Nests of Democracy: The Institutional Interdependence of People's Rule in Europe & Eurasia

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Abstract: This article draws on the experience of several post-communist countries of Europe and Eurasia to present a concise and clearly defined conceptual model for understanding democratic systems and how they function and change. The "nest" model emphasizes the complex interdependence among five core institutional spheres of democratic systems (political competition, civil society, information/media, rule of law, and good governance). The article outlines and analyzes the specific interactions and interdependent relationships among those institutional spheres. Key implications of the model are that democracy promotion efforts should focus on 1) building the different institutional spheres in a multi-pronged and roughly simultaneous manner and 2) strengthening the constructive interactions between those institutional spheres. The nest model calls into question "targeting" and "sequencing" approaches to democratization.

Scholars and practitioners of democratization have long debated what is necessary to build, support and sustain democratic systems.[1] Time and again they have asked: What is necessary for democracy to come about? What makes democracy work? What leads to democratic decline? Even with the growing number of studies on democracy since the "third wave," and more recently the "color revolutions" in Europe and Eurasia, this literature has yet to adequately define and analyze the interrelationships between the elements or arenas of democratic systems. That is, in trying to understand how democracy works, our structural analysis of democratic systems has been incomplete.

Much has been written on the interaction of democratic institutions in their limiting or constraining sense – on how democratic institutions "check and balance" one another. Perhaps because the constitutional and legal restraints and limits on political power in democratic institutional arrangements seem to capture so much of the essence of democracy, the focus has been predominantly on the "push and pull" nature of these institutional relationships. Discussions from *The Federalist Papers* to more recent debates on "constitutional engineering"[2] for new democracies have focused on these aspects of separating, limiting, and balancing power among democratic institutions.

Far less attention has been devoted to *how* spheres, elements and institutions of democracy specifically rely on, reinforce, and interact with one another. Although constraining political power – particularly executive branch authority – has been a predominant concern in attempting to craft democracies, strengthening fledgling democratic institutions and the interactions between them appears to be an important way to build democracy or help overcome authoritarianism. A more coherent and systematic understanding of these relationships would be valuable to those attempting to encourage democratic development in the former communist countries of Europe and Eurasia and beyond.

Conceiving Democracy between Clouds and Clocks

Much of what has been written on the relational structure of democratic systems has been relatively nebulous – often not much more than a list or set of "dimensions," "conditions," "pillars," or "arenas" of democracy.

[1] The opinions expressed in this article are those of the author and not necessarily those of USAID or the U.S. Government.

[2] For example, see Arend Lijphart, ed., 1992, *Parliamentary versus Presidential Government*. Oxford: Oxford University Press; Matthew Shugart and John Carey. 1992. *Presidents and Assemblies: Constitutional Design and Electoral Dynamics*. Cambridge: Cambridge University Press; Giovanni Sartori. 1994. *Comparative Constitutional Engineering*. New York: New York University Press; Juan Linz. 1994. "Presidential or Parliamentary Democracy: Does It Make a Difference?" in *The Failure of Presidential Democracy*, Juan Linz and Arturo Valenzuela, eds., Baltimore: Johns Hopkins Press.

Perhaps most notably, Linz and Stepan write about the necessity of five broad interconnected arenas of civil society, political society, the rule of law, a state bureaucracy, and an economic society.[3] Many other conceptions of democracy tend to be requisites-based – focused on the achievement of certain standards of institutions, rights and norms in particular spheres. Perhaps the most noted example of a requisites/standards approach is Robert Dahl's classic *Polyarchy*, which posits that polyarchies (or real world democracies) possess certain levels of contestation and inclusion.[4] Dahl's more recent work on "polyarchical democracies" posits six sets of democratic institutions[5], but even these conceptions are essentially static, and tell us little about how democracies change. Schmitter and Karl have also made notable contributions to defining democracy,[6] but like Dahl, their conceptions are requisites-based, do little to assess interrelations between democracy's elements, and do not substantially address how democracies change. Larry Diamond also provides a requisites-based approach[7], but he also comments that defining democracy is like interpreting a religious text and is skeptical about single, specific conceptions.[8] Levitsky and Way also adopt a requisites-based approach, pointing to four, and more recently, five minimum criteria.[9] Charles Tilly, in contrast, does provide an analysis that accounts for change in democracies. But, rather than focus on the institutional architecture of democracy, he points to broad social building blocks, such as interpersonal trust networks, reduced economic and social inequality, and the weakening of centers of coercive power, which are necessary for democratic consolidation.[10]

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[3] Juan J. Linz and Alfred Stepan. 1996. *Problems of Democratic Transition and Consolidation*. Baltimore: The Johns Hopkins University Press. 7.

[4] Robert Dahl. 1972. *Polyarchy: Participation and Opposition*. New Haven: Yale University Press..

[5] These include "1) elected officials; 2) free, fair and frequent elections; 3) freedom of expression; 4) alternate sources of information; 5) associational autonomy; and 6) inclusive citizenship. Robert Dahl. 1998. *On Democracy*. New Haven: Yale University Press, 85; Robert Dahl, 2005. "What Political Institutions Does Large-Scale Democracy Require?" *Political Science Quarterly*, 120:, 188-189. See also Robert Dahl. 1982. *Dilemmas of Pluralist Democracy*. New Haven: Yale University Press.

[6] Phillipe C. Schmitter and Terry Lynn Karl . 1991. "What Democracy Is… and Is Not," *Journal of Democracy* 2, 3 (Summer): 75-88.

[7] Larry Diamond. 1999. *Developing Democracy: Toward Consolidation*. Baltimore: Johns Hopkins University Press. See also Larry Diamond. 2008. *The Spirit of Democracy*. New York: Times Books.

[8] Diamond (2008), 21-22.

[9] Steven Levitsky and Lucan Way. 2002. "The Rise of Competitive Authoritarianism," *Journal of Democracy* 13, 2 (April): 53; Steven Levitsky and Lucan Way. 2010. *Competitive Authoritarianism: Hybrid Regimes After the Cold War* (New York: Cambridge University Press, 5-6.

[10] Charles Tilly. 2007. *Democracy*. New York: Cambridge University Press, 23.

understand that generally "good things go together." That is, there has been a clear understanding that certain elements (electoral competition, rule of law, civil society, independent media, etc.) are necessary and that there is important interaction and interdependence among them. Empirically, there also tends to be a high level of correlation in the institutional development and the extent of freedom among these elements or arenas. For example, more often than not, countries with weak civil societies and highly restricted media sectors often also suffer weak party systems, less than free and fair electoral processes, and poor governance. The annual surveys conducted by Freedom House, which measure progress in the sub-sectors of democratic systems, demonstrate this correlation, with sub-scores for democracy in a given country tending to track together rather closely.[11]

Although democratic systems cannot be likened to clocks in their structural features and the predictability of their workings and outcomes, neither should we be satisfied to think of them largely as clouds.[12] Unfortunately, there has been insufficient unified analysis of *how* these elements, pillars or spheres work together with one another in supporting democratic processes, norms, behaviors, and culture. A major part of the challenge is the complexity of democratic systems themselves. As Diamond and Morlino point out, "The linkages among the different elements of democracy are so densely interactive and overlapping that it is sometimes difficult to know where one dimension ends and another begins."[13] Wolfgang Merkel's concept of "embedded democracy" does present an overall framework of several interconnected "partial regimes,"[14] but his model focuses more on defining these spheres as requisites of democracy than on studying their interaction in detail.

Conceived from an institutional perspective, democracies are systems built of complex networks of interdependent and interacting processes, patterns of behavior, rules, and organizational capacities. Thus, understanding democracies requires an understanding not only of their component parts, but also of their interactions. Acceptance of this premise calls for a more detailed structural and systems analysis of democracies. In contrast to more theoretical, constitutional or strictly procedural conceptions of democracy, this article focuses on the capacity and character of *institutions and their interaction* as the defining elements that make

[11] See *Freedom in the World* and *Nations in Transit*. See www.freedomhouse.org.

[12] Karl Popper's metaphor as discussed in Gabriel D. Almond and Steven J. Genco. 1977. "Clouds, Clocks, and the Study of Politics," *World Politics* 29, 4: 489-522.

[13] Larry Diamond and Leonardo Morlino. 2004. "The Quality of Democracy: An Overview," *Journal of Democracy* 15, 4 (October): 29.

