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REVIEW ESSAYS

Rescaling the Legal Complex: Lawyers and the Resilience of the Liberal International Order

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Abstract

In times of political crisis and attacks against the foundations of political liberalism, can we put our trust in lawyers and other legal occupations to fight for our freedoms when they are under attack? The role of the legal profession in the rise, development, and resilience of political liberalism has been at the core of a body of work commonly framed as "the legal complex": Terence C. Halliday and Lucien Karpik's *Lawyers and the Rise of Western Political Liberalism*, Halliday, Malcolm Feeley, and Karpik's *Fighting for Political Freedom*, Halliday, Karpik, and Feeley's *Fates of Political Liberalism in the British Post-Colony*, and Feeley and Malcolm Langford's *The Limits of the Legal Complex.* In view of the precariousness of political liberalism in contemporary global politics, this review essay reflects on the core ideas of the legal complex literature. By identifying connections with other strands of scholarship on legal agents, legal mobilization, and the move to law in transitional politics, I suggest rescaling the study of the legal complex to enable consideration of its relevance for the study of political liberalism at the international level of analysis and, specifically, of its importance to the resilience of the liberal international order currently in rapid decline.

Introduction

In times of political crisis and attacks against the foundations of political liberalism, can we put our trust in lawyers and other legal occupations to fight for our freedoms

Halliday, Terence C. and Lucien Karpik, eds. *Lawyers and the Rise of Western Political Liberalism: Europe and North America from the Eighteenth to the Twentieth Centuries.* Oxford: Clarendon Press, 1997.

Halliday, Terence C., Malcolm Feeley, and Lucien Karpik, eds. *Fighting for Political Freedom: Comparative Studies of the Legal Complex and Political Liberalism.* Oxford: Hart Publishing, 2007.

Halliday, Terence C., Lucien Karpik, and Malcolm M. Feeley, eds. *Fates of Political Liberalism in the British Post-Colony: The Politics of the Legal Complex.* Cambridge, UK: Cambridge University Press, 2012.

Feeley, Malcolm, and Malcolm Langford, eds. *The Limits of the Legal Complex: Nordic Lawyers and Political Liberalism.* Oxford: Oxford University Press, 2021.

when they are under attack? Democratic backsliding has become a global norm. Dictatorships are advancing across the world. As of 2023, 70 percent of the world's population lived in autocracies, which means that the liberal democratic progress of the last three decades is a thing of the past (Papada et al. 2023). The US-led so-called liberal international order is in rapid decline, and there has been a decade of significant pushback against cosmopolitan and liberal visions of universal human rights, international justice, and the international rule of law (see Ikenberry 2018). Since 2012, wars have been on the rise, causing terrible casualties (Rustad 2024). *Quo vadis*, law(yers)?

The role of the legal profession in the rise, development, and resilience of political liberalism—basic legal freedoms, an open civil society, and a moderate state—has been central to a body of work commonly framed as "the legal complex":

> [C]omposed by the different occupations, usually legally trained, that belong to the legal and judicial institutions of a given society and whose tasks are to create, elaborate, transmit, and apply the law. . . . The legal complex can therefore embrace a variety of occupations: private lawyers, whether practicing in solo practice, partnerships, firms, or corporations; judges, whether in a court system or in administrative and bureaucratic settings, prosecutors, whether governmental or private; legal academics, whether teaching, writing, or drafting legislations; civil servants, whether acting as drafters or appliers of regulations; legal advisors, whether as so-called barefoot lawyers or as technical specialists in global accounting firms (Karpik and Halliday 2011, 220–21).

In a collection of edited volumes (Halliday and Karpik 1997a; Halliday, Feeley, and Karpik 2007; Halliday, Karpik, and Feeley 2012; Feeley and Langford 2021c), the notion of a legal complex has animated a number of comparative and historical case studies of the relationship between lawyers and politics.[1] Across a variety of states, regions, and times of state formation and transition, the work has indicated how lawyers and other legal occupations mobilize for political liberalism through collective action, suggesting that the legal professions not only have political agendas for which they "weaponize" the law but also do this collectively (Karpik and Halliday 2011). Indeed, demonstrating not only this but also how "politics matter" for law and lawyers (Halliday and Karpik 1997b), the legal complex literature has significantly advanced the state of the art in regard to the legal profession.

In this review essay, I set out to reflect on the notion of a legal complex for the resilience of what in academic parlance is referred to as the liberal international order—the liberal and expansive legalization of global governance that followed the end of the Cold War (Goldstein et al. 2000; Mearsheimer 2019). I do not attempt to provide a comprehensive review of legal complex scholarship but, rather, to critically engage with some of its main conceptual foundations and with selected case studies. A key point is that studies on legal complexes have concentrated on lawyers' relation to political liberalism and on their legal mobilization for political liberalism within the

[1] The legal complex is also the subject of numerous journal articles. For a summary of the scholarship, see Karpik and Halliday 2011.

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confines of nation-state politics (Karpik and Halliday 2011). This means that the theory of the legal complex is based on three central tenants: the nation-state as the referent object of scientific inquiry, the distinctiveness of the legal profession as a "collective actor" (220), and political liberalism as a "particular configuration of [state] politics" (219), which is composed of (1) a moderate state, including the autonomy of the judiciary from other governmental branches; (2) a civil society made up of a web of associations that comprises a middle ground between state and family/tribe; and (3) the basic legal freedoms such as the legal rights protecting citizens from arbitrary state power (for example, due process rights, *habeas corpus*), political rights of freedom of speech and association, and property rights (see Halliday and Karpik 2015, 1).

