

# Out of the Dark: Civil Society in the Campaign to Abolish the Death Penalty

Written by Meredith Warren

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## Out of the Dark: Civil Society in the Campaign to Abolish the Death Penalty

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Civil society actors have long been in the background of landmark global human rights campaigns. To that end, the work civil society actors have achieved in relation to the abolition of the death penalty is no exception. Currently, 106 states have abolished the death penalty in full.<sup>[1]</sup> Therefore, it follows, that the status of abolition and how the death penalty is viewed has changed dramatically since abolition began to be framed as a human rights issue in the 1970s. What has contributed to these changing norms and how has civil society influenced abolition? In this project, I set out to examine the specific methods utilized by transnational advocacy networks (TANs) in the campaign to abolish the death penalty by tracing their normative contributions. Norm-diffusion, and how it is carried out, is of the utmost important in better understanding changes in the international system. Unpacking and analyzing the reports, news articles, diplomatic addresses, and more of states, non-governmental organizations (NGOs), and international organizations (IOs) can help trace where ideas started, how they impacted actors, and what the end result was.

Certainly, tracking norm-diffusion can be an arduous endeavor but it is necessary; for, knowing what shifts occurred in discourse is crucial in identifying and categorizing normative trends. In this case, my research aims to examine these normative changes in the campaign to abolish the death penalty. More specifically, I will be hypothesis-testing Margaret Keck and Kathryn Sikkink's 'boomerang pattern' model to better understand the ways in which TANs are able to foster change and interact with states, IOs, and other civil society actors. What can Keck and Sikkink's theory tell us about the nature of norm-diffusion? What normative methods do TANs use to bring attention to a specific campaign or human rights issue? Is Keck and Sikkink's model an effective evaluator of norm-diffusion? These questions and more will be explored in order to shed light on the important work of TANs, and, more broadly, human rights campaigns. My project design is as follows: a literature review; a section discussing the theoretical underpinnings; the project's methodological approach; the analysis; a conclusion; and, finally, a bibliography.

### Literature Review

#### *The Death Penalty*

According to the Death Penalty Information Center (DPIC), as of February 2019, 106 states have fully abolished the death penalty for all crimes.<sup>[2] [3]</sup> This also includes a number of states that are abolitionist in practice or for 'ordinary crimes' only, and, therefore, the accepted total number of abolitionist states is 142.<sup>[4] [5]</sup> This statistic is impressive given that in 1973 only 25 states had abolished the use of the death penalty.<sup>[6]</sup> As such, it is no coincidence that the campaign for abolition began to receive international attention around the same time that the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) came into force. It was at that historical moment that the death penalty became framed as human rights issue; thanks, in part, to leading NGOs like Amnesty International (AI) and Human Rights Watch (HRW) who were at the forefront of the international campaign for abolition.<sup>[7]</sup>

According to Roger Hood and Carolyn Hoyle, the sudden proliferation of states abolishing the use of the death penalty in the latter half of the twentieth century can be explained by a confluence of four factors: the emergence of a human rights perspective, the development of international treaties committed to abolition, mounting political

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pressure, and the strategy of non-cooperation.<sup>[8]</sup> <sup>[9]</sup> On the whole, Hood and Hoyle's work was seminal in identifying the broader trends of abolition. Most importantly however, they observed that, "...the dynamo for the new wave of abolition was the development of international human rights law."<sup>[10]</sup>

Indeed, the development of international treaties and human rights law which include language on the abolition of the death penalty is especially significant. The ICCPR came into force in March of 1976 after being ratified by 35 states.<sup>[11]</sup> Article VI of the ICCPR begins with, "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."<sup>[12]</sup> The remainder of Article VI limits States Parties to the Covenant in: only utilizing the death penalty for the most serious crimes; prohibits retroactive executions; the execution of persons under 18 years old; and of pregnant women.<sup>[13]</sup> <sup>[14]</sup> Additionally, Article VI reinforces the need for a fair trial before the imposition of the death penalty as well as the right to seek pardon.<sup>[15]</sup> At the time the ICCPR was drafted, from 1947 to 1966, only ten states had abolished the death penalty which makes the inclusion of Article VI particularly noteworthy.<sup>[16]</sup> As such, Article VI serves to encourage the international community to move towards universal abolition. Yet, the ICCPR did not ultimately require States Parties to abolish the death penalty. According to scholar William Schabas, this was because of "... the prudence of its drafters, aware of its anomaly but fearful of alienating retentionist States and discouraging them from ratification."<sup>[17]</sup>

A push for universal abolition was further codified into international law with the Second Optional Protocol to the ICCPR which was adopted by the United Nations (UN) General Assembly in 1989.<sup>[18]</sup> Article I states, "No one within the jurisdiction of a State Party to the present Protocol shall be executed."<sup>[19]</sup> To that end, the Protocol does not permit any reservations except for any that were made by States Parties at the time of ratification or accession to the ICCPR.<sup>[20]</sup> The Protocol goes on to highlight the competence of the Human Rights Committee, the review mechanism of the ICCPR, to receive complaints brought to it by States Parties.<sup>[21]</sup> Currently, there are 86 States Parties to the Second Optional Protocol, which illustrates not only the progression of universal abolition but the changing norms surrounding the death penalty.<sup>[22]</sup>

International customary law (ICL) has evolved along with the international legal framework for abolition. The Human Rights Committee itself has declared that it views the ICCPR and its Optional Protocols as living instruments to be applied within present-day contexts.<sup>[23]</sup> Further, the International Bar Association (IBA) notes that while the Human Rights Committee's findings are not legally binding, it is evident that the human rights discourse concerning the death penalty is expanding. The IBA wrote in 2008, "International custom is also becoming increasingly abolitionist, with more states regarding the death penalty as being inconsistent with human rights standards. While the death penalty remains legal at international law at the current time, it is highly likely that progress towards abolition will continue."<sup>[24]</sup> Thus, the future for abolition looks promising. A majority of the international community has abandoned the death penalty and made strides in encouraging retentionist states to do the same.