[14] These include "1) elected officials; 2) free, fair and frequent elections; 3) freedom of expression; 4) alternate sources of information; 5) associational autonomy; and 6) inclusive citizenship. Wolfgang Merkel. 2004. "Embedded and Defective Democracies." *Democratization* 11, 5: 33-58.

democracy work.

This article will begin to map out and analyze these reinforcing interactions and dynamics among the institutional spheres of democratic systems. It draws on brief illustrative examples from several countries of the former communist world from Eastern Europe to Eurasia, which find themselves somewhere between dictatorship and democracy. This mapping of interdependent and interacting spheres reveals a "nest" structure that, taken together, serves as the cradle of emerging democracies and the framework and support structure of established democracies.

The article will present a unified outline of the specific inter-institutional links and bonds that make democracy possible and allow it to emerge and endure. As such, this analysis will seek to deepen our understanding of democratic systems and how they change. The article also offers a more explicit and compelling case for the interdependence of democratic institutions. In making that argument on interdependence, it also weighs in on debates concerning the sequencing and prioritizing of certain elements or spheres in promoting democracy.[15] In addition, the article's institutional focus – its analysis of the interaction of specific organizations, procedures, and norms of behavior – renders specific implications and usable propositions for democracy promotion.

The Democracy "Nest"

Structurally, it is useful to conceive of democracy as a nest – a ringed cluster of mutually reinforcing strands and bonds. Democratic systems consist of networks of interwoven and mutually reinforcing relationships between key institutional spheres. This article posits five institutional spheres: political competition, civil society, information/media, rule of law, and "good governance," as "core" institutional spheres. In contrast to Linz and Stepan, this article emphasizes the importance of the information sphere, and puts comparatively less focus on the economic sphere. This article also places greater emphasis on the institutions of political competition, as opposed to the more general construct of "political society." More importantly, while Linz and Stepan write more generally of "societies" and "conditions" as the building blocks of democracy, this article seeks to more specifically and systematically identify *how* the *institutions* of these spheres can develop and interact in mutually supportive ways that promote democratic consolidation.

The variations in structure and processes among consolidated liberal democracies suggest that democratic spheres have developed in different ways historically and interact with one another differently in

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[15] For the debate on sequencing, see Thomas Carothers. 2007. "The Sequencing Fallacy," *Journal of Democracy* 18, 1 (January): 12-27.

different country contexts.[16] For example, civil society may play a more prominent role in interacting with the government, such as in the United States, than in other consolidated democracies, such as in many countries of Western Europe. Any attempt to map and analyze these relationships should recognize that diversity and account for variation in institutions and their interactions. That is, as Schmitter and Karl have pointed out,[17] there is no single, precise "blueprint" for the components and interactions in all democratic systems.

Of course, other institutional spheres are important supporting components of democratic systems as well. Most notably, the economic sphere plays a key enabling and supporting role in democratic systems,[18] but because the model presented here focuses on the political and social institutional building blocks of democracy, it does not include a detailed analysis of the interactions with the economic sphere. Clearly, each of the core institutional spheres listed above relies on a degree of economic pluralism and supporting institutions. Economic pluralism allows political parties, candidates, NGOs, and media outlets to raise the financial resources they need to function. Economic diversity and distribution of wealth should be expected to strengthen political competition, provide fewer opportunities for corruption, and create greater possibilities for judicial independence. Conversely, economic pluralism is more likely when a broad range of private sector entities can rely on political and social institutions of a free media, advocacy groups, political parties, the courts, and accountable public administration in defending and promoting their interests. The importance of economic factors is also demonstrated by cases in which economic crises undermine the capacities of key democratic institutions, from media outlets to non-governmental organizations and political parties, which can contribute to the collapse of democratic political systems. Even with its highly important supporting role, the economic sphere's central focus on resources and its distinct underlying motivations (scarcity and wealth) render it, for the purposes of this article, sufficiently different to place it aside from the five, core political and social spheres listed above. Analysis of how the economic institutional sphere affects these political and social spheres is also complex enough to demand separate, more detailed treatment.

Even with the variations in systems and the challenges for dividing

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[16] For an historical approach to the analysis of democratization that also emphasizes sets of interacting institutions, see Giovanni Capiocca and Daniel Ziblatt. 2010. "The Historical Turn in Democratization Studies," *Comparative Political Studies* 43, 8-9 (August/September): 931-968.

[17] Schmitter and Karl (1991), 83-85.

[18] On the importance of economic development to democracy, see Seymour Martin Lipset.1959. "Some Social Requisites of Democracy: Economic Development and Political Legitimacy." *The American Political Science Review* 53, 1 (March): 69-105.

core from non-core spheres, there is a rough, fundamental, "architecture" to the interactions between the various institutional spheres of democracy. As with nests, there is no single rigid, specific design, yet the overall form of a ringed cluster of interwoven and mutually supporting bonds and strands recurs. Democratic systems exhibit three nest-like structural characteristics:

Mutual Reinforcement/Complex Interdependence: As with a nest, structural integrity depends on mutually reinforcing and interdependent bonds. The weaker, more misaligned or brittle those relationships become, or the less robust each sphere becomes, the weaker the democracy, and the more likely it is to unravel or collapse. The nest model not only captures the multi-component nature of democratic systems; it also emphasizes interaction and complex interdependence among those components.

Such a conception recognizes that democracy cannot "survive on elections alone." It addresses the "fallacy of electoralism"[19] or other lower quality forms of democracy, such as "delegative democracy"[20] by pointing to the importance of multiple democratic spheres and emphasizing that integrity in the sphere of political competition (or any other sphere) depends on the capacity of other spheres. It emphasizes that the integrity of elections depends on an open media environment, the rule of law, good governance through electoral administration, and an active society to deliberate, participate in, and oversee the process. It is the very interdependence of democracy's institutional sectors that has prompted some observers to focus disproportionately on a single sphere, such as political competition or civil society.[21] Because the integrity of each sphere is built on the foundations of others, each sphere can appear to some observers to be democracy's central institutional requisite.

Critical Mass: As with a nest, structural integrity depends on a critical mass of mutually reinforcing bonds. The greater the number and strength of those strands across the various component "nodes" or spheres, the stronger the democracy. Thus the extent of interaction between spheres is crucial for its strength and vitality. If reinforcing bonds or interactions

[19] Terry Karl.1986. "Imposing Consent? Electoralism vs. Democratization in El Salvador," in Paul W. Drake and Eduardo Silva, eds. *Elections and Democratization in Latin America, 1980-1985*, San Diego: Center for Iberian and Latin American Studies, University of California, San Diego, 9-36.

[20] Guillermo O'Donnell. 1994. "Delegative Democracy," *Journal of Democracy* 5 (January): 55-69.

[21] For an elections-oriented conception of democracy, see Joseph Schumpeter. 1975. *Capitalism, Socialism and Democracy*. New York: Harper and Row or Adam Przeworski. 1991. *Democracy and the Market*. Cambridge: Cambridge University Press. For a more recent focus on civil society, see Robert Putnam. 1993. *Making Democracy Work: Civic Traditions in Modern Italy*, Princeton, NJ: Princeton University Press.

between emergent democratic institutions are too few, the system itself will be unstable and or fragile.

Balance: Finally, implicit in the nest concept is a degree of overall balance within the cluster. Without relatively comparable levels of strength in the bonds across the cluster, a nest will be more unstable and more likely to unravel. With strong institutions and meaningful interactions between those institutions in only certain spheres of democracy in a political system, a democracy will also likely be unstable, underperforming, and vulnerable to collapse. Balance is particularly important across the divide between those institutional spheres dominated by state actors and those dominated by societal actors. If societal institutions and their connections to governmental ones become too weak, then autocracy may result. If state institutions and their connections to societal ones become too weak, then a "captured" state, kleptocracy, or ongoing political instability may result. This is not to argue that all institutional spheres must be equally developed. If an institutional sphere is weak, a combination of other more functional spheres may be enough to sustain an essentially democratic system. For example, Thomas Carothers has argued that the rule of law is often considerably flawed even in many established democracies.[22]

The nest model is not only useful for conceiving how democracy works; it is also useful for understanding equilibrium and change in democratic systems – consolidation, degradation and renewal. It offers a more clearly defined institutional basis of equilibrium in democracies, proposing that the path to democratic strengthening and consolidation comes through building and reinforcing sets of relationships between democracy's institutional spheres. The model also suggests that the path to democratic consolidation is a more complex, longer-term process than an elections-focused, revolution-oriented conventional wisdom often holds. It helps explain why certain changes to individual democratic institutions can, *in combination* with other changes or existing weaknesses in other spheres, seriously weaken a democracy. It explains how countries without a critical mass of functioning and interacting democratic institutions may become "stuck" in authoritarian institutional patterns. Conversely, the nest model explains how well-established democracies may be unexpectedly resilient, even in the face of grave crises in certain institutional spheres. An analysis of the interactions between the institutional spheres may also yield a more accurate picture of seemingly latent democratic potential or vulnerability in certain country contexts. Application of the model may provide a better understanding of whether a "democratic revolution" is likely to lead to consolidated democracy relatively quickly or if the "revolution" is merely

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[22] Thomas Carothers. 2003. *Promoting the Rule of Law Abroad: The Problem of Knowledge*, Carnegie Endowment Working Paper, No. 34, January, 7.

a notable early episode on a much longer road of democratic development.