To reflect on the relevance of the legal complex for contemporary global politics, including the precariousness of political liberalism as a dominant political logic, I seek to constructively disrupt the limits of scope and scale in the work on the legal complex. This approach draws inspiration from the reflexive sociology of Pierre Bourdieu, in that I seek to critically examine both the object of analysis (the legal profession's mobilization for political liberalism) and the academic construction of that object (the theory of the legal complex) (Bourdieu, Chamboredon, and Passeron 1991; see also Dezelay & Rask Madsen, 2012). By identifying the connections with other strands of scholarship on legal agents, legal mobilization, and the move to law in transitional politics, I suggest to rescope and rescale the study of the legal complex in an attempt to consider its relevance for the study of political liberalism at the international level of analysis—specifically, its importance for the resilience of the liberal international order that is currently in rapid decline.

The second section describes the work and theory of the legal complex, mapping the trajectory of its research agenda and contributions to the literature on the legal profession and political history. The third section questions the scope of the legal complex, critically reflecting on three of its major elements: its conceptualization of political liberalism, the collective motivation of lawyers, and the role of civil society. I suggest that critical insights may be gained from a more contextual and comprehensive approach to all three notions. I then attempt to rescale the legal complex. Taking as my starting point the critique of "methodological nationalism" to a law and society inquiry (Beck 2002; Aas 2012), I suggest ways in which empirical and theoretical attention may also be paid to transnational and international forms of legal mobilization for political liberalism.[2] To incorporate some reflections produced by the constructive disruption of scope (the legal complex) and scale (nation-state), the final section of this essay examines the contemporary relevance of legal complexes now that political liberalism as a dominant political logic is in decline. Suggesting that the work of an international legal complex has been fundamental to the emergence (and expansion) of the liberal international order, I conclude by calling for yet another revival of legal complex scholarship but one retuned and rescaled to

[2] There has been some recent work to internationalize the study of the legal complex (Halliday, Zilberstein, and Espeland 2021), and its internationalization has also been acknowledged as a research gap in the literature (Karpik and Halliday 2011). To my knowledge, Terence Halliday has not (yet) combined his work on the legal complex with his work on "transnational legal orders," which would be a particularly interesting read (Halliday and Shaffer 2015).

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the fight for political freedom that is grounded in a critical cosmopolitanism (Mignolo 2000). My hope is that such an inquiry may also contribute something of value to contemporary thinking on law and society beyond its immediate application to the legal complex, given the present repoliticization and restructuring of global politics (see Holm 2025).

Contextualizing the legal complex

The scholarship on legal complexes is the result of a collaboration between Terence C. Halliday and Lucien Karpik and, later, Malcolm Feeley and Malcolm Langford. As they have explained it, Karpik and Halliday (2011), at more or less the same time, had independently and not knowing about each other's work, examined the role of lawyers in the rise and fight for political liberalism in two very distinct histories: Halliday (1987) on the US bar in the 1950s and 1960s, and Karpik (1988, 1999) on lawyers and politics from the thirteenth to the twentieth centuries in France (see also Halliday 2023). In contrast to prevailing academic conceptualizations of the legal profession, which viewed lawyers as largely driven by material interests and status mobility (Sarfatti Larson 1977; Abel 1989), Halliday and Karpik each found—across these different cases—that "lawyers were involved in politics, but not just any politics or a potpourri grab-bag of whatever politics happened to be on a national or local agenda at a given time. On the contrary, lawyers were very frequently at the vanguard of particular politics, a grand politics: the politics of political liberalism" (Halliday 2023, 7).

Animated to explore the relationship between lawyers and political liberalism further, *Lawyers and the Rise of Western Political Liberalism* was the first of this ambitious, collaborative research program (Halliday and Karpik 1997a). In contrast to scholarship on the legal profession that saw self-interest and proclivities toward the market as its drivers, this volume's main message is that, indeed, "politics matter": "They matter to lawyers. More importantly, they matter for the viability of liberal societies" (4). The book's core argument is that Western legal professions have been central to the political project of political liberalism, thus being the "builders of the liberal state and society" (16). Exploring the role of lawyers—acting collectively and primarily through the organized bar—the book offers comparative historical and sociological studies of how the legal profession contributed to the development of liberal state building in the United States, the United Kingdom, France, and Germany.

Besides introducing the term "the legal complex" to "stipulate the system of relations among legally-trained occupations which mobilise on a particular issue" (Halliday, Karpik, and Feeley 2007, 6–7), "centred on lawyers and judges, that drives advances or retreats from political liberalism" (3), *Fighting for Political Freedom* expands the research agenda on the legal profession's mobilization for political liberalism in two ways (Halliday, Feeley, and Karpik 2007). First, it moves beyond the Western hemisphere to consider the mobilization for political liberalism "worldwide," including case studies from Asia, the Middle East, South America, and Southern Europe. In doing so, it turns from articulating histories of liberal state formation to a more contemporary concern with periods of state transitions—both toward and away from political liberalism: "Everywhere, it seems, the fate of political liberalism is at stake" (Halliday, Karpik, and Feeley 2007, 1).

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In the third volume, *Fates of Political Liberalism in the British Post-Colony* (Halliday, Karpik, and Feeley 2012), the question is asked whether Great Britain, a "progenitor of liberal politics" (Halliday and Karpik 2012, 4), passed on its liberal-legal heritage to its former colonies, despite such fundamental contradictions of colonialism, such as insisting on both the laws of exception and the rules of (racial) difference as reservations to the "claims" of legal universality embedded in the colonial rule-of-law discourse (Halliday and Karpik 2012). They offer a typology of postcolonial orders—liberal-legal (India and Namibia), despotic (Singapore, Sri Lanka, and Sudan), and volatile (Pakistan, Zambia, and Malaysia)—and consider the role of legal complexes in these orders both in the *longue durée* and across *événements* (events) and beyond the singular state to empire. This volume thus constitutes an ambitious deep dive into the relationship between colonial legacies and political liberalism.

