Authoritarian Practices in a Global Age

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Marlies Glasius

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Introduction
Expectations of Accountability

Are powerful individuals and institutions getting less and less accountable to the people whose lives they affect? Not long ago, for the first time in more than two hundred years, a president of the United States altered a weather forecast. Days after President Trump mistakenly named Alabama as one of the states under threat from hurricane Dorian, he appeared on television with a manually drawn loop on the weather map, extending the hurricane's potential path to Alabama. The National Oceanic and Atmospheric Administration (NOAA) then issued a statement that Dorian might after all have some impact on Alabama. State-employed meteorologists were instructed to refrain from comment (Gwynne 2019, 12). The incident stands out, not as the president's worst lie, but as one of the most silly and gratuitous, creating an elaborate cover-up rather than admitting to a minor human error. It is indicative of a wider pattern of secrecy, disinformation, and quashing of dissent, not only from the Trump Administration, but also by other elected leaders in established democracies.

In the same month as 'sharpie-gate', British Prime Minister Boris Johnson attempted to prorogue parliament to prevent parliamentarians obstructing his Brexit policy (Swinford and Zeffman 2019). And in Poland, it emerged that the deputy justice minister was behind an online smear campaign against a judge critical of the governing party PiS (Applebaum 2020). Political scientists have noted in recent years that while democratic states rarely experience coups anymore, the quality of democracy has gradually eroded in many countries (Waldner and Lust 2018; Maerz et al. 2020).

Or are powerful people and institutions getting more and more accountable to the people whose lives they affect? Not long ago, for the first time in more than 2,000 years, a Catholic Pope laicized a cardinal for sexual abuse. In a church trial, Cardinal Theodore McCarrick was found guilty of abusing his power to have sex with young adults and minors (Holy See Press Office 2019b). Four months later, Pope Francis set up a worldwide system requiring clerics to report and investigate sexual abuse and its cover-up within the Church (Holy See Press Office 2019a). The Catholic Church's profound repudiation of abuse that it formerly condoned is not unique.

Months before the defrocking of Cardinal McCarrick, film producer Harvey Weinstein's career ended in ignominy after the *New York Times* broke the story of decades of sexual predation, enabled and covered up by his company (Kantor and Twohey 2017). The case sparked the #MeToo movement, exposing sexual harassment and abuse in many industries and forcing top-level resignations at global organizations

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including taxi company Uber, search engine giant Google (McGregor 2018), and NGO Oxfam (Rawlinson 2018 (see also Bacchi 2018). And recent sea changes in accountability of formerly untouchable institutions have not only been about sexual misconduct. Decades of vote-rigging, bribery, and intimidation by the Fédération Internationale de Football Association (Sugden and Tomlinson 2017) ended in 2015 when fourteen top officials were arrested in Switzerland and the United States, eventually forcing FIFA's long-standing president Sepp Blatter to resign (BBC 2015).

On closer inspection, these two contrasting sets of incidents have more in common than at first sight. The Trump Administration's efforts to cover up the President's hurricane slip-up achieved the opposite of what they aimed to do: NOAA's chief scientist, the Commerce Department, and the House of Representatives all launched investigations, which eventually corroborated that meteorologists had been pressured to alter their findings (Gwynne 2019). Prime Minister Johnson's attempt to send parliament home was rescinded by a unanimous Supreme Court decision (Bowcott et al. 2019). And the Polish deputy minister of justice was forced to resign over the trolling campaign. On the other hand, the Catholic Church still does not require its priests and nuns to report suspected abuse to secular authorities, and very few sexual abuse cases against powerful men are successfully prosecuted. Football association FIFA's new ethics code, developed after the scandals, has deleted the word 'corruption' and added a clause prohibiting 'defamatory' statements by FIFA officials, impeding whistle-blowing (Brown 2018). In sum, there are many indications that it has become more difficult for powerholders in all fields to immunize themselves from accountability, and at least as many signs that they are trying as hard as ever.

The two sets of incidents demonstrate neither a global trend towards ever-greater accountability by powerful people and institutions towards those whose lives they affect, nor its opposite. What they demonstrate is that struggles over accountability have become central to contemporary politics. Not only states, but also institutions like universities, charities, churches, companies and international organizations are now widely deemed to be subject to an 'accountability paradigm' (Coy et al. 2001; see also Grant and Keohane 2005; Ebrahim and Weisband 2007).

This does not mean that such institutions have actually become very much more accountable than they were in the past. It means that expectations have been raised. In the past, only governments of parliamentary democracies were considered as having obligations to be 'answerable' to their electorates. Since the 1970s, and at a more global scale increasingly since the 1990s, it has become normal to think that all manner of power-holders other than elected politicians also have an obligation to explain and justify themselves to those whose lives they affect. Powerholders have to respond to such expectations of accountability, either by making themselves more accountable, or by disabling such demands and obstructing those who claim them. This is an empirical observation, regardless of what legal or ethical duties of accountability they might actually have.

The premise of this book is that with the proliferation of expectations of accountability, incentives for powerholders to find ways of evading accountability have also proliferated. In theorizing and operationalizing such 'accountability sabotage' in the first chapter of this book, I attach the adjective 'authoritarian' to such practices. It resonates with common sense understandings of authoritarianism as being about a powerful individual or institution being secretive or mendacious and not tolerating dissent. For political scientists however, this is a novel and unusual use of the term 'authoritarian'. The term has been reserved to apply only to unelected or unfairly elected regimes, or in political psychology to people who value hierarchy and obedience in political leaders. In both cases, 'authoritarian' refers to states and their national leadership alone.

But since the late twentieth century, the topography of politics has profoundly changed. As a result, these traditional conceptualizations of authoritarianism cannot be meaningfully applied to large swathes of the contemporary political landscape. They miss many manifestations of accountability sabotage from other political actors who may profoundly affect people's lives. In this book, I will show how, instead of focusing exclusively on authoritarian regimes, or on authoritarian personalities, political scientists can and should study (that is, define, operationalize, observe, classify, analyse) authoritarian *practices*. Used in this way, 'authoritarian' can remain an analytically useful, empirically valid, and socially relevant term to describe a particular type of political practice, which comes in many more guises than we currently recognize.

The qualification 'in a global age' in the title of this book refers to two recent and intertwined developments, much described in the literature on globalization. National governments of states were never quite the sole apex of power and authority that political scientists imagined them to be, but in recent decades they have become much less so than half a century ago. Their authority has both leaked sideways, in the direction of more governance by constellations of quasi-governmental, corporate, and non-profit entities, and spilled across borders, towards much closer collaboration between state agencies and with international organizations. Consequently, authoritarian practices in a global age also go 'beyond the state' in the sense that they cross borders, and that they are not carried out by government agents alone. That is not to say that agents of the state have withdrawn, or are no longer important actors engaging authoritarian practices. On the contrary, they loom large, especially in the early chapters of this book. But we see them working together with each other as well as with international organization staff, religious leaders, criminal enterprises, or corporate entities, sometimes with and sometimes without knowledge and mandate from their national governments.

The front cover of this book features an adaptation of the famous frontispiece to Thomas Hobbes' *Leviathan*, etched by Abraham Bosse with close instructions from Hobbes. Looking closely at the body of the *Leviathan* in this striking image, one notices that it is made up of hundreds of individual men and women. Hobbes' intent

was to visualize his position that 'a multitude of men are made one person when they are by one man, or one person, represented; so that it be done with the consent of every one of that multitude in particular' (Hobbes 1651, 101). His interpretations of 'representation' and 'consent' were of course stretched to such an extent that the treatise is actually best read as a brilliant defence of authoritarian rule.

My purpose in choosing this image for the cover is also to highlight that authoritarian practices begin and end with people, but they function in quite different ways from the representation in Hobbes' treatise. While Hobbes has a crowned head directing the actions of the 'body politic', my Leviathan is headless. It consists not of people who have freely consented to be directed by a single sovereign, but of configurations of people who, exercising their agency, sabotage accountability. They act in an organized context, but they rarely respond organically and in unison to a single hierarchical 'head'. Instead, to return to Hobbes' imagery, the left hand may not always know what the right hand is doing, but jointly they engage in patterns of silencing, secrecy, and disinformation.

Chapter 1 provides the theoretical framework for this book. Parts of this chapter have appeared, in an earlier version, in the article 'What Authoritarianism Is . . . and Is Not', in *International Affairs*, (Glasius 2018). The chapter makes two important conceptual moves to get to a redefinition of authoritarianism. First, drawing selectively on practice theory, it explains the advantages of studying 'authoritarian practices' rather than only 'authoritarian regimes' as a unit of analysis. Second, it introduces the term 'accountability sabotage' as the constituent core of authoritarian practices, and defines these as practices of disabling voice and disabling access to information (through secrecy and disinformation).

The rest of the book illustrates five different forms of authoritarian practice in a global age. The empirical chapters cast a wide net. The unit of analysis is always the 'authoritarian practice', but its manifestations are quite diverse. Each chapter starts by connecting the particular manifestation to a broader literature, then provides two case studies that illuminate the workings of authoritarian practices at the micro-level, before demonstrating how these are representative of broader patterns. The chapters then address the configurations of actors that collaborate in these authoritarian practices, and the common understandings between them. Finally, each chapter addresses the sources of vulnerability and resilience of the people affected by authoritarian practices, and their representatives. The empirical chapters are intended to provide a springboard for further studies on authoritarian practices beyond authoritarian regimes.

Chapter 2 concerns 'extraterritorial authoritarian practices'. It challenges the assumption that governments exert control over populations only within their state's territory. Connecting to an emerging literature on 'transnational repression' (Moss and Furstenberg 2023), it disaggregates the configurations of actors, mainly but not exclusively agents of authoritarian states, that interfere in migrant communities. It demonstrates the manifold ways in which such configurations covertly or

openly attempt to silence their 'subjects' abroad, even when these are also citizens of democratic states. The chapter focuses on people of Turkish and Iranian descent in the Netherlands: taking the same host country as the site of investigation for two groups allows us to see differences and commonalities in the practices of different states of origin. As such, it shines a light on the affordances and limitations extraterritorial state agents have when operating in the context of a particular liberal democratic host state, and the collaborations they enter into with other actors. The chapter also shows that even within the same migrant group, not all individuals affected are equally vulnerable or protected and empowered.

The next two chapters examine how authoritarian practices manifest themselves in multilateral collaborations between state agencies. While both focus on anti-terrorist policies, Chapter 3 is about largely informal and covert collaboration in covering up the CIA-led 'rendition' policy of detaining and interrogating terrorist suspects in the aftermath of 9/11. There has already been extensive research on extraordinary rendition, in the form of parliamentary inquiries, judicial investigations, NGO reports, and scholarly work, but it has focused primarily on the inhumane treatment, torture, and lack of fair trial rights of those detained. This book's interest is in the sabotage of accountability to different forums relating to rendition: to the detainees themselves, to everyone (relatives, lawyers, human rights defenders, and journalists) who sought to find out what happened to them and to seek redress, to the people whose governments were coresponsible for extraordinary rendition and secret detention, and to the people on whose territories rendition was played out without their knowledge. The extraordinary rendition programme, the chapter argues, was a classic 'covert op', just on a bigger scale than ever before. This kind of accountability sabotage is best understood in the context of a crisis response, improvised, informal, and ultimately unsustainable.

Chapter 4 by contrast focuses on formal multilateral collaboration within the framework of the Security Council, regarding the placing and maintaining of terrorist suspects on its Sanctions List. While mandated by international law, the decision-making on who gets listed or delisted and why is surrounded with secrecy and denies individuals the opportunity to communicate directly with the decision-making body. The chapter draws on mainstream and sceptical treatments of multilateralism and on critical security studies to analyse how multilateral collaborations can actually come to facilitate and stabilize authoritarian practices.

Chapter 5 of the book analyses how corporate actors engage in authoritarian practices in collaboration with various state agents. It assesses potential drivers of corporate authoritarian practices. A specific region and a specific industry are considered: copper and cobalt mining in Katanga, DRC. The chapter deliberately focuses on an 'overdetermined' case, full of drivers and low on impediments or counter-incentives, to provide insight into how the corporate-authoritarian nexus functions in such circumstances. The chapter shows how different configurations of actors, including multinational mining companies and local and national state

agents, maintained secrecy and repressed critical voices concerning their purchase of the concessions, about pollution and about treatment of workers.

The final empirical chapter considers authoritarian practices within a religious institution. Chapter 6 looks at the cover-ups and discrediting of whistle-blowers surrounding sexual abuse of minors in the Catholic Church. Like the previous case studies, the focus on the Catholic Church was chosen in part because it was a 'likely case': there is an embarrassment of riches, now well-documented, when it comes to accountability sabotage regarding sexual abuse of minors in the Catholic Church. But equally, the case provides a puzzle: while it is unsurprising that clerical abusers would use intimidation, secrecy, and lies to cover their own tracks, it is much harder to understand why non-abusive Catholic officials so often took part in covering up abuse. Condoning sexual abuse of minors is antithetical to the teachings, but also to the interests, of the Church. In order to illuminate the workings of 'institutional authoritarian practices' in detail, the chapter focuses on two institutions within the Church in two different geographies: the diocese of Cloyne in Ireland, and the Salesian order of Don Bosco's Australia-Pacific Province. The chapter finds a set of cultural, sociological, and organizational explanations for accountability sabotage: in historic relations between church and state, in the organizational structure of the Church, in its organizational culture and theological tenets, and finally in the actions and words of the highest Vatican officials, into the twenty-first century, when confronted with clerical sexual abuse scandals.

The five forms of authoritarian practice analysed in this book are not meant to be exhaustive. It leaves out, for instance, subnational authoritarianism or authoritarian practices in the sphere of NGOs. In terms of empirical case studies, the book only scratches the surface of what could be studied. The chapters generally focus on relatively 'easy cases', in two senses. First, the case studies do not concentrate on border-line cases of what might or might not be considered authoritarian practices, but on entrenched routines that are relatively easily characterized as sabotaging accountability. Second, the cases in question have received a considerable degree of publicity. Research on secretive practices is generally difficult by nature, but in these cases what was being kept secret has already been—to some extent—uncovered. This focus on relative egregious and well-documented cases is warranted by the novel framework that binds the case studies together. The purpose of this book is not to bring new facts to light, but rather to introduce the analytical lens of 'authoritarian practices' and bring it to bear on existing information.

The empirical chapters therefore rest largely on factual material already in the public domain. All chapters make considerable use of media reports. Chapter 3 on rendition-related secrecy and Chapter 6 on sexual abuse in the Catholic Church also rely on parliamentary or government-mandated investigations. Chapter 4 on terrorist listing owes an important debt to the monograph on the same topic by Gavin Sullivan. Chapters 3 and 4 also use Wikileaks cables as sources. Chapter 5 on mining-related practices in Katanga has a number of NGO reports as its primary sources.

The final chapter does three things. First, it revisits the definition of authoritarian practices, reconsidering its constituent elements and clarifying the threshold of what can be considered authoritarian practices. Second, it draws out commonalities and unique features from the case studies, thereby setting out a research agenda for future studies. Authoritarian practices, once operationalized as demonstrated in this book, can and must be classified and compared, and causal connections established with other phenomena, if we are to suggest ways of responding to them. Subsequent studies could disaggregate and focus on specific types of authoritarian practices to systematically answer further questions about their emergence, endurance, and spread, the configurations of actors involved in them, and the types of impacts they have on the people affected by them. Finally, the chapter shifts the spotlight from the political actors involved in authoritarian practices to consider, across the empirical chapters, the attributes of 'accountability demanders', their methods, and their strengths and vulnerabilities. It examines the particular roles of journalists, NGOs, parliamentarians, lawyers, activists, and whistle-blowers, in relation to disabling voice and secrecy and disinformation. This overview provides an entry point to considering how demands for accountability can actually spark authoritarian practices, but also how authoritarian practices can be and are being exposed and resisted.

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1
Authoritarian Practices as Accountability Sabotage

1. Introduction

The central aim of this book is to shed light on manifestations of authoritarianism that are not confined to the 'territorial trap' of the modern state, and are not captured by the concept of an 'authoritarian regime'. In order to recognize, study, and compare such different manifestations of authoritarianism in contemporary politics, we need to reconsider its conceptual properties. This chapter introduces and elucidates an alternative, practice-oriented concept of authoritarianism, which is then applied to all subsequent empirical chapters. This redefinition allows us to recognize and analyse such phenomena as extraterritorial authoritarianism, multilateral authoritarianism, corporate authoritarianism, and institutional authoritarianism, as will be demonstrated in the five empirical chapters in the remainder of this book.

The next section will provide a brief history of authoritarianism as a political science concept, concluding that its evolution has culminated in a usage that now produces blind spots in empirical observation. Three main problems with current conceptualizations of authoritarianism are identified: the fact that authoritarianism is treated as a negative, residual category of non-democracies; the excessive focus on elections; and the assumption that authoritarianism is necessarily a state-level phenomenon. What follows from this is that we need a definition that is substantive rather than residual; that focuses on accountability rather than on the quality of elections alone, and that can be applied to governance arrangements other than sovereign states.

Two conceptual moves are made in this chapter to get to such a redefinition. The first is to use a more dynamic benchmark, seeking to characterize and identify *authoritarian practices*, rather than authoritarian systems, as a unit of analysis. Second is a move up the 'ladder of abstraction' (Sartori 1970, 1040), from elections to accountability. Struggles over accountability are central to contemporary politics, and increased demands for accountability, not only on governments but also on many other powerful actors, have given such actors new incentives to actively circumvent or impede accountability. This chapter adopts a parsimonious definition of accountability, and turns it on its head to introduce the concept of 'accountability sabotage'.

Authoritarian practices are then defined as 'a pattern of actions, embedded in an organized context, sabotaging accountability to people over whom a configuration of actors exerts a degree of control, or their representatives, by disabling their voice

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and disabling their access to information'. Each element of this definition is clarified in turn. In the concluding section, a distinction is made between authoritarian practices—the main subject of this book—and illiberal practices.

2. Authoritarianism: a brief conceptual history

The terms 'authoritarian' and 'authoritarianism' derive from the Latin *auctoritas*, meaning authority, but also influence, sanction, advice, origin, command, coming from *auctor*, which means master, leader, actor, or author. By the mid-nineteenth century, authoritarian had come to denote 'favouring imposed order over freedom' (Online Etymology Dictionary n.d.), and from there it travelled further away from the term authority to denote 'relating to, or favouring a concentration of power in a leader or an elite not constitutionally responsible to the people' (Merriam Webster Dictionary n.d., second meaning) or 'favouring or enforcing strict obedience to authority at the expense of personal freedom' (Oxford Dictionaries n.d.).

Most polities in history have been under authoritarian rule in these dictionary senses. Since the ideas of free and equal citizenship or constitutional responsibility to the people were largely unknown both in theory and in practice until at least the eighteenth century, and still exceptional and contested in the nineteenth century, it is unsurprising that authoritarianism does not have a long pedigree as a concept. Describing their rulers as authoritarian would have made no more sense to our forebears than describing their planet as containing oxygen. Even during the first wave of de-democratization, in the 1920s and 1930s, communism, fascism, and Nazism were still not lumped together as democracy's other. And in the post-Second World War attempts at making sense of the twentieth century, totalitarianism rather than authoritarianism was the concept that drew fire from writers like Karl Popper (1945), George Orwell (1946), or Hannah Arendt (1951).

One political science study of totalitarianism from this era, by Friedrich and Brzezinski (1956), also provides a parsimonious definition of autocracy: it identifies as a common characteristic of all autocratic regimes 'that the ruler is not accountable to anyone else for what he does. He is the autos who himself wields power; that is to say, makes the decisions and reaps the results' (4). While the presumption of a single individual master-puppeteer is artificial and at odds with their treatment of totalitarianism, the focus on non-accountability, as well as the notion of 'wielding power', provides fertile ground for a twenty-first century reconceptualization, to which I will return.

Authoritarianism first received more extensive conceptual attention, still as a category in-between totalitarianism and democracy, in Juan Linz's 1975 classic *Total-*

itarian and Authoritarian Regimes. Linz's somewhat awkward but still much quoted definition of authoritarian regimes runs as follows:

> . . . political systems with limited, not responsible, political pluralism, without elaborate and guiding ideology, but with distinctive mentalities, without extensive nor intensive political mobilization, except at some points in their development, in which a leader or occasionally a small group exercises power within formally ill-defined limits but actually quite predictable ones.
>
> (Linz 1964, 255)

Linz, however, set the tone for many subsequent studies that characterize authoritarianism first as a shortfall in pluralism, and second as a container concept that only gains substance in its subcategories (see for instance Geddes 1999; Hadenius and Teorell 2007 for seminal categorizations). In the decades that followed, the third wave of democratization went hand in hand with the morphing of remaining totalitarian into post-totalitarian regimes, climaxing with the ostensible democratic triumph of the 1990s. Political science became overwhelmingly concerned with democratization processes and hybrid regimes, and authoritarianism turned into the understudied residual other of democracy.

The fall of the Berlin Wall also fuelled a quite separate literature across the social sciences, preoccupied with the depth and meaning of globalization. It focused on the transformation of state sovereignty through global flows, and corresponding changes in international law and regulation, norms and identity-formation (see for instance Castells 1996; Held et al. 1999; Scholte 2000; Sassen 2006). The main focus in this literature has been how these processes were affecting the nature and quality of democracy in developed western contexts (see for instance Kymlicka 1999; Bohman 2005; Ypi 2008; or for empirical treatment Kriesi et al. 2008), and, to a lesser extent, in fragile states and conflict zones (Kaldor 2012; Duffield 2001).

Since the early 2000s, there has been a renewed interest in the endurance of authoritarianism. However, in sharp contrast to the previous fierce debates over the character of totalitarianism, conceptual investigation of contemporary authoritarianism has been practically absent. Moreover, while there has been increased attention to how other *states* affect authoritarian regimes (Bader et al. 2010; Brownlee 2012; Levitsky and Way 2010; Tansey 2016; Vanderhill 2013), the literature on political consequences of globalization has been largely ignored in these recent studies (Cooley and Heathershaw 2017 are a rare exception). There has been no systematic consideration in either the globalization or the authoritarianism literature of whether and how states under authoritarian rule may have been affected by the posited transformation of the state. It is against the background of the rise of the accountability paradigm on the one hand, and the effects of processes of globalization on the other hand, that I argue renewed attention to the concept of authoritarianism, and a reorientation, are necessary.

3. Three problems with the current use of 'authoritarianism' in political science

The vacuum at the core

One of the peculiarities of the study of authoritarianism is that, unlike most fields of study, it does not take the definition of its main concept, contested or otherwise, as its point of departure. Two classic definitions of *democracy* dominate the study of authoritarianism. The first is the definition formulated by Joseph Schumpeter (1943): 'the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote', or a 'free competition for a free vote' (260, 271). Schumpeter explicitly eschewed the idea that democracy had anything to do with the *demos* having a voice, or with collective preferences being realized. Przeworski (1999) and others have defended this thin conception of democracy on the basis that democracy thus understood constitutes a non-violent procedure for regulating societal conflict, no more. However, as we will see, not all followers of this definition adhere to Schumpeter's deeply sceptical view of democracy, and some tend to adopt the minimal definition for methodological ease rather than as a conceptual choice (Boix et al. 2012, 1525–1527; Cheibub et al. 2010).

The second school of thought, based on Robert Dahl's (1971, 3) requirements for 'polyarchies' approximating the democratic ideal, insists that a democracy is about more than an open leadership contest. It also entails respect for certain civil and political rights, specifically the right to freedom of expression and access to information, and freedom of association, as preconditions for effective participation and enlightened decision-making (Linz 1975; Diamond 1999, 7–15; McMann 2006; Levitsky and Way 2010, 5–6). By extension, authoritarian regimes are those who fail to organize free elections *and* fail to respect these rights. The Dahlian formulation of authoritarianism gives more information about what authoritarianism is actually like than the Schumpeterian one, as well as giving more conceptual flesh to possible hybrids, variously characterized as illiberal democracies, defective democracies, diminished sub-types, etc (Zakaria 1997; Merkel 2004; Collier and Levitsky 1997). But 'the core is still a vacuum' (Brownlee 2010, 47), since the meaning of authoritarianism still relies on an absence, on lack of freedoms, rather than on substantive conditions.

Instead, authoritarianism should be conceived of neither as democracy's residue nor its *yin* and *yang* opposite. Democracy has multiple opposites, including anarchy, civil war, imperial rule, or apartheid, and all manner of hybrids can be imagined, which vary on multiple scales: of governing capacity, of presence of competitors to the state, or formal equality between citizens (see O'Donnell 1993 and Tilly 2007 for conceptual explorations along these lines). Think for instance about the following three non-democracies: Saudi Arabia, South Sudan, and apartheid South Africa. It becomes readily apparent that these three regimes have little in common other

than the absence, for completely different reasons, of free and fair elections with universal suffrage. If this is the meaning we wish to reserve for authoritarianism, we might as well abandon the concept. If Milan Svolik (2012, 20) is right that 'whereas democracies are all alike, each dictatorship may be undemocratic in its own way', we should all give up on the study of authoritarianism as a subject. We might only study a particular regime for its own sake, without any attempt at generalization. Few political scientists would go this far.

A more common avenue has been further classification within the 'authoritarian' category, starting of course with Linz (1975), and more recently applied by Geddes (1999), Diamond (2002), and Hadenius and Teorell (2007). Great analytical work has been done on some of these subcategories, for instance by Collier (1979) on bureaucratic authoritarianism, by Gause (1994) on monarchies, or by Schedler (2013) on electoral authoritarianism. But they do not help much in defining 'authoritarianism' as such. If sub-classifications were the only salient way to analyse authoritarianism, we should not study authoritarianism at all, but only engage in 'monarchy studies', 'one-party state studies', etc. Clearly, it makes sense to attempt to investigate all authoritarian regimes, not just sub-sets, in terms of what they have in common rather than by what they lack. In practice, there is valuable empirical work that does this, including Svolik's own study on 'the shadow of violence', as well as Gandhi's (2008) seminal book on authoritarian institutions, but conceptually, such studies rest on a negative understanding of their own core subject.

Reification of 'free and fair elections'

As seen, the presence or absence of free and fair elections is generally considered the primary touchstone of whether a state is authoritarian or democratic. This reification of elections, never entirely unproblematic, is less so today than ever. Authoritarianism studies have widely recognized one side of the problem: the world is now populated with states that hold elections with some element of pluralism but with what Levitsky and Way (2010, 4) have termed an 'unequal playing field'. The spread of elections is generally attributed to the broader international legitimacy of democracy in a post-Cold War context, the feasibility of manipulating elections, and the possibility of deriving useful information from them (Schedler 2013). While we now understand a great deal more about how election manipulation works, it is telling that there is still no consensus on whether these 'electoral' regimes are indeed hybrids between democratic and authoritarian rule (as according to Diamond 2002; Morlino 2009; Ottaway 2013), or just a subtype of the latter (following Schedler 2013; Gandhi and Lust-Okar 2009).

Until very recently (Levitsky and Ziblatt 2018; Waldner and Lust 2018), the literature on elections that are 'real but unfair' remained insulated from research on the flaws and limits of elections in established western democracies. Even now, many

scholars of authoritarianism do not appear to take the analytical connection with democracy, which all in their negative definitions insist on, very seriously. They have a blind spot for the widespread scepticism, amongst scholars of western democracies and general publics alike, that elections are actually a vehicle for engendering policy change in response to popular demand. Leading scholars on authoritarianism such as Cheibub, Gandhi, and Vreeland (2010) state that 'elections allow citizens to influence policy by their control over leaders' (71), while Geddes, Wright, and Frantz (2014) assert that in democracies 'a ruling coalition of 50 percent (plus) of voters can tax those outside the coalition to distribute benefits to those inside' (315). But their dummy-variable categorizations of authoritarian and democratic states, which hinge on contested elections, do not begin to test whether citizens are actually enabled to influence policy, or organize redistribution.

While scholars of democracy disagree on the extent of, and reasons for, public distrust of politicians and political parties, and more lately, the turn to populist candidates and parties, they generally agree that these are real phenomena (see for instance Hay 2007; Norris 2011; Dalton 2013; Norris and Inglehart 2019). A few authors have even argued that there may be a convergence between what were formerly starkly different authoritarian and democratic national governments (Cavatorta 2010; Teti and Mura 2013; Bruff 2014; Levitsky and Ziblatt 2018). The point is not that free and fair elections have become meaningless. But the 'traffic light' conception of states being democratic when they hold free and fair elections and authoritarian in all other cases does not help.

Democracy scholars have long ceased to identify democracies merely by the presence of free and fair elections, and authoritarianism scholars should cease to identify authoritarianism merely by their absence. Rather, we should contemplate what elections originally stood for in the democratic/authoritarian divide: a mechanism of accountability by rulers to the *demos*. As seen above, Friedrich and Brzezinski (1956, 4) identified 'that the ruler is not accountable' as the distinguishing feature of authoritarian rule. At the other end of the definitional spectrum, accountability rather than elections as such was the core concept of democracy as developed by Philip Schmitter and Teri Karl (1991) in the context of the post-1989 democratizations: 'Modern political democracy is a system of governance in which rulers are held accountable in the public realm, acting indirectly through the competition and cooperation of their elected representatives' (76). In a later piece, Schmitter (2004) explicitly dropped the word 'elected' before representatives, opening the way to the inclusion of more informal types of representation as accountability mechanisms (59). A focus on accountability could still include elections as a frequent, and to some extent valid, mechanism of accountability, but it would not conflate an indicator with the category.

The national government as the only unit of analysis

A third blind spot in authoritarianism research, related to the electoral tunnel vision, has been its failure to notice the impact of globalization on politics. Scholars of the democratic West, as well as of developing countries, have extensively researched how, why, and to what extent 'the autonomy of democratically elected governments has been, and is increasingly, constrained by sources of unelected and unrepresentative economic power' (Held 2003, 519). Authoritarianism research by contrast overwhelmingly presupposes (with a few recent, critical IPE-inspired exceptions such as Bruff and Tansel 2019 and Jenss and Schuetze 2021) that the relevant arena for studying politics, authoritarian or democratic, is the national government. This was not always so. The founding fathers of authoritarianism and democracy studies had a much broader focus. Harry Eckstein and Ted Gurr (1975), who stood at the cradle of the Polity project, aimed originally to identify 'authority patterns of social units', which could in principle include any unit ranging from the nuclear family to the international organization. Robert Dahl (1956), too, in his early work addressed conditions for democracy in a 'social organization' (2, 48) which was by no means necessarily a national state. The dominance of the state in the political imagination, together with a quantitative predilection for country-year units, may explain why foundational ideas on authoritarianism and democracy were narrowed down to an exclusive state focus. Today, this narrow focus gets in the way of addressing some of the most urgent citizen concerns of our time.

The most significant exception to this 'methodological nationalism' (Wimmer and Glick Schiller 2002) has been the burgeoning literature on subnational authoritarianism (see for instance McMann 2006; Gibson 2013; Giraudy 2015; Harbers et al. 2019, with antecedents in Key 1949 and O'Donnell 1993). By focusing on a different unit of analysis than the national state, these studies could open the way to examining many other sites of authoritarianism, but so far, this literature has almost exclusively focused on 'states' within federal states. The potential for moving on to studying cities, rural communities, or functional rather than geographic entities within the state has yet to be mined.

The analytical conundrum resulting from the separation between the authoritarianism literature and the globalization literature can be illustrated by the Greek debt crisis. The Greek people repeatedly had the opportunity to choose between different parties in free and fair elections between 2011 and 2015, and made different choices at different times. But even after the radical left-wing party Syriza won a landslide victory on a platform of renegotiating the country's debt repayments, Greece's negotiating position did not substantially alter, and Syriza eventually accepted terms that kept the austerity measures largely intact. National elections were of limited relevance to the imposition of austerity policies on the Greeks, since the real source of the policies was not national. It was, rather, the so-called Troika (the European Commission, the European Central Bank, and the International Monetary Fund), which

held no voter mandate. Should the Troika therefore be considered authoritarian? Or is the notion of authoritarianism inapplicable to the situation of the Greek people because they had a choice between different parties? Political science today lacks the conceptual tools to answer such a question.

The Greek situation may be an extreme case, and some may find David Held's conclusion, that 'some of the most fundamental forces and processes which determine the nature of life-chances within and across political communities are now beyond the reach of nation states' (Held 2003, 521) overstated. But the claim that state autonomy has been diffused, and that the international system has moved towards multilevel, sometimes overlapping or competing, governance arrangements, has been affirmed in many strands of contemporary political science literature, including public policy, international relations, political economy, and democratic theory (see for instance Ruggie 1998; Keohane 2002; Hooghe and Marks 2003; Dryzek 2006). If we take this claim seriously, the question naturally arises whether and how new forms of authoritarianism may manifest themselves at levels below, above, or beyond the state.

To give but one example, the European Union famously suffers from democratic deficits. But does it follow that it is, or can be, authoritarian? Even to be able to answer such questions, we need to think of authoritarianism in such a way that the label could in principle apply to transnational governance arrangements, but this would not automatically follow from the absence of elections. The notion of accountability can lead us towards such a better definition. There has been attention in various literatures to forms of accountability in the absence of elections, especially at levels other than the state. Such forms are often identified at the local level, where the mechanisms enabling accountability may include informal institutions, civil society, or the media, or even the central state, which may turn to local accountability structures as a means of solving its own principal-agent problem vis-à-vis local officials (Tsai 2007; Choup 2010; Manion 2000; Malesky and Schuler 2010). Similarly, there is literature on accountability via civil society at the transnational or the supra-state level (see for instance Dingwerth 2007; Scholte 2007; Glasius 2008; Héritier and Lehmkuhl 2011; Koenig-Archibugi and MacDonald 2013). The depth and significance of these alternative forms of accountability is, as it should be, much contested. The point here is not to identify what types or conditions of accountability might count as sufficiently democratic, but instead to pinpoint what would count as definitely authoritarian. In order to do so, I will introduce the notion of 'accountability sabotage', which manifests itself in political practices, not necessarily in constitutional arrangements.

In sum, to understand contemporary politics we need a definition of authoritarianism that is substantive and agentic rather than residual and systemic; that focuses on accountability rather than on the quality of elections alone; and that lends itself to assessing political institutions within, below, or beyond the state. Below, I will spell out why a practice-oriented definition, rather than a system-oriented definition,

is better suited to understanding authoritarianism today, and why sabotage of accountability should be considered the constitutive feature of contemporary authoritarianism. Then I will define the concept of authoritarian practices that animates this book, and explain each of its elements.

4. A practice approach

Practices are, simply put, 'patterned actions that are embedded in particular organized contexts' (Adler and Pouliot 2011, 5). According to Theodore Schatzki (2001a), one of their prime theorists, 'practice approaches can . . . analyze (a) communities, societies, and cultures, (b) governments, corporations, and armies, and (c) domination and coercion as either features of, collections of, or phenomena instituted and instantiated in practices' (15).

In using the term practices, this book takes no position in debates between more Bourdieu-inspired versus Latour-inspired or other conceptions of practices. Indeed, it concurs with Adler and Pouliot (2011, 3–4), who 'do not believe that using the concept necessarily entails an exclusive "ism", but instead, a practice-oriented theoretical approach comprises a fairly vast array of analytical frameworks that privilege practice as the key entry point to the study of social and political life' (see also Bueger and Gadinger 2015, 458, as inspired by Reckwitz, for a 'thin' approach to practices). I approach practices primarily as a 'unit of analysis' (Bueger and Gadinger 2015, 449). Calling something 'a practice' does not have explanatory power in and of itself. It identifies the object of inquiry. A focus on practices allows a shift away from designating only 'regimes' as potentially authoritarian, recognizing that in contemporary politics, governance arrangements can be more fluid.

At the same time, practices do not narrow the focus to the individual (Schatzki 2001a, 14). While political science may be too concerned with state structures, in common parlance we sometimes fall into the opposite trap, referring to individuals like Putin or Trump as if they were all-powerful and uniquely responsible for all political life inside and emanating from their respective states. Practice theory by contrast gives particular emphasis to the organizational and social context in which practices arise. According to Schatzki (2001b), 'a practice is a set of doings and sayings organized by a pool of understandings, a set of rules' (61). When considering the possibility of 'authoritarianness' in Russia or the United States, too, we must not get obsessed with the personalities of Putin or Trump alone, but equally consider the indispensable 'doings and sayings' of clusters of politicians, civil servants, and public figures, at different levels, who are associated with them. This chimes with what we know from case studies of authoritarian regimes. People do not obey an isolated dictator out of pure fear, or collaborate with him out of pure greed or hunger for power. They develop common understandings of how things are done within their social context, whether they are true believers in the government's legitimation narratives, or just pragmatists, or somewhere in between.

The global digital surveillance programme of the US National Security Agency (NSA), made public through the Snowden revelations, nicely illustrates what constitutes a practice. For a number of years, the NSA gathered massive amounts of data primarily on non-US citizens through various methods, including siphoning data from land and undersea cables, ordering companies to share metadata, using malware, and pressuring vendors to install 'back doors' into their products. This practice was not associated specifically with one administration: various sub-projects such as XKeyscore and PRISM were initiated under George W. Bush (Lee 2013; Greenwald and MacAskill 2013), and they continued under the Obama administration. The programme was sustained for years, well documented and to some extent transnational, with the British Government Communications Headquarters and the Australian Signals Directorate being particularly close collaborators (Hopkins 2013; Dorling 2013a; 2013b). Hundreds of people have been involved in its implementation (see Glasius and Michaelsen 2018 for a more extensive discussion of NSA data-gathering as a digital authoritarian practice).

A traditional top-down and statist understanding of politics fails to fully explain why the NSA undertook its massive data-gathering efforts: neither President Bush nor President Obama appear to have explicitly ordered it, and the US Congress certainly did not. Instead, what made the NSA's surveillance practice possible was a shared understanding, within and beyond the intelligence community, about what constituted necessary and permissible data-gathering for national security (Harris 2013). Using 'practices' as a unit of analysis allows us to understand various aspects of what NSA surveillance was: a set of doings by a group of individuals, and enabled by technical capabilities, within one organization; as well as implemented in a networked setting across different organizations and jurisdictions. It also helps us identify what NSA surveillance was not: a preconceived plan to spy on the world, wittingly mandated by the President or Congress (see also Bigo and Tsoukala 2008, 4).

5. Accountability

Once we abandon the familiar anchor of free and fair elections, there is a risk of stretching the term authoritarianism to encompass all political phenomena that have a negative impact on people's lives, including discrimination, violence, corruption, or inequality. That would be analytically unhelpful. The core of the concept of authoritarianism remains the idea of governance in which those who are being governed are fundamentally denied a voice. This book proposes that we should refocus our understanding of authoritarianism from failure to hold elections to sabotaging accountability. A closer look at the meaning of accountability itself will clarify why it matters, and what would constitute sabotaging it. As Koenig-Archibugi (2010, 1143; see also Lindberg 2013) has argued, 'similar definitions of accountability

are being developed in the literatures on public administration (e.g. Bovens 2007), democratization studies (e.g. Schedler 1999), and international relations (e.g. Grant and Keohane 2005)'. I take the parsimonious and widely-cited definition by Mark Bovens as a point of departure: 'Accountability is a relationship between an actor and a forum, in which the actor has an obligation to explain and justify his or her conduct, the forum can pose questions and pass judgement, and the actor may face consequences' (Bovens 2007, 450).

Not all types of accountability in this broad sense are relevant to authoritarianism. Sharing a common root with the word 'authority', authoritarianism presupposes power. For the purposes of recognizing authoritarian practices, we can return to Harry Eckstein's classic statement about the type of relationships that are relevant: 'an authority pattern is a set of asymmetric relations among hierarchically ordered members of the unit that involves the direction of the unit' (Eckstein 1973, 1153). So—in terms of practical power, regardless of constitutional arrangements—the relationship that is being sabotaged is one of downward accountability, not upward or bureaucratic or peer accountability. I will refer to the subordinates in such relations as 'people over whom a configuration of actors exerts a degree of control', or, for short, 'people impacted'.

The reasons for valuing accountability in the context of unequal power relations tend, when inverted, to shine a light on what most of us would intuitively label 'authoritarianism', and why we consider it a normative problem. According to Rubenstein, fundamentally, 'accountability enables—more precisely, *it helps to constitute—non-domination*' (Rubenstein 2007, 620–621, italics in original). She goes on to enumerate its virtues: increasing substantive and procedural rule-following by powerful actors, promoting the preferences and civic virtues of those to whom accountability is rendered, and providing useful information to everyone concerned. Bovens (2007, 463–466) similarly discerns a constitutional aspect, a democratic aspect, and a learning aspect to accountability. Authoritarian practices by contrast enable domination: they entail substantive and procedural rule-breaking, interfere with the preferences of and inhibit the civic virtues of those to whom accountability is owed, and control or disrupt information flows.

It is important to realize that Bovens' and most other definitions of accountability do not accord the forum codecision rights. The forum may, through a dialogic process, exert some influence over the decisions and actions of the actor, but this is not a necessary condition for there to be accountability. Accountability does not entail joint decision-making or erasure of hierarchy in the ways that adherents of radical democracy or anarchy would propose, it is a more minimal concept (Dunn 1999, 329, 333). The concept of authoritarian practices I propose is even more restricted, in that it should not be equated with a mere lack of accountability, which may be caused by lack of capacity or may be institutional. From an advocacy perspective, one might like to call this 'authoritarianism' to make a political point, but analytically it would lead us back to a negative definition.

Investigating active sabotage of accountability rather than just its absence as the core of authoritarianism makes it a relational and relatively narrow and coherent political phenomenon. *Accountability sabotage coexists with, and pre-empts or responds to, demands for accountability*. It does not manifest itself in the complete absence of questions, demands, or criticisms from the people over whom an actor or configuration of actors exercises a degree of control, or their representatives. Demanding accountability requires a sense of agency and entitlement that is not always available to those who are subordinate in hierarchical power relations (Gaventa 1980, 7–13; Scott 1990, xi, 17). At the same time, a prolonged and complete absence of contestation of unaccountable power is characteristic only of periods of profound terror. Even people who lack established political repertoires, organizational structures, or 'appropriate' language for demanding accountability often express their voices in their own way, with circumspection, in spontaneous outbursts, or through their deeds (see Scott 1990, 183–201). Even if the people in subordinate positions themselves do not have the tools or the language to demand accountability, they often have self-appointed representatives, such as journalists, lawyers, or activists who do so for them.

Moreover, demanding accountability from all manner of powerful actors has become much more common in the late twentieth and twenty-first century than it has been in the past. Expectations of accountability are now ubiquitous, and considered legitimate and natural, far beyond the formal institutions of the democratic state. Typically, accountability is not an end in itself. People are not necessarily interested in accountability by actors who have control over their lives for its own principled sake. They want clean air, fair wages, respect for their privacy, etc., but demanding accountability is a means, or process, towards achieving those ends. Much more than in previous centuries, public agencies and local authorities, not only in democratic but also in authoritarian states, as well as churches, non-profit organizations, corporate entities, and intergovernmental organizations have had to respond to demands for accountability. To what extent and to whom they actually owe such obligations is a matter for normative or legal theory beyond the concerns of this book.

Lack of accountability is therefore likely to become unstable when challenged. As a result, discourses, processes, and institutions of accountability are now to be found in every sphere, and are often mimicked. Most authoritarian regimes today for instance have a parliament, a constitutional court, and perhaps even pseudo-pluralist media. Corporations engage in 'stake-holder engagement' with different degrees of sincerity. This is not to say that, just because accountability is demanded from them, powerful actors nowadays accept an obligation to be accountable to the demanders. One response can be for an actor to become (more) accountable, i.e. making an effort to explain and justify its actions and decisions, at least for a while. Another response is to sabotage accountability, by keeping secrets, disinforming the demanders, or silencing them. Just like demands for accountability, sabotage of accountability can also be

a means to an end: to avoid embarrassment, increase profits, pursue political ideals, or just stay in power. Or there may not be a clear rational intent behind them at all, they may rest on collective understandings of 'how we do things'. This book is less concerned with the hard-to-research horizons of intentionality that lie behind authoritarian practices. It is the practices themselves that constitute domination.

6. Authoritarian practices: the definition and its elements

To recapitulate the argument so far, then: in order to fulfil today's analytic needs, a definition of authoritarianism is needed that adopts accountability sabotage as its constituent core, and practices as its unit of analysis. This makes it possible to approach authoritarianism as a substantive phenomenon, rather than just a shortfall of democracy, and to capture its character when no longer necessarily embodied in and exercised by national governments of states alone. Authoritarian practices presuppose a downward relationship, where the actor or configuration of actors engaged in the practices has a degree of control over people, and it presupposes some form of demand for accountability. Drawing on these criteria, I define an authoritarian practice *as a pattern of actions, embedded in an organized context, sabotaging accountability to people over whom a configuration of actors exerts a degree of control, or their representatives, by disabling their voice and disabling their access to information.*

Below I introduce the terms 'disabling voice' and 'disabling access to information' to describe the two interlinked practices that, in sustained form, should be considered the necessary core of authoritarianism (Figure 1.1). I then go on to discuss what constitutes 'a configuration of actors', and who may be the subordinate 'people impacted, or their representatives'.

Accountability	**Accountability sabotage**
Enabling access to information Actor i. explains ii. justifies Actor → Forum	*Disabling access to information* Actor i. keeps illegitimate secrets ii. disinforms Actor → ✕ → Forum
Enabling voice Forum i. can pose questions ii. can pass judgment Actor → Forum	*Disabling voice* Actor i. disables questions ii. disables passing of judgment Actor → ✕ → Forum

Figure 1.1 Sabotaging accountability

The practices of disabling voice and disabling access to information are theoretically distinct. Disabling voice, preventing the posing of questions and passing of judgement, blocks the dialogic flow from people impacted to powerful actors, whereas disabling access to information through secrecy and lies blocks the dialogic flow from the configuration of actors to the people impacted. In the empirical world, disabling voice and disabling access to information frequently coincide, as will become clear in the subsequent chapters.

Disabling voice

Disabling voice, more than disabling access to information, is commonly recognized as authoritarian. It disrupts the upward dialogic flow, from people impacted by actions or policies to the actor behind them. Critical questions may be discouraged, and questioners intimidated, penalized, or bought off. Or it may be that criticism, 'passing judgement' on the conduct of the actor, is obstructed. This particular form of sabotaging accountability is readily recognizable to those who study authoritarian regimes: we tend immediately to think of free and fair elections as the means of passing judgement, and thwarting them as authoritarianism. But a voice can be much more than a vote (see also Hirschman 1970, 30–43). For Bovens (2007), passing judgement can also be to 'denounce a policy, or publicly condemn the behaviour of an official or an agency' (451). Passing judgement does not happen only at the ballot box, but can also take the form of journalism, NGO reports, sermons, witness statements, or rap songs. Disabling people impacted or their representatives from passing judgement can be manifested as interference in free and fair elections, but also as censorship of, or arbitrary interference with, critics of a particular action or decision. The questioners and critics may be ordinary people or professional questioners and critics, such as parliamentarians, journalists, human rights defenders, or other activists. Or they may be internal critics, such as actual or potential whistle-blowers.

Disabling access to information: secrecy and disinformation

Bovens and other authors on accountability emphasize its dialogic nature (see also Schedler 1999, 15). Authoritarian practices by contrast are manifestations of the prevention of dialogue in all its forms. First, dialogue presupposes that people are, or could be, aware of decisions taken that affect them (see also Dunn 1999, 339 on access to information as a precondition for accountability). Thus, keeping actions and decisions secret from people impacted or their representatives disables the dialogue by disabling their access to information. However, it should be clear that not all forms of secrecy in politics are illegitimate, or constitute sabotage of accountability.

Gutman and Thompson (1998, 95–127) have extensively discussed under which circumstances political secrecy may be considered legitimate. Their primary rule is procedural: the procedure for determining exceptions to publicity should itself be public. Substantively, legitimate reasons for secrecy are cases where publicity would defeat the—in itself legitimate—purpose of a policy; privacy considerations (where 'information about specific and identifiable individuals' has a strong claim to secrecy); and possibly deliberation itself. Procedurally, secrecy should be temporary and the duration functional, and confidential sharing of information with representatives of people impacted can be a legitimate alternative to full publicity. Thus, most parliaments for instance have a secret intelligence committee, where a select group of MPs will be briefed on intelligence matters not openly discussed with the bulk of the elected representatives. As will become clear in chapters 3, 4, and 6 of this book in particular, identifying authoritarian practices does not hinge on the presence or absence of institutional procedures for confidential information-sharing, but on whether in concrete circumstances information is actually being shared with, or withheld from, such committees.

It is not always easy to establish what public officials could have or should have known, and to what extent they followed legitimate procedures when sharing confidential information with limited audiences. Gutmann and Thompson (1998) discuss a great many hard cases. For discerning authoritarian practices, the appropriate focus is on relatively easy cases where there is a pattern of disabling information, not on exceptional incidents or on the exact boundaries of well-regulated secrecy flowing from transparent procedures.

Another form of disabling access to information occurs when powerholders deliberately give people impacted or their representatives inaccurate information. Of course, politicians spin, twist, and deflect from the truth all the time. But a pattern of disinformation, as I use it here, is more than an occasional gloss on the facts. Disinformation refers to a deliberate distribution of false, misleading, or deceptive information (Jowett and O'Donnell 2010, 24; see also Bennett and Livingston 2018). In other words, it means knowingly putting forward false facts. The contemporary relevance of this form of disabling access to information in a time of 'post-truth' politics and alternative facts need hardly be stated.

A configuration of actors

Accountability is often described in academic literature as a principal-agent problem, with those to whom accountability is owed as the principal, and the actor who does the accounting (or refuses, prevents, or subverts the accounting, in our case), described as the agent, or the subject of accountability. This terminology is unhelpful in the context of authoritarianism, where the 'agent' is in a stronger position of power than the 'principal'. More helpful is Eckstein and Gurr's classic text (1975), where the

term 'superordinate' is used for the more powerful actor who may render or deny accountability to the 'sub-ordinate' (22). Unlike Eckstein and Gurr's conceptualization of authoritarianism and many subsequent ones, the definition proposed here is agnostic about how the actor got into its position of power. Indeed, an elected or unelected government or part of a government, an informal coalition of actors, or an institution such as a church or a university may engage in authoritarian practices, or not. The only necessary limitation to the actors involved is that collectively they exert a degree of control over a group of people, which forms the relational context for the sabotage of accountability. In the context of global governance arrangements, Grant and Keohane (2005) refer to such actors as 'power-wielder', and Kreuder-Sonnen and Zangl (2016, 333) discuss 'authority-holders'. Grant and Keohane's use of 'wielding', rather than just having, power, echoing Friedrich and Brzezinski's autocratic ruler, is an appropriate image for a behavioural rather than negative definition of authoritarianism.

An important advantage of a practice-based approach to authoritarianism is the ability to shine a light on potential authoritarian practices 'performed by collectives in unison' (Adler and Pouliot 2011, 8). Terms such as super-ordinate or power-wielder bring to mind unitary actors, perhaps even individuals such as an overbearing boss or a dictator, limiting the potential for identifying authoritarian practices by coalitions of actors. Instead, this book will focus on configurations of actors. With the use of that term, I place myself—loosely—in the tradition of Norbert Elias' process-oriented sociology (2012). The term highlights interdependencies between actors without eliding power differentials within configurations, and allows for considerable flexibility as to the scale on which one wants to investigate authoritarian practices. As Quintaneiro (2006) explains in an interpretation of Elias' concept of configurations: '(t)he distinctive place that some people—such as absolutist monarchs and their rivals, prophets or heroes—occupy in their struggle to achieve or maintain power positions does not render them autonomous from the web they form with other members of the figuration . . . Configurations can be more or less complex, stable, durable, harmonic, and regulated. They can possess one or many levels of integration, high or low power differentials, and large or small number of participants, whom, in turn, may also belong to other configurations where they may exercise different roles'.

Alongside 'configurations' I develop the concept of 'common understandings', similar to Schatzki (2001b, 58)'s 'pool of understandings'. While configurations relates purely to which actors are involved in a particular authoritarian practice, which is the most powerful or the most active, and which ones are more marginal, common understandings are the glue that keeps configurations together, i.e. the ideational or material considerations, or sometimes misunderstandings, that govern their actions and their relations to each other, and begin to explain why they act in unison, how configurations evolve, and why they sometimes fall apart.

