s and early 1970s in the Soviet Union, Eastern Europe, and authoritarian regimes in Latin America initially faced this kind of "box A" situation. Their domestic political contexts were essentially closed to human rights activism. But international institutions were not yet open on the issue of addressing human rights violations in specific countries.

United Nations procedures prohibited the institutions from acting in the case of a specific country unless there was a clear threat to international peace and security. Protocol prohibited even the naming aloud of a specific country engaged in human rights violations in the meetings of the Human Rights Commission. The basic human rights treaties, the Covenants on Civil and Political Rights, and on Economic, Social, and Cultural Rights, had been completed and opened for ratification but had not yet entered into force.

Resolution 1503 in 1970 empowered the United Nations (UN) to receive communications and refer particular situations of gross violations of human rights to the commission for its consideration. This opened important space in the UN because it allowed human rights NGOs, both domestic and international, access to the UN to file petitions about specific human rights violations in their country. After 1977, a series of "special procedures" were subsequently developed in the UN Human Rights Commission to enhance its ability to look into specific human rights situations, including the use of special rapporteurs and working groups. Human rights NGOs and their state allies pushed for the adoption of these special procedures, which later provided more points of access to the institution, since NGOs could send them information and lobby, and in some cases, members of NGOs were named as rapporteurs or working group members. Likewise, as states ratified human rights treaties and those treaties went into effect, new mechanisms for access were created in the form of the treaty-monitoring bodies that received reports from countries. Human rights activists succeeded in transforming the international opportunity structure in which they worked, and thus moved human rights issues from box A to box B in the early 1970s and early 1980s.

Box B: Boomerangs and Spirals

Box B is where the boomerang pattern or the spiral model has been most prevalent. When domestic structures are perceived as closed and international structures as open, activists will seek international allies and attempt to bring pressure to bear from above on their governments to implement changes. The mechanisms they use usually include coalition formation and brokerage (McAdam, Tarrow, and Tilly, 2001). That is, for boomerangs to work, it is usually not sufficient for domestic activists to simply transfer information and emulate tactics they have seen other activists use in the international arenas. Instead, they almost always link to other activists abroad.

The case of justice for human rights violations in Chile and the arrest of Pinochet in London, for example, can be explained using a boomerang

or spiral model. Even after democratization in Chile, the amnesty law effectively blocked human rights activists from seeking justice for past human rights violations in domestic courts. In turn, they sought out allies and alternative institutions abroad to pursue their justice claims, most importantly the Spanish National Audience Court, which was empowered to hear cases involving international crimes. Note that in this case the “open international opportunity structure” was not an international or regional organization. Rather, activists were “borrowing” domestic courts in other countries that are empowered by universal jurisdiction to hear human rights cases from abroad. Chilean activists emulated a tactic used initially by Argentine human rights activists in Spain, and introduced a case against Pinochet and other Chilean military officers before the Spanish National Audience Court. In doing so, they also formed new coalitions with groups in Spain, including members of the Progressive Prosecutors Association and the United Left Political Party (Lutz and Sikkink, 2001; Roht-Arriaza, 2004).

The cases in Spain led to the arrest of Pinochet in Britain in 1998. The British Law Lords eventually determined that Pinochet could be extradited to Spain to stand trial because international institutions (in this case the Torture Convention that had been ratified by Chile, Spain, and the United Kingdom) provided for universal jurisdiction in the case of torture. So, the “open political opportunity structure” was provided by an international institution (a treaty) as interpreted and implemented in domestic courts. This makes the quite important point that while international opportunity structures are often found in international organizations and spaces like the United Nations, they can also be found in domestic spaces where the opportunities or constraints are made possible by international institutions like treaties. The Pinochet case also makes clear that international opportunities are not only found, they are also constructed. Until Argentine and Chilean human rights activists brought their cases before the Spanish court, it was not at all clear that the Spanish legal system could provide an open international opportunity. It was through the process of presenting the cases that the opportunity structure was perceived and created.