## *Transnational Advocacy Networks (TANs)*

TAN is a term that comes from the theoretical work of Margaret Keck and Kathryn Sikkink in their work *Activists Beyond Borders*.<sup>[25]</sup> Keck and Sikkink define a TAN as "... relevant actors working internationally on an issue, who are bound together by shared values, a common discourse, and dense exchanges of information and services."<sup>[26]</sup> These advocacy networks are made up of non-state actors such as: international and domestic NGOs; local social movements; foundations; the media; organs of regional or international organizations; and parts of executive and/or parliamentary branches of state governments.<sup>[27]</sup> These actors are bound together by shared values and interact with states and IOs.<sup>[28]</sup> However, it is important to note, that international and domestic NGOs typically play a more central role in advocacy networks as they can initiate action to pressure more powerful actors and wield more lobbying power.<sup>[29]</sup>

This unique idea of civil society actors interacting in a network pattern came about in the latter half of the 21st century when transnational human rights and NGOs began exerting influence within the international arena. Indeed, as Risse, Ropp, and Sikkink note, in 1976 the two aforementioned landmark human rights treaties, the ICCPR and the ICESCR, came into effect which created a cascade of new norms and institutions.<sup>[30]</sup> This new development in the social and institutional structure of international society allowed for a flowering of new ideas and new actors;

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specifically, civil society actors. Andrew Hurrell writes “... transnational civil society refers to a domain and space in which self-organized intermediary groups that are relatively independent of both public authorities and private economic actors, that are capable of taking collective action in pursuit of their interests or values, and that act politically across state borders.”<sup>[31]</sup>

What makes TANs especially distinct from individual actors within civil society are the ways in which they strategically mobilize information to galvanize support for an issue “... and to persuade, pressurize, and gain leverage over much more powerful organizations and governments.”<sup>[32]</sup> In turn, these interactions multiply the opportunity for dialogue, exchange, and progress of international norms.<sup>[33]</sup> Therefore, these networks, and the actors within them, are able to create a feedback loop of norm-diffusion between target states and the international community. Further, TANs promote norm implementation by putting pressure on target states, monitoring compliance with regional and international standards, and in turn, as Keck and Sikkink postulate, change the perceptions that both a state and societal actor alike have of their identities, interests, and ultimately, policy and behavior.<sup>[34]</sup>

The ultimate goal of TANs is to create a ‘boomerang pattern;’ a term coined by Keck and Sikkink. It is the idea that the norms TANs work towards implementing can activate other actors, organizations, or individuals and, consequently, influence various states and IOs, and those states and IOs can exert pressure on an international scale — effectively altering the social structure of a norm itself.<sup>[35]</sup> Thus, the boomerang pattern creates a feedback loop of norm-diffusion between TANs, target states, and the international community. Therefore, even if an advocacy network fails to pressure a norm-violating state into compliance, the work it carried out still holds significance and serves to further any action on whatever issue it set out to affect.

TANs achieve a boomerang pattern through the use of four methods. The first is through what Keck and Sikkink call ‘information politics’ or “... the ability to move politically usable information quickly and credibly to where it will have the most impact.”<sup>[36]</sup> The second method is called ‘symbolic politics’ wherein TANs employ the usage of specific stories, symbols, or actions that make sense of a situation.<sup>[37]</sup> The third is ‘leverage politics’ which is the ability of TANs to call upon powerful actors when weaker members of the network are unable or unlikely to have any influence.<sup>[38]</sup> The fourth, and final method, is ‘accountability politics’ where TANs oblige more powerful actors to act on policies or principles.<sup>[39]</sup> I will expound upon these methods further in the section covering my theoretical underpinnings.

It can be seen that TANs occupy a special middle ground in International Relations (IR). TANs are able to wield an incredible amount of influence *vis-à-vis* human rights issues, IOs, and individual states themselves. And, it naturally follows, the normative interactions that TANs have with target states do not happen in a vacuum. They often spill over into the regional and international arenas. Understanding how TANs create and contribute to this norm-diffusion is paramount, and, unfortunately, under-analyzed within IR.

## *The Gap*

The focus of academics on the universal campaign for abolition continues to remain largely on international treaties and the emergence of new norms. Therefore, there is a substantial gap in the literature — a gap that has not fully valued the role of civil society. Moreover, there has been no study of TANs and boomerang pattern in conjunction with the subject of the abolition of the death penalty. However, despite the fact that the scholarship on the contribution of civil society to the campaign for abolition of the death penalty is lacking, there are a few sources.

One is entitled “Can We End the Death Penalty? The Role of NGOs in the World-Wide Campaign” by William Graham Allen.<sup>[40]</sup> Allen’s research was published in 2011 as a Masters Thesis at the University of British Columbia. Sitting at almost 200 pages, Allen’s thesis is an indispensable trove of information on the subject of civil society involvement in the universal campaign for abolition. Allen moves through his work by chronicling the four factors of abolition advanced by Hood and Hoyle. While not in stark contrast with their theories, Allen complements their research by adding the missing narrative of NGO contribution. He argues that the success achieved by the campaign for abolition has been markedly due to a group process and the culmination of efforts by non-state actors dedicated to abolition.<sup>[41]</sup> Allen dedicates time to discussing the 1945 San Francisco Conference and the 41 NGOs that were

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present during the drafting of UN Charter.<sup>[42]</sup> He argues that the NGO 'seed' was planted within the discipline of IR at the Conference insofar as that NGOs were offered a seat at the table and strategies of how to influence policy were established.<sup>[43]</sup>

Allen then looks at previous international humanitarian campaigns, the campaign against torture and the campaign against slavery, to analyze NGO contributions. He concludes that there is evidence to show that NGOs are invaluable for human rights campaigns. Additionally, Allen explores the increasing degree of international legal personality (ILP) conferred unto NGOs. He orients his argument for increased ILP for NGOs with the campaign for abolition of the death penalty. Allen contends that NGOs are influential participants in norm-diffusion of ICL; particularly in relation to norms surrounding the death penalty.<sup>[44]</sup> Allen rounds out his research with three case studies on The Philippines, the United States of America, and Pakistan where he explores the status of the death penalty and civil society in each country. In general, his work is no doubt an important contribution to the literature. However, despite the presence of thoughtful and compelling analysis in Allen's work, it lacks elaboration on specific methods employed by NGOs to contribute to norm-diffusion.