The empirical chapters will make visible just how diverse the sets of actors are that may jointly engage in authoritarian practices, begin to uncover what kinds of

common understandings hold them together, and show how these configurations can also be dynamic. The twin concepts of configurations and common understandings, which are revisited in the concluding chapter of this book, provide a vocabulary for describing the shifting coalitions that enable authoritarian practices in a globalized world.

People impacted, or their representatives

Normative theorists have agonized over 'who constitutes the demos' once it is accepted that there may be obligations of accountability beyond the territorial state (Arrhenius 2005; Bohman 2005; Goodin 2007; Kymlicka 1999; List and Koenig-Archibugi 2010; Ypi 2008). These conundrums in global ethics need not be an obstacle to discerning authoritarian practices beyond the state as an empirical phenomenon. By adopting a practice-based definition of authoritarianism, we avoid having to jump to the conclusion that wherever there are democratic deficits, governance becomes authoritarian. Authoritarianism is concerned with an actor's sabotage of accountability, not with how to constitute a self-governing demos. What needs to be determined is whether the actor—or configuration of actors—has been secretive or mendacious, or has frustrated the ability to pose questions and pass judgement, vis-à-vis actually existing people impacted by their decisions, or people who can reasonably be considered as representing them. This is an empirical, not a conceptual task. Therefore, unlike in normative theory, it does not matter if the exact contours of this 'demos' remain somewhat inchoate.

Likewise, a more flexible approach can be taken to the matter of representation, since it is not the mandate to represent others, but the deliberate blocking of flows of information, scrutiny, and judgement that are of interest. Thus, next to elected representatives, journalists, whistle-blowers, or human rights defenders may often be considered as representatives in the sense of this definition, not because they have necessarily been mandated to represent the interests or preferences of the people impacted, but because they have a special role to play in the flow of information, justification, scrutiny, and judgement between configurations of actors and particular impacted publics.

The consequence of the concept of authoritarianism elaborated here is that political institutions, be they national governments or otherwise, are not systematically classified as 'authoritarian' or 'not authoritarian', but only in relation to specific practices. Thus, when for instance we find that the CIA engaged in authoritarian practices in relation to its policy of rendition (see Chapter 3), this would not lead us to label the Obama administration, or even the CIA as a whole, as 'authoritarian' during that period. The label 'authoritarian' relates to particular practices, which may be more or less endemic to the overall mode of governance of particular configurations of actors.

7. Illiberal practices

Some readers may at this point note the absence of elements that they were expecting in a definition of authoritarianism, such as abuse of human rights. Authoritarian practices are at their core about sabotaging accountability. Often, they violate individual political rights in the process. But not all human rights abuses have a connection to accountability sabotage. Just as some political scientists find it useful to distinguish between plain democracy and liberal democracy, I make a distinction between authoritarian practices and illiberal practices (Figure 1.2). I define an illiberal practice as a pattern of actions, embedded in an organized context, infringing on the autonomy and dignity of the person. Belonging to the class of illiberal practices are patterns of interference with legal equality, legal recourse or recognition before the law, violation of physical integrity rights, or infringement on fair trial rights, the right to privacy, freedom of religion, or freedom of expression (see Glasius 2022 for a more elaborate treatment of illiberal practices).

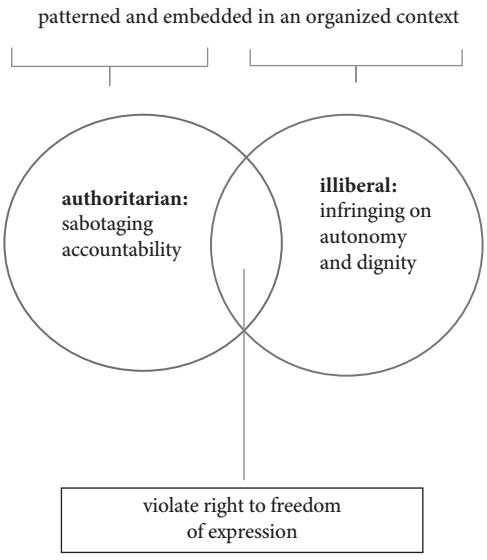

Figure 1.2 Authoritarian and illiberal practices

Illiberal practices can have many purposes, which may include suppressing the voices of those who constitute a threat to powerholders, but they may also be intended to promote an ideological project, or even to carry out the will of the majority. Filipino President Duterte's profoundly illiberal endorsement of killing drug users is a case in point (Reyes 2016). Duterte has never been secretive about his war on drugs and their users. Nor was the Duterte administration trying to silence drug users because they were criticizing his government. Hence, the policy of killing drug users is not an authoritarian practice. Rather, it is an extreme manifestation of populism, defined as

majoritarian anti-pluralism (Müller 2016, 3, 20; see also Krastev 2016). Apparently, the idea that drug users are dangerous and less than human enjoyed considerable support in the Philippines, and Duterte's stance may even have helped him win the presidency.

Figure 1.1 shows how authoritarian and illiberal practices are distinct but overlapping categories. Violations of freedom of expression are an authoritarian practice, because they block the accountability dialogue, as well as an illiberal practice, because they infringe on the autonomy and dignity of the individual. To give an example, the Russian government's repressive measures against homosexuality (Wilkinson 2014) are illiberal but not authoritarian. Like Duterte's executions of drug users, they are not secret, and not aimed at silencing critics, but they do infringe on the autonomy and dignity of individuals. The regime's repeated imprisonment of Alexei Navalny and other government critics by contrast is illiberal because it infringes on the autonomy and dignity of individuals, but it should also be considered as an authoritarian bid to silence oppositional voices.

Another important illiberal practice often associated with authoritarianism, but not part of the definition adopted in this book, is arbitrary surveillance: i.e. surveillance not based on a precise, specific, and proportional prior legal procedure, when it is patterned and occurs in an organized context. As I have discussed extensively elsewhere (Glasius and Michaelsen 2018, drawing on Richards 2013), such surveillance may interfere with the intellectual privacy of the individual, and may lay her open to blackmail and discrimination. Arbitrary surveillance as such does not sabotage accountability: illegitimate data-gathering in itself does not disable voice or disable access to information. But it does often intersect with authoritarian practices. When done openly, or at least in ways that are known or suspected by its targets, and in conjunction with a pattern of threats or scapegoating, it can contribute to disabling voice by intimidating them. More often, arbitrary surveillance is done in secret, and, when at risk of being discovered and challenged, it may spark withholding of information or disinformation, as was the case in the example of the NSA described above.

For the sake of coherence, this book concentrates on authoritarian practices only. Illiberal practices may make an appearance, as in the case of violation of freedom of expression, or when there is a causal connection with disabling voice and disabling access to information. The rendition programme described in Chapter 3, for instance, was first and foremost an illiberal practice: so-called 'unlawful combatants' were subject to arbitrary detention and torture. However, its practitioners, aware of how controversial the torture programme would be, took pains to keep it secret—an authoritarian practice. The analytical focus of the chapter is on the latter. The illiberal practice that gave rise to it, already extensively described elsewhere, remains outside its purview.

8. Conclusion

The most important contribution social scientists can make to society is to do what they do best: make systematic observations, abstract from what they are seeing, then again operationalize from the abstractions, classify and analyse, to answer the descriptive, causal, and normative questions of their day. Authoritarianism studies began with scholars like Karl Popper and Hannah Arendt, and later Juan Linz and Guillermo O'Donnell, analysing the horrific developments in their own societies with a view to learning how to counteract such trends. It turned into the professional study, from the vantage point of the West, of political systems other than, and considered inferior to, our own. In an endeavour to revitalize authoritarianism studies by going back to first principles, I have developed the concept of authoritarian practices.

The empirical chapters to follow will demonstrate the analytical purchase of studying authoritarian practices. They all rely on qualitative research, carried out by the author of the new concept herself. The concept of authoritarian practices as elaborated in this book will undoubtedly leave some questions unanswered, and its application to further empirical research will be a process of trial and error. Readers may find that there is a remaining degree of ambiguity in the operationalization, compared to the parsimony of the dichotomous frameworks of Cheibub, Gandhi, and Vreeland (2010) or Geddes, Frantz, and Wright (2014), or the accumulated decision rules of Polity IV (Marshall et al. 2014) or V-Dem (Coppedge et al. 2021), that aimed to lend themselves to consistent application by cohorts of research assistants. But let us call to mind just how much effort political scientists have put into assessing the quality of democracy, and how complex some of these measures have become. Compare for instance the eight criteria developed by Downs (1957), or the eight institutional guarantees developed by Dahl (1971), to the guide developed by Beetham et al. (2008), or the Varieties of Democracy (V-Dem) project. Beetham et al. discern four categories, with fifteen over-arching questions, leading to seventy-five actual questions, with built-in flexibility for in-country assessors. V-Dem, at the time of writing, distinguished seven principles, five indices, and 470 indicators (Coppedge et al. 2021).

Authoritarian practices must still be better operationalized, classified, and compared, and causal connections established with other phenomena, if we are to suggest ways of responding to them. Eventually, the authoritarian practices approach may facilitate the development of either a 'quality of authoritarianism' scale, or a typology, or both, perhaps not at the level of sophistication of contemporary democracy measurements, but much better than the residual measures that we currently have. Such typologies or scales should reflect the core commitments of the approach proposed, that authoritarianism is not a shortfall, but a political practice; that sabotage of accountability is at its core; and that different configurations of actors can be assessed in terms of their engagement in such practices.

Redefining authoritarianism from a practice perspective allows us to bring back home some of the knowledge developed in comparative politics about how authoritarianism works. But it also makes it possible to escape the term's conventional 'othering' subtext, where only non-democratic, typically non-western regimes qualify as authoritarian. Turning our gaze on our own societies, we can come to understand how authoritarian practices unfold and evolve within democracies and in transnational settings; we can begin to see in what circumstances they thrive, and how they are best countered.

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2
Extraterritorial Authoritarian Practices

People of Turkish and Iranian Descent in the Netherlands

1. Introduction

The killing of Jamal Khashoggi in Istanbul in 2018 brought worldwide attention to extraterritorial authoritarian practices. But as the murder of Leon Trotsky in Mexico City nearly eighty years earlier suggests, this is not a new phenomenon. Both spectacular murders lie at the extreme end of a spectrum of state practices of spying on, lying to, and intimidating people beyond the borders of their states of origin. The scope and scale of extraterritorial authoritarian practices may have increased with the rise of migration, ICT flows, and other forms of globalization, but since such practices, also referred to as transnational repression, are often secretive and under-researched, there is no baseline against which to test this intuition.

This chapter will consider two migrant groups that have been affected by very different extraterritorial authoritarian practices in the same 'host' country: people of Turkish and Iranian descent in the Netherlands. Taking the same host country as the site of investigation for two groups allows us to see differences and commonalities in the practices of different states of origin. It shines a light on the affordances and limitations extraterritorial state agents have when operating in the context of a particular liberal democratic host state, and the collaborations they enter into with other actors. The chapter will also show that even within the same migrant group, not all individuals affected are equally vulnerable or protected and empowered.

Extraterritorial authoritarian practices

There has been increasing academic attention to what is commonly referred to as extraterritorial or transnational repression by authoritarian states, and the phenomenon is now well-established. Case studies have investigated such repression in the diasporic communities of Algeria (Collyer 2006), China (To 2014), Eritrea (Bernal 2014; Bozzini 2015; Hirt and Mohammad 2018), Iran (Michaelsen 2018), Kazakhstan (Cooley and Heathershaw 2017; Del Sordi 2018), Libya (Moss 2016), Morocco (Brand 2006; 2010; Dalmasso 2018), Russia (Kosmarskaya 2011), Syria (Moss 2016), Tunisia (Brand 2006), Turkey (Yanasmayan and Kasli 2019), and Uzbekistan (Lewis 2015).

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The animating puzzle of much of this literature is to what extent and in what ways the home government continues to exert control on its populations abroad (see also Glasius 2018). Beyond their own borders, state agents have no monopoly of violence. Hence, the state of origin cannot physically control migrants in the same way as it would do if they were still within its borders. This literature typically takes the 'authoritarian state' to be the unitary actor engaged in such repression. This chapter will take a different approach by taking 'authoritarian practices' as the unit of analysis, which allows us to identify different configurations of actors, within and beyond the state, involved in such actions. As will be shown, these may include members of the security services, diplomatic staff, party officials, religious leaders, members of the migrant communities, or professional criminals.

Second, the chapter disaggregates the 'migrant community' or 'diaspora' that is targeted by extraterritorial authoritarian practices, suggesting that individuals within these communities are vulnerable to very different degrees. I will suggest that their vulnerability depends in part on the bilateral relations between the home and host country, and in part on the configuration of actors involved, but also on what Koinova (2012; 2017) calls the autonomy and positionality of diaspora individuals. While Koinova focuses primarily on how autonomy and positionality affect the chances of political mobilization by expatriates, they also mediate their sensitivity to extraterritorial authoritarian practices.

Selections, sources, and structure

The intersection between extraterritorial authoritarian practices and social interactions within migrant communities is difficult for a researcher to penetrate. In order to mitigate this problem, I zoom in on two particularly high-profile targets of extraterritorial authoritarian practices: the Dutch Turkish newspaper *Zaman Vandaag*, and the Dutch Iranian separatist activist Ahmad Mola Nissi. The chapter rests primarily on an analysis of Dutch media coverage between 2013 and 2019. All translations from Dutch are mine.

First, I establish that both cases are properly identified as instances of authoritarian practices, demonstrating the disabling of voice and disabling of access to information that occurred and discussing the degree of control authoritarian actors had over *Zaman Vandaag* and over Ahmad Mola Nissi. Second, I show that what happened to this newspaper and this individual were not isolated incidents, but part of a broader pattern of actions, embedded in an organized context, against particular Turkish and Iranian expatriates. This section also briefly discusses similar practices targeted at other migrant communities in the Netherlands. The chapter then discusses what configurations of actors were involved in these extraterritorial authoritarian practices. Finally, I consider who the targets of accountability sabotage were, and what made them more or less vulnerable to these practices. The conclusion considers the affordances and limitations of different configurations of actors in extraterritorial

authoritarian practices, the very different roles members of migrant communities can play, and the relevance of the autonomy and positionality of targets of such practices.

2. The demise of a Dutch Turkish newspaper: *Zaman Vandaag*

The Turkish community in the Netherlands is very diverse, but the majority are Sunni Muslims. From the mid-1990s, thousands of them came to be inspired by the teachings of the Turkish religious leader Fethullah Gülen. Schools and organizations sprang up that were associated with Gülen's Hizmet organization (Van Bruinessen 2014). One of these was *Zaman Vandaag* (the Times Today), a bilingual weekly newspaper and website launched in April 2013, as part of a broader international family of *Zaman* newspapers. Its editor in chief, Mehmet Cerit, openly and repeatedly identified with Gülenism, but this was not true for the newspaper's staff, which comprised Turkish and non-Turkish journalists, as well as various free-lancers and columnists. In its first year, the bilingual weekly and its website proved that it filled a financially sustainable niche: by early 2014, it had 4000 subscribers to the Dutch edition and 6000 to the Turkish (Bahara 2014). At the time of *Zaman Vandaag*'s establishment, there was already a widening rift between Turkish Prime Minister Recep Tayyip Erdogan and his former Islamist ally Fethullah Gülen. Erdogan and his Justice and Development Party (AKP) accused Gülen of being at the head of a 'parallel state' (Baydar 2013), and Gülenists in Turkey were prosecuted for terrorism (Eissenstadt 2015, 3).

Disabling voice

In the run-up to Turkish local elections in March 2014, *Zaman Vandaag*'s editor in chief first spoke about regular threats to the newspaper. There were e-mail and telephone threats (Bahara 2014), as well as a verbal attack on a journalist during a meeting with an AKP parliamentarian. Editor Mehmet Cerit also reported that subscribers were visited by AKP supporters 'in a structured and organised way' and put under pressure to cancel their subscriptions to the 'Jewish newspaper' belonging to 'traitors' (Cerit 2014). A year later, journalist Hakan Büyük was interviewed saying that the newspaper and its journalists were called traitors on Facebook on a daily basis (Smit 2015). In November 2015, *Zaman Vandaag*'s website was hacked, after someone calling themselves CitizenCode Ali had announced on Facebook that they would be taking the site offline because of its 'propaganda' (Telegraaf 2015).

In March 2016, the Turkish mother newspaper *Zaman* in Istanbul was raided by the police and taken over by the government (Van Aalderen 2016). The editors of

Zaman Vandaag put themselves on their own front page with the headline 'We go on'. *Zaman Vandaag*'s website was now blocked in Turkey (Van Dedem 2016a). At this time, Mehmet Cerit wrote that 'some of my relatives are afraid of being "registered"' and 'entrepreneurs ask us not to send the newspaper to their business address . . . because they are called to account and ostracized by Erdogan supporters. They no longer dare to advertise with us' (Cerit 2016).

On the night of 15 July 2016, a coup attempt was thwarted in Turkey. President Erdogan immediately accused Gülen and his movement of being behind the coup. That same evening, Mehmet Cerit sent a tweet condemning the coup attempt (Kooyman and Liukku 2016). Two days later, he reported that 'it is raining threats. We must be exterminated' (Polman 2016a). He said that 'it goes further now. There is talk of a jihad against Gülenists. It is legitimate to take our money, our capital, but also our wives and daughters' (Kamerman and Kouwenhoven 2016). He received messages that 'he has no right to live' from 'Dutch Turks' (Kuiper 2016). *Zaman Vandaag* reporter Basri Dogan had his photograph posted on Facebook with a message saying 'Traitors! Sons of bitches! You will be brought to account for what you did', sparking dozens of threats (Elibol 2017a). Also circulated on the Internet was a call to boycott twenty-four 'Gülenist' organizations in the Netherlands including *Zaman Vandaag* (L. Groen 2016). During this period, hourly police patrols drove by the *Zaman Vandaag* office at the staff's request (Ibid.). A few days later *Zaman Vandaag* journalist Hüseyin Atasever, covering the story of a Gülen supporter in Haarlem who was assaulted at his regular mosque, was threatened in turn (Van der Meulen 2016). Atasever's photograph was then circulated on social media with the message that he must be hanged (Winterman 2016; Chorus 2016).

In August 2016, Turkish state press agency Anadolu Ajansi (AA) published a list of 'Gülenist' organizations, including Dutch schools, companies, and other organizations, and of course *Zaman Vandaag* (Jonker 2016). Editor in chief Mehmet Cerit was one of four individuals mentioned by name on the list, which mainly included organizations (Noordhollands Dagblad 2016). His Twitter account in Turkey was blocked, based on a Turkish court order that deemed his tweets to glorify terror and endanger state security (Van Dedem 2016b). Numerous threats were again reported by Cerit (Van Weezel 2016) and Büyük (Chorus 2016). That same month, the Turkish Minister of Economics visited The Hague, but *Zaman Vandaag* did not send any reporters to hear his speech because they were too afraid to be seen there (Ibid.). By this time, the Belgian and French editions of *Zaman* had already been suspended because of threats, and the German edition announced its closure (Jonker 2016; Nederlands Dagblad 2016a). Since the coup, the server of *Zaman Vandaag* had been hacked a number of times (Chorus 2016; Bahara 2016). Cerit again described people's fear of being seen to be associated with the paper: 'some subscribers call us to ask not to send the paper to their home address any longer. Or whether we can put a different name on the envelope. You can be snitched for reading Zaman. You do not want your neighbours to know' (Van de Poll 2016). The paper had reportedly lost

200 subscriptions since the coup, but the bigger problem was loss of advertising: '(n)o Turkish entrepreneur wants to advertise any longer' (Ibid.; Nederlands Dagblad 2016b). The boycott also had editorial consequences: Dutch Turks were less willing to freelance for the paper, and fewer people were willing to be interviewed (Kamerman 2016).

In May 2017, *Zaman Vandaag*, now with only 3000 subscribers, announced that it was going to cease publication under that name, in order to shed the image of the 'Gülen newspaper'. Mehmet Cerit and his staff established a new publication, *De Kanttekening*, which intended to attract a broader, less exclusively Turkish audience, be less focused on news, and become a forum for discussion on migrant community issues, discrimination, and the nature of Islam (Kamerman 2017). *De Kanttekening* explained the demise of its predecessor as due to 'extensive threats from pro-Erdogan quarters and the loss of the partnership with Zaman, and crucial advertising income' (De Kanttekening; see also Baneke 2017).

These incidents in the life of *Zaman Vandaag* together demonstrate a pattern of actions disabling the newspaper's voice. In Turkey, this happened through censorship, blocking both the website and the editor in chief's Twitter account. In the Netherlands, *Zaman Vandaag* was silenced by means of sowing fear amongst different constituencies of the paper: its editors and journalists, its subscribers, its advertisers, and potential interviewees for the paper. The journalists learned to live with these threats, and some subscribers received the paper at a different address or under a different name, but this was not an avenue open to advertisers.

Disabling access to information: secrecy and lies

The harassment of *Zaman Vandaag* and its journalists was remarkably non-secretive. While some threats against the journalists were anonymous, there were also cases where Dutch Turks issuing threats identified themselves by name, and even spoke to Dutch journalists about their motives. Days after the coup attempt in July 2016 for instance, one Ibrahim Güngör explained that he spread blacklists in order to 'unmask Gülen movement supporters' who had 'a secret mission to achieve high positions in society' (Kamerman and Kouwenhoven 2016). Another, a Yunus Höke, shared on Facebook that Gülen supporters should be executed. Speaking to a journalist, he explained that he held Gülenists in the Netherlands coresponsible for the coup attempt because they supported the movement financially, comparing them to members of the Dutch Nazi party during World War II (Ibid.).

At the heart of the demise of *Zaman Vandaag* was a major piece of disinformation by the Erdogan government, with far broader ramifications: the designation of the entire Gülen movement as a terrorist organization under the assigned name Fethullahçı Terör Örgütü, or FETÖ, and the implication that *all* Gülenists worldwide were associated with the coup attempt. It is possible that some or most of the coup conspirators identified as Gülenists. It is even conceivable that the Turkish coup

attempt was committed at the instigation of Fethullah Gülen (see Esen and Gumuscu 2017, 62–63 for a dispassionate assessment). But the suggestion that all Gülenists had foreknowledge of, and were actively involved in, the coup attempt of 2016 is as fantastic as the notion that the World Trade Center was brought down by a worldwide Zionist plot. While *Zaman Vandaag* was not specifically connected to the coup attempt by the government or the AKP, Dutch Erdogan supporters appear to have made the connection for themselves.

In March 2017, journalists Mehmet Cerit and Basri Dogan were personally slandered. This happened in the context of a Dutch prohibition on Turkish Ministers campaigning in the Netherlands in the run-up to a referendum expanding President Erdogan's powers. One minister attempted to come nonetheless, and was forcibly removed to the German border, leading to riots in Rotterdam (NOS 2017b). In the aftermath of the diplomatic row, Cerit and Dogan were named in the Turkish media as leaders of FETÖ and instigators of the altercation (Markus 2017a; Elibol 2017a). The *Sabah* paper also bizarrely suggested that Gülenists had been funding the Dutch anti-Muslim party PVV (Markus 2017a). The context throws some light on why *Zaman Vandaag* journalists were smeared after this incident: Cerit had repeatedly suggested in the Dutch press that Erdogan was purposefully instigating a diplomatic row with the Netherlands in order to mobilize Dutch Turks to vote yes in the referendum (Nieuwenhuis et al. 2017), and Dogan had interviewed Dutch Prime Minister Mark Rutte about the affair. The exposure in the Turkish media then sparked a new round of threats against the journalists and their newspaper, which ceased publication soon afterwards.

Degree of control

During *Zaman Vandaag*'s lifetime, news outlets in Turkey had all been muzzled or taken over by the Erdogan government, and constantly disseminated anti-Gülenist sentiments (Esen and Gumuscu 2016). One might think that the AKP government, while increasing its control over the media in Turkey, would be unable to control what newspaper Dutch citizens of Turkish descent might want to subscribe to or advertise in. But it turned out that Turkish political actors could affect *Zaman Vandaag*'s readership and financial viability. The paper had established its niche, without being financially dependent on the Turkish mother publication, and even contemplated expansion (Beemsterboer 2016). Yet a sustained campaign, much intensified after the coup in mid-2016, forced the newspaper out of business, along with its sister publications in other European countries.

It is impossible to know whether the turn away from the newspaper by subscribers, advertisers, freelancers, and interviewees was as much instigated by fear as its editor in chief suggested, or whether a genuine distaste for the paper's strident critique of Erdogan played a bigger role. But even if it was the latter, this can hardly be attributed to a natural change in taste among the readership. As Cerit and other

commentators frequently pointed out, news reception in the Dutch Turkish community comes from Turkish satellite channels and online newspapers to an important extent (Imani Giglou et al. 2019, 207; Kleinjan 2016). These news sources engaged in what one author called 'post-truth politics' (Yilmaz 2019, especially in the context of election campaigns, the coup attempt, and the referendum (Ibid.; Esen and Gumuscu 2016; Yanasmayan and Kasli 2019).

The lives of *Zaman Vandaag*'s Turkish-descended journalists were considerably affected by the constant threats. They no longer visited Turkey. The editor in chief, a devout Muslim rooted in the Dutch Turkish community, came to entirely avoid Turkish supermarkets, coffee houses, or mosques because 'tens of thousands of Turks in the Netherlands see me as a terrorist' (Van de Poll 2016). Another journalist with the paper, Hakan Büyük, received a tweet during a holiday saying 'if you are innocent, why have you gone into hiding in Belgium?'. A third, Hüseyin Atasever, got a tweet saying 'Look out of your window, I'm outside your door' (Chorus 2016). Writers for *Zaman Vandaag* who were not of Turkish descent were much less affected. With one exception—a columnist who wrote that had he lived today, the prophet would have approved of homosexuality (Van Beek 2016b)—there is no record of threats made against them because of their association with *Zaman Vandaag*.

3. The murder of a Dutch Iranian separatist: Ahmad Mola Nissi

The Netherlands is home to a small community of a few hundred Ahwazi: Arabic-speaking Iranians from the region of Khuzestan, also known as Ahwaz (Van Raalte and De Zwaan 2017). Ahmad Mola Nissi was the founder and leader of the separatist Arab Struggle Movement for the Liberation of Ahwaz (ASMLA) (Rosman 2017). After a failed armed uprising in 2005, he fled to the Netherlands, later joined by his family. On 8 November 2017, Ahmad Mola Nissi was shot five times from a car in front of his house in The Hague, and died (Ibid.).

In March 2018 the Dutch police officially linked the case to the murder of another Dutch Iranian, Ali Motamed, killed in December 2015. Motamed was revealed to be a former member of the Mujahideen el-Khalq (MEK), and held responsible for a major bomb attack in Tehran in 1981, which had killed seventy-three people including top officials. Later intercepted conversations revealed that the Motamed murder was a contract killing, the Dutch hitmen had no idea who Motamed was (Vugts 2018). While Motamed was assassinated by Amsterdam-based criminals, the police indicated in mid-2018 that they believed Mola Nissi's murder to be connected to a criminal group in Rotterdam (Argos 2021a).

On 8 January 2019, the Dutch Foreign Ministry announced that it had 'strong indications' that Iran was behind the murders of both Mola Nissi and Motamed. The murders, Ministers stated, 'flagrantly violate the sovereignty of the Netherlands and

are unacceptable (Ministerie van Buitenlandse Zaken 2019)'. The EU announced targeted sanctions against two Iranian officials deemed to be connected to the murders, and against the Iranian Ministry of Information and Security (MOIS) (Alonso 2019).

In 2021, new information about the killing became public: another Ahwazi refugee had testified in various criminal cases in the Netherlands and Denmark that he had been commissioned by the Iranian intelligence service to travel to the Netherlands to kill Mola Nissi. Instead, he applied for asylum, alerting the Dutch immigration service (IND) and the Dutch intelligence service (AIVD) to his mission in May 2016 and again in April 2017 (Argos 2021a). Despite his refusal, he was still asked by MOIS to spy on Mola Nissi. When asked in November 2017 to take photographs of Mola Nissi's house and neighbourhood, he claimed to have alerted the AIVD again (Ibid.).

Disabling voice

Mola Nissi received threats against his life a number of times, at one time causing him to quickly move from Maastricht to The Hague with his family (Hendrickx 2018), and at another time to try and change his name (Van Essen 2017). In 2010, such threats had followed after Iranian television had shown a documentary portraying him as a terrorist collaborating with Saudi Arabia (Hendrickx 2018). At that point, he was in touch with the AIVD, and was asked to cease his political activities for his own safety—which he refused to do (Argos 2021a). In 2013 he reported new threats to the Dutch police, which said it lacked evidence for a prosecution (Van Essen 2017). He remained politically active for ASMLA, 'organizing conferences and demonstrations' (Van Raalte and De Zwaan 2017). In 2017, Mola Nissi again reported threats to the police (Vleugel 2017a; Rosman 2017; Gioia 2017). While the purpose of the threats against Mola Nissi cannot be discerned with certainty, it is most plausible that they were intended to intimidate him into ceasing his political activism, in other words to disable his voice. If so, they were not successful: Mola Nissi moved house but continued his activities. His murder then disabled his voice in the most definitive way.

Disabling information: secrecy and lies

The threats Mola Nissi repeatedly received over the years were not entirely anonymous. An ASMLA board member later claimed that some threats emanated from someone known to Mola Nissi: the head of the intelligence service in Ahwaz, a man named Ahmadi (Argos 2020). A cousin also stated that 'the Iranian intelligence service would call and say they knew where you lived' (Rosman 2017).

The Iranian embassy in The Hague and Iran's Foreign Ministry have consistently denied any knowledge of or involvement in the murder (Vleugel 2017b; Ministerie van Buitenlandse Zaken 2019). However, the latter has hinted at a connection between the murders and the Dutch expulsion of Iranian diplomats. A spokesman

quoted in the Iranian English language newspaper *Kayhan* called on 'Dutch officials to refrain from leveling baseless and absurd accusations', and to explain 'its move to shelter the criminal and terrorist members' of the MEK (Kayhan 2018; see also Iran Front Page 2018). The statement is remarkable because the Dutch authorities had not given any information on why the two diplomats were expelled, making neither accusations nor any connection with the groups to which the murder victims had belonged. It was the *Kayhan* article that made this connection (Hekman 2018).

Not only the Iranian authorities were secretive about the murder of Ahmad Mola Nissi, so were the Dutch authorities. Initially, the Dutch police may not have known whether to seriously suspect the Iranian secret services, although the AIVD, having been alerted by the defector, should have known. But by May 2018, the Dutch Foreign Minister had had secret briefings on the assassinations. Even after the expulsion of two diplomats, the public prosecutor stated that 'no clues have been found regarding involvement of a foreign power' (Brouwers 2018). *De Volkskrant* journalists repeatedly called on the Dutch authorities to break the silence. In response, the Dutch Minister of Justice stated that they wanted to be 'very thorough' before releasing any information (Hendrickx 2018; see also Brouwers 2018; Du Pré 2018). When they eventually went public with the allegations against Iran, the Dutch authorities referred to their previous secrecy as 'necessary in the interest of joint European action' (Ministerie van Buitenlandse Zaken 2019). The AIVD, the IND, and the Ministry of Justice have refused to comment on the defector's statement that they had had prior warnings of plans to assassinate Mola Nissi (Argos 2021a).

Degree of control

After Mola Nissi's family had joined him in the Netherlands, Iran had little leverage over him. His nuclear family and his brother lived in the Netherlands, and there is no evidence to suggest that relatives left in Iran were ever invoked when Mola Nissi received threats. However, he clearly did fear for his safety even in the Netherlands, moving house and repeatedly reporting threats to the police. The Iranian authorities (or some faction thereof) did attempt to exert control over him, but could not deter him from his activities for ASMLA. Ultimately, they came to control him by the most radical means: killing him.

4. Broader patterns

Patterns within the Dutch Turkish community

Traditionally, the fault lines within the Dutch Turkish community ran between religious, secular state-dominated, and leftist organizations. According to some of its members, 'being careful in unfamiliar company has always been second nature' to

Dutch Turks (Pinedo and Schravesande 2017; see also Muller 1997). In the early 2000s too there had been tensions between Turkish and Kurdish groups (Spits Nieuws 2011; Van der Ploeg 2011) and intolerance of various critics of Turkish nationalism (Groen 2010; Marbe 2013), but there was no suggestion that any Turkish authorities directed or applauded this.

Two important shifts in Turkish politics have impacted the lives of Dutch Turks since. First, after the adoption of new electoral laws in 2008 and 2012, Turks living abroad were able to vote in national elections from their countries of residence (Yanasmayan and Kasli 2019, 29), strengthening the role of Turkish politics in Dutch Turkish community life (Sterkenburg 2016). Second was the rift between Erdogan and Gülen in 2013, before which Gülenists had worshipped in the same mosques as other Sunnis, and many Dutch Turks knew Gülenists among their family and friends. *Zaman Vandaag*, reporting threats as early as March 2014, appears to have been the 'canary in the coal-mine' (see Gohdes and Carey 2017). While Gülen-supporters were targeted as a group, other individuals who criticized Erdogan or the AKP also experienced increasing threats.

In October 2015, in the run-up to Turkish elections, many Dutch Turks received a letter from the Turkish prime minister, advising them to vote AKP and promising financial support to the community, at their home address. The Turkish Electoral Board explained that this was perfectly legal: Turkish political parties have access to the electoral register, which includes this information. But Dutch Turkish opponents of Erdogan were dismayed that the party in power knew their home addresses (BNR.nl 2015; Van Meteren 2015).

Other reports of such threats and boycotts began to emerge in the Dutch media only in April 2016. At that time, German satirist Jan Böhmermann had deliberately insulted President Erdogan on German television (Smale 2016). The Turkish consulate then sent an e-mail to dozens of Dutch Turkish organizations (Van der Kooy 2016), stating 'we emphatically request you to report to us insults against the Turkish president, Turkey and the Turkish community, on social media or elsewhere' (Kok et al. 2016). Faced with indignation from Dutch politicians about this 'snitch line', the Turkish embassy stated that there had been a misunderstanding; the message had been formulated awkwardly, but it did not distance itself from the substance of the appeal (Ibid.; Provoost 2016).

The most conspicuous Dutch Turkish target of the 'snitch line' was the well-known columnist Ebru Umar, who responded to the embassy's call by tweeting 'Fuck Erdogan' while on holiday in Turkey, and promptly got arrested. She was held in prison and subsequently under 'country arrest' for several weeks, but was eventually free to go (Pinedo and Van Steenbergen 2016). Other Dutch Turks were frightened by the embassy's appeal: the Dutch section of opposition party CHP reported getting many phone calls from people who had in the past criticized Erdogan on social media (Provoost 2016). The Dutch Alevi federation cancelled its annual trip to Turkey (J. Groen 2016). Cartoonist Ruben Oppenheimer, who lampooned Erdogan, documentary-maker Sinan Can, who defended Oppenheimer in a television programme (Kist 2016), and various Dutch Turkish politicians all received threats; one

politician saw her Facebook page removed, another, of Kurdish descent, was the target of social media slander (De Vries 2016).

Threats against Gülenists exploded after the July 2016 coup attempt (Telegraaf 2016; Huisman 2016; Kamerman and Kouwenhoven 2016; Van Gelder and Soetenhorst 2016). Alevi, Kurdish, liberal, and leftist groups also all reported violent incidents and intimidation (Cats 2016). Stones and Molotov cocktails were thrown at eight different buildings around the country (Stockholm Center for Freedom 2017, 17–18). The Dutch police recorded 170 reports of threats within the Turkish community after the coup attempt (Jorritsma and Kamerman 2017), but only two people have been reported as being physically hurt (Huisman 2016). Boycotts affected Turkish businesses, and both primary and secondary schools. Dozens of Dutch Turkish parents took their children away from alleged 'Gülenist' schools (Van Beek 2016a; Groen and Gualthérie Van Weezel 2016).

In the run-up to the referendum extending Erdogan's powers in early 2017, threats against Gülen supporters and Erdogan critics flared up once again (Pinedo and Schravesande 2017; Van de Bovenkamp 2018). Even a local hospital radio station became subject to threats because of critical reporting on Erdogan (Van Herwaarden and Willems 2017). Some sources suggest that Dutch Turks did not dare to organize or vote against Erdogan's extended powers in the referendum (Nederlands Dagblad 2017; Voermans 2017). In April 2017, it became known that ten to fifteen Dutch Turks—whose identities remained unknown—were being prohibited from leaving Turkey on unknown charges (Righton 2017).

Known Dutch Gülen supporters no longer frequented Turkish shops, organizations, or squares, and no longer went to their local Turkish mosques (Markus 2017a). Dutch Turkish journalists and politicians stated that the 'snitch line' was still active (Elibol 2017b). In a survey in 2018, one third of forty-two local politicians of Turkish descent indicated that they did not feel free to voice their opinions on Turkish issues (Van de Bovenkamp 2018). Various people altered their behaviour in the public sphere: well-known journalist Özcan Akyol no longer discussed Turkish politics on Dutch television out of fear for his family; consultant Bercan Günel 'removed half my Facebook friends after the coup' because 'I want to protect my family'; and scholar Uzay Kaymak described a meeting of Dutch Turks abandoning the idea of a joint letter to the press criticizing the Turkish government, for fear of the consequences (Pinedo and Schravesande 2017).

Patterns within the Dutch Iranian community

The 38,000 legal residents and citizens in the Netherlands with an Iranian migrant background (CBS 2018) stand out from other migrant groups because many, perhaps most, arrived as political refugees (Honari et al. 2017, 20). They include people who identify as Ahwazi, Armenian, Bahai, Christian, Kurdish, secularist, and/or members of the Green Movement. Apart from recent arrivals, they typically have Dutch

as well as Iranian nationality. Iranians in the Netherlands are described as a splintered community (Ghorashi 2009, 82–86; De Jong 2018). A recent survey found that Iranians in Western Europe trust other Iranian migrants much less than they trust host country natives (Honari et al. 2017, 16, 22; see also interviews in Groen 2019).

Mola Nissi was not the first Ahwazi activist to be targeted by the Iranian regime. Abdullah Al-Mansouri, a Dutch Iranian active in the Al-Ahwaz Liberation Organization (ALO), had been arrested during a visit to Damascus, Syria, in 2007, forcibly returned to Iran, and accused of involvement in terrorism (Van Baars 2007). After months of silence there was a rumour that he would be executed, then that he had received a thirty-year sentence (De Graaf 2009). In reality, Al-Mansouri never stood trial (Hulshof 2015). In 2014 he was released and returned to the Netherlands. His son Adnan, who advocated tirelessly to get him released, was subject to threats, bribes, and vilification: 'They always knew exactly when I had been on TV again. The Iranian intelligence services have pressured me in all possible ways . . . I was supposed to have been brainwashed by America and Israel. They offered me a carefree life in Iran. And when none of that worked, they began to threaten: that they would get me' (Van der Steen 2011).

Other politically vocal Iranians, of different generations and different groups, have told similar stories of intimidation (Kooper 2011; De Jong 2018; Groen 2019; see also Michaelsen 2018). After the failure of Iran's Green Movement in 2009, the Dutch internal intelligence service AIVD wrote for the first time that the 'activities of Iranian intelligence services are directed towards groups and individuals that are considered by the Iranian regime as a threat to its continued existence . . . both suspected members of the Mujahedin-e Khalq and supporters of the Iranian opposition are a target for these intelligence and influencing activities. These activities violate the basic rights of residents in the Netherlands and can imperil their safety or that of their relatives in Iran' (AIVD 2009).

Directly connected to the Green Movement was the execution of Zahra Bahrami, a dual national, in Iran in January 2011. Bahrami, a belly dancer with no prior history of political activism, took part in a demonstration in Iran in late 2009 while visiting family (Sahadat 2010). After a forced confession (Erdbrink 2010), she was executed just hours after the Dutch authorities had been told the case was still pending (NOS 2011). Her execution was interpreted by a Dutch Iranian journalist as an attempt to intimidate Iranians in Europe, who had increasingly begun to have contact with and visit relatives and friends in Iran again, in the context of the Green Movement (Nekuee 2011).

In May 2018, US Secretary of State Mike Pompeo stated that Iran's Revolutionary Guard was carrying out 'assassination operations in the heart of Europe' (Borger and Dehghan 2018). In June, the Dutch authorities quietly expelled two Iranian diplomats. Weeks later, an attack on a group of Iranian dissidents was foiled by the French authorities, and Iranian diplomats were arrested in Luxemburg and Austria (BBC Monitoring Europe 2018). In September 2018, the Danish police launched a major operation to prevent an attempt on the life of Yaqoub al-Tostari, leader of ASMLA's Danish branch, and made an arrest (De Groot and Suurmond 2018).

The murders of Motamed and Mola Nissi on Dutch soil can be understood as a further escalation after the execution of Bahrami. With hindsight, they fit an emerging pattern of attempted or successful assassinations in the Netherlands, France, and Denmark, against ASMLA and MEK regime opponents, although this was not apparent at the time of their deaths. Or rather, it was a return to an older pattern, abandoned for more than fifteen years, of assassinations abroad by the MOIS (Iran Human Rights Documentation Center 2011). Further killings are alleged to have taken place in Turkey in 2017 and 2019, as well as a kidnapping from Iraq followed by an execution; ands two more kidnappings from Dubai and Turkey respectively to Iran in 2020 (Golkar 2021).

The fear sowed by the murders in the Netherlands went beyond Ahwazi and MEK activists. This was also the assessment of the Dutch secret service AIVD, which noted in 2018 that 'Iran has an interest in persons and organisations known to be opponents of the current regime' and was observed to be pressuring Iranian migrants (AIVD 2018, 10). Indeed, Mola Nissi's killing, coupled with the long silence by the Dutch authorities, sparked 'great unrest in the Iranian Dutch community' (Du Pré 2018). A Dutch Iranian women's rights activist who fled after the crackdown on the Green Movement said she had become more guarded since the murders, aware that Iranians all over Europe might be targeted by the regime (Groen 2019). According to local politician Ulysse Ellian, himself the son of a vocal secular dissident, Iran was 'giving a message to *all* dissidents who have fled the country: wherever you are, we know where to find you' (Hendrickx 2018).

Other migrant groups in the Netherlands

The Turkish and the Iranian community in the Netherlands are not the only ones subject to authoritarian practices directed by their home governments. At least three other communities, Moroccans, Eritreans, and Chinese Uyghurs are also known to have been affected. There is a long history of home government spying on and infiltrating the Dutch Moroccan community (Sunier et al. 2016, 411–412). In 2008, various Dutch policemen of Moroccan descent were found to be giving personal information about Dutch Moroccans to the Moroccan government (AIVD 2008, 46). While intimidations between Dutch Moroccans also occur (Markus 2017b), there is an important difference with the Turkish community: most Dutch Moroccans come from the far North of the country, and many identify as Berbers or Riffians, not Arabs.

This distinction has become increasingly important since 2017, when big anti-government demonstrations known as the Hirak revolt broke out in the Rif region. Dutch Moroccans who supported the Hirak saw themselves vilified as separatists in the Moroccan media (Markus 2018). The Hirak protests have been deeply divisive, but government critics have not been ostracized in the same way as Dutch Turkish

Gülenists. When an Amsterdam imam preached that demonstrating against the King was *haram* (ungodly) the Dutch Council of Moroccan Mosques quickly distanced itself from his statement (NOS 2017a). There have been threats against Dutch Moroccan supporters of the protests on social media (Groen 2017; Republiek Allochtonië 2017), and websites and Facebook pages of Hirak supporters were regularly taken off air, but the escalation between pro- and anti-regime Moroccans appears to have been mutual rather than one-sided (Republiek Allochtonië 2017).

The main risk for Dutch Moroccans who voiced support for the anti-government movements lay in going to Morocco (Ibid.; Markus 2018). Supporters of the 20 February Movement, the Moroccan manifestation of the Arab Spring protests, and Hirak supporters have on occasion been arrested, questioned, and, in the former case, tortured while in Morocco, but their Dutch passports have so far resulted in speedy release (Markus 2018).

A much smaller community that is notoriously closely watched are Eritreans. A first group arrived as political refugees in the context of the war of independence in the 1990s, bigger waves arrived in the 2000s and 2010s as a result of the war against Ethiopia, and more recently, to avoid the time-unlimited public service, akin to forced labour, that has been in force since 2009 (Hirt and Mohammad 2018). The community, if that term can be used at all, has been characterized by fear and distrust, caused in part by rifts between the pro-government stance of many in the first generation and anti-government sentiments in later generations, but in at least equal part by the government's considerable investment in overseas social control.

The governing party PFDJ has established a number of overseas organizations, for youth, women, and students (DSP-groep 2016, 10–11), and older Eritrean migrant organizations have often been loyal to, or infiltrated by, the government party PFDJ. Any new Dutch Eritrean organization has been subject to warnings, threats, and attempts at infiltration (Ibid., 10). Cultural festivals were also occasions where the embassy had a heavy presence, and vocal and financial adherence to the government was exacted (Ibid., 44–46). Most Eritrean orthodox churches, and in particular the highest one in Rotterdam, were generally believed to be associated with the regime (Ibid., 9–10, 47).

A particular feature of the demands made by the Eritrean government has been the so-called 2% tax. Officially, it is a voluntary contribution to support victims of the Ethiopian-Eritrean war (Ibid., 14). In practice it has been demanded from anyone in need of consular services or transactions relating to people back in Eritrea. Not paying often meant giving up all ties (Ibid., 88–89). In recognition of the problematic tax and general fear of many Eritreans of their home authorities, the Dutch authorities stopped requiring recent arrivals to use consular services in asylum procedures (Ibid., 88).

An important deterrent to criticism of the government has been fear for relatives left behind. Dutch Eritreans have attended officially-sponsored festivals or avoided sharing or responding to Facebook messages to avoid retaliatory action against

remaining relatives (Ibid., 73, 77). Others were warned off speaking engagements or the setting-up of an independent organization either directly through a phone call from the embassy or from relatives at home (Ibid., 74–75). Open critics were slandered on social media and receive threats (Ibid., 78–79). There have been rumours of murders, forced suicides, or disappearances by the regime. There are no proven cases of this in the Netherlands, but some Eritreans in the Netherlands clearly believed the risk to be real. There have also been allegations that interpreters for the Dutch immigration service are working for the regime (Ibid., 80, 81–82).

A final group known to be affected by extraterritorial authoritarian practices are the tiny community of Uyghurs, Turkic-speaking Muslims from the western province of Xinjiang in China. The Dutch intelligence service AIVD first mentioned the interest of Chinese intelligence services in Chinese migrants in 2007. In 2010, after a flare-up of the conflict in Xinjiang, the AIVD (2010) wrote that 'especially groups pushing for greater autonomy in China, such as politically active Uyghurs, can count on secret interference from the Chinese government. Such persons are being pressured to cease their activities, sometimes their relatives or friends who have remained behind are used as a means of pressure' (19). In 2011 the AIVD reported that China had a detailed knowledge of all that transpired within Dutch Uyghur organizations (AIVD 2011, 23). In 2013, it was discovered that two translators for the Dutch immigration service IND, which deals with asylum-seekers, were reporting back to China. The discovery was particularly alarming because many of the approximately 1500 Uyghurs in the country at that time were still in the asylum procedure (Parool 2013; VluchtelingenWerk and Amnesty International 2013). In 2015, the Dutch Supreme Court decided that Uyghur asylum-seekers could not safely return to China because, regardless of their previous political activities, the act of seeking asylum in itself put them in danger (Mouissie 2015).

5. Configurations of actors and common understandings

When moving from a regime-type to a practice-based approach to authoritarianism, it becomes conceptually possible to discern a more complex constellation of actors behind extraterritorial authoritarian governance than simply 'the state'. This section aims to provide a mapping of the configurations of actors involved in the extraterritorial authoritarian practices described in the previous two sections.

The passion with which ordinary people within the Dutch Turkish community quite voluntarily denounced and threatened suspected Gülen supporters and other Erdogan critics is remarkable. It is clear however that this practice of threatening Erdogan critics, particularly journalists and politicians, was indirectly and directly, covertly as well openly, endorsed, encouraged and sometimes instigated by Turkish political actors. Indirectly, the constant vilification of Gülenism and its assigned

manifestation FETÖ in the increasingly state-controlled Turkish media sent the message that threats and attacks against this evil organization and its members were legitimate. The state diaspora agency (YTB)'s quarterly journal criticized European governments after the coup attempt for not helping Turkey 'fight against FETÖ' and 'called on the "diaspora" to raise their voices to unmask the real face of Gülen movement in their countries of residence' (Yanasmayan and Kasli 2019, 28).

While making threats and circulating blacklists appeared to be mostly spontaneous activities, both Turkish Directorate of Religious Affairs (Diyanet) and the AK party were revealed to be involved on several occasions. A Diyanet imam who threatened a Gülen-supporter on Facebook within days after the coup, saying he was prepared 'to die, but also to kill' for his faith, was recalled to Turkey at once (Bolwerk 2016). But in December 2016, Dutch newspaper *De Telegraaf* revealed that the chair of the Dutch Diyanet mosque association Yusuf Acar, who also worked for the Turkish embassy, had reported the names of Dutch Gülen supporters to the Turkish government (Polman 2016b). After initially denying the allegation, Acar too was recalled to Ankara (Rigter 2016). Journalists also discovered that the drive to take children out of 'Gülenist' schools, which appeared at first to be spontaneous, was being directed by a Dutch Turkish AKP politician with no connection to the schools (Groen and Gualthérie Van Weezel 2016).

Meanwhile, various arms of the Turkish government openly acknowledged that they held and gathered personal information about Dutch Turks, and more specifically that they 'registered' Gülenists and other critics. First, there were the home-addressed letters with a call to vote AKP. Second, the embassy appealed to Dutch Turkish individuals to report on critics of President Erdogan and the Turkish state. Third, the Turkish state press agency made and circulated blacklists of 'Gülenist' organizations and individuals, an action that fit within the broader Turkish government policy of denouncing Gülenist organizations worldwide.

A minor actor in the extraterritorial authoritarian practices in the Dutch Turkish case was Twitter, which suspended journalist Mehmet Cerit's Turkish account based on a politicized court order. Twitter later stated that for 2016, it 'received 88 legal requests from around the world to remove content posted by verified journalists or news outlets, but did not take any action on the majority with limited exceptions in Germany and Turkey' (Agence France Presse 2017).

Because Iranian extraterritorial authoritarian practices have been so shrouded in secrecy, the nature and extent of Iranian state involvement remains more uncertain. As outlined above, there is strong evidence that Iran's MOIS was responsible for the murders in the Netherlands. Moreover, Dutch investigative journalists in collaboration with a cybersecurity company discovered an Iranian command and control server for spreading malware near Haarlem in the Netherlands. It appeared to be—once again—specifically aimed at Ahwazi activists, in the Netherlands and beyond, including in Iran itself (Argos 2021b). But this does not tell us whether such activities had the support of Iran's Supreme Leader, or of President Rouhani, generally seen as a moderate in Iranian politics.

Iranian security services collaborated with the Syrian authorities in Abdullah Al-Mansouri's case, and with a Dutch criminal gang in the murder of Ali Motamed and probably also Ahmad Mola Nissi. In the Motamed murder, the two hitmen and the gang's leader have been convicted (AD/Algemeen Dagblad 2019; Vugts 2019). Unlike in the Turkish case, there was no migrant constituency that publicly and patriotically supported the Iranian regime, although there were Iranians informing on their fellow countrymen, possibly under duress (see for instance Groen 2019; Argos 2021a).

The empirical exploration, in this chapter, of extraterritorial authoritarian practices in Dutch migrant communities revealed what might be categorized as three quite different configurations of actors. The first, most evident in the Turkish case, could be termed an 'embassy-centred configuration'. The Turkish embassy not only encouraged loyalty, but also targeted 'traitors', as evidenced by its so-called 'snitch line'. Both officially sanctioned religious institutions and party representatives can also be considered part of this hunt for 'enemies of the nation'. The extent to which these actors can be intertwined is illustrated by the Diyanet chair who had reported the names of Dutch Gülen supporters to the Turkish government: he was simultaneously also an embassy employee (Polman 2016b). In a competitive authoritarian polity such as Turkey, diasporic votes have become increasingly important as a source of support for the ruling party. Hence it made sense that party officials rather than state agents got involved in encouraging votes for the party and intimidating its critics (Yanasmayan and Kasli 2019), although again the lines were quite blurred.

