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CAN OUTSIDERS HELP?

Erin K. Jenne and Cas Mudde

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The potential backsliding of the postcommunist states of Central and Eastern Europe (CEE) was a major concern of scholars and the international community in the 1990s. To protect against democratic regression, the EU offered accession to certain CEE countries conditional upon the containment of nationalist and antidemocratic forces in these countries.¹ Each candidate country was then monitored and assessed by the EU and other European bodies under the *acquis communautaire* before it could be admitted to the club.

By 2007, ten CEE countries had become EU member states. The EU must find a way to address democratic backsliding in these countries now that they have obtained membership. Without the big carrot of membership conditionality to incentivize countries to maintain high democratic standards and with no mechanism for ejecting members from the EU, scholars worry that Brussels has few tools to prevent member states from straying off the democratic path.² The EU's ability to protect democracy among its members is largely untested. Although it sanctioned Austria in 2000 for including the populist radical-right Freedom Party of Austria in its ruling coalition, the EU ultimately had to back down, as a "Committee of Wise Men" concluded that Austria's government had abided by democratic rules.³ The lesson many drew from the "Austrian trauma" was that Brussels has little if any leverage over a member country once it gains admission to the European club.

These fears appear to be vindicated amid growing signs of authoritarianism in CEE countries once thought to be safely ensconced in NATO

and the EU. In a symposium in the October 2007 issue of the *Journal of Democracy*, experts were asked whether democratic backsliding was a real problem for the region and what the future would bring. Most believed that worrisome trends such as rising support for right-wing parties and signs of extremism in the region would likely be self-limiting due to the countries' ties to the EU.⁴

The strongest authoritarian challenges among new EU member states have been in Poland and Hungary—not from the fringe radical right, but from center-right parties whose leaders had cut their teeth in the democratic revolutions of 1989. Indeed, both Poland's Law and Justice Party (in power from 2005 to 2007) and Hungary's Federation of Young Democrats–Hungarian Civic Alliance, known as Fidesz, have argued that their proposed transformations represent the realization of the promises of 1989, which went unfulfilled by the communists and dissidents who signed the pacted transitions. As Fidesz leader and current Hungarian prime minister Viktor Orbán recently explained, “What we wanted to do in 1989, we were never able to do.”⁵

The constitutional revolution in Hungary represents a more fundamental challenge to liberal democracy than those seen earlier in post-communist Poland or Slovakia. Authoritarian leaders typically undermine democratic institutions by not respecting the law. Rather than changing the rules, they bend or break them, relying on patronage and low administrative capacity to get away with it. Hungary's leaders, by contrast, have actually changed the rules. Backed by a 2010 election victory that gave it a two-thirds constitutional majority in Hungary's unicameral parliament and enabled it to pack the Constitutional Court with party loyalists, the Orbán government has rewritten the constitution (for details, see the article by Miklós Bánkuti, Gábor Halmai, and Kim Lane Scheppele on pp. 138–46 in this issue). Although the new constitution is nominally democratic in the sense that it was passed by a two-thirds majority of parliament, it was never popularly approved through a referendum or otherwise.

Ideally, this constitutional revolution would be overturned by a concerted campaign mounted by the political opposition. But Hungary's democratic opposition parties are in disarray and lack popular support. In most polls, Fidesz remains the most popular party by far, despite losing significant support since 2010. With other checks and balances neutralized, the job of protecting liberal democracy in Hungary may fall to the international community—particularly the EU, which requires its member states to abide by specific rules.

Given Hungary's reliance on IMF loans in the current financial crisis as well as its membership in the EU, these institutions should be able to induce considerable change; indeed, they have recently made headway in securing government promises to roll back certain measures. Yet both the EU and the IMF are dogged by structural weaknesses that im-

pede their ability to bring about a substantive reversion to democracy. Meaningful change is more likely to come through *lateral* and *indirect* intervention—political pressure from Western governments and international organizations (IOs), the diffusion of democratic norms, and outside support for civil society organizations and the domestic political opposition.

The EU and IMF to the Rescue?

Orbán's constitutional-reform proposals initially attracted little attention from the international media. It was only after they were unceremoniously rammed through parliament that the foreign (mostly European) press began to take notice. Still, prominent politicians rarely criticized the Hungarian government publicly. Among the most outspoken critics was U.S. secretary of state Hillary Clinton, who expressed concern over a "crackdown" on democracy in a December 2011 letter to Orbán.

