

Democratic Dilemmas: Why Democracies Ban Political Parties

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Introduction

The existence of extremist parties poses a dilemma for democracies: Banning a party may help to defend democracies from extremists who employ privileges accruing to parties in democratic states to promote their cause; but proscription risks undermining foundational liberal democratic commitments to free association, free speech and the representation of all citizens in the public sphere. Nevertheless, democratic states respond to the dilemma in different ways. A cursory examination of the lists of parties banned in the post-world war two period (see eg. Bourne, 2012b; Bourne and Casals, 2014) shows that many parties of similar types (eg. communist, far right, secessionist, political wing of terrorist groups) have been banned in some democracies but not others. This variation in responses to extremist parties raises the principal puzzle I explore in the paper: *Why do some democracies respond to the dilemma posed by anti-system parties by banning them, while other democracies do not?*

After a brief review of the literature on party bans, I present six hypotheses that may help account for this variation, three of which are drawn from the existing literature and three of which were developed from case of Spain, considered a 'deviant case' insofar as the political wing of the Basque nationalist terrorist group ETA, was legal for many years before proscription proceedings began in 2003 (Bourne, 2015). They hypothesise are: Democracies ban anti-system parties if 1) alternatives to proscription are not effective; 2) if mainstream parties don't need the anti-system party's support to win office, if mainstream parties can convince voters that the anti-system party's ideology is unacceptable, and if agreement between mainstream parties is facilitated by centre-leaning party systems; 3) if the anti-system parties do not unambiguously reject violence; 4) if the anti-system parties have been 'securitized' as an existential threat to the state or democratic community; and 5) if all relevant veto players favour proscription. The final hypothesis is that 6) new democracies ban anti-system parties when modes of transition involve opposition-led change

installing a new set of rulers, but not when it takes the form of authoritarian-regime-reformer-led change or transition through negotiation between regime reformers and the opposition.

I Research on party bans and the problem with ‘militant democracy’

In both the study of party bans and democratic responses to political extremism more generally, ‘militant democracy’ is a paradigmatic concept. Its origins are usually traced to Karl Loewenstein’s appeal for robust responses to the rise of fascism in 1930s Europe (1937). Loewenstein thought ‘fundamentalist’ commitments to democratic principles could be ‘suicidal’ because ‘under cover of fundamental rights and the rule of law, the anti-democratic machine could be built up and set in motion legally’ (ibid, 423-4). Only timely implementation of anti-fascist legislation – including bans on party paramilitary organisations and political uniforms, prosecution of incitement to violence or hatred and the proscription of subversive movements or parties - could provide democracies with effective defence against extremists (ibid, 429). In the post-war period, justifications and techniques of militant democracy have become widely used, with Germany the best known example of a so-called militant democracy .

In recent years, however, many scholars have criticised the concept of ‘militant democracy’ for being too vague, too imprecise or too narrowly focused on legal instruments (Mudde, 2004, 197; Pedahzur, 2004, 109-10; Theil, 2009, 384). Others have argued that the concept is too narrowly focused on movements that no longer constitute a serious threat to democratic politics (Bligh, 2014, 1335-6). In response to such critiques, some have expanded conception of ‘militant democracy’ from a narrow focus on fascist and communist parties using democratic entitlements to gain control of the state (Loewenstein, 1937; Kommers, 1976, 238) into shorthand for a much wider range of measures employed against all kinds of extremist threats (eg. Sajó, 2004; Theil, 2009). However, in so doing, the concept of militant democracy suffers the negative effects of ‘concept stretching’ (Sartori, 1970, 1033). Indeed, some argue that there is no discernible alternative to militant democracy because ‘it is barely conceivable that a country does not have (or never has) taken legally defensive measures to fight...against political extremists or terrorist threats’ (Theil, 2009, 384).

Some have sought to reconceptualise militant democracy as one of a number of types of democratic response to extremism, including conceptualization of militant democracy as an alternative to responses of the ‘preventive’ or ‘counter-terror’ state (Sajo, 2012). Others still have sought to develop more elaborate or comprehensive classificatory schemes and replace the rubric of militant democracy with a new vocabulary of ‘defending democracies’ (Pedahzur, 2004; Capoccia, 2001 and 2007, Rummens and Abts, 2010) or ‘intolerant’ democracies (Fox and Nolte, 2000). While useful for conceptualizing responses to democratic extremism as a dependent variable, these, and the other typologies do not provide insights generating suitable hypotheses for empirical analysis on rationales for party bans (see Bourne 2012 for more details).ⁱ

In addition to work conceptualizing, critiquing and searching for alternatives to the concept of ‘militant democracy’, there are many case studies of party bans and a large literature comparing legal and constitutional frameworks of party bans (eg. Auerback 1954; McWinney 1957; Kirchheimer, 1961; Feofanov, 1993; Cohen-Almagor, 1997; Fox and Nolte, 2000; Koçak and Örüçü 2003; van Donselaar, 2003; Dyzenhaus 2004; Sajo, 2004; Esparza 2004; Brems 2006b; Erk 2005; Bale, 2007; Karvonen, 2007; Issacharoff, 2007; Klemt 2007; Rosenblum 2007; Theil, 2009; Iglesias 2008; Navot, 2009; Niesen, 2002 and 2012; Kemmerzell and Hertzmann, 2010; Mares 2012; Bourne 2012a; Bourne 2012b; Bourne 2013; Bligh 2013;). This literature is dominated by the discipline of law, which mostly focuses on exploring and classifying the nature of legal and constitutional constraints on political parties rather than why some democracies ban parties but others do not. These studies also tend to take official rationales for party bans at face value, something which this research seeks to problematize.

The literature on party bans sits alongside work examining a broader range of measures democratic states employ to deal with anti-system parties and movements (eg. Capoccia, 2002, 2005; Downs, 2002, 2012; Bleich, 2011, Bleich and Lambert, 2013; van Spanje and van der Brug, 2007; van Spanje, 2010; Bale 2003). The latter provides many valuable insights for research on party bans because many measures short of a party ban - such as erecting an exclusionary ‘cordon sanitaire’ against anti-system parties, or electoral rules serving as barriers to small (and often radical) parties - raise similar kinds of democratic dilemmas and strategic choices for mainstream parties as those raised by party bans. Nevertheless, this broader ‘democratic defensiveness’ literature is not in itself sufficient for addressing questions about why some democracies ban parties but others do not. In

the first place, this literature mostly focuses on responses of democratic states to the contemporary far right. In so doing, it tends to underestimate the importance of security issues as rationales for the proscription of political parties. When security, or threat perceptions, are taken into account in the broader defending democracy literature to explain the strategies of defensive democracy they tend to focus on the kind of threats which contemporary far right parties pose, namely threats to the democratic system as such, its institutions and values. However, parties are banned for being more than just such threats to the democratic system.ⁱⁱ

The broader literature on democratic responses to extremism is, arguably, strongest, where it develops theories to explain strategic choices of mainstream parties in relation to anti-system parties (see especially Downs, 2001, 2002 and 2012; Capoccia, 2005; van Spanje and van der Brug, 2007 and van Spanje 2010). However, this focus tends to lead scholars to conceive of political choices about party bans within a rational choice paradigm, albeit with particular attention to constraints posed by the structure of democratic competition and electoral institutions. As I argue below, this is unnecessarily constraining and indeed there are grounds for also giving analytical weight to the role of ideas, beliefs and norms in the study of party bans. And finally, the broader literature on democratic responses to political extremism does not deal with the conditions under which new and established democracies deal with anti-system parties, which may be different from those under which more established democracies ban parties.

II Insights from the existing literature: Why do democracies ban parties?

Proscription as a measure of last resort

Political scientists have generally been more interested in the effects and effectiveness of party bans, rather than rationales for them. It has been argued, on the one hand, illegalisation can be punishing for the targeted party.ⁱⁱⁱ As such, party bans may help clarify norms of appropriate behaviour in democratic politics (Erk, 2005, 201; George and Minkenberg, 2007, 1115) and thus give parties subject to ban proceedings, or those aiming to succeed a banned party, incentives to moderate ideologically (Bale, 2007; Bleich, 2012, 96, 101-3; van Donselaar, 2003, 290). Bleich also argues that there is little evidence that party bans in established democracies have led to ‘sweeping repression or a severe chilling effect on expression or association’ (Bleich, 2012, 105). More

specifically in the context of democratization, party bans aiming to prevent the re-emergence of former non-democratic ruling parties may contribute to political stabilization in the uncertain conditions of democratic transition, or serve as a ‘backward barrier against resurgence’ (Niesen, 2002, 250; Minkenberg, 2006, 27).^{iv}

Nevertheless, most scholars working on political extremism tend to see party bans as ineffective, or even counterproductive. It has been observed that restrictions on the party are often only temporary especially if a party has deep roots in a community or if state authorities are reluctant to prevent the party re-emerging under a different name (Minkenberg, 2006, 37; Husbands, 2002, 64; Downs, 2012, 42; Bleich 2012, 87-6, 96). Strategies of isolation, such as party bans, may create a context where ‘the perception of the parties of the putatively democratic ‘establishment’ allying to deny voice to a party or parties they deem illegitimate can ultimately serve to fuel [a party’s] appeal’ (Downs, 2002, 48). Legal proceedings to ban parties may increase public exposure and opportunities to claim martyrdom or reinforce anti-establishment critiques (Gordon, 1987, 391; Downs, 2012, 43; Bleich, 2012, 101-3). Proscription may lead to radicalisation, a growth of militancy and readiness to use violence (Capoccia, 2005, 59; Minkenberg, 2006). The party ban is not a suitable mechanism for the ‘civic re-education’ of extremists (Husbands, 2002, 64) and may merely treat the symptoms rather than the more complex underlying causes of dissatisfaction with the status quo (Pedahzur, 2002; Baches, 2006, 281). In addition to many of the arguments cited above, Kirchheimer also suggests that party bans may weaken parliamentary forces vis-à-vis other structures of power in the state, such as the coercive apparatus; misrepresent the impact of the banned party on the political system; and damage the international standing of the country (1961, 159-161). In the context of democratic transitions, party bans can be one means by which rulers in new democracies manipulate electoral processes and thereby stall or undermine the consolidation of democratic institutions and practices (Bourne, 2012; Nielsen 2012, 549-552).