A second configuration, which played an equally central but covert role in the Iranian case, is the 'secret service configuration'. Sometimes secret agents may operate from or in close collaboration with the embassy, at other times there may be friction, but this will typically be difficult for a researcher to know. What is clear is that in the Iranian case, secret agents gathered information on and sometimes harassed, threatened, or even kidnapped or killed their nationals abroad, in one case in apparent collaboration with the Syrian secret services, in two others with Dutch criminals. One particular category of actors in 'secret service configurations', manifesting itself in both the Eritrean and the Uyghur community, were interpreters. Their role is particularly troubling because interpreters are crucial in asylum cases, involving individuals who do not have residency or citizenship of the host state.

A third category of actors involved in extraterritorial authoritarian governance are not located in the host societies, but are monitoring, propagandizing, harassing, or slandering populations abroad by means of information and communication technology. Both the Eritrean and the Turkish media have state-controlled satellite television channels, focused specifically on the diaspora, but broadcasting from the motherland. Although Iran appears to be less invested in transnational media, a state television documentary also played a role in slandering and intimidating Mola Nissi. Media from the home country tell populations not only what patriotism entails, but also specifically who amongst them are traitors. Digital surveillance and harassment, approaching populations abroad as subjects to monitor and intimidate, has

traditionally been the province of intelligence services, and in that respect the secret agents' configuration and the ICT configuration overlap, but both are now very much aided by technical means. ICT configurations have been the most dynamic in the past decade, involving a mix of state-owned media, corporate platforms, and human and non-human actors involved in surveillance and trolling. Their combined impact on populations abroad can hardly be over-estimated.

6. Sources of vulnerability and resilience

Within the context of the rift between Gülen and Erdogan on the one hand and the externalization of Turkish electoral politics on the other, it is unsurprising that *Zaman Vandaag* became a prime target for threats and boycotts. Mehmet Cerit was probably the most visible Gülenist in the Netherlands, and *Zaman Vandaag* the most focused channel for criticism of Erdogan. Its embedding within the Sunni Turkish community in the Netherlands made the paper potentially influential, but also very vulnerable: both the newspaper's business model and the personal lives of some of its journalists revolved around the community that eventually turned against it. *Zaman Vandaag*'s journalists also had another vulnerability which they shared with many Dutch Turks and other migrants from authoritarian-run countries of origin: relatives back home. Relatives can be a reason to be cautious because one wants to be able to visit, as well as being a more direct source of pressure. Mehmet Cerit explained how his father 'begs me every time I call him not to write or speak critically about Erdogan' (Huisman 2016).

A source of resilience that may have kept the paper going as long as it did, and longer than all of its European sister publications, was the solidarity within the editorial team. Remarkably, none of the five journalists who formed the editorial team left during its lifetime, even though some of the Turkish-descended journalists did not identify with Gülenism, and—as later transpired—held more progressive views than the editor in chief (Hendriks 2018), and non-Turkish contributors had little reason to be invested in an intra-Turkish power struggle at all. Yet they weathered the daily barrage of threats and insults together until the end. Another source of strength and perhaps of protection was the interest from mainstream Dutch journalists. Routinely turning to *Zaman Vandaag*'s journalists for a critical perspective on Turkish politics, they also made the victimization of these journalists visible to a broader Dutch audience, and cast it in terms of a threat to press freedom in the Netherlands. But this could not save the newspaper, whose demise was not caused by straightforward censorship but mainly by becoming financially unviable due to loss of advertisers.

Two other groups of Dutch Turks stood out as particularly visible, and therefore vulnerable. Local politicians of Turkish descent often find themselves in a split position: they are expected to toe the party line, but they also owe their positions in

part to Dutch Turkish constituencies who may hold different views (Michon and Vermeulen 2013, 604–605). This tension had earlier manifested itself with regard to the Armenian genocide or Islamic schools, but was exacerbated by controversies around Erdogan. As many as one third of this group reported in a survey that it did not feel free to speak about Turkish politics. Media personalities are not bound by party discipline, but they have broad audiences and need to be able to voice their opinions. Media personalities Özcan Akyol, Ebru Umar, and Sinan Can all became subject to threats after criticizing the Erdogan government, although in very different ways. Like the most public Gülenists, they discussed such threats in the Dutch media, reaching non-Turkish audiences. This visibility far beyond the Dutch Turkish community also afforded them protection from Dutch authorities. When columnist Ebru Umar was arrested in Turkey, she had the Dutch Minister of Social Affairs on speed dial, and one of Özcan Akyol's digital stalkers was held for questioning by the police for four days (Klaassen and Boere 2019).

Attempts at prosecuting those who issued threats against Gülenists and Erdogan critics have been hindered by limited police capacity in the face of a general explosion of social media threats, and the light penalties for threats and insults in Dutch criminal law. In a handful of cases, convictions led to the payment of fines of €750 or €1000 (Stockholm Center for Freedom 2017; Parool 2018). Despite physical attacks being almost unheard of, many targets of frequent, sometimes daily digital harassment and threats have changed their behaviour, and some have been silenced.

Since Iranians in the Netherlands already avoided and distrusted each other more than they distrusted other Dutch people, being embedded in the Iranian community did not seem to make a difference in terms of their vulnerability in the face of extraterritorial authoritarian practices. But a comparison between Al-Mansouri's fate and that of Bahrami and Mola Nissi suggests that their embedding in Dutch society did matter. Abdullah Al-Mansouri had been active for Amnesty International, for a refugee organization, and for the Green Left party in Maastricht, and had been decorated for his volunteer work. His local standing translated into a great deal of media interest and support upon his arrest: his son Adnan discussed the case on Dutch television on three occasions, Amnesty International campaigned tirelessly for him, and the mayor of Maastricht and even the leader of the anti-Muslim PVV party Geert Wilders advocated on his behalf (Hulshof 2015). When he was rumoured to be at risk of execution, Dutch Foreign Minister Verhagen sent his top political advisor to Tehran (ANP 2007). Zahra Bahrami's arrest by contrast was not reported in the Dutch press until eight months later, and the only person speaking on her behalf was her daughter in Tehran. An attempt at quiet diplomacy to help her was botched because a strict interpretation of the sanctions against Iran did not allow the Iranian Foreign Minister's plane to be refuelled in The Hague (NOS 2011). Bahrami, Motamed, and Mola Nissi all held Dutch passports, but without strong links with Dutch society this was not enough to protect them. In Al-Mansouri's case, his visibility and standing in Dutch society may have saved his life.

7. Conclusion

The two cases detailed in this chapter, the *Zaman Vandaag* newspaper and Ahmad Mola Nissi, are different in almost every way. Nonetheless, there are important similarities in the authoritarian practices discussed, similarities that again manifest themselves in relation to other communities such as the Dutch Moroccans, Eritreans, and Uyghurs, as well as communities in other host states as described in the existing literature. Despite the nebulousness that necessarily attends this kind of research, clear patterns of action can be discerned in both cases that cannot be reduced to unique incidents. The argument for a pattern is perhaps harder to make for the Iranian murders, since only two people were killed in the Netherlands. But in conjunction with the failed attempts elsewhere in Europe, further kidnappings and assassinations in 2019 and 2020, and a previous pattern in the 1980s and 1990s of very similar assassinations, it must be concluded that while such killings were rare, there was a policy behind them.

Disabling critical voices happened both by direct and by indirect means. In *Zaman Vandaag*'s case, the threats affected not only the journalists, but also their audience and their revenue base. An indirect means was scapegoating, which has wider chilling effects. The Turkish case saw the entire community of Gülenists, many of whom had never raised their voices against Erdogan or the AKP in any way, being scapegoated. In the Iranian case by contrast, a few incidents of spectacular repression had the effect of instilling fear in Dutch Iranians who are or have been politically vocal.

While one may think of authoritarian governments in general, and extraterritorial repression in particular, as secretive by nature, this description fits the Iranian case much better than the Turkish one. Threats from Iranian officials, by phone or via relatives, were typically deniable and never officially acknowledged. Responsibility for the two killings was consistently denied, which helped the Iranian authorities avoid a political response to the killings until the evidence became too strong. At the same time, it would not serve the Iranian regime's purposes if no one believed that agents of the state were behind the threats and killings of its opponents. According to Cormac and Aldrich, covert governmental action 'has communicative value only if the target can both see and understand it' (Cormac and Aldrich 2018, 488). Iran needed deniability, but it should be what one might call 'implausible deniability'.

The Turkish authorities by contrast employed little secrecy. The AKP's letter with voting advice, the embassy's call to report on critics, the vilification of Gülenists and accusations of their involvement in the coup, and the publication of a list of Gülenist organizations all happened quite openly. This was possible because these actions did not by themselves break any Dutch laws. Taking the next step, threatening and ostracizing Gülenists and other critics, was left to members of the Dutch Turkish community. When Diyanet officials overstepped the mark of what was deemed acceptable by the Netherlands, they were withdrawn within days.

An important form of supplying disinformation in both the Turkish and the Iranian case was the circulation of slanderous information about critical citizens abroad on state-owned or state-controlled media. We might expect the manipulation of information to be an area in which an authoritarian government is in a considerably different position in relation to its population abroad than at home. Inside its borders, an authoritarian government has a far easier task in monopolizing and controlling information than outside them, despite the inroads made by Internet, social media, and satellite television. But while they may not be able to monopolize information, authoritarian governments have turned out to be quite capable at making their propaganda land in (parts of) their communities abroad. Many members of the Dutch Turkish community willingly turned to the state-controlled media from their home country for their political news, even though they had alternative channels at their disposal, as did some members of the Eritrean community.

As this chapter has shown, authoritarian governments do not engage in extraterritorial authoritarian practices all on their own. What is striking about the case of *Zaman Vandaag* and the Dutch Turkish community more generally is the extent to which threats, slander, and reporting against Gülenists and Erdogan critics emanated from within the Dutch Turkish community. The most remarkable alliance in the Iranian case is that with a Dutch criminal gang. In an extensive report on 162 probable exterritorial killings between 1979 and 1996, the Iran Human Rights Documentation Center (2011) discussed the role played by different Iranian agencies, and possibly in some cases by Lebanese Hezbollah, but professional criminals do not feature in any of them. The use of paid hitmen without any political motive appears to be a new departure.

The affordances and limitations of the relevant governments in engaging in extraterritorial authoritarian practices also depended somewhat on their bilateral relations with the Netherlands. The Turkish government may have had some leverage because of the EU-Turkey deal on refugees. Moreover, there may have been electoral gain for Erdogan in seeking a confrontation with the Dutch government. Yet Turkish authorities were generally careful not to overstep the mark in terms of the legality of their actions. Iran's killings by contrast, covert though they were, radically transgressed the boundaries of legality, which is remarkable in the light of the European Union's soft stance in the contemporaneous nuclear negotiations, but does fit with Iran's general status as 'pariah state' (Mousavian 2012).

Apart from bilateral relations, the vulnerability of migrants to authoritarian practices by their home governments appears to depend on their autonomy and positionality in various ways. A first measure of autonomy (or the lack of it) was the strength of their ties to the home country, particularly in the form of close relatives at home. In line with what we know from other literature about Syrians and Libyans (Moss 2016) and Eritreans (Bozzini 2015; DSP-groep 2016), relatives back home were used as a means of pressure both in the Iranian and the Turkish case. A second measure of autonomy is formal status in the host society. Both in the Dutch Eritrean and the

Dutch Uyghur community, there have been egregious cases where interpreters used in the asylum procedure were revealed to be home government spies (Plaut 2016; VluchtelingenWerk and Amnesty International 2013, 5), getting at recently arrived migrants before they had the security of a residential status

Positionality was relevant to vulnerability to authoritarian practices in two ways: both within the migrant community and in the country of residence. Secular, Kurdish, or Alevi critics of the Turkish government were less vulnerable to ostracism than Gülenists because their lives did not revolve around the Sunni Turkish community and its mosques. The impact of community embedding will depend on the nature of the community: Iranians did not necessarily feel as if they had a community in which to be embedded. At least equally important is an individual's position within the host society. In the Turkish case, Mehmet Cerit became a public figure who benefited from the solidarity of other journalists, and mainstream publicists Ebru Umar and Özcan Akyol were even better positioned and had the attention of the Dutch authorities. In the Iranian case, Ahwazi leader Abdullah Al-Mansouri had strong connections in Dutch civil society. By contrast Zahra Bahrami and Ahmad Mola Nissi were not well-known either locally or nationally, which may have translated into lesser Dutch official efforts to protect them.

This chapter has shown that authoritarian practices are not territorially bounded. National governments, or sections within them, have the ability to sabotage accountability to people even beyond their borders, in particular their own nationals, disabling their voice and disabling their access to information through secrecy and lying. They do not do so alone. They engage in these practices together with and sometimes through other political actors, ranging from religious leaders and migrant community members to criminals. The vulnerability of the targets of extraterritorial authoritarian practices depends on the bilateral relations between the country of residence and country of origin, but also on their individual autonomy and positionality vis-à-vis home and host country.

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3
Informal Multilateral Authoritarian Practices

Extraordinary Rendition in the War on Terror

1. Introduction

The CIA began to kidnap a few individuals believed to be associated with Al-Qaida, and hand them over covertly to the Egyptian authorities, under the Clinton Administration in 1995. The Egyptian authorities would proceed to interrogate them, probably using torture, and give intelligence back to the CIA, which was 'never in the same room at the same time' (Mayer 2005). In the aftermath of the 9/11 attacks in 2001, the practice of 'rendition' was much expanded, and at least 131 people were subjected to extraordinary rendition, secret detention, and often torture in the 'war on terror'. Over the years as information leaked out, it became increasingly difficult for the Bush Administration to either deny or justify these practices, and in September 2006 President Bush signed a presidential order closing down the CIA secret detention programme. Since then, much but not all of what transpired has come to light.

The focus of this chapter is on extraordinary rendition, which refers to 'the extrajudicial transfer of persons from one jurisdiction or state to another, where this involves capture and transfer outside of the recognized theatres of conflict in Iraq and Afghanistan, or where it otherwise involves transfer to secret detention outside of the normal legal system' (Rendition Project n.d.). It does not include the military rendition of battlefield-related detainees from Afghanistan and Iraq straight to Guantanamo Bay, the legality of which was questionable, but which was not typically secret. There has been extensive research on extraordinary rendition, in the form of parliamentary inquiries, judicial investigations, NGO reports, and scholarly work. Likewise, there is academic work, especially in the critical security tradition, that understands extraordinary rendition in the context of 'securitization' (Wæver 1995) or 'exceptionalism': 'an array of illiberal policies and practices that are legitimated through claims about necessary exceptions to the norm' (Neal 2006, 31). This body of work, theoretical as well as empirical, has focused primarily on the inhumane treatment, torture, and lack of fair trial rights of those detained. My interest is concerned with the sabotage of accountability to different forums: to the detainees themselves, to everyone (relatives, lawyers, human rights defenders, and journalists) who sought to find out what happened to them and seek redress, to the people whose governments

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were coresponsible for extraordinary rendition and secret detention, and to the people on whose territories rendition was played out without their knowledge.

As spelt out in Chapter 1, section 6, political secrecy can be legitimate and necessary in a democratic society, and intelligence about terrorist threats would certainly fall in this category. But in such cases, the procedure for determining exceptions to publicity should itself be public, it should be limited in scope and duration, and confidential sharing of information with designated representatives of people affected by the secrets, such as for instance a secret intelligence committee of a parliament, should take the place of full publicity. As I will show below, the forms of secrecy practiced in relation to extraordinary rendition far exceeded such limitations, and was also accompanied by disinformation and disabling of voice.

Informal multilateralism and existential crises

The former head of MI5, Stephen Lander (2004), has called intelligence cooperation 'something of an oxymoron' because the job of intelligence services is to act in the national interest, but at the same time he has acknowledged that it does happen routinely (481). Such collaborations rarely take shape in formal multilateral fora, and when they do '(w)hat is shared and done multilaterally is usually not of a sensitive nature' (Lefebvre 2003, 537). Indeed, after the 9/11 attacks 'no new multilateral arrangements have surfaced publicly' (Ibid., 529), but according to intelligence experts intelligence cooperation was greatly increased, including both established liaisons between the agencies of western democracies and 'vigorous new ones involving Middle Eastern and Central Asian countries' (Ibid., 527; also Lander 2004, 489; Aldrich 2010). Extraordinary rendition operated by means of such informal multilateralism, or what Patrick has called 'minilateralism': 'informal, non-binding, purpose-built partnerships and coalitions of the interested, willing, and capable' (Patrick 2015, 115). Such collaborations are typically ad hoc and temporary, they may involve 'strange bedfellows' (Ibid., 121), and—compared to formal multilateral collaborations—they reduce accountability (Ibid.; see also Karakoç 2020).

The multilateral collaboration on rendition took informal forms not only because intelligence services typically 'don't do' formal multilateralism on sensitive issues, but also because the rendition programme was a crisis response to 9/11. A report by the US Senate Select Committee on Intelligence (2014), which investigated extraordinary rendition in great detail, suggests that it was not a policy that was carefully thought out in advance and then gradually rolled out, but rather a matter of improvisation. As such, it can be understood as what Kreuder-Sonnen (2018, 960) has called 'reactive secrecy': concealment of information 'with the aim of reducing immediate negative crisis consequences', as opposed to active secrecy, which is about devising procedures for keeping things secret, and which will be discussed in the next chapter.

Selections, sources, and structure

Investigating secrecy and disinformation entails obvious difficulties. An important reason for focusing on extraordinary rendition is precisely that so much has been uncovered after the fact. This chapter relies to an important extent on the meticulous research by the Rendition Project (n.d.) and on official reports by the US Senate Select Committee on Intelligence (2014) and the Parliamentary Assembly of the Council of Europe (Marty 2006; Marty 2007; Marty 2011, also known as the Marty Reports). I have also used press reports and cases brought before the European Court of Human Rights (2014, 2016, 2018). The so-called Wikileaks Cables leaked by Chelsea Manning also provided information as to bilateral discussions behind the scenes.

The chapter will begin by giving a detailed account of the practices of accountability sabotage surrounding two rendition cases whose trajectories are somewhat representative for many others. The first is Abu Zubaydah, one of the so-called 'high-value detainees' captured by the CIA who were kept in secret detention in many locations for years before being acknowledged as being held in Guantanamo Bay in 2006. He was the first of these to be captured, and the US Senate Select Committee's report has paid particular attention to his case. Moreover, lawyers have brought cases against Poland and Lithuania before the European Court of Human Rights on his behalf. As a result, a great deal is known not only about what happened to Zubaydah, but also about the CIA's contemporary and subsequent attempts to sabotage accountability.

The second is the simpler case of Abu Omar, similar to that of many other detainees. Most rendition victims were captured either by local security agents, or by the CIA with the knowledge and collaboration of local agents, and rendered by the CIA to countries of origin such as Egypt, Libya, Morocco, and Pakistan, where they were likely to be subject to arbitrary detention and torture. Abu Omar was kidnapped in Italy and taken to Egypt, where he was kept in detention for several years. But Abu Omar's case is also unique in that five Italian security officials were eventually convicted in relation to his kidnapping, and twenty-three CIA officials convicted *in absentia*, by an Italian court. Because of the prosecutions, and again because of a later case before the European Court of Human Rights, much has come to light about attempted cover-ups of the facts surrounding Abu Omar's kidnapping both during and after his detention.

For both cases, a brief introduction will be followed by a discussion of the ways in which the access to information of these individuals and their representatives was disabled through policies of secrecy and lying. Next, the case studies discuss how and to what extent the voices of the detainees and those who acted on their behalf or in the public interest were disabled. Finally, they will consider to what extent relevant political actors exerted control over these individuals, since without control there cannot be authoritarian practices. After this the chapter zooms out to show

that the disabling of voice and disabling of information regarding these two cases was part of a broader pattern of actions, embedded in an organized context. The chapter then discusses what configurations of actors were involved in the accountability sabotage, and what their separate and joint motivations may have been. The penultimate section discusses the vulnerabilities and sources of resilience of the subjects of rendition themselves and those who acted on their behalf. The chapter ends with a reflection on the particular character of authoritarian practices in a context of informal multilateralism, and more specifically on the differences and commonalities between the 'high value detainees' and the other cases.

2. Abu Zubaydah: the first 'high-value detainee'

Abu Zubaydah is a Palestinian national born in Saudi Arabia who was captured in Pakistan in a joint Pakistani-CIA raid in Faisalabad on 28 March 2002. He was severely injured during the raid, and initially taken to a military hospital, where he was interrogated by both FBI and CIA agents (Esposito and Ross 2007). CIA officers believed him 'to possess detailed knowledge of al-Qa'ida terrorist attack plans' (United States Senate Select Committee Report 2014, 21) and to be 'close to bin Laden' (Esposito and Ross 2007). The US Senate Select Committee on Intelligence (2014) later stated that this 'significantly overstated Abu Zubaydah's role in al-Qa'ida and the information he was likely to possess' (21). After a few days, Zubaydah was taken to Thailand, where he was kept in a secret detention site for eight months and subject to sleep deprivation, isolation, and torture. Many interrogation sessions were videotaped by the CIA. In December 2002 he was taken 'from Thailand to Poland, via a stopover in Dubai' (Rendition Project n.d.) and held in a secret detention site in Poland for over nine months. In September 2003, the Polish site was closed down and Zubaydah was taken to Guantanamo Bay for the first time, on a flight that, according to the Rendition Project (n.d.), visited 'several secret prison locations: Afghanistan, Poland, Romania, Morocco and Guantanamo Bay' to pick up and drop off prisoners. For reasons explained below, he was removed from the secret detention at Guantanamo Bay and taken to Morocco in late March 2004 and kept there for eleven months. In February 2005, he was taken to Lithuania. He was removed from Lithuania in March 2006 to be taken to Afghanistan (European Court of Human Rights 2018, para 125). It is unclear whether Zubaydah continued to be interrogated and tortured in Poland, Guantanamo, Morocco, Lithuania, and Afghanistan (Ibid., para 154), but he was still in secret detention under inhumane conditions. On 5 September 2006, he was transferred from secret CIA detention to overt military detention on Guantanamo Bay. He is still detained without trial at Guantanamo Bay at the time of writing.

Disabling voice

During their secret detention, detainees were obviously unable to communicate with the outside world. That was after all the point. But the CIA also intended that Zubaydah should never be able to speak again. In July 2002, CIA Headquarters communicated to the Thai team that '(t)here is a fairly unanimous sentiment within HQS that [Abu Zubaydah] will never be placed in a situation where he has any significant contact with others and/or has the opportunity to be released . . . all major players are in concurrence that [Abu Zubaydah] should remain incommunicado for the remainder of his life' (United States Senate Select Committee 2014, 35). In late 2003, when Zubaydah was held at Guantanamo Bay, the pending lawsuit Rasul vs. Bush—which concerned acknowledged military detainees at Guantanamo—prompted the CIA to move Zubaydah to Poland to pre-empt the possibility that he might gain *habeas corpus* rights (Ibid., 141). In early 2005 the same concerns prevented a move to acknowledged detention at Guantanamo (Ibid., 151).

Even after coming out of secret CIA detention in September 2006, Zubaydah continued to have very limited access to communication with the outside world. In October and December 2006, he had contact with a Red Cross (ICRC) team. In March 2007 he was heard by the Combatant Status Review Tribunal in Guantanamo (2007), which determined that he could be held indefinitely. This document was partly declassified in 2016, and constitutes the only first-person account of Zubaydah's treatment in the public domain. Since then, he has had contact only with 'US counsel with top-secret security clearance' (European Court of Human Rights 2014, para 399) and 'mail contact with his family' (European Court of Human Rights 2018, para 161). His US lawyer is not allowed to divulge anything about Zubaydah's health because 'because all information obtained from him is presumed classified' (European Court of Human Rights 2014, para 121). The European Court of Human Rights, while having no formal mandate to pronounce on US policy, did hold that these conditions 'inevitably had an impact on the applicant's ability to plead his case' (Ibid., para 400). Zubaydah's voice continues to be effectively disabled, many years after he has come out of secret detention.

There has not been a concerted effort to silence those who have been instrumental in publishing details about Abu Zubaydah's treatment. As will be discussed in the next sub-section, the *Washington Post* was 'persuaded' not to run a story on secret detention sites in 2002, and the existence and whereabouts of such sites remained largely secret until late 2005. After that, there have been few known instances of individuals being pressured to remain silent or being hindered in or punished for such publicity. One such case appears to be that of John Kiriakou, one of the CIA operatives involved in the capture of Abu Zubaydah. In December 2007 he became the first CIA official to openly acknowledge that Zubaydah had been waterboarded, and that this constituted torture (Esposito and Ross 2007). Kiriakou was charged with

ostensibly unrelated charges of violating the Intelligence Identities Protection Act, the first person to be prosecuted under this act since 1985. He pleaded guilty and spent thirty months in prison (PEN American Center 2015, 24). Another case is Ali Soufan, a former FBI agent and also one of Zubaydah's captors. His book was subjected to redaction by the CIA, in his view 'aimed at controlling the narrative over key moments, like . . . what happened with the harsh techniques' (Sorkin 2012). A book by CIA agent Jose Rodriguez and Harlow (2012) published at the same time, reiterating the narrative that torture led to life-saving confessions, was left unredacted. The hearing of the Combatant Status Review Tribunal (2007), finally, the only known document where Zubaydah describes his treatment, has been heavily redacted in one particular place only: where the president of the court asks for details about torture sessions, approximately two whole pages are blocked out (Ibid., 25–27).

Disabling access to information: CIA secrecy and lies

On 17 September 2001, President Bush authorized the CIA in a covert operations memorandum to 'capture and detain persons who pose a continuing, serious threat'. The US Senate Select Committee on Intelligence (2014) was briefed on this order (48). However, the memorandum did not make any reference to interrogation (Ibid., 11). The CIA presciently outlined risks associated with secret prisons in foreign countries soon after the 9/11 attacks. A memorandum dated November 2001 explained that '[a]s captured terrorists may be held days, months, or years, the likelihood of exposure will grow over time', and '[m]edia exposure could inflame public opinion against a host government and the U.S., thereby threatening the continued operation of the facility' (quoted in United States Senate Select Committee 2014, 12).

Immediately after the capture of Abu Zubaydah, the CIA decided against taking him to Guantanamo Bay because of 'the general lack of secrecy and the "possible loss of control to US military and/or FBI"'. It also decided against military custody because that would have required notifying the Red Cross (Ibid., 22). The main reason for choosing the country to take him to—the Rendition Project (n.d.) identifies it as Thailand—was still redacted at the time of writing, but an additional reason was 'lack of U.S. court jurisdiction' (United States Senate Select Committee 2014, 22).

President Bush authorized the transfer to this particular detention centre, but it was 'the last location of a CIA detention facility known to the president or the vice president, as subsequent locations were kept from the principals as a matter of White House policy to avoid inadvertent disclosures of the location of the CIA detention sites' (Ibid., 23). In other words, the President deliberately kept himself ignorant of the location of the sites. In April 2002, when Abu Zubaydah was already being held in Thailand, the United States Senate Select Committee was told that the CIA had 'no current plans to develop a detention facility'. Nine days later, the Committee

was told about the capture of Zubaydah, described as a 'key al-Qa'ida lieutenant' (Ibid., 437–438), but not his location. It was never briefed about the existence of what the CIA called detention site Green. The Committee Chair received another limited briefing on Zubaydah's interrogation in late September 2002. Subsequently the CIA 'simply did not respond' to his or the Committee's 'multiple and specific requests for additional information' (Ibid., 48–49).

While Zubaydah was being interrogated in Thailand, the CIA did not brief the President, nor did it brief Secretary of State Colin Powell or Secretary of Defense Donald Rumsfeld about its 'enhanced interrogation techniques', and more specifically waterboarding. In July 2003, the CIA briefed Vice President Dick Cheney, National Security Advisor Condoleezza Rice, Attorney General John Ashcroft, and the White House Counsel in order to get reauthorization for the interrogation programme. Secretary of State Colin Powell was not informed because he 'would blow his stack if he were to be briefed on what's been going in' (CIA e-mail quoted in United States Senate Select Committee 2014, 119).

In these briefings, the CIA admitted that Zubaydah had been waterboarded but underrepresented the number of times, the precise nature of the techniques, the effect on the prisoner's health, and the conditions under which they would be stopped. CIA officials claimed that termination of the enhanced interrogation programme would 'result in loss of life, possibly extensive' and that specific terrorist attacks had been prevented by the information gained from interrogating Zubaydah (United States Senate Select Committee 2014, 117–118). It told the Office of Legal Counsel of the Department of Justice that he was the 'third or fourth man' in Al-Qaida, had 'been involved in every major terrorist operation carried out by al-Qaeda', and 'was one of the planners of the September 11 attack' (Ibid., 410–412). It made numerous claims to other government lawyers and policy-makers and to members of Congress that because of the enhanced interrogation, Zubaydah was giving them unique and vital, life-saving intelligence (Ibid., 172–175, 204–210, 288–289), in particular the '[identification of [Jose] Padilla, Richard Reid', as well as information on '[a]ttacks on banks, subways, petroleum and aircraft industries' (Ibid., 188).

The CIA also misrepresented the knowledge and approval given to the program by different parts of the government, for instance briefing National Security Council officials that it was 'approved by the attorney general' and 'fully disclosed' to the Senate and House Intelligence Committees (Ibid., 175). The CIA got legal approval to use 'enhanced interrogation' specifically against Zubaydah, but later interpreted the memorandum to apply to many other detainees as well (Ibid., 410–412).

President Bush was not briefed—perhaps did not want to be briefed—on the use of 'enhanced interrogation techniques' until 8 April 2006, when they had become public knowledge (Ibid., 38–40). He was aware of Zubaydah's existence, but also misled about his intelligence value. While the team in Thailand had repeatedly communicated its belief that Zubaydah was compliant and possessed no further intelligence, CIA Headquarters briefed President Bush in August 2002 that he was still

'withholding significant threat information' (Ibid., 47). This eventually led President Bush to misrepresent the value of the information from Zubaydah's interrogation in the 2006 public speech where he acknowledged the existence of secret prisons and 'enhanced interrogation' (Ibid., 202–203). The CIA continued to make claims about the life-saving properties of Zubaydah's intelligence in their early briefings to the Obama Administration in 2009, despite the fact that they had been discredited in the press long since (Ibid., 222–223). The US Senate Select Committee (2014) concluded that Zubaydah never gave, and probably did not have, any other important information than that which he had freely given the FBI within the first few days after his arrest (188–189, 204–210).

CIA Headquarters was at pains to avoid a paper trail that might lead to later legal or political accountability: when personnel at the Thai site wrote that they believed Zubaydah's interrogation was 'approaching its legal limits', Headquarters wrote back to '(s)trongly urge that any speculative language as to the legality of given activities . . . be refrained from in written traffic' (Ibid., 43). On 9 November 2005, when a Senator proposed an investigation of CIA detainee abuse, the CIA destroyed videotapes of interrogations of Abu Zubaydah (Ibid., 444). A week later, CIA witnesses testified that the CIA did not videotape interrogations (Ibid., 451). It was precisely this destruction of evidence that eventually led to the extensive investigation of the CIA's interrogation and detention programme by the US Senate Select Committee on Intelligence (Ibid., 455).

By November 2002, a major US newspaper had discovered Zubaydah's location, but the CIA successfully 'urged' it not to publish the information (Ibid., 24), and moved Zubaydah to Poland. On 2 November 2005 the *Washington Post* broke the story about CIA secret detention and interrogation sites (Priest 2005). The eventual article named 'Thailand, Afghanistan and several democracies in Eastern Europe, as well as a small center at the Guantanamo Bay prison in Cuba' as secret detention sites. Negotiations with the CIA prevented the naming of Poland and Romania (United States Senate Select Committee 2014, 151; Marty 2006, 9), but after *Human Rights Watch* named them, a further story by ABC television did so too. Lithuania was not mentioned. The story 'was available on the Internet for only a very short time before being withdrawn following the intervention of lawyers on behalf of the network's owners' (Marty 2006, 9). Today it can again be found.

The CIA continued to lie about Zubayda's intelligence value to journalists. In 2006 it suggested to the *New York Times* that the CIA's 'tougher tactics' led Abu Zubaydah 'to provide information on key A1 Qaeda operators to help us find and capture those responsible for the 9/11 attacks' (Johnston 2006; United States Senate Select Committee 2014, 405–406). It also made claims to Ronald Kessler, who was writing a book about the war on terror, leading him to amend his text to say that Abu Zubaydah was subjected to 'coercive interrogation techniques' after he 'stopped cooperating' (United States Senate Select Committee 2014, 407–408). The Kessler book also claimed that '[i]f it had not been for coercive interrogation techniques used on Abu Zubaydah, CIA officials suggest, the second wave of attacks might have occurred' (2007, 50).

Disabling access to information: secrecy and lies by other political actors

When the *Washington Post* first broke the story of the secret prisons and mentioned Thailand as one of the sites, the Thai and US authorities conspired to deceive journalists. A leaked cable from the US embassy in Bangkok reported that the 'Thai government has issued heated denials of the Washington Post report of a secret CIA-run prison here, and has sought embassy assistance in responding to the accusations'. Prime Minister Thaksin even went as far as to threaten to sue the *Post*. The press appeared to have identified the correct area, Udon Thani in Northeast Thailand, which was, from the US and Thai official perspective, 'extremely unfortunate', but it was under the impression that the Voice of America (VOA)'s premises were used. The embassy's political counsellor advised letting journalists visit the site, because '(e)fforts to conceal or keep the press out will only make the facility more interesting to them' (WikiLeaks, Cable 05BANGKOK6953_a, 2005). A month later a US official reported back from a lunch with Thaksin, in which the latter 'chuckled at how the Thai media had gotten the mistaken idea that VOA's Udorn [sic] facility was one of those "black prisons" and complimented us for having opened up the facility for a huge contingent of press to see for themselves' (WikiLeaks, Cable 05BANGKOK7529_a, 2005). The Thai government has never officially acknowledged the existence of the site, and any identifying references in the US Senate Report are blacked out. However, both CIA and Thai sources have since anonymously confirmed that 'Detention Site Green was located inside the Royal Thai Air Force base in Udon Thani' (BBC 2018; Marty 2007, 13–14).

In late 2005, Condoleezza Rice visited Poland. She acknowledged the policy of rendition, but avoided answering questions about secret detention sites directly. The Polish Defence Minister told ABC that '(m)y president has said there is no truth in these reports' (Ross and Esposito 2005). In December 2005, a statement was issued that '(t)he Polish Government strongly denies the speculation occasionally appearing in the media as to the existence of secret prisons on the territory of the Republic of Poland, supposedly used for the detention of foreigners suspected of terrorism. There are no such prisons in Poland' (Marty 2007, 36). This was strictly speaking true, because the site had been closed down more than two years earlier, but it was also misleading. The Polish parliament held an investigation behind closed doors, but soon concluded that it 'had not found anything untoward' (Marty 2006, 51; European Court of Human Rights 2014).

Senator Dick Marty of the Council of Europe's Parliamentary Assembly was tasked by that body to dig deeper. Marty has suggested in his subsequent report that very few individuals in Poland knew anything, and even fewer knew everything, about the rendition flights and secret detention sites. The CIA worked with the *military* intelligence agency WSI to avoid civilian oversight (Marty 2007, 31–33). Undercover WSI operatives within air navigation, the border guard, and the customs

office helped to disguise and obscure CIA operations (Ibid., 34). Nonetheless, Marty concluded unambiguously that the Polish President Kwasniewski, the Defence Minister and the head of military intelligence must have known about the secret detention programme, while the rest of the government probably did not (Ibid., 35).

The flight plans of suspected rendition flights initially went missing: '(a)ccording to the information I have been provided with, none of the questioned flights was recorded in the traffic controlled by our competent authorities—in connection with Szymany or any other Polish airport', wrote the Polish parliamentarian who searched for them in 2006 (Marty 2006, 20–21). In early 2007, the Polish authorities told Senator Marty that 'the European Parliament's Temporary [TDIP] Committee . . . has all the information available' about the suspicious flights. At the same time, that very Committee adopted a resolution in which it regretted that 'the flight plans [were] . . . claimed to have been sent by the Polish Government to the Council of Europe' (Marty 2007, 40). Astoundingly, the Polish government appears to have tried to make both European parliamentary investigations believe that there was only one copy of the flight plans, and that it had just been sent to the other institution.

Further investigation has shed light on the collaboration of both civilian air traffic control authorities and flight planning companies in maintaining secrecy and providing disinformation regarding rendition flights: 'CIA flights were deliberately disguised so that their actual movements would not be tracked or recorded—either "live" or after the fact—by the supranational air safety agency Eurocontrol. The system of cover-up entailed several different steps involving both American and Polish collaborators . . . The aviation services provider customarily used by the CIA, Jeppesen International Trip Planning, filed multiple "dummy" flight plans for many of these flights', mentioning incorrect departure and/or destination information (Marty 2007, 37). Marty also singled out the 'Polish Air Navigation Services Agency' (Polska Agencja Zeglugi Powietrznej) as having 'played a crucial role in this systematic cover-up' (Ibid., 38).

In 2008, a Polish prosecutor began to investigate the CIA's secret detentions, but it never came to a trial. In 2012, former President Kwasniewski came to admit that the secret detention 'took place with my knowledge' but said that '(w)e did not have knowledge of any torture' (European Court of Human Rights 2014). The European Court of Human Rights by contrast found that 'Poland knew of the nature and purposes of the CIA's activities on its territory' and given the public knowledge about what happened in Afghanistan and Guantanamo Bay 'ought to have known' about the risk of torture (Ibid., para 444). It also found that the Polish government's 'failure to submit information in their possession' constituted a violation of its obligation under the Convention to 'furnish all necessary facilities' for conducting the Court's investigation (Ibid.).

The Moroccan government has been much less under pressure to open up about its part in the secret detention programme than the various European authorities. Morocco was mentioned in the US press in November 2005 as the site of a secret

prison for 9/11 detainees (Priest 2005), but has consistently denied its existence (Hamilton 2006). In May 2011, in the context of the Arab Spring revolts, Morocco announced an investigation into its detention site at Temara (Middle East Online 2011), but nothing appears to have come of it.

The Lithuanian detention site was successfully kept secret for much longer than any of the others. Only in September 2009, in response to media reports, did the Lithuanian parliament begin an inquiry into whether there had been a CIA secret detention site in Lithuania. The authorities initially denied in writing 'that such a prison had ever existed' (European Court of Human Rights 2018, para 168). But in October 2009 Lithuanian President Grybauskaite gave a press conference saying she had 'indirect suspicions' that there may have been a secret detention facility in Lithuania. A parliamentary committee established that a prison facility had been prepared, and that CIA planes had landed in the country. A member of the State Security Department (SSD) claimed that 'President of the Republic V. Adamkus and his advisors were adequately informed', but Adamkus himself and other officials claimed they were never told about the entry of CIA detainees into the country (Ibid., para 174; para 367). Both the parliamentary committee and a subsequent criminal investigation concluded that Lithuania's Law on Intelligence did not require the SSD to inform officials about international cooperation (Ibid., para 200). Senator Marty's assessment was that there was 'plausibility' in this position, but also that 'people did not want to know this at a certain level, among certain representatives of the State' (Ibid., para 378; para 382).

In 2015, in a case before the European Court of Human Rights, the Lithuanian government continued to maintain the position that there was no evidence that Zubaydah had been in Lithuania (Ibid., para 401). The European Court of Human Rights eventually concluded that there had been a detention site, and that there was sufficient evidence that Zubaydah had been held in detention under inhumane conditions there (Ibid., paras 532, 547, 552). It also deduced from the Senate Report's statement that 'the plan to construct the expanded facility was approved by the [redacted] of the Country' (Ibid., para 556) and other evidence that 'the Lithuania authorities knew that the CIA operated, on Lithuanian territory, a detention facility' (Ibid., para 572). Both the head of the SSD and the Foreign Minister eventually resigned because there had been a complete lack of national oversight of CIA operations (Marty 2011, 37).

Degree of control

In the other chapters of this book, the extent to which the relevant political actors could exert control over targets of authoritarian practices has been variable and sometimes ambiguous. In this chapter, the detainees were under the complete control of, indeed at the mercy of, their captors while in detention. But it is worth spelling out what configuration of actors had control over them at what points in time.

Apart from a brief initial period in the Pakistani hospital where the FBI also interrogated him, Abu Zubaydah had continuously been under the control of the CIA until he was moved into military custody in 2006. But the CIA's control was not exclusive. First of all, the 'enhanced interrogation sessions', i.e. torture, in Thailand and possibly elsewhere were led not by CIA agents but by two psychologists under contract with the CIA, James Mitchell and Bruce Jessen (Mazzetti 2014). They later set up a company (name redacted) which in turn hired former CIA agents (United States Senate Select Committee 2014, 168–169).

The CIA's control over Zubaydah was also facilitated by the host countries where the secret detention sites were based, and by various private flight charter companies. A heavily redacted part of the US Senate Report (2014) states that the host country of the Green site (i.e. Thailand) 'was responsible for the security of the detention facility' (23). The same was true in Poland (Marty 2007, 4). In Morocco, it is suggested by the US Senate Report and other sources, the detention site was run by the local intelligence agency DST rather than by the CIA itself.

Other actors who were seeking information or speaking on Abu Zubaydah's behalf were under the control of the CIA or its collaborating organizations to a much lesser extent, or not at all. On at least one important occasion, a journalist was persuaded, presumably under heavy pressure, to keep secret detention secret. Former intelligence agents were subject to restrictions in speaking out, based on their obligations under the Official Secrets Act. Zubaydah's lawyers, when he eventually came out of secret detention, have been heavily restricted in relaying his story about the intelligence he held and about what happened to him in detention to the European Court of Human Rights. The US Senate Select Committee was able to launch a thorough investigation, but its report was still subject to redaction, in the interest of national security, by the very agency it criticized, the CIA. The Parliamentary Assembly of the Council of Europe and its investigator Senator Dick Marty by contrast did not feel bound to redact anything of his findings, and neither did the European Court of Human Rights.

3. Abu Omar: kidnapped in Milan

Hassan Mustafa Osama Nasr, known as Abu Omar, is an Egyptian national who, having been detained and tortured by the Egyptian regime for his involvement in a militant Islamic group, had been given refugee status in Italy in 2001. Having come under Italian surveillance for campaigning against the war in Iraq, he was kidnapped from the streets of Milan on 17 February 2003, by CIA agents in collaboration with the Italian military intelligence service SISMI. The CIA took him on a flight to Cairo via the German army base Ramstein, and handed him over to the Egyptian security services. Omar was tortured and detained without trial until April 2004, when he was briefly released. He then called his wife in Italy and gave some details of his

kidnapping, but was rearrested three weeks later and detained in Cairo until February 2007, when he was released.

Disabling voice

Abu Omar was completely unable to communicate until his first release from prison in Egypt in April 2004. At that time, he was 'warned by the State Security Investigations Services not to tell anyone about what happened to him' (Amnesty International 2009, 2). It seems very likely that his re-arrest three weeks later was the result of having disobeyed this instruction, calling his wife and friends in Milan, and submitting 'a statement to the Milan public prosecutor's office in which he described his abduction and torture' (European Court of Human Rights 2016, 2). This indiscretion cost him a further thirty-two months in prison. During this time, a European Parliamentary committee attempted to meet with Abu Omar's Egyptian lawyer, who 'initially confirmed and afterwards refused to meet without giving any reason' (European Parliament 2007, 76). It seems likely that he was warned off by the Egyptian authorities.

When Abu Omar was released for the second time, Egyptian press reports claimed (according to a cable from Cairo) that 'Abu Omar . . . promised he will not talk to the media about his case. He was quoted in press reports as telling Italy's ANSA news agency on February 12 that, "I am a wreck of a human being. I cannot speak. I cannot leave the country. I do not want to go to prison again"' (WikiLeaks, Cable 07CAIRO432_a, 2007). The Egyptian authorities did not allow him to travel to Italy to assist prosecutor Spataro's inquiry (Foot 2007). Abu Omar has later been able to speak to journalists about his treatment (Bergen 2008). He also initiated a case against Italy before the European Court of Human Rights, which he won (European Court of Human Rights 2016).

After Abu Omar had been temporary released by the Egyptian authorities in April 2004 and reached out through his wife, Milanese prosecutor Armando Spataro began to investigate the case (Foot 2007; Sandberg 2009). The Italian intelligence service and the Minister of Justice attempted to obstruct his investigation. Spataro told *Der Spiegel* that his 'communications were monitored, the Italian intelligence service placed him under observation and there were even investigations into whether he had betrayed state secrets' (Sandberg 2009). Minister of Justice Robert Castelli considered Spataro a 'militant', and said that he 'would need to "review the foundation of the accusations" made in his report to be sure they were "not colored by the "anti-Americanism" typical of the extreme left' (as reported in WikiLeaks, Cable 05ROME3868_a, 2005). Two journalists reporting on the Abu Omar case also suffered harassment. Carlo Bonini and Giuseppe d'Avanzo of *La Repubblica* were subject to physical surveillance as well as having their telephones tapped in 2006. A policeman with a court order took away Bonini's computer for more than a month (Foot 2007; European Parliament 2007, 12–13).

Disabling access to information: secrecy and lies

Abu Omar's wife notified the Italian authorities of his disappearance straight away in February 2003, but he was hard to find. Both US and Italian officials appear to have laid false trails. The former sent a dispatch to the Italian police in March 2003 'which claimed that Omar "may have travelled" to "an unknown country in the Balkans"' (Foot 2007; see also Bergen 2008). The Italian authorities suggested that Abu Omar might have been a spy who staged his own kidnapping, a lie SISMI head Nicolo Pollari persisted in years later when he gave evidence to a parliamentary commission (Foot 2007).

The CIA agents had not worked as hard to cover their tracks as in the 'high-value detainee' cases, and prosecutor Spataro discovered information about their identities and about the plane Abu Omar had been put on. The flight path was 'confirmed . . . by Swiss air traffic controllers' (Marty 2006, 47). Spataro called upon a German prosecutor to investigate an allegation that the flight transferring Abu Omar had stopped at the US airbase of Ramstein. The German prosecutor however 'came up against a total lack of co-operation by the American authorities, who refused to provide any information on what had happened at the Ramstein base' (Marty 2007, 49). Another attempt at misleading the investigation involved a journalist, Renato Farina, who was asked by a secret service agent to 'find out how the magistrates were getting on with the Omar case and told . . . to try to lay yet another false trail'. However, prosecutor Spataro was privy to police suspicions about Farina, and 'suggested that he participate in a conference on journalism and ethics' (Foot 2007). Farina eventually received a six month suspended sentence for his involvement in attempting to cover up the kidnapping (Amnesty International 2009, 3).

In 2005, seven Italian secret agents, including SISMI head Nicolo Pollari and his deputy Marco Mancini, were charged with kidnapping. Spataro also tried to get relevant CIA agents extradited for trial. The extradition requests were confirmed by a judge in 2007, but never forwarded by the Italian government to the US authorities (Ibid., 4). A number of cable exchanges detail discussions between Italian and US authorities aimed at obstructing the trial. In May 2006, the US ambassador explained to the Italian prime minister that 'nothing would damage relations faster or more seriously than a decision by the GOI [Government of Italy] to forward warrants for arrests of the alleged CIA agents named in connection with the Abu Omar case. This was absolutely critical' (WikiLeaks, Cable 06ROME1590_a, 2006). In April 2007, Italian Foreign Minister d'Alema in turn asked the US ambassador for 'something in writing to him explaining that the U.S. would not act on extradition requests in the Abu Omar case if tendered. This, he explained, could be used pre-emptively by the GOI to fend off action by Italian magistrates to seek the extradition of the implicated Americans . . . The FM noted that there was still the risk of action by the magistrates at any time. The Ambassador agreed that we should work to avoid having extradition requests forwarded' (WikiLeaks, Cable 07ROME710_a, 2007).

In February 2007, the Italian government appealed to the Constitutional Court to prevent the trials taking place, on the basis that the prosecutor had used classified information and that CIA-Italian military cooperation constituted a state secret (Marty 2007, 61–62) The Court disallowed certain documents and witnesses, but ruled that the trial could proceed (Amnesty International 2009, 4). In November 2009, the Milan court convicted twenty-three CIA agents *in absentia* for the kidnapping of Abu Omar (Sandberg 2009). The cases against SISMI head Nicolo Pollari and his deputy were initially dismissed on the basis of 'state secrets privilege' (Open Society Foundations 2013, 86), but they were convicted on appeal in 2013 (Greenwald 2013). One CIA officer, Sabrina de Sousa, was arrested in Portugal in 2015 and eventually extradited to Italy to serve a community service sentence (Barry 2019). Prior to arrest, she had filed a lawsuit against the CIA and given interviews outing herself as a CIA operative and criticizing the organization for failing to give her diplomatic immunity (Shapira 2012).

Degree of control

In the case of Abu Omar, control was shared by CIA and the Egyptian secret services. He was captured and under the control of CIA agents, but, as the Italian court later determined, this could not have happened without the approval and collaboration of the Italian military intelligence service SISMI. An Italian police officer has admitted to taking part in the abduction (Sandberg 2009). The plane used to take Abu Omar to Egypt was privately owned and chartered by the CIA through a number of subcontractors (Rendition Project n.d.). After landing in Cairo, Abu Omar appears to have been immediately handed over to the Egyptian authorities, but the CIA operative in charge of the operation, Robert Lady, remained in Egypt for two weeks afterwards, and may have been indirectly involved in his interrogation (Marty 2006, 37). Prosecutor Spataro and the two journalists were harassed and obstructed, but ultimately not controlled by Italian agents of the state.

4. Broader patterns

Abu Zubaydah was one of seventeen so-called 'high-value detainees'. While few were dragged around to as many locations as Zubaydah, they were regularly moved between secret CIA prisons in Afghanistan, Jordan, Lithuania, Poland, Morocco, Romania, Thailand, and Guantanamo Bay. Abu Omar was one of more than a hundred 'ordinary' cases of rendition from one country to another by the CIA. States from which individuals were captured and rendered included Bosnia (Marty 2006, 48), Georgia, Gambia, Hong Kong, Indonesia, Iraq, Kenya, Macedonia, Malawi, Mauretania, Pakistan, Somalia, Tanzania, Thailand, the United Arab Emirates, and the

United States (UNGA 2010, 85; Rendition Project n.d.). States to which detainees were rendered included Djibouti, Egypt, Ethiopia, Jordan, Libya, Malawi, Morocco, Pakistan, Syria, and probably Uzbekistan (UNGA 2010, 70–81; Rendition Project, n.d.). States whose security services requested or received intelligence in relation to secret detainees included Canada, Germany, the UK, and possibly Australia (UNGA 2010, 82–84). The states that allowed the use of their airfields or airspace without asking to know the customary details about the persons on board are too numerous to list. None of the individuals subject to extraordinary rendition were captured 'on the battlefield', and some had people looking for them, necessitating *active* secrecy in the form of denials or lies to keep their whereabouts unknown. While the press became aware early on of the existence of detention sites in Afghanistan and Guantanamo Bay, the existence of a worldwide programme coordinated by the CIA remained secret for four years, until late 2005.

The Romanian response to the breaking of the secret detention story at the end of 2005 was similar to that of Poland. Initially, the Romanian Prime Minister claimed that there was 'no evidence of a CIA site but that he will investigate' (Ross and Esposito 2005). The Marty investigation suggests that he might have spoken the truth. Only four top officials (the President, his advisor, the Minister of Defence, and the head of military intelligence) had been made aware of the secret prisons, and had 'withheld the CIA "partnership" from the other members' of the cabinet, who 'did not have a "need to know"' (Marty 2007, 36).