Although Pinochet was eventually released and allowed to return to Chile for health and political reasons, his detention led to important changes in the political opportunity structure in Chile. Specifically, it opened previously blocked space in the Chilean judicial system for victims of human rights violations to pursue their claims.⁷ In the context of Pinochet’s detention in the United Kingdom, the Chilean Supreme Court decided that past disappearances were ongoing crimes, and thus not covered by the amnesty law. This helped persuade the British government that justice for human rights violations was possible in Chile, and thus

may have contributed to Pinochet's return. But it had the additional effect of making it possible for Chilean human rights victims to reopen hundreds of cases that had been previously closed. While the domestic opportunity structure in Chile as regards justice for past human rights abuses is not yet fully open, it is considerably more open than it was before Pinochet's arrest. Chile has not yet moved to box C, but it is moving in that direction.

The international/domestic dynamics here fit the boomerang pattern well, and illustrate that while the boomerang has been used primarily to describe political change under authoritarian regimes, even formally democratic regimes may have the kinds of domestic political blockages that lead domestic actors to seek international help to pressure for domestic change. As the spiral model points out, however, one of the goals of boomerang activism is to open domestic space for political activism. The interesting point is that if the spiral is truly successful, it will move the case from box B to box C. The spiral model moved beyond the boomerang effect exactly because it theorized the processes through which countries move from a closed to a more open domestic opportunity structure, and how those processes would affect that nature of transnational activism. This is, in fact, the case for much human rights activism in Latin America and also in some other parts of the world. Primarily through a process of redemocratization, previously closed domestic political institutions are opened for domestic human rights activism.

Part of what makes this model of multilevel governance *dynamic* is that the goal of social movement activity is very often to change or transform both domestic and international opportunity structures. The goal of many human rights movements was both to improve human rights and to push for democracy, thus transforming the domestic structure from a closed to a more open one: from box B to box C. To open domestic opportunity structures, activists have used multiple tactics, some novel, and others emulated or brokered from other similar cases. They pushed for plebiscites to spearhead a transition from authoritarian rule, urged other states to condition economic aid on progress made toward the restoration of democracy, and encouraged involvement of multilateral institutions like the Organization of American States (OAS) in election monitoring. Activists in the last two decades have had considerable success in moving from box B to C. The success in moving from box B to C may be the result of the wave of democratization in the region in the 1980s and 1990s.

Box D: Democratic Deficit and Defensive Transnationalization

Activists in box D engage in the characteristic form of activism that I call defensive transnationalization. These activists have not sought out inter-

national organizations but rather have been forced to work internationally, because their governments have made international agreements that move significant decision-making power into international institutions. Because such activists operate in domestic opportunity structures that they perceive as open relative to international institutions, they organize transnationally to minimize losses rather than to seek gains.

Defensive transnational activists, despite other differences with boom-rangers, are also pushing to move into box C. Their efforts often focus on democratizing international institutions, and making them more open. Although some activists in this category are trying simply to block international institutional activities (the slogan of the "Fifty years is enough" campaign, for example, suggested that activists would be most satisfied if the international financial institutions simply shut down), most are attempting to make decision making in international institutions more responsive. But, once again, the essential question is democratic relative to what? Democratic deficit theorists and activists usually see international institutions as exhibiting deficits relative to their very democratic domestic polities. But implicit in every situation in box A, B, and D, there can be gains in democracy. We could argue that activists working in box D already live in more democratic situations than activists working in box A and box B, and are only in deficit (in an international sense) to those in box C.

Because activists in box D situations operate in relatively open domestic opportunity structures, they are more likely to use a wide range of domestic protest and political pressure activities. They also lobby their governments to try to block particular international commitments or to open up international organizations. So, for example, neoliberal globalization activists in the United States worked hard to try to convince members of Congress to vote against both NAFTA and the WTO. They also worked to get Congress to condition financial replenishment legislation for the IMF and the World Bank to contain provisions for more transparency and consultation within international financial institutions. Scholars attribute World Bank efforts to ensure more transparency and accountability in governance to such lobbying (Nelson, 2002). Because neoliberal globalization activists perceive international opportunity structures as closed, they are less likely to lobby or network within international institutions, and more likely to bring pressure to bear from outside. The majority of the chapters in this volume look at this form of transnational organizing.