Perhaps more importantly, many argue that party bans may damage the foundations of a democratic polity. The two most cited typologies of ‘democratic defence’ strategies - those developed by Downs (2012) and Capoccia (2005) - both conceptualise party bans as the most ‘militant’, ‘intolerant’, ‘aggressive’ or ‘repressive’ measure that can be employed against anti-system parties and see it as the most risky in terms of possible damage to the overall quality of the democratic system (Downs, 2012, 49; Capoccia, 2005, 59). Others have similarly observed that the party ban

could be interpreted as ‘lack of faith in the democratic process’ and an ‘admission of failure’ (Gordon, 1987, 390), or that it could be counterproductive insofar as its ‘chilling effect’ may signify a silent weakening of democratic rights in the state (Niesen, 2002, 256, see also Niesen, 2012; Kirchheimer, 1961, 151-161; Wise, 1998, 302).

Alongside uncertainty about the effectiveness of party bans, these purported longer-term risks to the quality of democratic politics have led many to caution against their use or that the ban should at least be a measure of last resort.^v Downs describes the party ban as a ‘democracy’s strategic last card’, suggesting that bans are used when all other measures have proved futile (2012, 38-9; see also Avineri, 2004, 7). Further supporting this interpretation is Downs’ argument that mainstream parties may strategically sequence responses in the ‘search for some approach that either moderates or eliminates the offending party’ (2012, 18). Many further argue that important *alternatives* to party bans are effective at marginalising or moderating anti-system parties and some explicitly argue that certain alternatives to party bans are more effective. Most of these purportedly effective alternative strategies are classified as less repressive, more tolerant and more accommodative than party bans in Down’s (2012) and Capoccia’s (2005) typologies of ‘defensive democracy’.

Manipulation of electoral rules in particular may be a potent tool for marginalising anti-system parties. Norris’ work on electoral systems and the far right, for instance, showed that radical right parties were more than twice as successful in gaining seats under proportional representation as under majoritarian electoral systems and that legal thresholds also exerted a critical effect on legislative representation (2005, 114, see also Carter 2005; van Donselaar, 2003, 283-285). In light of such insights, various authors have observed, for instance, that proscription of anti-system parties may be *more necessary* in some countries than others because their electoral systems were more effective at marginalising anti-system parties than others.^{vi} Indeed, arguments such as these have led some to argue that electoral rules are more effective ways of dealing anti-system parties with than party bans. Downs argues that while ‘bans fail in their intended purpose; greater effect is achieved [among other things] through imposition of electoral thresholds’ (2012, 23). Baches argues that: ‘Election procedures (such as barring clauses, majority systems or the US American procedure to nominate a candidate) can in certain cases be much more effective in keeping [extremists] out of the corridors of power’ (2006, 281). Sartori argued that, in some instances,

electoral thresholds and plurality electoral systems, and small electoral constituencies may have an effect equivalent to that of a party ban (2001, 99).^{vii}

Another relatively frequent measure for isolating anti-system parties is the so-called ‘cordon sanitaire, although evaluations of its effectiveness are more mixed. This measure can include a refusal to do all or some of the following: to form electoral cartels or collaborate in the formation of party lists prior to elections; to rely on anti-system parties’ votes to pass legislation; to give support for any of the party’s candidates or proposals; or to permit antisystem parties’ participation in electoral coalitions (Art, 2007, 339; Downs 2001, 2002 and 2012; Geys, Heyndels and Vermeir, 2006; Van Spanje and van der Brug, 2007). On the one hand, Downs argues that ‘explicit efforts aimed at political isolation of pariah parties in Western democracies have been stingily successful at keeping representatives of such parties from capturing political power commensurate with their electoral popularity’ (2012, 109).^{viii} Similarly, Art has argued in relation to the far right Republicans in Germany, that, in combination with Tabloid press campaigns and civil society activism, coordinated exclusion by mainstream parties successfully kept Republicans out of office and negatively affecting the party’s electoral success (2007, 332). More specifically, the cordon sanitaire ‘undermine[d] the far right’s electoral appeal, its ability to recruit capable party members and weaken its political organisation’ (2007, 332). On the other hand, Downs argues that such strategies of isolation tend to heighten the populist appeal of ‘pariah parties’ as the political establishment is seen to close ranks to deny legitimacy to a party voted to power by electors (Downs, 2012, 21 and 84).

Mainstream parties may also co-opt some of the policies of an anti-system party in the hope of reducing anti-system party appeal to voters (Minkenberg, 2011, Bale et al. 2010; Schain, 2006; Carter 2005, chapter 5) or of setting a political agenda facilitating the incorporation of anti-system parties into governmental or legislative collaboration with mainstream parties (Bale, 2003). Perhaps the clearest and most studied instance of co-optation has been the responses of parties of the right in particular to the anti-immigrant agenda of far right parties (eg. Bale 2003; de Lange, 2007; Minkenberg, 2011).

And finally strategies favoring collaboration between mainstream and anti-system parties appear to favour anti-system parties by helping them to achieve their vote, office and policy goals. However,

various authors suggest incumbency is, in fact, more effective at eventually marginalizing anti-system parties than strategies of isolation, such as party bans (see especially Downs, 2002, 49; 2012, 20-1; Van Spanje and van der Brug 2007, 10). This is because incumbency may have ‘moderating effects’ insofar as the prospect of collaborating with more moderate parties provides incentives for elements within targeted parties to challenge their party’s more radical policies (Downs, 2002, 49, 2012, 21; Van Spanje and Van de Brug, 2007, 1036; de Lange, 2007, 34; Bale 2003, 70). In relation to anti-immigration parties, for instance, Van Spanje and Van de Brug argue that such moderating effects explain why ‘anti-immigrant parties that have been allowed to participate in normal politics have managed to escape from outright extremism, while their ostracised counterparts have not’ (2007, 1036). Participation in government may also ‘expose’ anti-system parties as ‘ill-prepared to deal with the responsibilities of everyday policymaking’ (Downs 2012, 21.). Allowing an anti-system party ‘to bear the responsibilities of government’ may also weaken the party in future elections, by reducing their opportunities to ‘feed and monopolise popular resentment’ (Minkenburg, 2001, 10). Participation in government may also weaken an anti-system party by provoking debilitating internal tensions and divisions (de Lange, 2007, 27 and 23; Kestel and Godmer, 2004).^{ix}

Alongside normative appeals calling for restraint in the use of party bans, the strength of arguments pointing to the effectiveness of less repressive alternatives to proscription provide theoretical support for the hypothesis that:

H1: Democracies ban anti-system parties only if alternative forms of marginalization are not effective.

Evaluation of the extent to which the various strategies of democratic defence achieve their putative goals can be used to measure the effectiveness of alternatives to party bans. Taken together, strategies of democratic defence pursue at least some of four main goals – reducing anti-system party votes, preventing anti-system parties becoming relevant within the party system, preventing anti-system parties from influencing public policy through winning office or legislative influence and inducing ideological moderation. Regarding the first goal, it is apparent that all measures associated with Downs’ (2012) four strategies of democratic defence aim, either directly or indirectly, to reduce an anti-system party’s ability to win votes. They do so by either denying an

antisystem party the ‘oxygen of publicity’ (‘ignoring’); encouraging strategic voters to support other parties with a better chance of winning office (isolation); circumscribing an anti-system parties’ organisational, financial, symbolic or human resources (isolation); capturing issues attractive to an anti-system party’s voters (co-optation); and by reducing the plausibility of the party’s anti-establishment claims or exposing anti system parties as ill prepared for government (collaboration). In other words, one important measure of the effectiveness of alternatives to proscription is whether a decline in an anti-system party’s vote can be observed after new measures of democratic defence are implemented, and if can be shown that the two are related.

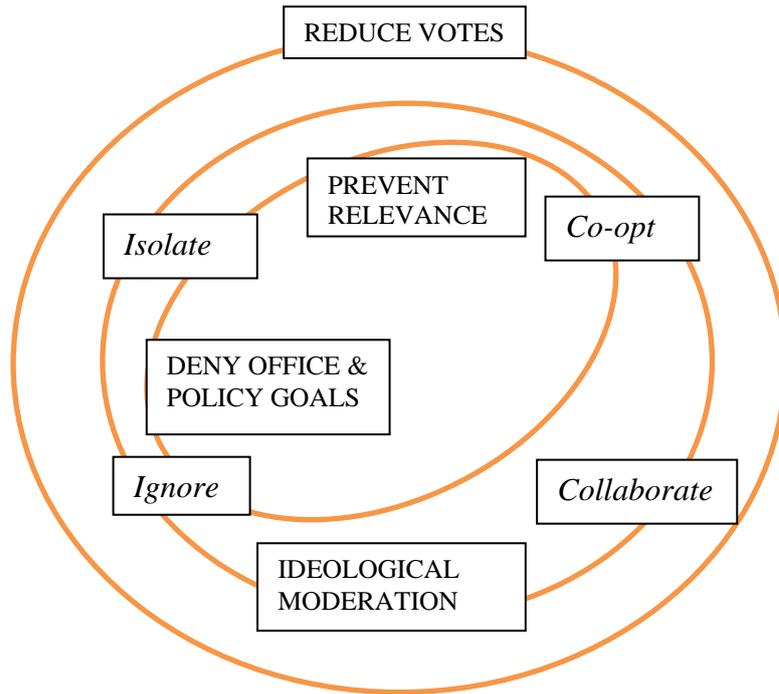
A second measure of effectiveness is related to manipulation of electoral rules which, for better or worse, seek to reduce the number of relevant parties within a party system. Here the extent to which electoral rules prevent anti-system parties from becoming relevant can be employed as an additional measure of effectiveness. According to Sartori, a party is relevant when it has coalition potential or blackmail potential (1976, 120-3). A party has coalition potential if it actually governs, enters a coalition government and/or supports a government, enabling it to take office or stay in office (1976, 123. A party has blackmail potential ‘whenever its existence, or appearance, affects the tactics of party competition...of governing oriented parties’ (ibid, 123). Blackmail potential can be measured by an anti-system party’s ‘veto power’ or its ability to vote down legislation in parliament (ibid, 123-4). In addition to overcoming hurdles inherent in the electoral system, it is obvious that winning sufficient votes is necessary to become a relevant party. Insofar as strategies of isolation more generally, ignoring, co-optation and collaboration aim to reduce anti-system party votes, it could be argued that their effectiveness also depends on the extent to which such strategies undermine anti-system parties’ ability to become relevant in the party system after future elections.