Figure 1. The Democracy "Nest"
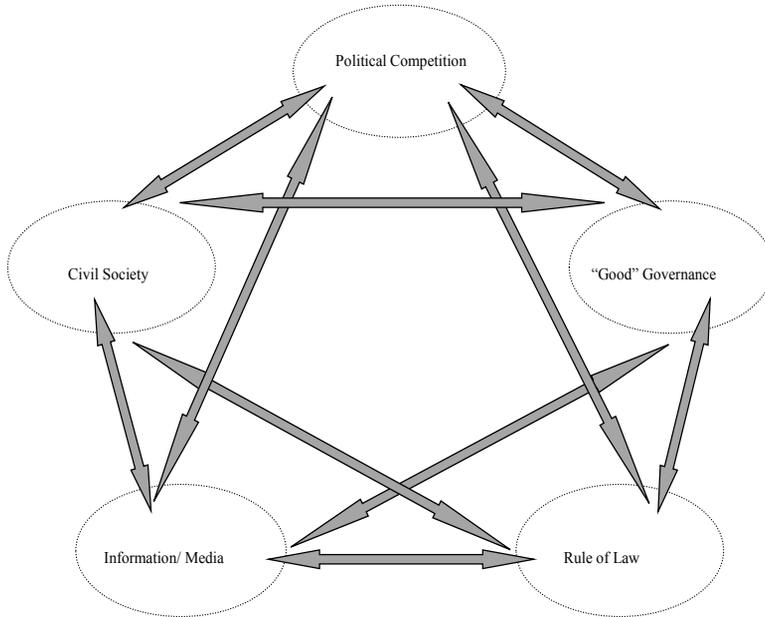
Mapping the Nest Model

A democratic system can be presented as an interwoven cluster of five institutional spheres. (See Figure 1.) Mutually supportive and interdependent relationships between these spheres are the crucial elements that hold democracies together. The institutional spheres of political competition, civil society, information and media, "good" governance,[23] and rule of law all support and receive support from each other in a consolidated democracy. The potential for stable democratic development of any one sphere is largely dependent on the conditions and level of development in other spheres. It is worth emphasizing that the argument is *not* that the relationships between spheres are always and unequivocally mutually reinforcing. This is not the case even in well-consolidated, mature democracies.

[23] "Good governance" in the context of a democratic system denotes a mode of public administration and legislative function, which is open, representative, responsive, and accountable. This conception of democratic good governance stands in contrast to the concept of "quality of governance," which has recently been associated with impartiality of government institutions. See Bo Rothstein and Jan Teorell. 2008. "What is Quality of Government: A Theory of Impartial Institutions." *Governance* 21, 2 (April); 165-190.
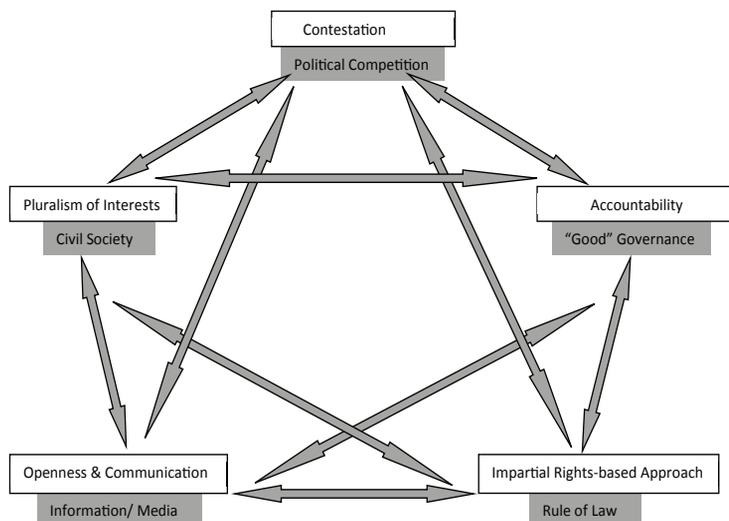
Democracy's institutional spheres can be, and often are, in tension with or in opposition to each other. Instead, the argument is that stable and functional democratic systems are ones in which the relationships between the spheres are predominantly reinforcing. Democracies become stable and well-functioning when their institutional spheres develop in such a way that they build on the reinforcing potential of other spheres.

It should be noted that the model presented here is purposefully simplified and its explication abbreviated for purposes of clarity and brevity. The relationships and interaction between the spheres are also more complex and varied than presented here, and links between two spheres often involve a third, fourth or fifth sphere. For example, civil society's support for political competition often relies on independent media. Because the divisions between institutional spheres are "blurry" and overlapping (for example, the sphere of political competition includes political parties, which have one leg in civil society and often the other in government), the spheres are represented with dotted lines.

What Holds the Democracy Nest Together?

A detailed explanation of how and why the key institutional spheres of democratic systems are mutually reinforcing and highly interdependent lies in the sphere-by-sphere analysis and illustrative examples from post-communist Europe and Eurasia provided in the sections below. More generally, however, that interdependence has its roots in the character of each sphere and the broader role that it plays in a democratic system. Central and defining characteristics of each institutional sphere of democracy are simultaneously important to the development of each of the other institutional spheres. *Contestation*, which is central to fair and sustainable political competition; *pluralism of interests*, which is central to civil society; *openness and communication*, which are central to the information sphere; *an impartial rights-based approach to administering justice*, central to the rule of law; and *accountability*, which is central to good governance; all these conditions are important for the development of each of the other institutional spheres and to a democracy overall. For example, democratic, sustainable political competition is built on a pluralism of interests, in the presence of openness of information, with the recognition of rights and law, and governance willing to be held accountable to citizens. It is the *combination* of these characteristics and their corresponding institutional spheres, which are core elements of enduring and well-functioning democracies. (See Figure 2.)

Figure 2: Mutually Reinforcing Characteristics of Democracy's Institutional Spheres

Because of the mutually reinforcing and interdependent nature of democracy's institutional spheres, the actors and institutions of each sphere support other institutional spheres more out of necessity, affinity, and self-interest than any altruistic motives. For example, political parties more often engage with NGOs, reach out to mass media, work through the courts, and interact with government predominantly in pursuit of their own goals, rather than a sense of generosity or responsibility for other institutions. Similarly, an NGO may engage with political parties or government officials, not necessarily because it sympathizes with them, but in pursuit of its own interests and causes.

Research on democratic breakthroughs and the "color revolutions" of Europe and Eurasia points to the importance of mutual reinforcement and interaction among multiple institutional spheres for promoting democratic change. In assessing breakthroughs in Serbia, Georgia, and Ukraine, Michael McFaul points to a combination of seven factors or conditions, which largely overlap with the institutional sectors presented above.[24] Valerie Bunce and Sharon Wolchik emphasize the importance of an "electoral model" of democratic change, which is based on a bundle

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[24] Michael McFaul 2005. "Transitions from Post Communism." *Journal of Democracy* 16, 5 (July); 5-19. See also Michael McFaul. 2006. "The Orange Revolution in a Comparative Perspective," in *Revolution in Orange: The Origins of Ukraine's Democratic Breakthrough,* Anders Aslund and Michael McFaul, eds. Washington, DC: Carnegie Endowment for International Peace, 165-191.

of approaches and techniques which engage actors from the spheres of political, civil society, and media.[25] In analyzing the determinants of the Rose Revolution in Georgia, Cory Welt focuses on the combined actions of civil society, political parties, independent media, and government restraint – and weakness.[26] Writing on Moldova's "Twitter Revolution," Mungui-Pippidi and Munteanu also point to the importance of the informational sphere, civil society, and political competition as key factors for democratic change.[27] In an edited volume on several democratic breakthroughs, Forbrig and Demeš point to civil society, independent media, political parties and relatively weak governance as key factors leading to democratic change.[28] Writing on a broad range of the color revolutions, Kalandadze and Orenstein argue against democratization strategies with a "single-minded" focus on elections, and advocate a broader approach, which also addresses other underlying issues, including party development and the rule of law.[29] While time has shown the "color revolutions" to be only eventful "first chapters" in longer, more complex stories of democratization, these breakthroughs still demonstrate the power of interactions between institutional spheres in generating meaningful changes towards democracy.