Box C: Activists within and beyond Borders: Insider–Outsider Coalitions

Box C is the least studied, and thus of particular interest. What happens when both international and domestic opportunity structures are rela-

tively open? Domestic activists will, I believe, privilege domestic political change, but will keep international activism as a complementary and compensatory option. Domestic political change is closer to home and more directly addresses the problems activists face, so they will concentrate their attention there. However, activists who have learned how to use international institutions in an earlier boomerang phase will keep this avenue open in case of need. I'll call box C the insider-outsider coalition category. The term *inside-outside coalition* has been used by Jonathan Fox and L. David Brown (1998) to discuss relations among the World Bank, northern NGOs, and southern grassroots movements. In the introduction to this volume, della Porta and Tarrow use the term *insider-outsider coalition* to describe one type of externalization strategy. Although my use is related to these, I use the term to refer to the specific types of coalitions that emerge when activists operate in open domestic and international opportunity structures.

This is the current situation of groups working on the topic of transitional justice in Argentina, which will be the topic of the rest of the article. However, I believe that the insider-outsider model is of particular importance because it is not limited to cases like Argentina but may be a key dynamic to explain how many protest movements located in democratic countries relate to the international. So, for example, this model of insider-outsider coalitions may be useful to help think about the emergence and dynamics of the global antiwar movement against the war in Iraq, with active participation of a U.S. antiwar movement. Domestic political opportunity structures are not formally closed to the U.S. movement, although they have been rather deaf to its demands. International institutions, on the other hand, have been more open to the concerns of the peace movement, and alliances have emerged between governments, movements, and international organizations to block international support for the war.

THE ARGENTINE CASE: INSIDER-OUTSIDER COALITIONS IN THE DEMAND FOR JUSTICE AND ACCOUNTABILITY

Argentine human rights groups displayed virtuosity in playing the boomerang game when their domestic opportunity structures were blocked during the dictatorship of the period 1976–1983. They formed coalitions with like-minded human rights organizations abroad to carry out boomerangs. With the return to democracy, these groups returned to focus their attention on the now much more open domestic polity, pressuring for and securing a path-breaking Truth Commission, trials of the nine top

leaders of the military juntas, reparations for victims of human rights violations, and other significant domestic changes. This could be seen as an example of what McAdam, Tarrow, and Tilly call "downward scale shift" (2001:331–32). In this case, coordinated international action did not fragment until it achieved its goal of regime change and human rights improvement. But the domestic space for securing justice for past human rights violations narrowed when the Argentine government passed two laws that were effectively amnesty laws (Punto Final and Obediencia Debida), and when President Carlos Menem issued pardons for already convicted and imprisoned military commanders.

Human rights organizations, recognizing that there was still some important openness in the relevant domestic institutions (especially the judicial system), implemented a two-track strategy. They launched a series of innovative legal challenges to attempt an end run around the amnesty laws, and they cooperated with and initiated some international and regional tactics as well. Specifically, they reactivated coalitions formed during the boomerang and spiral phase, and formed new transnational coalitions to further new goals. In other words, Argentine human rights groups were able to selectively scale shift up and down as required by the demands of the particular situations they faced.