Where an anti-system party is successful enough to be relevant within the party system, the literature on *cordon sanitaire* discussed above suggests that the extent to which mainstream parties prevent an anti-system party from obtaining office or policy goals at local, regional or national levels is a third way in which the effectiveness of alternatives to party bans should be measured. However, this measure is also relevant for evaluating the effectiveness of other strategies insofar as the goals of reducing votes for, and relevance of, anti-system parties of all sizes can be part of the broader goal of reducing such parties’ chances of winning office or policy influence. However,

given that mainstream parties intentionally engage with anti-system parties in strategies of collaboration, it is obviously not appropriate to evaluate their effectiveness using this third measure.

And finally, fourth measure of effectiveness relates to the aim of inducing ideological moderation in the anti-system party. The existing literature on strategies of collaboration between mainstream and anti-system parties discussed above suggests ideological moderation is a particularly important measure for evaluating the effectiveness of this kind of strategy. However, it is also conceivable that other strategies pursue the goal of ideological moderation insofar as moderation is the means by which anti-system parties can mitigate costs associated with strategies of ignoring, isolation and co-optation applied against them.

Figure 1: Goals of 'Democratic Defence' Strategies (adapting Downs' 2012)



Dynamics of democratic competition

In their accounts of party ban processes, various authors link ban decisions with the incentives of mainstream parties in their pursuit of goals of winning votes, office and policy influence (Müller and Strøm, 1999). With regard to mainstream parties' desire to win *votes*, and thus their chance to obtain office and policy goals, Müller observes, that some parties may systematically benefit from a party ban. He argues that parties ideologically close to a banned party may benefit if the banned parties' voters switching their allegiance to it (2005, 263). The relationship is not automatic, however, because voters may punish the closest ideological substitute for its role in banning their preferred party or may not want to vote for remaining parties for other reasons. Kirchheimer also remarks in the context of widespread fears of domestic communism in 1950s USA, 'endorsement of more stringent repressive [measures against the Communist party and its members] meant protection from unfavourable public reaction. It was tempting to prove one's unshakable resolve to "fight subversion"' (1961, 158). On the other hand, as pointed out above, Downs argues that strategies of isolation, such as party bans, may cost mainstream parties votes because 'the perception of the parties of the putatively democratic 'establishment' allying to deny voice to a party or parties they deem illegitimate can ultimately serve to fuel the far right's appeal' (Downs, 2002, 48).^x

Decisions about whether or not to ban parties may have consequences for *office seeking*, that is 'winning control of the executive branch or as much of that branch as possible' (Müller and Strøm, 1999, 5). In the Italian case, for instance, Murphy argues that, despite the constitutional prohibition of the reconstitution of the interwar fascist party, the Christian Democrats, when dominant in the party system, did not apply anti-fascist laws to the blatantly neo-fascist, *Movimento Sociale Italiano* (MSI, Italian Social Movement) 'in return' for the occasional support of the MSI in keeping the Christian Democrats in office (1993, 189-90). Party bans – like the analytically similar *cordon sanitaire* – may also have mechanical effects changing the 'mathematical context' of coalition negotiations (Geys et al. 2006, 979 on *cordon sanitaire*). For his part, Downs argues that: 'Mainstream parties must contend with the consequences of different strategic responses for their own popularity with voters as well as their status as potential (or actual) parties of government' (2012, 175).

Similarly, a party's *policy* goals in relation to party bans may be at stake – and thus subject to negotiation and possibly sacrificed – as a result of negotiations with coalition partners. As Niesen observes for the case of Germany, 'Adenauer's right wing coalition partners in the cabinet almost sabotaged the motion [to ban] the *Sozialistische Reichspartei* [Socialist Reich Party], and could only be pacified by the simultaneous decision to hand in a motion against the *Kommunistische Partei Deutschlands* [KPD, Communist Part of Germany]' (Niesen, 2002, 255). Alternatively, party bans may help parties achieve other policy goals. Kirchheimer argues that proscription of the KPD would strengthen its foreign policy goal of 'barring a "softer" approach to East –West relations' because 'the government would expect to see its domestic position strengthened considerably if it could show that all propaganda favouring a "milder" foreign policy was really an advocacy of unprincipled dealings with the political force convicted by the highest tribunal of the land of active hostility to the democratic order' (1961, 155).

These arguments suggest that party bans should not be considered in isolation from the strategic calculations of mainstream parties under the conditions of democratic competition. However, it is necessary to turn to the broader literature on democratic states' responses to extremism to develop from these insights more systematic hypotheses about the strategic responses of mainstream parties towards anti-system parties.^{xi}

Van Spanje's (2010) work on the ostracism of anti-immigrant parties and Downs' (2012) work on mainstream parties' strategic choices between ignoring, isolation, co-optation and collaboration with pariah parties are particularly useful for understanding the strategic choices in case of party bans. According to Van Spanje, ostracism is a strategy for marginalising parties and occurs when a party systematically rules out cooperation with a specific other party (2010, 356). As such, it is a strategy analytically similar to that of party bans, which also aims to marginalise particular parties albeit by denying it any chance to win votes, influence policy or participation in government. Van Spanje argues that rationales for ostracism are captured in a rational choice framework. Given competition among parties for policy, office and votes, party leaders have incentives to try to ostracise as many of their competitors as possible (ibid, 356). However, it is not always possible for mainstream parties to know which specific parties they may need to cooperate with after an election. As such, a party is less likely to ostracise potential coalition partners, particularly influential parties or those ideologically close to them (ibid, 356). Moreover, supporting ostracism

of another party risks electoral losses and intraparty conflict unless the party pursuing ostracism can ‘credibly accuse a particular party of ideologies that are widely perceived as unacceptable’ (ibid, 374). Consequently, as van Spanje’s analysis shows, mainstream parties are likely to ostracise an anti-immigrant party ‘if they do not need to cooperate with it’ (ibid, 354). As such small parties are more likely to be ostracised, while one party is more likely to ostracise another as the ideological distance between them grows (ibid, 373). Furthermore, parties are even more likely to ostracise an anti-immigrant party ‘if they can convincingly make the case that its ideologies are outside agreed standards of acceptability’ (ibid, 355). As such, neo-Nazi and authoritarian anti-immigrant parties are much more likely to be ostracised than a ‘neo-liberal’ one (ibid, 371).

Downs’ (2012) work on mainstream parties’ strategic choices between ignoring, isolation, co-optation and collaboration pariah parties builds on this approach by specifying more clearly the effect of party (and electoral systems) on mainstream parties’ strategic responses to pariah parties.

Regarding strategies of **ignoring**, Downs argues that:

majoritarian electoral systems induce greater complacency among moderates cushioned by the reasonable assurance that niche parties might gain a significant number of votes but few if any seats. The established party can more safely follow the strategic path of least resistance and ignore the threat’ (ibid, 68).

Regarding strategies for **co-optation** and **collaboration** he formulates the hypothesis that

greater party system fragmentation (number and relative size of parties, as well as degree of polarization) produces increased incentives for individual parties to defect from clean hands approaches and instead pursue strategies of engagement (co-optation and collaboration) (2012, 63).

This is because, Downs argues,

Relatively weak and divided democratic parties must either (1) adjust policy positions and thereby recoup voters lost to the extremes [co-opt] or (2) cooperate to some extent with the pariah [collaborate]. Otherwise, such parties will suffer individually as vote and office-seeking organisations (ibid, 63).

Regarding strategies of **isolation**, which includes **party bans**, Downs argues that the opposite holds, or that

polarised, centre-fleeing party systems therefore pose greater challenges for containing extremism through coordinated political isolation (ibid, 63).

Presumably, in more mildly fragmented, centre-leaning party systems, mainstream parties would have few incentives to be complacent about the emergence of anti-system parties and may have few difficulties building anti-pariah coalitions across the ideological centre of the party system

For an account of the proscription of political parties, van Spanje's and Downs research suggests the hypothesis:

H2: Mainstream parties support proscription of anti-system parties if they do not need to cooperate with them to win office, if they can convince voters that the anti-system party's ideology is unacceptable, and if agreement between mainstream parties is facilitated by centre-leaning party systems.

