

**RULES AND ENGAGEMENT:**

**A COMPARATIVE QUALITATIVE EVALUATION OF EUROPEAN UNION  
RULE-OF-LAW PROMOTION IN ROMANIA, TURKEY, SERBIA AND  
UKRAINE**

A DISSERTATION  
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OF STANFORD UNIVERSITY  
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF  
DOCTOR OF THE SCIENCE OF LAW

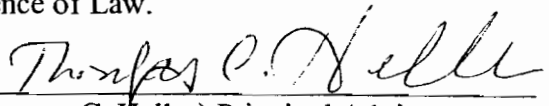
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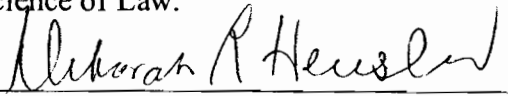
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## ABSTRACT

Do external factors facilitate or hamper domestic democratic development? Do international actors influence the development of the rule of law in domestic systems? How should we conceptualize, identify and evaluate the extent and nature of international influence? More pragmatically, when and how do the different strategies of international actors who seek to promote the spread and consolidation of liberal democracy around the globe – through conditional incentives, financial and technical aid, socialization techniques, diplomacy, demonstration effects and, exceptionally, through military intervention – influence domestic decision-makers to internalize rule of law standards, norms and practices? What combination of domestic conditions and external interventions are more, and less, likely to lead to the transformation of authoritarian regimes or minimalist, poorly functioning democracies into substantive, liberal democracies characterized by a functioning rule of law?

Despite the fact that the goal of encouraging the development of liberal democracy and the rule-of-law in transitional states has, since the end of the Cold War and, *a fortiori*, the September 11<sup>th</sup> 2001 attacks on the United States, entered the very heart of the foreign-policy discourses and, to a lesser but still substantial degree, the actions of the leading Western powers and the international organizations they lead, scholars of international law, international relations, and comparative politics have to date devoted surprisingly little attention to addressing these questions.

This study seeks to make several contributions towards remedying the gap in knowledge. Theoretically, it invites lawyers to engage with these questions by conceptualizing the rule of law as a key dimension (arguably *the* key dimension) of democratic quality, and by integrating the study of policies to promote the rule of law abroad, with the wider emerging efforts of international relations theorists and political comparativists to theorize and measure external influence on domestic democratic development. To contribute optimally to the nascent, interdisciplinary field of “applied democratic development”, I argue that the existing lawyer-dominated rule of law promotion literature – and, by extension, policy enterprise – must overcome three problems of scope: conceptual, intellectual and empirical.

The study also seeks to contribute to legal theory development in the area of state compliance with international rules, and the mechanisms by which international norms translate into domestic institutions, laws and practices. Departing from existing explanations of EU external relations, I argue that EU policies towards adjacent regions can be understood as highly institutionalized and resource-intensive exercises in the design and execution of solution structures meant to affect domestic democratic development in targeted states. Enlargement, the Stabilization and Association Process (SAP) in the Balkans, and the European Neighborhood Policy (ENP), in other words, ought to be conceptualized and studied as examples of attempts at target-state transformation through compliance with EU-mandated liberal rules and standards. The establishment and pursuit of these policies – each a solution structure with several shared core features, but also important variations – has entailed two parallel processes: the articulation of rules and standards with which targeted states are required to comply (rules) and, secondly, the development and application of mechanisms meant to encourage compliance with the prescribed rules (engagement).

Along with these theoretical advances, the study undertakes a comparative qualitative evaluation of the impact of EU engagement policies on four countries: Romania, Turkey, Serbia and Ukraine. Each constitutes a case study of a different category of EU engagement. The study generates new empirical knowledge on the effectiveness (or lack thereof) of different EU engagement policies abroad and the conditions under which the rule of law promotion activities of international actors are likely to prove more, or less, effective.

To do so, the study employs two distinct types of qualitative research methodologies. In investigating the origins and evolution of EU rule of law promotion strategies, the study draws on extensive primary document analysis and interviews with past and present EU policy-makers. The second method used is structured, focused comparison of case studies; using a structured questionnaire to trace domestic rule of law reforms and the role of external actors in their development, if any. In doing so, the study moves the inquiry into the international dimensions of democratization and state compliance with externally mandated reforms, away from the speculative and probabilistic, into evaluating actual influence on domestic democratic development.

Chapter II positions the theoretical and empirical contributions of the study within the broader literature on the rule-of-law as concept and subject for promotion by international actors. It establishes the conceptual foundations of the study, identifies important gaps in the existing state of knowledge, and prepares the ground for my subsequent arguments regarding the nature of EU rule-of-law promotion strategies. Chapter III then explores the origins and evolution of EU strategies, from enlargement to neighborhood, and contends that these have entailed two parallel processes: the articulation of rules and standards with which targeted states are required to comply (rules) and, secondly, the development and application of mechanisms meant to encourage compliance with the prescribed rules (engagement). Chapter IV then zooms out of the EU-specific context. Building on the conclusions of Chapter III and drawing insights from international law, international relations theory and comparative politics, it sets out a number of hypotheses regarding the nature and extent of EU influence on rule of law reforms in the case study countries. Lastly, Chapter V presents the findings of the structured, focused comparisons, and analyzes these findings in view of the theoretical expectations.

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