One innovative domestic legal challenge was initiated by the legal team of the Grandmothers of the Plaza de Mayo to hold military officers responsible for the kidnapping and identity change of the children of the disappeared, who in many cases had been given for adoption to allies of the military regime. The Grandmothers' lawyers argued that because the crime of kidnapping had not been covered in the amnesty laws, they were not blocked from pursuing justice for these crimes. Their legal strategy began to succeed by the mid-1990s, but initially most of those found guilty were lower-level military and the adoptive families.⁸

But on June 9, 1998, Federal Judge Roberto Marquovich ordered preventative prison for ex-president General Rafael Videla for the crimes of kidnapping babies and falsifying public documents. It is often overlooked that when Pinochet was detained in London three months later, Argentine courts had already done the equivalent by ordering the preventive detention of an ex-president for human rights violations. And they had done it using domestic political institutions. But, even in this case, the international was also involved. Videla had been tried for human rights violations during the trials of the juntas in 1985, convicted, and sentenced to life in prison, but he had been released in 1990 under President Menem's pardon. Why, all of a sudden, was Videla back under arrest?

At the end of May 1998, President Menem came back from a diplomatic trip to Scandinavian countries. Instead of the economic contacts he had been seeking, both the Finnish and the Swedish governments asked for

an investigation of the cases of two disappearances: those of the Swede Dagmar Hagelin and the Finn Hanna Hietala. European human rights activists and family members of the disappeared had made these cases causes célèbres in their respective countries and had recruited allies at the highest levels of the relevant European governments. The European press focused its coverage of the Menem visit on these two cases. These two cases, in turn, are connected to two other cases of disappearances, those of two French nuns, Alice Domon and Leonie Duquet, because all were kidnapped by a navy group in which the notorious Captain Alfredo Astiz had participated. Menem realized that in his upcoming visit to Paris a week later, he would also face demands for the extradition of Astiz to France, where he had been condemned in absentia for the kidnapping of the nuns. Menem was scheduled to meet with French president Jacques Chirac, who had publicly stated that he wanted Astiz to be extradited to France. Just a few hours before the Chirac–Menem meeting, Judge Marquevich decided to detain Videla. In his meeting with the French press, instead of facing criticism, Menem was greeted as a human rights hero. Menem told reporters that “this is one more sign that we have one of the best justice systems in the world.”⁹

This is an excellent example of an insider–outsider coalition. Domestic human rights organizations using innovative legal strategies had done all the preliminary legal and political work to secure Videla’s arrest. They still needed some help from their international allies, however, for the final push to put a top-level military leader in jail. The judge who ordered Videla’s arrest was not known for his commitment to human rights, but for his intense loyalty to President Menem, who had appointed him. There is strong reason to believe that Judge Marquevich was responding to Menem’s political agenda in his trip to France when he ordered the detention.¹⁰

Four months later, after Pinochet had been detained in London and the Spanish court had issued arrest warrants for a wide range of Argentine military officers, another Menem loyalist on the bench ordered the preventive detention of Admiral Emilio Massera, ex-head of the navy and junta member, and, after Videla, the second most powerful leader in Argentina during the most intense period of repression. The context and timing of Massera’s arrest suggests that the decision by another Argentine judge to imprison him was apparently a preemptive measure in response to Spanish international arrest warrants for Argentine military officers.¹¹ On November 2, 1998, Judge Garzon in Spain issued indictments of ninety-eight members of the Argentine military for genocide and terrorism. Three weeks later, the Argentine judge ordered the preventative imprisonment of Massera for kidnapping babies.

Why would international arrest warrants lead local judges to order

arrests in Argentina? The warrants for Argentine military officers created international and domestic pressure to extradite the officers to Spain to stand trial. The Argentine military was adamantly opposed to extradition, and nationalist sentiment in Argentine political parties resisted the idea of extradition. But the relevant international legal precept was that a state must either extradite or try the accused domestically. To fend off political pressures to extradite many officers, the Argentine government apparently decided to place under preventative prison a few high-profile, but now politically marginalized officers like Videla and Massera. In 2003, however, the new president of Argentina, Nestor Kirchner, announced that he was prepared to reconsider the extradition requests that previous governments had denied. His position has support within the Ministry of Justice and the Foreign Ministry, but is still opposed by the Ministry of Defense, which reflects continued unease in the armed forces.¹²