Party orientation to violence

Case studies of parties subject to ban proceedings suggest a party's implication in political violence is an important explanation for that party's proscription, either as direct grounds for proscription itself or as a factor contributing to the delegitimisation of the targeted party in democratic politics. Comparative studies show that a party's actual promotion of violence, or a party's potential to incite or provoke it, are among the main justifications inscribed in law for party bans (Brems, 2006; Issacharoff, 2007; Rosenblum, 2007).^{xiii} Among these justifications, violence is only one of the grounds for banning parties. However, from the perspective of democratic theory, it could be argued that violation of commitments to non-violent resolution of conflicts – a fundamental element of what legitimizes political parties as central actors in democratic politics – are generally easier to justify in a democratic society than suppression of parties for programmatic objectives which might otherwise be protected under commitments to free speech.

Furthermore, most of the parties banned by democratic states in post-war Europe were directly involved in acts of political violence through links with terrorist groups or as participants in coup attempts, or were associated with groups which previously, contemporaneously, or might potentially commit acts of political violence. Former fascist parties banned in Germany, Austria and Italy after their defeat at the end of World War Two were implicated in political crimes, mostly mobilised through their control of the coercive apparatus of the state. The Communist Party of the

Soviet Union/Russia was (partially) was banned for being an accomplice in the 1991 August coup attempt against Soviet President Mikhail Gorbachev (Feofanov, 1993, 637; Brunner, 2002, 30).^{xiii} Banned Communist Parties in the Baltic states supported the August 1991 coup against Gorbachev and were involved in unsuccessful coup attempts against the -independence–governments and legislatures (eg. *Ždanoka v. Latvia*, 58278/00, ECHR, 2006). The Communist Party of Greece was banned after it launched a revolutionary insurrection and civil war (1946-9), eventually quashed with British and US support (Kousoulas, 1965). In 2003, the Israeli Central Elections Committee disqualified (later overturned by Supreme Court) the Israeli Arab party, *Balad*, for denying the existence of the state of Israel as a Jewish and a democratic state and for ‘support for armed struggle, of an enemy state or of a terrorist organisation against the State of Israel’ (Navot, 2008, 750). From 1993, the People’s Labour Party and various successors (including Democratic Party (1994); People’s Democracy Party (2003), and the Democratic Society Party (2009)) have been banned in Turkey on grounds including support for the terrorist group, the Kurdistan Workers’ Party (Celep, 2014, 385-86; Güney and Başkan, 2008: 275). The National Democratic Party (Austria) was banned for reactivating national socialist ideas, but also conducted a terrorist campaign pursuing the return of the predominantly German-speaking region of South Tirol to Austria (Degenhardt, 1983, 402, 455). The banned radical Basque nationalist party *Herri Batasuna* and its successors were banned for integration in the terrorist group *Euskadi Ta Askatasuna* (Bourne, 2014) and the Irish nationalist party *Sinn Féin*, banned between 1956 and 1974 in Northern Ireland, was banned for integration in the Irish Republican Army (Feeney, 2003; Bourne 2014b).^{xiv}

The foregoing discussion suggests the hypothesis:

H3: Democracies ban anti-system parties, if the parties do not unambiguously reject violence.

Ambiguity about the appropriateness of violence can include participation in acts of political violence; verbal promotion of political violence; support for terrorist organisations; or the perception on the part of decision-makers, that without a ban, a party’s activities will lead to social unrest and perhaps ultimately violent conflict.

Test of Hypotheses in Spanish case study: Results

In Bourne (2015), I tested Hypotheses 1 and 2 (and a simplified version of Hypothesis 3) in the ‘most likely’ case of party bans in Spain. The Spanish case can be considered a crucial case particularly in relation to Hypothesis 3 on violence, perhaps the most important variable given foundational democratic commitments to negotiation of political differences through non-violent means.^{xv} In other words, if the hypothesis that democracies ban parties that do not unambiguously eschew violence is valid, it could be expected, *a priori*, that the political wing of a terrorist group, namely, *Herri Batasuna* and its successors, would be banned. In relation to the hypothesis about violence, Spain can also be considered as one of a small number of ‘most likely cases’, or cases that ‘ought ... to invalidate or confirm theories if any cases can be expected to do’ (Eckstein, 1979, p. 118). This is because Spain is one of the few established democracies with parties implicated in armed insurrection, another obvious case being the United Kingdom and the insurgency in Northern Ireland (discussed Bourne 2014). And finally, it is reasonable to expect other hypotheses about alternatives to proscription (Hypothesis 1) and the political strategies of other parties (Hypothesis 2) to be valid given the range of instruments employed to respond to political violence and the consolidation of pluralistic, democratic competition in Spain.

The most important conclusion of analysis of the Spanish case was that despite expectations, Hypothesis 3 on violence was falsified. It was falsified because the radical nationalist party, *Herri Batasuna* and its successors Euskal Herriterrok (EH) and Batasuna, were legal and participated in many electoral contests for around two decades after democratisation in the late 1970s and prior to proscription in 2003, despite their association with terrorist group, ETA. (For further discussions relating to Hypotheses 1 and 2 see Bourne, 2015). As a result of these findings, it became clear that Spain was, in relation to other cases of party bans, a ‘deviant case’ given the importance of a party’s orientation to violence as a legal rationale and justification in practice for most party ban cases. This finding provided the rationale for taking the second step in the research design - examining the Spanish case further in order to understand why, despite expectations, parties with admittedly covert, but widely suspected links with a terrorist group remained legal for such a long time. Such a case study is important for theory development given that cases ‘known to deviate from established generalizations’ can ‘uncover relevant additional variables that were not considered previously, or refining the (operational) definitions of some or all of the variables’ (Lijphart, 1971, 692). On the basis of the results of this further research into the question of *why a party was not banned*, three further hypotheses emerged from analysis (two of which were reported in Bourne 2014, the other in

Bourne 2010).^{xvi} In contrast to Hypotheses 1–3, which focused on rather static context conditions coinciding with party ban decisions, new hypotheses are process-oriented, providing insights on how democracies resolve the dilemmas inherent in the proscription of parties.

III New Hypotheses for Explaining Party Bans: Why democracies don't ban parties?

Securitization and party bans

The first hypothesis emerged from analysis of parliamentary debates on party ban issues, where two contrasting paradigmatic constructions of appropriate responses to the 'proscription dilemma' – involving distinctive constructions of the nature, appropriateness and possible consequences of proscription (Schmidt, 2008) – were observed. In parliamentary debates on party bans, a 'discourse of intolerance' conceived proscription as a law and order problem that would help end violence. *Herri Batauna* was deemed 'abnormal' and thus unworthy of entitlements granted to democratic parties. A contrasting 'discourse of tolerance' emphasized all parties' relevance for representation and the exercise of free speech. Proscription was seen as inimical to resolution of conflicts underpinning violence.

These discourses can be conceived, respectively, as 'securitization' and 'desecuritization' strategies. Securitization theory, in its several variations, is premised on a conception of 'security' as intersubjective and socially constructed (eg. Buzan et al, 1998, 30-1; Balzacq, 2011, 1-4). In their seminal work, Buzan *et al.* argue that 'security' occurs when 'an issue is presented as posing an existential threat to a designated referent object (traditionally but not necessarily the state, incorporating government, territory and society)' (1998, 21). While 'the invocation of security has been the key to legitimizing the use of force' it has also 'opened the way for the state to mobilise or to take special powers, to handle existential threats' (ibid, 21). A public issue becomes *securitized* when 'presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure' (ibid, 23). In contrast *desecuritization* 'shifts the issue out of emergency mode and into the normal bargaining process of the public sphere' (ibid., p. 4) and no longer represents the issue as 'threats against which we have to take countermeasures' (ibid., p. 29).

Securitization begins with a *securitizing move*, a discourse that takes the form of presenting something – here, a party – as an existential threat to a *referent object* – here a state, democratic institutions, national or democratic community (ibid, 25). However, an issue is successfully securitized only if a relevant audience accepts it as such (ibid, 25 and 31). Securitization arguments must ‘gain enough resonance for a platform to be made from which it is possible to legitimize emergency measures or other steps that would not have been possible had the discourse not taken the form of existential threats, point of no return, necessity’ (ibid, 25). Moreover, in a democracy, at some point it must be argued in the public sphere why a situation constitutes security and therefore can legitimately be handled differently’ (ibid, 28).

Securitization theory also identifies three ‘facilitating conditions’ for successful securitization, conditions relating to the circumstances under which speech acts – or the securitization argument – are accepted by the intended audience: Firstly, it must follow an ‘grammar of security’, or ‘construct a plot that includes existential threat, point of no return, and a possible way out’ (ibid, 33). Secondly, ‘the securitizing actor must be in a position of authority’, which affects the relationship between the speaker and the audience and thereby the likelihood of the audience accepting the claims made in a securitizing attempt (Buzan et al, 1998, 33). And finally, ‘the features of the alleged threats that either facilitate or impede securitization’, or as Buzan et al put it, ‘one is more likely to be able to conjure up a security threat if certain objects can be referred to that are generally held to be threatening - such as tanks or hostile sentiments’ (ibid, 33).^{xvii}

On the basis of the findings of the Spanish case study and securitization literature, the following hypothesis emerges:

H4 Democracies ban anti-system parties if these parties have been ‘securitized’ as an existential threat to the state, democratic institutions or values of the political community

Additionally, it is plausible to assume that legalisation of banned parties follows the opposite process of *desecuritization*: Or, to paraphrase Buzan, Wæver and Wilde (1998), *the process by which the issue of extremism in the party system moves out of the ‘emergency mode’, the threat-defence sequence, and out of the set of threats against which the state has to take countermeasures as grave as the party ban.*

In relation to this hypothesis, it is relevant to note that various scholars have argued that the historical experience of dictatorship and democratic breakdown may help explain variation in democratic responses to extremism (Klamt, 2007; Bleich and Lambert, 2013; Karvonen, 2007; Kirchheimer, 1961, 137-8, although see Rosenblum 2007, 39 and 40 for dissenting view).^{xviii} One problem with arguments linking an authoritarian past with a propensity to institutionalize or use measures against anti-system actors is that historical experience may also justify a rejection of party bans. Kemmerzell argues, for instance, that the South African constitution, which does not provide for party bans, is related to the ‘the particular historical experience with bans during apartheid [which] holds great symbolic importance in the South African collective memory’ and as such ‘restrictions on associational freedom tend to be seen as an undesired legacy of the old, unjust regime’ (2010, 701).^{xix} The implications of historical political experiences and its relevance for explaining democratic responses to anti-system actors may thus depend on how different societies and political elites ‘remember’ the past and ‘mobilise’ it for political ends.^{xx} In this respect, it can be argued that one of the advantages of focusing on securitization processes is that it provides conceptual tools for understanding how broadly similar historical processes may be mobilised in discourse to underpin widely differing means of dealing with contemporary anti-system parties.