Renditions of less high value detainees, especially those who were quickly handed over to national authorities, appear to have attracted little attention even within the US Administration. These cases were still secret, but did not always warrant elaborate cover-ups. Cases concerning western nationals or residents attracted a lot more attention than others, and in such cases we see a pattern of invocation of official secrecy and denials similar to that surrounding Abu Omar. Mamdouh Habib, for instance, was an Australian resident captured in Pakistan, who later alleged that Australian officials were present during his interrogation and torture both in Afghanistan and in Egypt. When Habib, once released, brought a case against the Australian government before the Australian Federal Court, the government 'categorically denie[d] any complicity on the part of its agents in Mr Habib's alleged torture' but also claimed that 'the truth of these allegations cannot be tested in an Australian court by reason of the act of state doctrine' (Federal Court of Australia 2010, para 50). When it lost the latter argument it reached a secret out-of-court settlement with Habib (Rendition Project n.d.).

Khaled el-Masri was a German national who was arrested by Macedonian authorities, handed over to the CIA, and taken to Afghanistan. His government did seek to uncover rather than cover up what happened to him. Despite meticulous research by the German authorities confirming his story, the Macedonian government maintained throughout 2006 that el-Masri had been released after a thorough passport check and had crossed into Kosovo (Marty 2006, 26–29). US Secretary of State

Condoleezza Rice eventually told Chancellor Angela Merkel that 'the US accepted it had made a mistake in its abduction of el-Masri' (Rendition Project n.d.). However, an attempted lawsuit by El-Masri against the director of the CIA failed because the courts accepted the Administration's argument that hearing the case would allow state secrets to be jeopardized (Ibid.). El-Masri's lawsuit against Macedonia before the European Court of Human Rights was successful.

Another case exposing western government duplicity was that of Maher Arar, a Canadian national who was captured in the US and rendered to Jordan and later Syria. A later parliamentary inquiry established that Arar had first been captured on the basis of Canadian intelligence, and also that while Canada was trying to secure his release, it was at the same time also requesting intelligence from the Syrian interrogations (Commission of Inquiry 2006).

While these prisoners were able to pursue the truth in their own cases after their release, the sixteen other 'high value detainees', like Zubaydah, have never been able to speak freely about their secret detention and torture. One, Libyan Ibn Sheikh Al-Libi, was rendered to Libya in 2006 and died 'two weeks after an aborted interview with researchers from Human Rights Watch, in what the Libyan authorities claimed was a suicide' (Rendition Project n.d.; United States Senate Select Committee 2014, 238). The others are still held at Guantanamo Bay, where they have access to lawyers and to the Red Cross (Rosenberg 2020), but they cannot speak to journalists. The lawyers are not allowed to share classified information with their clients (which is much of the information relevant to their cases), nor 'unnecessary outside information', correspondence is read and can be blocked by officials, and visits are restricted (Denbeaux and Boyd-Nafstad 2006, 500–503). Some are held indefinitely like Zubaydah, some were convicted in secret trials by military commissions, and some have been charged with crimes, but the (military) trials have been held up for many years by disagreement over what evidence is admissible in court (Rendition Project n.d.; New York Times 2021).

5. Configurations of actors and common understandings

While the list of actors that collaborated in extraordinary rendition, secret detention, and 'enhanced interrogation' is long, it had a clear institutional lead actor: the CIA. The CIA's programme for the high value detainees in particular was controversial within the US Administration, as discussed in exhaustive detail in the US Senate Select Committee's report. Almost from the beginning, some officials tried to put a stop to keeping detainees outside the remit of the Geneva Conventions, and in particular to the use of torture. Officials such as David Brant, a naval official who oversaw the FBI investigations, Navy Counsel Alberto Mora, and Jack Goldsmith of the Justice Department's Office of Legal Counsel, all ended up leaving the

Administration because their criticisms were sidelined and ignored (Mayer 2006). Yet none of them decided to blow the whistle and tell a broader public what was happening.

The authorities of the states that hosted secret detention sites for high value detainees were accessories, not leaders or initiators of the programme. Their primary function was to provide the facilities and secure the perimeter of the sites. There were few apparent benefits to themselves, but besides monetary incentives they may have been swayed by the way in which the 'war on terror' was cast in terms of military cooperation, and the historic role of the United States as the guarantor of the security of other countries. This probably explains why, whilst other European states agreed to have their airbases used for CIA flights without asking questions, the secret detention sites were in new Eastern European NATO members Poland, Romania, and Lithuania. An insider source told Senator Marty that the stringent secrecy legislation adopted by new NATO members such as Poland, Romania, and Lithuania 'holds the key' to the European dimension of the secret detention programme (Marty 2007, 31). NATO should not be understood in this context as the actual organization headquartered in Brussels; there is no evidence to suggest that as such it had anything to do with extraordinary rendition. Rather, it should be understood as a symbol of the commitment to collective security and protection of freedoms by the US that was especially dear to its former East Bloc members.

The rendition of less high-valued individuals, referred to by the CIA as 'bilaterals' (although actually their cases were 'trilateral', since the CIA captured them somewhere other than in the US and rendered them to a third country) was an expansion of a practice begun before 9/11 (Mayer 2005). The collaborations surrounding these rendition cases had less to do with institutional loyalties to the leader of the free world, and more with mutual benefits. Countries like Egypt, Libya, and Morocco had Islamist opposition figures who had fled brought back to them by the CIA at no cost. From the CIA's perspective, it could subsequently benefit from any intelligence the interrogation of these individuals might yield without having responsibility for the manner of their interrogation. In some cases, other states such as Australia, Canada, and the UK also solicited, or were provided with, such intelligence (UNGA 2010). In some cases such as that of Abu Omar or Germany's el-Masri, the highest authorities in their countries of origin were probably genuinely unaware of the rendition, whilst in at least one case (Sweden's Agiza and El-Zery), the CIA's offer of assistance appears to have been accepted simply as a pragmatic transport solution (Rendition Project n.d.).

A plethora of companies connected to air traffic has also been involved in the rendition programme. The most straightforward and least interesting perhaps are the CIA's shell companies. But apparently their planes could not handle all the flights, so others were leased through a series of brokers (Ibid.). There is no evidence to establish to what extent the companies that owned or operated these aircraft were aware what

the planes were used for, although aviation staff must have known. Most interesting from the perspective of authoritarian practices are the flight planning companies. As discussed above in relation to the secret detention sites in Poland and Lithuania, at least one of these companies, Jeppesen Dataplan, filed false information about the destinations of rendition flights to help secure secrecy. Three former detainees have filed a number of lawsuits against Jeppesen Dataplan, but in each case they came up against a government intervention to stop the proceedings. In September 2010 a US court upheld that there was '[no] feasible way to litigate Jeppesen's alleged liability without creating an unjustifiable risk of divulging state secrets', a decision since confirmed by the Supreme Court (Ibid.).

6. Sources of vulnerability and resilience

During their initial secret detention, prisoners in the rendition programme had few if any means to speak out or have others investigate or speak on their behalf. Typically, neither relatives nor human rights defenders or journalists knew about their whereabouts or the conditions in which they were held. Gradually, their investigations began to yield an increasing amount of information about what was happening. From the beginning, the so-called 'high value detainees' were a particular focal point of interest, because the US Administration acknowledged their existence and claimed it was getting vital information from them, while at the same time they were in incommunicado detention and it was suspected they might be subject to torture. Eventually, thanks to the investigative efforts of journalists, human rights defenders, academics, and parliamentary investigations, almost every detail about the 'high-value detainees' has become public. Nonetheless, they have never been allowed to speak publicly of it themselves.

With respect to other subjects of extraordinary rendition, the information remains patchier even today. Citizens or residents of western democratic states benefited from more publicity, *habeas corpus* suits, or investigations of European authorities on their behalf than others, as exemplified by some of the cases described in the previous section. Even prisoners without such connections have sometimes had opportunities to speak out and seek justice after their release. We only know about the rendition of the Moroccan-Italian Abou Elkassim Britel, rendered from Pakistan to Morocco, for instance, because many years later he joined in a case against flight planning company Jeppesen Dataplan (Rendition Project n.d.). We only know about Yemeni Salah Nasir Salim Ali Qaru, captured in Indonesia and taken to Jordan and Afghanistan, and eventually Yemen, because he gave testimony to Amnesty International (2006). The stories of many others remain largely untold.

7. Conclusion

A clear difference can be discerned between the thinking behind and implementation of the secret detention of the so-called high value detainees and the rendition of individuals deemed to be less central to Al-Qaida. The Bush Administration's attitude to the secrecy of its secret detention and enhanced interrogation of the 'high value detainees' was deeply ambivalent. The CIA went to great lengths to keep secret rendition secret at the operational level. At the same time, however, US officials publicly acknowledged that they held secret 'Al-Qaida' prisoners, and regularly hinted that it was necessary to put pressure on such individuals in order to get crucial information. With similar ambiguity, the Office of Legal Counsel repeatedly crafted lengthy memos arguing that particular interrogation techniques did not constitute torture and were legal, but then kept these memos secret from Congress (Mayer 2006).

Despite this ambiguity, two significant continuities can be discerned in the practices of secrecy, lying, and silencing surrounding the secret detention and interrogation of high value detainees. The first was the consistent claim, repeated time and again by many officials at different levels, with different degrees of knowledge about the programme, up to the president, that enhanced interrogation 'saved lives'. The Bush Administration was willing to make an ethical argument about the legitimacy of using torture if it saved lives, but it was not willing to question the assumption that it did save lives. CIA director George Tenet for instance said in conversation with another official in September 2003 'that if the general public were to find out about this program, many would believe we are torturers'. But his 'only potential moral dilemma would be if more Americans die at the hands of terrorists and we had someone in our custody who possessed information that could have prevented deaths, but we had not obtained such information' (United States Senate Select Committee 2014, 123). The importance attached to the myth of saving lives would explain for instance why FBI agent Ali Soufan saw his book redacted in 2009, when numerous media articles and various books had already been published on the high value detainee programme. Soufan's book was devoted precisely to challenging the notion that the interrogations had been effective (Sorkin 2012). Eventually, the myth was punctured. The US Senate Select Committee Report of 2014 (500 declassified pages and 6700 classified ones) put tremendous effort into reviewing the evidence on precisely this point, and eventually concluded that there was no robust evidence of new intelligence, let alone life-saving evidence, coming out of 'enhanced interrogation'.

The second consistency has more to do with the informal multilateral character of secret detention. While the existence of secret detention sites was the subject of speculation in the press as early as 2002, US officials have been extremely secretive about their locations. The tremendous effort made by the CIA, security agents of the host countries, and flight companies and aviation officials in flying the high valued detainees from one secret detention site to another, closing down sites and wiping out traces of sites and flights every six or eight months, was aimed solely at

preventing discovery. Even the Senate report, which goes into great and by and large declassified detail about the interrogations of prisoners, the intelligence that came out of these interrogations, and the debates within the Administration on the issue, remains largely impenetrable when it comes to understanding which host countries were involved. On this matter, the report is subject to a double redaction: its authors originally labelled the collaborating countries with identifying letters or numbers (i.e. Country A, Country B), but the Administration's subsequent redaction has even blocked out these identifiers, so it is impossible to know whether the report refers to the same or a different country at different points. The information now available on which countries were involved is mainly due to the painstaking work by researchers of the Rendition Project and others in comparing publicly available information on flight patterns and ownership and use of the relevant planes.

The most plausible explanation for these tremendous levels of secrecy, no longer about the existence of the programme but about the sites, is the protection of the collaborating countries against political risk. Most of the secret detention sites for high level detainees were in democratic states, and even more democracies made their airfields and air space available. This would explain the restriction placed on *Washington Post* journalist Dana Priest, who eventually broke the story of the secret detention sites in Eastern Europe: the one remaining condition was that she not mention countries. The sites in Poland and Romania were nonetheless outed shortly afterwards, based on flight pattern analyses, but the involvement of Lithuania remained secret until 2009. The avoidance of embarrassment to collaborating states would also explain the redactions in the Senate report many years later. Even though parliamentary inquiries and the European Court of Human Rights have long since accepted the existence of the secret detention sites, and the latter has judged that the highest authorities in Poland, Romania, and Lithuania 'knew or ought to have known' about them, they have never been officially acknowledged either by US authorities or by the relevant host governments. As seen above, this continued denial on both sides of the Atlantic also needs to be seen in the context of the Eastern European states' relatively recent accession to NATO.

The accountability sabotage surrounding the rendition of the less significant detainees has been much less consistent. In the Abu Omar case for instance, while there was some investment in laying false trails after his disappearance, and investigating journalists were harassed, the CIA officers also made 'rookie mistakes' such as using their own credit cards and speaking on unprotected phone lines (Sandberg 2009). In these cases, the stakes were lower. First, the receiving countries would not necessarily be embarrassed to have their own suspect citizens rendered to them, and not being parliamentary democracies they did not have to answer difficult questions from journalists or parliamentarians. As seen in the case of Abu Omar: when he did not comply with the condition of maintaining silence, he was simply rearrested, without adverse political results in Egypt. Second, there was less political risk to the authorities in the countries in which the individuals were captured,

even if they were democracies, because the highest authorities could much more plausibly deny, and quite possibly genuinely did not know about, the kidnappings. Finally, the authorities of democratic states could and did deny direct responsibility if such individuals were subjected to torture after their secret capture. The successful prosecutions of both Italian and US agents in the Abu Omar case, which can perhaps be attributed to an Italian tradition of judicial activism and dogged persistence in the face of accountability sabotage, were unique in the history of rendition.

The extraordinary rendition and secret detention programme was a classic 'covert op', just on a bigger scale than ever before. Its primary actors were always aware of how controversial it was, and were devoted to its secrecy. It existed in rudimentary form before 9/11, and was rapidly and radically scaled up and repurposed immediately afterwards. Ultimately, this improvised, 'covert-ops' type of secrecy could not be sustained. In the next chapter I will show that 'active secrecy' (Kreuder-Sonnen 2018, 960) in response to perceived terrorist threats, in the shape of formal multilateral procedures, has turned out to be far more stable.

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4
Formal Multilateral Authoritarian Practices

The Security Council Terrorist Sanctions List

1. Introduction

In August 1998, two bomb attacks on the US embassies in Kenya and Tanzania, causing 225 casualties, brought the hitherto little-known entity Al-Qaida and its leader Osama bin Laden to global attention. When the Taliban government of Afghanistan refused to extradite bin Laden, the US convinced the United Nations Security Council (UNSC) to adopt Resolution 1267, which required all states to deny permission for Taliban-owned planes to land in their territory, and to '(f)reeze funds and other financial resources, including funds derived or generated from property owned or controlled directly or indirectly by the Taliban' (UNSC S/RES/1267, 1999). The Security Council also set up a Sanctions Committee made up of its fifteen member states, and a supporting Monitoring Group (later Monitoring Team) to oversee implementation of the measures. In 2000, a new Security Council resolution extended the ban from the Taliban to also cover Al-Qaida and its members directly. It mandated the Committee to 'maintain an updated list, based on information provided by States and regional organizations, of the individuals and entities designated as being associated with Usama bin Laden, including those in the Al-Qaida organization' (UNSC S/RES/1333, 2000). Thus the terrorist suspect sanctions list (further 'the list') was born, even before the 9/11 attacks.

Evolution of the list

The list arose out of the intersection between a concern over the humanitarian cost of comprehensive sanctions and a desire to govern terrorism pre-emptively. Concern over the inhumane nature and questionable effectiveness of blanket sanctions against states had already caused the Security Council during the 1990s to shift towards 'targeted sanctions' against 'leaders, decision-makers, their principal supporters' associated with breaching cease-fires, staging coups, or developing nuclear capacity (Eckert et al. 2016, 2). The instrument of targeted sanctions was now also applied to terrorist suspects. Hence, the Al-Qaida list is not the only targeted sanctions list

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maintained by the United Nations—there are a number of country-specific lists—but it is by far the longest and most global.

After 9/11, a third Security Council resolution extended the list to 'any individuals, groups, undertakings and entities associated with the Taliban and the Al-Qaida organization, who have participated in the financing, planning, facilitating and preparation or perpetration of terrorist acts or in supporting terrorist acts' (UNSC S/RES/1390, 2002). The ban on letting Taliban aircraft land was now converted into an obligation on all states to '(p)revent the entry into or the transit through their territories' of individuals listed, i.e. a travel ban. The global appetite for measures that would not just punish but prevent acts of terrorism (Chesterman 2006, 1113) caused the conditions for being listed to be continually stretched over the years.

The initial resolutions imposed no procedural obligations on the Security Council itself or on member states to communicate with individuals being listed. A 2004 Resolution began to 'strongly encourage' states to notify individuals that they had been listed (UNSC S/RES/1526, 2004) and in 2006 the United Nations established a Focal Point to process delisting requests from individuals (UNSC S/RES/1730, 2006). At the same time, the criteria of who was considered associated with Al-Qaida were further stretched to include anyone who supplied arms to, recruited for, or otherwise supported acts of 'Al-Qaida, Usama bin Laden or the Taliban, or any cell, affiliate, splinter group or derivative thereof' (UNSC S/RES/1617, 2005, para 2). In the late 2000s, a series of cases before the European Court of Justice (the Kadi cases, see De Wet 2013) caused EU members to come under pressure to provide a more robust delisting procedure. In 2009, an Ombudsperson was instituted to deal with delisting requests: s/he gathers information from the individuals listed and from states, engages in 'dialogue meetings' with the individuals listed, and makes a recommendation to the Sanctions Committee, which remains the deciding body (UNSC S/RES/1904, 2009).

Meanwhile, the criteria for listing were further broadened in 2012. Now anyone 'otherwise supporting, any individual, group, undertaking or entity associated with Al-Qaida, *including on the Al-Qaida Sanctions List*, shall be eligible for designation' (UNSC S/RES/2083, 2012, para 3, emphasis added). Since anyone supporting acts of Al-Qaida could already be designated, now the supporter of a supporter can in principle be listed. In 2014, a particular type of support was added to the criteria: 'supporting . . . acts or activities, including through information and communications technologies, such as the internet, social media, or any other means' (UNSC S/RES/2178, 2014, para 7). In December 2015 the terrorist suspect sanctions list was formally renamed the 'ISIL (Da'esh) & Al-Qaida Sanctions List' in recognition of the new terrorist threat from the Islamic State (UNSC S/RES/2253, 2015).

Multilateral authoritarian practices

The pairing between 'multilateral' and 'authoritarian' in this and the previous chapter is not an obvious one, nor is its application to the terrorist suspect sanctions list. The existence of the list is no secret. On the contrary, it is mandated by the most authoritative institution in the international legal order, the Security Council. Nor is it a secret who is on the list: today's list of individuals and entities can be found on the Security Council's website. Yet as I will show, the practice of listing is surrounded with secrecy (and, occasionally, lies) and disables the voices of those listed vis-à-vis the listing institution by putting a firewall between them.

Robert Keohane probably did not have practices of disabling voice and disabling information in mind when classically defining multilateralism as 'the practice of co-ordinating national policies in groups of three or more states' (Keohane 1990, 73) that created expectations of 'diffuse reciprocity' among these states (Keohane 1986 as cited in Ruggie 1992, 571). It is even less likely that John Ruggie had multilateral authoritarian practices in mind when he described the distinctive feature of multilateralism as coordinating national policies 'on the basis of certain principles of ordering relations among . . . states' (Ruggie 1992, 567). Principles such as the indivisibility of collective security threats, Ruggie wrote, made multilateralism a 'highly demanding institutional form' (1992, 572). But regardless of their intended meaning at the time, this chapter will show that ideas like a shared commitment to generalized principles and the creation of expectations of diffuse reciprocity do actually help to explain the emergence and persistence of multilateral authoritarian practices.

Two subsequent traditions of research shed further light on how multilateralism can facilitate authoritarian practices, a point I shall return to in the conclusion. First, there is a 'dark side of intergovernmental cooperation' first elucidated by Klaus Dieter Wolf (1999, 334) and elaborated by various others as an alternative to Keohane and Ruggie's understanding of multilateralism as driven by coordination problems and growing commitment to shared principles. This alternative offers 'a coherent explanation for the phenomenon of de-democratisation of governance' by its internationalization (Wolf 1999, 334). For Wolf, democratic deficits are not just a by-product, but the intended object of multilateralism in the face of growing societal demands for a say in affairs of state: '(i)ntergovernmental governance offers states the opportunity of making mutual self-commitments of a kind that can remove certain issues from societal debate and also from any possible revision. What at first looks like a loss of autonomy vis-à-vis the other members of the society of states acquires new plausibility as a form of protection against societal interference' (Wolf 1999, 347–348). While Wolf ascribes this desire for autonomy and removal of scrutiny somewhat indiscriminately to 'states' and 'governments', Koenig-Archibugi shows that what he calls 'collusive delegation' is 'not a prerogative of chief executives or cabinets, but can be utilized also by other public agencies that are in charge of negotiating international agreements' (Koenig-Archibugi 2004, 156). Wolf, Koenig-Archibugi,

and Zaring (1998) show that mechanisms of collusive delegation are not confined to security issues, but are also found in areas such as trade policy and monetary integration.

Another relevant literature is that which reflects on counterterrorism policies from the perspective of critical security studies. Aradau and Van Munster first commented in 2007 on the stretching of the notion of risk in the governance of terrorist threats, to the point of 'the emergence of a "precautionary" element that has given birth to new configurations of risk that require that the catastrophic prospects of the future be avoided at all costs' (91). Taking this 'governmentality of risk' as their point of departure, De Goede and Sullivan (2016, 81) provide a corrective to earlier legal studies of the UN terrorist suspect sanctions list 'not only by denouncing normative errors (that is, identifying what lists lack in relation to existing legal standards) but also by exposing what they produce'. Specifically, De Goede and Sullivan (2016) point at how pre-emptively monitored terrorist suspects are transformed into 'known terrorists' through listing. As I will suggest in the conclusion, the three traditions of research on multilateralism and counterterrorist policies need not be read as alternative explanations for multilateral authoritarian practices. On the contrary, they are best read as powerful complementary explanations of how and why multilateral authoritarian practices emerge and persist.

Selections, sources, and structure

The next two sections will give a detailed account of two individual cases of people who came to be on the Security Council's Al-Qaida and Associated Individuals List: the Belgian couple Nabil Sayadi and Patricia Vinck, and the Egyptian Youssef Moustafa Nada. These two sections will apply the elements of the definition of authoritarian practices to these cases, showing the disabling of voice and disabling of information surrounding their inclusion on the terrorist suspect sanctions list, and discussing in what ways and to what extent the political actors involved in listing exerted control over the lives of these individuals. The reasons for choosing to focus on these two cases are pragmatic: while they appear to be typical of those listed in many ways, they are a-typical in one important respect: because Sayadi and Vinck sought publicity, filed a lawsuit against Belgium and made a subsequent complaint at the UN Human Rights Committee, and Nada filed a series of lawsuits against Italy and Switzerland, followed by a case before the European Court of Human Rights, more is known about the circumstances of their listing and delisting than in many other cases. The fourth section will zoom out and show how the actions that affected the Sayadi-Vinck couple and Youssef Nada were part of a broader pattern, amounting to 'authoritarian practices'. The fifth section discusses what configurations of actors were involved in the accountability sabotage, and the sixth section will consider the vulnerabilities and sources of resilience of individuals listed. In the conclusions,

I will return to the relation between multilateralism and authoritarian practices of accountability sabotage.

In terms of empirical sources for this chapter, the dissertation by Gavin Sullivan titled *The Law of the List: UN Counterterrorism Sanctions and the Politics of Global Security Law* (2020) has been invaluable. His work also inspired me to turn to Wikileaks Cables, which provided unique information, piercing the veil of secrecy over listing and delisting decisions. Strasbourg case law and press reports were also important sources.

2. The Belgian 'terrorist couple': Sayadi and Vinck

Nabil Sayadi, a Belgian national of Lebanese descent, and his wife, Patricia Vinck, cofounded an Islamic charity, Fondation Secours Mondial, as a European branch of the US-based Global Relief Fund, in 1995. The US put the Global Relief Fund and its related organizations on the sanctions list in October 2002, which prompted the Belgian authorities to launch an investigation against the couple as well as to recommend having them put on the sanctions list. Sayadi and Vinck themselves were listed in November 2002, had their assets and that of their foundation frozen, and were banned from travelling internationally (Milanovic 2009, 521). The media reported that they were under investigation for links with Al-Qaida members. After more than three years of investigation, the Belgian judicial inquiry found no evidence of any wrongdoing, and dismissed the case against them in December 2005 (Human Rights Committee 2008, para 3.2). After a number of unsuccessful attempts detailed below, they were eventually delisted in 2009 (Milanovic 2009, 537).

Disabling voice

In the course of their listing, Nabil Sayadi and Patricia Vinck were not silenced in the literal sense. On the contrary, they gave numerous interviews to the Belgian press while they were listed and afterwards (see e.g. Gollin 2003; Reynebeau 2003; Lamfalussy 2008; Cattebeke 2007; De Boeck 2018). They also sued the Belgian government in order to get it to initiate a delisting, and successfully complained with the UN Human Rights Committee about violation of their rights.

Nonetheless, their voice was disabled in one crucial sense: they were unable to speak to or be heard by the body that had listed them, the Sanctions Committee. When Sayadi and Vinck were first listed, there was simply no UN procedure for getting delisted at all. The only option was to petition one's own state, quite likely to have nominated the individual in question for the list in the first place, for delisting (Sullivan 2020, 84). As a consequence, Sayadi and Vinck were deprived of the 'opportunity to make their views known' to the decision-making body (De Wet 2013, 793).

As long as there was no 'relevant information' in the form of an exculpation by the Belgian courts, Belgium claimed that it could not even ask the Sanctions Committee to reconsider. After it had such information in the form of a judicial decision clearing the couple of any wrongdoing, it formally requested delisting. But as will be discussed in the next subsection, the Belgian Ministry of Finance's confidential communications could not be considered as a sincere and effective voice on the couple's behalf.

Disabling access to information

The accounts of Fondation Secours Mondial were blocked in November 2002, after Sayadi and Vinck had experienced months of surveillance and a police raid (Gollin 2003). Two months later, they were put on the terrorism suspect sanctions list and their personal accounts were also blocked. According to Belgian Minister of Finance Didier Reynders, their assets were frozen 'in conformity with the listing' by the UN Security Council (Agence France Press 2003). Sayadi and Vinck were not told which state had recommended their listing, nor were they told why they had been listed (Human Rights Committee 2008, para, 2.3).

In 2003, Sayadi and Vinck applied to various Belgian Ministers to be delisted, but were told that their membership of the Global Relief Foundation justified their listing, and that no delisting request could be made while the investigation against them was ongoing (Human Rights Committee 2008, para 4.2). The couple turned to the Belgian courts, and in February 2005 obtained a court order addressed to the government 'to urgently initiate a de-listing procedure with the United Nations Sanctions Committee' on the grounds that there was no evidence against them (Human Rights Committee 2008, para 2.5). In the same year, the new Foreign Minister Karel De Gucht promised in a television programme to find a solution within eight days, but a month later reported nothing more than that the dossier had been reopened (Cattebeke 2007).

Sayadi and Vinck therefore made a complaint with the UN Human Rights Committee. In its defence deposition in 2007, the Belgian state admitted that it had in fact been at Belgium's initiative that 'the Sanctions Committee decided to list the authors' (Human Rights Committee 2008, para 4.2). It claimed that Belgium had been obliged to put their names forward simply on the basis of their association with a listed charitable foundation: 'the Sanctions Committee has confirmed that when a charitable organization is listed, the main persons connected to such bodies must also be listed' (Human Rights Committee 2008, para 4.6). The lawyer for Sayadi and Vinck on the other hand pointed out that no other members, not even the founder of the Global Relief Foundation—whose criminal prosecution in the US eventually collapsed—had been put on the list by the US, France, Kosovo, Bosnia and Herzegovina, or Pakistan, where the foundation had offices (Human Rights Committee 2008, para 9.2). In sum,

the Belgian authorities claimed in 2003 to be acting in response to its international obligations, when in fact they had initiated the international sanctions against Sayadi and Vinck themselves.

The couple's lawyer sent 'numerous letters to the counsel for the Belgian State to ask what follow-up had been given to the de-listing request' (Human Rights Committee 2008, para 3.2). He believed that '(a)lthough the Belgian State had undertaken to renew its de-listing petition in the event the case was dismissed by the Belgian courts, it never did so' (Human Rights Committee 2008, para 3.8). Only in 2007, in response to the couple's complaint before the UN Human Rights Committee, did the Belgian government divulge that it *had* attempted to get them delisted on 4 March 2005 and again on 4 April 2006. The first request was 'blocked when members of the Sanctions Committee expressed reservations', and the second request was claimed to be 'still pending' (Human Rights Committee 2008, para 4.3 and 4.4).

A leaked cable from the US representative to the United Nations makes clear that 'United States, the UK, France, and Denmark all placed holds on the request'. It also reveals that while Belgium had formally requested delisting, it did not press its case. The US ambassador reported that '(i)n the request, the Belgian government made clear that it was responding to the court's instruction and did not explicitly support the court's findings'. What was more, in the second request 'the Belgians admitted that they possessed documents showing a link between Sayadi, Vinck, and known terrorists'. In a subsequent meeting, a Belgian diplomat told his counterpart that '(d)espite the links to known terrorists . . . there is no indication Sayadi ever participated in any action connected to terrorism. Moreover . . . the Belgian branch of Global Relief was proven to be a genuinely humanitarian organization' (WikiLeaks, Cable 06USUNNEWYORK1235_a, 2006). Nonetheless, the 'link' was apparently enough to prevent delisting for years to come.

Another Wikileaks cable from 2008 shows Belgium continuing to pursue the case in a less than sanguine manner. It describes a request from the Belgian Permanent Representative to the United Nations to the US representative to reconsider the 'hold' on the delisting, because 'the perception in Belgium—by the parliament, press, and public—was that there were never sufficient grounds for Belgium's 2002 request to designate Sayadi and Vinck in the first place' (WikiLeaks, Cable 08USUNNEWYORK209_a, 2008). Ambassador Verbeke told the US representative that while France and the UK had also blocked the delisting they 'would follow the U.S. lead'. The Belgian ambassador reassured his US counterpart 'that if after taking a fresh look the United States concluded delisting was not merited, then in his opinion the Committee would have done its job' (Ibid.).

In December 2008, after it had been condemned by the UN Human Rights Committee, Belgium publicly announced that it would make another request to delist (Lamfalussy 2008). In July 2009, Sayadi and Vinck were finally delisted. The considerations behind the delisting remained confidential. One may only speculate that the change of leadership in the US, the embarrassment of the UN Human Rights

Committee challenging the wisdom of a Security Council decision, other pending litigation (including the Kadi case), and the associated prospect, pointed out by the Belgian ambassador to the US ambassador, of increasing reluctance from states to list their citizens, may have played a role.

The confidential nature of the listing procedure protected Belgium from having to defend its own listing to Sayadi and Vinck or to the Belgian public: instead of admitting that it had proposed the listing, it argued that the Sanctions Committee had designated the couple (which was technically the case), and that it had no choice but to comply with its obligations under international law to obey the Security Council. Once the listing was made, it could continue to hide behind the Sanctions Committee, where fifteen member states would have to agree to delisting, and where Sayadi and Vinck could not monitor whether or how seriously Belgium was pursuing requests to delist.

Degree of control

The Security Council, despite being formally the most powerful international organ in the world, does not directly control individuals, since it has no implementing agency and devolves implementation of its measures to states. The one consequence of listing that can be considered as under the Sanctions Committee's direct control is reputation: because of their placement on the list, which is in itself public, Sayadi and Vinck were linked to Al-Qaida and terrorism in the Belgian and international press (Reynebeau 2003). Otherwise, Sayadi and Vinck were Belgian citizens and residents, and the sanctions against them were mostly although not exclusively implemented by the Belgian authorities. Belgium claimed to be acting under an obligation to obey the Security Council Resolutions with regard to listed individuals, but, as we have seen, Belgium had created its own obligations in the case of Sayadi and Vinck. The Belgian state could and did control their lives to a considerable extent. The idea behind the list is to obstruct people from carrying out terrorist attacks, not to obstruct them in their everyday lives, but the reality is otherwise.

The first effects of the terrorist suspect sanctions list on Sayadi and Vinck came from state actors in the Balkans. As a result of the listing of the Global Relief Fund, the offices of their foundation in Kosovo, Bosnia, and Albania were raided, and its assets both in those countries and in Belgium were frozen (Reynebeau 2003). At the same time, they began to experience surveillance, presumably from the Belgian police or secret service, although this has never been cleared up. This was followed in January 2003 by the freezing of their personal accounts and even their children's accounts. Their charity organization ceased to function (Gollin 2003), and Sayadi lost his job and had difficulty finding new employment (Human Rights Committee 2008, para 3.11).

While Belgium no longer controlled their assets or obstructed their movements after their official delisting in 2009, the names of Sayadi and Vinck continued to circulate on many national and organizational blacklists of other entities. Their accounts

continue to be blocked from time to time. Most recently, in 2017 and 2018, they were banned from visiting Lebanon and France and interrogated in Italy, and they and their children continue to face notoriety and discrimination (De Boeck 2018).

3. The banker in the enclave: Youssef Nada

Youssef Nada, an Egyptian businessman and self-acknowledged financier of the Egyptian Muslim Brotherhood, had lived in Campione d'Italia, an Italian enclave of about 1.6 square kilometres entirely surrounded by Switzerland, since 1970. He was placed on the terrorism suspect sanctions list in November 2001 on the accusation that he and his Al Taqwa Bank had financed Al-Qaida activities (European Court of Human Rights 2012, 21). Both the Swiss and the Italian authorities opened investigations against him. The investigations were dropped in May 2005 (Switzerland) and January 2008 (Italy) for lack of evidence, but he remained on the UN sanctions list until September 2009, and on a US domestic sanctions list until 2015.

Disabling voice

Youssef Nada, like Sayadi and Vinck, was not disabled from making himself heard. While he did not seek press attention as the Belgian couple did, his lawyers were extremely active on his behalf. The Security Council's listing procedures initially provided no direct avenue for targeted individuals to communicate with the Sanctions Committee. And whereas in the Belgian case it was at least clear that the Belgian government had primary responsibility and authority to act on the couple's behalf, in Nada's case finding such an official interlocutor with the Sanctions Committee was much more complicated. The country of his nationality, Egypt, would never act on his behalf, given his association with the oppositional Muslim Brotherhood. The country that in practice was restricting his movements the most, Switzerland, happily touted its inability to act on his behalf, because he was neither a national nor a resident. And his country of residence, Italy, was extremely slow to clear him from suspicion, and reluctant to exert itself through the diplomatic process even after that had happened.

Eventually, Nada turned to a newly created channel for communication with the Sanctions Committee. Under pressure to provide some form of procedure to regulate listing and delisting, the UN General Assembly had adopted a Resolution in 2005 calling upon the Security Council to 'ensure . . . fair and clear procedures for placing individuals and entities on sanctions lists and removing them' (UNGA 2005, para 109). To that end, the UN Focal Point was created in late 2006. However, the ability to voice remained very limited. The Focal Point was no more than an 'administrative mailbox', initially 'staffed by one person on a part-time basis only' (Sullivan 2020,

128–129). Indeed, the UN Focal Point did not engage substantively with Nada's case in any way, nor did it function as a conduit between him and the Sanctions Committee. It is not even clear whether the information he and his lawyer had provided was brought to Committee's attention.

Disabling access to information: secrecy and lies

Youssef Nada was not informed which state had put him on the Al-Qaida and Associated Individuals List, or on what basis. A decade later, after Nada had already been delisted, in proceedings before the European Court of Human Rights, the 'Swiss Government stated that, *to their knowledge*, the applicant's listing had been initiated by a request from the United States of America and that the same State had submitted to the Sanctions Committee, on 7 July 2009, a request for the delisting of a number of individuals, including the applicant' (European Court of Human Rights 2012, 56, italics mine).

Once the Swiss investigation against Nada was dropped for lack of evidence in 2005, he applied to the Swiss authorities to have his name removed from the national Swiss sanctions list. The authorities replied that they could not delete his name from the national sanctions list as long as he was still on the Security Council list, and they could not initiate his delisting since 'Switzerland was neither the applicant's State of citizenship nor his State of residence' (European Court of Human Rights 2012, 32).

In response to his repeated requests to the Swiss migration authorities for an exemption on the travel ban, Nada was now told that there was a remedy open to him, namely to apply to the new UN Focal Point for delisting. His lawyer did so in April 2007, also inquiring which country had listed him and why. In October 2007, Nada was told by the UN Focal Point that his request was denied, without giving reasons or any further information (European Court of Human Rights 2012, 35). In two subsequent letters, the Focal Point confirmed that there was a state opposing his delisting, but again invoked the confidentiality of the proceedings as a bar to providing him with further information (European Court of Human Rights 2012, 40).

Also in 2007, the Swiss Federal Court, to which Nada had also applied, gave its judgement that while Nada's rights under the European Convention on Human Rights (ECHR) had been violated by his treatment, Switzerland's obligations under the United Nations Charter prevailed over those under the ECHR, so there was nothing Switzerland could do other than continue to implement the sanctions (European Court of Human Rights 2012, 45).

At the same time, Nada petitioned the Italian authorities to have him delisted. This resulted in the Italian Finance Ministry inquiring confidentially as to the US view on his listing in December 2006 (WikiLeaks, Cable 06ROME3246_a, 2006). A Wikileaks cable reveals that, in July 2007, Italy and the US 'agreed to extend the

period of consideration for Youssef Nada's delisting request for an additional two months' (WikiLeaks, Cable 07USUNNEWYORK590_a, 2007). In September 2007, the US decided to oppose the delisting. In the cable that mentions this decision, he is referred to as the 'al Qaida/UBL financier Youseff Moustaffa Nada (an Egyptian-born Italian citizen)' (WikiLeaks, Cable 07STATE139684_a, 2007). Spelling errors apart, the Swiss investigation had by this time dismissed Nada's links with Al-Qaida, and he had never been an Italian citizen.

Nada now turned to an Italian judge with the same purpose as Sayadi and Vinck had had in Belgium: to obtain an injunction ordering Italy to request delisting. In order to pre-empt such a request, Italy confidentially asked the US for 'a public statement by January 10, 2008, explaining the USG decision to oppose Nada's delisting' (WikiLeaks, Cable 07ROME2515_a, 2007). The United States' UN Representative referred to the Sanctions Committee's confidential procedures in its refusal to make the public statement requested by Italy. Despite having been the state that opposed delisting, it now stated that '(u)ltimately, the decisions on 1267 de-listing petitions from Nasreddin and Nada were made by the entire 1267 Committee, not solely by the USG. The Committee operates by consensus . . . It is not customary, nor would it be appropriate, for the USG to issue press statements on 1267 Committee decisions not to take action on de-listing petitions' (WikiLeaks, Cable 08STATE4740_a, 2008). In their next meeting, the Italian counterpart indicated that 'Italy would respect the USG's views and would not tell Nada that the US opposed his UN Focal Point de-listing request' (WikiLeaks, Cable 08ROME190_a, 2008).

The United States representative also explained that 'there was no new information in his petition that indicated that the terms of his original designation no longer applied' (WikiLeaks, Cable 08STATE4740_a, 2008). In fact there was new information, in the form of the dismissal of charges against Nada by the Swiss investigation. However, the Swiss authorities never shared this information until after Nada had already been delisted (European Court of Human Rights 2012, 61).

In early 2008, the Italian investigation against Nada for Al-Qaida links was also dropped: the magistrate in Milan determined that he could not be prosecuted. As a result, an Italian foreign ministry official confidentially explained to her US counterpart, Italy might be 'obligated to table Nada's de-listing petition to the 1267 Committee, because they have no judicial case to ground a decision denying his petition' (WikiLeaks, Cable 08ROME190_a, 2008). The US diplomat commented to his superiors that '(i)n practice, we can keep someone like Nada on the 1267 list without Italian support, but . . . if we want to maintain Italian support, we will need to share more information on the individuals in question' (Ibid.). In the meantime, Nada had been convicted *in absentia* by an Egyptian military tribunal for providing financial support to the Muslim Brotherhood (European Court of Human Rights 2012, 55). The US was aware of these charges in January 2007 (WikiLeaks, Cable 07CAIRO409_a, 2007), but does not appear to have shared the information with Italian diplomats.

The Italian government did indeed apply for Nada's delisting in July 2008 (European Court of Human Rights 2012, 56). However, at the same time it also acted to keep Nada and his lawyer in the dark as to how seriously it would be pressing the case, and who was blocking the delisting. The head of the Italian financial crimes office FSC explained to her US counterpart that it would 'inform the two individuals that Italy's FSC agreed to seek their delisting from the 1267 Committee' (WikiLeaks, Cable 08ROME711_a, 2008). However, the new policy would be that instead of acting through the FSC, Italy would 'forward delisting requests through the Ministry of Foreign Affairs. The Italian MFA is shielded from domestic information requests, helping the MFA avoid having to disclose the deliberations of the 1267 Committee'. According to the same cable, both the FSC and a foreign ministry official assured the US diplomat that 'the Italian MFA understood that the second request to the 1267 Committee for Nada would be automatically rejected'. The US diplomat in Rome concluded the cable stating that '(m)ost importantly, Italian diplomatic negotiations, for now, have been shielded from appeals by Nada and Himmat's lawyers, and Italian-U.S. terrorist financing cooperation can proceed apace' (WikiLeaks, Cable 08ROME711_a, 2008; see also WikiLeaks, Cable 08ROME1136_a, 2008).

The cables tell us three things about secrecy and lying between the relevant state agencies, towards the Sanctions Committee, and towards Nada. First, despite Nada's request to be delisted on the basis of being cleared by the Swiss court, Switzerland failed to tell the Sanctions Committee about the outcome of the court proceedings. Second, when the US diplomat claimed to have no new information on Nada, he may have been in good faith as regards the Swiss acquittal, but also remained silent about the Egyptian conviction, which he may or may not have deemed relevant. The response also implied that the old intelligence leading to Nada's listing had been solid, information that was apparently not shared with Italy or Switzerland, let alone with Nada. Finally, while Italy initially attempted to 'out' the US as the party blocking the delisting, it eventually devised a new procedure to enable continued secrecy for itself and its ally and shield them from the challenges of Nada's lawyer.

In the summer of 2009, the US conducted a review of the listings from the early days after 9/11, and Nada and his companies were among those proposed for delisting. Even the confidential information shared with Sanctions Committee members at this point contained no substantive information: 'While the information available to the USG at the time of the designation provided a basis for listing under the relevant UNSCR, after careful review pursuant to paragraph 25 of UNSCR 1822 and based on the factors described above, we are of the view that circumstances no longer warrant maintaining NADA's listing on the 1267 Consolidated List' (WikiLeaks, Cable 09STATE69814_a, 2009). The same cable does however give some insight as to the motives behind delisting. It states that 'Switzerland will be interested in this case because Mr. Nada is challenging before the European Court of Human Rights Switzerland's implementation of the sanctions' (Ibid.).

Egypt objected to the delisting on the basis that Nada 'had been convicted in absentia of money laundering and terrorist finance', but the US representative appears to have been unimpressed (WikiLeaks, Cable 09CAIRO1363_a, 2009). A subsequent cable merely mentioned that Egypt was 'unhappy' about the delisting (WikiLeaks, Cable 09CAIRO1976_a, 2009). Nada was delisted in October 2009, without being given any information about the reasons for either his listing or his delisting (European Court of Human Rights 2012, 62).

Yet even this was not the end of Nada's experience with being 'listed'. In the same confidential communication in which it announced its support for delisting Nada at the United Nations level, the US stated that 'we plan to retain him on our domestic terrorism list, because we believe that circumstances continue to warrant maintaining his listing under the broader criteria of our domestic authorities' (WikiLeaks, Cable 09STATE69814_a, 2009). Given the breadth and vagueness of the UN criteria, it is difficult to imagine how US domestic criteria could be even broader. The announcement noted the *in absentia* conviction in Egypt, and 'would appreciate any additional information Egypt can provide on their terrorism financing activities' (Ibid.). Switzerland was 'urged to be cautious that any unfrozen assets are not ultimately used to support terrorist activities' (Ibid.). The US domestic ban was eventually dropped in 2015.

Degree of control

In the case of Youssef Nada, the question under whose control he stood, and how listing consequently affected his life, is complicated. As in the case of Sayadi and Vinck, the Security Council, whose list is public, might be held directly responsible for the effects of the listing on Nada's reputation (European Court of Human Rights 2012, 35), but not for physical or financial restrictions that followed from it. Nada's country of nationality, Egypt, clearly had no control over him, much though it might have liked to have done so. The country that appears to have initiated Nada's listing—for reasons that remain unclear—was the United States, which never had direct control over him. However, the decision presumably made by the US treasury (see below) to recommend his listing ricocheted through the Sanctions Committee and its Monitoring Team unto the Swiss and Italian authorities.

Technically, Nada's country of residence was Italy, but his residence was the tiny enclave village of Campione d'Italia which is entirely surrounded by Switzerland. Initially after the ban, Nada still travelled. In November 2002 he was arrested in London and sent to Italy, but continued to be able to travel between Switzerland and Italy. After criticism from the UN Monitoring Team about its lax implementation of the sanctions, Switzerland revoked Nada's special border-crossing permit (European Court of Human Rights 2012, 25), which caused the travel ban in his case to amount to a ban on leaving the village. At one point, the travel ban impeded Nada's access

to necessary hospital care for a bad kidney and a fracture in his hand (European Court of Human Rights 2012, 14). In other words, Switzerland, despite being neither his country of nationality nor his country of residence, in practice controlled and severely restricted his movements.

4. Broader patterns

At its zenith in 2005, the terrorist suspect sanctions list had more than 400 people on it (Sullivan 2020, 114). In mid-2021, 261 individuals were listed (Table 4.1). While we cannot know how many states are involved in listing individuals, there are people of thirty-nine nationalities from four continents on the list. The biggest groups are Indonesians (currently twenty-five), followed by Tunisians (currently twenty-two), Algerians (eighteen), and Pakistanis (seventeen) (UNSC 2021b). The Ombudsperson, having started functioning in 2009, had by mid-2021 processed eighty-eight delisting requests from both individuals and entities; sixty-four individuals were delisted (UNSC 2021a).

Not everyone on the list will be interested in getting more information on their listing or challenging it. Some people on the list have been convicted for terrorism and incarcerated, making the sanctions less relevant as well as harder to challenge. Others are deceased or may indeed be busy plotting terrorist attacks. What we know of individuals who did pursue delisting suggests that they typically came up against the same wall of silence as Sayadi and Vinck and Youssef Nada did. Abfousian Abdelrazik, a Canadian national who was unable to fly back from Sudan, sued to oblige the Canadian government to allow him to return. Very much like Belgium, Italy, and Switzerland in the cases described, Canada hid behind the Security Council, arguing that the Sanction Committee's listing prohibited Canada from letting Abdelrazik return. He eventually won his lawsuit, with the presiding judge describing his situation as 'not unlike that of Josef K in Kafka's The Trial, who awakens one morning and, for reasons never revealed to him or the reader, is arrested and prosecuted for an unspecified crime' (as cited in Tsanakopoulos 2009). He was delisted in 2011. Likewise, in the British case of 'G', later identified as Mohamed al-Ghabra, the United Kingdom argued that Security Council sanctions must be obeyed. While in the Abdelrazik case the designating country had not been Canada but the United States, in al-Ghabra's case, similar to the Belgian couple's case, it had been the UK itself which had recommended the listing (Guild 2010, 7).

But the disabling of information regarding the reasons for a particular listing actually goes much further than keeping those most affected, the alleged terrorist suspects and their lawyers, in the dark. The members of the Sanctions Committee that formally make listing decisions often do not have access to a great deal of intelligence information underlying listing decisions. As Chesterman (2006, 1115) has described,

Table 4.1 List composition by nationality, November 2021

Afghanistan	5
Algeria	18
Bahrain	1
Bosnia and Herzegovina	1
China	1
Egypt	13
France	7
Georgia	2
Germany	6
India	1
Indonesia	25
Iraq	14
Jordan	6
Kuwait	10
Libya	8
Malaysia	2
Mali	5
Mauritania	3
Morocco	10
Nigeria	1
Norway	1
Pakistan	17
Palestine	3
Philippines	15
Qatar	5
Russian Federation	12
Saudi Arabia	14
Senegal	1
Somalia	2
Syria	6
Tajikistan	1
Tanzania	1
Trinidad and Tobago	1
Tunisia	22
Turkey	2
UK	10
USA	3
Uzbekistan	1
Yemen	9
Unknown Nationality	11
Dual Nationals	–15
Total	261

Dual nationals were counted under both nationalities; individuals with revoked nationalities were counted under their original nationality.

the Sanctions Committee 'has little direct input into listing or de-listing, instead ratifying decisions made in capitals on the basis of a confidential "no-objection" procedure . . . the amount of information provided to justify listing and identify an individual or entity varies'.

There are two plausible explanations for the dearth of information provided even confidentially to the Sanctions Committee. The first, as Chesterman discusses (2006, 1095), is that member states, and the US and its 'Five Eyes' allies in particular, are generally reluctant to share intelligence with a larger group of states. This might explain, for instance, why the Italians were told nothing about the actual suspicions against their long-term resident Youssef Nada. The second explanation suggests that it is not so much unwillingness to share sensitive intelligence as the embarrassing non-existence of any further information that may sometimes drive the reluctance to explain. The listing procedure, light as it is, allowed for what later became known as 'toxic designations': 'UN designations made in the immediate wake of the 9/11 attacks that were based on weak information' (Biersteker and Eckert 2009, 24). According to Sullivan: '(a)s a result, the Al-Qaida list remains stacked with what one former [monitoring] team member described as "low-hanging fruit" that most states and some members of the Security Council may know very little, if anything, about' (Sullivan 2020, 114). Sullivan's own engagement with the list began as a lawyer trying to get clients delisted. In his experience, listing was based in one case on a 'story that a client has "liked" on his Facebook page' and in another on 'generic allegations . . . that appeared to be loosely based upon someone else's trial proceedings' (Sullivan 2020, 139).

Over time, alterations were made aiming to mitigate the cloak and dagger nature of the listing process. First was the establishment of the UN Focal Point, discussed above, where individuals could now request delisting directly without being nominated by their states. In 2008, the list began to include 'Narrative Summaries of Reasons for Listing'. A review of such reasons suggests that they provide little more information that was given to Sayadi and Vinck or Nada. The 'narrative summary' for one of the first and most famous listees, Salim Ahmed Hamdan (UNSC 2021b, QDi.003), is instructive. Hamdan, Osama bin Laden's former driver and a former Guantanamo Bay prisoner, was the subject of a landmark Supreme Court case, challenging his trial by a military tribunal and leading to a rare terrorism trial in an open US court. Hamdan was convicted of providing material support for terrorism but acquitted of terrorist conspiracy charges, and later cleared of all charges on appeal (Cushman 2012). Hamdan has been the protagonist in three court cases, numerous newspaper articles, and a documentary, but the narrative summary of his case consists of nine lines, mentioning his conviction but not his acquittals.

In 2009, in response to continuing pressure both from European states and from the impending Kadi verdict, an Ombudsperson was instituted (see Sullivan 2020, 80–151 for a lengthy discussion). The Ombudsperson requests information from the Sanctions Committee and from the individual requesting delisting and provides a

confidential written report and recommendation. Since 2011, a recommendation to delist is automatically implemented unless the Sanctions Committee takes action to oppose it (UNSC S/RES/1989, 2011, para. 23). But members of the Sanctions Committee are not under any obligation to provide the Ombudsperson with intelligence, and the system of listing and delisting remains essentially confidential as it was before. In fact, the Ombudspersons in post have repeatedly complained about the lack of information from states. According to the Ombudsperson in post since 2018, it was 'not uncommon that Member States explicitly oppose the delisting of a petitioner without giving any reasons or providing any recent information which would support their objection to delisting' (UNSC 2019, 6). The Office of the Ombudsperson has begun to enter into 'arrangements' with some states to improve their access to classified information. But with two exceptions, the nature of these arrangements is once again confidential (UNSC 2019, 3–4.) The Ombudsperson's recommendations too remain secret, despite repeated pleadings from the Ombudspersons themselves to be allowed to share them with petitioners (UNSC 2019, 6).