In the most recent book-length addition to the legal complex literature, *The Limits of the Legal Complex: Nordic Lawyers and Political Liberalism* (Feeley and Langford 2021c), the collective endeavor scrutinizes a single region, the Nordics, and returns to the original volume in form and scope by considering the rise of political liberalism and modern nation-states (Halliday and Karpik 1997a). However, contrary to the other edited volumes, this book pursues a "deviant case analysis," animated by the question of whether there are distinctly liberal states where the legal complex has not played any significant role in its establishment or its defense. As countries that top international indexes on democracy and rule of law, but that do not have a strong history of political lawyering, "[t]he Nordics stood out" (Feeley and Langford 2021a, 4). By exploring the relation between legal complexes and political liberalism through the historical analysis of the formation of the Nordic states, the book examines questions of causality and spuriousness, challenging the legal complex theory on both its empirical and conceptual grounds. Besides providing insights into the role of law and lawyers for the historicity of Nordic state formation, the book also identifies the analytical potential and limits of the legal complex as a theory of collective mobilization (see especially Langford 2021). More so, it puts the legal complex back on the agenda of thinking about the legal profession as agents of political change and "freedom," especially at a time when (Western) political liberalism is facing considerable backlash in domestic and international politics alike (Holm 2025).

These four collective volumes, and additional stand-alone articles and book chapters,[3] have made an impressive mark on the study of the legal profession, thanks to their extensive range of empirical case studies. As such, they track the phenomenon of the legal profession mobilizing across time and space—as self-appointed "stewards of the law"—to promote and protect core liberties and the autonomy of the law as well as the conditions that may facilitate or hamper such collective mobilization. Since the first collaborative volume published in 1997, the study of this phenomenon has entailed shifts and incremental nuance in conceptualizations and empirical focus. For example, "the legal complex" was first termed in the second volume (Halliday, Feeley, and Karpik 2007), which reflects increased and incremental empirical attention to other types of practicing legal occupations beyond private lawyers. Similarly, definitions of political

[3] A none-exhaustive list of references on the legal complex include Halliday 2011, 2013, 2018, 2023, 2025; Karpik and Halliday 2011; Liu and Halliday 2011; Halliday and Karpik 2015; Halliday, Zilberstein, and Espeland 2021.

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liberalism have also become increasingly precise throughout the trajectory of scholarship on legal complexes (see Halliday, Karpik, and Feeley 2012; Halliday and Karpik 2015; Halliday 2023).

Before moving on to its content, it is worth pausing to reflect on the methodology of this collective scholarship, as something that can provide other scholars with an intellectual yardstick for collective knowledge production. Despite promises of analytic commonalities, edited volumes are often patchwork contributions to themes and topics. Rarely do they develop and advance theorization. If these four volumes manage to do that—despite several different editors being involved—I believe this is partly thanks to their format and, especially, to the lengthy introductions that set out their conceptual framework, provide summaries, and identify the key findings from contributions that advance the legal complex agenda in each volume. The legal complex literature is thus more of a research program—or even a methodology—planned, structured, and intent on an abductive merry-go-round of empirical case studies and analytical tools, such as their focus on both the *longue durée* and *événements* (see Karpik and Halliday 2011).

That said, I will nonetheless critically examine issues of both scope and scale in this work. Analytically, I take inspiration from Bourdieu's reflexive sociology and the analytic use of a "double rupture" (double skepticism)—both in regard to the research object (the legal profession's fight for political liberalism) and the academic preconstructions of the object (a legal complex) (Bourdieu, Chamboredon, and Passeron 1991). I thus aspire to contribute to a more critical and comprehensive understanding of the significance of legal agents for the resilience of (Western) political liberalism at the international level of analysis and as it has materialized in the liberal international order.

Rescoping the legal complex

The legal complex and political liberalism

To some extent, the legal complex literature is posited as a theory of change. Karpik and Halliday (2011, 221) argue that the central issue in the literature concerns the "fact of mobilization" rather than mobilization for or against any particular issue: "[T]he concept of the legal complex can be applied to any issue—environmental rights, the death penalty, trade regulation, professional monopolies, constitutional reforms—where legal occupations can mobilize, usually with the weapon of the law, to influence outcomes." In its empirical research program, legal complex literature focuses on mobilization for (or, occasionally, against) political liberalism, the main theory of the legal complex being that legal occupations are often found to be at the forefront of the rise and defense of political liberalism (compare Feeley and Langford 2021c). This means that, for many of the contributors to the literature, the legal complex is presented as concerning the relationship between the legal profession and political liberalism rather than a concern with lawyers' collective mobilization. This being so, we may ask whether the legal complex may be just as much a theory about liberal state building as one about the mobilization of the legal profession. Given the literature's historical and comparative engagements with constitutionalism and the rise and fall of political liberalism, including in the British "postcolonies," the core focus of its inquiry is with the politics of the nation-state.

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That said, its architects eschew the literature's concern with democratization as such. As Halliday and Karpik (1997b, 51) emphasize, "[l]awyers' political liberalism should not be confused with political democracy or social democracy: it is a classic or restricted liberalism." Political liberalism is defined as the "contingent relationship between basic legal freedoms, on the one hand, and the moderate state and civil society, on the other. Basic legal freedoms, arguably, are achieved through moderation of state power and mobilization of civil society as a realm of power" (Halliday, Karpik, and Feeley 2007, 11). Here, it may be worth pausing to reflect on the definitions and demarcations of political liberalism in the legal complex literature. Throughout the work, this is defined in terms of basic legal freedoms, and social and political rights as well as issues of universal suffrage and democratization are explicitly excluded (Halliday and Karpik 1997b). As Halliday (2023, 7) has recently explained, "[t]hose wider circles of rights were definitionally excluded because empirically it could be demonstrated that the cost of broadening lawyers' rights activism was a divided profession that effectively abandoned its unique claim to technical legal authority and became just another interest group."

