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From Policies of Fear to Politics of Values

Human Rights on the Agenda of the European Union

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Synopsis

Why have human rights been included on the agenda of the European Union (EU)? At the heart of this thesis is an analysis of the politics of attention¹ to human rights in the EU institutions between 1992 and 2012. In expounding the reasons why and the way in which human rights have been included on the EU agenda, I present a critical assessment of the normative nature of the EU. I argue that the reference to human rights as constitutive of the founding principles of the EU is not genuine. Rather, the EU human rights agenda between 1992 and 2012 was a signifier of fear, meaning that the EU has resorted to include human rights on its agenda as an instrument to reinvigorate *raison d'être*, to mitigate perceived threats to the European internal market and to circumvent threats to the security and safety of EU citizens. Furthermore, the EU has allocated attention to human rights as a consequence of normative spill-over processes in order to eliminate the threat of a democratic legitimacy deficit. Democratic legitimacy matters because it gives the EU *raison d'être* and because it is a precondition for a well-functioning internal market. The main thesis therefore confirms both neo-functionalist and realist perspectives by asserting that the allocation of attention to human rights is a consequence of spill-over processes, but only because the attention to human rights is functional to fundamental EU interests. In addition, I argue that the politics of attention to human rights unveils how EU policies determine EU politics.

To examine the extent to which, and why and how the politics of attention to human rights in the EU institutions has changed between 1992 and 2012 I adopt a mixed-method approach. This approach combines an empirical view of the relative attention to human rights and a qualitative analysis of the EU speech. The empirical data collection displays that the overall relative attention to human rights on the EU agenda decreased from 'prominent' in 1992 to 'average' in 2012. I use critical discourse analysis (CDA), existing agenda-setting theories, and interviews to analyze the changes in the relative attention and to explain why and how the EU includes human rights on its agenda. A single case study on the politics of attention to female genital mutilation (FGM) clarifies why and how the EU allocates attention to specific human rights issues.

Human rights emerged as a prominent EU agenda item in 1989. The impact of internal market policies, aimed at facilitating the freedom of movement, compelled a politics of attention to the safety of workers and to security on the internal market. This politics of attention implied a politics of attention to human

¹ The notion 'politics of attention' is indebted to Bryan Jones and Frank Baumgartner: B.D. Jones and F. R. Baumgartner, *The politics of attention. How government prioritizes problems* (Chicago and London 2005), 1.

rights, needed to protect the citizen as the core element of the internal market. This indicates how EU policies influence EU politics. Moreover, the politics of attention to human rights is a consequence of normative spill-over. Berthold Rittberger and Frank Schimmelfennig coined the notion of ‘normative spill-over’, indicating that functional integration at the EU level has shown to attenuate democratic and human rights institutions at the national level, which in turn caused a democratic legitimacy deficit at the EU level.² Normative spill-over illustrates that the EU responds to perceived threats to EU integration by allocating attention to human rights. Indeed, the empirical data collection exposes that the relative attention to human rights increased at times when the EU reported on ‘negative’ developments to the integration process. The relative attention to human rights decreased when the EU reported on ‘positive’ developments to EU integration. In consequence, the successful elimination of threats to security and the internal-market led to a more modest human rights discourse. I attest that, even though EU enlargement as a ‘positive’ development to EU integration engenders a decrease of the attention to human rights, emerging concerns over transparency, legitimacy, and democracy after the accession of new member states constitute threats that urge the EU to allocate more attention to human rights.

The politics of attention to human rights does not only conceal fundamental EU interests; attention to human rights is used to pursue EU interests. The EU interests of maintaining a well-functioning internal market, and therefore of maintaining security standards have warranted normativity. Hence, normativity is inherent to the EU, but only as a strategy to circumvent threats to the EU. This also explains why female genital mutilation emerged as an internal EU affair on the EU agenda; to ensure security standards on the internal market and to meet demands of responsiveness to public concerns. The EU focus on citizens is pivotal in understanding the EU politics of attention to human rights between 1992 and 2012. This is because the attention to citizens is closely intertwined with the alleged democratic legitimacy deficit. Because democratic legitimacy is a requirement for European co-operation and integration, and because normativity is required to mitigate threats to democratic legitimacy, normative inherence has become an interest of the EU. The launch of the Citizen’s Initiative in 2009 not only confirms that responsiveness is a concern of EU policy makers; the Citizen’s Initiative also indicates that responsiveness is a significant agenda item especially at the EU level. Precisely because democratic legitimacy is not self-evident at the EU level through input legitimacy, the EU needs to ensure a high level of output legitimacy in order to maintain relevance.

² B. Rittberger and F. Schimmelfennig, “The constitutionalization of the European Union: explaining the parliamentarization and institutionalization of human rights’ in: S. Meunier and K.R. McNamara eds., *Making history. European integration and institutional change at fifty* (Oxford University Press 2007), 216.