In terms of disabling of voice, the first Ombudsperson has argued that petitioners' dialogue with her gave 'petitioners the occasion to express themselves' (remarks at workshop, quoted by Sullivan 2020, 117). Sullivan's own experience with the 'dialogue' as a practicing lawyer was that the procedure was 'thoroughly inquisitorial'. The Ombudsperson claimed for instance that his client had recently met with an extremist, but could not disclose any particulars, making the accusation impossible to rebut (Sullivan 2020, 147–148). Even if other listed individuals have had a better experience of the 'dialogue', they are still not able to make their voice heard to the body that actually takes listing and delisting decisions, the Sanctions Committee. They only speak to an intermediary who may or may not possess the relevant information, and whose confidential recommendation may be ignored without anyone knowing.

With these procedures in place, in the face of a receding threat from Al-Qaida (and before the Islamic State burst on the scene), the criteria for listing were broadened to go further beyond Al-Qaida, and allow more regional terrorist groups to be listed. Hence even groups that are in active conflict with each other are now on the list (Sullivan 2020, 48), and, as mentioned above, the largest numbers of individuals are Indonesians and Tunisians.

I have discussed two cases of accountability sabotage in relation to the list in detail, and subsequently shown that their experiences are part of a broader pattern, and occurred in an organized context. While the listing system has been the subject of some slight procedural improvements, it has at the same time been further stretched to justify listing based on even the slightest association with Islamist terrorist groups. In the next section, I will unpack the joint or mutual benefits and common understandings underlying the widespread and durable practice of disabling voice and disabling information regarding decisions about listing and delisting.

5. Configurations of actors and common understandings

Formally, the terrorist suspect sanctions list emanates from the highest global decision-making body, the United Nations Security Council, making it difficult for states to ignore the sanctions they are requested to implement. At the same time, individual listing decisions do not need active support from a large number of states. Theoretically, a listing decision needs to be agreed unanimously by the Sanctions Committee. But in practice, because of the 'no objections rule', few listing suggestions get challenged. The Sanctions Committee is composed of career diplomats who 'generally have no prior experience of working on counterterrorism issues domestically, let alone on a global scale' (Sullivan 2020, 41) and '(i)n the absence of some national interest in a situation . . . there is little incentive to challenge a specific listing' (Chesterman 2006, 1115). In practice, important work is done by the eight-member Monitoring Team supporting the Committee, who do have expertise in counterterrorism, international financial transactions, or border controls (UNSC S/RES/1526, 2004, para 7).

This configuration, where the Sanctions Committee was always the formal body taking decisions, shielded states from taking responsibility for and having to justify decisions, in court, in parliament, or in the press. Guild (2010, 7) calls this mechanism UN-washing: the 'use of the Security Council as a venue through which to wash national executive decisions which otherwise would be subject to judicial control of their vulnerability to court supervision'. While Guild focuses on the utility of 'UN-washing' listing decisions from legal risk, Sullivan also points at political risk. While keeping people like Sayadi and Vinck on the list when 'the parliament, press, and public' are increasingly convinced of their innocence is a political embarrassment, taking someone off the list who may later become associated with an act of terrorism constitutes an even greater political risk (Sullivan 2020, 115). If it is a UN Committee taking the decision, the state remains blameless either way. In his interpretation, supported by a Wikileaks cable Sullivan cites, the UN Focal Point was created not in order to give individuals listed a more effective means of redress, but precisely to *prevent* scrutiny at the domestic level:

> The US originally sought to have Member States create their own delisting procedures, thus outsourcing the administration of delisting to the national level. France opposed this move 'because many of the European States most concerned with "due process" wanted to shift the onus of decision-making from the national level to the sanctions committee in order to protect themselves' . . . The key benefit of the Focal Point, according to the French, was that 'it removed states from a potentially "difficult position" of having to deny their own citizens de-listing requests'.
>
> (Sullivan 2020, 129 citing WikiLeaks, Cable 06USUNNEWYORK917_a, 2006)

Apart from such 'self-shielding', exemplified by the Sayadi and Vinck or the al-Ghabra case, UN-washing can also have the function of 'ally-shielding'. Ally-shielding is more akin to the mechanism we have seen in the previous chapter on rendition, where the commitment to collective security arrangements, and more specifically to US leadership in this area, has a lot of explanatory power. Ally-shielding provides a plausible explanation, for instance, for the Italian manoeuvres in the Nada case: redirecting responsibility for the delisting request from their Ministry of Finance to the Foreign Ministry so as to help keep Youssef Nada in the dark about the US origins of his listing and opposition to delisting. Italy, as Sullivan has reconstructed from cable traffic, 'had nominated around one hundred individuals for listing—'more than any other country except the United States, UK and Russia'. It appears to have done so in order to curry favour with—or in Sullivan's phrase 'perform political allegiance' to—the United States. The amount of information it held about the individuals recommended for listing was often minimal (Sullivan 2020, 130–131, relying on various cables).

The nationalities of individuals on the list today suggests that the emphasis has shifted towards regional Islamist terrorist suspects, without necessarily a strong Al-Qaida connection. Although it is impossible to know for sure, it seems plausible that many of these individuals have been recommended by their own national authorities. While self-shielding and ally-shielding are of particular interest to liberal democracies, less democratic and less well-resourced states may see other advantages in multilateral procedures such as the terrorist suspect sanctions list: it gains them both international legitimacy and logistical support in going after their own Islamist opposition groups. According to a former Monitoring Team member: '(y)ou need to be on the list to devote travel time, hotel costs and the time of the officials of the other country to justify working on this intensively' (as quoted in Sullivan, 2020, 46). Having an individual on the list facilitates, indeed mandates, national security agents of one's own and other states taking measures against such a person.

But it would be an oversimplification to see the multilateralism of the list as just a thin veneer for purely statist actions and motivations. In order to understand the common understandings behind the sanctions list, it is necessary to disaggregate agents of the state and simultaneously shine a light on their collaborations with each other and with international organizations.

The information that leads to listing typically emanates from intelligence services. Intelligence services have a tradition, of course, of shielding information from the public and from each other. In an interview with Sullivan, a member of the Monitoring Team claimed that their team had overcome this problem because 'we have not met a state that does not talk to us' and 'if you talk about multilateral intelligence sharing between a European country, an African country and a central Asian country, it's just not happening except for us' (as cited in Sullivan 2020, 58). In fact, as shown above, the degree to which intelligence is actually being shared remains questionable. The Monitoring Team's real function appears to be not so much to increase

intelligence-sharing as to legitimize listing on the basis of very scant information, or, in Sullivan's words, 'the Monitoring Team's technical work at these consultation meetings is aimed at fostering conditions conducive for pre-emptive security to develop' (Sullivan 2020, 52).

In some states such as the US, treasury departments have been actively involved in listing decisions. The US Treasury needed to show in the aftermath of 9/11 that it was making progress in the war on terror, and as a former Treasury official recounted: 'It was almost comical . . . we just listed out as many of the usual suspects as we could and said, Let's go freeze some of their assets' (Suskind 2004, 193). In other states, financial enforcement agencies have been pivotal in implementing the asset freeze. Such agencies already had experience of multilateral cooperation in international anti-money laundering initiatives, and after 9/11 anti-money laundering and terrorism finance regimes became increasingly merged (Zagaris 2004). Diplomats, at the United Nations and in bilateral relations, have been involved in devising and revising the list, as well as sometimes discussing high-profile individual cases. Each of these groups of professionals—intelligence agents, financial enforcement agents, and diplomats—have their own traditions of secrecy and confidentiality. Together they all contributed to disabling information surrounding the practice of listing terrorism suspects.

The Ombudsperson, designed as an 'independent and impartial' institution in 2009 in the face of criticism of the initial listing procedures, is one of the most essentially multilateral features of the listing procedure. The Ombudsperson's function is to ensure 'fair and clear' procedures, but they have not been able to significantly rupture the levels of secrecy inherent in listing. The procedure has been criticized even from within the United Nations, by Special Rapporteurs appointed by the Human Rights Council (2017, 6–7). Nonetheless, the institution has succeeded in helping to legitimate the list, to the extent that its existence is no longer essentially challenged. Sullivan and De Goede have argued that the creation of the Ombudsperson turned the list into a 'legal grey hole' that is in some ways more 'dangerous or detrimental than a black hole because it accords a veneer of legitimacy' and thereby makes the practice of listing more durable (2013, 853). In fact, the Ombudsperson puts critics of the list in a catch-22 situation: with every minor initiative to mitigate the secretive and pre-emptive nature of the list, the regime becomes more entrenched and difficult to challenge.

Further involvement of multilateral organizations has recently—through the exertions of the Monitoring Team—also made the implementation of the sanctions more effective. Interpol now generates 'special notices' and wanted posters for listed individuals, and the Monitoring Team has worked with the International Civil Aviation Organization (ICAO) and the International Air Transport Association (IATA) to make listing information interoperable with passenger data (Sullivan 2020, 66–68).

6. Sources of vulnerability and resilience

Not all individuals who want to communicate with the Sanctions Committee and challenge their listing are equally able to do so. Indeed the two cases this chapter zoomed in on are atypical. Youssef Nada (and, even more so, the famous Yassin Kadi) was very wealthy and capable somehow of retaining sufficient wealth to deploy very effective lawyers to argue his case. Most others (including Sayadi and Vinck) are hit much harder by the asset freeze, which impedes not only their livelihoods but also their ability to get legal representation. Most individuals listed will not be able to retain lawyers (unless they are lucky enough to find pro bono lawyers), and many will not have the skills or the courage to go through the delisting procedure on their own. Sayadi and Vinck, a couple with young children running a charity, and Vinck a native Belgian, used the media effectively and garnered great sympathy with their plight, but their ability to do so was exceptional. Among those who actually get to seek delisting, about three quarters succeed, while one quarter fails and continues to be listed. But one thing all people listed have in common is their continued inability to ever formally know why they were listed in the first place.

7. Conclusion

The terrorist suspect sanctions list was and is a legally mandated multilateral initiative, with many collaborating actors. It emerged in the wake of a perceived common threat, as an immediate response to 9/11. Since then the sanctions list and the accountability sabotage associated with it have become stabilized. This may in part be because the abuses that the individuals concerned are subjected to are not as egregious as some of the others described in this book. But it is also the multilateral nature of the list with its associated secrecies in itself that has helped to stabilize this list. Building on existing theories of multilateralism and security policy, I suggest that there are three complementary mechanisms that explain how and why the multilateral authoritarian practices surrounding the list emerged and persisted. In each of these explanations, the combination of a particular function or understanding of multilateralism interacted with a common threat perception to foster accountability sabotage.

First, there were clear incentives for states, or agencies within the state, to use the Sanctions Committee to obstruct individuals deemed to be potential terrorists while insulating themselves from accountability to these people, to their representatives or to the general public. The three types of state agents involved in the case—security agents, financial enforcement agents, and diplomats—all have their own traditions of secrecy and wariness of public debate that help to explain why they would want to use listing procedures to these ends. This mechanism, which I have called self-shielding, is similar to what Wolf (1999) refers to as 'the new raison d'etat' and

what Koenig-Archibugi (2004) calls 'collusive delegation'. An additional insight from Kreuder-Sonnen is that such collusive delegation is most likely to occur in relation to a perceived crisis, which can be seized upon as an opportunity for entrenching secretive procedures. Theorizing authority-holders as 'simultaneously seeking discretionary control over policy and legitimation by relevant audiences', Kreuder-Sonnen, (2018, 959) makes a distinction between reactive and active secrecy in crisis responses. In reactive secrecy, as seen in the last chapter, the crisis is seen as a threat, and secrecy is the immediate response. In the case of active secrecy by contrast, the perceived crisis provides an *opportunity* for 'substantive or procedural secrecy employed by authority-holders to implement their interests with fewer restraints' (Kreuder-Sonnen 2018, 960).

Second, a commonality that runs through both the chapter on rendition and this case study on the terrorist sanctions list is the strong ethos—if we want to call it that—amongst executive agents to keep not just themselves but also each other shielded from the political risk of exposure of information. I have referred to this as 'ally-shielding'. Ally-shielding may be seen as one particular form of the 'diffuse reciprocities' fostered by collective security arrangements, although not the form usually discussed in mainstream international relations literature, since it pits state agencies against their own citizens on behalf of the ally rather than against an aggressive third party.

But neither self-shielding nor ally-shielding fully explains the novelty of the terrorist suspect sanctions list as a form of international governance, and the inherent accountability sabotage that comes with it. The emergence and evolution of the list endorses the notion that Ruggie (1992) suggested several decades ago, that multilateralism should be interpreted as much more than just a coordination mechanism, as a form of ordering international relations that can give birth to new norms and principles. However, where Ruggie implicitly had liberal principles in mind, the critical security literature has shown that, in counterterrorism, the pre-emptive governance of risk is paramount. Whereas existing literature has focused particularly on the tension between such pre-emption and respect for individual human rights, this chapter has focused on its consequences for accountability. Counterterrorism is an obvious field of research on multilateral authoritarian practices, but it may not be the only one. Subsequent work should consider the workings of multilateral authoritarian practices outside the framework of terrorism, for instance in relation to economic disruptions or migration 'crises'.

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5
Corporate Authoritarian Practices

Copper and Cobalt Mining in Katanga, DRC

1. Introduction

The area straddling the Democratic Republic of Congo's southern border with Zambia is known as the 'copper belt'. It produces about 6% of the world's copper (SOMO 2016, 49). The region is also the world's primary cobalt producer, with the DRC responsible for about half of the world's annual supply, which is almost ten times more than the next supplier, Australia. Cobalt used to be seen as a by-product of copper and nickel mining, but has gained importance because of its use in a range of lithium battery-powered products (Felter 2018). Both products are mostly refined elsewhere (SOMO 2016, 47, 50–51).

Copper mining has a long history in Katanga. It was first exploited on an industrial scale by the Belgian state-owned Union Minière du Haut-Katanga (UMHK), which may have supported Katanga's short-lived secession. After control over the province was reasserted, UMHK was nationalized as Gécamines. Gécamines' production collapsed in the 1990s, '(a)fter decades of overproducing and underinvesting', followed by civil war. It began selling off assets in the late 1990s, and more in the 2000s (The Carter Center 2017, 5), encouraging international corporations to come in and invest in large-scale industrial mining (Hönke 2010; Rubbers 2019). The entry of multinationals on the Katanga copper concessions fits a broader pattern of rapidly expanding mineral extraction by MNCs in parts of Africa and Latin America in the early twenty-first century (Ferguson 2005; Bebbington et al. 2008).

The national and subnational political context into which the multinationals entered was never fully democratic. The transition from civil war into greater stability in the early 2000s came with a consolidation of presidential power, with continued United Nations support for President Joseph Kabila despite widespread election fraud in 2011 (Von Billerbeck and Tansey 2019, 708–709). After the next presidential elections in late 2018, Kabila and his party formally handed over power to a new president, Felix Tshisekedi, from a different party. However, the outcome was widely believed to result from a deal between the incumbent and his successor rather than from the actual vote count (Berwouts and Reyntjens 2019; Wolters 2019). At the level of the Katanga province, the pattern of alternation without change was reproduced. The province was in the hands of Kabila loyalist Moise Katumbi until late 2015, when he fell out with Kabila's PPRD party and was deposed (Wolters 2019, 13). In 2019 the elections were again won by a candidate from Kabila's party, FCC.

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Moreover, Tshisekedi's new Minister of Mines was Katanga's former Mining Minister and another Kabila loyalist (Ibid., 19).

The influx of multinationals into Katanga comprised Australian, British, Canadian, Indian, South African, Swiss, and US companies, usually operating in constantly changing configurations of joint ventures, and at a later stage especially Chinese and Kazakh corporations. Their arrival brought them into conflict with local communities on a number of grounds, discussed in more detail below. From the late 2000s, some local NGOs, supported by international NGOs, began to document and critique instances of corruption, environmental harm, and labour rights and human rights violations, for which they held the companies partly responsible.

This chapter will not focus on Northern Katanga's tin, coltan, and tungsten mines. Many of the issues surrounding them are similar to the copper and cobalt mines in the South, but these products have been designated as 'conflict resources' because they are also mined in the conflict-ridden Kivu provinces. Consequently, there has been a concerted attempt to regulate them through certification; this has not exactly resolved conflicts between mining corporations and local communities, but they have taken on a different character than in the South (Diemel and Hilhorst 2010).

Nor does the chapter discuss uranium mining. Artisanal mining of uranium continues to occur in Katanga despite extreme health risks (UN Security Council 2006, 31–32), and at least one international company, Areva, has been in negotiations with the DRC government over a uranium concession, while another company may have been involved in uranium smuggling (Ecumenical Network 2011, 22). However, the extraction and sale of uranium is much more shrouded in mystery than copper and cobalt mining. As such, it is certainly a 'likely case' for authoritarian practices, but so much so that it is almost impossible to establish any uncontested facts without undertaking potentially hazardous research on the ground.

Corporate authoritarian practices

The primary purpose of corporate enterprises is, of course, to make a profit for their owners or shareholders. Capitalist enterprises can and do function in many different political contexts. Where companies thrive, and whether they intersect with forms of authoritarianism, depends on many circumstances. Often, the question of corporations engaging or becoming involved in authoritarian practices does not arise at all. Authoritarian practices are not possible or not functional to the companies' modus operandi and the environment in which it operates. But in certain corporate sectors and geographical settings, engagement in practices of disabling voice and disabling access to information is perceived as useful, perhaps even necessary, to turn over a profit. This section will outline what circumstances are likely to give rise to corporate authoritarian practices, in general and in the specific context of mineral extraction. In doing so I draw on four strands of literature: the literature on labour exploitation and

modern slavery, the work on Corporate Social Responsibility (CSR), the 'resource curse' literature, and the literature on privatization of security governance.

Corporate authoritarian practices are likely first of all in industries that depend on cheap labour, hard or demeaning labour, or dangerous labour. In such circumstances, it is attractive to keep workers unaware of their rights, and unaware of the contrast there may be between their gains and circumstances and the ultimate profit margins of the company. Hence there may be incentives to disable voice in the form of unionization and/or collective demands for better circumstances, and to restrict access to such information and those who have it. Crane's work (2013) on the most extreme form of labour exploitation, modern slavery, provides a useful framework for thinking through what conditions would tend to facilitate and reward labour exploitation itself, and, by extension, associated corporate authoritarian practices. He distinguishes between enabling conditions and institutional capabilities of the employers themselves. The enabling conditions he enumerates are the industry context, the socio-economic context, the cultural context, the geographic context, and—last but not least—the regulatory context. Institutional capabilities include access to and deployment of violence; debt management; opacity in accounting to workers and to other companies; and labour supply chain management.

A second scenario likely to give rise to authoritarian practices is when the corporation's operation results in damage to the local environment, as intensive mining almost unavoidably does (Hilson 2002, 65). There are incentives to lie about the pollution itself, to restrict the communities' access to information about rights and forms of recourse it may have, and to pre-empt or repress complaints or protests.

A third circumstance arises when a corporation depends on a large or very specific territory, which it may or may not have legally bought or leased from the government or a purported owner, but which in practice is not *terra nullius*. In the context of mining, Bebbington and coauthors remark on how often 'central ministries grant concessions to companies in areas already occupied by artisanal miners', enumerating instances of this in Bolivia, Ecuador, Ghana, Guyana, Indonesia, and Suriname (Bebbington et al. 2008; Hilson and Yakovleva 2007). When recognizing the claims of existing occupants interferes with business, a company may want to have their voice repressed, have them physically removed, or keep them away from potential advocates. In the context of increased reliance by multinationals on private security companies in recent decades, it is not to be assumed that companies always need to rely on state security forces when disabling voice (Abrahamsen and Williams 2009; Ferguson 2005). Nor is it is not to be assumed, however, 'that security privatization necessarily marks a straightforward erosion of state authority' (Abrahamsen and Williams 2009, 14), or that the police and military have become irrelevant.

A fourth circumstance which increases incentives for authoritarian practices, also associated with territorially bound corporate activity such as resource extraction, is that the governance context favours or even requires corrupt acts (i.e. bribing officials) in order to get the required licenses to do business. A corporation may choose

to operate in such an environment simply because that is where the resources are to be found, or because these are 'environments in which tax manipulations, income remittances and other practices of extra-legal profit maximization are far easier to enact' (Bebbington et al. 2008, 899, paraphrasing Ferguson). Indeed, the extensive literature on the 'resource curse' has shown that an economy's reliance on mineral wealth 'reduces political competition' and that the 'main negative relationship between good governance and mineral wealth relates to lack of transparency and corruption in the appropriation and use of state revenue' (Ibid., 891–892). This literature, while it has clearly established that 'failures of democratization and governance are both cause and effect of the resource curse' (McFerson 2010, 337), tends to take a macro-approach, and does not closely examine actual corporate and governmental practices of secrecy surrounding specific contracts, as I will do below.

The rise of corporate social responsibility has altered the playing field and strategies of corporations who find themselves in any or all of these scenarios. One might expect that pressures generated by civil society and brought to bear on companies via pressure from shareholders, customers, or government regulators provide incentives for corporations to treat workers well, to not pollute, to treat original occupants of land equitably, or to try to avoid paying bribes. Visible violations of what are now broadly considered minimal ethical standards for corporations might involve too many downside risks. As Lange and Washburn (2012, 300) point out: 'counternormative behaviour can lead to such consequences for the firm as lawsuits, financial losses through settlements and sales declines, increases in the cost of capital, market share deterioration, network partner loss, or other costs associated with a negative reputation'. However, it may also be 'cheaper to pursue reputation alone' than to actually improve corporate behaviour (Crouch 2006, 1543). The very same risks that may motivate good corporate behaviour may also provide increased incentives for repression of criticism and for secrecy and disinformation, so as to avoid compromising information being exposed. LeBaron (2014) actually goes so far as to posit that 'the vast majority of social or ethical retail audits' are 'not trying to find things out, they're trying to prove that something is not there' (245).

A final and somewhat different situation arises when the product or service the company provides has in-built incentives for secrecy. The paradigmatic case of this is the tobacco industry with its decades-long record of obfuscation about health risks (Hurt and Robertson 1998); producers of alcohol and pharmaceuticals such as painkillers and anti-depressants, and, increasingly, of fossil fuels, may be in a similar position. Secrecy about the product itself also applies to the arms industry and to surveillance technology that lends itself to facilitating authoritarian governance (such as the NSO Group's Pegasus, as documented by Forensic Architecture, Amnesty International and The Citizen Lab 2021).

Wherever any of these potential drivers are present, it will depend on a host of factors including the internal corporate culture, the local and national settings in which they operate, the transnational context the corporation finds itself in, and the forms

of opposition it encounters, whether and to what extent corporations will engage in authoritarian practices. It is not the purpose of this chapter to systematically examine these scope conditions. Indeed, the case study presented here would not readily lend itself to such an examination: the potential for authoritarian practices in this case was overdetermined in many ways. But that overdetermination does provide useful insights into *how* the corporate-authoritarian nexus functions in such a 'likely case'.

Selections, sources, and structure

The next two sections will focus on the Swiss multinational Glencore and the Chinese, largely state-owned but globally operating company CNMC Huachin (further: Huachin). This is a pragmatic choice: both companies had a full or majority stake in more than one mining operating in Katanga between 2010 and 2018, and both have attracted a great deal of attention from advocacy groups, so there is a fair amount of information available on their actions. Moreover, this selection allows for a comparison between a western-owned and a Chinese company. For Glencore the biggest sites were Mutanda, also called by its corporate name MUMI, and Kamoto, also referred as KCC. Huachin at the time of writing owned a mining concession in Mabende as well as two foundries near the urban centres Likasi and Lubumbashi. I will demonstrate how these two companies, with other actors, engaged in patterns of 'disabling voice' and 'disabling access to information' in relation to local populations over whom they had considerable control.

In the fourth section, I will document some very similar practices surrounding other multinational companies operating copper and cobalt concessions in Katanga. While it is certainly not the case that all companies acted in exactly the same ways, there are clear common characteristics pertaining to the interplay between the industry and its political environment. The fifth section will analyse the coalitions of political actors involved in the authoritarian practices, which were typically not conducted by the corporations alone, and the different motivations of and common understandings between these actors. Section six will consider the vulnerabilities and sources of resilience of the local communities who were the subjects of the companies' sabotage of accountability, and their representatives. The final section will draw out some broader insights from the case study, and relate it to relevant academic literatures.

In terms of empirical sources, the chapter relies to an important extent on reporting by local NGOs with international partners, as well as on journalism and official UN and US sources. It also refers to self-reporting by the relevant companies to some extent, although this turned out to be a limited source of information. The academic work focused on the contestations around mining in Southern Katanga, in particular by scholarly experts Jana Hönke and Benjamin Rubbers, provided both factual background and theoretical insights.

2. Glencore: a Swiss extractive multinational

Glencore is one of the largest producers of copper and cobalt in the world, headquartered in Baar, Switzerland. In 2011, the company changed its status from a private partnership to a publicly listed company. This made its owners instant billionaires, but also required the company to meet different transparency standards, and attracted the interest of British overseers and, more recently, US prosecutors (Wild et al. 2018). As will be described in detail below, Glencore's operations in Katanga have been surrounded by secrecy, evasions, and cover-ups on quite a variety of issues, including the corrupt nature of its purchase of the concessions, tax evasion, its environmental impact, its relations with artisanal miners and child labour, and its plans for resettling local villagers.

Disabling voice

While the contestation around Glencore's Katanga operations were characterized primarily by a great deal of secrecy and obfuscation, there were also incidents of repressing or disabling voice, both locally and internationally. Locally, in the wake of the death of Kalala Mbenga (see next subsection), a number of young men were arrested by the Congolese intelligence services. While according to local human rights observers this followed from a Glencore security manager's request that further trespassing should be discouraged, not all the men lifted from their beds at 4am were artisanal miners. Most were released soon, after paying a small fine (Peyer et al. 2014, 62). The operation is perhaps best interpreted as a rather arbitrary act of intimidation against the local population after the embarrassing Mbenga incident.

At the international level, Glencore's attitude to the coalition of Swiss and local NGOs reporting on its mines temporarily changed in 2013. They were given 'unprecedented access to their mining sites', and the company organized 'interviews with managers of their Congolese subsidiaries' (Ibid., 7). The company had set itself some targets reducing fatalities (GlencoreXStrata 2013, 22–25), and, much more loosely, made commitments on human rights and community relations (Ibid., 36–46). But the constructive relations with the NGO coalition were short-lived, and back in Switzerland the company made an attempt to silence international NGOs Bread for All and RAID by taking legal action against them over their coverage of the death of a trespasser named Eric Mutombo Kasuyi (Peyer et al. 2014, 16). It alleged that the NGOs had breached a Memorandum of Understanding with the company setting out the terms for access to its sites, which embargoed any publicity before the June 2014 publication date of the full report. The NGO responded by citing a clause in the MoU exempting publicity about a serious human rights violation from the embargo. The threat of legal action does not appear to have been carried out, and Bread for All has since reported on Glencore's responsibility for a lethal incident involving an overturned truck carrying toxic acid (Bread for All and Lenten Fund 2020).

Disabling access to information: secrecy and lies

The DRC mining concessions in which Glencore gradually achieved majority stakes were never put out to tender. Shares were initially transferred from Gécamines to the Malta Forrest group owned by Belgian national George Forrest, who was simultaneously president of the board of Gécamines (United Nations 2002, para 30). The Minister of Mining, the World Bank, and a commission in charge of reviewing mining contracts all opposed the new joint venture because Gécamines' assets were said to be undervalued, but the sale was nonetheless realized by presidential decree in 2005. Assets were then sold on to the Fleurette group owned by Israeli businessman Dan Gertler, and to the Groupe Bazano owned by Lebanese Alex Hamze, both of whom, like Forrest, were close to President Joseph Kabila. Gertler and Hamze sold off most of their shares to Glencore, maintaining minority stakes in the Mutanda and Kamoto operations (Reuters 2012; Wild et al. 2018). In 2017, Gertler became one of thirteen individuals against whom the US Treasury imposed sanctions under the Global Magnitsky Human Rights Accountability Act. The Treasury described Gertler as a businessman who had 'amassed his fortune through hundreds of millions of dollars' worth of opaque and corrupt mining and oil deals in the Democratic Republic of the Congo', using 'his close friendship with DRC President Joseph Kabila to act as a middleman for mining asset sales in the DRC', which resulted in 'underpricing of mining assets' (U.S. Department of the Treasury 2017). It seems likely that President Kabila, middlemen such as Gertler, Forrest, and Hamze, and the Glencore corporation all benefited from these transactions at the expense of the Congolese treasury. From the perspective of authoritarian practices, it is the complete lack of transparency of these transactions for Congolese, and more specifically Katangese citizens, disabling their access to information, that is at stake.

The Swiss NGO Bread for All (Peyer 2011; Peyer et al. 2014) and The Carter Center (2017) have also accused Glencore of tax fraud in relation to its DRC mines. Bread for All alleged the use of 'forged documents, illegal export of minerals or false information on quantities and concentrations of minerals. In addition, they also benefit from corruption within the administration' (Peyer 2011, 6–7). Various facts lend substance to this accusation. First of all, Glencore's local subsidiaries were being reported as 'loss-making' continuously since 2008, while copper and cobalt experienced a boom from 2011 to 2015. The local companies sold copper at prices set by themselves to their own subsidiary companies in tax havens: 'KML has three subsidiaries situated respectively in Bermuda, Virgin Islands and the Isle of Man' (Peyer et al. 2014, 13–14). Thus, Glencore paid only $1 million dollars per year in tax for the years 2010 to 2013, whereas a similar-sized competitor company paid $57 million (Peyer 2011, 7). The construction that allowed Glencore to report the local companies as loss-making when in all likelihood they returned a profit for the parent company can be seen as a form of disinformation in accountancy, misleading the people of Katanga and the DRC. As the international NGOs pointed out, as a result of the opaque sale of assets

and tax evasion, the people of Katanga failed to benefit from the profits made by companies such as Glencore.

The DRC Mining Code (Democratic Republic of Congo 2002, 007/2002, art. 204) mandates that before starting mining operations, companies should provide environmental impact assessments, that representatives of local communities should be consulted, and that in turn summaries are to be made available to the community in local languages. Glencore appears to have drafted an Environmental and Social Impact Assessment in 2009, and amended it in 2010 (Katanga Mining Limited 2010, 52), but a local civil society coordinator in Kolwezi, the nearest town to both Kamoto and Mutanda, failed in her attempts get a copy (Peyer 2011, 29). It remains unclear whether the communities affected by the mining concessions Glencore purchased were at least made aware of the resurgence of operations, but it is clear that they were not consulted in any way. The villagers of Musonoi, a community on the outskirts of Kolwezi and right next to an open pit mine on the Kamoto concession, were particularly badly affected by explosions and deterioration of the quality of their water. With the help of a Kolwezi-based NGO they wrote a letter to the operating company KCC, in May 2010, but received no reply (Ibid., 28). Months later, a South Africa-based NGO, Benchmarks Foundation, sent detailed questionnaires both to Glencore's headquarters and to its subsidiary KML, but likewise received no response (Ibid., 9).

In 2014, Glencore had the environmental impact assessment updated and submitted it to central government authorities (Katanga Mining Limited 2017, 248), but once again refused to make it available to civil society representatives. In exchanges with NGOs, the company was particularly cagey about the consultation requirement: 'Glencore refused to provide a list of community representatives who had been consulted or participated in the process. According to our own survey of several dozen residents of the townships and villages closest to the concessions, nobody had even heard about' the assessments (Peyer et al. 2014, 12).

Glencore was also obstructive and misleading about a particular problem associated with its Mutanda concession: it lies in the middle of the Basse Kando nature reserve. The boundaries of the reserve were set in 1957 and reasserted by a decree of the Ministry of the Environment in 2006. The Mining Code prohibited prospecting or extraction in nature reserves (Democratic Republic of Congo 2002, 007/2002, arts. 17 and 279). When the Congolese Institute for Nature Reserves (ICCN), a federal institution, first contacted Glencore about the problem, it received no reply. Glencore failed to come to a meeting with ICCN that other similarly placed companies did attend (Peyer et al. 2014, 10, 43). Glencore's 2012 Sustainability Report (GlencoreXStrata 2012, 40) discussed a number of operations at or adjacent to nature reserves, and the preservation measures taken there, but the Mutanda reserve was not mentioned. In April 2012, in response to the first major report on Glencore in Katanga by NGO Bread for All and its partners, the company did make a statement, claiming that the 'reserve's boundaries were vague and its very existence questionable'.

The same argument was used by the central Ministry of Mining when challenged about another concession within the reserve (Peyer et al. 2014, 40). In 2013, Glencore did acknowledge in its sustainability report that the Mutanda mine was in a national park (GlencoreXstrata 2013, 50), but said in communications with NGOs that it could take no responsibility for disagreements between different DRC ministries (Peyer et al. 2014, 40). At the same time, it still refused entry to environmental officials. An ICCN forest manager told NGOs in 2013 and 2014 that '(t)hey put up checkpoints and ICCN cannot get past . . . when we conduct patrols, we are chased away by the mine police, the army and the company's private security forces, even though we have an official mandate to inspect the site' (Ibid., 43).

Another point of contention, in which the facts are more difficult to establish, was the pollution of the Luilu river by the plant adjacent to the Kamoto site. The company described the river as 'heavily silted with tailings from historical mining', but characterized discharging straight into the river as a practice that occurred 'between 1970 and 1990' (Katanga Mining 2017, 252–253). NGOs alleged that Glencore claimed to have constructed two purpose-built basins, which 'destroyed the old outlet of the Albert Canal and sent photos to the media', but that they still observed effluents being discharged into the river, just further upstream. In subsequent exchanges, Glencore stated that it could not be responsible for pollution from other sources, while the NGOs insisted that there was 'no doubt that the source of the pollution' was the Glencore plant. A local manager acknowledged that the basins occasionally overflowed, while the NGOs claimed that the overflow was continuous (Peyer et al. 2014, 8, 31–36).

The resumption of industrial mining also brought Glencore into conflict with artisanal miners, who had started to work the abandoned open-pit mines once Gécamines collapsed. In principle, Glencore now claimed exclusive rights to the pits, but in practice two modalities could be discerned in its dealings with artisanal miners, both of which had aspects of secrecy and lying as well as of disabling voice: covertly condoning and profiting from their continued presence as well as periodically chasing them off the concessions, either individually or en masse.

According to NGO and journalistic sources, Glencore bought minerals from artisanal miners, including young children, active in its Tilwezembe mine, which was not being industrially exploited then (Peyer and Mercier 2012, 17; Sweeney 2012). This happened via an intermediary called Misa Mining that sold to the Groupe Bazano, one of Glencore's partners. BBC's Panorama programme tracked a lorry from Tilwezembe to a Groupe Bazano plant and documented its subsequent transferal to a Glencore smelter. Glencore CEO Ivan Glasenberg responded that '(w)e definitely do not profit from child labour', and claimed that the artisanal miners 'raided our land', and that Glencore did not buy copper from Groupe Bazano (Sweeney 2012). Bread for All also accused Misa Mining of rigging the instruments that measured the quality and quantity of artisanal ore, and of engaging in secret burials of artisanal miners who died in accidents at Tilwezembe, in order to conceal the inadequate health and safety on the site (Peyer and Mercier 2012, 17–19).

A number of sweeping operations were conducted at Glencore sites between 2010 and 2014 to expel artisanal miners (Peyer 2011, 3; Peyer et al. 2014, 60). These operations sometimes involved excessive violence and even fatalities, although the latter were rare enough to be a potential cause for scandal. On two occasions in 2013 and 2014, Glencore and security agencies resorted to a combination of obfuscation, bribes, and intimidation to cover up such deaths. The first case concerned Kalala Mbenga, who was shot in the face by a member of the mining police whilst leaving the concession, apparently because he had not paid a sufficient bribe for artisanal mining. A crowd gathered, the company called in the police, and Mbenga's body was transferred from the company hospital to a local hospital to avoid the wrath of the crowd outside. Immediately after Mbenga's death, '(m)orgue officials told the family that they would have to bury Kalala because a power cut meant that the body was decomposing', and he was buried without the family's authorization. The family 'tried unsuccessfully to obtain Kalala's death certificate and medical records from the hospital'. Glencore denied responsibility, claiming that the incident happened outside the concession. Glencore's subsidiary paid for the hospital and funeral provisions; another sum was paid to the family by the town mayor, but suspected to derive from the company as well. The cash paid to the family was described as a 'goodwill gesture' (Peyer et al. 2014, 51–52).

A year later another man, Eric Mutombo Kasuyi, was intercepted by a company security patrol at the same concession. The next day, his family found him dead in the morgue, with an autopsy suggesting that he had been badly beaten. This incident was a source of even greater embarrassment for Glencore, because a witness confirmed that Mutombo had been inside the concession, and also that members of Glencore's private security team, belonging to the international G4S group, had been involved as well as mining police. Various company officials made statements suggesting that Mutombo had been unable to stand up when last seen alive, merely because he had been 'tired' or 'very tired', but when he was eventually taken to hospital, the doctor had declared him dead on arrival. The company, apparently unhappy with the first autopsy, paid for a second post-mortem. When this confirmed the severe beatings, it resorted to claiming the wrong body had been examined.

Someone claiming to represent a hitherto unknown NGO, 'Arc en Ciel', paid Mutombo's family $1500 for funeral expenses. When the family filed a complaint and a coalition of international NGOs issued a press release on the incident, the same person contacted them on 'numerous occasions to offer them substantial sums of money in exchange for dropping the case . . . the amount of money offered rose from $10,000 to $50,000'. Glencore stated it 'categorically rejects any allegation or rumour of having directly or indirectly encouraged a monetary compensation to the family of Mr. Mutombo' (Peyer et al. 2014, 56). Congolese policemen have since stood trial for Mutombo's death, but G4S staff claimed they were never questioned about the incident (Ibid.).

A final instance of disabling access to information concerned the intended relocation of the village of Musonoi. In 2013, whilst otherwise being more communicative with Bread for All and its local partners (see below), Glencore gave 'evasive or ambiguous responses to our questions about its plans for Musonoi', the village that had first complained about explosions and water pollution. However, an indiscrete local *chef de quartier* (district head) said he had been warned to keep information about the company's plans to resettle the villagers to himself because 'this is a secret, if people know too much, it will cause tension and they might make a fuss' (Ibid., 13, 94).

Degree of control

Formally, the people of Katanga are, of course, governed by state authorities, in the district of Kolwezi where Glencore operated and elsewhere. Government-appointed mayors are responsible for delivering local services, implementation of laws, and maintaining public order, aided by lower ranking officials such as *bourgmestres* and *chefs de quartier* (Ibid., 49). In practice, the mining companies such as Glencore significantly affected the lives of at least some of Kolwezi's residents in various direct and indirect ways. It had direct control over the water quality in the Luilu river and over the noise pollution and structural instability suffered by the village of Musonoi. By contrast, state environmental officials had little or no leverage with the company. Glencore affected the livelihoods of artisanal miners in ambiguous but still quite direct ways: at times destroying it through mass expulsions, whilst at other times condoning and hence perpetuating the practices of extortion by purchasing artisanal produce. More indirectly, it can be argued that the lives of the Katangese were affected through the loss of state income because of the dubious sales of Gécamines assets as well as through tax evasion.

3. CNMC Huachin: a Chinese state-owned multinational

Huachin was founded as a processing plant for artisanal copper ore in 2005. It acquired a second plant in 2007, and expanded in 2008 after forming a joint venture with the China Nonferrous Metal Mining (Group) Co., Ltd. (CNMC), a global mining company with the Chinese state as its major shareholder. In 2014, it began industrial mining at its Mabende site. There is clear evidence of Huachin disabling voice in the context of workers' rights. Moreover, its operations in Katanga have been surrounded by secrecy, evasions, and cover-ups on various fronts. In contrast to the Glencore case, there have been no NGO investigations or allegations concerning Huachin's acquisition of the Mabende site, nor is there any contention over its ownership of the two foundries. Huachin's environmental impact assessment and its plans for resettling local villagers have been surrounded by secrecy. Huachin also dealt extensively and deceitfully with artisanal miners.

Disabling voice

Given the poverty and the scarcity of work in the Katanga mining communities, jobs with mining companies were rare, and workers dispensable, a fact which manifested itself in Huachin's treatment of its own workers. Gécamines, its predecessor, had traditionally had a trade union with some power (Rubbers 2010). By contrast, there was no trade union activity in the Huachin joint ventures. In fact, Huachin used dismissal as an instrument to prevent or resist any form of organizing or voice from workers. Anonymous interviews with current and former workers suggested that '(a)ny form of protest causes dismissal. The workers . . . think that the managing staff embodies real terror. Every week at least an employee is fired or decides to resign' (PremiCongo 2015, 15). In a specific incident at Mabende in April 2015, a number of workers complained about the lack of adequate safety equipment: '(i)n response, the company dismissed 35 workers accused of being the instigators, which ended the riot' (Ibid.; PremiCongo 2018, 28).

Disabling access to information

According to Congolese law, workers should have a right to social security benefits, an additional cost for employers. PremiCongo documented a scam to rob workers of such benefits in which both Huachin and the National Institute of Social Security (INSS) were implicated, at its Likasi plant. Social security numbers that were supposed to be personal were routinely rolled over so as to avoid pay-out obligations: the 'name of a leaving employee is replaced by a newcomer's to which the social security number is given. The replaced employees will never benefit from their contributions' (PremiCongo 2015, 15; PremiCongo 2018, 11).

Beyond the treatment of its own workers, Huachin's relations with the broader communities surrounding its operations are best described as aloof. Mabende is a village that sits right beside the mining concession of the same name. Huachin does not appear to have communicated with the villagers when first taking over the mining site. In conversation with a local NGO, Mabende's village chief explained 'that he had tried several times to initiate the dialogue with the company but was always coming up against "a wall"; He often had to wait for hours at the company office to be received for a few minutes by a manager' (PremiCongo 2018, 24). The NGO PremiCongo itself had similar experiences. In 2015 the company 'told us verbally that they . . . could not cooperate with CSOs' (PremiCongo 2015, 4). In 2018 it reported that 'every time we approached the company, our interlocutors referred us to a person who was never present at the office' and even refused to acknowledge receipt of letters sent to them (PremiCongo 2018, 16, 24). In short, Huachin cannot be said to have been evasive or misleading in its engagement with the local population or with NGOs in the same way as Glencore; it simply refused to engage with them in any way at all.

Knowing that Congolese law mandated conducting an environmental impact assessment and local consultations before industrial mining operations can get started, PremiCongo attempted to follow up on this obligation. It discovered that the inhabitants of Mabende 'like those in Lubumbashi and Likasi, were not consulted as the EIS were elaborated. The Environmental Studies have never been taken to these local communities' (PremiCongo 2015, 16). Rebuffed by Huachin and another Chinese company, PremiCongo turned to the local authorities. The Mining Environment Protection Office 'did not allow us to access Environmental Impact Studies of these two companies' (Ibid., 4). When they tried again in 2018, the local director 'promised to allow us access to the Environmental Impact Assessment (EIA) of the company in case the company did not put them at our disposal. But afterwards the leaders of the DPEM prevented us from consulting these studies by making a thousand and one excuses' (PremiCongo 2018, 16).

Unlike Glencore, which came into Katanga with a primary intention to engage in industrial mining, Huachin's interests included processing at its plants, before it expanded into direct extraction at Mabende. Hence it engaged more intensively with artisanal miners. As such, PremiCongo found that it had been involved in exploitative deception practices, in league with so-called 'cooperatives' set up by 'influential political figures and businessmen', from whom it bought mineral ore for its factories. When diggers sold to the cooperative, '(t)he measurements are falsified so that they can indicate lower grade. As for the quantity, it is measured by scales that don't work properly, so that they put the weights of the products lower. The actual transaction is made between HUACHIN and the bosses of the cooperative' (PremiCongo 2015, 13–14).

Artisanal mining is inherently dangerous, apparently so much so that, according to PremiCongo's report, the state institution in charge of monitoring artisanal mining (SAESSCAM) stopped publishing statistics of mining-related fatalities (Ibid., 13). The same report also alleged that Huachin knowingly bought from cooperatives that used child labour: '(w)henever there are visitors to the mining site, the children are hidden away' (PremiCongo 2015, 14). By 2018, it stated more cautiously that 'we did not detect the presence of children at the CNMC Huachin Mabende supply sites that we visited' (PremiCongo 2018, 32).

Degree of control

Huachin had direct control over the livelihoods of its workers, and used this to disable their voice and prevent any form of collective bargaining, and to involve them in a social insurance scam. Huachin's Mabende mine significantly affected the lives of the villagers, mainly through deforestation and producing dust and noise (PremiCongo 2015, 15–16). In league with security agents, Huachin also had considerable control over the livelihoods of artisanal miners. One might wonder why the artisanal

miners put up with blatant cheating in the measurements of ore. According to PremiCongo the 'diggers have to sell their products. They have no other choice. In case of resistance, the owners of the cooperatives retaliate. When necessary, they call for the military to brutalize recalcitrant diggers' (Ibid., 13). By 2018, the problem of artisanal miners being cheated had largely been replaced by the problem of artisanal miners being pushed out of production altogether: 'the conditions of extractions had evolved a lot . . . Everywhere, the "diggers" have been expelled and the quarries conceded, either to companies or to "cooperatives"'. At one site, Mbola, 'a private security team has been hired. But again, we found that serious human rights violations have been committed in the name of the company, beatings and arbitrary arrests in particular' (PremiCongo 2018, 32).

4. Broader patterns

Corporate control over mining communities

Multinational mining companies may not have begun operations in Katanga with the intent to exert control over populations in the communities near the mines. However, given the considerable impact of mining operations in general on their physical environment, and given the structural weaknesses in local and national governance in the DRC, extractive operations often have a huge impact on the lives of local residents and workers. Hönke (2010) even describes the corporate presence in Southern Katanga as 'a new form of indirect governance, a policy of "indirect discharge" by the host and the home states of multinational companies (MNCs) which amounts to quasi-outsourcing of local governance to companies' (106).

The most severe impact occurred when communities were forced to relocate (ACIDH 2011, 26; SOMO 2016, 29–30, 32). More often, communities were affected through the pollution of their source of drinking water. When companies arranged for alternative sources, digging wells or placing taps, as they sometimes did, this would make the community dependent on the company for the continued maintenance of the supply (SOMO 2016, 33–34; PremiCongo 2018, 10).

While some Katangese were employed in the mining industry, it was usually not the case that entire local communities in Katanga depended on the mines for their livelihood: industrial mining does not require large amounts of unskilled labour. In 2017 only 10% of Katanga miners worked in an industrial mine, and 90% were artisanal miners (Faber et al. 2017, 8). But mining operations did have a considerable potential for indirectly disrupting people's livelihoods, either because they engaged in artisanal mining on a site the company now claimed, or because farmland or fishing was affected by pollution (SOMO 2016, 31–33. Finally, roads guarded by companies sometimes cut villagers off from their farmland, water supply, or commercial centres (SOMO 2016, 32; Amnesty International 2013).

Corrupt entry

The manner in which Glencore got its concessions in Katanga was not exceptional. The Carter Center studied more than one hundred mining contracts, and found that, while in theory mining concessions should be put out to tender according to the DRC's 2002 Mining Code, 'almost all current operators in the Katanga region have entered the mining sector through negotiations with Gécamines rather than through the Mining Code's state registry of mining permits', bypassing the Code's transparency requirements (The Carter Center 2017, 6). Apart from Glencore's Mutanda and Kamoto concessions, The Carter Center also undertook detailed studies of the secretive negotiations surrounding Freeport McMoran and Lundin's joint venture with Gécamines in Tenke Fungurume Mining (TFM) and the concessions of Canadian First Quantum Minerals. The subsequent stripping of First Quantum's licence, followed by a take-over of its mine by Dan Gertler and subsequently by Kazakh company Eurasian, was the subject of an investigation by the UK's serious fraud office at the time of writing (Wild and Clowes 2019; RAID and Afrewatch 2020). Eurasian in turn sued both the serious fraud office and their own former lawyer, Neil Gerrard. A *Financial Times* journalist has suggested that potential witnesses in the case may even have been murdered in connection with this investigation (Burgis 2020).

Silent entry

Many companies failed to consult local communities on impending operations. The UK-based company Boss claimed in a letter to the local NGO ACIDH that its 'consultation was actually carried out in 2006'. However, '(t)he only person to indicate that a public consultation had been organised by Boss Mining was Kakanda's police chief. But no one could verify this consultation or said they had participated in it' (ACIDH 2011, 22). Eurasian found itself censured—after an NGO complaint—by the UK government's National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises, which said it had 'not engaged effectively with two stakeholder communities on the concessions, and has not taken adequate steps to address impacts on the communities' (UK National Contact Point 2016). The Australian-held venture SEK consulted locals about social projects, but not about its core business (SOMO 2016, 29). Other companies that failed to consult communities included the Indian company Chemaf and South African Ruashi (ACIDH 2011, 21, 27–28, 31, 34). Chemaf, rather than just maintaining silence, appears to have actually misled local residents, telling them there would be a pharmaceutical factory, not a mining plant (Ibid., 28). An exception mentioned in the same NGO report concerns the U.S.-Canadian TFM joint venture, which did engage in extensive if still flawed consultations before landing (Ibid., 14).

Like Huachin and Glencore, other companies typically refused to speak to local NGOs. PremiCongo for instance reported about Chinese company MKM that '(d)uring our first field visit to Myunga, we were received by an official of the company . . . [who] promised to answer our questions during our next visit, for she required prior permission from the Headquarters in Lubumbashi. On our second visit, she let us know that the permission had been denied, so she could not receive us' (PremiCongo 2015, 3). The same company, MKM, reported to the Extractive Industries Transparency Initiative (EITI) that it had spent US$141,000 on a medical centre to support 'local communities' at its Kalumbwe site, but the site had no local residents, housing only MKM's own workers (Ibid., 9–10).

Environmental impact

Glencore's Mutanda mine was by no means the only concession in the Basse Kando nature reserve: Chemaf, Somidec, MKM, Comide, Kimin, the Groupe Bazano, and Phelps Dodge all had concessions in the reserve at some point (Peyer et al. 2014, 39–40). For most of these companies it is not clear whether they were aware of this. The Groupe Bazano, like Glencore, failed to respond to a letter by the director of the nature reserve and the ICCN pointing out that the operation violated DRC environmental law (Ibid., 10). In terms of the complicity of the local authorities in keeping environmental impact assessments secret, they may have been unwilling to share such studies with local residents and NGOs, or they may have been unable to do so. The Katanga provincial and Kolwezi town departments of the Ministry of Mining claimed in interviews that the central Ministry never shared environmental impact studies with local authorities (Peyer 2011, 29).

Artisanal miners and company workers

The resumption of industrial mining frequently brought corporations into conflict with artisanal miners who, having few other options, had taken over the sites once Gécamines collapsed (Hönke 2010, 118–119; Rubbers 2019, 6). The corporations had them chased off the concessions (Peyer 2011, 25; Rubbers 2019, 7), but security forces sometimes condoned their continued presence for a fee (Faber et al. 2017, 52), and, like Glencore and Huachin, corporations regularly bought up artisanal produce to make up for industrial shortfalls (Rubbers 2019, 9). Intermediaries typically made considerable profits through deceit and coercion. Based on household surveys in 150 Katanga mining communities, Faber et al. (2017, 55) estimated that 'miners receive less than half and potentially as low as 6% of the price-by-weight that traders receive for their production'. Artisanal miners also typically needed to pay off a host of security agents to work on sites that were officially off-limits. The same survey-based research found that apart from the mining police, private security companies, and the

Congolese national police, '18% of mines are secured by the secret service and 13% by the presidential guard . . . [which] may be extracting rents for patronage networks that reach senior levels of government' (Ibid., 52).

Other companies were also involved in incidents where either the mining police or private security used excessive force against artisanal miners who protested against their expulsion. The TFM concession for instance experienced a fatal incident during a demonstration by artisanal miners in August 2010, in which the demonstrators proceeded to loot and burn trucks. The Kolwezi police fired shots and 'injured a number of the protestors', one of whom, a thirteen-year old boy, succumbed to his injuries (ACIDH 2011, 18).

While there is relatively little information on the Katanga mining companies' relations with their own workers, Huachin's policy of firing workers who complained was not unique. Another Chinese company, MKM, fired the instigators of a complaint over holiday pay on Congolese independence day (PremiCongo 2015, 7). MKM too had no trade union, but this can hardly be considered exceptional: another source reports that out of 24 million working-age Congolese, only 128,000 are unionized (Peyer 2011, 26).