The second addition to the relevant literature is from Dr. Dongwook Kim of The Australian National University. While much shorter than Allen's thesis, Kim's method of looking directly at NGO engagement at the local level combined with his utilization of process-tracing makes his piece vital to my own research.<sup>[45]</sup> Kim begins by saying "... I argue that human rights INGOs [international non-governmental organizations] can empower pro-abolition constituencies and influence governments' calculations and deliberations toward abolition. Specifically, they do so by framing capital punishment as a human rights violation through abolitionist campaigns and lobbying parliamentarians to repeal death penalty laws. Through their anti-death penalty activism, human rights INGOs tip the domestic political balance between pro- and anti-death penalty constituencies in favor of complete abolition."<sup>[46]</sup>

Kim pays special attention to the Philippines as well. Yet, where Allen ultimately falters in identifying specific norm-diffusion methods, Kim succeeds. Kim cites actions taken by the International Coalition Against the Death Penalty (CADP) in 1994 when the organization teamed up with AI Philippines and a handful of other local NGOs.<sup>[47]</sup> The CADP worked directly with family members of death-row inmates as well as local abolitionists by offering speaking tours, training sessions and workshops, participating in radio talk shows and television panel debates, press conferences, organizing demonstrations on execution days, and sponsoring mass vigils.<sup>[48]</sup> Additionally, the CADP worked with local lawyers to form a Filipino coalition of legal professionals lobbying for national legislation that curbed the use of the death penalty.<sup>[49]</sup> Kim details many instances of the CADP, and other NGOs, working on the ground in local Filipino communities to help overturn the death penalty. Kim's contribution is the first that sets out to account for these important actions taken by civil society actors. Tracing the norm-diffusion of NGOs in the fight against the death penalty in such a way is groundbreaking for IR, and should be carried over into other case studies and normative considerations.

## *Addressing the Questions*

Reconciling such a large gap in literature, wherein only two sources closely align with my desired area of analysis, is difficult. However, I believe that in the scholarship I have reviewed there exists a theoretical framework that can support me in my research. I intend to hypothesis-test Keck and Sikkink's boomerang pattern model to analyze the methods employed by TANs in differing campaigns for abolition of the death penalty. Therefore, I will rely heavily on not only Keck and Sikkink's work but Kim's article and its normative process-tracing. After having uncovered these important contributions, harkening back to Keck and Sikkink as well as other scholars who write about TANs and the campaign for abolition will be essential.

## **Theory**

The English School (ES) theory within IR has paved the way for two theoretical models that are incredibly useful to the question of TAN involvement in the campaign for abolition of the death penalty. Because ES places an emphasis on the presence of an international society, and within that, a civil society, non-state actors can occupy an important role and cultivate change.<sup>[50]</sup> These two models applaud themselves on being generalizable.<sup>[51]</sup> Therefore, applying

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them to different cases and states irrespective of cultural, political, or economic differences is not only germane but encouraged.<sup>[52]</sup>

The first theory is called the 'spiral model' developed by Risse, Ropp, and Sikkink in *The Power of Human Rights*. The spiral model was a product of the authors inquiry into how transnational actors and advocacy networks socialize states into compliance with international human rights norms. Their model is five-fold: phase one is the repression of a human right and the activation of an international response; phase two is denial on the part of the norm-violating state; phase three predicts the norm-violating state will make tactical, cosmetic concessions, phase four is called 'prescriptive status' wherein the norm-violating state will begin discussing its progress; and, finally, phase five is rule consistent behavior.<sup>[53]</sup> The theory is tested in different states like Morocco, South Africa and the Philippines; all noting how influential transnational advocates were in promoting norm-diffusion. Risse, Ropp, and Sikkink also include within the spiral model types of socialization transnational actors employ. The hypothesis-testing model in its entirety is extremely robust. However the spiral model ultimately aims to trace the overall process of re-socializing a norm-violating state rather than focusing on the specific methods and interactions of non-state actors. Nonetheless, it is an indispensable theoretical underpinning as it adds to the wanting literature on transnational networks.

The second, previously discussed, ES theory that is the subject of my analysis, is Keck and Sikkink's boomerang pattern and transnational advocacy network model. In my literature review, I outlined the four methods that TANS employ to put pressure on a norm-violating state and organize information. These methods are critical to understanding how TANS operate and what kind of norm-diffusion they can achieve. Therefore, I will be using the four methods in my analysis to identify and categorize TAN action. The methods will serve as the basis for my hypothesis-testing. The first method is what Keck and Sikkink call 'information politics.'

While there is no hierarchy within this framework of tactics, information politics is perhaps the most useful and used method in TANS. Information politics is the ability to "... move politically usable information quickly and credibly to where it will have the most impact."<sup>[54]</sup> Non-state actors within TANS are able to act as alternative sources of information by utilizing facts and, most importantly, testimonies of people's lives that have been affected by whatever issue the TAN is attempting to affect. Keck and Sikkink write that actors within TANS are able to interpret these facts and testimonies and frame them as right or wrong.<sup>[55]</sup> For, at the end of the day, TANS exist to "...persuade people and stimulate them to take action."<sup>[56]</sup> Indeed, actors within a network, like NGOs, require access to information to make them legitimate players within movements.<sup>[57]</sup> Therefore, establishing connections with local groups allows for information from 'on the ground' to be collected at a low cost and from people who know the issue well. On the contrary, for local groups, establishing a link with a large domestic or INGO is essential to disseminate information about a cause.<sup>[58]</sup> These types of interactions are of vital to the success of networks. Actors establish relationships with one another to allow for a free flow of information, and, in turn, maximize exposure for a campaign.

The second and third methods TANS employ are 'symbolic politics' and 'leverage politics.' Symbolic politics refers to the images, videos, stories, information, etc TANS use which generate powerful interpretations that create awareness for an issue. This method is integral to the success of a network as explanations for important symbolic events "... become catalysts for the growth of networks."<sup>[59]</sup> For instance, Keck and Sikkink note that awarding the Nobel Peace Prize to Rigoberta Menchu in 1992 during the International Year of Indigenous People heightened public awareness about the plight of indigenous people, and, consequently, allowed a network to form around indigenous issues.<sup>[60]</sup> It is powerful events and strategy like this example that illustrate the utility of symbolic politics.