Perhaps the most challenging of the legal battles was the case led by Centro de Estudios de Estado y Sociedad (CELS) to have the amnesty laws declared null, or unconstitutional. Once again, using the case of a kidnapped child of the disappeared, CELS argued that amnesty laws put the Argentine judicial system in the unusual position of being able to find people criminally responsible for kidnapping a child and falsely changing her identity (more minor crimes), but not for the more serious original crime of murder and disappearance of the parents that later gave rise to the crime of kidnapping. Additionally, they argued that the amnesty laws were a violation of international and regional human rights treaties to which Argentina was party, and which were directly incorporated into Argentine law. A judge of the first instance found the arguments compelling, and wrote a judgment that was a 185-page treatise on the significance of international human rights law in Argentine criminal law.¹³ The appeals courts supported the decision, and the case is now before the Argentine Supreme Court. Previously, it seemed unlikely that the Supreme Court would support the decision of the appeals court, but the election of President Kirchner and his initial support for the idea of accountability for past human rights violations may change the climate for the Supreme Court decision.

But while pursuing these domestic judicial strategies, Argentine activists did not neglect the international realm. Once a case against members of the Argentine military was initiated in the Spanish National Audience Court, many Argentine family members of the disappeared traveled to Spain to present testimony and add their cases. Argentine human rights organizations cooperated actively with requests from the Spanish courts and from human rights organizations based in Spain to provide documentation and case material. In most cases, this cooperation between Spanish-based groups and groups in Argentina was brokered by a hand-

ful of individuals such as Carlos Slepoy, a lawyer who worked with the Argentine Association for Human Rights in Madrid and traveled frequently back and forth between Argentina and Spain.¹⁴

Likewise, the Grandmothers of the Plaza de Mayo pursued an insider-outsider coalition strategy. During the international process of drafting the Convention on the Rights of the Child, the Grandmothers lobbied the Argentine government to include specific provisions in the convention that they believed would enhance the success of their domestic trials. Specifically, they realized that domestic law did not provide a legal basis for arguing that the kidnapped children had standing in court. So the Grandmothers convinced the Argentine foreign ministry to press for provisions on the "right to identity" in the Convention on the Rights of the Child. They are included as articles 7 and 8 of the final convention, and are informally called the "Argentine articles." Because the Argentine constitution incorporates international law directly into domestic law, once Argentina had ratified the convention, these articles provided the Grandmothers with the legal bases to argue that children had a right to identity, and thus to permit judges to order blood tests (even though they were opposed by the adoptive parents) to establish whether or not the children were the sons and daughters of the disappeared.¹⁵ In this case, the Grandmothers of the Plaza de Mayo, a domestic Argentine human rights movement, helped to change the international opportunity structure by changing the wording of a treaty, which in turn changed their domestic opportunity structure and made it easier to get convictions.

CELS solicited international groups they had worked with before to write amicus briefs for their cases, and succeeded in establishing for the first time in the Argentine judicial system the practice of using foreign amicus briefs. Local groups stayed in close contact with the Inter-American Commission on Human Rights, and at one point when progress on the truth trials broke down, they brought a case before that body. The commission, in negotiations with the Argentine government, was able to secure a commitment to allow the trials to continue.¹⁶ The human rights groups also are poised, should the Supreme Court uphold the validity of the amnesty laws, to reopen a case before the Inter-American Commission, which has already found such laws to be a violation of the Inter-American Convention on Human Rights. In other words, domestic groups are concentrating primarily on their very active domestic judicial agenda, but moving with relative ease and fluidity in foreign, international, and regional institutions as a complement and/or backup to their domestic work. This is neither the boomerang nor an example of defensive transnationalization, but an example of a mixed coalition of insiders and outsiders, or box C. International and regional activism remains one of the tactics in the repertoires of these groups. At times it is more latent

than others, but always there. But it is not a privileged sphere, largely because there has been so much domestic space in which to participate.