Finally, local civil society organizations, journalists, and researchers who took an interest in mine-related causes were sometimes obstructed and occasionally threatened (Hönke 2010, 117; Rubbers 2010, 334). Such threats could rarely be traced directly to mining companies. An exception were the threats against Jean-Pierre Muteba of the Nouvelle Dynamique Syndicale (NDS)—who continued to speak out against mining companies for the next decade—and others in 2003–2004. Muteba was first detained by the police after a press conference denouncing the pillage of natural resources in Katanga in a general way in March 2003. In late 2004, he and others from the religious organization GANVE spoke out about environmental pollution by a factory run by Indian corporation SOMIKA. SOMIKA then made a defamation claim against two GANVE members. The Minister of Mining ordered SOMIKA's closure in December 2004. Immediately afterwards, a poisoning attempt was perpetrated against Jean-Pierre Muteba. This was followed a few weeks later by physical threats and harassment against staff of local NGOs ASADHO-Katanga, CDH, GANVE, and NDS, and e-mails threatening that they too would be poisoned and making threats against their children (FIDH 2005). The very direct connection between speaking out against a particular mining company and receiving death threats, as occurred in this case, appears to be an exception rather than the rule, however.

Expropriation and resettlement

In some cases, mining corporations provided for resettlement of local communities, which was not necessarily resisted when adequately compensated; indeed in one case a community complained about not being resettled despite commitments

to that effect (RAID and Afrewatch 2020, 29–30). But resettlement also provided opportunities for fraud and graft. According to a local and an international NGO, the Indian company Chemaf colluded with local authorities and a village chief over compensation for expropriated land (ACIDH 2011, 28–29).

5. Configurations of actors and common understandings

In the Katanga mining case, some quite different authoritarian practices can be discerned, and the associated configurations of political actors are also different. First, there is the manner in which many concessions—or majority stakes in them—came into the hands of multinational companies. Generally these deals appear to have come about through intermediary businessmen well-connected to the President such as Forrest, Gertler, and Hamze. The connection to private payments and/or campaign donations is becoming increasingly clear through the investigations against Gertler in the US and against Eurasian in the UK, but mostly, the precise nature of the transactions remains shrouded in mystery. The attractiveness of buying undervalued Gécamines assets and concessions for the corporations is obvious. At the same time, it is doubtful—also in the light of Canadian First Quantum's peremptory loss of its concession—whether these secretive dealings, kept away from the scrutiny of the DRC parliament and the World Bank, were always an active choice against transparency by the corporations, or whether it was the only possible way to attain and hold on to a Katanga mining concession.

Second, most but not all companies appear to have ignored their local communities as much as possible. Unlike the negotiation of their entry, this disabling of access to information was within the terrain of the companies alone. In particular, they neither consulted them in the course of environmental impact assessments, nor made such assessments available afterwards. TFM stood out for having made a considerably better effort than others. However, their attempt to create a 'model project' in terms of 'employment and community development policies' did not go entirely according to plan, sparking contestation over what ethnic groups should properly be considered as 'local' from the perspective of the company's avowed attempt to employ locals (Rubbers 2019, 17–18).

Third, in relation to the concession within the Basse Kando nature reserve, there appears to have been a collusion of feigned ignorance between the companies themselves and the central Ministry of Mining in Kinshasa, against other, weaker branches of government such as the Ministry of the Environment and the Institute for nature conservation ICCN. In the case of Huachin for instance, a provincial environmental official complained about 'interventions from Kinshasa', where the company must have an 'umbrella', which thwarted any attempts to call the company to account over its environmental record (PremiCongo 2018, 32).

When it came to dealings with artisanal miners finally, the interests of the international companies were less straightforward and may have evolved over time. Typically, a multinational coming into Katanga could not ramp up industrial extraction at once, so that at times it was of interest to purchase artisanal produce via middlemen, turning a blind eye to the trickery involved in the process. It is less clear why corporations would continue to tolerate artisanal mining once they had established industrial operations. Here, it may be more a matter of the vested interests of both public police and private security guards in being paid by the artisanal miners for looking the other way, as well as those of intermediaries, that enabled continued artisanal mining.

In cases where brutality against alleged trespassers needed to be covered up, or community dissent quashed, the interests and actions of the companies themselves, their private security, and theoretically public security forces were completely intertwined. Payment by the corporations to the state mining police for guarding their concessions was normal and institutionalized (Hönke 2010, 121). Companies typically deployed mining police and private security agents in mixed teams. Even more remarkably, '(e)mployees of some large mining companies (such as KCC) are also judicial police officers (officiers de police judiciaire, OPJs), who are given training and are formally appointed by the Chief Public Prosecutor' (Peyer et al. 2014, 50). Invoking state weakness somewhat mischaracterizes the situation: according to Hönke (2010, 117), state agents including various police forces and intelligence services, the army and the presidential guard 'are omnipresent, but largely pursue private interests'. As seen in some incidents described above, local public officials also got involved in keeping secrets and taking or paying bribes. Hence, it becomes almost impossible to distinguish between corporate and public involvement in accountability sabotage.

6. Sources of vulnerability and resilience

As discussed in the opening chapters of this book, demanding accountability requires a sense of agency and entitlement that is not always available to people affected by the actions of power-holders. Unlike in some South and Central American settings or in Ghana (Bebbington et al. 2008; Hilson and Yakovleva 2007, there is little evidence of large-scale or durable community mobilization against the mines in Katanga, despite severe disruptive effects on the environment and on artisanal livelihoods. One explanation for this might be in terms of the enabling conditions Crane has identified for the occurrence of modern slavery. These conditions, including insertion in long global value chains, poverty and unemployment, geographic isolation, and entrenched inequality and weakly enforced regulation all fit the Katanga mining communities. These conditions may have application well beyond modern slavery, much more generally explaining a lack of contestation in the face of exploitation, expropriation, and pollution.

Another explanation could be that there was considerable contestation, but that it failed to connect with international advocacy coalitions, and has not come to international attention. Indeed, Hönke cites '(i)nterviewees [who] spoke of a "guerre civile sociale" during 2005–7' (Hönke 2010, 118), particularly around Kolwezi, but both her account and those of NGOs on possible mining-related riots in this early period are second-hand. To the extent that there were such riots, they have not translated into scaled and durable mobilizations.

Artisanal miners had very few avenues to complain about their situation, since both security agents and the companies profited from the ambiguity of their situation. Company workers too, particularly in Chinese-owned companies, were vulnerable to exploitation, due to the enabling conditions enumerated above, but also due to the institutional capacity of both the big corporations and the intermediaries for opacity and for deploying violence (Crane 2013).

Yet Katanga was not a repressive environment in the classic authoritarian sense. There was a plethora of local NGOs, and it was possible for a social movement made up of former Gécamines employees to meet in stadiums and to organize 'rallies, protests, group petitions, and lobbying' (Rubbers 2010, 339). Moreover, the increasing international scrutiny of the extractive industry and the fact that most multinationals were headquartered and listed in western democracies favoured the inflow of international NGOs working in tandem with local organizations. From the late 2000s, they increasingly began to demand, on the communities' behalf, that the mining companies explain, justify, and rectify their behaviour in various respects. Corporate behaviour was usually measured in these NGO reports against national legislation, in particular the DRC's Mining Code of 2002, as well as against voluntary corporate social responsibility standards, and, sometimes, against the legislation of the company's home country.

The advocacy by local and international NGOs in this particular environment does raise questions about the politics of representation. A rather judgemental observation by local environmental NGO PremiCongo about the Mabende community is indicative: 'The population of Mabende's failure is mostly ignorance', it wrote, 'They resigned themselves and chose to keep a low profile when they saw this mining company seize their traditional lands and forests without asking their point of view and without any compensation. They should have demanded to be consulted in order to take the necessary measures to preserve their living space and to put in place mechanisms that could ensure the benefit of the economic profits of this investment'. (PremiCongo 2018, 33). Given the apparent passivity of the community prior to NGO involvement, it remains uncertain, in this case and others, whether the local NGOs and their international partners actually gave voice to the primary concerns of the local communities, or only to the concerns that the NGOs deemed the communities ought to have. Moreover, the targets of NGO advocacy may not coincide with where the greatest need is: Bread for All's focus on Glencore was probably dictated by the fact that the NGO and the company are both based in the same part of Switzerland,

not by a systematic search for the communities most in need of advocacy. In a situation where the people affected by authoritarian practices are vulnerable and have little tradition of contestation against transnational actors, skewed representation may be better than none at all. At the same time, the claims of representation by NGOs, and more particularly the often finite attention spans and strategic choices of international NGOs for particular causes, should be critically interrogated.

NGOs apart, community engagement did not always result in greater accountability even in the relatively rare cases when companies made a serious effort, as the North American partners in the TFM concession attempted to do. As Rubbers has explained in this context: 'claims for another form of wealth distribution on the basis of rights that are related to the land . . . are part of a struggle to change the rules of the game, but . . . they do not necessarily contribute to more social justice'. Instead, 'when expressed in the discourse of autochthony, ethnicity or nationalism—as is often the case, both in DRC and elsewhere—they are likely to result in other forms of exclusion and inequality' (Rubbers 2019, 19).

7. Conclusion

As indicated at the beginning of this chapter, corporate authoritarian practices could be expected to prevail in the copper and cobalt sector in Katanga for many reasons. The extractive industry has long been considered to be a cause of, or at least to coincide with, weak state accountability structures. The DRC moreover is a paradigmatic case of a corrupt, dysfunctional state. As such, the case lent itself well to laying bare the configurations of actors, including multinational corporations, that engaged in authoritarian practices on the ground in such a setting.

The high-level engagement with state actors that characterized the entry and general operations of the mining corporations in Katanga has been described in terms of '"rhizomatic statehood" . . . built on personalised, asymmetric networks, delegating the rule of sub-national territories to intermediaries' (Hönke 2010, 107, paraphrasing Bayart 1989). But such networks do not just delegate aspects of governance, they can also be characterized as engines of transnational accountability sabotage. As such, they are in many ways comparable to the networks of politicians, offshore financiers, lawyers, and public relations firms that Cooley and Heathershaw (2017) have described as characteristic of globalized Central Asia.

Expectations in terms of corporate social responsibility, and increased attention to transparency in the extractive sector in particular, were shown in this chapter to have impacted corporate behaviour. Mining corporations now have to deal with a type of NGO reporting specifically devoted to exposing corporate malpractice, coupled with journalistic interests in uncovering corporate environmental, human rights, and corruption 'scandals', and even with transnational criminal and fraud investigations by western state authorities. These new circumstances have differential effects. Some

corporations attempt to be more transparent and more accountable to local populations, as Freeport McMoran and Lundin tried to do to some extent, and some may decide to stay away altogether from contexts that make accountable business operations difficult. But another corporate strategy is to become more sophisticated in maintaining secrecy, spreading disinformation and covering up potential scandals. This latter option was the road taken by Glencore in response to a variety of accusations. The CSR literature, even the more critical literature on the topic, has not so far taken account of the fact that western societies' CSR expectations have actually *increased* incentives for corporate sabotage of accountability. If there are any corporate skeletons in the closet—and settings such as Katanga are likely to give rise to such skeletons—there is more need than in the past for multinational corporations to engage in disabling voice and disabling access to information to keep them hidden.

The Katanga mining multinationals were found to be less directly and extensively involved in disabling voice than in disabling access to information. The main practice of disabling voice discovered was the habit of at least two Chinese companies of firing workers when they voiced discontent. When it came to artisanal miners, a plethora of security services created a repressive environment around the mining sites, but at the same time being associated with killings on concessions carried considerable reputational risk for listed companies when NGOs were regularly sniffing around. This interpretation is supported by Glencore's greatest efforts at cover-up, including lying, bribes, and repression, which concerned the deaths of two men at the hands of security personnel on their mining sites.

At the time of writing, Glencore appears to be the only large 'western-based' company that continues to operate major concessions in Katanga. Freeport McMoran and Lundin sold their stake in TFM in 2016, British-based Boss sold their assets to Kazakh Eurasian, and Canadian First Quantum, as described, had its license revoked. It should not be assumed that non-western ownership makes it impossible for NGOs to successfully invoke corporate social responsibility standards. In its dealings with Chinese companies, PremiCongo relied on the remarkably comprehensive due diligence guidelines of the Chinese Chamber of Commerce (Rubbers 2019, 10; PremiCongo 2018), and even managed to meet with a Chamber of Commerce delegation in Lubumbashi.

The consequences for accountability struggles of the increased involvement of corporations headquartered in non-democratic states such as China and Kazakhstan in the extractive industries require further study. The new Chinese guidelines are part of a broader turn by globally operating Chinese companies towards adopting corporate social responsibility standards, responding to international expectations of responsible business practices but in fact largely driven by pressure from the Chinese central government (Dong et al. 2014, 66). Even more than in western contexts, there are reasons to be sceptical about the degree to which corporate social responsibility standards actually lead to greater corporate accountability (see also Hofman et al. 2017; Whelan and Muthuri 2017), but at the very least they give NGOs a set of standards and an interlocutor when contesting corporate practices.

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6
Institutional Authoritarian Practices

Covering up Child Sexual Abuse in the Catholic Church

1. Introduction

Child sexual abuse in an institutional context is a paradigmatic example of the premise that as demands for accountability have grown, so have incentives to sabotage it. The Catholic Church in particular has been affected by child sexual abuse scandals in recent decades. While many dioceses and religious orders became better at protecting children and confronting priests during the 1990s and 2000s, in many other cases allegations of child sexual abuse sparked authoritarian practices, i.e. secrecy, disinformation, and disabling of voice. This chapter examines not the occurrence of child sexual abuse by the Catholic clergy as such, but the associated cover-ups. It starts with a focus on the handling of allegations against five priests at two sites within the Catholic Church: the Irish diocese of Cloyne and the Salesian order's Australia-Pacific province. From there, it widens out to consider broader patterns associated with covering up clergy abuse in other Irish dioceses and elsewhere in the Salesian order, contextualizing them within to national-level Church initiatives to handle child sexual abuse complaints and the Vatican's responses.

Child sexual abuse by the clergy has been prohibited and subject to sanctions in canon law since ancient times (Scicluna 2011, 251–254). For much of the twentieth century, the relevant canonical law was the Vatican instruction *Crimen sollicitationis*. First issued in 1922 and extended in 1962 to members of religious orders (Royal Commission 2017, Vol.16.2, 52), it covered a number of sexual delicts including 'any external obscene act, gravely sinful, perpetrated or attempted by a cleric in any way with pre-adolescent children' (Vatican Polyglot Press 1962). Any investigation or trial related to such offences fell under the 'pontifical secret', i.e., any communication about them with others than Vatican officials was proscribed. The instruction itself was 'to be kept carefully in the secret archive of the curia for internal use. Not to be published or augmented with commentaries' (Ibid.). The remedies proposed included admonition, confidential warnings, and the threat of a clerical trial. A formal complaint could lead to 'special supervision', but dismissal from the priesthood could only be mandated from Rome, and only if there were 'no hope . . . or almost no hope' of correction (Ibid.).

A revised Code of Canon Law (Vatican 1983, Book VII, Part IV, Ch.1, can.1717) promulgated in 1983 gave bishops and heads of religious orders power to open investigations into suspected canonical crimes in general, but the exact

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procedures remained unclear (Royal Commission 2017, Vol.16.2, 54; Commission of Investigation 2009, 58, 62). In 2001, a new instruction decreed that all allegations with a 'semblance of truth' were to be directly referred to the Congregation of the Doctrine of the Faith (CDF) at the Vatican in Rome. The procedure remained secret, and according to one source never became fully functional because the CDF became overwhelmed with cases (Commission of Investigation 2009, 64).

In 2019, Pope Francis I set up a new mandatory internal reporting system (Holy See Press Office 2019a) and issued a *Rescript* lifting the pontifical secret (Holy See Press Office 2019b). In 2021, canon law was further revised, also criminalizing grooming and negligence in complaint-handling (Holy See Press Office 2021).

Religious institutions, child sexual abuse, and authoritarian practices

There is no developed literature on institutional cover-ups of child abuse practices as such, but there is a small body of literature in social psychology, organizational studies, and public health that seeks to explain the prevalence of child sexual abuse in 'youth serving organisations', including religious institutions. Especially in so far as they focus on the role of opportunity structures, these studies also provide some explanations for accountability sabotage in *response* to child sexual abuse allegations.

Unsurprisingly, organizations in which adults are wont to have unsupervised contact with minors, such as boarding schools, day care centres, and scouting and sports clubs have regularly been associated with child sexual abuse scandals (Royal Commission 2017, Vol.12–14; Terry et al. 2011, 16–19). More relevant from the perspective of this chapter are Anglicans (Royal Commission 2017., Vol.16.1, 556–797), various Protestant denominations, Jehova's Witnesses, the Salvation Army, and Jewish congregations (Ibid., Vol.16.3, 3–272; Terry et al. 2011, 20–22). While survivors from many religious backgrounds have described religious authorities as 'judgmental, unbelieving, or protective of the abusers' (Terry et al. 2011, 21, in reference to Mormon leaders), the role of hierarchy, organizational culture, and attitude towards secular authorities differs between religious institutions in ways that have yet to be systematically compared.

Most scholarly attention has gone to the—most scandal-ridden—Catholic Church. Mathews (2017, 90) has extracted from this literature five specific interrelated features exacerbating the prevalence and endurance of child sexual abuse in Catholic institutions—features which also help to explain its cover-up. First, among the ordained, there is a culture of complete obedience to, as well as material and spiritual dependence on, the institution (Keenan 2012, 178). In dioceses, all priests owe absolute obedience to the bishop, having to swear an oath to that effect at their ordination. Priests in religious orders swear similar oaths of obedience to the

order. Bishops in turn must take an oath of fidelity to the Church and to the Pope (Commission of Investigation 2009, 9: Royal Commission 2017, Vol.16.2, 10), who 'possesses supreme, full, immediate, and universal ordinary power in the Church' (Vatican 1983, Canon 331).

Second, internal rules, i.e. canon law and Church doctrine, are typically considered by religious authorities to prevail over secular law. But whilst being considered superior, in practice 'Canon Law was almost useless' (Parkinson 2014, 129) because of its nebulous rules and procedures, as described above, and because of narrow statutes of limitations.

Third was a collective commitment to protect the institution and its reputation at all cost. Harper and Perkins (2018, 37) suggest that 'system justification' responses are prevalent among religious individuals when it comes to their institutions, from which they derive part of their identity, and are further heightened when that system is believed to be under threat. Given 'the perceived scale of clergy-perpetrated sexual abuse among wider society', it would be reasonable for religious groups to perceive their system as under threat from such allegations, leading to 'a propensity to "close ranks"' (Ibid., 37).

Fourth is the Catholic Church's governance structure. While outsiders may think of the Catholic Church as having a very complex institutional structure, in essence its organizing principle is simple. There are two parallel hierarchies, one that is in charge of the faithful laity, organized in dioceses, and one of relatively independent religious orders. Bishops in their dioceses and the leaders of religious orders in their provinces, while owing obedience to Rome and to canon law, are in practice the sole decision-makers on almost all issues they do not choose to devolve downwards.

Fifth is sexual distortion and dysfunction: as a by-product of the norm of celibacy, the Church looked upon *all* sexual acts by priests as sins, requiring psychological and spiritual treatment of the offender (see also Palmer and Feldman 2017, 31; Terry et al. 2011, 77). This blinded Church officials to child sexual abuse in particular as a crime against a victim. Moreover, a taboo on discussing sexuality made it harder for victims to understand what was happening to them and come forward (Palmer and Feldman 2017, 28).

A sixth feature, not mentioned by Mathews but often identified in the literature, is a 'culture of clericalism', in which all ordained individuals are considered part of the same spiritual family, distinct from, and superior to, the laity (Keenan 2012, 42–43). Another aspect of clericalism is that, in accordance with the 'family' metaphor, bishops were considered as father figures to their priests, and therefore duty-bound to protect them (Parkinson 2014, 130).

While these institutional features go a long way in explaining the prevalence of covering up child sexual abuse, an authoritarian practices approach provides a more coherent explanation by focusing on how they all connect to the disabling of flows of information. According to psychologist Frawley-O'Dea (2004) '(s)ecrecy . . . is the acknowledged cornerstone of sexual abuse' (20). As will be demonstrated in

this chapter, all of the six features enumerated above, and their interaction with each other, not only facilitated the occurrence of child abuse; they also facilitated and encouraged secrecy, disinformation, and disabling of voice in response to allegations.

Selection, sources, and structure

This chapter initially examines one specific diocese (a bishop's jurisdiction), the diocese of Cloyne in the southeast of Ireland, with a specific focus on two accused priests (Section 2), and one province of a religious order, the Salesians of Don Bosco in the Australia-Pacific Province, focusing on three priests at the same boarding school (Section 3). Both cases were chosen because they have been the subject of multiple official investigations, so a lot of material has come to light, and because they were 'late' cases, where practices of silencing, secrecy, and disinformation persisted after the respective national Catholic Churches had adopted internal complaint-handling procedures.

Any attempt to fully describe authoritarian practices relating to child sexual abuse in the Catholic Church is at risk of succumbing to the sheer number of cases. In order to illustrate how the two case studies were part of broader patterns of behaviour, without either cherry-picking or attempting to be comprehensive, I focus on broader patterns only in the Irish dioceses and in other Salesian provinces (Section 4). Section 5 will focus on the configurations of actors involved, and more particularly the common understandings between them. Section 6 discusses the sources of vulnerability and resilience experienced by survivors of child sexual abuse seeking accountability and by journalists, whistle-blowers, and official investigators. The chapter relies primarily on official investigations either mandated by national Catholic authorities or by governments, and secondarily on media coverage and survivor accounts.

2. Conflicting statements: the diocese of Cloyne, Ireland

In January 1996, partly in response to the notorious case of Father Brendan Smyth, an expert committee of the Irish Bishops' Conference published *Child Sexual Abuse: Framework for a Church Response* (further: the *Framework Document*). The guidelines included mandatory reporting of all suspicions to the 'the senior ranking police officer for the area' as well as to the health authority (Irish Bishops' Conference 1996, 11). The *Framework Document* was intended to guide further actions of the Irish bishops and leaders of religious orders (Keenan 2012, 182), but as will be discussed

in more detail in Section 5, its status remained ambiguous because official recognition by the Vatican was withheld.

In line with its recommendations, bishop John Magee of Cloyne appointed a delegate on issues of child sexual abuse, Monsignor Denis O'Callaghan, and a deputy delegate, Archdeacon Chris Twohig. Eventually, the Cloyne diocese's mishandling of allegations of child sexual abuse by clerics became the subject of a government-mandated investigation, the so-called Cloyne Report (Commission of Investigation 2010). The investigation was sparked by the handling of complaints against two priests in particular, 'Father Ronat' and 'Father Caden', which are also the subject of this section. I have generally adopted all pseudonyms used by the Cloyne Report, for accused priests as well as alleged victims.

Disabling voice

At least four different complainants against Father Ronat were initially ignored or disbelieved. The first complaint came from a girl referred to as Ailis in 1989. She spoke to a more senior curate (assistant priest) in the same parish, who failed to document or act on her complaint (Ibid., 131). Years later, in 1995, Ailis made a formal complaint and was interviewed by Archdeacon Twohig. His report suggested that Ailis might be 'besetting' Ronat and could be seen as 'the Ophelia of Hamlet' (Ibid., 132). His record of the meeting also stated that Ailis was 17–18 at the time of the abuse, when she herself had alleged that it started when she was 15. In 1992, a former postulant (trainee nun) told her old mother superior that Father Ronat had sexually assaulted her two years earlier. The mother superior told no one and took no action (Ibid., 149, 165). In 1996, Bretta, the mother of a teenage boy referred to as Matthew made a complaint to Monsignor O'Callaghan, who concluded—apparently based on the priest's denial—that there was 'no evidence of any sexual abuse. However, the relationship does seem to have been obsessive and unhealthy' (Ibid., 140–141). In 1999 or 2000, a woman referred to as Donelle phoned Father Ronat's supervisory parish priest with a complaint about having been abused in the early 1970s. The priest reportedly 'told her not to be wasting his time unless she had very strong evidence and he then put down the phone' (Ibid., 149–150). Years later, Donelle met Monsignor O'Callaghan, who told her: 'Oh, sure, we have had kind of rumblings and rumours about Fr [Ronat] for years, girls falling in love with him and falling out of love with him and having crushes on him', perhaps as far back as 1981 (Ibid., 155). In other words, a curate, a mother superior, and a parish priest all ignored allegations of child sexual abuse by Father Ronat, and the two delegates specifically appointed to deal with such allegations treated them as cases of troubled or unrequited love.

Father Ronat himself responded more aggressively, threatening on different occasion to sue Ailis, Bretta, and yet another complainant, Caelan, for defamation (Ibid., 145, 148). He also threatened to sue the bishop, as well as a psychologist assessing

him, which clearly affected the latter's advice: his report in 1995 said that 'that there did not appear to be abuse against a minor' (Ibid., 136), but in 2009 he wrote that Father Ronat's insistence on his 'right to see the report in the event of civil litigation' had 'altered the context' of the report (Ibid., 137). Eventually, Father Ronat became the subject of complaints by eleven identified and two anonymous victims, at least eight of whom were below the age of consent (Commission of Investigation 2011, 1).

Father Caden by contrast was only the subject of one complaint. Patrick, himself a young priest in the same diocese, alleged in December 2004 that he had been abused from the age of 15 (Commission of Investigation 2010, 297). According to Monsignor O'Callaghan, Patrick's attempts to have Father Caden removed from ministry would 'render his own position in the Diocese untenable where fellow priests are concerned' (Ibid., 279). Another diocesan official, Dean Goold, got Patrick to put down in writing that he did not want to report the case to the Irish police, the *Garda* (Ibid., 280). When Patrick changed his mind weeks later, Dean Goold told him the diocese would report to the police instead. Monsignor O'Callaghan then wrote to the *Garda*, but mentioned only the complainant by name and not the alleged abuser. In other words, both diocesan officials attempted to cow Patrick, discourage further action, and protect the accused priest.

Eventually, Donelle's complaint against Father Ronat and Patrick's complaint against Father Caden jointly became the trigger for an investigation by the Church's National Board for the Safeguarding of Children (NBSC), the so-called Elliott Report. The chair of the diocese's advisory committee on allegations of child sexual abuse, a Father Gerard Garrett, wrote in response to this report that '(b)oth complainants are currently pursuing civil cases against the Bishop of Cloyne . . . Surely the Board is not so naive as to expect the litigants in these two cases to speak well of the pastoral initiatives . . . It could seem that the Board is being manipulated' (Commission of Investigation, Interdiocesan Case Management Advisory Committee 2008, 364). The 'manipulation' by Patrick and Donelle appears to have consisted in giving the investigator information on the mishandling of their own cases.

This Father Garrett also characterized the Elliott Report itself as 'defamatory' of his advisory committee. He threatened that if the report were published 'we shall have no choice but to seek remedies in either ecclesiastical or secular courts or both' (Ibid., 365). The threat was not pursued. In later evidence to the Cloyne investigation, a member of the advisory committee testified that Father Garrett, Monsignor O'Callaghan, and a member who was the solicitor for the diocese dominated the proceedings and '(i)t was not permissible to express a contrary opinion' (Commission of Investigation 2010, 11).

Disabling access to information: Father Ronat

In the official complaint Ailis and her parents made to Bishop Magee in 1995, they indicated a concern that Father Ronat might be recruiting other girls. The bishop

instructed Monsignor O'Callaghan to undertake a canonical investigation, but there is no record of its outcome (Ibid., 13, 132). The advisory committee referred to above had just been formed, in line with the *Framework Document*. According to its minutes, it concluded that Ailis was 'about 17', when the alleged abuse happened, and hence there was no 'evidence of paedophilia nor of behaviour which would qualify as child sex abuse' (Ibid., 134). Bishop Magee claimed in 2005 that the committee had recommended restricted ministry and that he had acted accordingly, but the minutes did not reflect this (Ibid., 135, 138).

Both the diocesan records and later statements by Bishop Magee and Monsignor O'Callaghan contain ambiguities and untruths regarding the independence, longevity, and information given to the advisory committee itself: '(a)ccording to the diocesan records', the panel consisted of Monsignor O'Callaghan himself, his deputy Archdeacon Twohig, two solicitors and a psychologist. However, one of the solicitors soon left the committee and the other came to be the diocese's legal advisor. The psychologist was never recorded as being at a meeting and had 'no memory of being invited to attend or actually attending this committee in 1995 or at all' (Ibid., 134).

In 1997, the existence and involvement of the advisory panel were the subject of further lying in relation to a complaint by Caelan, who had not been a minor but alleged being assaulted during confession. Father Ronat admitted to hearing confessions in a bedroom, but denied sexual abuse (Ibid., 144–145). According to Bishop Magee, Monsignor O'Callaghan told him the advisory committee had recommended restrictive ministry with no contact with schools or children, but no record of this exists. The latter claimed that the committee had meetings at his house, but that they 'were unstructured in terms of timing and minute taking'. No other members of the panel recollected any meetings after 1995, and there is no written evidence of them (Ibid., 145). The bishop did write to Father Ronat ordering him to not have contact with minors, but only the senior parish priest was told of these restrictions (Ibid., 145–150; 169).

In response to a new complaint in 2003 from Matthew, Father Ronat admitted that 'Matthew had been in his bed but denied any inappropriate behaviour of any kind' (Ibid., 141). Monsignor O'Callaghan now reported to the *Garda*, writing that 'the behaviour complained of would not amount to child sex abuse in terms of our understanding of same but the *Garda* will be in a position to determine the issue for themselves' (Ibid., 146). Matthew's statement to the *Garda* was categorized as 'matters of a non-criminal nature' and the case was dropped. When questioned in 2009, the *Garda* had three mutually contradictory explanations: that there was no evidence of a criminal offence, that Matthew had not wanted to proceed, and that the 'investigation was on-going' (Ibid., 170).

In 2005, after Donelle had also complained to the *Garda*, Father Ronat was discussed by a newly formed interdiocesan advisory committee, and described as 'a priest against whom allegations had been made about 1995. The matter was resolved to the satisfaction of the various parties and the priest is currently in restricted ministry', but a nun had recently registered 'continuing disquiet for one complainant'.

According to these minutes, and according to the chairperson's later recollection, the issue was whether Father Ronat should get promoted, which the committee advised against (Ibid., 151). Monsignor O'Callaghan's own notes of the same meeting did not mention any discussion of promotion, but by contrast mentioned two formal complaints as well as the nun's information, and concluded that '(t)here is compelling evidence of inappropriate behaviour with a number of girls in their later teens' (Ibid., 151–152). Hence, the committee was either given insufficient information, a form of secrecy disabling the committee from doing its work, or the minutes did not reflect the actual discussion, a form of disinformation by the committee itself.

In late 2005, Bishop Magee removed Father Ronat from all ministry other than saying mass in his own house (Ibid., 152). Monsignor O'Callaghan took legal advice, and transmitted to other diocese officials that they should 'on request sign a statement which should be minimal'. He added a handwritten note, 'Minimal is the key in any statement' (Ibid., 154).

Various witnesses continued to observe Father Ronat wearing clerical dress, engaging in priestly activities, and in contact with minors (Ibid., 160, 166). In January 2009, Bishop Magee finally referred Father Ronat's case to the CDF in Rome (Ibid., 165–166), which ordered a canonical trial in Ireland. After having been halted pending criminal proceedings—in which Father Ronat was acquitted—a canonical tribunal found that Father Ronat, now named in the press as Daniel Duane, should be dismissed from the priesthood. Duane appealed to the CDF twice, but lost both appeals in 2015 (Irish Catholic Bishops' Conference 2015; O'Fatharta and O'Sullivan 2015).

Disabling access to information: Father Caden

When Patrick reported Father Caden to the diocesan authorities in 2005, he enclosed a letter by Father Caden referring to his 'dark secret' and seeking forgiveness (Commission of Investigation 2010, 270). The advisory committee was not made aware of this 'dark secret' letter. It advised that 'the option of retirement might be suggested to the accused if appropriate'. If Father Caden refused, a canonical procedure should be started and referred to the CDF (Ibid., 272).

The next day, Bishop Magee met with Father Caden. He subsequently produced two written and signed accounts of this meeting. The first report, shared with the advisory committee, stated that 'Father [Caden] appeared most shocked and immediately denied the allegation. I told him that, according to the Protocols holding in the diocese, I had to ask him to step down from the position of Parish Priest . . . ' (Ibid., 274). The second account, misdated 15 September, stated that, confronted with the accusation, Father Caden 'admitted immediately the detail, with the exception of the detail indicated as "penetration" . . . He immediately offered his resignation

from the Office of Parish Priest . . . ' (Ibid., 274). In evidence to the Cloyne Commission, Bishop Magee explained the discrepancy by giving a third account. Father Caden had initially denied the allegation, but confronted with the 'dark secret' letter he asked to speak 'as bishop and priest in a confidential manner' and confessed. The note containing the denial was prepared by the Bishop on the same day, whereas the one containing the confession was written months later for the use of the CDF (Ibid., 275).

Father Caden offered his resignation on grounds of ill-health the next day. The Bishop wrote to him restricting him from engaging in priestly activities in public (Ibid., 280). As far as the general public knew, he had simply retired (Ibid., 300). Father Caden breached his restrictions repeatedly; once celebrating mass at a local school (Ibid., 296).

In late 2005, the bishop wrote to the CDF, discarding the advisory committee's draft letter based on Father Caden's denial and instead including his own account of Father Caden's admission (Ibid., 283–284). Father Caden was not told. In 2007, Monsignor O'Callaghan informed Father Caden that the CDF had confirmed the restrictions, reading out part of the decision letter but refusing to give Father Caden a copy. He also told the priest he had no right to see the documentation that had been sent to Rome and that it was too late to appeal the decision (Ibid., 290).

When Patrick's case was investigated by the *Garda*, in accordance with legal advice, Bishop Magee did not divulge Father Caden's admission of guilt in his statement (Ibid., 286). The Department of Public Prosecutions then decided not to prosecute (Ibid., 287).

Patrick left the priesthood (Ibid., 288), and in 2007 alerted the health authority (HSE) that his complaint had not been reported to them as required by the *Framework Document*. He also contacted advocacy organization One in Four, which wrote to the Department of Health and Children about this lack of reporting, which eventually led to the Elliott Report (Ibid., 100, 103, see next sub-section).

In January 2009, Father Caden was asked to undergo a psychological assessment, having been told that 'a decision on any return to ministry would depend on the outcome of this assessment'. In reality the reassessment was sparked by the scrutiny from the HSE and there was no prospect of return to ministry (Ibid., 297).

In 2009, following a complaint by a member of the public that the bishop was guilty of reckless endangerment, the *Garda* reopened the investigation. The diocese now provided *all* documentation (Ibid., 301), and John Magee now also gave a complete account of Father Caden's admission of guilt (Ibid., 286). In 2010, Father Caden, identified as Father Brendan Wrixon, was convicted on three counts of gross indecency in 1982–1983, almost certainly relating to Patrick. He pleaded guilty to one count and was given a suspended sentence (Roche 2011).

Covering up the cover-ups: secrecy and lying to and about investigations

In 2003, the diocese of Cloyne was reviewed by an outside consultant, Dr. Kevin McCoy, as part of a pilot evaluating the implementation of the *Framework Document.* McCoy believed he had been given 'all files held by the delegates, solicitors, Bishop and others', but it later transpired his information was incomplete (Commission of Investigation 2010, 56–57, 230–232). McCoy concluded in August 2004 that the *Framework Document* was only partially being followed by the Cloyne diocese: there was no 'fully functioning advisory committee', no awareness-raising strategy and an absence of structures (Ibid., 57–58). The report was not published or disseminated, nor even shared with the solicitor member of the advisory committee who asked for it on three occasions (Ibid., 59). Both Bishop Magee and Monsignor O'Callaghan later claimed they never read the full report until 2009, although the Bishop had received a copy in front of witnesses (Ibid., 59).

Prompted by a damning report on the diocese of Ferns (Murphy et al. 2005), Ireland's Ministry for Children wrote to all Irish bishops and ordered an HSE audit on diocesan child protection practices. Bishop Magee wrote back that the *Framework Document* guidelines were 'fully in place and are being fully complied with' (Commission of Investigation 2010, 97). Like most Irish bishops, he refused to fill in the statistics section of the HSE questionnaire, citing confidentiality concerns (Ibid., 98). He did report that all allegations were reported to both the local HSE and the *Garda*. At a meeting with the local HSE representative, Bishop Magee apologized for the 'oversight' regarding Patrick. Monsignor O'Callaghan's private notes recorded that 'the Bishop spoke in good faith' but that he himself 'was aware that it was not an oversight!' (Ibid., 101). The Cloyne Report eventually revealed that, other than Ailis' complaint, which had been reported by the *Garda*, no cases were ever reported to the HSE between 1996 and 2008 (Ibid., 140).

In February 2008, Ian Elliott, the newly appointed Executive Director of the NBSC received a copy of the One in Four letter about Patrick's complaint not being forwarded to the HSE, from Ministry of Children officials. He asked Bishop Magee for documentation on the Caden case, but found the papers he was given incomplete. Contacted by a child protection helpline, he also met with Donelle and decided that a full investigation of both cases was warranted (Commission of Investigation, Elliott Report 2008, 342–343; Ibid., 292–294).

The Bishop told Elliott, as he had told the police, that Father Caden 'had not admitted the offences to him' (Commission of Investigation 2010, 293). Monsignor O'Callaghan claimed that Patrick had been unable to provide any details about the abuse, 'and as a consequence, Bishop Magee was . . . unable to speak to the alleged perpetrator in order to remove him from ministry at that time'. However, the Bishop's own record of the same meeting recorded allegations of 'oral sex, penetration and masturbation' (Ibid., 294).

Monsignor O'Callaghan and the advisory committee were 'outraged' by the first version of the Elliott Report (Ibid., 107). Bishop Magee once again claimed that Father Caden had never admitted to the abuse (Ibid., 294; Commission of Investigation, Diocese of Cloyne 2008, 355). Magee and O'Callaghan also quoted, in their response to Elliott, from the McCoy Report's preface, which praised the 'ready co-operation of the Diocese', but they omitted its main finding that the *Framework Document* procedures were not fully followed (Commission of Investigation, Diocese of Cloyne 2008, 359).

After an apparently successful mediation, Bishop Magee accepted the report, which was published with minor alterations on the diocese's website in December 2008 (Ibid., 108). It found the diocese's child protection practices 'inadequate and in some respects dangerous' (Commission of Investigation, Elliott Report 2008, 342). Based on this finding, the Irish government instructed the committee investigating child sexual abuse in the Dublin archdiocese to also investigate Cloyne (McGee 2009). In February 2009, Bishop Magee requested that an apostolic administrator take over the running of the diocese. In March 2010, after the Cloyne report's damaging findings, including an allegation that he himself had on one occasion engaged in inappropriate behaviour (Commission of Investigation 2010, 319–335), he resigned.

Degree of control

An unequal power relation between the child and the offender is an almost inevitable feature of child sexual abuse, and even more so when the offender is a spiritual leader such as a Catholic priest in his own parish, therefore seen as a moral authority figure and an arbiter of right and wrong behaviour. The fact that none of Father Ronat's many victims came forward straight away suggests that either the priest himself or the Church more broadly exerted considerable social and psychological power over them. Moreover, victims often thought that they would not be believed (Ibid., 336), which, given the initial reception of four different complainants by various clerical professionals in the diocese, was sadly an accurate assessment in Father Ronat's case.

By the time they were adults, and regardless of whether they continued to be Catholics, Father Ronat's victims could not be considered physically or hierarchically under the control of the offender or indeed of the Catholic Church. But even then, as the Cloyne Report describes, '(m)ost complainants continued to live in the small towns and parishes in which they were reared and in which the abuse occurred . . . the alleged abuser was usually still in the area and still held in high regard by their families and the community. This was a powerful inhibitor on the complainants revealing the abuse' (Ibid., 336). Father Ronat in particular continued to be a 'very present figure in the community' (Commission of Investigation 2011, 160, see also 150), long after the diocese had become aware of multiple allegations and formally but quietly restricted his ministry.

Patrick was a priest himself when he first made his allegations, so he *was*, in canonical law, under the hierarchical control of the bishop. There is no evidence that Bishop Magee himself used his power to deter Patrick, but Monsignor O'Callaghan did refer to his position as 'untenable', and Dean Goold was quick to extract a statement that he would not report to the *Garda*. He needed to make the life-changing decision to leave the Church to be able to freely pursue his case.

The advisory panels active in 1995 and again from 2005 to 2008 clearly lacked independence: they were controlled by the clergy and the solicitor for the diocese. Diocesan officials did not exercise physical or hierarchical control over other relevant actors such as the *Garda*, the HSE, the psychologists involved, or the investigators McCoy and Elliott. In the Father Ronat case, a psychologist was probably cowed by Father Ronat's threat of legal action, and in both cases the Church's moral pressure may conceivably have had an effect on the *Garda*'s handling of the complaint, but there is no smoking gun evidence of this.

3. Moving priests around: the Salesian Order in the Australia-Pacific Province

The Salesians of Don Bosco are a global religious order devoted to looking after the young through schools and youth centres, 'governed by the rector major and a general council based in Rome'. Its Australia-Pacific Province is governed by an official called the Provincial, aided by a Provincial Council (Royal Commission 2017, Vol.16.2, 27). The Salesian College at Rupertswood, Sunbury in the state of Victoria became notorious: five priests and two unordained brothers were eventually convicted on charges of child sexual abuse committed while at the school over a period between the 1960s and 1993, with one other too ill to stand trial. It was not even the worst-affected school in Australia (Ibid., Vol.16.2, 90–91), but it is a useful case to study because of the multiple investigations into the Salesian order's *responses* to allegations. The case study gives some attention to earlier decades, but focuses on the period from 1996, when the Australian bishops set up *Towards Healing,* an internal mechanism for dealing with past or ongoing child sexual abuse by the clergy, to which the Australian Salesians also formally subscribed. The cases study focuses on three priests: Fathers Klep, Ayers, and Fox (real names). Victims are either referred to by their real names or by the three-letter codes used in *Towards Healing* procedures.

Disabling voice

Pupils at Rupertswood who came forward many decades later have testified that in the 1960s, 1970s, and 1980s they 'considered it was just impossible to speak to anyone about such offending' against 'a member of the Catholic clergy' (Australian Broadcasting Company 2012; Royal Commission, Reasons for sentence: Rapson

2015). Some pupils who did report abuse, to their parents or to the vice-principal or rector at the school, fared badly, being disbelieved and discredited. A boy named Mike Scull, who was sexually abused by Father Ayers between 1965 and 1967, 'repeatedly ran away from Rupertswood to escape the assaults. I told my mother and the police but neither believed me'. He was forced to return and eventually expelled (Scull 2012). Luke Quilligan, who was raped by Father Fox in the late 1970s, had gone to the school principal when the abuse occurred, but had not been believed (Sheehan 2009; Parkinson, Appendix A, 2010). A pupil referred to as 'GHH' told Father Klep in 1987 about having been abused by a Father Rapson, and was subsequently abused by Klep himself (Royal Commission, Contact report of GHH 2014).

Another boy, abused by Father Klep in 1986, was believed by his mother, who took the matter up with the Salesian order. The Provincial at that time, Father Bertagnolli, interviewed various parents, but later described the mother as a 'religious fanatic' and 'somewhat unbalanced and disturbed' (Royal Commission, Summary of information held on Klep 2006). His successor Father Fox later wrote that he felt that 'the whole allegation has been manufactured' by the mother (Royal Commission, Statement by Father Julian Benedict Fox n.d.).

Even after the adoption of *Towards Healing*, survivors of sexual abuse or their representatives experienced being disempowered, discredited, or subject to slander. When Mike Scull, the above-mentioned victim of Father Ayers, made a claim for compensation in 2000, the assessor, a former police officer, initially accused him of lying. Scull's spouse was excluded from meetings with *Towards Healing* staff, and both she and his social worker were excluded from a crucial final meeting, to which the Salesians brought legal presentation, while Scull had not been told that he could bring a lawyer (Scull 2012).

Even into the twenty-first century, Catholic officials often believed the word of a priest over that of his accuser even when there was other incriminating evidence. In 2002 for instance, Provincial Ian Murdoch described convicted sex offender Father Klep as 'excellent with young people', and while in some doubt, 'prefers the credibility of Fr FK's denial to that of GHD's curious story' (Royal Commission, Notes from interview between CCI's lawyer and Father Murdoch 2002). Likewise, in a compensation claim against the then twice-convicted Father Klep, *Towards Healing* assessors found that 'none of the allegations by GHB are proven to the required standard and therefore not substantiated' (Royal Commission, Summary of assessment of allegations by GHB 2007), but nonetheless paid compensation (Royal Commission, Data Survey Summary—Klep 2017). In 2006, the Catholic Church Insurance's lawyers wrote to the Provincial—in the context of Fox's investigation or lack thereof in the Klep case—that 'we should note that Fr Fox himself has had certain allegations, *presumably unsubstantiated*, made against him and is presently in Rome' (Royal Commission, Summary of information held on Klep 2006, italics mine). At that time, Fox's unwillingness to return to Australia to answer allegations had been reported in the press, and the Church had already paid compensation to at least one victim (Daly 2004b; Parkinson, Appendix A 2010, 15).

Beyond survivors, two protagonists in bringing attention to the cover-up of sexual abuse at Rupertswood experienced being discredited by the Salesians. Professor Parkinson, whose encounters with the Salesians will be discussed in more detail below, had been commissioned by the Church's National Committee to review the *Towards Healing* procedures. He was accused by Provincial Moloney of being on a 'vindictive witch hunt' and 'a crusade against the Salesians' (Parkinson, Appendix E 2010). Reese Dunklin, an American journalist who first broke the story about Father Klep's continued contact with children after being convicted, was slandered in a letter by the same Provincial Moloney, claiming that he 'had since been convicted and jailed for sexual abuse of minors' (Parkinson 2012, 15), which turned out to be entirely untrue. In sum, both victims and whistle-blowers found themselves attacked, disbelieved, or slandered by successive Provincials of the Salesian order, by the very *Towards Healing* assessors whose job it was to repair the trauma caused by past abuse, and by the Catholic Church's insurers.

Disabling access to information: Fathers Klep and Ayers

When most of the abuse occurred at Rupertswood, between the mid-1970s and 1990, it was secret, but not something of which other pupils and priests there were entirely unaware (Daly 2004a). When Provincial Bertagnolli was first faced with allegations against Father Klep in 1986, he appeared to disbelieve them, but nonetheless terminated Klep's term as principal early (Royal Commission, Letter from CCI's lawyers to CCI 2014) and sent him to the United States and Rome for study 'and to address any issues he may have had regarding the allegations' (Royal Commission, Summary of information held on Klep 2006, citing Father Bertagnolli's recollections). After his return, Father Klep was appointed first as rector of a theological college, i.e. training young adults for priesthood (Ibid.), and then as rector of a boys' hostel and youth centre in Melbourne (Ibid.; Daly 2004a).

In 1994, Klep was convicted on four counts of indecent assault against two brothers, and given a community service sentence (Dunklin 2004). After Klep's conviction, the Provincial commissioned a psychological assessment by Encompass, a Catholic institution. The Program Director remained 'suspicious about this man's truthfulness and whether or not the activities as alleged occurred', and advised that Klep should be kept away from children (Royal Commission, Encompass Report n.d.) Even more remarkable than this hesitant conclusion about a convicted sex offender is the psychologist's subsequent statement: 'I hear unofficially that many who have dealt with this man, have been quite suspicious of him'. This veiled statement suggests that Klep's sexual abuse may have been widely suspected in Catholic circles. According to the Salesian files Klep continued to serve as rector of the hostel and youth centre during his community service, before being appointed bursar at a training and retreat centre for adult clergy (Royal Commission, Salesians appointment History for Klep n.d).

In May 1998, 'the police began investigating Klep' again, but he had been moved to work at Moamoa Theological College in Samoa by Provincial Father Murphy one month earlier (Royal Commission, Summary of information held on Klep 2006). There is no firm evidence that Klep was moved expressly in order to evade the Victoria police, but in the visa application for Samoa, Klep signed and Provincial Murphy witnessed a false declaration that he 'was of good character and never convicted of a criminal offence' (Parliament of Victoria 2013, 444). Murphy later claimed he signed the statement without reading it (Parkinson, Appendix A 2010, 5). The Victoria police tried to serve a criminal summons on Klep in August 1998 (Royal Commission, Letter from CCI's lawyers to CCI 2014; Parliament of Victoria 2013, 444).

In 2000, the wanted priest was promoted to 'priest in charge' of the Samoan college (Royal Commission, Salesians appointment History for Klep n.d.). Meanwhile, a 'victim B' made another complaint against Klep to the *Towards Healing* process (Parliament of Victoria 2013, 444). In the context of this settlement in 2003, formal restrictions were set out on Klep's ministry, prohibiting any work that might include contact with children, including celebrating mass; he was demoted again to bursar.

In June 2004, *Dallas Morning News* reporter Reese Dunklin published an article with a photograph of Klep in Samoa, surrounded by children and handing them sweets, and described Klep's contact with two adolescents to whom he had given money (Dunklin 2004). To avoid deportation proceedings, Klep returned to Australia, where he was arrested and convicted in December 2005. In May 2006, the Salesians applied to the Vatican for a canonical dismissal, and in November 2008 Klep was dismissed from the priesthood (Parliament of Victoria 2013, 445).

Dunklin's revelations were followed by a cascade of mutual blame-shifting, in each of which at least one of two actors must have been untruthful. The Victoria police said it had 'understood that there was an arrangement with Fr Klep's superiors that they would be contacted if Fr Klep returned to Australia', yet Klep had been back three times between 2000 and 2004 'without police being notified' (Parliament of Victoria 2013, 444). Provincial Murdoch by contrast claimed that he was 'not aware of the police having ever informed the Salesian Order of any outstanding warrants for Father Klep' (Associated Press International 2004). He also claimed that steps had been taken so Klep would not be undertaking activities that would pose a risk to children (Royal Commission, Press Release of Fr. Ian Murdoch 2004), but the secretary of the Archbishop of Samoa by contrast claimed that in their files 'nothing of this kind of matter are found' (Parkinson, Appendix B 2004). Victoria Justice Minister Ellison claimed that the Australian federal police had informed its Samoan counterparts of their interest in Klep in 1998 (McGuirk 2004), but the Samoan authorities denied this (Zwartz 2004).

Father Ayers had already been moved to Samoa in 1992. In 2000, Ayers' victim Mike Scull was told by Provincial Murdoch that 'there was no way of bringing him back'. Scull then discovered by accident that Ayers was in Australia, visiting the Salesian headquarters, without himself or the police having been notified

(Daly 2004a). He contacted the police and the Ministry of Foreign Affairs, but—in his account—Ayers 'was flown back before further action could be taken' (Parkinson, Appendix A 2010, 12).

In 2009, Provincial Moloney responded to a letter by a victim of Ayers that when the priest became known as 'a real danger to young people', he was 'withdrawn from all contact with young people' and sent to Samoa (Name Withheld 6 2012). Yet later that year, Provincial Moloney wrote to Ayers, who had apparently sent him a photograph of his birthday celebration, that 'there is no way I can publish a photo of you and young people in The Salesian Bulletin', although the situation was 'under control' (Family and Community Development Committee 2013, 6). The Salesians did eventually assist the police, but Ayers was found unfit to travel and died on Samoa in April 2012 (Parliament of Victoria 2013, 445–446).

Disabling access to information: Father Fox

Father Fox managed to keep his abusive behaviour under wraps for decades. He served as Provincial in the early 1990s, and no allegations against him emerged until 1999. In 2000, he became Rector of a theological institution in Suva, Fiji; again there is no explicit evidence that this move was prompted by the allegations (Cooper and Russell 2015; Royal Commission, Letter from CCI's lawyers to CCI 2014, 6).

In 2003, Provincial Murdoch wanted Fox to go through at least six months of psychological assessment and treatment to determine whether he could return to full ministry (Parkinson, Appendix A 2010, 14–15), but instead, the Salesian headquarters in Italy organized a one-week assessment at a Catholic retreat in Trento, which found that the allegations against Fox 'had no reasonable foundation' and were made when 'there was a general climate of attack and of a relatively open attempt to economically exploit the Hierarchy and Religious Institutions' (Ibid., 14–15).