Keck and Sikkink define leverage politics as, "... to gain influence the networks seek leverage — a word that appears often in the discourse of advocacy organizations — over more powerful actors. By exerting leverage over more powerful institutions, weak groups gain influence far beyond their ability to influence state practices directly."<sup>[61]</sup> Because leverage is a crucial tool within networks, Keck and Sikkink note two different kinds of leverage: material and moral. First, material leverage is rather straightforward. More often than not it takes the form of some kind of 'issue-linkage' which involves money or goods, or, potentially, votes in IOs, prestigious offices, or other benefits.<sup>[62]</sup> Second, moral leverage is when "the behaviour of target actors is held up to the bright light of international scrutiny."<sup>[63]</sup> In other words, this method could be called the 'mobilisation of shame.'<sup>[64]</sup> Leverage politics can be particularly effective for TANS, especially when target states place a premium on international prestige.

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The final method that Keck and Sikkink put forth is 'accountability politics.' Once a target state has publicly committed itself to a certain principle (Keck and Sikkink use the example of being in favor of human rights or democracy), a TAN is able to use that public commitment and its command of information "... to expose the distance between discourse and practice."<sup>[65]</sup> A TAN exposing a target state can be embarrassing, especially if, just as leverage politics makes note of, the state places value on its international reputation. In an effort to save face, the target state may try to close the distance between its discourse and practice, and, therefore, be held accountable.<sup>[66]</sup>

These four methods, information politics, symbolic politics, leverage politics, and accountability politics are often interconnected. TANs rely on all tactics laid out in Keck and Sikkink's model to maximize influence on a campaign or a target state. Using the four methods, Keck and Sikkink go on to identify five types, or stages, of network influence: issue creation and attention/agenda setting; influence on discursive positions of states and regional and international organizations; influence on institutional procedures; influence on policy change in 'target actors' which may be states, international or regional organizations, or private actors; and finally, influence on state behavior.<sup>[67]</sup>

Thus, on the whole, Keck and Sikkink's theoretical model creates the perfect avenue for the exploration of the question of the campaign for abolition of the death penalty. The model is built to explain actions and effectiveness of advocacy networks. Therefore, testing if the campaign for abolition follows these patterns can be incredibly helpful in tracking the norm-diffusion of the TANs. First, two important notes about Keck and Sikkink's theory. The goal of a TAN is not the eventual success of whatever campaign or human rights issue it is trying to affect. The value of Keck and Sikkink's model is in evaluating the interactions between civil society actors, states, and organizations in order to account for changes in norms. Certainly, TANs foster immense changes within their own networks, within individual states, and within the international system itself. Those normative interactions do not simply disappear after a TAN disbands, an issue is resolved, or attention is diverted elsewhere. Therefore, abolition as a consequence of TAN contribution is not the measure of success. I will harken back to this throughout my analysis. Second, all four methods in Keck and Sikkink's model do not have to be present to evaluate the methods of TANs. They can, and do, exist independent of one another. Next, I will move through how I intend to conduct my analysis.

## Methodology

As discussed, I will be hypothesis-testing Keck and Sikkink's TAN and boomerang pattern theoretical model. I will test the model with three distinct case studies: France, South Africa, and the United States of America. More specifically, I will utilize Keck and Sikkink's four methods to identify and categorize the actions of networks. To this end, the method of theory testing process-tracing will be instrumental. Theory testing process-tracing is simply an in-depth analysis of a single case.<sup>[68]</sup> Theory testing process-tracing is used, according to The Centre for Development Impact (CDI), to "... develop theory that is generalisable to other interventions or situations."<sup>[69]</sup>

Thus, process-tracing becomes a helpful tool in the laborious task of unpacking communications, reports, information, and overall actions of actors within a network. As Dr. Astrid Wood writes, "The physical, social and theoretical movement of ideas, objects, people and places can be difficult to study because they are constantly in motion, positioning and repositioning, erratically and sometimes, irrationally."<sup>[70]</sup> Process tracing can help anchor researchers and readers alike to the broader, more difficult to conceptualize, implications of norm-diffusion. For instance, in the case of applying Keck and Sikkink's theoretical model to the campaign for abolition of the death penalty, carefully tracing the effects of a network using news reports, government records, NGO documents, etc can draw a more complete picture of, what Dr. Wood calls, the 'physical, social and theoretical movement of ideas.'<sup>[71]</sup> Consequently, my data will be collected by unearthing international and domestic NGO reports, any available state government resources, newspapers, journal articles, etc.... My analysis will rely on assessing the normative implications within said documents discussing the national campaigns for abolition.

## Analysis

In order to best understand how TANs have affected the campaign to abolish the death penalty at the national level, I have chosen three distinct case studies: France, South Africa, and the United States of America (US). All three states have different histories with the death penalty and varying levels of involvement from TANs. As I outlined

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above, since I am hypothesis-testing Keck and Sikkink's model, I am searching for evidence of abolition networks utilizing the four methods of: information politics, symbolic politics, leverage politics, and accountability politics to observe if TANs conform to the boomerang effect, and, if so, what the implications are.

## France

France represents the emergence of an advocacy network at an early stage. Abolition in France came about in October of 1981 — which is rather early if placed within the global context of abolition.<sup>[72]</sup> As such, the French case study can provide a unique insight into the more informal and casual relationships between actors. Analyzing TANs and the death penalty at this important juncture can yield interesting insights into Keck and Sikkink's model; specifically the saliency of the boomerang pattern across the abolition timeline.

France has a storied past when it comes to the death penalty. Executions were commonplace during *l'ancien régime* but were called into question by the philosophers of the Enlightenment and into the nineteenth century following the French Revolution.<sup>[73]</sup> Following the Dreyfus Affair and the election of the first socialist president in 1908, France bore witness to a progressive movement within the government that was unlike anything it had seen before. President Armand de Fallières wished to implement: an income tax; worker pensions; injury compensation; and, finally, the abolition of capital punishment.<sup>[74]</sup> However, as French historian Robert Nye notes, France was not ready to dismantle the system of repression, abroad in its colonies and at home, that depended upon the death penalty.<sup>[75]</sup>

Thanks to France's history with the death penalty and the work of abolitionists during *l'ancien régime* and after, the advocacy network that appeared prior to abolition in 1981 had a foundation that most other states did not. It is for this reason that abolition in France looked much different than in other places. The death penalty was intrinsically linked with *l'ancien régime* and symbolized France's hegemony and 'old ways.'<sup>[76]</sup> Accordingly, abolition became an intellectual movement much like it had in the Enlightenment period when thinkers like Voltaire wrote about the immorality of the death penalty.<sup>[77]</sup> That intellectual tradition was carried over into the twentieth century with the influence of members in the advocacy network like Michel Foucault.<sup>[78]</sup> As a result, the abolition movement of the 1970s and 1980s had already framed the death penalty into a human rights issue.