The EU has resorted to a politics of emphasizing common values to reinvigorate the EU *raison d'être*, to ensure advanced economic and monetary co-operation, to justify an area of justice, freedom, and security, and to pursue a leading role at the world stage. Two turning points in the politics of attention to human rights, in 1997 and in 2009, are indicative of why and how the EU transformed its fears into values. The EU speech in 1997 and in 2009 exposes the lack of an ideologically biased context model. A context model refers to a set of dominant common beliefs and perceptions at a specific moment in time, and that is often the result of shared episodic memory. After 1945, the EU constitutive ideals, of which human rights are a component, were recognized within a specific context model that determined the perceptions of EU actors and EU citizens. However, with the advancement of economic and monetary integration in the 1990s and the 21st century, this (ideologically biased) context model has been replaced by a context model in which EU integration and common values are not by definition recognized as necessary to EU citizens. Therefore, EU policy makers have been trying to reinvigorate an ideologically biased context model in which not only the relation between common values and economic and monetary integration is emphasized, but in which also the relevance of the EU is more widely recognized. This was needed to enhance democratic legitimacy.

The 1997 Amsterdam Treaty paved the way to talk about human rights in the EU institutions, to pursue EU human rights policies, and to mainstream EU human rights policies into other policy areas. The introduction of the 'foundation frame' and the increased attention to racism and discrimination are at the heart of this change. The 'foundation-frame' is a type of speech that allowed the EU to justify the presence of human rights on its output agenda, namely by asserting that the EU was founded on the principles of democracy, human rights and the rule of law. The inclusion of the foundation-frame was an attempt to articulate and amplify these EU constitutive ideals. The politics of attention in 1997 is also characterized by increased attention to racism. I argue that there is a connection between the attention to racism and the launch of the foundation-frame. The launch of the foundation-frame and the increased attention to racism coincided with the launch of an EU area of freedom, justice, and security. For security to become prominent I surmise the existence of insecurity. The threat of insecurity constituted the motivation for the launch of the foundation-frame and the allocation of attention to racism. Keeping in mind that the EU allocates more attention to human rights when confronted with perceived threats to security and the internal market, I claim that a perceived threat in 1997 not only led to more attention to racism, but also to the articulation of EU constitutive ideals. Constitutive ideals are made explicit as a result of moral evaluations of certain focusing events. For a focusing event to trigger moral evaluations resulting in the attention allocation to racism and to the EU constitutive ideals, the focusing event must somehow be related to racism and the EU constitutive ideals. One focusing event in the 1990s that not only constituted

a threat to EU security but also touched upon racism, and upon the ‘founding principles’ of the EU was the war in Yugoslavia. However, the EU justified the increased attention to racism by underscoring the emergence of societal problems. These problems were identified as being caused by racism, and touched upon social and employment affairs in particular. I state that this illustrates the discrepancy between why and how issues emerge on agendas. The EU did not mention the impact of the Yugoslav wars as a reason for the prominence of constitutive ideals and instead resorted to highlighting concrete economic and social problems. Moreover, the survey that indicated racism as a problem to the internal market had been executed years before 1997. Hence, the use of problem indicators is merely a strategy to pursue other interests in a different context. Racism had been on the agenda of EU actors before 1997, but it was only in the aftermath of the Yugoslav wars that the European Council articulated the EU constitutive ideals. The European Council referred to racism as an impediment to the economic and social situation in the EU, which provided a way to include human rights on the agenda. Issue initiation, thus, occurs before a particular discourse allows for the ultimate inclusion of the issue on the output agenda. Issue inclusion depends on context and discourse, and thus interests, rather than on indicators of problems as such.

The EU speech in 2009 reflects that the EU sees itself increasingly confronted with the misapprehension of its citizens, portending that there is a perceived threat of a democratic legitimacy deficit. The 2009 speech also reveals EU ideology, exposing that the EU has started to generate a sense of ‘closeness’ to its citizens in order to justify advanced economic and monetary cooperation. The EU has attempted to engender closeness by highlighting EU shared values, by appealing to the citizens as belonging to an ‘in-group’, and by emphasizing EU accomplishments while highlighting how the EU could support ‘others’ in living up to certain standards. Moreover, the politics of attention to human rights in 2009 coincides with the politics of attention to justice and European citizenship, underscored by the launch of a Directorate-General for Justice, Fundamental Rights and Citizenship. Indeed, the politics of attention in the EU institutions is tailored to discuss the needs and daily life concerns of EU citizens, and responsiveness is a key element in the politics of attention to justice, fundamental rights and citizens. This focus on responsiveness also applies in a similar vein to individual political actors who, when confronted with fears and threats, resort to emphasizing EU common values. In 2009 the politics of attention changed with José Manuel Barroso’s campaign to be re-elected as European Commission President. In the effort to render himself responsive to the demands of his opponents, Barroso used agenda-setting, as well as the agenda-setting of human rights as a strategy. Barroso adopted a normative discourse, to which he applied the urgency of the economic and financial crisis to human rights.