The sections that follow briefly identify and discuss the specific bonds between institutional spheres, drawing on the former communist countries of Eastern Europe and Eurasia for illustrative examples. For each sphere, the subsections briefly outline how that sphere depends upon and is strengthened by the other institutional spheres.

Fair and Sustainable Political Competition

Political competition, including both its process (elections) and its players (parties and candidates), is arguably the most prominent requisite of democracy. The potential for the institutional development of sustainable political competition in a country is highly dependent on the extent to which other "spheres" of democracy are established, or at least taking

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[25] Valerie Bunce and Sharon Wolchik. 2011. *Defeating Authoritarian Leaders in Post-Communist Countries*.New York: Cambridge University Press.

[26] Cory Welt. 2006. "Georgia's Rose Revolution: From Regime Weakness to Regime Collapse," *Waves and Troughs of Post-Communist Transition.* Stanford, CA: Center of Democracy, Development, and the Rule of Law.

[27] Alina Mungiu-Pippidi and Igor Munteanu. 2009. "Moldova's 'Twitter Revolution,'" *Journal of Democracy* 20, 3 (July): 136-42.

[28] Joerg Frobrig and Pavol Demeš. 2007. "Introduction," in *Reclaiming Democracy: Civil Society and Electoral Change in Central and Eastern Europe*, Joerg Frobrig and Pavol Demeš, eds. Washington: German Marshal Fund of the United States, esp. 12-13.

[29] Katya Kalandadze and Mitchell A. Orenstein. 2009. "Electoral Protests and Democratization: Beyond the Color Revolutions," *Comparative Political Studies* 42, 11 **(**November) 1403-1425, esp. 1421.

root. The development of electoral processes and institutions, political parties, and pluralistic party systems is strongly dependent on the broader institutional environment for democracy. Although a basic balance of power between political forces may be sufficient to enable real political competition and even transition for a period of time, the possibility for fair competition may collapse as the relative strength of political actors shifts. While Henry Hale persuasively writes about the importance of the balance of power between competing patron/client networks in Ukraine as a key factor supporting democracy in that country,[30] the rapid consolidation of power by the executive in Ukraine since spring 2010 demonstrates the fragility of that balance of power and its limitations as a basis for sustainable political competition.

Political competition relies on an active, engaged and independent civil society as a source of participants, ideas, information and legitimacy. Because political parties should serve as mediating institutions between state and society, they work more effectively when they interact with associations, NGOs, and groups that are actively engaged on issues of public concern. Political parties draw on ideas, information, demands and preferences from these societal groups. For example, in Albania in 2005, the Democratic Party drew upon themes and ideas of NGOs like the anti-corruption group Mjaft! in devising its own anti-corruption program. NGOs can lend broader legitimacy and authority to causes pursued by political parties and candidates, especially with regard to specific policy issues on which the NGOs focus. An important example is election watch-dog NGOs, from GONG in Croatia to ISFED in Georgia to Golos in Russia that have helped parties and candidates defend the integrity of electoral processes. NGOs are also a source of civically active people – volunteers and supporters of political parties and candidates. As such, civil society organizations help parties to mobilize support and create broader coalitions. For example, civic groups, such as Otpor, Kmara, and Pora, each figured prominently in mass demonstrations in democratic breakthroughs in Serbia, Georgia, and Ukraine, respectively.[31] Freedom House has argued that transitions from authoritarianism with the support of civil society are the most likely to succeed.[32]

Interaction between civil society and political parties varies significantly across contexts and over time. The intensity of interaction may be greater in an authoritarian context or periods of political crisis. Civil society activity may not always be supportive of political parties or even

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[30] Henry Hale. 2010. "The Uses of Divided Power," *Journal of Democracy* 31, 3 (July): 84-98.
[31] Forbrig and Demeš (2007).
[32] Freedom House. 2005. *How Freedom is Won: From Civic Resistance to Durable Democracy*, May 24,. See http://www.freedomhouse.org/uploads/special_report/29.pdf

significantly engaged in political competition.[33] When it is, however, political parties – and the democracy overall – generally will be the stronger for it.

Genuine political competition depends on a free and open information environment and independent media outlets to enable the exchange of ideas and debate. A free and open information sphere allows political competitors to access ideas, facts, and arguments that are crucial for framing their demands and programs and for winning public support. Second, political competitors rely on independent media to deliver their messages to citizens and engage in public debate with opposing political contenders. Political parties and candidates also depend on the media sphere as a means to air complaints about unfair electoral processes to the broader public. For example, independent television stations from B-92 in Serbia, to Rustavi-2 in Georgia, to Channel 5 in Ukraine, all played crucial roles in allowing a greater voice for the political opposition in advance of democratic breakthroughs in those countries. In Moldova in 2009 and Russia in 2011, the internet and virtual social networks appear to have played a significant role in engendering post-election protest and improving the electoral fortunes of pro-reform parties.[34] Without a free information environment, some political competitors are left deeply disadvantaged – unable to adequately access or project information and ideas – and political competition is compromised as a result.

Fair and sustainable political competition depends on a degree of accountable, democratic governance. The relationship between government and political competition is fundamental in a democratic system, as governments can only obtain and renew their legitimacy through electoral competition. Authentic democratic political competition only occurs when those in control of government submit to that competition, and administer and regulate political competition fairly. Government can ensure well-run, open, free and fair elections; encourage wide and active participation in elections; and establish an enabling environment for political parties and candidates and regulates their competition. When central election commissions effectively carry out this role, they can be crucial players making possible the peaceful and constitutional transfer of power in fragile

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[33] Gwendolyn Bevis. 2004. *Civil Society Groups and Political Parties: Supporting Constructive Relationships*, USAID Occasional Paper (March). http://transition.usaid.gov/our_work//democracy_and_governance/publications/pdfs/pnacu631.pdf

[34] Mungiu-Pippidi and Munteanu, 136-142. In Russia, online crowd-sourcing platforms tracked electoral violations, and social networking sites, like Facebook, facilitated large scale, post-election protests.

democracies, as in Albania in July 2005,[35] Moldova in July 2009[36] and Georgia in October 2012.[37] The OSCE/ODIHR assesses the performance of OSCE member governments in carrying out these roles and responsibilities with regard to political competition.[38]

Government is not only the administrator and regulator or political competition; it is itself the stage on which political competition occurs. In parliaments, executives, and judiciaries, government is the playing field of political competition. If that institutional field is itself unbalanced or structurally weak, political competition will be undermined. Competitive multiparty systems develop and thrive in legislatures that serve as counterbalances to executive authority and have meaningful legislative function. Focusing on post-communist countries of Europe and Eurasia, Steven Fish demonstrates the importance of legislative strength for political party development and democracy overall.[39] In contrast, weak parliaments tend to make for weak political parties.[40]

Fair and sustainable political competition requires adherence to the rule of law. As with any contest, the integrity of political competition and acceptance of the outcome rely upon the fair and even-handed adjudication of a set of pre-determined rules. Political parties depend on the rule of law in order to exist as legal entities, to operate without undue state interference, and to compete for political power. Political parties and candidates also rely on independent judiciaries in order to defend their rights in court. Free and fair electoral processes also require independent judicial institutions to address the fairness of election legislation and of election-related disputes. For example, Viktor Yushchenko's Our Ukraine party was able to force a "third round" in the presidential election in 2004 through a decision of a Supreme Court, which was willing to show independence from the executive. Although an uneasy form of political competition can exist as long as there is a relative balance of power between political forces,[41]

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[35] OSCE/ODIHR. 2005. *Election Observation Mission Final Report, Republic of Albania Parliamentary Elections, July 3, 2005* Warsaw, November 7, p. 1. See http://www.osce.org/odihr/elections/albania/16856

[36] OSCE/ODIHR. 2009. *Election Observation Mission Final Report, Republic of Moldova Early Parliamentary Elections, July 29, 2009,* Warsaw, October 14, p. 2. See http://www.osce.org/odihr/elections/moldova/39799.