The advocacy network in France was not centered around one specific INGO or NGO as my research suggests it was in South Africa and, to some extent in the US, but rather, two men: the Minister of Justice Robert Badinter and President François Mitterrand. Badinter and Mitterrand were the leaders of the advocacy network in France and the architects of abolition within the National Assembly. Badinter and Mitterrand relied upon the, aforementioned, historical foundation and the preexisting network of actors to justify abolition. In particular, they actively participated in diffusing norms and framed the death penalty as inherently immoral i.e. utilizing the boomerang pattern. By taking the norms being formed within the international community around abolition and echoing those back into their own political arena, Badinter and Mitterrand were able to convince a skeptical France that abolition was worth its time. As Didier Burkhalter wrote in the 2015 Office of the UN High Commissioner for Human Rights report, "In some countries, abolition requires the political courage of a few committed leaders. This was famously the case in France, where Robert Badinter, then Minister of Justice, spearheaded abolition through incisive and eloquent prose. In most states, however, there is no single event or single politician that changes the political landscape. Instead it is often a lengthy process, edged forward by the tenacity of committed parliamentarians and political leaders."<sup>[79]</sup>

In December of 1977 AI organized the first ever global conference on the issue of the death penalty. The event, held in Stockholm, was called the World Conference to End the Death Penalty.<sup>[80]</sup> The Conference framed the death penalty as a human rights issue and was, ultimately, watershed in crystallizing abolition as an international norm. Nigel Rodley writes of the Conference, "Human rights discourse was beginning to play an influential role in international politics generally; the death penalty component of it caught this wave."<sup>[81]</sup> <sup>[82]</sup> The Conference produced a Declaration which was the first international manifesto to call for complete and universal abolition of the death penalty. The Declaration called upon "non-governmental organizations, both national and international, to work collectively and individually to provide public information materials directed towards the abolition of the death penalty..." and for "... all governments to bring about the immediate and total abolition of the death penalty."<sup>[83]</sup>

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Additionally, the Conference educated participants on pathways towards abolition and what kind of change could happen from within individual states.<sup>[84]</sup>

The Conference was a rousing call for mobilizing regional and international actors. Consequently, it was no coincidence that Minister Badinter was present. He has long credited AI's work and the importance of NGOs in the fight for abolition. In 2016 Badinter stated, "Without the ardent commitment of NGOs, abolition of the death penalty as a cause never would have triumphed: not in Europe where Amnesty International received the Nobel Peace Prize in 1977 to honour its work, including making abolition a human rights priority; and not in France where, without the support of NGO activities, the struggle for abolition would not have found sufficient support amongst public opinion...."<sup>[85]</sup>

Badinter carried over his appreciation for the work of AI and NGOs into his famous televised speech addressing the National Assembly's Senate in 1981 before the body took the vote on abolition. Badinter's 43 page speech reflects his deep commitment to abolition and he implores the Senate to take notes from the international community and their European neighbors. He asserted, "... *dans tous les pays de liberté l'abolition est la règle et la peine de mort l'exception. C'est particulièrement vrai dans la civilisation européenne dont nous sommes l'une des composantes et l'une des foyers de liberté.*"<sup>[86]</sup> In English meaning, "... in all of the world's free countries, abolition is the rule and the death penalty the exception. This is particularly true in European civilization, of which we are one of the components of and one of the bastions of freedom."<sup>[87]</sup> Badinter was concerned with ensuring that France lived up to the norms set forth by its European neighbors and, especially, the increasing pressure from the Council of Europe for its members to fully commit to abolition.<sup>[88]</sup>

In fact, just a few months after Badinter's influential speech, the Council adopted Protocol 6 of the European Convention on Human Rights which was the first legally-binding instrument to abolish the death penalty.<sup>[89]</sup> The Council directly credited AI's work at the World Conference as the initiator of European abolition, "We owe to the World Conference against the death penalty, organized in Stockholm by Amnesty International on 10-11 December 1977, the idea . . . that anyone who opposes torture must favour abolition of the death penalty."<sup>[90]</sup> By calling upon his European neighbors and the reality of regional abolition, Badinter used leverage politics to remind France of its inaction. Keck and Sikkink call this the 'mobilisation of shame' and is usually helpful when a state places value on international prestige.<sup>[91]</sup> In this case, Badinter was successful in invoking moral leverage over the Senate to call for abolition.

Moreover, Badinter utilized information politics to point out how France's use of executions was inherently racial. Badinter, in his speech to the Senate, notes that 60% of all executions were of black individuals when they only made up 13% of the population.<sup>[92]</sup> He calls for abolition to free the French people from prejudice and augment the quality of justice.<sup>[93]</sup> In a society that did not speak often, or at all, about miscarriages of justices towards people of color and minorities, Badinter's inclusion of the racial implications of the death penalty is noteworthy. He moved politically usable information to where it would have the most impact — in front of the Senate and in front of the French public.<sup>[94]</sup> Clearly, his methods paid off.

While France had already framed the death penalty into a human rights perspective prior to 1981, it is significant that Keck and Sikkink's methods were used within the advocacy network leading up to abolition. The task was up to Badinter to use the norms he learned at AI's Conference and the mounting pressure coming from the Council of Europe to rally the French government and the French public; and, notably, at a time when abolition as an international norm was new and difficult to conceptualize for some countries. Although abolition was the outcome for France, the saliency of Keck and Sikkink's model does not rely on the success of a network's campaign mandate being achieved. In this case, Keck and Sikkink's model was successful because of the presence of its methods and a boomerang pattern of norm diffusion carried out by Minister Badinter.

## South Africa

South Africa is germane to my research as abolition occurred at a time when the norm of abolition began to be crystallized across the globe. The death penalty was officially abolished in South Africa on 6 June 1995 by the



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Constitutional Court (ConCourt) after a five year moratorium put in place by then President de Klerk.<sup>[95]</sup> The domestic campaign for abolition was an uphill battle for South Africans as death sentences and executions were intrinsically linked with the system of apartheid.<sup>[96]</sup> <sup>[97]</sup> The South African Institute of Race Relations (IRR), an influential South African research institution, argues that the death penalty cannot be separated from apartheid. Indeed, as IRR writes, "... in 1994 some 98% of the judges on South Africa's superior courts were white" and before abolition, of the 2,740 individuals that were executed, only 100 were white.<sup>[98]</sup> Hence, just 25 years after, abolition remains a hot-button topic in South Africa given its institutional and racial ties.