A three-way meeting ensued in Rome between Father Fox, Provincial Murdoch, and Vicar General Father Luc Van Looy, the Salesians' second-ranking official. In a later letter, Murdoch recollected that he expressed his very serious concerns about Fox, based on extensive documentation (Parkinson, Appendix C 2004). He was then 'unexpectedly . . . asked whether it would be an acceptable solution to transfer Fr Julian Fox to another province'. Murdoch 'regarded this as totally unacceptable', insisting that Fox should return to Australia to face the accusations. In Murdoch's version, he reluctantly assented to Fox staying in Rome (Ibid.; also Daly 2004b). Rector Major Pascual Chavez, the global head of the Salesian order—who had not attended the meeting—later gave a different version: it was Murdoch who gave Fox two options, return to Australia and face accusers, or stay in Rome in an administrative position (Parkinson, Appendix D 2010). Regardless which version 'was at variance with the truth' (Parkinson 2012, 8), Fox remained in Rome.

The investigation into Fox's abuse of Luke Quilligan was closed when the latter died in 2005 (Ibid., 7). In 2009 Fox, having been described in the Australian press as a sex offender, gave a lecture at a boys' secondary school in Kildare, Ireland. In 2012, an

Australian documentary featured a fresh allegation of rape (Australian Broadcasting Company 2012). Eventually, after the Victoria police had apparently 'been negotiating with the Catholic Church', for nine months, Fox returned to Australia in April 2013 to face charges of indecent assault against four boys (Sydney Morning Herald 2013; Deery 2015). He was convicted in 2015.

Disabling access to information: obstructing investigation and publication

Professor Parkinson, a family law specialist, was invited to review the *Towards Healing* procedures in 1999 and again in 2009. In the course of a second review, alarmed by the Salesians' responses to past abuse, he wrote to the National Committee of Professional Standards which oversaw *Towards Healing* to urge an 'independent public inquiry', which he volunteered to undertake. Provincial Moloney made a number of documents available to Parkinson, but wrote to the Committee's co-chair: '(m)y starting point will be, however, that there is to be no public exposure of the Salesians—funded by the Salesians and directed by Professional Standards!' (Parkinson 2013). In a difficult meeting, Provincial Moloney remained resistant, and Parkinson threatened to publicly call for a government inquiry. The Committee co-chairs then confirmed in writing that Parkinson would write a report on the Salesians, which was to be made public (Parkinson 2012, 9).

In late April 2010, a draft report was shared with the co-chairs and Provincial Moloney (Ibid., 10), which the latter found 'full of innuendo'. He did 'not wish to have any further contact with Professor Parkinson, or this process' (Parkinson, Appendix E 2010). The report, containing much the same information regarding the handling of Ayers, Klep, and Fox as described above, found that 'the Salesians did not move sex offenders overseas to avoid justice', but also that 'there was a culture of minimisation', and that no proper inquiry was conducted in any of the cases (Parkinson 2010, Appendix A 16–18). Provincial Moloney wrote to the co-chairs, 'questioning 25 issues' in the report and resisting publication (Parkinson 2012, 9). After further consultations it was agreed that a summary of the report would be made available on the National Committee's website (Ibid., 11), but Parkinson found the two-page summary he received six months later 'wholly inadequate' because it 'glossed over the very serious failures of the Salesians' (Ibid., 11). Parkinson wrote a more detailed summary, and Moloney wrote a response, but Parkinson and the National Committee now agreed that publishing the summary with Moloney's response would be inappropriate, creating a deadlock (Ibid., 12). Parkinson then wrote a public letter to the Attorney-General for Victoria, calling for an independent public inquiry (Ibid., 13), one of the impetuses for the subsequent Victoria parliamentary inquiry. Eventually, the Parkinson report was published as an Appendix.

Degree of control

At the time the abuse took place, the control that the Salesian priests running the Rupertswood school had over pupils was very nearly absolute: it was a boarding school until the late 1990s, which meant that the children had no daily access to their parents or other adults outside the school. After they had left school, they were no longer under the control of the Salesian order. However, there were clear power differentials between the victims and the order: the pupils typically came from poor family backgrounds, and in some cases the abuse disrupted their education and led to mental health issues. As described above, the *Towards Healing* process too was sometimes experienced as disempowering, because they were not clearly told what the process was and what their rights were. Professor Parkinson did not suffer from any such restraints: while having initially been commissioned by Church authorities, presumably for a fee, he was not dependent upon them and eventually fell out with them.

4. Broader patterns in Irish dioceses and in the Salesian order

In order to demonstrate how the events relating to Fathers Ronat and Caden in Cloyne, and to Fathers Klep, Ayers, and Fox at Rupertswood were part of broader patterns of behaviour, I focus on broader patterns only in the Irish dioceses and in other Salesian provinces. This does not imply that there is anything specifically Irish or Salesian about the prevalence of such practices. On the contrary, an examination of official inquiries, for instance in Australia (Royal Commission 2017, Vol.16.2), France (Commission indépendante sur les abus sexuels dans l'Église 2021), Germany (Kowalski 2018), the Netherlands (Deetman et al. 2011), and the US (Terry et al. 2011), as well as media coverage from Latin-America and Africa, show many similar patterns of behaviour in other dioceses and religious orders as well. The section ends with a discussion of the Vatican's attitudes and actions during the relevant period.

Disbelieving, dismissing, discouraging victims, whistle-blowers, and investigators

The experiences of the complainants against Father Ronat, who were initially disbelieved, dismissed, or discouraged from complaining were reflective of those of many others. A Cloyne complainant referred to as Nia initially saw the abuse by a 'Father Corin' dismissed as 'over-familiarity' (Commission of Investigation 2010, 176). A boy in the diocese of Ferns who had spoken to the bishop confidentially saw his statement passed on to the offending priest (Murphy et al. 2005, 81). According to

a report on the Dublin archdiocese too, '(c)omplainants were often met with denial, arrogance and cover-up . . . the attitude to individual complainants was overbearing and in some cases underhand' (Commission of Investigation 2009, 10). Complaints that were either anonymous or not strong and explicit enough were ignored (Ibid., 8); and one family was persuaded to drop their complaint to the *Garda* (Ibid., 14). A number of Dublin victims were 'ostracised both by the clergy and their fellow parishioners' after complaining (Ibid., 639).

Likewise, the Rupertswood experience was echoed at other Salesian schools, and into the 2000s. In 2000 in Costa Rica, Salesian school director Father Macal alerted neither the parents nor the police when a teenage girl reported her molestation by a priest (Dallas Morning News 2004c). In 2001, two Belgian boys *were* believed by the deputy director of their school, but the Salesians successfully dissuaded the boys' parents from pressing charges. The priest was transferred to another school (Elbagir et al. 2019).

In Cloyne and at Rupertswood, internal investigators mandated by the Church itself were treated by clerical officials as vindictive and unfair in their judgement. In two other Salesian cases, internal whistle-blowers believed they were harmed in their career. School psychologist Alejandro García said he 'ultimately was fired for complaining too forcefully' about abuse by a Father Manzo, while the priest himself was moved by Mexican Provincial Pascual Chavez (Dallas Morning News 2004d). The deputy director of the Belgian school mentioned above believed that his decision to report the abusive priest caused him to be 'forced to leave the school in Ghent and work more than 100 miles from his home' (Elbagir et al. 2019).

While the slander against journalist Reese Dunklin may have been unique, hostility to journalists investigating clerical abuse was voiced at the highest levels of the Church. Mexican Cardinal Oscar Rodriguez, a Salesian, accused US newspapers in 2002 of 'a persecution against the church', saying the press had acted with 'a fury which reminds me of the times of Diocletian and Nero and more recently, Stalin and Hitler' (Carroll 2002). In the same year, Cardinal Ratzinger, the later pope Benedict XVI, said he was 'personally convinced that the constant presence in the press of the sins of Catholic priests, especially in the United States, is a planned campaign . . . it is intentional, manipulated, that there is a desire to discredit the Catholic Church' (O'Gorman 2010, 3,044–3,062).

Bad, conflicting, and missing records

The Cloyne cases were characterized by bad record-keeping in general, and in Father Caden's case even by the deliberate creation of conflicting reports. Both bad record-keeping in general and occasional falsification or withholding of records reflected broader patterns in Irish dioceses as well as in the Salesian order. In Dublin, while the person charged with investigating abuse created 'comprehensive accounts', a 'number of other Archdiocesan personnel compiled virtually no contemporaneous written

reports' (Commission of Investigation 2009, 23). The Ferns report also noted the 'failure of successive Bishops to create and preserve proper records' (Murphy et al. 2005, 255). A Dutch investigation found that the Salesian archive in the Netherlands contained 'virtually no records, minutes, discussion notes or correspondence which can be directly linked to the reported incidents' and concluded that it seemed 'obvious that there has been a rigorous "purge" of information at some stage' (Deetman et al. 2011, 255).

Limiting information flows

In the Cloyne diocese, complainants were 'never told by the diocese that there were other complaints about the same alleged abuser' (Commission of Investigation 2010, 337). In Dublin too, '(t)ypically complainants were not told that other instances of child sexual abuse by their abuser had been proved or admitted' (Commission of Investigation 2009, 16, see also 10, 77, 645). Moreover, whereas in Cloyne Monsignor O'Callaghan was almost always involved, in Dublin '(a)s problems emerged, Archbishop Ryan got different people to deal with them. This seems to have been a deliberate policy to ensure that knowledge of the problems was as restricted as possible' (Ibid., 11).

Among the Salesians too, the practice of sharing as little information as possible even between officials of the order went beyond the Australia-Pacific province. When in 1994 a Dutch priest referred to as SDB11 had to be withdrawn from a parish because of a sexual harassment allegation, the Provincial informed his colleagues only that the priest had 'lost the confidence of some parishioners' and that he would now 'be given every opportunity to regain his spiritual balance' (Deetman et al. 2011, 244). A Salesian headquarters representative was told about SDB11's 'tendency towards exhibition' (Ibid., 258), but not that the Province had known about SDB11 exposing himself to under-age boys for at least a decade (Ibid., 245–246).

Fathers Ronat, Caden, Klep and Ayers were all restricted in their ministry so as to avoid contact with minors, but with very few people told of the restrictions it was easy to violate them. The Murphy Report recognized the practical dilemma: 'pastoral work by a child abuser . . . is impossible if the offender's proclivities are widely known. If however the proclivities are not widely known, supervision of the offender becomes almost impossible' (Commission of Investigation 2009, 20). This was all the more true when a priest was moved to a different location. In the Dublin diocese, there was a regular practice of 'moving around of offending clerics with little or no disclosure of their past', both within and beyond the diocese itself (Ibid., 9, 13, 17–18). The Deetman inquiry (2011) in the Netherlands broadly referred to this as a 'tried and tested way of avoiding too much commotion' (254). The above-mentioned SDB11 was moved through three different Dutch dioceses without any information about his history or restrictions, which he continued to violate until the press found out in 2010 (Deetman et al. 2011, 247).

Lying to, by, or about psychological assessments

The case studies revealed a psychologist being intimidated by Father Ronat, a victim's parent being lied to about Father Ronat receiving psychological treatment, information being withheld both by and from Father Caden in two different psychological assessments, a surprisingly hesitant assessment of convicted sex offender Father Klep, and a very brief and clearly biased assessment of Father Fox. Bishops, provincials, and school principals often commissioned psychological assessments of priests against whom allegations had been made. They almost invariably turned to Catholic institutions for such assessments, which regularly resulted in withholding of information or giving false information by, to, or about psychological assessments. In the diocese of Dublin, 'in some cases, full information was not given to the professionals or the treatment facility about the priest's history . . . Nevertheless, these reports were sometimes used as an excuse to allow priests back to unsupervised ministry' (Commission of Inquiry 2009, 19). In Ferns too, psychological experts were not always fully informed, and when they recommended restrictions, the bishop was 'unable or unwilling to implement the medical advice which he received' (Murphy et al. 2005, 251).

Among the Salesians too, psychological assessment and treatment was often surrounded with secrecy, underreporting, and misreporting. When Father Peralta in Peru, having faced multiple accusations from two schools, was sent to an Argentinian treatment centre, '(t)hey sent back reports that there was nothing to all this', according to the Peruvian Provincial. As usual, it is difficult to establish the source of disinformation: whether the reports did indeed contradict a history of abuse, or whether the provincial fabricated this finding (Dallas Morning News 2004a). In the Dutch case of SDB11, the therapists were fully apprised of the facts, and eventually advised in 1997 that he be moved to 'a secure psychiatric unit' (Deetman et al. 2011, 245), but their advice was ignored by the provincial.

Secrecy and lying to or about investigations

The Dublin inquiry was 'gravely disrupted' by an injunction from the former archbishop, Cardinal Connell, against the Commission reading any of the 5,000 documents which might be subject to legal privilege. In the Ferns diocese as in Cloyne, the bishop lied to the police about a priest's admission of guilt (Murphy et al. 2005, 130). In two Latin American cases, Salesian officials lied to the police about their knowledge of a fugitive's whereabouts (Dallas Morning News 2004b; Case and Egerton 2004). The Ferns, Dublin, and Cloyne inquiries did not receive any cooperation from the Vatican (Commission of Investigation 2009, 37), and the Salesian order's Rome headquarters were only slightly more forthcoming: in response to the Dutch inquiry, 'the congregation itself was to select the documents to be made available, which the

investigator would not be permitted to handle or read in person. The relevant passages would be read aloud to him, in translation if necessary. No copies would be furnished' (Deetman et al. 2011, 255).

Avoiding the police

There are many Salesian cases where priests were moved as soon as allegations emerged. A Salesian school administrator in Peru was moved to a treatment centre in Argentina and then on to Chicago. When four new complaints led to a police investigation there, he was moved on to New Jersey and then Mexico City. Just as Provincial Murdoch had done for Father Klep, the Peruvian Provincial Vera signed a statement of good behaviour, this one explicitly clearing the priest for work with minors (Dallas Morning News 2004a). A Chilean Salesian bishop moved his personal secretary, a Father Carrera, to a Mexican treatment centre, then to Italy, and eventually to Bolivia after an accusation by a thirteen-year old. His new employer, another Salesian bishop, had been told Carrera 'had a legal problem' and asked no further questions (Dallas Morning News 2004b). A Salesian dorm supervisor in a children's home in Leon, Mexico was sent to Guinea, West Africa and then to Oaxaca, Mexico, where the Salesian bishop claimed not to know of his past (Dallas Morning News 2004d). In another case, Belgian Salesian Luk Delf, who had been convicted with a suspended sentence and restricted from contact with minors, was sent to work in a refugee camp in the Central African Republic, where he reoffended (Elbagir et al. 2019).

Vatican responses

In coming to terms with the widespread impulse of church officials to impede accountability for clerical child abuse, it is useful to examine the signals sent to them by the top of the spiritual and organizational hierarchy of the Catholic Church. The Vatican's response to the Irish *Framework Document* is instructive. In 1997, the Papal Nuncio—the Vatican's ambassador to Ireland—wrote a strictly confidential letter to the bishops relaying the Vatican's Congregation for the Clergy' (CFC)s view that parts of the text appeared 'contrary to canonical discipline'. He objected in particular to the requirement that all complaints should be reported to the civil authorities. The letter indicated that the CFC 'could invalidate the acts of the same Bishops who are attempting to put a stop to these problems', which could be 'highly embarrassing and detrimental' to the diocesan authorities (Commission of Investigation 2010, 51). The credibility of this veiled threat was strengthened by a much publicized case in the US in 1993, where the CFC had done just that: reinstating a Pittsburg priest who had been suspended by his bishop, after a procedure of which the relevant diocese was not even made aware (Cafardi 2008, 39).

The Nuncio's letter went on to describe the *Framework Document* as 'merely a study document', and to exhort the bishops that 'the procedures established by the Code of Canon Law must be meticulously followed' (Commission of Investigation 2010, 52), despite the lack of clarity of these procedures. The Vatican's rejection of the *Framework Document* provided leeway to Irish clerics such as Monsignor O'Callaghan to ignore the provisions of which he disapproved, such as mandatory reporting to the police. In a meeting in 1999, Cardinal Castrillon Hoyos, the head of the CFC, moreover told the Irish bishops to '(b)e fathers to your priests, not policemen' (Keenan 2012, 194).

The same Cardinal, two years later, wrote a letter to a French bishop who had refused to report an offending priest: 'I am pleased to have a colleague in the episcopate who, in the eyes of history and of all other bishops in the world, preferred prison to denouncing his son and priest'. The bishop eventually received a suspended sentence, while the priest was convicted to eighteen years in prison for assaulting eleven minors (Heneghan 2010).

The Vatican also refused to give any collaboration to the Irish government's investigations. In the Dublin investigation, both the CDF and the Papal Nuncio repeatedly failed to reply to requests for relevant documentation, but did complain through diplomatic channels about having been approached (Commission of Investigation 2009, 37). When these reports resulted in a public outcry, the Pope in turn blamed the Irish bishops: 'you and your predecessors failed, at times grievously, to apply the long-established norms of Canon Law to the crime of child abuse . . . grave errors of judgment were made and failures of leadership occurred' (as cited in Keenan 2012, 196).

The Irish bishops' experience was not unique. In the US, the Gauthe case in Louisiana in 1985, possibly the first civil lawsuit against a child-abusing priest, was followed by a criminal prosecution and media reporting exposing a much bigger problem. Canon lawyer Tom Doyle, employed at the Vatican Embassy in Washington, D.C. at the time, proposed a pro-active crisis intervention team to assist bishops, advising reporting to the police and openness towards the media. The proposal was shelved, and Doyle was let go by the Embassy the next year (Breslow 2014).

The Australian Church never explicitly asked for recognition of *Towards Healing*, thereby knowingly 'acting outside, and sometimes contrary to, canon law'. Attempts to persuade Vatican officials to change canon law on clerical abuse failed (Royal Commission 2017, Vol.16.2, 324–328). On the contrary, auxiliary bishop Geoffrey Robinson, appointed to coordinate the Australian Church's response to child sexual abuse, was rebuked when in a public meeting in 1996, he voiced his concern about the lack of support from Rome. He was then sent two letters from the Vatican, one apprising him that the Holy Father had been informed of his remarks, and one suggesting that 'documentation' was being gathered by the CDF 'for review', suggesting a breach of canonical law on his part (Keenan 2012, 216). Robinson eventually resigned.

In the US, the bishops' conference eventually formulated a national policy in 2002, including a provision on mandatory reporting to civil authorities. It met with the

same fate as the Irish bishops' initiative: parts of its *Charter*, including the mandatory reporting provision, were rejected by the Vatican (Frawley-O'Dea 2004, 17).

5. Configurations of actors and common understandings

In Ireland and in other traditionally Catholic countries and regions, Church and state have historically been very much intertwined. This came with a culture of deference by agents of the state to Church authorities at all levels, as well as a pragmatic outsourcing of child welfare and education to the Church (Keenan 2012, 178). Hence, in the twentieth century, Church officials sometimes successfully influenced police and other authorities to not investigate or even cover up cases of clerical abuse (Commission of Investigation 2009, 24). In the late cases discussed in this chapter, there is no longer strong evidence of such Church-state configurations. Where the Irish *Garda* (definitely) or the Victoria police (maybe) lied about its efforts to investigate allegations, the most likely explanation appears to be that they were covering up internal bureaucratic mistakes or inertia, not acting on behalf of Church officials.

It was not just state agents that were historically subservient to the Catholic Church and inclined to believe priests over children: this was also true for Catholic communities. Survivor-activist Colm O'Gorman, from the Ferns diocese, wrote that he could not speak out about his abuse when it happened in the 1980s because that 'would destroy the very fabric of the society I lived in' (O'Gorman 2010, 780). Australian psychologist Alex Nelson likewise testified to the Australian Royal Commission that '(m)any Catholics have been inducted, through family life and education at Catholic schools, into doing without protest what the priest says or asks of them . . . voicing a complaint would be likely to bring disapproval from their own family members and from others in the local parish' (Royal Commission 2017, Vol.16.2, 625). Today such reverence for the priesthood may still persist, but it has dissipated in many communities, in part precisely because of persistent child sexual abuse scandals.

Within the Catholic Church, its organizational structure, its laws and doctrines, and its tacit norms all fostered practices of accountability sabotage in different ways. First, there is the governance structure, which Mathews (2017, 90) has referred to as 'both centralized and fragmented', and which Keenan (2012, 24) calls 'organized irresponsibility'. There was never one big Catholic Church conspiracy to cover up child sexual abuse. Instead, there were numerous very small conspiracies. The Vatican, while sending clear signals that protecting priests had priority over protecting children, was unaware, perhaps wanted to remain unaware, of the vast majority of cases.

What stands out from the cases described above is the almost limitless degree of autonomy bishops and provincials had in deciding how to handle them. Reporting

to the CDF was discretionary and cumbersome, and typically avoided or postponed; reporting to the police was considered as a betrayal of their own and their Church. As a result, the configurations of actors involved in authoritarian practices were usually very small. In Cloyne, only Monsignor O'Callaghan had an overview of almost all cases. He let the bishop and the diocese know as little as possible, for their own good. The bishop himself was ignorant of many facts, but also prepared to be duplicitous where necessary, as were a handful of other priests and psychologists who were typically only aware of one single case. In Dublin, the archbishop himself had a policy of parcelling out knowledge in such a way that diocesan officials did not have all the facts pertaining to one case, let alone the existence of other cases. Amongst the Salesians as in most religious orders, the head of the province is elected by his peers on a rotational basis, but still has 'exclusive power for the appointment, movement and management of religious members of their institute', owing obedience only to the order's central officials (Royal Commission 2017, Vol.16.2, 653). There is no evidence that the constantly rotating Salesian provincials briefed each other about specific cases, but, with rare exceptions, they acted in remarkably similar ways. Father Fox, a serial child-molester himself, does not stand out as more secretive than the succeeding Australian Provincials who have clean records. The Mexican Provincial who moved Father Juan Manzo around to avoid police investigations, Father Pascual Chavez, went on to become Rector of the order and to shelter Father Fox in Rome.

The paradox of extensive autonomy and vague rules leading to very similar practices is best understood in normative terms. It was not the Church hierarchy as such that mandated disabling of voice and disabling of access to information, but the common understandings within it. Having discussed the role of organizational structure, I will consider how the other five features of the Catholic institutional setting identified in the literature facilitated and encouraged 'common understandings' that devalued victims and privileged secrecy over other possible responses. First, as members of an institution in which independent thinking about root causes or experimenting with solutions was not encouraged, Catholic officials were easily socialized into believing that covering up clerical abuse was necessary for the good of the Church. But the duty of obedience was not just formalized and felt, but has at times also been actively exacted by the Vatican, as illustrated by the experiences of US canon lawyer Tom Doyle and Australian auxiliary bishop Geoffrey Robinson.

Second, secrecy was as enshrined in canon law as well as rooted in habitual practice: secrecy in general, and secrecy regarding sexual matters as well as regarding the fallibility of clerics in particular. As set out above, the canonical instruments dealing with child sexual abuse by clerics for most of the twentieth century were themselves secret, and unknown to many bishops (Commission of Investigation 2010, 46; Royal Commission 2017, Vol.16.2, 53–54). Some bishops believed that the 'pontifical secret' covering their correspondence with the CDF on particular cases implied an obligation to withhold relevant information from civil authorities (BBC 2019). Then there

was the 'confessional secret': statements made not only by perpetrators but also by victims or by-standers during confession were to be treated as secret. This precept was at times given a wide interpretation: perpetrators could tie the hands of their superiors by invoking the confessional secret, as Father Caden did, and victims or third parties were not systematically asked whether they would want to take their story beyond the confessional relation, (Royal Commission 2017, 40–43; Royal Commission, Testimony of Thomas P. Doyle 2017). Moving from secrecy into the territory of disinformation was the concept of 'mental reservation'. While lying is prohibited by Catholic doctrine, mental reservation was explained by the Irish Cardinal Connell as the legitimate use, in particular circumstances, of 'an ambiguous expression realizing that the person you are talking to will accept an untrue version of whatever it may be' (Commission of Investigation 2009, 643). According to critical canon lawyer Tom Doyle, mental reservation 'has never been given any form of official approval', but nevertheless has a long history (Royal Commission 2017, Vol.16.2, 35–37; Royal Commission, Testimony of Thomas P. Doyle 2017). Irish survivor-activists have given examples such as issuing a denial in the present tense, which leaves open the possibility that something *was* true or *did* occur, or an assertion of cooperation with the authorities without use of the adjective 'fully' (Keenan 2012, 154). Bishop Magee of Cloyne's use of the word 'immediately' to preface his two different versions of Father Caden's words may be another example of mental reservation.

Beyond the vagueness of canon law and the pseudo-doctrines of the Church, the attitude of the central authorities of the Catholic Church, the Vatican, and the Pope, to child sexual abuse by clerics also needs to be taken into account. The tendency on the part of Irish bishops and Salesian Provincials to cover up and muddle through when confronted with clerical abuse was in part explicable in the context of the consistent signals they were getting from the Vatican, which frustrated and discouraged attempts at national-level responses to the problem without providing clear alternatives.

Third, also encouraged by the messaging from above, was the excessive concern with the Church's reputation. While most members of any institution may be expected to have an interest in its institutional survival, this sentiment runs much deeper in servants of a church. Being a priest or religious implies a deep, life-long, and life-determining commitment to the Catholic Church, which is not just an employer, but a spiritual home. Next to an oath of obedience, this commitment comprises an obligation to defend and protect the Church and its teachings. Scandals are therefore to be avoided, since they may undermine the faith of the laity. As Doyle put it, the 'bishops and clergy have been conditioned to protect the Church and the image of the clergy at all costs . . . most Catholic clergy truly believe in the sacred nature of the institutional Church and are committed to protecting it' (Royal Commission, Testimony of Thomas P. Doyle 2017; see also Keenan 2012, 205).

Next, the Church's difficult relation with sexuality, as an organization largely staffed and led by men expected to be celibate, impeded open discussion of procedures to prevent and handle child sexual abuse. The responses of different Cloyne functionaries to female complainants, suggesting they suffered from unrequited love, revealed gender prejudice as well as deep-seated ignorance of how abusers operate. While the Vatican has since come to recognize clerical abuse in its aspect of a crime against a victim, not just a sin against God, the possibility of any connection between compulsory celibacy and the occurrence of clerical abuse is still not a topic that can be discussed within the Church.

A final important contributor to disabling the voice of victims and covering up for perpetrators is the Church's institutional culture of clericalism, understood as the privileging of the importance and interests of priest over others. According to Keenan, 'priesthood was construed by clergy and laity alike as a personal gift and a permanent sacred calling, rather than a gift of service to the community' (Royal Commission 2017, Vol. 16.2, 620), corroding the possibility of calling such a person to account. Working alongside the 'very human tendency to favour those one knows, even when they have done something wrong' (Keenan 2012) was the doctrine that bishops have a special 'familial' obligation to protect their priests, an extreme version of which was promulgated by a prominent Cardinal at the turn of the century. The Deetman report (2011) on abuse in the Dutch Church adds a final, pragmatic consideration in favour of cover-ups: the acute shortage of priests from the late 1960s onwards made bishops and superiors very reluctant to remove any who remained from office, and keen to believe in spiritual cures (104–105).

6. Sources of vulnerability and resilience

Children who are victims of sexual abuse are often tremendously afraid that they have done something wrong, a belief encouraged by their abusers. Historically, shame has silenced many even in adulthood. The spate of scandals, often followed by official inquiries, in many countries in the 1990s and 2000s has made it easier, and thousands have come forward.

For those who did speak up and their relatives, when they were met with disregard and cover-ups it sometimes became an abiding preoccupation that came to dominate their lives. This was true for Father Ayers' victim Mike Scull for instance, and for Father Fox's victim Luke Quilligan and his mother. Yet it is precisely this sense of obsession that has caused some to continue to search for new avenues to expose what the Church tried to cover up. Survivors initially usually wanted acknowledgement, removal of the offending priest from ministry, sometimes compensation, and sometimes criminal prosecution. Among them, a subgroup has become committed to institutional change within the Church as a whole.

In the Cloyne case, it was the persistence of Father Ronat's victim Donelle, and of former priest Patrick, that eventually led to a Church-led investigation, followed by a government-mandated investigation. Their stories are similar to those of survivor-activists Andrew Madden, a former altar boy from Dublin and the first Irish victim to go public in 1995, and Colm O'Gorman who tried to sue the Vatican, campaigned for the Ferns inquiry, and founded the advocacy organization One in Four. Both wrote books about their experiences, with the express intention of lifting the taboo and helping others come forward (Madden 2004; O'Gorman 2010). Another Dublin victim, Marie Collins, set up a foundation and joined the Vatican's Pontifical Commission for the Protection of Minors in 2014, only to quit again in 2017 because its recommendations were not implemented (Gunty 2019).

Patrick belongs to a different category: whistle-blowers from within the Church, alongside Australian former auxiliary bishop Geoffrey Robinson, canon lawyer Tom Doyle, and a handful of others (see for instance Goodstein 2013). Given the centrality of the tenet of obedience in the Church, exposing its failures was a life changing decision for them, and they were few in number, but important because they fully understood the internal logic of the Church.

Journalists were often instrumental in exposing disabling of voice and disabling of information in clerical sexual abuse scandals: journalist Reese Dunklin was instrumental in uncovering that Fathers Klep and Ayers, in Samoa, held full clerical positions without restrictions despite their histories, and both in Ireland and in Australia documentaries were crucial in uncovering the apparent commitment of Church officials to secrecy and impunity.

Another important category of uncoverers, typically less emotionally affected than survivors and whistle-blowers, were official investigators. In both the Cloyne and the Australian Salesian case, a conflict emerged between the Church-mandated investigator and those whose actions were under investigation. In both cases, the investigator, finding it their professional duty to dig deep and publish their findings, eventually prevailed.

The government-mandated inquiries were even better able to comprehensively investigate not only past abuse, but also the Church's responses. Not only were they better resourced, their great strength lay in their authoritativeness, which in the Irish case in particular caused Church officials to hand over documentation and give information in evidence that they had previously withheld. By the same token, the authoritativeness and exhaustiveness of their final reports were a source of recognition to victims.

7. Conclusion

It is unsurprising that clerical abusers would use intimidation, secrecy, and lies to cover their own tracks, and occasionally cover for each other. What is much harder to understand is that non-abusive Catholic officials so often took part in covering

up abuse, and that state officials were at times also complicit. Unlike uncompromising ways of fighting terrorism or ruthless ways of doing business, which may have been believed necessary by those who were involved in authoritarian practices to cover them up, child sexual abuse by priests served no organizational purposes for the Catholic Church. From the perspective of the Catholic Church, clerical sexual abuse of children was nothing but sinful.

I have shown how six specific organizational and cultural features of the Catholic Church nonetheless incentivized Church officials to engage in authoritarian practices, often allowing child sexual abuse to endure. The culture of obedience and dependence impeded internal critiques and whistle-blowing. Church doctrines encompassed various forms of secrecy, and canon law was particularly secretive on the handling of child sexual abuse. Reputation was naturally believed to be best protected by secrecy, not by reform. The governance structure facilitated keeping sensitive information about child sexual abuse restricted to a single official or a very small circle. Sex in general, and the possibility that ordained priests might have sexual urges in particular, was a taboo subject. And clericalism, finally, facilitated devaluing and disbelieving the voices of victims.

Very recently, Pope Francis I has made some important changes in the Church's handling of clerical abuse. He mandated internal reporting, made explicit that 'holy office confidentiality' does not stand in the way of fulfilling obligations to secular authorities, and overhauled canon law, providing more specific rules and procedures, as well as criminalizing negligence in response to complaints. These changes, alongside the barrage of scandals which have buffeted dioceses and religious orders, are likely to make authoritarian responses to child sexual abuse by Catholic priests much more of a rarity in the future. But the Catholic Church's main organizational and cultural features—shared to a varying extent by other religious institutions—such as the concentration of power, the culture of obedience, and the moral superiority of sacred leaders, are still likely to foster authoritarian practices in other areas. Other forms of sexual abuse, financial malgovernance, and dealings with internal dissent are among the obvious candidates for further investigation.

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7
The Politics of Accountability

1. Introduction: ~~the politics of accountability~~

It is generally taken for granted that states, and more particularly their governments, have the power to significantly affect, even control, the lives of the people within their borders. Some governments use that power to rule over their people without being accountable to them, and indeed, when challenged, will sabotage accountability: authoritarian regimes. But they are not, and probably never were, the only actors that have the power to do so, nor do they always exert it on their own, nor do they exert such power only within their own borders. This book extends the notion of powerful actors who seek to pre-empt, subvert, and disrupt accountability beyond territorial states.

The focus on accountability sabotage arises from the early twenty-first century context, the 'global age'. Democratic deficits arising from shifts towards transnational governance on the one hand, and the emergence of emancipated transnational publics on the other hand, have given rise to a new political vocabulary: that of demanding accountability from powerful actors beyond government: 'it is now commonplace for the language of accountability to be invoked in debates about transnational power and governance' (MacDonald 2015, 426), indeed '(a)ccountability-talk is omnipresent in contemporary law and politics' (Rached 2016, 318). In the last two decades, swathes of literature in normative theory, public policy, and international relations have examined who should be accountable to whom for what, how accountability processes could be optimized, and what negative side effects the focus on accountability may also have.

Ideally, accountability, defined as a relationship in which powerful actors must explain and justify their conduct, and those affected can pose questions and pass judgement, should provide 'the perfect anti-dote to domination' (Rubenstein 2007, 621). The normative literature on accountability discerns a number of ways in which it may do so. As summarized by Rached (2016), '(a)ccountability devices would orient themselves (i) towards limiting power and inhibiting abuses; (ii) towards recognizing, listening and responding to the plurality of voices of the account-holders—those who are deemed to have legitimate stakes on the matter; (iii) towards building institutional capacity—a particular craft for taking substantively good decisions; or, finally, (iv) towards fostering allegiance and obedience from the account-holders' (335). While the extent to which accountability processes beyond parliamentary

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politics can actually fulfil such functions remains deeply contested, powerful actors cannot ignore pressures for accountability altogether.

At the same time, the early twenty-first century is also a time in which the quality of national democracy is seen to be deteriorating in many contexts, or as some would call it, a time of autocratization (Lührmann and Lindberg 2019; Trantidis 2021). This book provides a framework that makes it possible to connect these two apparently separate and even contradictory phenomena: omni-present invocation of accountability and autocratization, by focusing on how powerful actors respond to demands for accountability. They have to choose to either engage in dialogues in which they account for their actions to those impacted or their representatives, or sabotage the possibilities for such dialogue. This book shines a light on powerful actors, or very often configurations of actors, who chose sabotage over engagement.

It takes a different route from recent studies on the connections between autocratization and populism (Norris and Inglehart 2019; Müller 2016; Sinha 2021): whilst such studies illuminate what I call authoritarian practices as well as overlapping illiberal practices (Glasius 2022), their focus continues to be on national, and more specifically electoral, arenas. I see authoritarian populists in national politics as only one of many contemporary manifestations of authoritarianism. Moreover, there is a research agenda yet to be explored on configurations that connect national populists to diasporic, multilateral, and corporate actors.

The analytical claim underlying this book is that configurations of actors that have the power to significantly affect people's lives, and that systematically seek to duck accountability by silencing, keeping secrets from, or lying to people they affect, should be considered as functional equivalents to authoritarian regimes, and that studying them as such provides new insights into how authoritarianism functions in a globalized world.

In Chapter 1, I have developed a practice approach to studying authoritarianism in contexts where the unit of analysis is not the state, nor even necessarily one single institution. I defined authoritarian practices as 'a pattern of actions, embedded in an organized context, sabotaging accountability to people over whom a configuration of actors exerts a degree of control, or their representatives, by disabling their voice and disabling their access to information'. The practice approach enables not only a shift of focus from states to configurations of powerful actors, it also considers authoritarianism in an active light, not just as a lack or shortfall of accountability: accountability sabotage is something that needs *work*.

The following four sections of this chapter re-examine the different elements of my definition of authoritarian practices, using the empirical material presented in the case studies to reflect on their various manifestations, and charting new avenues of research. The next section considers to what the extent gaining knowledge about authoritarian practices is possible, and how to delineate the boundaries of the concept. Sections 3 and 4 examine the two core components of authoritarian practices: disabling voice and disabling access to information, considering types

of actions that always constitute accountability sabotage as well as more ambiguous instances that need to be a matter of contextualized interpretation. Section 5 discusses the configurations of actors engaging in authoritarian practices, and the common understandings between them. In Section 6, the focus shifts to the accountability demanders, assessing sources of vulnerability and strength, and indicating significant global developments affecting the affordances of various groups of 'information professionals'. In the conclusion, I make the case for more research on transnational authoritarian practices, arguing that providing a better understanding of how accountability sabotage works is the political scientist's best contribution to challenging it.

2. Studying authoritarian practices: epistemic limits, biases, and threshold conditions

Epistemic limits

There is paradox in the study of authoritarian practices: one cannot study them in their most perfect form. If all voices regarding a particular topic or actor are disabled, if secrecy or an inaccurate version of the facts is completely successfully maintained, no one will know. Hermetically sealed authoritarian practices apart, the epistemic potential for the researcher, and the amount of effort—and sometimes also risk—it requires to uncover authoritarian practices, is highly uneven between different contexts. This book has focused on low-hanging fruit, based on deskwork and following the trail of work done by official inquiries, investigative journalists, NGOs, and other scholars. Researchers with specialist knowledge of particular regions, institutions, or industries, or with expertise in archival research or in freedom of information requests, should be able to take the empirical study of authoritarian practices further than this book has done: their inquiries will be less broad, but deeper.

Beyond effort or expertise, considerations of risk and ethics have to be taken into account in doing so. There is an emerging literature on considerations of risk in authoritarian field research (Goode and Ahram 2016; Glasius et al. 2018; Koch 2013; Ryan and Tynen 2020). This is yet to be extended to the study of transnational authoritarian practices engaged in by configurations of multiple actors, although there are important recent methodological contributions on studying secrecy (Mwale 2014; Sheaff 2019; De Goede et al. 2020). Regardless whether one studies authoritarian regimes or authoritarian practices, researchers need to take into account their own positionality, and the likelihood of greater risks imposed on informants, research assistants, or translators, in their decisions what to study and how to go about it.

Given that configurations of actors involved in authoritarian practices are likely 'engines of agnotology' (Goode and Ahram 2016, 838), it will be the case, more

often perhaps than in other areas of social science research, that establishing the existence and nature of authoritarian practices is a matter of deduction and balance of probabilities rather than hard evidence. To give one example from Chapter 2 of this book: there is no absolute proof that the Iranian Ministry of Intelligence and Security (MOIS) ordered the killing of Dutch Iranian exile Ahmad Mola Nissi. What is known is that a relative reported that Mola Nissi had been threatened by a MOIS operative known to him; that an Iranian asylum-seeker claimed he was asked by MOIS to undertake the execution; and that the EU instituted targeted sanctions against senior MOIS figures based on classified evidence. Together these facts build a strong likelihood, but not the degree of certainty that an official acknowledgement or the discovery of documentary evidence would provide. Academic research does not require the same standard of evidence as a prosecutor building a case, and epistemic doubt need not invalidate research on authoritarian practices, as long as researchers are transparent about their degree of certainty, their interpretations, and the limits of their knowledge.

Epistemic biases

The research for this book has also confirmed that, quite apart from active disabling of voice, not all voices of potential targets of authoritarian practices are equally audible to an academic researcher. Chapters 2, 4, and 6 of this book have featured individuals who have had ample opportunities to tell their stories, such as the Dutch journalists of *Zaman Vandaag*, the Belgian listed couple Nabil Sayadi and Patricia Vinck, or Irish child sexual abuse victims Andrew Madden and Colm O'Gorman. Even someone like rendition victim Abu Zubaydah (Chapter 3), who has never been able to speak for himself, has been meticulously researched because his torture became the subject of great controversy. By contrast, almost nothing is known of dozens of other rendition victims (Chapter 3) or about hundreds of individuals put on the UN Security Council sanctions list (Chapter 4), because no one has deemed their cases important enough to investigate in detail and make public. Likewise, very little is known about the extent to which or the ways in which Katangese communities may have challenged the arrival of foreign mining companies in the early 2000s (Chapter 5), since foreign NGOs and academic researchers arrived on the scene much later. A single source suggests that mining town Kolwezi had been the scene of a 'guerre civile sociale', but what that meant exactly has so far remained a matter of local oral knowledge. In the case of child sexual abuse in the Catholic Church (Chapter 6), far more victims have come forward in the last decade than ever before, but we will never know how many did not. Even when heard, some stories of authoritarian practices may have been truncated or distorted by the need to fit them into journalistic or legal formats. The student of authoritarian practices cannot entirely resolve such epistemic limitations and biases, but she can be sensitive to their existence and try to mitigate them.

Incidents and patterns

The murder of a Dutch Iranian, described above (Chapter 2) is also useful to consider as a 'boundary case' for discussing when there are enough incidents, similar enough in nature, to establish that there is a *pattern* of actions constituting an authoritarian practice. In the past, there was definitely such a pattern of killings of Iranians in exile: between 1979 and 1996, at least 162 people are credibly believed to have been murdered in this way, with further killings in Iraq until 1999 (Iran Human Rights Documentation Center 2011). Then there appears to have been a fifteen-year hiatus before Ali Motamed was killed in the Netherlands in 2015. Given the time gap, it would not make analytical sense to just consider his murder part of the old pattern. In the intervening period, a Dutch Ahwazi activist was kidnapped but eventually released, and a Dutch Iranian Green Movement supporter was executed in Iran. These incidents, like the later murders, were probably intended to intimidate and deter Iranians abroad, but the one person was not killed and the other was not abroad, so whether these incidents can be considered part of a new pattern is a matter of interpretation. After Motamed, a few more known assassinations and kidnappings occurred. In all, the numbers are still very small: ten incidents at most. However, as has been argued in Chapter 2, these extreme incidents co-occurred with a broader pattern of threats made against a larger number of politically active Iranians in exile. The killings and kidnappings together with the broader threats can be considered as constituting a pattern of disabling the voices of Iranians in exile, or at least certain segments of that population.

What this example has shown is that one cannot set a single, absolute lower boundary on the number of instances of disabling voice or disabling access to information that would be necessary to constitute a pattern. Clearly, one or two unimplemented threats or an incidental lie or a disappeared document does not make a pattern. But a single violent incident of disabling voice when accompanied by a dozen instances of intimidation probably would do so; as would a falsehood sustained by multiple individuals on different occasions. Instead of applying an arbitrary cut-off point, a researcher applying the concept of authoritarian practices should always make the empirical case based on the ensemble of more and less severe incidents known to them.

Degrees of control

Authoritarian practices can only occur when there is an unequal power relationship. While the unequal power part of this statement may be intuitive, the 'relationship' part is less so than meets the eye. In traditional authoritarianism studies, it is clear what relationship is being studied: that between a government and its citizens or residents (usually but erroneously considered coterminous). The tacit assumption is that formal control and actual physical control of a government over its people largely

coincide. Once this anchoring in the formal relationship between a government and its people is lifted in order to illuminate other unequal power relationships, the question arises where the limits are as to what kinds of relationships can be contexts for authoritarian practices. One might theoretically stretch the concept of accountability and its sabotage to weak and indirect relations, such as for instance those between football fans and the governors of global football federation FIFA, or even between the UN Climate Change Conference and future generations who may come to suffer or benefit from its decisions. But such stretching, involving either minor impacts or long causal chains, would generate an inflationary concept of 'authoritarianism', far removed from the notions of hierarchy and domination that have always made it a key concern to political scientists. In order to relax the assumption that authoritarian practices are state practices, yet maintain the context of domination, the definition presented in this book inserts a 'degree of control' as a necessary ingredient of authoritarian practices. I can only be subject to authoritarian practices by a configuration of actors that has the power to have a direct—and not indirect, by all means of butterfly effects—and significant impact on my life.

In the chapters, the degree of control has been variable, but never slight. In the case of transnational killings (Chapter 2), rendition victims (Chapter 3), and children in Catholic boarding schools (Chapter 6), it was absolute. In the case of extraterritorial authoritarian practices more broadly (Chapter 2), control came in the form of sowing fear, as well as obstructing work, livelihood, and membership of a community. In Chapter 4, on the UN sanctions list, control was primary material, as listing had the effect of assets being frozen, but it also obstructed the listees' movements. In Chapter 5, the activities of mining companies affected the health, housing, and sometimes the livelihoods of local communities and workers. The chapter suggests that in a context where a poor and badly governed state coincides with extensive economic activities by international corporations, the latter may in practice exert at least as much control over local populations—let alone their own workers—as the state. This is not a new discovery, there is a literature on 'company towns', old and new (Borges and Torres 2012), and on highly exploitative labour (Crane 2013), but it has not been connected to the concept of authoritarianism. Yet the connection of such situations to accountability sabotage is consequential, affecting the obstacles local communities or workers face when challenging corporate power.

The most doubtful case of 'a degree of control' in this book is the control of the Catholic Church over past victims of child sexual abuse by priests. It is not difficult to argue that when they were children growing up in Catholic communities, the Church exerted considerable control even if they lived with their families and not in boarding school. It is much harder to argue that this continued to be so when they were adults, especially if they had left the Church. The continued impact of the Church on their lives was largely subjectively experienced and psychological. The case study suggests that, while degree of control cannot be entirely a matter of subjective experience, legacy effects of past circumstances of domination need to be taken into account, for victims of past sexual abuse, but perhaps also for former prisoners, patients in mental health institutions, or refugees.

An organized context

The case studies in this book mostly concerned actors that were rather obviously not lone wolves, but acting in an organized context, as agents of the state, corporate executives, or Church officials. Even in a situation as described in Chapter 2, where members of a local migrant community sometimes spontaneously participated in threatening and ostracizing other members, state agents were still at the heart of the configuration. But this still leaves us with the question, what constitutes an organized context? Imagine a mother convinced of the dangerous consequences or moral wrongness of vaccinations. Imagine that she hides from her teenage children invitations to get vaccinated and associated information, and threatens to punish them if they discuss the subject with friends. If her disruption of the information flows between her children and the outside world were not incidental but entrenched, the term 'authoritarian' might apply, but if her views and actions were idiosyncratic, she would not be acting 'in an organized context'. By contrast, if the mother were part of a group of people with shared views not only on the harmfulness of vaccines, but also on what is permissible in protecting their children from being exposed to different views and from making a different choice, their actions might come to constitute an 'authoritarian practice'. As a matter of definition, it would not need to be a very large group: it could be a group of parents living in the same neighbourhood or even an extended family. Students of authoritarian practices may be more likely to want to investigate collaborations between secret services, or within large multinational corporations, than such isolated pockets of community practices, just as political scientists studying authoritarian regimes are more often interested in China and Russia than in Tonga or Brunei. Nonetheless, small minorities with views that deviate radically from mainstream society often exert fierce control over their members, and an authoritarian practices perspective can actually shed conceptual light on the treatment of dissenting members within such groups. In other words, an authoritarian practice perspective does not require a minimum 'scale' to be applicable, as long as the issue under investigation is a social rather than an individual psychological phenomenon.

3. Patterns of action: disabling voice

This section aims to give concrete substance to what 'disabling voice' means by distilling from the empirical chapters a catalogue of frequently used mechanisms of silencing, beyond the well-researched context of an authoritarian regime silencing its own residents. The mechanisms are discussed in an approximate ascending order of repressiveness, starting with patterns of actions that are not obviously or always authoritarian, but can be so in particular contexts. The next section is its companion piece, cataloguing manifestations of secrecy and lying.

Bribes and non-disclosure agreements

One way of keeping people from raising their voices is to give them material incentives to shut up: a promotion, an out of court settlement, a bribe. Strictly speaking, these forms of keeping people quiet are not disabling voice, since the decision not to speak out is voluntary. However, the existence of bought silence is a warning sign of potential authoritarian practices, since it often goes together with more repressive forms of silencing those who will not be bought and with other forms of secrecy and lying. In Chapter 2 for instance, a Dutch Iranian who sought publicity to get his kidnapped father released reported being offered 'a carefree life in Iran' before being slandered and threatened. In Chapter 5, the relatives of a man who met a violent death at the hands of a mining company's security officers were offered substantial sums of money for not talking to NGOs about the case. Bought silence can also take more formal, legalized forms. An example of a technically voluntary but really constrained choice to remain silent are the severe restrictions to which the lawyers who represent Guantanamo's 'high value detainees' (Chapter 3) need to agree to be given any access to their clients. They have to accept their inability to adequately communicate *about* their clients as the condition for being allowed to communicate *with* their clients. In Chapter 6, the Australian Catholic Church's financial compensation for past sexual abuse usually came at the price of signing a non-disclosure agreement, disabling the beneficiaries from speaking out and sometimes hampering other investigations.

Disbelieving and disregarding

Disbelieving and disregarding someone who accuses an organization or one of its members of wrongdoing is not necessarily an authoritarian act. Figures of authority cannot be expected to heed every fantastic story they are confronted with, and grown-ups who are at liberty to speak should be required to produce some credible evidence before being believed. But in circumstances where people who are particularly vulnerable and dependent on the institution to which they complain, being disbelieved and having their stories disregarded can be enough to disable their voice. This was often the case for children and young people reporting their abuse to officials in the Catholic Church. It has historically often been true for women speaking out about sexual harassment at work, and can also be true for confined asylum-seekers, for patients in mental institutions or care homes, and for prisoners. In such cases, there is often a fine line between disregarding information and discouraging and disparaging those who give it.

Blocks and hacks

One common way nowadays to disable someone's voice, frequently used by authoritarian regimes within and beyond their borders, is the modern equivalent of censorship: to simply block their electronic communications. It is not technically difficult to block someone's website or Facebook page in certain geographies, or to at least temporarily take them offline altogether. While blocks often require intervention from a government agency or court, hacks can emanate from many sources, and are not necessarily authoritarian acts: they can be random or targeted acts of digital vandalism, or a form of digital extortion. But in certain contexts, they constitute part of a pattern of actions to sabotage accountability. In Chapter 2, Dutch Turkish newspaper *Zaman Vandaag* saw the newspaper and the editor's Twitter account blocked in Turkey; whilst at the same time the Dutch website was repeatedly hacked. At least one such hack was claimed by someone accusing the paper of spreading propaganda, and could be seen as a broader pattern of threats and slander against Dutch Gülenists emanating from members of the Dutch Turkish community, encouraged by the incumbent AK party and the Turkish embassy.

Dismissal and ostracism

Another category of disabling voice is exclusionary in character. Chapter 5 saw two Chinese mining corporations summarily dismissing workers who demanded better working conditions. This is of course a frequent response by employers in contexts where labour rights and unionization are not well-protected, be they local, Chinese-owned, or listed multinational companies. Dismissal has first and foremost economic implications; ostracism, while it may also affect livelihoods, is more of a social phenomenon. Ostracism may be incited by figures of authority, but it requires endorsement and enforcement by a community. The editors of the *Zaman Vandaag* newspaper (Chapter 2), and some of the victims who spoke out against abuse by local priests in Ireland (Chapter 6) experienced such exclusion from their communities. Whether ostracism is an authoritarian act depends on the context: it can be a silencing mechanism, but it can also be a form of scapegoating of groups or individuals who never raised their voices, in which case it is not authoritarian but illiberal in character (see Glasius 2022).

Blacklists and boycotts

Being on a list, even a sanctions or boycott list, does not strictly speaking disable anyone's voice. But being on a list, or being 'registered' can, in the context of other authoritarian practices, be part of a broader campaign of intimidation. This was clearly the effect, and presumably the intention, of the blacklists of Gülenist

organizations circulating in Turkish communities (Chapter 2). The UN Security Council sanctions list (Chapter 4) is ostensibly aimed at practically hindering terrorist activities through travel bans and asset-freezing. But it is hard to imagine how being placed on a global list of 'terrorist suspects' would fail to intimidate, especially in combination with the impossibility of knowing what information and which actors triggered the listing. In the case of Belgian listees Sayadi and Vinck (Chapter 4), the targets were not silenced because of their listing, on the contrary they sought publicity in order to challenge it. But for many suspects in less democratic settings, or who are less assertive or less obviously sympathetic, listing will have a silencing effect.