Moreover, the politics of attention to human rights changed in 2009 due to the launch of the Lisbon

Treaty. This is particularly so because the Lisbon Treaty requires EU accession to the European Convention on Human Rights (ECHR). I argue that the accession of the EU to the ECHR provides an opportunity to legitimately pursue an EU human rights agenda. The EU uses the Council of Europe and the ECHR as a framework of reference for human rights protection because all the EU members are party to the ECHR. In the thesis I analyze that this is an agenda-setting strategy because the EU is not an appropriate actor to pursue a human rights agenda based on the fact that the EU member states are party to the ECHR. Rather, human rights are raised to salience through accession to the ECHR. Moreover, EU accession was pursued with the objective of generating democratic legitimacy.

The turning points in the politics of attention to human rights in the EU institutions between 1992 and 2012 coincide with the turning points in the EU politics of attention to FGM. I purport that the politics of attention to FGM in 1997 was determined by the shock of the discovery of the human rights violations in Belgium in 1996. The EU consequently stressed the importance of protecting the vulnerable groups in society; children, young people, and women. On the basis of funding on-going projects through the DAPHNE Initiative, launched in 1997, the EU adopted a policy that provided for a ‘guarantee of attention’ to the rights of children and women. FGM emerged on the EU agenda as one of the projects funded within this framework. Hence, the attention to FGM was mainstreamed into the attention to the human rights of women and children and into the attention to human trafficking. Linking human trafficking to FGM allowed for the securitization of human rights. One of the main objectives of the DAPHNE Initiative, as well as of the FGM-project, was the creation of information networks and the gathering of data on human rights violations. I conclude that a lack of information was interpreted as a contributing factor to the possibility of human rights violations. This lack of available information was subsequently assessed as a threat to the safety of EU citizens and to the security of the internal market as a whole. The lack information moreover reveals the reason why FGM emerged as an internal EU affair; FGM entered the EU through international migration. Hence, the fact that FGM is not inherent to European societies is closely aligned to a lack of consensus on FGM and to the unfamiliarity of EU based professionals confronted with FGM. These factors inspired a focus on generating more knowledge on the practice.

In 2009-2010 the EU included FGM on the agenda as an indication of EU responsiveness to public concerns. Moreover, FGM functioned as a ‘bridge’ that allowed the EU to connect its policies on justice and its policies on security. The emergence of FGM on the agenda occurred within a discourse of reorientation, through which the EU sought to change the focus from fear to values. However, where the focus had been on protection and prevention in 1997, the politics of attention to FGM in 2010 is

characterized by criminalization with an emphasis on sanctioning. This is primarily the result of shame; shame pertaining to the lack of successful and effective concrete action to eliminate FGM, implying that the politics of attention to FGM developed in response to the policies pursued in 1997.

The securitization and criminalization of issues paves the way to agenda-success at the EU level. This is particularly successful in the case of the attention allocation to FGM. I assert that the lack of concrete policies and political attention in the field of FGM is due to the lack of a clear solution to the issue and due to the lack of a clear legal basis that allows EU policy-makers to tackle this issue effectively. Criminalization and securitization offer an alternative to raise this issue to salience without pursuing concrete policies. The EU also uses a number of frames to allocate attention to human rights. The most widely used frames are ‘value-frames’, ‘citizen-frames’ and ‘foundation-frames’.

In addition, in explaining how the EU allocates attention to human rights, I outline a number of ‘allocation styles’: strategizing critique, following the international trend, mainstreaming, agenda-setting, responsiveness, the logic of politics, and the logic of relocating attention. Especially the ‘relocation of attention’ accounts for the overall decrease of prominence of the relative attention to human rights between 1992 and 2012. The relocation of attention feeds into an overall trend in the EU institutions of pursuing policy coherence and rationalization. This touches directly upon issue linkage, and more specifically on the institutionalization of issue linkage. I call this ‘attention merging’; two or more policy areas are merged into one policy area. The relocation of attention is particularly evident in the 2009 shift in the politics of attention. Human rights ‘merged’ into one policy area with European Citizenship and Justice and a Commissioner for justice, fundamental rights, and citizenship was appointed. Issue linkage is indicative of the more general trend of compressing attention. This compression of attention, which means that the EU allocates attention in a more concise and effective way was introduced in 2004 when Barroso took office as Commission President. This is reflected by the empirical data, showing a significant decrease of prominence in 2004. This trend is also visible in the attention allocated to other policy areas.