Recently, however, IOs have taken stronger measures to sanction the Hungarian government. One might expect these actors to have considerable leverage over this small country of ten million with an annual GDP of US\$133 billion. Hungary has been on the brink of bankruptcy for more than a year and is wholly dependent on loan guarantees by the IMF and EU to roll over its foreign debt. Yet a number of factors hamstring outsiders' ability to persuade Fidesz to reverse its illiberal policies. Because Fidesz came to power through free and fair elections and Orbán is not a radical right-wing ideologue like the late Jörg Haider in Austria, the EU has had difficulty framing a valid legal argument against the Fidesz leadership. Orbán has consistently claimed democratic legitimacy, while noting the lack of democratic accountability in the EU and IMF. In an interview with a German daily, Orbán pointedly observed:

I was elected, the Hungarian government was also elected, as well as the European Parliament . . . But who elected the European Commission? What is its democratic legitimacy? And to whom is the European Parliament responsible? This is a very serious problem in the new European architecture.⁶

Further complicating matters has been the skewed version of events presented to the international community by the Hungarian government, which has gone so far as to provide misleading translations of its activities to the European Union.⁷ This strategy enabled the government to conceal its actions from the EU until after the Fidesz program had passed parliament. Likewise, while Orbán strikes a conciliatory tone in his negotiations with the EU and IMF, he has assumed a more combative stance within Hungary. During the recent celebration

of Hungary's 1848 Revolution, Orbán declared: "We will not be a colony!" and "Hungarians will not live as foreigners dictate, will not give up their independence or their freedom."⁸ The EU, which operates through cooperative engagement and dialogue, has too often been caught flatfooted in its efforts to deal with a national government that repeatedly asserts its intention to comply, only to turn around and do the opposite.

The EU has generally been reluctant to interfere in member states' domestic affairs. Although EU officials have expressed concerns about the illiberal reforms in Hungary, they are internally divided over both the priority and severity of the situation. When the European Parliament (EP) did make an attempt to take action against the Hungarian government, it was thwarted by the European People's Party—the center-right bloc in the EP to which Fidesz belongs.

The fragmentation of European institutions has made it difficult for the international community to approach Hungary with a unified set of demands. The European Commission (EC) has filed infringement proceedings against the arbitrary decrease in the retirement age of judges from 70 to 62 (useful for packing the courts with Fidesz loyalists), the loss of independence of the data-privacy commissioner, and encroachments on the independence of the Central Bank. Each of these proceedings alleged different violations of EU law. Meanwhile, the EC launched a separate action against Hungary for media violations. Last summer, the Council of Europe's Venice Commission produced a harsh review of the new Hungarian Constitution as well as critical reports on the judiciary reforms and the law on churches. In March, the secretary-general of the Council of Europe traveled to Budapest to pressure Hungary to change its media laws.

Such interventions, however, target specific government actions in isolation without addressing the overarching problem of Hungary's illiberal constitution. Thus the government can downplay the severity of the complaints and choose which ones to acknowledge. This buys the government time and allows it to argue that it has responded satisfactorily to the outstanding complaints without having to change anything essential about its illiberal reforms.

Recently, IOs have stepped up their efforts to sanction the Fidesz government. In March, EU finance ministers suspended €495 million in structural funds to Hungary, citing the country's failure to meet budget-deficit limits. According to the EC budget commissioner, Hungary's efforts to reduce its "excessive deficit" were "not sufficient to correct the deficit in a sustainable and credible manner."⁹ The EC also voiced concern over the government's imposition of special "windfall" taxes on mostly foreign-owned businesses, as well as its decision to allow individuals with sharply appreciating foreign-currency-denominated mortgages to pay off their mortgages in a lump sum at below-market

rates, forcing commercial banks in Hungary to accept significant losses. Meanwhile, the IMF praised Hungary's reforms to eliminate early retirement and force welfare recipients back to work.

Although the government has been coy with the international community—often paying lip service to compliance while doing as it pleases—there are strong indications that it will ultimately give in to the IOs' demands. According to the *Economist*, with the recent fall in the forint and soaring bond yield, the government has shown signs that it will pass legislation addressing the international community's criticisms about fiscal laxity and the lack of judicial independence. As one Western official put it, "Orbán walked up to the edge, stared into the abyss and then stepped back."¹⁰

Yet even if the IOs succeed in protecting the independence of the Central Bank and improving fiscal discipline, other, more pernicious antidemocratic trends may persist. The EU and IMF tend to focus mostly on economic and judicial issues that directly impact foreign interests. They are less confrontational over matters that undermine the internal functioning of democracy, such as the curtailment of press freedoms, corruption in public administration, and the centralization of power in the hands of the ruling party—partly because of their overriding interest in ensuring fiscal stability, but also because they have a limited mandate to intervene in political matters.