The Argentine case also illustrates a point frequently made by social movement theorists that political opportunities are not only perceived and taken advantage of, but they are also created by social actors. Argentine political actors faced a more open political opportunity structure for their human rights demands after the transition to democracy, in part because the failure of the military in the Malvinas/Falklands war led to an abrupt transition where the military had little bargaining power. This is in contrast to the situation in Chile and Uruguay, where negotiated transitions gave the military more veto power and more control over the agenda. And yet, the tactics groups chose also made a difference. Uruguayan groups chose an electoral strategy against the amnesty law, and when they lost the vote, they almost gave up looking for innovative judicial strategies to limit impunity until just recently. Argentine activists felt no such compulsion to respect majoritarian sentiment on human rights issues, and pursued legal strategies in the face of political opposition.

These social movement and legal strategies are so extensive that I consider Argentine social movement activists, and at times even members of the Argentine government, to be among the most innovative protagonists in the area of domestic human rights activism. They are not emulating tactics they discovered elsewhere, but developing new tactics. On a number of occasions, they have then exported or diffused their institutional and tactical innovations abroad. This model is in contrast to the expectations of the world polity school that sees institutional and normative innovation as emanating primarily from politically and economically powerful Western countries (Meyer et al., 1997). Argentina, which was never a passive recipient of international human rights action but was a classic case of the boomerang effect, has gone well "beyond the boomerang," to become an important international protagonist in the human rights realm, involved in actively modifying the international structure of political opportunities for human rights activism. For example, Argentina was one of the four or five most active countries in the development of the International Criminal Court (ICC), and an Argentine activist has been named the new prosecutor for the ICC, perhaps the most important position in the court.¹⁷ This dynamism of the Argentine human rights sector is even more interesting and important in the context of active U.S. hegemonic opposition to the expansion of international human rights law, because it suggests that the advancement of human rights institutions may proceed even in the face of opposition from the United States, as has been the case with the ICC.

What does this say about the future of the boomerang? Am I suggesting that the boomerang is likely to disappear and be replaced by insider-

outsider coalitions? The boomerang was never an optimum form of political activism. It was a particular set of tactics derived in less than desirable political circumstances: when activists faced repression or blockage in their home country. At least in many parts of Latin America, redemocratization has reopened previously closed domestic politics, and activists have understandably redirected their energies into the closer and more responsive process of domestic politics. This is a positive political development, and we expect to see fewer boomerangs in Latin America in the future than in the past. But in much of the world, and even in Latin America on many issues, the boomerang is still alive and well. In particular, actors who used boomerangs in earlier stages of activism keep transnational network linkages active and are able to reinvigorate them if need be.

CONCLUSION

In this chapter, I have attempted to sketch out a framework for understanding the interaction of domestic and international politics in influencing the emergence and success of transnational collective action. International institutions offer international opportunity structures, which interact with domestic political opportunity structures to produce particular types of environments for transnational collective action (Kha-gram and Sikkink, 2002; Tarrow, 2002). Activists, both domestic and international, aware of the possibilities created by this dynamic interaction, choose strategies attuned to opportunities at both the international and domestic levels. Different combinations of domestic and international political opportunity structures thus may produce characteristic patterns of activism.

The framework presented does not replace some existing models, but complements and in some cases subsumes them as specific examples of particular dynamics. Both the boomerang effect and the spiral model are examples of a characteristic pattern of action that develops when activists, operating in domestic opportunity structures closed by repression or exclusion, seek international allies in more open international opportunity structures to bring pressure to bear on their governments "from above." But there are other characteristic patterns of activism deriving from different types of interactions of domestic and international opportunity structures. The defensive transnationalism identified in much of the globalization literature is yet another characteristic form of activism when activists operate primarily in open domestic structures and face closed international institutions.