To some extent, the empirical preoccupation with understanding conditions that enable or prevent legal complexes and their significance for the rise and fall of political liberalism dovetails with other socio-legal approaches to lawyers' politics. For example, studies on "cause lawyering" (Scheingold and Sarat 2004) and "rights revolutions" (Epp 1998) alike are concerned with law and lawyers as drivers of social justice and political change. However, the relatively narrow and distinct form of mobilization separates the legal complex from these other fields of scholarship on the politics of lawyers and, in particular, from "cause lawyering" (Scheingold and Sarat 2004), which, in principle, is concerned with the mobilization of lawyers for any cause (although this literature has also an empirical bent to mobilization for liberal legal causes) (see Marshall & Crocker Hale, 2014).

At the same time, the issue of demarcating political liberalism cannot be rendered completely separable from those whose basic rights are being considered in the legal complex literature. While the issue of liberal-legalist selectivity is dealt with in *Fates of Political Liberalism in the British Post-Colony* with regard to the colonial logic of rules of exception (Halliday, Karpik, and Feeley 2012), I found that there is remarkably little attention to women in the legal complex literature—either as objects or as subjects (compare Gould 2012). To some extent, this may be because contributors to the literature are overwhelmingly male (out of the forty contributors to the four edited volumes, only seven have female names). In any event, seeing the legal profession as being in the vanguard of political liberalism and freedom, while simultaneously noting their reluctancy to fight for universal suffrage (Halliday and Karpik 1997b), strikes me as a limitation of the applicability of the theory for contemporary study (and, perhaps also, to the intellectual enthusiasm of female scholars).

In the final chapter of *The Limits of the Legal Complex*, though, Langford (2021) begins to reflect on the content of political liberalism as a (legal) construct rather than an idea. He indicates that it may not only change but that it might also already look different under contemporary conditions as "it seems odd to expect lawyers to view torture and property expropriation as equally morally repugnant, particularly in the post-Lockean nineteenth and twentieth centuries in which property rights occupied the center of ideological contestation" (266). Although the strength of the legal

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complex literature has been precisely its comprehensive mapping of elements of the legal profession's commitment to legal autonomy and a core and limited set of rights, it seems critical to reflect further on the situational and contextual content of these "core rights" and, especially, for whom they are aimed in contemporary studies of legal complexes.

Collective motivations of the legal profession

The ideational outlook of the legal complex agenda reflected a significant shift in the literature on the legal profession, which changed from seeing lawyers as being driven by material interests to their being driven by political and ideological interest instead (see Halliday and Karpik 1997a). Legal complex literature brought the politics of ideas into the politics of the legal profession, moving theory on the legal profession away from a predominantly material view of lawyers' motivations toward an ideational one (Abbott 1988; Abel 1989). It has focused on lawyers' mobilization "in the name of the law"; "as stewards of values they understood as implicit in the very idea of the rule of law—even-handedness, due process, freedom of expression, political moderation, limited executive power" (Feeley and Langford 2021a, 3)—indeed, where the very nature of the institution of law is what is ideationally defended. As such, the theoretical agenda of the legal complex carries with it a type of normative functionalism as it is based on the notion of a "connected system of legal professionals and their normative potential in the formation of state and society where political liberalism is that normative potential" (Madsen 2021, 115).

Moreover, it is a collective theory of change: "Rather than a singular focus on 'great men,' 'heroic leaders,' or aggregated actions of many individuals, it observes collective action—of lawyers acting through bar associations, of legal academics mobilizing through networks, of advocates mobilizing publics, and of judges maintaining solidarity" (Karpik and Halliday 2011, 221). This animates questions about what distinguishes legal professionals—as a collective group—from others, professions or otherwise. First and foremost, actors involved in the legal complex are able to "create, elaborate, transmit, and apply the law," precisely because they possess the necessary intellectual resources to mobilize it (Karpik and Halliday 2011, 220). This differentiates the legal complex from other social movements that, even if they want to mobilize the law, may not have the access or resources to acquire legal competency and use legal tools (Börzel 2006). Moreover, lawyers and jurists—across the world—tend to come from relatively privileged social demographic backgrounds, thereby distinguishing them from other collectivities through positionality in the socially stratified order. This also means that there is a dimension of class and situatedness in the study of legal complexes that may be further developed.[4]

The value of such perspectives are palpable from *The Limits of the Legal Complex* (Feeley and Langford 2021c). When they find that legal complexes did not play much of a role in the establishment of the Nordic countries as modern liberal states, part of

[4] In the redirection from explaining lawyers' motivations as based on struggles for economic and symbolic capital to the ideational, the lack of analytic attention to class is intentional (albeit, to my knowledge, not explicitly dismissed).

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the explanation is that "[t]he Nordic legal professions were poorly organized until well into the nineteenth century, long after major strides were made in establishing political liberalism" (Feeley and Langford 2021a, 6). And when legal education began to expand toward the end of the nineteenth century, legal training was directed toward civil service and public administration as the development of the Rechtsstaat needed law-trained officials. Thus, rather than finding lawyers acting collectively through legal complexes, the Nordic case studies find that

> [e]verywhere those trained in law held positions of importance. They dominated the "political complex" ... almost always when lawyers engaged in the struggle for liberalism, they acted in their capacities as civil servants, parliamentarians, statesmen, spokesmen for elite families, professor-politicians, **journalists**, or activist in political parties, and not distinctively as members of the organized bar or some set of it speaking on behalf of "the law" (Feeley and Langford 2021b, 22–23).