The Role of Civil Society

Several postcommunist countries whose democratic transitions were derailed by authoritarian leaders and stolen elections have managed to right their paths somewhat through "electoral revolutions" driven by the domestic opposition. These opposition movements benefited from linkages with transnational activist networks, Western aid, and inspiration from the successes of prodemocracy movements in other countries that faced similar challenges.

In contrast to the autocratic governments in such countries, the Fidesz government came to power through free and fair elections; Fidesz enjoys significant support among parts of the Western establishment, particularly on the European right; and despite its fiscal woes, Hungary is not a poor country. Thus its opposition movements are unlikely to attract external material support. The international community will probably continue to critique the Fidesz government's authoritarian turn without overtly intervening in Hungarian domestic politics. It is therefore up to Hungary's democratic opposition to assert itself.

So far, however, opposition parties and civil society organizations have failed to put forward a credible alternative to the Fidesz government. The country's biggest opposition party, the Hungarian Socialist Party (MSzP), holds only 59 of the 386 parliamentary seats and remains

crippled by its legacy of corruption and economic failure in the 2000s. Its former coalition partner, the liberal Alliance of Free Democrats, which ran together in 2010 with the conservative Hungarian Democratic

As the government alienates more of the public with its austerity measures, antidemocratic reforms, and campaigns to silence internal dissent and maintain control of the state media, street protests have begun to gain momentum.

Forum, failed even to pass the electoral threshold of 5 percent due to its legacy as a junior member of the tainted MSzP government and its inability to break out of its electoral ghetto of well-educated progressives. The second biggest opposition party in parliament is Jobbik (Movement for a Better Hungary), a far-right, nationalist, and Euroskeptic formation that garnered 47 seats. Although it opposes Fidesz, Jobbik hardly stands as a desirable partner for the liberal opposition.

This leaves the third-biggest opposition party in parliament, the leftist green party Politics Can Be Different (LMP). Founded in 2009, LMP barely passed the electoral threshold in 2010, winning only 16 seats. LMP draws on an educated, urban, progressive voter base and campaigned on increased deliberative democracy, sustainable development, and opposition to corruption within the Hungarian political elite. Although the Socialists would seem to be natural parliamentary allies for LMP, MSzP represents everything that LMP was established to fight against. The two parties may find themselves cooperating in the run-up to the 2014 parliamentary elections, but LMP does not want to risk its brand as an alternative to the longstanding Fidesz-MSzP duopoly by joining forces with the discredited Socialists too soon.

As a result, parliament is now little more than a rubber stamp for legislation initiated by the Orbán government. With the Constitutional Court neutered and Orbán loyalists in all major public bodies, little change is likely to originate from within the present governing institutions, short of a highly improbable mass defection by Fidesz MPs.

Can change be initiated from below? There have been positive developments within Hungarian civil society. As the government alienates more of the public with its austerity measures, antidemocratic reforms, and campaigns to silence internal dissent and maintain control of the state media, street protests have begun to gain momentum. The first big opposition protests were organized in October 2010 by One Million for the Freedom of the Press (Milla), a Facebook group organized by university students to protest the new media laws. Tens of thousands of people flooded the streets in these demonstrations. Milla then organized two extremely successful marches for press freedom on Hungarian national holidays in March and October 2011.¹¹

Meanwhile, labor unions organized public protests against government plans to cut workers' benefits, including early retirement for police and firefighters.¹² On October 1, Milla leaders, the trade unions, and civil society organizations announced the formation of the Hungarian Solidarity Movement (HSM), a broad-based civil society movement outside of party structures, devoted to returning the country to the rule of law.

When the new constitution came into force in January 2012, opposition parties and organizations across the political spectrum staged a huge protest of about a hundred-thousand outside the gala celebrating the document, demanding its removal. Protesters—among them members of trade unions, Milla, the Civil Liberties Union, and various NGOs, as well as MSzP and LMP supporters—were welcomed by HSM leader Peter Konya, who hailed the restoration of “the long absent co-operation between civil groups and parties of the democratic opposition.”¹³ More recently, Milla organized demonstrations on the anniversary of the 1848 Revolution in March 2012. Although each of these events inspired counterdemonstrations in support of (and orchestrated by) the Fidesz government, the battle lines have been drawn, with the opposition finally showing that it can get people onto the streets.

Should outside actors back Hungary's opposition movements? Orbán and his supporters are quick to paint political opponents as traitors serving Western masters—an accusation that resonates with many Hungarians who fear the severe austerity measures likely to be imposed by the EU and IMF in return for righting Hungary's financial ship. Thus foreign support for the opposition would risk discrediting the movement altogether. Moreover, even if the opposition succeeded in taking back the government in the next elections, Fidesz has achieved a grip over the country's public institutions so tight that it will likely require more than a mere change in political leadership to unclench it.