On the whole, INGOs played a major role in South African abolition — more so than in France and the US. That is not to say that there was a lack of local abolitionist groups, there were and still are, but because of South Africa's political and social landscape in the 1990s, local civil society actors did not have as much normative influence as larger, more established organizations such as AI had. AI was a chief organizer of disseminating information and collecting data within the South African network. Most notably, AI skillfully utilized information, leverage, and accountability politics to encourage the local actors and put the international spotlight on South Africa.

From just 1991 to 1993, AI published more than 15 newsletters and reports about executions in South Africa.<sup>[99]</sup> AI, acting as a sort of information watchdog of South African executions, conducted a robust campaign during this period leading up to the ConCourt's judgement. For instance, AI ran a newsletter throughout the early 1990s called the "Death Penalty News" bulletin which published general information about the international campaign for abolition as well as updates about executions in individual states — South Africa appeared in this bulletin many times. The April 1991 bulletin updated readers on a special case in Venda, "...two prisoners were executed in early February in the nominally independent 'homeland' of Venda, despite assurances from the Venda authorities in January that the 'homeland' leader Brigadier Gabriel Ramushwana had ordered a review of Venda's death penalty legislation with a view to bringing it into line with South Africa's amended legislation governing the death penalty."<sup>[100]</sup> AI's command of information, within a fragmented system wherein different homelands throughout South Africa had control over executions, is impressive. This ties in directly to Keck and Sikkink's assumption that INGOs and NGOs usually occupy a leadership role in advocacy networks. They write, "...international and domestic nongovernmental organizations (NGOs) play a central role in most advocacy networks... NGOs introduce new ideas, provide information, and lobby for policy changes."<sup>[101]</sup>

Additionally, AI would often times include a call to action at the end of bulletins and reports in an attempt to organize the local South African network. In AI's April 1993 newsletter, the organization detailed the situation surrounding a community leader and activist named Johannes Maisha 'Stanza' Bopape.<sup>[102]</sup> It was clear to local South African justice groups that Mr. Bopape had most likely been executed near Pretoria but officials maintained Mr. Bopape had escaped captivity and simply vanished into thin air. At the end of their report, AI encouraged readers and South Africans to "...please send appeals urging the government to conduct a full, judicial inquiry into the "disappearance" of Stanza Bopape and to bring to justice those responsible for his death: F.W. De Klerk/State President/State President's Office/Private Bag X83/Pretoria 0001/South Africa."<sup>[103]</sup>

The role of AI here is particularly important because encouraging further action brings more exposure to campaigns and expands the scope of a network. Information and action are currency within an advocacy network. This method proved to be valuable to AI as the organization continued to put call to actions at the end of most South African death penalty updates. In June of 1993, the South African Parliament voted in favor of lifting the moratorium on executions.<sup>[104]</sup> AI published a newsletter about its fear of resumption of executions and at the end of the newsletter included instructions on how to speak out against Parliament's decision.<sup>[105]</sup> More specifically, AI included language that one could put in a letter, " Please send telegrams/telexes/faxes/express and airmail letters either in English or your own language: – expressing concern that on 17 June 1993 Parliament voted in favour of ending the moratorium against executions; expressing concern that although the Minister of Justice stated at the conclusion of the debate that hangings would not necessarily resume immediately, the continuing uncertainty over the status of the moratorium exacerbates the suffering of the hundreds of prisoners currently under sentence of death; referring to the fact that on 29 January 1993 South Africa signed the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment...."<sup>[106]</sup> The newsletter goes on to give information on local activist groups called Lawyers for Human Rights and Society for the Abolition of the Death Penalty.

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Conversely, there are also examples of INGOs depending on local social movements and organizations for information. In AI's February 1991 edition of *Death Penalty News*, in the 'Death Penalty In Practice' section, AI includes a story about one South African man whose case was taken on by Lawyers for Human Rights.<sup>[107]</sup> Lawyers for Human Rights reported to AI that a Mr. Alpheus Sekoboane had not filed a petition for clemency so Lawyers for Human Rights attorneys instructed Mr. Sekoboane to apply for a stay of execution.<sup>[108]</sup> Nonetheless, Mr. Sekoboane's application was denied and he was executed. Yet, this is a prime example of the exchange of information between actors within a network. Lawyers for Human Rights communicated with AI, and indeed relied on them, to get the word out on an execution sentence. This relationship between actors, as Keck and Sikkink note, is of the utmost importance.

Further, AI demonstrated usage of both leverage and accountability politics in an attempt to put pressure on South Africa and further mobilize the South African network. In February of 1991 AI gave a speech to the 47th Session of the UN Commission on Human Rights specifically on the subject of human rights in South Africa.<sup>[109]</sup> In the address, the representative from AI commends the decline in judicial executions. However, in the subsequent address to the Commission in 1993, the speaker from AI methodically moves through the numerous human rights violations in South Africa; noting in particular the amount of judicial and extrajudicial killings at the hand of the government.<sup>[110]</sup> The address ends with reiterating what AI told the Commission in 1991, "Unless and until the government takes adequate steps to demonstrate publicly and unequivocally that all members of the security forces who are involved directly and indirectly in torture, extrajudicial executions and other human rights violations will be brought to justice the current climate of fear, frustration and high loss of life will continue."<sup>[111]</sup> While this closing statement is not explicitly in reference to the death penalty... the indictment from AI is clear.

This is what Keck and Sikkink categorize as leverage and accountability politics. Leverage politics, specifically moral leverage, accounts for the mobilization of shame and holding the behavior of a norm-violating state up to the "bright light of international scrutiny."<sup>[112]</sup> Moreover, AI utilized accountability politics wherein actors "devote considerable energy to convincing governments and other actors to change their positions on issues."<sup>[113]</sup> AI, and the South African advocacy network as a whole, no doubt devoted considerable energy to abolition prior to the ConCourt's 1995 decision. AI's persistent publications and international addresses coupled with the information offered up from local groups clearly align with Keck and Sikkink's model of what an advocacy group looks like.