[37] OSCE/ODIHR. 2012. *Statement of Preliminary Findings and Conclusions, Georgia Parliamentary Elections,* 1 October, 4-5. http://www.osce.org/odihr/94593

[38] See http://www.osce.org/odihr-elections/14207.html

[39] M. Steven Fish. 2006 "Stronger Legislatures, Stronger Democracies," *Journal of Democracy* 17, 1 (January):, 5-20, esp. 18.

[40] Matthew Shugart. 1998. "The Inverse Relationship Between Party Strength and Executive Strength: A Theory of Politicians' Constitutional Choices," *British Journal of Political Science* 28: 1–29. See also Shugart and Carey (1992).

[41] Hale, (2010).

such parity of political strength often does not exist. Even when it does, without the adherence to the rule of law, political competition may not be fair and will rest on precarious foundations.

An Active, Publicly Oriented Civil Society

Although some civic organizations see themselves as set apart from "politics," civic organizations are substantially dependent on democracy's other institutional spheres in order to carry out their work. Admittedly, civil society exists in a qualitatively different sphere than that of politics and government. Key relationships and interactions are associational and "horizontal" (peer to peer, group to group), while the dynamics of relationships in politics and governance are more characterized by power, and key relationships are more "vertical" (addressing authority, hierarchy and subordination). While distinct from purely "political" spheres, civil society is not insulated from them, and it thrives only under certain institutional conditions, which political and governmental spheres provide or allow.

An active, publicly-oriented, independent civil society relies on good governance, or at least benign neglect from government, to create the conditions and opportunities necessary to carry out its work. Open, responsive, accountable governance allows and even embraces a meaningful role for civil society. Civil society relies on government to:

- Create an enabling environment for civil society organizations (CSOs) – or at least to refrain from creating a hostile environment. Governments can make laws that encourage associations to emerge, proliferate, and thrive. In particular, governments can fund, subsidize, or provide tax breaks to CSOs and promote private philanthropy.[42]
- Make information available to society on public policy and government performance.
- Provide forums for debate and deliberation, such as open policy hearings, meetings with constituents, and public comment periods on legislation.

Without governance that allows for an independent and substantive public role for civil society, civic organizations will likely be marginalized from public affairs, crippled, or co-opted.[43] A state that overly regulates or

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[42] Nilda Bullain and Radost Toftisova. 2004. *A Comparative Analysis of European Policies and Practices of NGO – Government Cooperation*. Washington: International Center for Not-for-Profit Law (ICNL). http://www.icnl.org/knowledge/library/files/Transnational/b-t_en.pdf.

[43] Although governmental attempts to restrict civic activity may sometimes stimulate society in the form of resistance and in the direction of democracy, an antagonistic state-society

restricts NGOs or independent civic activity will inhibit the development of the civic sector. For example, new, more demanding and restrictive NGO laws in Kazakhstan (2005), Russia (2006), and Azerbaijan (2009) raised concerns among civic organizations about government monitoring and interference. In contrast, Kyrgyzstan's 2010 constitution stipulates that government create "conditions for the representation of various social groups in the organs of state and local government including on the level of decision-making."[44] In Georgia since the Rose Revolution, the government has often engaged in real – although not always balanced – dialogue and debate with civic watchdog organizations (such as the International Society for Fair Elections and Democracy [ISFED], New Generation-New Initiative [NGNI], Georgian Young Lawyers' Association [GYLA], and Transparency International).[45]

The long-term development of an autonomous civil society benefits from political competition and political pluralism because they provide crucial options and opportunities for civic organizations to pursue their goals. Political competition can provide alternative sites for advocacy aside from government channels, such as engagement with opposition factions within legislatures. Political pluralism also provides opportunities for cooperation, and engagement with opposition parties, which may or may not be represented in the legislature. More broadly, the environment for civil society is more free, open, and diverse in the context of competitive politics. In authoritarian settings, civil society is more likely to be monitored, restricted, and limited in its activity.[46] The "ground rules" and freedoms necessary for political pluralism also support societal pluralism. If political parties can be conceived of as a particular kind of non-governmental organization with more ambitious goals and activities (i.e., to govern), then it is likely that parties will vigorously defend the basic rights and conditions required by non-governmental organizations more broadly. This overlap in necessary freedoms often strengthens alliances between

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relationship may undermine the existing system and tend to promote regime change. If society does not successfully resist, then this antagonistic relationship will tend towards authoritarianism.

[44] *Konstitutsiya Kyrgyzskkoy Rezpubliki*, Article 2, point 5. http://www.24kg.org/konstitucija2010/74533-v-kyrgyzstane-podgotovlen-okonchatelnyj-proekt.html.

[45] Most prominently, the government has engaged with both NGOs and opposition parties over elections issues through its Interagency Task Force (IATF) See http://www.nsc.gov.ge/eng/elections2012.php .

[46] Authoritarian systems – especially poorly performing, restrictive or weak ones – may inadvertently stimulate a degree of civil society development, mostly as a reaction to poor governance. However, this type of relationship between authoritarian governance and a reactive civil society is neither stable nor mutually reinforcing.

NGOs and political parties when those freedoms are threatened, as in post election protests in Serbia (2000), Georgia (2003), Ukraine (2004),[47] and Belarus (2006).

A publicly oriented civil society relies on a relatively open and free informational sphere, in which there is a pluralism of views and perspectives. Alexis de Tocqueville long ago noted the importance of mass media for associational life, writing, "…hardly any democratic association can carry on without a newspaper."[48] The capacity of civic organizations depends to an extent on opportunities for access to mass media, and the ability to receive information freely from a diversity of sources. Independent media provide reliable news and information to society as a basis for debate and deliberation on matters of public concern. Independent media also provide civic organizations with a means to communicate with the public. The information sphere is the means through which advocacy, education, and watchdog functions can be carried out. Without access to a plurality of ideas and information sources, civic organizations have a diminished basis on which to formulate and adjust their own ideas and demands. Without the ability to communicate their ideas broadly, civic groups have a diminished ability to engage in dialogue with or influence their fellow citizens and the state. In those post-communist countries, where civil society has been most active and played a major role in democratic breakthroughs, prominent independent media outlets have often been key informational resources, such as B-92 in Serbia in 2000, Rustavi-2 in Georgia in 2003, and Channel 5 in Ukraine in 2004. In Moldova in 2009, and more recently in the "Arab Spring," "new media" platforms like Twitter have played a significant role in facilitating societal organization.

Civil society depends on the rule of law to provide a set of stable, predictable ground rules concerning the rights and responsibilities of associations and their interaction with the state. The rule of law sphere allows civic organizations to pursue and defend their interests through the courts. This includes civic organizations' ability to pursue their agendas through court-based constitutional challenges to current laws. It also includes the legal defense of specific NGO activity, such as public protests, which law enforcement organs may seek to restrict. For example, in Kazakhstan, after a coalition of 200 NGOs organized against a restrictive NGO law in 2005, the country's Constitutional Court ultimately ruled the law unconstitutional.[49] Without an independent, capable rule of law sector,

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[47] Forbrig and Demeš, (2007).

[48] Alexis de Tocqueville. 1969. *Democracy in America,* ed. J.P. Mayer, Garden City, NY: Anchor Books, 518, cited in Putnam (1993) 92.

[49] Bhavna Dave. 2007. "Kazakhstan," in *Nations In Transit 2007*, Washington, DC: Freedom

civic organizations deemed "undesirable" by the state can be deprived of their rights, harassed or shut down without due process, which can inhibit independent societal activity more broadly. A weak or ineffective judicial sector also closes off opportunities for civic organizations to redress grievances or to try to change laws that restrict their freedom.

Conversely, the rule of law sphere also prevents non-governmental groups from exercising undue influence over the governmental sphere.[50] Effective rule of law helps prevent "special interests," cartels, oligarchs, or organized criminal groups from using illegal means to influence or even "capture" government.