The book offers alternative explanations to what initially drove liberalism in the Nordic countries—among them the influence of Enlightenment ideas upon the great estates and families, wealthy peasants, and the leading Lutheran clergy—adding to my previous observation of how studies on the legal complex parallel studies on (liberal) state building generally. Yet these findings, albeit somewhat complicating for the legal complex theory, nonetheless demonstrate the situated power of legal actors in crafting logics of state governance. As one of the book's contributors observe, "jurists [lawyers] become not only the operators of the state; their vision of legal rationality becomes the operative code of the state" (Madsen 2021, 142). He further suggests that a plausible explanation for the lack of lawyers' collective mobilizing for political liberalism across the Nordic states is that there was, essentially, no need—they yielded power through their position within the state apparatus—and, thus, he concludes that the legal complex "seems to work best when jurists are the outsiders and opposing state practices," supporting a more general observation that the legal complex may act stronger when it is on the defensive (144; see, for example, Halliday 1987).

With that said, increased attention to structure is also apparent in later work. Langford (2021) develops the legal complex theory further in *The Limits of the Legal Complex* by suggesting a coupling of agency and structure for understanding the reasons that motivate individual lawyers' mobilization for political liberalism. Specifically, he suggests that both rational choice and legal opportunity are important for understanding individual motivation to mobilize. Keeping in mind the differences between the literatures, it is nonetheless interesting to note how the coupling of agency and structure is also the strength of Bourdieusian approaches to law and lawyers, which would situate political liberal sensitivities within the "habitus" of lawyers, armed with the symbolic capital of legal knowledge through their education, practice, and positionality in their respective societies (for an overview, see Dezelay & Madsen, 2012). A question may be asked to what extent it is precisely the habitus of lawyers and other legal occupations that both make them, and enable them, to fight for political liberalism in times of pushback and to claim their role as stewards of the law.

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Civil society and representation

What, really, is a legal complex, and to what extent should legal agents beyond state legal institutions be considered in greater detail? The legal complex was first defined in the second collective volume as "the system of relations among legally-trained occupations which mobilize on a particular issue" (Halliday, Karpik, and Feeley 2007, 6–7). In empirical terms, the dominant focus of the legal complex has been lawyers and judges, although the role of civil society in relation to a legal complex is explicitly recognized as a research gap in the literature (Karpik and Halliday 2011) and has been on the rise (Halliday and Karpik 2012; Bojarski 2021).

As mobilization through law has become a dominant political tool for actors outside the bar and bench, studies of civil society in legal complexes seems particularly pertinent, although one that can be complemented by social movement studies, particularly those concerned with legal mobilization by civil society actors. Of particular interest is the work on legal mobilization under authoritarian conditions (Chua 2019), which includes an examination of how local non-governmental organizations (NGOs) and civil society mobilize the law in their fight for basic rights (Lemaitre & Bergtora Sandvik, 2015; Lohne 2024). Another body of literature—also centered around the United States and the rights revolution—focuses more specifically on the fight for civil liberties through strategic litigation (Cole 2016; Duffy 2018).

However, attention to how civil society mobilizes for political liberalism by legal means should also underscore the importance of outcomes beyond judicial decisions and direct attention toward actions beyond the courts (Chua 2019). Indeed, more engagement between the legal complex and social movement studies might shed further light on the role of legal agents and legally trained persons (beyond those working in legal institutions and the "profession") who act collectively to use the law as a tool for change (political liberalism)—in short, how mobilization through the law has also become a dominant frame of action for systemic, social, and political change beyond the legal profession. Such engagement would enable the legal complex to study the role of civil society in the legal complex more on its own terms rather than as a form of a support structure for lawyers.

In explaining what exactly it is that gives legal complexes "clout" (besides their use of the powerful judicial system), Lucien Karpik (2007, 487), in particular, has pointed to the representative power of the legal profession as "spokesmen of the public." As the notion of representation is core to the professional craft of lawyers, and to "[c]ivil society or its equivalent, the Public ... does not speak or act by itself: it has to be represented," the lawyer's role as a spokesman becomes a way to mobilize civil society as part of a legal complex (486). In my own research on international criminal justice, the role of (global) civil society seems to have a much more autonomous role in mobilizing the law, positioning their role precisely as self-appointed representatives or even *advocates* of humanity (Lohne 2017; 2019). This entails that core international human rights organizations have managed to push the international criminal justice agenda precisely through their moral and apolitical claim to "speak for" and "represent" the interest of the (imagined) global public/humanity, demonstrating the relevance of a more comprehensive approach to civil society as legal complexes and the relevance of moving beyond the nation-state as a point of departure for the study of a legal complex.

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Rescaling the legal complex

Legal complex literature has hitherto primarily been concerned with legal mobilization within domestic state structures in order to achieve political change within the nation-state. This focus has enabled the historical, as well as the comparative, analysis of legal complexes across state regimes. In analytic terms though, the state is the referent object of the legal complex's mobilization for structural change. At the same time, however, the legal complex is dependent on that same state for the power and privilege that they enjoy as representatives of the legal profession (see Harrington and Seabrooke 2020). In what follows, I set out to disrupt this privileged role of the nation-state in studies of the legal complex, partly because of my own work on the mobilization of transnational networks in international criminal justice (Lohne 2019) and also because of the critical importance for the resilience of a liberal international order.