What is more is that the actions taken by the South African network undoubtedly contributed to eventual abolition. The International Federation for Human Rights' 2017 report states, "... abolition advocacy in Lesotho or Swaziland it might be helpful to engage with South African abolitionists, given the shared history between the countries. Ask what engagement should look like – should it be in public or behind closed doors? Then identify what it is their campaign needs – experience, regional or international contacts, financial resources, or something else, and try to work with their international allies to achieve it."<sup>[114]</sup> Neighboring states in Africa are being recommended to look at South Africa as an example. It is evident that, on the whole, conforming to the South African model, and by extension, Keck and Sikkink's, is being regarded as an exemplar for other states to follow.

Yet, there has been an anomaly in the South Africa case study that Keck and Sikkink's model does not consider. There has been a profound resurgence of support for reinstating the death penalty. According to Pondering Panda, which describes itself as a digital research firm, its 2012 study found that 76% of young South Africans favored reinstating the death penalty.<sup>[115]</sup> Further, and even more surprising, 80% of total respondents believed reinstating the death penalty would deter criminals and reduce crime.<sup>[116]</sup> There have also been whispers within Parliament, mostly from South Africa's far right party, the Inkatha Freedom Party, about discussing the resumption of executions.<sup>[117]</sup> While these ideas are gaining traction, it seems to be just an expression of deep frustrations with the crime rates. There has been an uptick in petty and violent crime in recent years; especially in townships.<sup>[118]</sup> For example, the IRR reports that there has been a 52% increase in aggravated robberies since 1995.<sup>[119]</sup> However, the murder rate has decreased by 51% and the number of murders committed each day has gone down by 31%.<sup>[120]</sup> As such, it is incredibly difficult to quantify the post-ConCourt decision numbers. Crime in South Africa is a complex, multi-faceted issue and crime statistics often fail to paint a complete picture of a pre- and post-death penalty society.

Large local groups in South Africa committed to abolition, like the Society for Abolition of the Death Penalty and

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Families of People on Death Row, have largely fizzled out as their mandate has been achieved. And, at this point, reinstating the death penalty is a pipe-dream for those on the right. But, there are interesting questions raised about Keck and Sikkink's model in the case of South Africa. By following the outlined methods and establishing robust network connections, a TAN can create a feedback loop of norm-diffusion; as was seen when AI and local actors reported on executions and scrutinized South Africa at the UN. Shortly after, the ConCourt handed down its decision. These normative interactions do not happen in a vacuum and most certainly affect one another. But, what are the long-term ramifications of TAN action? Does the question of reinstating the death penalty negate the work of the South African TAN? Keck and Sikkink would answer with a resounding no. As they write, "Modern networks are... vehicles for communicative and political exchange, with the potential for mutual transformation of participants."<sup>[121]</sup> Thus, the effectiveness of TANs is not reliant upon success. Rather, if they are able to create normative change within the actors participating and have productive interactions. In the case of South Africa, a normative change most definitely occurred and Keck and Sikkink's model proved successful.

## *The United States of America (Texas)*

The abolition network in the US is the most active out of all three case studies. Since the US Supreme Court reinstated the death penalty in 1976 under *Gregg v. Georgia*, in which the Court did not find the death penalty cruel and unusual, the US has faced constant pressure from civil society actors, domestic institutions, and other countries alike.<sup>[122]</sup> Leading INGOs like AI and HRW have conducted extensive research and maintained hardline positions on the issue of abolition. Further, domestic NGOs like the DPIC and the Innocence Project have worked diligently to expose the injustices within the American penal system and galvanized support for reform.<sup>[123]</sup> While the US has a long way to go as far as country-wide abolition is concerned, for the purposes of my research, it is valuable to look at the ways in which TANs are operating under duress in a retentionist US state despite pressure from changing international norms and ICL.

The US is one of the last remaining Western countries to retain the use of the death penalty.<sup>[124]</sup> What makes abolition a difficult endeavor for the US network is the system of federalism, wherein each state decides if it wants to impose the death penalty.<sup>[125]</sup> As DPIC reports, as of February 2019, 30 out of 50 states in the US are still retentionist.<sup>[126]</sup> While this number is high, it is certainly an improvement given that in the past few years there has been an uptick in individual states abolishing the death penalty; for instance, Washington state recently upheld its own moratorium on executions and officially abolished the use of the death penalty.<sup>[127]</sup> Given the difficulty of surmising the scope of country-wide TAN activity and the limitations on my project, I will be looking at the network of one state in particular: Texas.

The leading actor within the US network that has the greatest command of information politics is the DPIC. It is the primary source for statistics, news, and updates about individual states and their campaigns for abolition. In the case of Texas, the role of the DPIC cannot be understated. As it denotes on its website, Texas is the leading executioner in the US.<sup>[128]</sup> Since 1976, Texas has executed 557 individuals, which makes up more than a third of the total number of executions nationwide.<sup>[129]</sup> In fact, if Texas were its own country independent of the US, it would be the world's most prolific executioner.<sup>[130]</sup> <sup>[131]</sup> Therefore, as one can imagine, the abolition network in Texas is carrying out exhausting work attempting to create change. Given the magnitude of Texas' execution rate, the role of information politics is especially important. As the boomerang pattern postulates, access to information makes actors within a network legitimate and maximizes exposure — thus, the DPIC plays a crucial role. And, there is ample evidence of actors within the Texas network moving politically usable information and powerful stories to persuade Texan citizens and lawmakers alike that abolition is wrong.

Take for instance the Texas Coalition to Abolish the Death Penalty (TCADP), an affiliate of the larger National Coalition Against the Death Penalty, which has long partnered with other local Texas civil society actors to disseminate information about executions and organize events. TCADP, on the homepage of its website, keeps a running lists of individuals that have been executed in Texas in 2018/2019 and the individuals that are scheduled to be executed.<sup>[132]</sup> Additionally, TCADP's website and social media accounts post consistent updates on executions and newsletters that reference and work directly with other local network members and national network actors. If you go to their Twitter page, they often retweet Robert Dunham who is the Executive Director of DPIC.<sup>[133]</sup> These

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posts exemplify the interconnected nature of the actors lobbying for abolition in Texas.

There are a multitude of groups that comprise the Texas advocacy network. One of the network's biggest events of the year is the March to Abolish the Death Penalty that is held every October at the Texas State Capitol in Austin.<sup>[134]</sup> The March is sponsored annually by a few leading civil society groups but the primary organizer is the Texas Moratorium Network (TMN). TMN brings in ex-convicts who survived their death sentence and even offers to bus attendees in from nearby Houston.<sup>[135]</sup> The March is a prime example of symbolic politics. By packaging the anti-death penalty movement into a very public, marketable, and engaging community event, TMN and its partners are able to, every year, expand the scope of its network to bring in new supporters.