This framework aims to provide a dynamic and interactive understand-

ing of how the international and the domestic relate to influence the choices and outcomes of transnational networks activity. In a recent essay on domestic politics and international relations, Gourevitch argues that building such interactive frameworks is "[t]he great challenge confronting the domestic political research agenda. We have developed strong research traditions which hold either system or country constant. We do not have very good theories to handle what happens when both are in play, when each influences the other, . . . an interaction which itself helps define a system that reverberates back on the parts. We have good metaphors, but not clear research programs" (2002:321). In the area of social movement and transnational networks, I propose that the interaction of groups in the context of the relative access to domestic and international institutions may help us think about and explain the emergence of new forms of dynamic multilevel governance.

NOTES

For their assistance or comments on earlier versions of this chapter, I wish to thank Donatella della Porta and Sidney Tarrow, and other participants in the Belagio Conference, as well as Catalina Smulovitz, Enrique Peruzzotti, Elizabeth Jelin, Roberto Russell, Ellen Lutz, Naomi Roht-Arriaza, Raymond Duvall, and other members of the University of Minnesota International Relations Colloquium.

1. Examples of this dialogue include Tarrow, 2001b and 2002; della Porta and Kriesi, 1999; Smith, Chatfield, and Pagnucco, 1997; and Meyer, 2003.

2. Sanjeev Khagram and I have addressed both of these theoretical dialogues in the introduction to *Restructuring World Politics* (2002). Here I draw on and develop further some arguments initially presented there.

3. This discussion draws on a chapter by Peter Gourevitch surveying the literature on domestic political and international relations, 2002.

4. Where legislatures or narrow policymaking bodies continue to dominate policy and exercise vetoes, the two-level game emphasis on how narrow win sets influence international negotiations continues to be a useful tool. But for a range of other issues, where legislatures have a less central role, and where the chief of government neither attempts nor is able to monopolize negotiations among players, the model is less useful. Lisa Martin and I signaled these concerns as regards human rights issues in our 1993 chapter in *Double-Edged Diplomacy*.

5. Realists refer to international structure as anarchical, and characterized by a particular balance of power. Constructivists have pointed to the importance of ideational structures, or structures of social purpose.

6. On issue specific political opportunity structure, also see Meyer, 1993.

7. Ellen Lutz and I develop this argument in "The Justice Cascade: The Evolution and Impact of Foreign Human Rights Trials in Latin America," *Chicago Journal of International Law* 2(1) (Spring 2001); see also: Brian Loveman and Elizabeth

Lira, *El Espejismo de la Reconciliación: Chile 1990–2002* (Santiago, Chile: LOM Ediciones, 2002), and Giselle Munizaga, “Augusto Pinochet en Londres: El Caso Pinochet en los Noticiarios de Televisión,” en *Nuevo Gobierno: Desafíos de la Reconciliación: Chile 1999–2000* (Santiago, Chile: FLACSO-Chile, 2000).

8. Interview with Alcira Ríos, Buenos Aires, December 2002.

9. *Clarín*, Dec. 22, 2002: “Cuatro historias escandalosas en el legajo del juez Marquevich.”

10. Interview with Luis Moreno Ocampo, December 21, 2002, Buenos Aires, Argentina.

11. Interview with Martín Abregú, Buenos Aires, July 1999.

12. *La Nación*, June 20, 2003.

13. Resolución del Juez Gabriel Cavallo, Juzgado Federal No. 4, 6 de marzo, 2001, Caso Poblete-Hlaczik.

14. Interviews with Carlos Slepoy, Madrid, May 7, 2003, and with María José Guembe, Buenos Aires, December 2002.

15. *Abuelas de la Plaza de Mayo, Juventud e Identidad, Tomo II* (Buenos Aires, Argentina: Espacio Editorial, 2001). Interview with Alcira Ríos, December 2, 2002, Buenos Aires.

16. Interview with Victor Abramovitz, Buenos Aires, November 13, 2002.

17. Luis Moreno Ocampo, the new prosecutor of the ICC, was the assistant prosecutor of the trials against the military juntas in Argentina. He later resigned from the judicial branch, and founded an important NGO in Argentina called “Poder Ciudadano” (Citizen Power). He was a member of the board of Transparency International.

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