A Free, Open, and Diverse Information/Media Sphere

The informational and media sphere is sometimes conceived of as part of civil society,[51] but its crucial role in the workings of a democracy warrants its consideration as an analytically distinct sphere in the democracy nest. Key processes of democracy, such as dialogue, debate, and deliberation, all require access to information and its free exchange.[52] The informational and media sphere is also central in determining the scope and context of social discord, which democracies seek to manage.[53] While a free, open, and diverse informational sphere is generally acknowledged as crucial to other institutional spheres of democracy, this sphere depends on the other spheres as well.

An open and diverse information/media sector relies on civil society, one of its main beneficiaries, to be also one of its primary protectors and sources. Because civil society relies on the free flow of information to pursue its own goals, it has a strong interest in protecting media freedom. Media outlets are themselves part of civil society. Associations of journalists, media professionals, and owners all straddle both spheres. These groups of citizens not only provide information to society; through these associations, they also work to defend their professions and their property. NGOs or journalists' associations may monitor media freedom and the diversity, balance, objectivity, and professionalism of the mass media. Journalists' associations from the Association of Independent Electronic Media (ANEM) in Serbia to the Belarusian Association of Journalists

House, 334.

[50] As Sheri Berman has pointed out, civic organizations do not always play a constructive role in democracies. See Sheri Berman. 1997. "Civil Society and the Collapse of the Weimar Republic," *World Politics* 49, 3, (April); 401-429.

[51] For example, see Putnam (1993).

[52] For the importance of dialogue and deliberation to democracy, see Amy Gutmann and Dennis Thompson. 1996. *Democracy and Disagreement.*,Cambridge, Mass.: Belknap Press.

[53] E.E. Schattschneider. 1960. *The Semisovereign People*. Hinsdale, IL: The Dryden Press, 14-16.

(BAJ) to the Independent Association of Broadcasters (IAB) in Ukraine play a crucial role in monitoring the enabling environment for media freedom. Civil society organizations can also defend or prevent the closure of media outlets by protesting in their favor. For example, in Georgia in 2001, NGOs led by the think tank Liberty Institute prominently protested raids on Rustavi-2.[54] A more diverse and active civil society also provides the multiple perspectives, opinions, and ideas that enrich media content. Lacking a diverse, active and engaged civil society, the informational sphere loses a key defender of its freedom, diversity, and balance – and the base upon which a pluralistic information environment is built.

A free, open and diverse information sphere benefits from robust political competition and political pluralism to provide media outlets with dialogue, discourse, and varying perspectives on public life. That competition provides the media sphere with natural allies – in the form of political opposition – which help enable the public scrutiny and criticism of state authority. If democracy relies on a "marketplace of ideas," then political competition generates those ideas for the media sphere to convey to citizens. Political pluralism and competition provide richer, more diverse content for media outlets and more compelling journalistic narratives. By maintaining the ability to communicate their views to society, parties and candidates promote and defend the interests of the media sector. Opposition parties and movements may work to defend media outlets and journalists that present alternative views to citizens. For example, in Russia, both liberal parties Yabloko and SPS rallied to protect the independent NTV in 2001.[55] From a financial perspective, media outlets benefit from political communication and advertising. In this symbiotic relationship, political contestants gain the ability to convey their messages to society, and media outlets gain both informational content and advertising revenue.

Without political pluralism and competition, the information sphere tends to reflect the views of the state and/or the ruling party and fall under their influence and control.

The information/media sphere depends on democratic governance to enable or at least tolerate independent media's efforts to publicize government activity in an open and balanced manner. This condition allows the public to make well-informed assessments of governmental performance. Democratic governance creates an enabling environment for the free flow of information and for media independence. Government licenses and

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[54] David Anable,. 2006. "The Role of Georgia's Media—and Western Aid—in the Rose Revolution," Shorenstein Center Working Paper, 2006-3, 11.

[55] Peter Baker and Susan Glasser, "Large Rally in Moscow Backs Independent TV," *Washington Post*, March 31, 2001.

regulates media for the public good. In doing so, it can promote or inhibit the diversity of media viewpoints. It can also limit media concentration among both state and private owners. Without a government that recognizes the value of media freedom and subjects itself to media scrutiny, the information environment is likely to be dominated by the state's perspective and restricted in its content. For example, under President Kuchma in Ukraine, the presidential administration used a system of orders (or *temnyki*) to control how news was covered.[56] In contrast, part of what made Russia's media environment during most of the 90s, and Ukraine's media sphere from 2005 to 2010, relatively free was a commitment to free expression and restraint on the parts of both the governments of presidents Yeltsin and Yushchenko.

The information/media sphere relies on the rule of law to define and to uphold the basic freedoms of speech and press and to support the legal enabling environment for independent media. As with civil society, the rule of law sphere provides those in the information/media sector a basis for understanding their rights and responsibilities vis-a-vis the government and other actors. A strong and independent judiciary can be crucial for defending the independence of the media and its ability to obtain information from governments. Courts play important roles in defining what constitutes libel and slander in political contexts. A strong and independent judiciary can help rectify situations in which media becomes concentrated in the hands of a few or when media outlets violate regulations regarding balance of political coverage. Without the rule of law, and particularly an independent judiciary, journalists and independent media outlets lack recourse to defend against politicized or arbitrary government decisions to limit access to information, to harass or seek criminal charges against journalists, or even to close down or seize "unfriendly" media outlets. For example, the lack of an independent judiciary in Belarus left unchecked the politically motivated arrests of journalists and raids on independent media outlets as part of the post-election crackdown in late 2010 and 2011.[57]

"Good" Governance

Modes of governance that are "democratic" are representative, responsive, transparent, and accountable. While democratic governance should also be effective and competently deliver services and benefits to citizens, truly democratic, "good governance" is about more than "making the trains run

[56] Olena Prytula. 2006. "The Ukrainian Media Rebellion," in *Revolution in Orange: The Origins of Ukraine's Democratic Breakthrough,* Anders Aslund and Michael McFaul, editors. Washington, DC: Carnegie Endowment for International Peace. 106-107.

[57] Human Rights Watch, "Shattering Hopes: Post-Election Crackdown in Belarus," March 14, 2011, 12, 25. http://www.hrw.org/en/reports/2011/03/14/shattering-hopes.

on time." Authoritarian governments have placed a priority on the value of effective governance, or "performance legitimacy,"[58] at the expense of representation, responsiveness, transparency and accountability. The governments of Belarus and Uzbekistan are two such cases in the region. Democratic governance depends not only on counterbalancing branches of *government* to check the executive, but also on other institutional spheres to check, limit, and restrain executive branch power. The governance sphere also relies on democracy's other institutional spheres to sustain meaningful connection between the state and society.

Incentives for transparent, responsive, effective, and accountable governance are created and sustained by fair and sustained political competition. The prospect of real competition in the next election keeps those in government focused on being open and responsive to citizens' demands and to "delivering" for their constituents. Political pluralism, competition, and the associated debate, often stimulate the emergence of new ideas, approaches, and initiatives for governance. Second, political competition through parties serves to structure political debate and aggregates accountability. Political parties also lend ideological and programmatic coherence to governance across state institutions. While the dynamics of political competition do sometimes result in negative outcomes, such as negative campaigning and illicit political finance, the alternatives to a system based on political competition, as Churchill famously pointed out, are worse. Lastly, robust, ongoing political competition tends to reduce corruption and predatory behavior by governments. While even consolidated democracies are not immune to serious corruption, they tend not to experience the profound and endemic corruption so often associated with authoritarian systems, where political competition is suppressed. Not surprisingly, authoritarian regimes in the former communist world tend to have higher levels of perceptions of corruption, while those with higher levels of competition show less corruption.[59]

Good governance depends fundamentally on an independent and capable rule of law sector. Along with victory in free and fair elections, a civil order based on rules, laws and rights, rather than merely the interests of a particular ruling elite, is a crucial source of legitimacy for any government claiming to govern in the name of the people. Public administration,

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[58] Samuel Huntington. 1991. *The Third Wave: Democratization in the Late Twentieth Century*. Norman, OK: University of Oklahoma Press, 45-58.