Veto-players and party bans

The Spanish case also suggests that the preferences of veto players are crucial for understanding the conditions under which parties may or may not be banned. Veto players are ‘actors whose agreement is required for a change in the status quo’ (Tsebelis, 2002, p. 17). ‘Institutional’ veto players are empowered by formal constitutional rules and ‘partisan’ veto players are those ‘generated by the political game’ (such as parties in a coalition government) (ibid., p. 19). Veto player theory primarily aims to account for patterns of policy stability and change by focusing on the number of veto players, the ideological distance between them and the role of agenda setters. In Spain, veto players in party ban decisions are (i) the legislature and executive – and thus political parties – and (ii) the judiciary. Veto player theory can help explain why HB and successors remained legal until 2003. Even though parties controlling government and dominating parliament wanted to ban HB and sought to mobilize support through securitization, the Supreme Court did not support proscription in the 1980s. By 2003, however, the judiciary was willing to do so. Consolidation of a new, more comprehensive concept of ‘the terrorist’ in judicial circles similar to

that employed in the PP and PSOE's 'discourse of intolerance' coincided with the ban (Esparza, 2004, p. 19; Tajadura and Vírjala, 2008, pp. 53–55).

The finding of the Spanish case is also important insofar as it challenges the predominant focus of most securitization theory on the constitutive power of discourse. It also highlights the need for a more explicit theorisation of the role of institutions in securitization research. The assumption that institutions matter is implicit in securitization theory. It is evident in statements about the importance of 'authority' (Buzan et al, 1998, 33, second facilitating condition), 'linguistic competence' (Balzacq 2005, 191) and the 'positional power' of securitizing agents (Stritzel 2007, 375). Buzan *et al* distinguish between *ad hoc* and institutionalised securitization (1998, 27-8), while others have noted a bias towards democratic decision-making in securitization theory, which rests on an implicit assumption of institutionalised commitments to democratic practices (Vuori, 2008, 68). Nevertheless, the role of institutions as an explanatory variable remains underspecified, particularly with regard to how variation in political system variables can shape securitization. This is an important shortcoming, given that successful securitization is often observed in hindsight and in public policy outcomes. ^{xxi}

New institutionalism provides many insights into how such system-level variation in both formal and informal institutions may affect securitization outcomes, even though many differ in their views on the nature of institutions, how institutions affect politics, and ontological and epistemological assumptions (see for instance Hall and Taylor, 1996; Hay 2002; Schmidt, 2008). Veto player theory is just one of many possible conceptual tools from new institutionalism which may be employed in securitization research to account for variation in successes and failures of securitization moves.

In sum, findings from the Spanish case, on the one hand, and new institutionalist (and especially) veto-player theory on the other, suggest the following hypothesis:

H5: Democracies ban anti-system parties only if veto players prefer them to do so

Democratisation and party bans

An additional explanation for why *Herri Batasuna* and its successors were not banned prior to 2003 can be drawn from the Spanish experience of democratisation (Bourne 2010, 6). Following the

death of General Francisco Franco in 1975, Spanish elites initiated a transition from dictatorship to democracy. This process has been characterised as a consensual transition process, founded on compromise between regime reformers led, on the one hand, by Prime Minister Adolfo Suárez and Franco's appointed successor, then-King Juan Carlos, and on the other, by opposition socialist, communist and predominantly Catalan minority nationalists (Carr and Fusi, 1981; Preston, 1987). Even though radical Basque nationalists associated with ETAm actively and violently sought to undermine the democratization process (Domínguez, 2006) transition leaders explicitly rejected constitutional provisions which might endorse a 'militant' approach to the proscription of extremist parties (Blanco, 1990: 124-9). As Ferreres argued, this preference was both 'a reaction against forty years of dictatorship, during which all political parties were illegal' and as a protection against the 'wishes of some conservative forces during the transition to democracy who would have liked to exclude the communist party and other leftist organisations from the new democracy' (2004: 141).

As I have argued elsewhere, the literature on democratization provides conceptual grounding developing hypotheses that may account for the specific context of democratisation on party ban decisions (Bourne 2012a). 'New democracies', such as Spain after promulgation of the 1978 democratic constitution, can be defined as states at the 'transition' stage of a process which could transform an authoritarian regime into a fully consolidated democracy. 'New democracies' can therefore be defined, adopting Linz's conception of democratic transitions, as former authoritarian states where there has been: a) the transfer, abdication, or takeover of power by a group willing to open the doors to a democratic process and b) the successful realisation of free elections; convening of a new parliament on whose confidence government depends, or installation of a new president in office; and a constitution defining the functions of different organs of government (Linz, 1990, 148, 157). New democracies face particular problems which make the option of proscribing a political party more compelling. New democracies are typically characterised by uncertainty, polarization, political tension and significant disagreement over the pace and forms of democratization (Karl and Schmitter, 1991, 270). Furthermore, in new democracies there is often a great deal of uncertainty about 'which interests will prevail and what the outcome of the democratic process will be' (Morlino, 1994, 572). Sometimes there is a strong possibility that anti-democratic forces might prevail (Rustow, 1970, 354; Linz, 1990, 153; Huntington, 1991, 109-64). In contrast, the marginalisation of extremist and anti-system parties is often regarded as a benchmark for democratic consolidation (Linz, 1990, 158; Diamond, 1999, 67-8). Minorities might be particularly

vulnerable to the tendency for democratization to promote communalism and ethnic tensions (Huntington, 1991; 6; Zakaria, 1997, 38). Another distinctive feature of new democracies is the challenge of ‘dealing justly with the previous non-democratic rules’ (Linz, 1990, 158; Huntington, 1991, 209; Herz, 1978, 561). Indeed, the proscription of political parties is one aspect of broader considerations of transitional justice, which may require a response to demands to punish agents of the old regime responsible for human rights violations or to purge them from the armed forces, bureaucracy and the civil service (Linz, 1990, 158; Huntington, 1991, 211-31).

These characteristics of democratic transitions –and illustrative examples such as proscription of communist parties in Russia and the Baltic states (Bourne 2012, 1071) - suggest new democracies may be more likely to ban parties when the threat of violent counterrevolution is substantial (ibid, 1074) or as Niesen argues in the case of the postwar ban on reforming the Italian Fascist Party, in order to symbolically demarcate an authoritarian past, ‘disclose a new republic’s understanding of the paradigmatic wrongs of the old regime’ and ‘specify the new regime’s normative orientation to the future’ (2002, 275). However, they do fully not account for the fact that some new democracies ban parties but others – such as Spain - do not. Rather, reference to differing ‘modes of transition’ may help explain why some states ban parties to address the challenges of democratic transitions while others do not.

Huntington observes that different ‘modes of transition’ are associated with different approaches to the issue of purging and punishing protagonists of the old regime: in the case of ‘third wave’ *regime transformations* (regime reformer-led change) former officials of the authoritarian regime were almost never punished (1991, 211-31). In case of *replacement* (opposition group-led change) they almost always were. In what Huntington calls *transplacements* (regime reformer- and moderate-opposition-led change) this was an issue to be negotiated. A similar argument has been developed explicitly in relation to party bans. In their work on party bans in Africa, Hartmann and Kemmerzall develop the hypothesis that:

the more consensual modes of transition should inhibit the introduction of party bans because more parties are involved in the transition itself and are stakeholders that cannot be excluded by legal *fiat*. The victory of one ‘party’, whether a popular opposition movement, a revolutionary military force, or a clever former authoritarian leader, should, in contrast facilitate the use of party bans, as these bans could become

one instrument to formalise the victory and to systematically exclude the opponents from further competition (2010, 648)^{xxii}

The foregoing suggests the final hypothesis:

H6: New democracies ban anti-system parties when modes of transition involve opposition-led change installing a new set of rulers, but not when it takes the form of authoritarian-regime-reformer-led change or transition through negotiation between regime reformers and the opposition.