When doing so, it may be worth engaging more deeply with parallel bodies of literature on professional networks and social movements that address the role of the law and the legal profession in fighting for political liberalism, though at the transnational and global levels of analysis. To rescale the legal complex, I draw on these literatures to address what can be conceptualized as a transnational legal complex—one concerned with mobilization across one or several states—and then consider the concept of the international legal complex and its mobilization for political liberalism at the supranational—international and global—scale. I suspect, however, that there is considerable overlap between a transnational and international legal complex: a transnational legal complex, for example, may invoke international law in its legal mobilization for change. However, the main conceptual distinction between the two is that, while the transnational legal complex remains concerned with systemic change at the nation-state level of politics, the international legal complex is cosmopolitan and concerned with law and politics at the global level.

Transnational legal complex

Within social movement studies—which, by definition, are concerned with collective action—the scholarship of Margeret Keck and Kathryn Sikkink (1998) on "activists beyond borders" has given rise to a considerable body of literature on "transnational advocacy networks" (TANs). Much like the scholarship on the legal complex, the work on TAN emphasizes how collective entities—networks—mobilize around values rather than around material interests. The legal frame is particularly prominent in the literature, as Keck and Sikkink's work focuses on the importance of transnational advocacy networks for the mobilization of human rights and the emergence of what Sikkink (2011, 5; emphasis in original) later termed "the justice cascade" when referring to the "shift in the *legitimacy of the norm* of individual criminal accountability for human rights violations and an increase in criminal prosecutions on behalf of that norm." Before examining the relevance of this literature to international legal complexes, I want to pinpoint the importance that transnational networks also have for our understanding of how national legal complexes work.

One of the core dynamics of TANs is the so-called "boomerang effect" of transnational mobilization, whereby networks in one (repressive) state appeal to networks in another state to mobilize in order to increase political pressure on the

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repressive state in question (Keck and Sikkink 1998). This kind of transnational outreach seems to me to be a common strategy of national legal complexes, probably one adopted increasingly often given the growth of international law in recent decades. In *Fighting for Political Freedom*, a chapter by Richard L. Abel (2007) offers insights on the legal complex in the United States, especially in relation to its mobilization for political liberalism in response to the Bush administration's "legalization" of arbitrary detention and torture after the terror attacks on September 11, 2001. Abel concludes that "[f]aced with a determined executive and a complicit or complacent legislature in the world's only superpower, the rest of the legal complex—lawyers, legal academics, professional associations, judges and NGOs—could do little to protect political liberalism" (298). Almost two decades later, people are still held unlawfully and indefinitely in detention at Guantánamo Bay.[5]

In my own work on the military commissions at Guantánamo (Lohne 2021), I was interested in the role of civil society and, especially, the work of human rights organizations in contesting the military commissions and Guantánamo as a "space of exception" from an otherwise liberal legal order (Gregory 2006)—as such, an extended approach to the legal complex that was put forward earlier in this review essay. However, taking an ethnographic approach to Guantánamo, and being myself "mobilized" to the base by members of the defense team, I was struck by the international advocacy of these defense lawyers.[6] While considerable attention has been paid to how both lawyers and civil society groups challenged legality after September 11 and the subsequent US-led global war on terror (Prabhat 2011; Cole 2016), there has been far less attention to how the US legal complex sought to mobilize transnationally, putting the boomerang effect to work. For years, defense teams have engaged in what resembles transnational advocacy, traveling abroad to meet with and discuss legal strategies with foreign legal experts and to network to generate attention (and mobilize outrage) at continued illegalities at "Gitmo" from academics, journalists, and international organizations.

Moreover, not forgetting the substantial domestic litigation on the right to *habeas corpus* that comes along with this (Hajjar 2023), a transnational legal complex has conducted significant international litigation. These efforts include bringing cases before the European Court of Human Rights (ECtHR) (for example, the case of *Al-Nashiri v. Poland* on the latter's complicity in rendition, detention, and torture at the Central Intelligence Agency's "black site" prisons) as well as the use and involvement of the Inter-American Commission on Human Rights and the United Nations' Working Group on Arbitrary Detention.[7] The legal strategy of "forum shopping," which is made possible by overlapping jurisdictions, is becoming ever more important in domestic court systems but is less explored within the international judicial system (Pauwelyn & Eduardo Salles, 2009). It may be well worth paying closer attention to how the transnational and international are brought into play by national legal complexes. (After all, the unanticipated effects of judicial review by the Court of Justice for the European Union and the ECtHR is seen as a major reason for the rise of legal complexes in contemporary Nordic states [Feeley and Langford 2021a].) In the fight against

[5] See Carol Rosenberg's (2024) unwavering reporting on all things Guantánamo for the *New York Times.*

[6] Similar observations have been made by Terence C. Halliday (2019) in his work on China.

[7] ECtHR, *Al-Nashiri v. Poland*, Application no. 28761/11, 24 July 2014.

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injustice after September 11, it seems that the US legal complex—defense counsels, civil rights NGOs, and human rights lawyers—have resorted to transnational networks and international institutions well beyond the confines of domestic constituencies.

Another such example can be found in my work on the International Criminal Court (ICC) where the transnationalization of legal complexes are all the more apparent as domestic legal complexes resort to transnational networks and institutions to push their (often repressive) states to ratify and implement legislation and enforce the law, including legal protections for basic human rights (Lohne 2019). In autocracies and under conditions of autocratization (but where civil society engagement is still possible), transnational connections seem to be even more important for legal complexes. Moreover, recent technological advances may also facilitate the transnational connections of lawyers and civil society in national legal complexes (and, alternatively, repress them more effectively) (Lohne 2024).[8] In what follows, I consider how a rescaled legal complex has been central to the spread of legal liberalism at the international and global levels.