[59] For example, no country with a *Nations In Transit* democracy score worse than 5.00 was ranked in the top half of Transparency International Corruption Perceptions Index. Kosovo had an NIT aggregate democracy score of 5.18 and is ranked 112 out of 182 countries. Rankings are from *Nations in Transit 2009* and *Corruption Perceptions Index 2011*. http://cpi.transparency.org/cpi2011/results/#CountryResults.

policy-making and enforcement of law that are effective, responsive, fair, and accountable rely upon the independent interpretation of the law and on the reason-giving adjudication of disputes. Understanding this linkage, Russia's President Medvedev has railed against "legal nihilism" as an obstacle to improved governance.[60] The rule of law is also crucial in restraining government power – preventing it from overreaching in the name of stability, order or effectiveness. The rule of law allows even the power of the state's executive branch to yield to the individual citizen when the law is on the citizen's side. Without due process and equal treatment under the law, governance is prone to corruption, oligarchy, or capture by predatory "clans." In such contexts in some countries of the former Soviet Union, some executive branches have used the courts to jail opposition political party members or civic activists, endorse rigged or unfair elections – including referenda to abolish term limits, cripple, or close down undesirable NGOs and media outlets, and to seize the property of political or economic rivals.

Civil society serves simultaneously as an important check on, and key resource for, responsive and accountable governance. Through their advocacy work, associations pressure governments to support certain policies and laws and for the responsive delivery of services. NGOs can serve as important partners in government, both in developing policy and in providing services at the local level. Civic organizations also frequently serve as "watchdogs" of governance, making effectiveness and accountability more likely. Without organized, ongoing civic involvement in the processes of governance, governments are likely to be less transparent, responsive, effective and accountable to citizens.[61] Without society's regular and substantive engagement with the state, governance operates on less stable foundations, as it suffers a poorer understanding of, or regard for, citizens' preferences and demands. In Georgia (2003) and Kyrgyzstan (2005 and 2010), the combination of disaffected, active civic groups, and poorly performing, unresponsive and unaccountable governance, created unstable political situations, ripe for change.

Good governance relies on a free and open information environment which subjects policies to broader public scrutiny and debate and allows for the emergence of new information and ideas. The continued use of the term "Fourth Estate" to describe a free press is a testament to the recognition of the importance of a free information sphere to good governance.

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[60] Medvedev first introduced the theme of "legal nihilism" as a candidate for president during a speech at the Second All-Russia Civic Forum on January 22, 2008. See http://www.medvedev2008.ru/performance_2008_01_22.htm

[61] Putnam (1993).

The information sector serves as an arena for deliberation on government policies and performance. Media outlets serve as watchdogs for government ineffectiveness and corruption. In particular, investigative journalism can provide the public with better knowledge of government activities, and uncover government wrong-doing of various types. From Watergate in the US, to the Gongadze case in Ukraine, to a scandal involving Bosnia's Prime Minister Brankovic in 2009,[62] investigative journalism has played a key role in exposing alleged misdeeds by government officials. Without a free information sector, governance loses the longer term benefits of a wider, more critical "lens"–new ideas, pressures for policy adjustments, and opportunities for responsiveness and accountability.

The Rule of Law

The possibility for the democratic rule of law is largely predicated on elements of democracy's other institutional spheres. A just legal system, protecting core civil liberties and human rights, requires contestation, access to information, representation of diverse societal interests, and effective, restrained and accountable implementation and enforcement of the law. While some autocracies may generally be able to adhere to a set of existing laws, that legality will not be democratic in character.

Democratic rule of law benefits importantly from the pluralism, mode of contestation, and focus on rules that political competition provides. Authentic political competition requires adherence to a certain set of laws and processes – the "rules of the game." The ongoing reliance on the rules that undergird political competition also strengthens the rule of law. Both judicial proceedings and political competition are based on opposing sides, engaged in argument and contest to persuade either an electorate or judge or jury, and this mode of politics and decision-making provides institutional reinforcement for rule based on laws and courts.

Political pluralism and political competition – and the limited authority on the part of any one political force that accompanies them – creates greater likelihood for judicial independence.[63] The limited authority of a particular political party or "clan" and the likelihood of a change in government in the near term make judges more likely to assert law-based decisions and withstand political pressure. For example, Ukraine's President Yushchenko could not force through early elections in 2007 without a political compromise because a relative parity of political

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[62] See "Brankovic Resigns," June 16, 2009, Center for Investigative Reporting (CIN), (http://198.171.237.35/cin/).

[63] Rebecca Bill Chavez, 2004, *The Rule of Law in Nascent Democracies: Judicial Politics in Argentina*. Palo Alto: Stanford University Press.

sympathies on the Constitutional Court led to a stalemate.[64] These same conditions of pluralism may, in some cases, make judges freer to take independent stances on key cases.

Political competition and the associated competition of ideas enrich judicial debate and deliberation, strengthening the legitimacy and credibility of the courts. Without pluralism and the pluralism of ideas, both sides of an issue brought before the courts may not be adequately considered. When political parties or candidates seek to defend their interests in the courts, this enhances the authority of the judiciary as an arbiter of societal disagreement. Insufficient political pluralism or competition makes it more difficult and risky for judges and prosecutors to embrace the rule of law rather than the rule of man (of the president or the ruling party).

The rule of law relies on, and benefits from, an organized and publicly engaged society, enhancing its legitimacy, enriching legal debate, and increasing the likelihood of judicial independence. Organized citizens can bring cases that provide courts with the ability to interpret the law independently. Without an engaged and organized society, the state faces fewer challenges in court. Writing about Russia, Kathryn Hendley points to the importance of getting society to "take responsibility for ensuring that the state lives up to its promises" in order to put an end to "particularistic law."[65] NGOs can advocate for and pursue issues through the courts. They can monitor courts and publicize court decisions. They engage in and enrich broader debates about court rulings. NGOs also can help citizens access the legal system by providing free or low-cost legal advice. For example, the GYLA has played a prominent role in promoting judicial reform. Importantly, civic organizations may make courts more likely to assert their independence. In cases where a broad coalition of NGOs opposes an executive branch position, the demonstration of societal support may embolden a judge or court to take a more independent stand from the executive.

A democratic rule of law sphere relies on an open and free information and media sector to connect itself to society, to preserve its independence and to hold the judiciary and other parts of the state accountable to the public. A free and balanced information environment publicizes the law and key legal decisions or changes. It can expose attempts by the state or other actors to operate outside of existing rules, including violations of due process and inappropriate executive branch influence over the courts. For

[64] Mara D. Bellaby, "Ukraine's Premier and President Agree on Early Parliamentary Elections," *The Independent*, May 5, 2007.
[65] Kathryn Hendley. 2009. "Telephone Law and the Rule of Law: The Russian case." *Hague Journal of the Rule of Law* 1, 241-262.

example, discussions on Georgian political talk shows have highlighted concerns about judicial independence, due process, and property rights, and this societal discussion has contributed to the government's focus on legal sector reform. An open media sector also allows for the adequate presentation and debate of both sides of legal issues. Finally, it provides a means of explanation of, and education about, legal issues and disputes. Without a free and diverse information environment, the presentation of legal issues and proceedings is often one-sided; violations of due process, of the law, or of the constitution go unreported and are not subject to public reaction; and executive branch domination of courts, politicized court cases, and arbitrary decisions may go unquestioned. Understanding this linkage between the rule of law and independent media, supporters of Yulia Tymoshenko in Ukraine pushed for greater media coverage of her trial on corruption charges in 2011.

Lastly, democratic rule of law depends on certain types of government behavior – both active engagement and restraint – to maintain its effectiveness, independence, and even-handedness. "Good governance" leaves final interpretation of the law to the judicial branch, and promotes and respects independent judicial authority. In doing so, the government enhances its own legitimacy. It vigorously promotes state interests through the courts, and regulates aspects of the judicial sector, but recognizes its limited power before the courts. Democratic governance actively enforces and implements court decisions – even against the executive's own immediate or narrow interests and preferences. For example, in both Ukraine (2004) and in Moldova (2009) the decisions of executive branches to abide by court rulings, which directly went against the interests of their incumbents in preserving political power, represented significant steps toward democratic consolidation. When government does not allow the judicial sector the necessary power, resources, and independence or it does not provide adequate enforcement, the rule of law suffers. As a result the provision of justice may be slow, ineffective, arbitrary, or politically biased.