References

- Art, David (2007) Reacting to the Radical Right: Lessons from Germany and Austria, *Party Politics*, 13:3, p. 331-349.
- Baches, Uwe (2006) Limits of political freedom in democratic constitutional states: a comparative study on Germany, France and the USA', In *Totalitarismus und Demokratie* 3 (2006), 2, p. 265-282.
- Bale, Tim (2003) 'Cinderella and her Ugly Sisters: The Mainstream and Extreme Right in Europe's Bipolarising Party Systems', *West European Politics*, 26(3), 67-90
- Bale, Tim (2007) 'Are bans on political parties bound to turn out badly? A comparative investigation of three 'intolerant' democracies: Turkey, Spain and Belgium', **Comparative European Politics**, 5(2), pp. 141-157.
- Bale, Tim; Christopher Green-Pedersen, Andre Krouwel, Kurt Richard Luther, Nick Sitter (2010) If you can't Beat them Join Them? Explaining Social Democratic Responses to the Challenge from the Populist Radical Right in Western Europe, *Political Studies*, 2010, 58, 410-426.
- Balzacq, T (2011) *Securitization Theory* (Oxon, UK: Routledge).
- Balzacq, T (2005) The Three Faces of Securitization, *European Journal of International Relations*, 11: 2, 121-201.
- Bourne, A (2015) Why Ban Batasuna? Terrorism, Political Parties and Democracy, *Comparative European Politics*, 13, 325-344.
- Bourne, A (2014) Security or Tolerance? The Proscription of Political Parties in Democratic States, paper presented at European Consortium for Political Research, Joint Sessions, Salamanca, 10-15 April 2014.
- Bourne, A (2012a) Democratization and the proscription of political parties, *Democratization*, 19:5, 1065-1085.
- Bourne, A (2012b) The proscription of parties and the problem with 'militant democracy', *Journal of Comparative Law*, 7:1, 196-213.
- Bourne, A (2010) 'Political Parties and Terrorism: Why ban *Batasuna*?', Paper presented at Elections, Public Opinion and Parties Annual Conference, University of Exeter, 9-11 September 2010.
- Bligh, Gur (2013) Defending Democracy: A New Understanding of the Party-Banning Phenomenon, *Vanderbilt Journal of Transnational Law*, 46, 1321-1379.
- Bleich, Erik and Lambert, Francesca (2013) Why Are Racist Associations Free on Some States and Banned in Others? Evidence from 10 Liberal Democracies, *West European Politics*, 36:1, 122-149.

- Brems, Eva (2006a) Freedom of Political Association and the Question of Party Closures, in Sadurski, Wojciech (ed) *Political Rights Under Stress in 21st century Europe*, Oxford University Press: Oxford.
- Brems, Eva (2006b) Belgium: The Vlaams Block political party convicted indirectly of racism, *International Journal of Constitutional Law*, 4:4, p. 702-711).
- Buzan, B Wæver, O, De Wilde, J (1998) *Security: A New Framework for Analysis* (Boulder, Lynne Rienner).
- Carter, Elisabeth (2005) *The extreme right in Western Europe: Success or failure?*, Manchester: Manchester University Press.
- Capoccia, Giovanni (2005) *Defending Democracy: Reactions to Extremism in Interwar Europe*, John Hopkins University Press,
- Capoccia, Giovanni (2001) "Defending Democracy: Strategies of Reaction to Political Extremism in Inter-War Europe", *European Journal of Political Research*, Vol. 39, No. 4, June 2001, pp. 431-460.
- Carr, Raymond and Juan Pablo Fusi (1981) *Spain: From Dictatorship to Democracy*. London: Allen and Unwin.
- Charmaz, K (2006) *Constructing Grounded Theory*. London: Sage.
- Cohen-Almagor, Raphael "Disqualification of Political Parties in Israel: 1988-1996, *Emory International Law Review*, 11 (1997), p 67-109;
- Corcuera, Javier, Javier Tajadura and Eduardo Vírjala (eds.) (2008) *La Ilegalización de Partidos Políticos en las Democracias Occidentales*. Madrid: Dykinson.
- Downs, William M. (2002) How Effective is the Cordon Sanitaire? Lessons from Efforts to Contain the Far Right in Belgium, France, Denmark and Norway', *Journal of Conflict and Political Violence*, 4:1, p. 32-51.
- Downs, William (2012) *Political Extremism in Democracies: Combating Intolerance* (Palgrave Macmillan)
- Eckstein, H (1979) 'Case Study and Theory in Political Science' in Greenstein, F and Polsby, N (eds). *Handbook of Political Science* (Reading, Addison-Wesley).
- Erk, Jan (2005) From Vlaams Block to Vlaams Belang: The Belgian Far-Right Renames Itself, *West European Politics*, 28:3, 493-502.
- Yuri Feofanov, "The Establishment of the Constitutional Court in Russia and the Communist Party Case" *Review of Central and East European Law*, 6 (1993), pp 623-37
- Geys, Benny, Bruno Heyndels and Jan Vermeir (2006) Explaining the formation of minimum coalitions: Anti-system parties and anti-pact rules, *European Journal of Political Research*, 45, 957-984.
- Gordon, A (1987) Limits on Extremist Political Parties: A Comparison of Israeli Jurisprudence with that of the United States and West Germany, *Hastings International and Comparative Law Review*, 10, p. 347.
- Husbands, C (2002) Combatting the Extreme Right with the Instruments of the Constitutional state: lessons from Experiences in Western Europe', in *Journal fur Konflikt – und gewaltforschung*, 4:1, p. 52-73
- Huntington, Samuel. P., 1991. *The Third Wave: Democratization in the Late Twentieth Century*. Norman: University of Oklahoma Press.
- Issacharoff, Samuel (2007) Fragile Democracies, *Harvard Law Review*, 6:120, p. 1407-1567.
- Karl, T. and P. Schmitter (1991) 'Modes of transition in Latin America, Southern and Eastern Europe'. *International Social Science Journal* 128, 269-84.
- Kemmerzell, Jörg (2010) Why there is no party ban in the South African Constitution, *Democratization*, 17:4, 687-708.

- Kestel, L and Godmer, L (2003) Institutional Inclusion and exclusion of extreme right parties' in Eatwell, R and Mudde, C (eds) *Western Democracies and the New Extreme Right Challenge* (London: Routledge)
- Koopmans, Ruud (2005) "Repression and the Public Sphere: Discursive Opportunities for Repression in Germany in the 1990s" in Christian Davenport, Hank Johnston, and Carol Mueller, eds., *Repression and Mobilization* (Minneapolis: University of Minnesota Press).
- Kommers, Donald (1976) *Judicial Politics in West Germany* (London: Sage)
- Karvonen, Lauri (2007) "Legislation on Political Parties: A Global Comparison", *Party Politics*, 13, 437-455
- Kirchheimer, O (1961) *Political Justice: The Use of Legal Procedure for Political Ends* (New Jersey, Princeton University Press).
- Koçak, Mustafa and Esin Örüci, "Dissolution of Political Parties in the Name of Democracy: Cases from Turkey and the European Court of Human Rights", *European Public Law*, 9:3 (2003), p. 399-423.
- Klamt, Martin (2007) *Militant Democracy and the Democratic Dilemma: Different Ways of Protecting Democratic Institutions*, in Bruinsma, Fred and Nelken, David (eds) *Explorations in Legal Cultures*, (XXX: Reed Business).
- Kousoulas, D. George (1965) *Revolution and Defeat: The Story of the Greek Communist Party* (Oxford: Oxford University Press).
- de Lange, Sarah (2007) 'From pariah to power broker: The radical right and government in Western Europe' in Pascal delwit and Philippe Poirier (eds) *The extreme right parties and power in Europe* Editions de l'Universite de Bruxelles: Brussels)
- Linz, J (1978) *The Breakdown of Democratic Regimes*. Baltimore: Johns Hopkins University Press.
- Linz, J., 1990. Transitions to Democracy. *The Washington Quarterly*, p 143-64.
- Linz J. and A. Stepan, (1996) 'Towards Consolidated Democracies', *Journal of Democracy*, 7(2), pp. 14-33.
- Loewenstein, K (1937) 'Militant Democracy and Fundamental Rights II', *The American Political Science Review*, 31:4, p. 638-658.
- Lijphart, A. (1971) Comparative Politics and the Comparative Method, *The American Political Science Review*, 65:682-693.
- Mair, Peter (1997) *Party system change: approaches and interpretations* (Oxford and New York: Clarendon Press)
- Mares, Miroslav (2012) Czech Militant Democracy in Action: Dissolution of the Workers' Party and the Wider Context of this Act, *East European Societies*, 33-55.
- Minkenberg, Michael (2001) The radical right in public office: Agenda-setting and policy effects, *West European Politics*, 24:4, 1-21.
- Mickenberg, M (2006) Repression and Reaction: Militant democracy and the radical right in Germany and France, *Patterns of Prejudice*: 40:1, p. 25-44
- Müller, Wolfgang C and Strøm, Kaare (1999) *Policy Office or Votes?* (Cambridge: Cambridge University Press).
- Murphy, Walter F (1993) *Excluding Political Parties: Problems for Democratic and Constitutional Theory*, in Kirchhof, Paul and Kommers, Donald P. (eds.) *Germany and its Basic Law: Nomos* Verlagsgesellschaft: Baden Baden.
- Mudde, Cas (2004) 'Defending democracy and the extreme right,' in R Eatwell and C Mudde (eds) *Western Democracies and the Extreme Right Challenge* (London, Routledge)
- Müller, Wolfgang C. (2005) "Parties and the Institutional Framework" in Kurt R. Luther and Ferdinand Müller-Rommel, R (eds) *Political Parties in the New Europe* (Oxford: Oxford University Press)