On the 14th of November 2018, the State of Texas executed Robert Moreno Ramos, and TCADP, who had been covering his case for a long time, wrote on its website, "... he [Ramos] was convicted of killing his wife and two youngest children in 1992 in Hidalgo County. In violation of the Vienna Convention on Consular Relations, Ramos was not notified of his right, as a Mexican national, to contact consular officials upon arrest. His trial attorneys provided inadequate legal representation and failed to present important mitigating evidence to jurors. Human Rights Watch appealed to the Texas Board of Pardons and Paroles and Governor Greg Abbott to grant clemency to Ramos, based on these factors."<sup>[136]</sup>

In this statement, TCADP working directly with HRW and the DPIC which is cited towards the end, uses a combination of information and accountability politics. TCADP uses other actors' information and also references the open letter penned by HRW to Texas Governor Greg Abbott to show that other actors within the national advocacy network are hard at work trying to hold Texas accountable to its legal obligations. HRW writes in its letter to Governor Abbott, "In 2005, the Inter-American Commission on Human Rights concluded that Mr. Ramos received inadequate legal defense from his court-appointed trial lawyer, which violated his fundamental right to due process and a fair trial. In addition, the Mexican government maintains that Mr. Ramos' consular notification and visitation rights under Article 36 of the Vienna Convention on Consular Relations were not respected... For all these reasons we urge you to commute the sentence of Roberto Ramos Moreno. If you have any questions, please contact me via phone at 415-801-7305 or by email at parkera@hrw.org."<sup>[137]</sup>

This direct reference to the obligations Texas has to the Inter-American Commission on Human Rights and the Vienna Convention on Consular Relations is powerful. Alison Parker, the Managing Director of the HRW US Program even tells the Governor to contact her directly and provides her email and phone number. While Ramos was executed despite the Texas and national networks working together, this example demonstrates the presence of Keck and Sikkink's model within the Texas network — specifically all four methods of information, symbolic, leverage, and accountability politics being present. Texas has not faltered on its hardline retentionist position but there is possibility for change. The primary method of execution in Texas are lethal injection drugs.<sup>[138]</sup> The lethal injection cocktail, however, is becoming increasingly difficult to obtain and states have been scrambling to find alternatives.<sup>[139]</sup>

Yet, the possibility of states stopping executions just because the lethal injection cocktail is unavailable is unlikely. But, because this research project sets out to hypothesis-test Keck and Sikkink's model, evaluating TANs does not depend upon the success of abolition. In this case study, it is clear that Keck and Sikkink's model applies. The Texas advocacy network is present, active, and using the exact methods that Keck and Sikkink account for. And, despite Texas remaining retentionist, the advocacy network working towards abolition is establishing meaningful normative interactions between its actors and the state government.

## Conclusion

After reviewing these case studies, it is clear that TANs look and operate differently in each country. Actors can have more significant roles or less significant roles based on what a network needs. For instance, in the case of France, one man in particular was needed to unite the country and synthesize the normative implications of abolition. Conversely, in retentionist Texas, abolition requires a broad network of actors at the national and state level to work together to disseminate information and galvanize support for abolition. And while each advocacy network within the

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campaign for abolition is comprised of different actors and realities, one thing remains the same: Keck and Sikkink's model.

The methods that TANs use, that ultimately lead to a boomerang pattern of norms across the campaign as a whole, appear to be generalizable. Information, symbolic, leverage, and accountability politics are broad enough to encompass a wide variety of actions from TANs. Whether it is a large INGO like AI attempting to pressure a state like South Africa with reports and newsletters or the Minister of Justice in France using the newfound normative crystallization of abolition and France's historical foundation to bring about change, each advocacy network and each actor, at some point, utilizes Keck and Sikkink's methods. Therefore, Keck and Sikkink's model does account for the actions and methods of TANs in the campaign for abolition. Additionally, from my research, it is clear that TANs contributed to the norm-diffusion of abolition — effectively helping reconstitute the nature of the death penalty. This is particularly evident with AI and their early work in the 1970s with the World Conference to End the Death Penalty.

This proves Keck and Sikkink's model to be incredibly salient not just in relation to how civil society actors conduct themselves but the campaign for abolition of the death penalty as a whole. In the campaign for abolition, norms were used to create change and reconstitute the identity of participants within a network and states themselves. As Keck and Sikkink write, "Network theory can thus provide an explanation for transitional change, a model that is not just one of 'diffusion' of liberal institutions and practices, but one through which the preferences and identities of actors engaged in transnational society are sometimes mutually transformed through their interactions with each other."<sup>[140]</sup>

Despite my findings supporting Keck and Sikkink's work, there were limitations to my own analysis. The primary limitation was time and space. Given that I only had a handful of months to complete my project and a limit on the length of my research, there exists a sizable area of TANs in the campaign for abolition that has yet to be analyzed. I chose France, South Africa, and the United States because of their unique histories and experiences with abolition, however, there are a multitude of states that have equally fascinating and notable insights into abolition and the death penalty. Moreover, as I have uncovered, norm-diffusion within the campaign is a vast subject. More specifically, I was not able to discuss the international campaign for abolition and scale of international norm-diffusion. My discussions were limited to my case studies only. For instance, the work that AI put into organizing the World Conference to End the Death Penalty remains, largely, untouched and unanalyzed. The Conference was watershed in bringing abolition to the foreground of human rights and igniting different advocacy networks around the world. A whole research project could, and should, be dedicated to studying the work of INGOs at that crucial juncture in international human rights and how it affected the international campaign for abolition.

Moving forward, Keck and Sikkink's model ought to be applied to more campaigns. Tracking the norm-diffusion and interactions between participants within a network is an indispensable tool in understanding how and why campaigns come about. What kind of change can TANs, and civil society more broadly, generate? In the case of the campaign for abolition of the death penalty, an analysis like my own illustrates the power of Keck and Sikkink's model; generalizable and helpful in categorizing the relationships between actors. This research project is an adequate start to uncovering the ways in which Keck and Sikkink's work can be expanded as additional work can, and should, be applied to human rights movements around the world.

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