Policy Implications of the Nest Model

This article argues for a conception of democracy as a set of mutually reinforcing relationships among a set of interdependent "core" institutional spheres. It contends that a democracy is as strong as those institutional spheres and the mutually enforcing relationships between them in a given context. It also argues that democracies are strengthened when their institutional spheres develop in such a way that they build on those spheres' reinforcing potential. If one accepts the nest model, then attempts to

strengthen and build democracies should seek as a consequence, whenever feasible, to:

- build the different institutional spheres of democracy in multi-pronged and roughly simultaneous fashion; and
- strengthen the constructive interactions between these institutional spheres.

Operationalizing these two recommendations should then lead to efforts towards more intensely coordinated, integrated, cross-cutting, multi-sector portfolios of democracy-support programs. This approach would be oriented toward both building a "democracy infrastructure" and exploring pathways towards greater complementarity and mutual reinforcement of these institutional spheres. For example, political party programs and civil society programs should both be oriented towards enhancing constructive interaction between these institutional spheres – and the actors in these spheres. This is not to argue for a "one-size-fits-all" approach that would blindly provide the same level of support across all institutional spheres, regardless of existing capacity; instead, the point is that a broad consideration of all spheres, their specific interactions, and reinforcing potential should be an essential and further developed element of democracy-building strategies.

Although such an approach might seem at first glance to be logical and non-controversial, in the policymaking context, a multi-pronged approach can be subject to critiques that it is "unfocused" or "non-strategic." In addition, many democracy-building programs tend to focus on a single institutional sphere, such as civil society or political processes, but do not focus nearly as much on building constructive interaction among spheres. As organizations implementing democracy programs become increasingly specialized to focus on particular spheres, the tendency for "stove-piping" increases. Actors associated with these institutional spheres also may not always see, at first, good reasons for interactions with those in other spheres – especially when those institutions are underperforming. For example, party activists may not see the value in engaging with civic organizations and vice versa when both have been weakened and marginalized by a dominant state and "party of power."

Multi-pronged, complex approaches also have significant budgetary implications for donors, who have limited resources for democracy-building efforts. It can be tempting for donors instead to focus on one or two "priority" sectors. In addition, some donors may want to focus on "safer," less potentially controversial sectors, such as effective governance, rather than addressing challenges across most, or all, of democracy's key institutional spheres.

A multi-pronged approach also implies a need for more intensive coordination – both among programs and among donors and implementers of democracy assistance. Because of the specialized nature of democracy's institutional elements and specialization in democracy promotion programs, it can be highly challenging to bring rule of law, political party, civil society, and local government experts and programmatic elements together into an appropriately integrated effort. While elections-oriented democracy programs often are multi-sectoral and well-coordinated, as Bunce and Wolchik have shown,[66] programs outside of the electoral context have tended to be less closely coordinated or integrated.

Recognition of the importance of coordination among democracy programs would also imply potential drawbacks to the idea of creating a "firewall" between government-oriented and societally-oriented democracy assistance.[67] If programs for civil society and government are funded, designed and monitored by separate entities, this may create challenges for encouraging these groups to interact more intensively. Despite the implications for resources and coordination, such a comprehensive and multi-pronged approach best addresses the structure and workings of democratic systems.

The complexity of the interdependence between democratic institutions, the broad range of contributing actors and processes, and the considerable time it takes to build functioning and resilient institutions also suggest that democratic consolidation – and thus democratization programs – will often require long-term, steadfast commitments. While governmental and other donors are sometimes reluctant to acknowledge these processes as long-term prospects,[68] wanting to show a clear light at the end of a short budgetary tunnel, experience has shown that consolidated, institutionally-stable democracies rarely emerge over a few years. Again, while admitting the need for long-term commitments to democracy-building may seem intuitive, policymakers are often reluctant to commit to long-term projects of uncertain duration. The nest model provides an ideational construct to help explain why democratic consolidation takes time and does not automatically follow from the electoral success of pro-Western reformers or even a first "free and fair" election.

An acceptance of the nest model also suggests a general skepticism towards approaches that call for the *targeting* of specific institutional

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[66] Bunce and Wolchik (2011).

[67] Francis Fukuyama and Michael McFaul. 2007-8. "Should Democracy be Promoted or Demoted?" *The Washington Quarterly* 31, 1 (Winter): 23–45, 40. Also see Michael McFaul, 2010, *Advancing Democracy Abroad.* Stanford: Hoover Institution, 197.

[68] For example, Thomas Carothers points to problems of "episodic interest" from Congress and "shifting priorities" on the part of USAID as causes of poor performance on democracy promotion. Thomas Carothers. 2009. *Revitalizing U.S. Democracy Assistance: The Challenge of USAID*, Washington: Carnegie Endowment (October) 20.

spheres as *the* key to democratization or for broad *sequencing* of efforts at institutional strengthening in democratic sub-sectors.[69] (Of course, limited targeting or concern for sequence may be appropriate if it could be demonstrated that a particular institutional sector was the only one holding back the others in a specific context or that it was the key to stimulating progress in other sectors in a given situation.) It suggests that approaches to democracy promotion that do not address a critical mass of interdependent institutional relationships will likely be limited in impact. For example, focusing on political competition is often not enough because consolidated democracies require more than a "breakthrough" election. While Bunce and Wolchik have persuasively argued that elections have consistently represented opportunities for dramatic democratic change across the region,[70] the remaining challenges so many of these states have faced on democratization have demonstrated the important distinction between "democratic breakthroughs" and the consolidation of democracy.

    With regard to sequencing, the nest model calls strongly into question the argument that effective governance or rule of law should be prioritized before other institutional spheres of democratic systems, such as political competition or a free information environment.[71] It suggests that without robust connections to other institutional components of a democracy, effective governance (the reliable delivery of services and competent administration) and basic respect for legality and order are limited and uncertain bases for building democracy more broadly. Moreover, without the appropriate forms of bonds to other spheres, a focus on effective governance and a rule-oriented approach may actually do more to promote authoritarian modes of rule than democratic ones.

Conclusion

Democracy has been described as the least natural political system.[72] This characterization rings true in the sense that democracy requires a complex interaction of a set of institutions and processes, which must be purposefully and often painstakingly constructed over time by a diverse set of governmental and societal actors. Democracies do not spontaneously

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[69] See Fareed Zakaria. 1997. "The Rise of Illiberal Democracy," *Foreign Affairs* 76 (November-December): 22-43; Edward D. Mansfield and Jack Snyder. 1995. "Democratization and the Danger of War." *International Security* 20 (Summer): 5-38; and Amy Chua. 1998. "Markets, Democracy, and Ethnicity: Toward a New Paradigm of Law and Development," *Yale Law Journal* 108 (October) 1-108; cited in Carothers (2007).

[70] Bunce and Wolchik (2011).

[71] See Carothers (2007), p. 13.

[72] Henri Bergson. 1932. *Les deux sources de la morale et de la religion,* Remarques finales, Societe naturelle et democratie. Paris: Presses Universitaires de France, 299 in Quadrige Series, 1990 cited in Pierre Hassner. 2008. "Russia's Transition to Autocracy," *Journal of Democracy* 19, 2 (April) : 14.

emerge; they have to be built. The difficulties and pitfalls that new and would-be democracies in much of Southeastern Europe and virtually all of Eurasia have faced over much of the past two decades vividly demonstrate this reality. Under-developed institutional spheres that check executive power, their limited connections to governmental spheres, and state efforts to constrain the growth of these institutions all have limited, and in many cases thwarted, democratization in most of the post-communist countries of Europe and Eurasia.

At the same time, the nest model presented here also argues against the characterization of democracy as "the least natural" system in the sense that it illustrates an internal logic to democracy's fundamental architecture and workings, based on a natural affinity and mutual reinforcement amongst democracy's core institutional components and modes of behavior. Contestation, pluralism of interests, openness and communication, an impartial rights-based approach to disputes, and accountability are all not only important for the development of each corresponding institutional sphere, but to all of the other spheres – and to democracy overall. Taken together, the bonds of mutual reinforcement of the "democracy nest" can create a complex, multifaceted virtuous circle that supports democratic consolidation and resilience. Based on this model, democracy promoters should adopt well-coordinated, multipronged, and integrated portfolios of programs and strengthen the constructive interaction between institutional spheres. A further analysis and deeper understanding of these institutional interactions, interdependence, and affinity are important steps to be taken for comprehending and encouraging democratic change and consolidation in post-communist Eastern Europe and Eurasia and beyond.