- Navot, S. (2008) 'Fighting Terrorism in the Political Arena: The Banning of Political Parties', *Party Politics*, 14(6), pp. 745-762,
- Niesen, Peter "Anti-extremism, negative republicanism, civil society: Three paradigms for Banning Political Parties", *German Law Journal*, 7 (2002), p. 249-286
- Niesen, P (2012) 'Banning the former ruling party', *Constellations*, 19:4, 540-561.
- A Pedahzur, 'The defending democracy and the extreme right: A Comparative Analysis', in R Eatwell and C Mudde (eds), *Western Democracies and the New Extreme Right Challenge* (London, Routledge, 2004)
- Preston, Paul (1987) *The Triumph of Democracy in Spain*. London: Routledge.
- Rosenblum, Nancy L. (2007) Multiculturalism and the Anti-discrimination Principle, *Law and Ethics of Human Rights*, 1:1, p. 1-59.
- A Sajó (ed.), *Militant Democracy* (Utrecht: Eleven International Publishing, 2004).
- Sartori, Giovanni (1970) 'Concept Misformation in Comparative Politics', 64 *The American Political Science Review* 1033
- Sartori, G (1976) *Parties and Party Systems*. Cambridge: Cambridge University Press, 1976.
- Sartori, Giovanni (1991) 'Comparing and Miscomparing', 3 *Journal of Theoretical Politics*
- Sartori, Giovanni (1996) *Parties and party systems: a framework for analysis*
- Schmidt, Vivien A (2008) 'Discursive institutionalism: The Explanatory Power of Ideas and Discourse', *Annual Review of Political Science*, 11: 303-26.
- Tajadura, Javier and Eduardo Vírgala, 'España' in Corcuera, Javier, Javier Tajadura and Eduardo Vírgala (eds.) (2008) *La Ilegalización de Partidos Políticos en las Democracias Occidentales*. Madrid: Dykinson.
- Thiel, M (2009) *The Militant Democracy Principle in Modern Democracies* (Farnham, Surrey, Ashgate).
- Tsebelis, G. (2002) *Veto Players*. Princeton, NJ: Princeton University Press.
- Van Spanje, Joost and Van der Brug, Wouter (2007) The Party as pariah: The Exclusion of Anti-immigration Parties and its effect on their ideological positions, *West European Politics*, 30(5) 1022-1040.
- Spanje, J. van (2010). Parties beyond the pale. Why some political parties are ostracized by their competitors while others are not. **Comparative European Politics**, 8 (3), 354-383
- Wæver, O (1995) *Securitization and Desecuritization* in Lipschultz, R. E. (ed) *On Security*, (Columbia University Press, New York)

ⁱ Others still have preferred to reconceptualise democratic militancy as a matter of degree – a democracy may therefore be either *more* or *less* militant (Pfersmann, 2004, 53). However, this strategy also raises the problem of 'degreeism' (Sartori, 1991, 243-257), or that focusing on differences of degree can hide important differences in kind which may help explain variation in democratic responses to extremism.

ⁱⁱ As comparative analyses of legal rationales for party bans show (Fox and Nolte, 2000; Issacharof, 2007; Rosenberg, 2007; Brems, 2006), democratic states have – and use – legal provisions permitting party bans on the grounds that they were threats to the territorial integrity of the state (eg. Kurdish parties in Turkey), to state security for their collaboration with foreign powers (post war Communist parties in Australia and the United States, and communist parties in Latvia, Lithuania after the fall of the Soviet Union), or for being connected with political violence (radical Basque nationalist parties in Spain, Republican parties in Northern Ireland and Kurdish parties in Turkey).

ⁱⁱⁱ Party bans may be damaging for parties not only for the reason that it is denied a chance at winning power but also because the 'cost of claim-making increases across the board and for particular members' (Tilly, 2005, 218, see also Bleich, 2012, 101-4). The party's room for manoeuvre, visibility and mobilising capacity may be severely curtailed by reductions in its organisational and financial resources, access to the media and through stigmatisation (ibid, see also Bleich, 2012, 101-4). Those who continue their association with a banned party may face criminal prosecution, limits

on employment or truncated political careers (Tilly, 2005, 218). The party ban is, as Koopmans argues, an ‘act of strategic communication in the public sphere’ which, under certain conditions, may serve to deter people who consider committing a similar offence and helps socialise citizens against extremist orientations by rewarding and satisfying those who refrain from breaking the rule (2005, 61). Bans or even ban proceedings may negatively affect the stability of targeted parties, provoke disarray and internal squabbles (Bleich, 2012, 104; van Donselaar, 2003, 289).

^{iv} As Niesen argues, for instance, bans on former ruling parties may help symbolically demarcate the authoritarian past, ‘disclose a new republic’s understanding of the paradigmatic wrongs of the old regime’ and ‘specify the new regime’s normative orientation to the future’ (2002, 275).

^v In a similar vein, the authoritative *Guidelines on the Proscription and Dissolution of Political Parties and Analogous Measures* drawn up in 1999 by Venice Commission caution that proscription is ‘a particularly far-reaching measure [which] should be used with utmost restraint’ and proposes that using ‘less radical measures could prevent the said danger’.

^{vi} For example, it has been argued that party bans may be more necessary in countries like Israel - which uses proportional representation, a single nationwide constituency and low threshold (1.5%) - than in countries where small parties face higher hurdles to win seats, such as in the United States, with its plurality, single member district system, or Germany, which employs a 5% threshold for parliamentary representation (Navot, 2008, 747; Gordon, 1987, 395; Pedahzur, 2004, 118). Others have observed that limited recourse to proscription in the UK may be due to electoral obstacles for small parties, including barriers for entry and representation; incentives against factionalism in mainstream parties and the tendency for single-party government without ‘compromising’ coalition arrangements (Eatwell, 2000, 187; Fox and Nolte, 2000, 21-2; Downs 2012, 66). George and Minkenberg make similar observations in relation to the US (2007, 1119). The marginalising effects of the double ballot system on the electoral fortunes of the National Front in France have also been widely noted (Hainsworth, 2009, 121; Norris, 2005, 107; Downs, 2012, 34), while some have additionally observed that the French electoral system provides incentives for collaboration with, rather than isolation of, the National Front (de Lange, 2007, 29-30; van Spanje and van der Brug, 2007, 1030). Similarly, in their study of why some democracies use stronger repressive measures against racist associations (including parties) than others, Bleich and Lambert argue that electoral barriers, particularly the existence of plurality voting rules or at least a 5% threshold appeared to reduce the degree of repression of racist organisations (2013, 136 Among the countries studied - United States, Israel, Australia, Britain, France, Italy, Spain, Belgium, Netherlands and Germany - most of those with low or low-medium levels of repression of racist associations had electoral systems with high protective electoral barriers against the emergence of new racist parties, and those with lower electoral barriers adopted more repressive responses to racist associations that included party bans (Bleich and Lambert 2013, 136).

^{vii} In so far as rules on party funding, and media access regimes may also be designed to disadvantage anti-system parties, it is also relevant to note Bale’s argument that that withholding state funds may be as effective as proscription (2007, 114).

^{viii} Reflecting on the Belgian case, possibly the world’s most ‘explicit and enduring’ example of cordon sanitaire (2012, 85), Downs argued that if success were measured by maintaining the status quo for the traditional democratic establishment, then ‘without doubt... the cordon sanitaire against the Flemish far right meets the standard’ (2012, 101). The Vlaams Bloc and its successor the Vlaams Belang were denied public office despite considerable electoral winnings.

^{ix} Effects can, however, be variable, as Minkenberg observes. In the case of Austria the limited impact of radical right issues in the policy output of the ÖVP- FPÖ government’s short period of office suggested that the latter was ‘tamed’ by its coalition partner, while in other spheres, such as the administrative level and FPÖ governed Carinthia a ‘right turn’ could be observed, particularly in the field of culture policy (2001, 16-18).

^x In the South African case, Kemmerzell argues that banning extremist fringe parties were contrary to the interests of the two main parties - the governing African National Congress and the New National Party – because this would undermine the parties’ goal to remain dominant within their respective political constituencies through ‘broad church’, inclusive strategies (2010, 701).

^{xi} Capoccia’s (2005) study of reactions to extremism in interwar Europe provides well-known illustration of such an approach. Capoccia argues that in context of polarised pluralism the strategies of ‘border parties’ – or those parties adjacent to anti-system parties occupying extreme wings of the ideological spectrum (ibid, 17) - are crucial. This is because, as a consequences of the ‘outbidding strategies’ of extremist parties, or their campaign tactics to attract voters from border and centre parties, the conditions of polarised pluralism produce ‘centrifugal competition’ forcing all parties, but particularly border parties, towards extreme positions. In this context, a border party’s decision about whether to cooperate with or defect from a political centre capable of enacting strategies of democratic defence may hold the key to the regime’s very capacity to react to the challenge of political extremism (ibid, 19). However, the contemporary applicability of Capoccia’s analysis is limited by its reliance on Sartori’s party system theory. As Peter Mair observes, one of the difficulties of employing Sartori’s party system types – ‘two-party’, ‘moderate pluralism’ and

‘polarised pluralism’ – is the contemporary overcrowding of cases of moderate pluralism and a virtual emptying out of two party and polarised pluralism categories following the eclipse of fascist and communist anti-system parties, particularly after the collapse of the Soviet Union (1997, 203).

^{xii} Parties may be banned if they *actually promote violence*, which in Europe, the European Court of Rights has established may involve explicit calls for violence as well as ambiguity about the appropriateness of violence for achieving political ends (Brems 2006, 166). Parties may also be banned for ii) *supporting a terrorist organization*. If they do not specifically use or advocate violence they may, in some countries, nevertheless be banned for iii) *fear that the parties activities will lead to societal unrest and ultimately violent conflict* (Brems, 2006, 166-9). An indication of the importance of a party’s orientation to violence for party bans can be seen in its centrality in the European Court of Human Rights’ (ECHR) many rulings on the compatibility of party bans with the European Convention of Human Rights - especially articles 10 on freedom of expression and 11 on freedom of association. According to the ECHR, a political party may promote a change in the law or the legal and constitutional structure of the state on two conditions: firstly the means used to that end must be legal and democratic; secondly, the changes proposed must itself be compatible with fundamental democratic principles. *It necessarily follows that a political party whose leaders incited violence or put forward a policy which fails to respect democracy or which is aimed at the destruction of democracy and the flouting of the rights and freedoms recognised in a democracy cannot lay claim to the Convention’s protection...*’ (emphasis added) (quoted in Brems, 2006, 140).