(Threats of) legal action

Threats of criminal prosecution or litigation against complainants or critics appeared in many case studies in this book. The most comprehensive campaign was undoubtedly that by Turkish President Erdogan, who attempted to have a German comedian prosecuted for insulting a foreign head of state: following on from the incident his government set up a 'snitch line' in the Netherlands for reporting insults against the President, the state, or the community, and arrested a Dutch-Turkish columnist on such charges.

Much more often, targets of complaints and criticism deflected these with only threats of civil suits. Thai President Thaksin threatened a defamation suit against the *Washington Post* for publishing on the CIA's secret prison there (Chapter 3). Mining company Glencore threatened to sue two NGOs for breach of a previously signed Memorandum of Understanding when they published on a man's violent death at the hands of company security (Chapter 5). An Irish Catholic priest accused of child sexual abuse threatened to sue three of his victims, the bishop, the diocese, and a psychologist assessing him for defamation (Chapter 6). The chair of a diocesan advisory committee in the same case, also a priest, threatened to take legal steps against a report criticizing its functioning (Chapter 6). With the exception of the Turkish case, none of these threats appear to have led to actual litigation, which is not surprising given the weight of evidence on the side of the accusers. Nonetheless, threats of lawsuits, implying that the law enforcement arm of state apparatuses will be deployed against accountability demanders, are intended to intimidate and silence, and will sometimes succeed.

Slander

Slander is first and foremost a form of lying, but it can also be a means of silencing, by discrediting the speaker. Two Dutch Turkish journalists who had critically covered a clash between Dutch and Turkish officials subsequently found themselves covered in the Turkish press as leaders of the Gülenist conspiracy, and accused of having

somehow instigated the controversy themselves (Chapter 2). In Ireland, female complainants about sexual abuse by clerics were characterized as being motivated by unrequited love (Chapter 6). An Australian head of a religious order spread a malicious rumour that the journalist exposing such a scandal had himself been convicted of the same crime (Chapter 6). The contexts in which these smears occurred suggest that slander as a way of disabling voice is most likely when there is a target audience, a constituency (i.e. Dutch Turks; practicing Catholics) likely to believe those who spread them. This is a finding that obviously relates to the post-truth tactics of populist politicians.

Threats, deterrent examples, and proxy punishment

Threats, usually threats of violence, are common in the context of extraterritorial authoritarian practices. In content, they may not differ so much from other threats and insults on social media that many public figures are nowadays having to weather. The difference is the context of an authoritarian 'motherland' regime that has a record of violent repression, sometimes also beyond its borders. Chapter 2 showed that prominent Dutch Turkish Gülenists were subject to a daily barrage of virulent threats, but hardly ever actually confronted with physical violence. Iranian dissidents were less frequently targeted, but when threats were made, they occurred in the context of actual murders of Iranians in the Netherlands, albeit only individuals who had themselves engaged in violent activities.

Eritreans, Iranians, Turks, and Uyghurs in the Netherlands all at times experienced 'proxy punishment': 'harassment, physical confinement, and/or bodily harm of relatives in the home-country' (Moss 2016, 485), intended to target and silence them. Such proxy violence also has demonstration effects: even without actual incidents of this kind happening within their own families, many more migrants from the same communities will watch their words and limit their political activities in order to be able to safely visit relatives back home.

Violent repression of voice

Classic authoritarian regimes are typically associated with the means of violent repression: prisoners of conscience, gulags, torture chambers, shooting into demonstrations, mysterious deaths, and disappearances. While these are not daily occurrences in most authoritarian regimes most of the time, the point is that the regime has these ultimate means of shutting people up at its disposal. This book has demonstrated that such 'ultimate means' are not exclusive to authoritarian regimes within their own borders. Chapter 2 has shown examples of an authoritarian regime undertaking or ordering kidnappings and executions abroad. Emerging research on this

topic is beginning to lay bare just how widespread such transnational repression is (3). But Chapter 3 has shown that the intelligence services of democratic states, in multilateral collaborations, have also placed people in *incommunicado* detention and tortured them. While the original purpose may have been to extract information about terrorist acts, the evidence also shows that there was a subsequent recognition by the CIA and its allies of the need to prevent these prisoners from ever speaking out about their experiences. In Chapter 5, artisanal miners were regularly removed from mining concessions by violent means, resulting in deaths on at least two occasions. Such removals were not strictly speaking intended to disable their voices but just to remove them. However, disabling of voice in subsequent protests was part of the practice: young men in the neighbourhood were randomly locked up for the night, demonstrations were met with violence, and civil society representatives speaking out against mining companies were regularly threatened, and in one case poisoned. The victims of child sexual abuse by clerics, discussed in Chapter 6, were sometimes violently restrained from or punished for speaking out about the abuse at the time it occurred, when they were children, particularly in boarding school situations. There is no evidence of any such physical assault against adult survivors. Chapter 4, on the UN Security Sanctions List, is the one exception amongst the case studies in this book, where no suggestion of violent repression of voice emerged in the cases the chapter zoomed in on. This may be an artefact of my selections: the focus on relatively vocal, privileged targets of the sanctions list helped to lay bare interactions with and between state authorities, but they were not typical listees. It seems plausible that others may have been detained purely on the basis of having been listed, and possible that any challenge on their part of their listing was met with violent repression.

4. Patterns of action: disabling access to information

This section categorizes mechanisms of disabling information. The focus is on actual decisions to withhold, as opposed to mere failure to disclose relevant information to all relevant parties, which may often be hard to define. Negligence, incommunicative habits, or failure to keep consistent records are not classified as disabling access to information: it requires evidence of specific decisions or procedures to not reveal. Moreover, as was discussed in Chapter 1, some forms of secrecy can be legitimate, if they serve purposes such as protecting privacy, protecting the safety of individuals or collective entities, or allowing for confidential deliberations. There may even be extreme situations in which lying could be deemed to serve legitimate and important purposes. But the procedures for such forms of secrecy should be laid down in advance and limited in time and scope. There is of course an epistemic problem with 'legitimate secrecy', namely that people affected who do not have secret information cannot typically judge whether secret-keeping is being done

to protect legitimate interests, or whether something more nefarious is being kept hidden. The case studies in this book suggest that the subtle distinctions between legitimate and illegitimate secrecy that normative political theorists or constitutional lawyers may argue over are not all that relevant in practice: in all the case studies, also in democratic societies, actors went very much beyond such theoretical borderline situations.

Withholding or destroying information

Withholding information and documents is the most common form of disabling access to information: the result is that those affected by the information either do not know it exists, or do not know the details, or they know but cannot prove it. In Chapter 3 on rendition for instance, the existence of 'high value detainees' was known to the Bush Administration, but the CIA consistently kept information about the locations where they were held and about the nature of their interrogation from most Administration officials, including the President, and from Members of Congress. On at least one occasion, evidence in the form of video-tapes of interrogations was actually destroyed in order to prevent it from coming to light: this eventually sparked an extensive Senate inquiry.

In Chapter 4, states consistently withheld information from listees and their lawyers about which state had requested listing, and on what information. In Italy, the listing procedure was moved to a different government department to pre-empt Freedom of Information requests. Intelligence agencies probably also withheld actual intelligence about potential listees from the UNSC Sanctions Monitoring Committee, which therefore took listing decisions based on very little information, taking it on trust that the requesting states had good reasons to be putting individuals forward.

In Chapter 5, both companies and local state officials consistently withheld environmental impact assessments from civil society organizations that asked for them, presumably because they either did not exist, or did not meet required standards, or contained lies about the (lack of) consultation of local populations.

In Chapter 6, relevant information about accusations against priests was in some cases withheld from a diocese's own internal advisory committee on clerical abuse. It was often withheld from religious officials, employers, or parishioners at the new schools, parishes, or other settings to which accused priests were moved. Information was withheld from investigators commissioned by the Church itself, from victims, from psychologists asked to assess priests, and sometimes from accused priests themselves. When investigations took on a more official character, information was sometimes also withheld from state-mandated inquiries or from the police. A Dutch investigation suspected that Salesian archives had previously been 'purged' of all information regarding clerical sexual abuse.

Procedural secrecy

While withholding of information as such is not always sustainable, and destruction of evidence when it is discovered often causes scandal, withholding is far more readily accepted when the relevant authorities have or successfully claim to have a mandate to do so. The invocation of the national interest, or more specifically national security, is the usual basis for state institutions to claim such a mandate. The report of the above-mentioned Senate Inquiry (see Chapter 3) for instance is devoted to criticizing the actions of the CIA, but it remains classified, and its summary is still redacted in places, by the very CIA that was under investigation. This is a concrete example of the epistemic problem: outsiders cannot entirely judge whether the secrecy is still serving national interests, or just protecting the CIA from embarrassment.

But proceduralizing secrecy is not the sole province of intelligence services or even state institutions. A different but equally frustrating procedure for keeping relevant information from those most affected was developed by the UN Security Sanctions Committee (Chapter 4): it simply does not communicate directly with the people it puts on its list. Requests for information or delisting were initially handled by the country of nationality, and later by an Ombudsperson. But both the country of nationality and the Ombudsperson are bound by strict rules of confidentiality, thus insulating the Committee from ever having to give substantive responses to the listees' questions.

The Vatican not only kept investigations and even clerical trials against individual priests accused of child sexual abuse secret: until the early twentieth century the definition of the crime itself, and the required procedures, were secret and unknown even to many bishops (Chapter 6). Some bishops also believed that the 'pontifical secret' covering their correspondence with Vatican authorities on particular cases implied an obligation to withhold relevant information from civil authorities. Religious orders too proceduralized forms of secrecy: a Dutch inquiry agreed to put up with a procedure where parts of documents from the Salesians' international archives were only read out to them by a member of the order and never seen in writing, making it impossible to check the veracity or completeness of what was offered.

Denials

Denials, knowingly stating that something is not so that subsequently turns out to be the case, is the simplest form of lying, and occurs often. In Chapter 2, the Iranian embassy and Foreign Ministry denied responsibility for the killing of Ahmad Mola Nissi. The head of the official Dutch-Turkish mosque association denied reporting Gülen supporters to the Turkish government. In Chapter 3, the CIA denied video-taping interrogations of rendition detainee Abu Zubaydah. The Lithuanian government maintained even in 2016 that Abu Zubaydah had never been held in their country. The Australian government denied involvement of any of their

agents in the torture of rendition victim Mamdouh Habib. In Chapter 5, mining corporation Glencore denied buying minerals from artisanal miners, and denied responsibility for the death of two men at the hands of security staff in their pay. In Chapter 6, accused Catholic priests typically denied allegations of child sexual abuse, and their superiors often denied knowledge of it. Religious officials also sometimes denied that priests continued to hold clerical functions that put them in contact with children.

A particular form of denial, akin to an incomplete and misleading truth, is the avoidance of officially knowing something of which one is probably at least partially aware. This practice is typically associated with very senior officials, who have been protected from and have protected themselves from knowing actions by their inferiors for which they should be responsible. Thus in Chapter 3 President Bush, who knew that secret detention sites existed, was technically speaking the truth when denying knowledge of their locations as well as denying knowledge of enhanced interrogation. Likewise, Lithuanian President Adamkus may technically not have known about the entry of CIA detainees into his country, but he did know that the CIA had a secret detention facility there, so he must have willed himself not to know that it was actually being used. Similarly, in Chapter 6, Irish Bishop Magee could claim that the failure to report a particular case of child sexual abuse to the local health authority was an oversight, because he had not inquired into whether other cases had been reported, and his deputy had protected him from knowing otherwise.

Incomplete and misleading truths

Another specific category of lying is statements that are not technically untrue, but that are incomplete and intended to be misconstrued. The Catholic Church has a term for such lies: 'mental reservation', a well-known yet never officially sanctioned doctrine that teaches that while outright lies are sinful, it may at times be justified for the speaker to keep a crucial part of the statement 'mentally in reserve', without uttering it. An example from Chapter 6 is the response to a critical report on the Cloyne diocese's child protection practices. In their reaction, the bishop and his deputy quoted selectively from a previous inquiry which had praised the diocese for its cooperativeness, without referring to the actual findings of that report, which had found diocesan practices wanting.

Such technically correct but intentionally misleading statements were not exclusive to Catholic Church officials. In the rendition case (Chapter 3), the CIA told the Senate in April 2002 that it had 'no current plans to develop a detention facility', which was strictly speaking true, since the facility in question already existed. Years later, in late 2005, both the Thai and the Polish government denied that there were secret CIA prisons in their countries, which was again a technical but incomplete truth, since both facilities had already been dismantled. In the sanctions list case (Chapter 4), the Belgian Finance Minister told the press that the assets of the listed

couple Sayadi and Vinck had been frozen 'in conformity with the listing' by the UN Security Council, but failed to disclose that the Belgian authorities themselves had requested that listing. When mining corporation Glencore denied having paid compensation to the relatives of a man killed by security personnel (Chapter 5), this was true in the strict sense that the town mayor made the actual payment, but Glencore was widely suspected to be its source. Another mining company, MKM, reported that it had spent money on a medical centre 'to support local communities', but the local community in question only housed the company's own employees. While in the Catholic Church 'mental reservation' may be intended to assuage the consciences of those who engage in it, in the wider world its practitioners apparently also see merit in such misrepresentations to avoid lying outright.

Positive lies

The next form of lying, beyond denials and misrepresentations, might be called 'positive lies': making things up. In the rendition case (Chapter 3), as extensively documented in a Senate Report, CIA officials not only underrepresented how badly and how often 'high-value detainees' were being tortured, they also made entirely spurious connections between terrorists caught, or plots prevented, and the information gained from interrogations. And they lied to US Administration officials about the information given to, and approval from, other US Administration officials and members of Congress. Mining companies in Katanga (Chapter 5) lied to NGOs about consulting local communities, about the environmental measures they took, and about the circumstances in which two trespassers met violent deaths. Catholic Church officials (Chapter 6) often lied about whether accused priests had been put under restrictions, about who knew about these restrictions, or about the information provided to or derived from psychological assessments.

A few specific categories of 'positive lies' are of particular interest: self-conflicting statements, blame-shifting, and implausible lies. Self-conflicting statements may be a mark of clumsy and inexperienced lying (in which case it might even indicate that the individual or institution in question does *not* habitually engage in authoritarian practices). An example from Chapter 6 is the Irish police's attempt to explain away its negligence in a particular clerical abuse case: it simultaneously claimed that there was no evidence of a crime, that the reporting victim had not wanted to pursue the case, and that the investigation was still ongoing. Another reason for self-conflicting statements may be that they are intended for different audiences, which the producer of the statements assumes will not be communicating with each other. Thus, also in Chapter 6, Bishop Magee of Cloyne produced a document in which a priest denied sexual abuse for his own advisory committee and later for the police, whilst producing a document containing a confession for a canonical investigation by the Vatican.

Blame-shifting often occurs in the context of a scandal that is beginning to be uncovered, and involves lying about who was responsible for the cover-up in the first place. In Chapter 5, the Glencore mining company, confronted with the accusation that one of its mines was located in a nature reserve, first doubted the existence of the reserve, then decided that its only interlocutor was the Ministry of Mining, and that disagreements within the DRC government were beyond its responsibility. Blame-shifting was particularly rife in cases where clerical abuse became public (Chapter 6). When a convicted priest was discovered to be in ministry in Samoa, the Australian Salesian order and the Archbishop of Samoa, the Australian Salesian order and the Victoria police, and the Australian federal police and the Samoan authorities all pointed fingers at each other with allegations about who had withheld information about the priest. While it is clear in such cases that one party must be lying, it may not be possible to determine which party it is—or indeed it may be both. At a higher level, the Vatican blamed Irish bishops for not following its own nebulous canonical procedures, after having itself resisted the same bishops' attempt to put a firmer and more transparent procedure in place. When blame is being shifted onto a weaker party, it can take more serious forms than mutual finger-pointing: in the Katanga mining case (Chapter 5), when a man was killed on a concession jointly patrolled by state police and corporate-hired security, the corporate personnel belonging to the infamous G4S group were not prosecuted, while local policemen ended up standing trial.

A quite different form of productive lie is the implausible lie: a lie that seems so improbable that it does not appear as if its addressee is really expected to believe it. In Chapter 3 for instance, the Italian intelligence service SISMI maintained, even after much evidence to the contrary, that rendition victim Abu Omar was a spy who had staged his own kidnapping. In the same chapter, the Polish authorities simultaneously told a Council of Europe investigator that a European Parliament investigation had been given all information regarding flight plans, and vice-versa, apparently suggesting that there could only be one hard copy, and it had just been given to the other party. In both cases, one explanation for such exotic lies may be that they are a signal of contempt for those who are asking for the information. In the Italian case, the incumbent Minister of Justice had secretly described the investigating prosecutor as an extreme left militant motivated by anti-Americanism, lending credence to such an interpretation.

Implausible lying may also occur when there is a perceived need for certain audiences not to swallow the lie. The Iranian authorities' denial of involvement in the murders of Iranian exiles Mola Nissi and Motamed in the Netherlands (Chapter 2) was not initially implausible: even experts were not convinced of Iranian secret service involvement. But when two Iranian diplomats were expelled from the Netherlands later that year, an English-language Iranian newspaper made a peculiar statement lambasting the Dutch authorities for making baseless accusations against Iran, when in fact the Dutch authorities had made no statement at all. A plausible explanation could be that the Iranian secret service actually needed for expatriate audiences to understand that they did kill these exiled enemies of the state.

Fraud, forgeries, and cheating

Chapter 5, on mining in Katanga, featured forged documents on the provenance of minerals, instruments doctored to weigh inaccurately and cheat artisanal miners, allegations of fraud in compensation for expropriation, and credible evidence of tax fraud. The other chapters in this book have not featured instances of fraud in the sense of deception aimed at individual or collective self-enrichment, but that is not to say of course that this type of lying belongs only to corporate authoritarian practices. Embezzlement, occurring in the public and non-profit sectors and at all scales of governance, is not in itself an authoritarian practice. In some settings it may be blatant and go unchallenged, but in most circumstances it will require the disabling of voice and disabling of access to information of those who seek to investigate and challenge such forms of corruption, be they workers, NGOs, journalists, or voters. In other words, there are likely to be causal connections between fraud and authoritarian practices. While there may be other circumstances in which power-holders forge documents, the case studies suggest that withholding or destroying documentary evidence is much more common than producing false documents.

Myths, scapegoating, and slander

The types of lies enumerated above are mostly pragmatic lies, aimed at no more than covering up some specific facts or objectionable behaviour. Myths are something more: they aim to tell an audience a broader—demonstrably untrue—story that legitimates the actions of specific power-holders. The accountability sabotage against the *Zaman Vandaag* newspaper and the broader Dutch Gülenist community (Chapter 2) was intrinsically connected to such a myth: the myth that Gülenists worldwide were all part of a terrorist organization implicated in Turkey's 2016 coup attempt. Another myth, in the context of the war on terror (Chapter 3), was that 'enhanced interrogation', i.e. torture, was preventing new attacks and therefore saving lives. During the early years of rendition such claims were typically made in an ambiguous, semi-hypothetical fashion because there was no outright acknowledgement that torture was taking place. After the existence of secret prisons and waterboarding became public in late 2005, both President Bush and the director of the CIA continued to justify the programme on the basis of this myth. As seen in both of these cases, myths can include or inspire scapegoating and slander, vilifying and dehumanizing particular 'enemies'.

5. Configurations and common understandings

One of the conceptual moves of this book has been to shift the unit of analysis for studying authoritarianism from 'regimes' to 'practices'. But practices are not disembodied, they occur in an organized context. In the spirit of Norbert Elias (2012, 9,

125–128), I have used the term 'configuration of actors' to indicate who is doing the accountability sabotage. The empirical chapters have shown that such configurations come in many shapes and sizes: some are easy to identify while others are largely covert; some have a clear lead actor while others consist of shifting coalitions; some are very cohesive while others are loose; some are durable and others more short-lived.

In order to better understand these differences, we also need to examine the 'common understandings' underlying these configurations: the social glue that keeps them together. This requires digging into something notoriously hard to get at: the intentions and motivations behind authoritarian practices. Much of the traditional, regime-focused authoritarianism literature has handled this problem by simplifying it: assuming that staying in power is the universal and overriding motivation of 'dictators', or, more broadly, authoritarian regimes (Bueno de Mesquita et al. 2003, 8–9; Schedler 2013, 21–22). This book mostly takes the route of remaining agnostic about intentions, focusing primarily on observable patterns of action and their effects.

However, if we want to understand why authoritarian practices occur, and, more specifically, what common understandings hold certain configurations together, it is also necessary to examine these understandings, which speak to motivations, and attempt to interpret them to some extent. In this section, after describing the nature of the configurations, I examine the nature of the common understandings that emerged from the empirical chapters, grouping them into three main types: shared ideas, mutual benefits, and finally a category of common understandings that either responded to situations that were dysfunctional from the configurations' own point of view (I have named them 'screw-ups') or that became contentious over time ('conflicts').

Configurations

The first of the empirical chapters, Chapter 2, demonstrates that the concept of configurations can be useful even in the study of traditional authoritarian regimes, helping to disaggregate who is 'doing the authoritarianism'. It featured case studies on the actions of authoritarian regimes beyond their own borders, where two quite different configurations could be identified. The case study focusing on the Dutch Turkish community featured fairly overt authoritarian practices in what one might call an embassy-centred configuration: diplomats at the Turkish embassy in The Hague played an important role, alongside governing party representatives and religious leaders in the Netherlands, as well as state-controlled media and government figures acting from Turkey. The case study demonstrated at the micro-level a strong intertwinement between the state, the governing AK party, and government-mandated mosque officials, as well as a constant interaction between authoritarian acts by officials on Dutch soil and back in the motherland, shaping a transnational

arena in which competitive authoritarianism was played out. An additional remarkable feature of this configuration was the active participation of members of the Dutch Turkish community in accountability sabotage.

The configuration governing the other case study in the same chapter was much more covert and harder to observe, but a few things can nonetheless be said about it: at its centre appears to have been the Iranian Ministry of Intelligence Services (MOIS). At its margins were Iranians in exile that had been 'turned' to spy on their compatriots, and perhaps sometimes worse. On at least one occasion there was collaboration with the Syrian intelligence services, and on one, possibly two other occasions, a Dutch criminal gang was involved. Beyond the reach of knowledge is the extent to which either the top religious leadership or the secular government of Iran ordered, approved of, had prior knowledge of, or indeed disapproved of the extraterritorial practices of MOIS. Nor can one go beyond speculation as to why extraterritorial killings and kidnappings were halted for more than a decade and then restarted.

The rendition programme described in Chapter 3 was multilateral in nature, but had a clear institutional lead actor: the CIA. Other actors within the US Administration that had some knowledge of and sometimes secondary involvement in the practice included divisions of the army and navy, particularly those active in Afghanistan, Iraq and Guantanamo Bay, the FBI, and the Attorney-General's office. Two slightly different configurations could be discerned: the CIA had full control over its so-called 'high-value detainees' at all times, whereas other prisoners were captured in one state, then 'delivered' by the CIA to their state of origin, typically to an intelligence service or military intelligence there. Even such 'bilateral' (actually trilateral) rendition would not have occurred without the CIA, but the configurations were more loose, poly-centric, and ephemeral. The rendition configuration is somewhat unique among the case studies in this book in being so short-lived. While it probably built on longstanding relations between secret services, the practice of rendition burgeoned from 2002 and then ended again abruptly in 2006. It was only possible in the context of an extreme shock to the US perception of domestic security, combined with extreme secrecy about the programme. Once the initial shock of 9/11 itself wore off and rendition became public knowledge, it became untenable to sustain.

In terms of formal legitimation and institutional stability, the configuration in Chapter 4 was just the opposite: the practice of listing, with its associated secrecies, was established by the most authoritative institution in the international legal order—the Security Council. The Sanctions Committee and its implementing body, the Monitoring Team, are likewise mandated by the Security Council. Behind this formal façade, it is actually very difficult to understand whether the practice of listing is driven mostly by the Monitoring Team of eight 'independent' but largely western experts, or by different state intelligence services, or a combination of both. Although the Kadi case before the European Court of Justice (2008) temporarily put the list and

its associated secrecies under pressure, the institutional device of the Ombudsperson rescued and stabilized it.

The configurations surrounding copper and coltan mining in Chapter 5 are best imagined as an ecosystem full of interdependencies between the foreign corporations doing the extracting, the mining police; private security companies; secret services; anonymous thugs; national and local politicians and civil servants; local traders; and sometimes village chiefs. Given the historic and contemporary importance of mining in Katanga's political economy, the state can be considered as the mining version of a 'banana republic'. The mining concessions came into the hands of multinational companies via intermediary businessmen well-connected to President Kabila, circumventing Congolese law and public scrutiny. In relation to environmental issues, central Kinshasa-based authorities sometimes colluded with companies against less powerful monitoring branches of their own government. The configurations responsible for security of the mining companies were complex and fluid: off-site, the mining police was responsible, on-site there were often mixed teams of private and public security, but even the public police was sometimes paid for by the company. To complicate matters further, as will be described below, security personnel also regularly took bribes for tolerating trespassing on the concessions.

While Chapter 6 ostensibly concerns a single institutional actor, namely the Catholic Church, it is important to disaggregate and look inside that institution, to recognize that there was not a single big conspiracy to cover up child sexual abuse—but there were many small conspiracies. On the one hand a plethora of individual bishops, heads of orders, and school principals had considerable autonomy, yet for reasons discussed below, they often acted alike. On the other hand, they all owed allegiance to the Vatican, which was extremely secretive as a matter of general policy. In some of the cases described in the chapter it was actually involved, in others its approach may have had an exemplary influence. Catholic psychological assessment and treatment centres were sometimes part of configurations engaged in secrecy and silencing; at other times they were at its receiving end. While many cases never came to the attention of secular authorities such as police or child protection services, secular authorities occasionally became part of the cover-up, but more so historically then in recent cases.

Beliefs, cultures, and loyalties

Ideational concerns played an important part in the contribution of Dutch Turks to authoritarian practices against their Gülenist compatriots (Chapter 2); in the collaborations between intelligence services on 'antiterrorist' measures (Chapter 3), as well as the hosting of secret prisons by NATO allies; in diplomatic exchanges about UN Security Council listed persons (Chapter 4); and finally in the covering up of child sexual abuse by so many Catholic Church officials (Chapter 6). But in each of these

configurations, they take on a slightly different form, which can be distinguished as beliefs, cultures of secrecy, and loyalties.

In terms of collective beliefs, important sections of the Dutch Turkish community appear to have genuinely believed that Gülenists were dangerous traitors in their midst, and that ostracizing and reporting them was therefore the patriotic thing to do (Chapter 2). Likewise, elements in the CIA and the Bush Administration may have genuinely believed, at least for a time, that torturing 'high value detainees' would help prevent further terrorist attacks (Chapter 3). It cannot be established to what extent and at what time genuine belief was supplemented by the psychological or institutional need to sustain this justification for otherwise unjustifiable practices. Finally, in part due to a theologically dubious adherence to the moral superiority of priests over laypeople, Catholic authorities often believed the word of their abusive fellow priests over the victims of abuse (Chapter 6).

At least three different 'cultures of secrecy' can be discerned in the case studies. Intelligence services are also referred to as 'secret services' because of the idea that both their operations and the intelligence they gather needs to remain secret, even from allies, any 'leaking' can serve the ends of enemies of the state. When it came to rendition (Chapter 3), the CIA had an additional motive for its devotion to secrecy, aware as it was that 'enhanced interrogation' would be widely perceived as illegal and immoral. The secrecy surrounding UN Security Council sanctions listings (Chapter 4) by contrast appears to have been sustained for its own sake, and could be a cloak for sensitive intelligence but equally well, as Sullivan (2020) has argued, precisely for its absence.

In the same chapter, a slightly different culture of secrecy—between diplomats—can also be seen in operation. Whereas in the intelligence service conception any breach of secrecy can trigger 'danger', in the diplomatic conception the perennial concern is with 'embarrassment', either to one's own state or to a friendly state, and believed to be harmful to bilateral relations with that state. Thus, the UN Sanctions Committee helped Belgium conceal from domestic audiences that the listing of a couple whose connection to terrorism was extremely tenuous had been triggered by their own government. Italian diplomats deftly transferred responsibility for delisting requests from the financial crimes office to the foreign ministry, so that US opposition to delisting could be concealed from the Italian public.

In the Catholic Church, various overlapping forms of secrecy combined to constitute a culture of secrecy regarding child sexual abuse by clerics. Both communications with the Vatican on individual cases and any statements in the context of the sacrament of confession were to be kept secret as a matter of canon law; any association between priests and sexual acts was a cultural taboo. The culture of secrecy went far beyond what canon law required, prompting many Catholic officials to keep priests in post or move them around without sharing information about complaints or even convictions, and in some cases to actively shield accused priests from police investigations.

Alongside and intersecting with beliefs and cultures of secrecy, loyalties to a particular entity or institution may propel actors to participate in authoritarian practices. When it comes to extraterritorial authoritarian practices, as in Chapter 2, patriotism, i.e. loyalty to the nation of origin, may function as such. Exposed to home government discourses adept at 'loyalty conflation', eliding the differences between people, nation, state, and government (Glasius 2018, 188), migrants may enact their loyalty by ostracizing, reporting, or threatening their fellow-citizens.

In the case of Catholic authorities (Chapter 6), authoritarian practices stemmed not from an endorsement of abuse as such, but from a devotion to the reputation of the Church as an institution, which was often put above the interests of actual or potential victims. At times members of Catholic communities too ostracized victims of child sexual abuse, because siding against priests and Church was unthinkable to them. While authoritarian practices as I have defined them presuppose a relation of hierarchy between the actors sabotaging accountability and those affected, in these particular cases of migrant or religious communities, a more lateral and immanent, Foucauldian manifestation of power is in play alongside and reinforcing hierarchical exercise of authoritarian power.

In Chapter 3, loyalties between political actors played a role at a more elite level: a relatively recent, but therefore all the more deeply felt, commitment to NATO, and more particularly to the security aspect of alignment with the United States, helps explain why political leaders of Poland, Romania, and Lithuania went along with secretly hosting the 'high-value detainees' captured by the US, when there was no conceivable benefit to them in doing so. By the same token, the CIA went to great lengths to avoid 'outing' these states, even after many other details of its controversial rendition programme had already become public knowledge.

Mutual benefits

While one meaning of 'understanding' is shared knowledge, a common understanding can also refer to an informal agreement. Thus, the common understandings that glue configurations of actors together can also be forms of collaboration based on mutual benefits rather than, or in addition to, shared ideas. In some cases, the distinction is quite clear. While the configurations and motivations behind Iranian extraterritorial practices (Chapter 2) remain largely shrouded in secrecy, we know that the actual killers of Ali Motamed were simply hitmen hired to do a job, with no idea who they were killing, and no ideational incentives to do so.

In the rendition programme (Chapter 3), while European authorities were running risks and reaping few benefits from their collaboration, there was much more to gain for less democratic governments. The CIA offered logistical support in capturing regime opponents abroad, in some cases such as Abu Omar's going as far as doing the kidnapping. The US Administration's 'with us or against us' rhetoric also offered governments legitimation in disabling the voices of many opponents, as long as these could be plausibly or even implausibly linked to Al-Qaida. In return, the

US and other western states hoped to gain intelligence about terrorist networks from those detained, as well as at the simplest level getting what were deemed to be potential terrorists off the streets. The gains for the charter and flight planning companies involved in rendition, in so far as they were not CIA shell companies, would have been simply commercial. The later practice of putting terrorist suspects on the UN Security Council sanctions list (Chapter 4) did not offer quite the same convenience as rendition to authoritarian regimes, but had similar legitimation benefits and may have bolstered the position of intelligence and law-enforcement agencies devoted to fighting terrorism domestically as well as internationally.

The entry of foreign companies into Katanga's mining sites (Chapter 5) saw foreign corporations, middlemen, and national politicians all benefiting financially from undervaluation and tax avoidance in these underhand sales. Less is known about the role of local politicians, although it seems plausible they also received their share. At a much more local level, after foreign mining companies had established themselves, a host of state, private, and hybrid security services officially employed to keep people off the concessions colluded with local strongmen in extorting and exploiting artisanal miners, with foreign companies at times tolerating these trespassers and even buying their produce.

Screw-ups and conflicts

In all the chapters, rationales were at work that appeared to necessitate authoritarian practices in the eyes of the actors who engaged in them: critics abroad, if not stopped, might topple the government (Chapter 2); terrorism can only be fought by playing dirty, but this must be hidden from democratic publics who do not understand (Chapter 3); terrorism can be prevented by freezing assets and hindering the mobility of suspects (Chapter 4); bribing politicians and ignoring or exploiting local populations is necessary in the business of extracting minerals (Chapter 5); the Church and its servants must be protected against scandal (Chapter 6).

But that does not mean that all associated actors were continually and neatly aligned, or that all actions were purposeful and legitimate from the perspective of all actors in the configuration. This is most obvious in the case of child sexual abuse in the Catholic Church (Chapter 6): while institutional and cultural features of the Church help to explain why abuse could occur and be tolerated so frequently, there was nothing functional about abusive priests from the perspective of the Church. The same was true on a more incidental level at the Katangese mining concessions when it came to the deaths of local men whose only crime was trespassing. While force was deemed necessary to avoid trespassing, excessive force resulting in death was a problem for the companies, in particular when NGOs were already taking an interest in whether the companies were harming the environment or the rights of locals. These

'screw-ups' were then understood by the relevant actors to necessitate authoritarian practices to avoid reputational harm.

Embarrassing individuals or incidents apart, actors in a configuration do not always collaborate seamlessly and in unison, nor is it the case that all voices are heeded and information flows freely within authoritarian configurations. While cracks in the coalitions are typically difficult to research, just as they are in authoritarian regimes, they can be discerned most of the chapters. In the case of the Turkish extraterritorial practices in the Netherlands (Chapter 2), it was in fact just such a rift between president Erdogan and Fethollah Gülen that was at the root of the subsequent disabling of voices of and lying about Gülenists. In the case of the rendition programme (Chapter 3), critics within the Administration and even within the CIA were disregarded and mostly ended up resigning, or were pre-emptively told lies. The UN Security Council sanctions list procedure (Chapter 4) led to tensions between the US and its European allies, resolved by the institution of the Ombudsperson. From the perspective of foreign mining corporations (Chapter 5), the various local and national security agencies all looking for ways to profit either from artisanal miners or from the companies themselves must at times have been a nuisance, and may even help to explain why most western companies eventually turned away from this volatile low-accountability environment. And in the Catholic Church (Chapter 6), while again much of the decision-making at the central level cannot be penetrated, there is evidence of disagreements over how to handle clerical abuse. Initially internal reformers were sidelined, and national guidelines that mandated reporting to secular authorities were undermined. At the turn of the century, there was some innovation in canonical procedures, but secrecy continued to be the lead principle. Only very recently, the Vatican has come to recognize the need for openness both in acknowledging the problem and in redressing it.

What this section has shown is that the simplified assumption of individual or collective will to power as the primary motivation for authoritarian practices does not hold up under close examination. What holds a configuration together is usually a complex mix of ideational, material, and damage-control considerations. This finding will be no surprise to country experts on particular authoritarian regimes, but a less schematic and more sociological approach to why authoritarian actors do what they do might be beneficial to the comparative politics literature on authoritarianism, as much as driving further research into transnational and institutional authoritarian configurations.

6. Challenging accountability sabotage: sources of vulnerability and resilience

In this section, the spotlight is shifted to what would in democratic theory be called 'the forum': those who find themselves at the other end of accountability sabotage.

This includes both people directly affected by the decisions of configurations of powerful actors and their formal or informal representatives, who challenge silencing, secrecy, and lying on their behalf. By seeking out commonalities and differences within and between the cases, and reviewing global trends beyond them, it provides answers to the question of when and how people affected and accountability seekers are at their weakest, and where their sources of strength lie. Based on these findings, it provides some reflections on what recent global developments are most promising, and where repertoires of challenging accountability are most under threat.

People affected

In Chapter 2 I adopted the terms 'autonomy' and 'positionality', taken from Koinova (2012)'s work on diasporas, in order to help explain why some diaspora members were much more vulnerable and less able to challenge extraterritorial authoritarian practices than others. These concepts can actually be usefully applied beyond diasporas, to more generally analyse what makes people affected by authoritarian practices more vulnerable or more resilient to them. Autonomy is connected to, but not quite coterminous with, the degree of control the configuration of actors has over the people it affects. Koinova discerns a material and a legal aspect to autonomy; the case studies in this book suggest that additionally, physical autonomy and emotional autonomy should be taken into account.

Positionality relates to the extent to which people affected already have, or have the potential to build, networks that can defend or protect them or challenge authoritarian practices on their behalf. In Chapter 2 itself, it emerged that members of diasporas had more autonomy from their home governments, and were hence less vulnerable, when they had the host state's nationality, when they did not have close relatives back in the home state, and when they were less embedded in communities with close ties to home. Their positionality within the society in which they resided appeared to be a significant factor in the exertions of Dutch officials on their behalf. Visibility in Dutch society, such as that of media personalities and politicians, had mixed effects: it made them more likely targets of practices disabling voice, but also better able to respond.

In Chapter 3, rendition victims lost their physical autonomy entirely during the time they were kidnapped. The ones who, after their release, found the ability to speak about their experiences and seek accountability had one important commonality: Italian Abu Omar, Australian Mamdouh Habib, Canadian Maher Arar, and German Khaled el-Masri were all nationals of liberal democracies. This may have given them the necessary autonomy from the CIA and other intelligence services involved in their kidnap to speak out. In terms of positionality, none appear to have been particularly well-connected prior to their rendition: it was the rendition itself that triggered journalists, prosecutors, and parliamentarians to investigate their stories

and advocate for them. The so-called 'high-value detainees', while never regaining physical autonomy, nonetheless also came to have support networks of journalists, lawyers, and human rights organizations, despite severe and sustained obstacles in their communication with the detainees.

The two case studies in Chapter 4, on the UN Security Sanctions List, illuminate the different advantages provided by autonomy and by positionality. Millionaire listee Youssef Nada never appears to have become strapped for cash despite formally having his assets frozen. Whilst his movements were very much restricted, he was able to retain lawyers who pursued his case with the Swiss and Italian authorities, the United Nations, and in the European Court of Human Rights. It was his substantial financial autonomy that enabled his legal route to getting delisted, seeking accountability, and clearing his name. As an avowed Muslim Brotherhood supporter, a foreigner and a millionaire living in a peculiar enclave presumably for tax reasons, he did not, however, have much positionality, i.e. no natural audience or network sympathetic to his plight. By contrast, the Belgian listed couple Sayadi and Vinck, who had lived modestly from the charity they managed, were severely affected by the asset freeze, they had little material autonomy. But they had much better potential for positionality, i.e. all the right characteristics to make them sympathetic to the Belgian general public. They successfully deployed this potential, telling their family's story to journalists over and over again, which put pressure on the Belgian government to request delisting.

The Katangese communities confronted with foreign mining corporations in Chapter 5 lacked the material autonomy and the positionality needed to help them seek accountability. While there were always local civil society organizations that critically followed the mining corporations, the impact of their demands for accountability is doubtful. The positionality of some mining communities was improved by the interest of international NGOs, but these could only cover a small number of mining sites, and local communities had little agency over their choices. The Swiss-German Bread for All, for instance, chose to focus on the multinational Glencore, in all probability because it too is headquartered in the German-speaking part of Switzerland, not because the communities in question were necessarily the most in need of advocacy.

Most adult survivors of child sexual abuse by clerics (Chapter 6) had full physical, legal, and material autonomy from the institution that had allowed harm to happen to them. However, traumatized and haunted by shame, many lacked the emotional autonomy required to demand accountability from the Church. Family support appears to have made an important difference. As in the case of members of the diaspora however, emotional autonomy is something of a double-edged sword: those most able to put their past or origins behind them may also lack the motivation to challenge authoritarian practices. In terms of positionality, three types of allies appear to have been particularly important to the resilience of abuse survivors. Important in terms of moral support and collective emancipation were networks

amongst survivors themselves. Journalists, while sometimes sensationalist in their coverage, have often been instrumental in unearthing evidence about child sexual abuse and its cover-up. Even more so, independent investigations, including government investigations that had considerable mandates and means for systematic research, have led to a sea change in knowledge and public perceptions of abuse in the Church. Both journalists and official inquiries often also provided victim-validation, leading to virtuous circles of ever more victims and bystanders coming forward.

While much more systematic research, comparing more *ceteris paribus* cases, is necessary to fully understand the sources of vulnerability and resilience of people affected by authoritarian practices, a few hypotheses can be cautiously put forward on the basis of the case studies in this book. Chapter 3 demonstrates, quite intuitively, that citizens of liberal democracies are much more likely than others to be able to sustain or regain both physical and legal autonomy in the face of authoritarian practices, even where agents of their own state have been involved. From both chapters 2 and 3 we learn that when such citizens are also linked, by nationality or origin, to authoritarian regimes, positionality in the liberal democratic 'host' states, i.e. connections to legal or political advocates, may additionally be needed to provide them with sufficient protection and resources. Chapter 4 provides anecdotal evidence that material autonomy and positionality may to some extent be functional equivalents, both in weathering and in challenging authoritarian practices. However, as seen in Chapter 5, positionality may be the more precarious attribute, depending as it does on the sustained interest and solidarity of others. Chapter 6 finally suggests that self-help networks of people affected, even in the initial absence of any particular skills of resources, can be a powerful form of positionality for those whose emotional autonomy is fragile.

Information professionals

In Chapter 1 I introduced the notion of 'representatives' of people who were subject to disabling of voice and disabling of access to information, whilst making clear that this form of representation does not mirror representation in the classic democratic sense: the 'representers' do not always have a mandate from the people affected, and do not represent their interests broadly, but only help to give voice and seek information in relation to particular power-holders. A more apt term may therefore be 'information professionals'. Across the chapters, journalists, parliamentarians, NGOs, lawyers, prosecutors, and judges, whistle-blowers, formal investigators, and academics have at different times played this role, seeking and demanding information on behalf of others, and giving voice to those whose voices were being disabled.

Taking all the empirical chapters together, the most consistent seekers of information and givers of voice were journalists. The enduring preeminence of journalism in

this respect is also underlined by Mitchell (2012), who found, on the basis of six major cases of evasion of accountability for war crimes in the UK, that 'the media generally trigger accountability processes' (27). Journalists are broadly curiosity-driven, in search of anything newsworthy, and the best will not give up when their searches are discouraged. Journalists as 'representatives' or accountability demanders also have their drawbacks: they typically need to 'find dirt', they may work with ready-made frames that give little space for representing nuance, and they may not always act in the best long-term interests of the people represented as 'victims' in their stories.

A more pressing worry, from the perspective of their functioning as information professionals, is the dual threat to journalists themselves: to their material autonomy and to their physical safety. Journalism has ceased to be a stable form of employment: journalists worldwide now frequently face job loss, they are forced to be freelancers more often than not, and regularly earn less than the minimum wage (Cohen et al. 2019; Ekdale et al. 2014; Örnebring 2018). Moreover, the types of journalists prone to uncovering accountability sabotage may also encounter physical threats. Local journalists falling victim of 'retaliatory killings' are nowadays more likely to lose their lives on the job than war reporters (Committee to Protect Journalists 2020).

Journalists themselves have in recent years found at least part of the answer to these threats—improving their autonomy and positionality—in teaming up transnationally. The most famous of these collaborations is the International Consortium of Investigative Journalists (ICIJ), a non-profit organization and network of news organizations that published on the *Panama Papers* and *Pandora Papers* (ICIJ n.d.). Alongside it, a number of smaller publication-led and journalist-led networks have also emerged. Such collaborations not only increase the investigative capacity and impact of journalistic investigations: pooling of resources and increasing safety are also among the drivers for journalists themselves to set up and engage in such networks (Heft 2021, 463).

Another important type of 'information professionals' are advocacy-focused NGOs. Human rights NGOs played an important role in systematically uncovering the dimensions of the practice of rendition (Chapter 3), they were virtually the only source of information on corporate mining practices in Katanga (Chapter 5), and have also played a role in the uncovering of clerical abuse (Chapter 6). As is well-established in critical literature on international NGOs (see for instance Cooley and Ron 2002; Hearn 2007; Hahn and Holzscheiter 2013), there are structural problems with the role of advocacy NGOs in speaking on behalf of vulnerable populations, ranging from perverse incentive structures to legacies of disempowering representations of victimhood. Nonetheless, the perhaps distorted, perhaps too muted voice they give to marginalized people may sometimes be the only voice that can be made audible to configurations of powerful actors.

NGOs, at least as much as journalists, are in many circumstances also experiencing a closure of civic space (Carothers and Brechenmacher 2014; Glasius et al. 2020; Roggeband and Krizsan 2021): receiving foreign funding has become much

more difficult, and legal restrictions, particularly on advocacy activities, have been on the rise. Fransen et al. (2021) have identified how local NGOs have responded with various strategies, including maintaining 'more opaque and improvised ties' (Ibid., 12) with international NGOs, tempering their advocacy, avoiding 'taboo phrases', and working with more tolerant local authorities, or conversely with national authorities seeking to keep local authority abuse in check. Nonetheless, the combined ability of local and international NGOs to challenge accountability sabotage, i.e. to give voice, uncover secrets, and challenge lies, is being severely curtailed. International NGOs used to give 'concrete evidence of harm done on citizens, workers, journalists, activists, or communities to third parties such as their home state, European Union institutions and businesses', based on information from local partners. More recently, these partner organizations 'no longer dared to be named as the intermediary source of evidence, and citizens/journalists/workers/community leaders similarly no longer wished to be identifiable to foreign parties as the victims of repression' (Ibid., 19). Despite evidence in the same article that 'activists do not give up', continue to work under the radar, and 'exchange experiences and lessons both inside and outside repressive regimes' (Ibid., 17), this trend may be the most worrying development in terms of the prospects for challenging accountability sabotage. While journalists are just beginning to explore and appreciate the full power of transnational collaborations and networks, NGOs are having to reorient themselves after several decades of perfecting such strategies.

Whistle-blowers have not featured prominently in this book. As described in Chapter 3 on rendition, CIA agent John Kiriakou and FBI agent Ali Soufan, despite not actually revealing any new information, found themselves subjected to imprisonment and censorship respectively. Various other US Administration insiders resigned because of their objections to rendition, but decided not to publicly speak out against it, perhaps for fear of the consequences or because they felt bound by loyalty or by their oath of secrecy. In Chapter 6 too, loyalty to the Church as an institution almost universally prevented ordained Catholics from challenging its culture of secrecy vis-à-vis clerical abuse. Nonetheless, whistle-blowers can have a profound impact on accountability struggles. Examples from recent history such as Katharine Gunn (British GCHQ), Sherron Watkins (Enron), Chelsea Manning (US military), or Edward Snowden (NSA) suggest that whistle-blowers are impactful precisely because they are a rarity in institutions with a strong culture of secrecy. Whistle-blowing—of certain types, especially in case of corruption—is protected by law in an increasing number of countries (Chalouat et al. 2019), including a Directive (2019/1937) applicable across all sectors in the European Union (The European Parliament and of the Council of the European Union 2019). At the surface level of legal recognition, the position of whistle-blowers, unlike that of NGOs, appears to be improving, not worsening. However, successful claims for compensation are not common, and even when they are they do not adequately compensate for ruined careers and identities (Kenny 2019, 212). Kenny's recent study of whistle-blowers in the global financial sector has

pointed towards a paradox: whistle-blowers are often celebrated as brave individuals, but the material and emotional harm they suffer is treated as an inevitable by-product of their bravery. Her 'affective recognition' (2019, 182–194) perspective suggests that what is crucial for whistle-blowers to survive their experience is to be seen and recognized as part of a greater collective. In other words, what might best foster the role of whistle-blowers in resisting accountability sabotage is similar to what is working for journalists: a move away from the lone hero model towards more collective approaches involving transnational networks of mutual support.

While journalists, NGOs, and whistle-blowers are mainly concerned with uncovering and publicizing unsavoury secrets, and sometimes with speaking for or giving voice to people who are silenced, lawyers, when acting as accountability demanders, fight their battles in a different arena. They may act as direct legal representatives of people affected by authoritarian practices, support them in taking their cause to court, to clear their name, legally establish wrongful behaviour, and/or claim compensation. Examples from the empirical chapters include lawyers taking their clients' rendition cases to national courts and to the European Court of Human Rights (Chapter 3), lawyers fighting UN Security Council listings in national courts, in the Strasbourg court, or engaging with UN institutions (Chapter 4), and lawyers representing their clients in civil litigation against the Catholic Church (Chapter 6).

Investigators with a mandate either from the organization they are investigating or from a government, often legal professionals as well, have a different, impartial role. Parliamentary investigations played an important role in uncovering the full dimensions of rendition (Chapter 3), and they have played an even more important role in documenting past clerical child abuse in many countries (Chapter 6). In both cases, the purpose was not so much to be the first to bring the facts into the public domain, but to establish exhaustive and authoritative truths, which may—but will not always—validate victims, and sometimes impose remedies.

The empirical chapters suggest that criminal prosecution for authoritarian practices is very rare, and, even when it occurs, it often involves scapegoating of lower-level officials rather than the principals—what Mitchell (2012) refers to as 'the fall guy in gravitational theory' (21). Nonetheless, while lawsuits and formal investigations are almost invariably very slow, and not necessarily satisfying to those affected, the authoritative pronouncements that follow from them can be the point of departure for subsequent regulation and/or cultural transformation.

7. Conclusion

A recent article provocatively asked whether globalization—defined as 'extensive integrated international market in goods, services, capital, and labour, linking the economies of countries around the globe' can be compatible with democracy (Milner 2021, 1098). Yet only a few decades ago, globalization—broadly defined—was widely

expected to roll back *authoritarianism*. The Berlin Wall was seen as a symbolic prison wall, locking up communist regime critics and disabling them from communicating with each other and with the world beyond, and its fall was celebrated as a victory for democracy. The spread of the Internet, only a few years later, literally connected people across borders, the better—it seemed—to expose and resist unaccountable state power. Admittedly, the relation between *economic* globalization and democracy was contested even at the time (Klein 1999; Gruber 2000; Desai and Said 2001).

Regardless of whether economic globalization is compatible with national democracy—and the answer may still be yes (see, for instance, Boix 2019)—it has become clear in the last two decades that various forms of globalization are fiercely compatible with authoritarianism. In order to understand this paradox, we need to shed the image of the Leviathan dictator wielding sceptre and sword over the subjects within his borders. In order to fully comprehend authoritarianism in a global age, we have to look not only at how globalization affects national regime types, but also at configurations of powerful actors in the transnational interstices between national political systems.

The answer to the 'leaking away' of power to configurations of unelected actors should not be to 'take back control' in the name of dubiously nostalgic national(ist) projects, but to demand accountability from such actors. Their decision-making is not necessarily impervious to demands for accountability from 'ordinary people'. To be sure, accountability does not mean that decisions will be taken by 'all people affected', it merely constitutes an obligation to listen, explain, and justify. It does not by itself produce political equality, and decisions transparently made do not automatically lead to greater sustainability or social justice. But successful transitions to a playing field where power-holders accept an obligation to explain and justify themselves and to allow people affected to ask questions and pass judgement creates better preconditions for other social goods. And such processes of accountability can be, indeed often have to be, transnational in nature.

Transnational configurations of powerful actors may fluctuate between sabotaging accountability and facilitating it. The academic's contribution is not to personally confront such configurations and demand accountability from them. It is to analyse and explain how they work. In order to understand and resist authoritarian practices in a global age, political scientists should broaden the focus of their research beyond state authoritarianism and autocratization alone. Our research should explore accountability sabotage—and accountability opportunities—inside multilateral institutions, global value chains, religious organizations, media conglomerates, international NGOs, and lobbying networks. We must look beyond authoritarian-populist leaders alone in order to understand the nuts and bolts of how authoritarianism operates in the twenty-first century, who it affects, how tugs-of-war between demand for and sabotage of accountability play out. In this book, I have provided a theoretical framework, a methodological approach, and a number of

empirical avenues for such research, and presented early findings. I hope that pursuing this research agenda will contribute to stacking the decks more in favour of those who are affected by authoritarian practices and those who demand accountability.

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