Sustained international scrutiny will be necessary to roll back Fidesz's centralized control over Hungary's governing institutions. Foreign governments and political parties within and outside the European Parliament should pressure the Fidesz government to overturn its illiberal reforms. This approach has already proven effective, as Hungary acceded to international pressure over encroachments on the independence of the Central Bank.

More broadly, the EU must adopt a method for preventing or confronting future illiberal turns in its member states. It could comprehensively review new members' compliance with the *acquis* for a specified period of time after accession and issue recommendations and sanctions (such as the temporary suspension of financial transfers and even, in the worst case, EU membership) if necessary. Alternatively, it could evaluate all EU member states annually on the basis of the main criteria of the *acquis*, which would allow for the early identification of democratic backsliding and enable the EU to come up with a public

and comprehensive response. This approach would undercut the potential criticism by new members that Brussels supports a two-tiered system.

In the case of Hungary, international pressure must be accompanied by sufficient political resistance from below to oust or contain the Fidesz government. At present, the opposition parties are ill equipped for this task. Civil society organizations, meanwhile, are so distrustful and contemptuous of party politics that they are unwilling to work with the political opposition to steer the country back on course.¹⁴ In the past six months, however, the opposition has shown that it can organize massive demonstrations and force the government to take notice.

Still, it is worth noting that the most successful demonstrations have coincided with national holidays or controversial government acts. Should this pattern hold, a robust political opposition may not take shape unless the Fidesz government commits even graver violations, creating a focal point around which international condemnation and domestic resistance can converge to force a change in government. Barring that, it could be years before external pressure and grassroots democratic resistance are powerful enough to force liberal reforms, even if the Fidesz government's popularity continues to decline. Yet there is reason to hope, if the recent history of the region is anything to go by, that the forces defending democracy and the open society will ultimately prevail.

NOTES

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1. See, respectively, Milada Anna Vachudova, *Europe Undivided: Democracy, Leverage, and Integration after Communism* (Oxford: Oxford University Press, 2005); Judith G. Kelley, *Ethnic Politics in Europe: The Power of Norms and Incentives* (Princeton: Princeton University Press, 2006).

2. Frank Schimmelfennig and Ulrich Sedelmeier, eds., *The Politics of European Union Enlargement: Theoretical Approaches* (New York: Routledge, 2005).

3. Michael Merlingen, Cas Mudde, and Ulrich Sedelmeier, "The Right and the Righteous? European Norms, Domestic Politics and the Sanctions against Austria," *Journal of Common Market Studies* 39 (January 2001): 59–77.

4. Jacques Rupnik, "Is East-Central Europe Backsliding? From Democracy Fatigue to Populist Backlash," *Journal of Democracy* 18 (October 2007): 17–25; Alina Mungiu-Pippidi, "Is East-Central Europe Backsliding? EU Accession Is No 'End of History,'" *Journal of Democracy* 18 (October 2007): 8–16.

5. Pablo Gorondi and Vanessa Gera, "Hungary's Hard-Won Democracy Under Threat?" *Boston Globe*, 15 January 2012.

6. "Viktor Orbán im Gespräch: 'Es gibt ein verborgenes Europa'," *Frankfurter Allgemeine Zeitung*, 4 March 2012.

7. Gábor Schein, "Speaking With Double Tongues: What's Gone Wrong in Hungary?" *openDemocracy.net*, 21 February 2012.

8. Ian Traynor, "Hungary Prime Minister Hits Out at EU Interference in National Day Speech," *Guardian*, 15 March 2012.

9. "EU Is to Freeze Development Funds for Hungary," *Deutsche Welle*, 22 February 2012.

10. "Backing Down Gently: The Hungarian Government Seeks Compromises with Its Many Critics," *Economist*, 25 February 2012.

11. For an overview of these events contextualized in the longer tradition of political dissidence in Hungary, see András Bozóki, "Transition from Liberal Democracy: Political Crisis in Hungary," forthcoming in *Mediations*.

12. One of the few English-language resources on the civil society protests against the Orbán government is the anonymous blog "The Contrarian Hungarian" (*thecontrarian-hungarian.wordpress.com*).

13. "Protest in Hungary: Hungary Steps Out," *Economist*, 3 January 2012.

14. This attitude is a legacy of the anticommunist opposition groups as well as influential dissidents such as Václav Havel and György Konrád, who saw civil society defined as essentially antiparty and antistate. See Cas Mudde, "Civil Society," in Stephen White, Judy Batt, and Paul G. Lewis, eds., *Developments in Central and East European Politics 4* (Durham: Duke University Press, 2007), 213–28.