International legal complex

Karpik and Halliday (2011) have emphasized that the legal complex can be applied to contexts beyond the nation-state and, in particular, to international law-making processes. Descriptions of the centrality of lawyers in state delegations, the participation of legal professional associations (that is, lobbying), and the informal yet important social mechanisms at play in official state negotiation processes on corporate bankruptcy regimes, chime with the scattered literature on global norm making across the fields of international studies, international law, and international sociology (Karpik and Halliday 2011). One such example is Reiners (2021) recent study of "transnational lawmaking coalitions," which documents how transnational law-making coalitions are expanding human rights treaties and influencing law and politics at the global level.

A significant part of this work has been concerned with the prominent role of legal power networks in crafting international law or, rather, transnational legal fields. Applying the reflexive sociology of Pierre Bourdieu to the globalization of law, the work of scholars such as Dezalay and Garth (1998), Mikael Rask Madsen (2011), and Mikkel Jarle Christensen (2015) has contributed analysis to transnational legal fields—whether international criminal law, human rights law, arbitration, development—as part of the effort to craft a rules-based international liberal order (or, as some might say, a judicialization of international politics).[9] While such scholars share a preoccupation with legal agents as a point of departure for understanding larger social shifts, the similarity ends there. Rather than a functionalist approach to law and the legal profession in the legal complex, the reflexive sociology of (international) law is a critical one and more concerned with revealing how power is

[8] While dissident actors in autocracies might benefit from using advanced technology to connect to transnational actors and international organizations, advanced technological autocratic states might also use technological means to repress them more effectively. The "digital divide" should also always be kept in mind when considering the promises and pitfalls of technological advances for "the good" (Lohne 2024).

[9] For an introduction to the reflexive sociology of law, see Dezalay and Madsen 2012.

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constitutive of and by the law, legal actors, and legal fields, which necessarily entails a much broader range of actors than those practicing law.

In my own work on international criminal justice, I found this broader view to yield insight into how the role of "global civil society"—which in this case consisted largely of legal networks operating through international human rights organizations—has had a significant role in the development of international criminal justice (Lohne 2019). The grounded and critical impulse of ethnography led me to engage with the question of boundaries—the "where," "the how," and the "who" of international criminal justice. It was a way of identifying the structures and conditions of international criminal justice as a social field, through a process that does not uncritically reproduce the borders, discourses, and "rules" of international criminal law and its professionals (Madsen 2011). What emerged through this approach was not merely a body of law regulating "the most serious crimes of concern to the international community as a whole" (the Rome Statute's preamble) but also the inferred values guiding its practice as a result of the mobilization of human rights NGOs. What came into view was an expansive normative, liberal, penal order, constituted through materialities of space, networks, and individuals (Lohne 2019).

Other critical approaches have also questioned the embeddedness of the "international legal complex" in colonial and imperial structures of power. For example, alongside the scholarship on "law and development" is a more critical approach to "transnational legal intervention" (Humphreys 2010)—be it in the form of "neo-colonial penality" (Stambøl 2021), "penal aid" (Brisson-Boivin and O'Connor 2013), or human rights (Mutua 2001). Different strands of literature on the (political) sociology of international law indicate that international legal complexes—networks of legal professionals—have been central to the expansion of political liberalism at the global level of politics. A very pertinent question, however, could be asked about the role of the international legal complex in defending the liberal international order—a political order that is currently in crisis.

The legal complex in a post-liberal international order

The sociology of international law has revealed the dynamics at play in the international liberal order's emergence and development (Dezalay and Garth 1998), including in the fields of development (Eslava 2015), international criminal justice (Christensen 2015), human rights (Madsen and Verschraegen 2013), humanitarianism (Lohne and Sandvik, 2017), and rule-of-law promotion (Humphreys 2010). This scholarship has provided insights into the fundamental structural inequalities and power struggles within international law, including its colonial trajectories and continuities (Mutua 2001). However, amid growing anxieties and commentaries about the "collapse" or "death" of the liberal international order (Ikenberry 2018), there is an urgent need for the sociology of international law to explore its resilience, both with respect to its representation of international power structures and its vision based on values of political liberalism, democracy, human rights, and the rule of law.

Legal complex literature seems well positioned to handle the task of considering the resilience of the liberal international order for several reasons. First, research into the legal complex is keeping a close watch on the rising trends of illiberal politics—the fight for political freedom being fundamental to the justification for exploring the

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role of the legal complex in the first place. More importantly, studies of the legal complex have mainly addressed mobilization for political liberalism in situations of pushback and repression (see especially Halliday, Feeley, and Karpik 2007) and the liberal legacies—if any—of illiberal (colonial) governance (see especially Halliday, Karpik, and Feeley 2012). That said, the rescaling from nation-state politics to international politics necessarily entails a decreased focus on constitutionalism and domestic legal institutions (including the organized bar) and more attention to basic liberal rights as they are expressed in cosmopolitan ethics and multilateral institutions, such as international courts. Asking about the significance of the legal complex for the resilience of the liberal international order thus leads to the question of the legal profession's collective mobilization for basic human rights through international professional networks and international courts.

Fates of Political Liberalism in the British Post-Colony puts forward a particularly useful framework for conceptualizing (colonial) legal power (Halliday, Karpik, and Feeley 2012). While the overall legal discourse of the British colonizers was based on political liberalism and the universal application of the rule of law, colonial legal power worked, in practice, through two "reservations": namely, the permanent ability to invoke the state of exception and the rule of difference between the colonizers and the colonized. To what extent, however, have these features also been part of the liberal-legal project of the international liberal order?