^{xiii} In a complex ruling, the Russian Constitutional Court found that the prohibition of the ‘high organisational structure’ of the Communist Party of the Soviet Union (and the Communist Party of the Russian Soviet Federative Socialist Republic), or those elements of the party apparatus which had controlled the Soviet state, were now unconstitutional. Territorial party organisations – or those elements of the party that were more like public associations – were, however, found to be legal. By 1993, the party effectively reconstituted itself as the Communist Party of the Russian Federation.

^{xiv} In other cases, something less than direct implication in violent acts may contribute to justifications for proscription (Rosenblum, 2007, 49; Finn, 2000, 60-1). This was the case for party bans in Germany where ‘the use of violent methods is in no way a prerequisite for bans’ (Baches, 2006, 274) and where neither of the parties banned in the 1950s were considered to present a clear and present danger (Kirchheimer, 1961, 151; Finn, 2000, 6). However, in such cases attitudes to violence were integral to what made the anti-democratic ideology of the party undesirable (eg. Rosenblum 2007, 49 and Tomuschat, 1993 27). More generally, the ideological orientation of many of the parties subject to proscription have often, if not always, been associated with revolutionary struggle, terrorism, militarism and the glorification of violence, which suggests support for, or at best ambiguity over, the appropriateness of, violent political struggle is highly likely. More contemporary examples of proscription on the basis of fears that parties may provoke ‘societal unrest and perhaps ultimately violent conflict’ (Brems, 2006, 169), could include, according to Bligh, proscription procedures launched against the National Democratic Party of Germany in 2001 and 2013, insofar as the party’s apparently ‘symbolic’ – rather than systematic organizational – links to violent far right groups created a situation in which violent actions seemed more likely (2013, 1349). Similarly, Rosenblum argues that one of the main reasons for banning the right wing party *Kach* in Israel was fear that its leader’s anti-Arab statements triggered civil violence (2007, 53). In their study of party bans in Africa, Kemmerzell and Hartmann also argue that the experience of ethnic violence was an important explanation for banning ‘particularistic parties’ (ie. those composed of, or acting on behalf of tribal, religious, racial, or language groups) (2010, 645 and 656-7). Bligh also argues that proscription of parties inciting racism and discrimination seem to address a more generalised threat; namely the danger that such parties will contribute to the creation of a climate of violence or a climate of hate (ibid, 1348).

^{xv} Case studies contribute significantly to theory development when they are ‘crucial cases’ (Eckstein, 1979) or ‘critical cases’ (Yin, 2003, 40) or ‘deviant’ cases (Lijphart, 1971). A ‘crucial case’ is ‘a case that must closely fit a theory if one is to have confidence in the theory’s validity’ (Eckstein, 1979, p. 118), or as Yin puts it a ‘critical case’ is a ‘critical test of the significance of a theory’ (2003, 40).

^{xvi} The hypotheses were generated using ‘process tracing’, which traces ‘links between possible causes and observed outcomes’ through an examination of ‘histories, archival documents, interview transcripts and other sources’ (George and Bennett, 2005, pp. 6–7), and specifically in this research, parliamentary speeches, court rulings, party voting records, opinion polls and secondary historical studies. The analytical strategy was ‘abductive’, which permitted formulation of empirically derived but theoretically grounded hypotheses and thus avoided important shortcomings of inductive reasoning (Charmaz, 2006, p. 186).

^{xvii} The proscription of political parties may be a response to securitization in three different security sectors, military, societal and political. Where a party is linked to a paramilitary group, party bans may be securitized as issues of *military* security, which, in this context, is ‘primarily about the ability of the ruling elite to maintain civil peace, territorial integrity and, more controversially, the machinery of government in the face of challenges by its citizens’ (Buzan, Wæver and Wilde, 1998, 50). Indeed, as Buzan *et al* note, minority nationalist and secessionist groups are ‘frequently

objects of military interest and action and therefore securitization. They can easily be cast as threats to state sovereignty and, by the state-like activities they engage in, can motivate the existing state to use military force to secure its monopoly over legitimate violence' (ibid). Far right, Islamist, radical leftist parties which may challenge the institutions and constitutive principles of democratic states, or minority nationalist groups which may challenge identity conceptions of majority nations, may also be securitized as threats to *societal* security. Societal security refers to threats the 'identity, the self-conception of communities and of individuals identifying themselves as members of a community', whether this be national, religious, racial or some other identity (ibid, 119). In other words, societal security exists 'when communities of whatever kind define a development or potentiality as a threat to their survival as a community (ibid, 119) and involves 'action taken to defend such "we identities"' (ibid, 120). In this context, the referent object are 'whatever larger group carry the loyalties and devotion of its subjects in a form and to a degree that can create a socially powerful argument that this 'we' is threatened' (123). And finally, all anti-system parties may be securitized as a threat to the 'organisational stability of social orders(s)' (ibid, 141), or 'political security'. Buzan *et al* define political security as being about 'threats to the legitimacy or recognition either of political units or of the essential patterns (structures, processes or institutions) among them'. More specifically, internal political threats are 'made to... the internal legitimacy of the political unit, which relates primarily to ideologies and other constitutive ideas and issues defining the state' (ibid, 144).

^{xviii} For example, in a comparative study of constitutional law in Germany, Austria, Italy, Spain, Portugal and Greece, Klamt argues that new democracies in these states 'more or less' adopted the idea that 'democracy has to be defended against its enemies' in their legal regimes as a reaction to their experience of autocratic regimes (2007, 154). The impact of the past experiences of autocracy is clearest in the German example, where many have observed that the experience of Nazism, shortcomings of the Weimer constitution and influence of the occupying powers on the drafting of the Basic Law 'shows a clear rejection of totalitarianism as well as of democratic relativism' (Klamt, 2007, 137, see also Kirchheimer, 1961, 137-8). Furthermore, in a study of party laws in 39 countries, Karvonen observes that established democracies display fewer restrictions on parties compared to 'new-', 'semi-' or 'non-' democracies (2007, 445), but also that new democracies use party law largely to counteract anti-democratic tendencies (ibid, 449, see also Avnon 1995, 296). Bleich and Lambert argue that, among other things, 'a history of non-democratic regime predisposes a state to implement greater levels of repression' (including proscription) against racist associations (including parties) (2013, 144-5).

^{xix} Similar arguments have been made in relation to the Spanish experience of dictatorship under General Francisco Franco (Ferrerres, 2004: 141).

^{xx} Art's observation that varying responses to the far right in Germany and Austria were the product of 'dramatically different ways in which German and Austrian elites confronted the Nazi past' (2007, 338) is an indication of the importance that such processes may have.

^{xxi} One possible objection to the institutionalist approach I propose must be addressed. A methodological tension emerges in the combination of securitization theory, which mostly draws on post-structuralist and social constructivist traditions, and institutionalist concepts such as veto players, elaborated most fully by rational choice scholars. This tension is not as problematic as it might seem. Firstly, institutional rules determining veto players do not necessarily need to be conceived as formal rules, constraining or facilitating purposive agents pursuing preferences in the most efficient and cost-effective manner, as rational choice institutionalist assume. Institutions may also be conceived as embedded norms, developed and contested discursively, that help stabilise identities and roles governing notions of appropriate behaviour (March and Olsen, 1989 and Schmidt, 2008). Williams has already remarked on the affinity between securitization approaches and this kind of sociological institutionalism (Williams, 2003, 525), while others, such as Vuori, employ conceptions of institutions broader than just formal institutions in their research (2008, 72). Secondly, while hypotheses draw on insights from the Copenhagen School, which grew from Wæver and Buzan's work, my approach is closer to Balzacq's 'sociological' approach (2005, 2011). Briefly stated, the Copenhagen School works within the poststructuralist tradition, which posits the social power of language and conceives of security as a 'speech act' in which security utterances 'do things' in the social world. My empirical findings on the importance of veto players (Bourne 2015) are particularly challenging to this approach, given its predominant focus on speech acts. At the same time, the methodological primacy of discourse in the Copenhagen School's approach to securitization suggests my focus on political system variables will contribute little to it. In contrast, the 'sociological' perspective views securitization as 'a strategic (pragmatic) process that occurs within, and as part of, a configuration of circumstances, including the context, the psycho-cultural disposition of the audience and the power that both the speaker and listener bring to the interaction' (Balzacq, 2010, 1). The institutionalist approach I propose can be conceived as part of the context shaping securitization and desecuritization processes and the power of both the speaker and the audience. Moreover, my focus on veto players accords with Balzacq's own arguments about the role of institutions, particularly distinctions between the need for securitization agents to obtain 'moral' and 'formal' support (2005, 185). He argues that formal support - by, for instance, formal institutions such as a parliament, Security Council or Congress - is

generally necessary and sufficient for achieving goals posited in securitization processes, while ‘moral support’ is ‘generally necessary’, but ‘alone it is not enough’ to achieve those goals (ibid).

^{xxii} Importantly, this argument has been raised in party ban studies to explain why new democracies may not ban anti-system parties. In Kemmerzell’s work on why South Africa was one of the few African countries *not* to include provisions for banning parties in post-transition constitutions, Kemmerzell argues that the negative experience of party bans during the apartheid regime not only delegitimised the party bans, but was also contrary to the logic of the ‘negotiated’ and ‘co-ordinated’ mode of the transition process (2010, 697). Niesen also argues that many Warsaw Pact states did not ban former ruling communist parties because ‘the communists were in all cases ‘inevitable negotiation partners’ (2012, 552). Nevertheless, it can be argued that ‘modes of transition’ may help explain decisions to actually ban decisions in new democracies. Party bans in Austria, for example, could be linked to the mode of transition by ‘replacement’ involving externally monitored democratization by the Allied powers (Linz, 1990, 113, see also Bourne, 2012, 1073). In Austria, the post-World War II ban on the National Socialist German Workers’ Party, was part of the Allies’ de-nazification programme and was required in accordance with the 1955 State Treaty for Austria.