With respect to the state of exception, we cannot ignore the mass of scholarship critiquing Western powers—and, particularly, the United States as the hegemon of the liberal international order—for double standards, hypocrisy, and downright disregard for international law—for example, during the global war on terror (Aradau 2007; Agamben 2008). Part of this critique also applies to Western states and their allies' invocation of the right to self-defense to derogate from international human rights law and humanitarian law in their (armed) response to serious terror attacks (see, for example, O'Connell 2023). The way in which the rule of (racial) difference masquerades the universality of liberal (international) politics connects to a long-standing and fundamental criticism of the entire liberal international order—namely, that racial inequalities and global power differences undermine the universality of the international legal system (Anghie 2023; see also Roberts 2017).

This charge has been leveled particularly against the ICC—the permanent treaty-based global court set up to protect basic human rights in the face of the core international crimes of genocide, crimes against humanity, war crimes, and the crime of aggression (Lohne 2019). Unable to get rid of the tainted legacy from Nuremberg of winners' justice, condemnation of international criminal justice's selective application of justice culminated in 2016 in the threat of mass withdrawal by the African Union states, largely because the ICC was at that time involved only in conflicts on the African continent. The ICC's "Africa problem" has now eased somewhat since it has been involved in conflicts and situations outside of Africa, but accusations that the ICC is a neocolonial Western imperialist (legal) tool continues to throw the legitimacy of the system into question (see Clarke, Knottnerus, and De Volder 2016). Recently, the ICC has been criticized for double standards with regard to the victims of the wars in Ukraine and Palestine, with Western states uniting to mobilize and provide funds and personnel to the ICC to investigate crimes committed in Ukraine (*Human Rights Watch* 2023), while being divided, reluctant, and, at times, even obstructive over international criminal

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justice in Palestine, as is the case with the US sanctions against the ICC (Davies et al. 2024). The latter development—which supposedly involves liberal states actively undermining the legitimacy of the system—is of course a particularly dangerous and existential threat to the ICC and the Rome Statute's system of justice.[10]

These political dynamics and developments raise several questions. First, while we know that states and geopolitics matter for the realpolitik of international law, justice, and the realization of basic human rights, we also know that non-state actors, norms, and values play a critical role in constituting the international as a normative order too (Finnemore and Sikkink 1998). It would be very interesting if more scholarly attention was given to an international legal complex operating above and beyond nation-state politics, perhaps even in direct opposition to national interests. For example, it might be considered whether international lawyers at times bypass the state completely, operating as "spokesmen" or intermediaries between multilateral legal institutions and a global public or whether they are invariably anchored to the(ir) nation-state. As scholars such as Anne-Marie Slaughter (2005) showed some time ago, global governance is as much a web of "government networks" of judges, legislators, and police investigators as a product of centralized government; in other words, the state is fragmented, and our international order is a networked international order composed of transnational professionals. To what extent, therefore, are we now seeing transnational networks of legal complexes mobilizing for liberal legalism at the international level?

Another crucial issue regarding the resilience of liberal legalism and international law is the extent to which both the state of exception and the rule of difference are being challenged by geopolitical shifts and international power struggles, perhaps in parallel to the justification for examining the "resiliency" of political liberalism in the British post-colonies. It is noteworthy that it is South Africa—a BRICS state and African regional power—that has mobilized international law and the International Court of Justice in defense of Palestine. Moreover, the ICC is at the time of this writing still pursuing legal accountability for war crimes and crimes against humanity committed by both Hamas and Israel, despite significant legal and political hurdles by directly opposing big (Western) power interests. The ICC has also issued arrest warrants for Russian leaders responsible for war crimes and crimes against humanity in Ukraine, including President Vladimir Putin. While there is no need to speculate about the legal outcomes and impacts of these international legal processes, it is significant that these developments represent a greater—indeed, a universal—application of international law than was the case previously.

At the same time, the fact that international law has become a lingua franca for legitimizing action by illiberal states also calls, of course, for more meticulous analysis. For example, there are important questions to be answered as to whether the increased international "representativeness" of international law and its use (and abuse) means increased liberal legalism (including respect for basic rights) or whether—as some research is already suggesting—states such as China are changing

[10] While neither the United States nor Israel is a state party to the International Criminal Court, the United States is a "pro-genitor" of international criminal justice and the liberal international order. The double standard critique also pertains to other so-called liberal democracies, such as the United Kingdom, France, Poland, and Italy (Lohne 2025).

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the substance of international law and multilateral organizations (Sending and Karlsrud 2024). This, then, begs the question whether, under conditions of increasing global autocratization, we are heading for an illiberal international order, ruled *by* international law rather than by an international rule *of* law.[11]

Despite this sober future scoping on the fate of the international liberal project, the fact remains that the empire of international legalism is here to stay. As Ian Hurd (2018, 265) reminds us, "[l]egal justification is the lingua franca of legitimation contests among governments, as states strive to show that their preferred policies are lawful and that those they oppose are unlawful." In Hurd's view, the (liberal) content of international law is already lost to discourse: international politics have become judicialized to the extent that law and legal power—lawfare even—is but a crystallization of (international) politics—"the death of international law! Long live international law"—these slogans now express the sensibilities of commentators and blogposts on international law (Hindi 2023). The extent to which the legal profession will fight internationally for fundamental political freedoms to be part of the legal order remains a question for new students of the legal complex. In a world fraught with significant democratic backsliding, increasing levels of autocratization, armed conflicts, and big power disregard from the normative powers of the rule of law both domestically and internationally, I can think of few research agendas in law and society of greater societal value.

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[11] These questions also seem to concern one of the originators of the legal complex (see Halliday 2018). This review essay has not dealt with the considerable literature exploring the role of the legal profession mobilizing against political liberalism—that is, illiberal legal complexes (Graver 2015; Cummings 2024).

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