In analyzing how the EU human rights agenda is set, I expound two specific agenda-setting dynamics in this thesis: passive agenda-setting dynamics and responsive agenda-setting dynamics. The role of the Council of Europe in setting the EU agenda is an illustration of passive agenda-setting dynamics. Moreover, I also state that the involvement of the European Parliament and civil society embodies a passive agenda-setting dynamic. This is because EU policy-makers avail themselves of the commitment, expertise, and authority of the Parliament and NGOs to justify the need for issue inclusion and for concrete action. Hence, the Parliament and NGOs set the agenda without engaging in a proactive approach. Passive agenda-setting dynamics are also at play among civil society organizations. In trying to

influence the agenda of EU Presidencies, civil society organizations in Brussels refer to the expertise, knowledge and experience of civil society organizations in the country holding the Presidency. Reference to the name and involvement of these organizations on the ground is a useful tool to exert pressure on the government holding the presidency, despite the fact that the knowledge and experience are sometimes absent.

Responsive agenda-setting dynamics also play a role in setting the EU human rights agenda. In this regard, I discern responsive agenda-setting dynamics and responsive strategies. Responsive agenda-setting dynamics touch upon the dynamics that set the politics of attention after issue inclusion. When responsive dynamics are at play, the Parliament and NGOs have the opportunity of influencing the course of action once the EU policy-makers (the Commission, the Council, or the Council of the EU) have decided to include an issue on the EU decision agenda. Responsive strategies are devised by civil society in response to EU-level action. These strategies were influenced by discontent with EU-level policies.

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Introduction

Why have human rights been on the agenda of the European Union (EU)? The EU as a polity has an agenda and human rights are on the EU agenda. The EU agenda comprises the list of topics to which the officials of the EU pay close attention; topics identified to be taken up for active decision.³ The inclusion of human rights on the EU agenda thus indicates that EU policy makers pay close attention to human rights. An assessment of why and, consequently, of how the EU pays attention to human rights is subject of the present PhD thesis. I hypothesize that, between 1989 and 2012 the human rights agenda of the EU is a signifier⁴ of fear; the EU has resorted to include human rights on its agenda as an instrument to mitigate perceived threats to the European internal market and to mitigate threats to security and the safety of EU citizens. The title of this thesis refers to a statement by Viviane Reding, Vice-President of the European Commission and European Commissioner for Justice, Fundamental Rights and Citizenship between 2009 and 2014. At the inaugural hearing in front of the European Parliament on 12 January 2010 she explained that EU policies until then had been primarily driven by fear. She consequently proclaimed the need to pursue EU policies that are instead driven by the EU values of respecting fundamental freedoms and rights. Policies of fear thus inspired a politics of emphasizing values. In this thesis I explicate that the continuous attempts by the EU to transform its fears into values since 1989 constitute the foundations of the politics of attention⁵ to human rights in the EU institutions.

The list of topics to which EU officials pay close attention is not static; it changes over time. While some topics remain merely topics; some become issues, and yet others are eventually transformed into policies. The dynamics of changing the contents of this lists, or, rather, the dynamics of raising particular issues to salience is known as the agenda-setting process. Setting the agenda and influencing the so-called politics of attention is the first phase of the decision-making process. This thesis centralizes the agenda-setting process by assessing the priorities and the contents of the EU agenda and by examining the politics of attention to human rights in the EU institutions since human rights emerged as a ‘prominent’ matter on the

³ J.W. Kingdon, *Agendas, alternatives and public policies* (2nd edition; New York 2003), 3.

⁴ When using the word 'to signify' I adopt the semiotic model devised by Ferdinand de Saussure in which a 'sign' comprises two components; the signified (*signifié*) and the signifier (*signifiant*). The sign implies the hypothesis that the EU included human rights on its agenda as a consequence of fears and threats to the EU and its *raison d'être*. The signifier ('signifiant') in this case is the fact that the EU pursues a human rights agenda. The signifier represents the signified ('signifié'): the fear and perceived threats to the EU.

⁵ The notion 'politics of attention' is indebted to Bryan Jones and Frank Baumgartner: B.D. Jones and F. R. Baumgartner, *The politics of attention. How government prioritizes problems* (Chicago and London 2005), 1.

EU agenda in 1989.⁶ This prominence resulted in the reference to human rights in the 1992 Maastricht Treaty. The following research question is at the heart of this thesis: Why has the EU included human rights on the agenda between 1992 and 2012 and to what extent and how has the EU changed the politics of attention to human rights between 1992 and 2012? My main thesis is that reference to human rights as constitutive of the EU founding principles is never genuine. Rather, the EU politics of attention to human rights is always functional to fundamental EU interests.

The Politics of Attention

The ‘politics of attention’, a notion coined by Frank Baumgartner and Bryan Jones, refers to the agenda-setting process in political arenas.⁷ Agenda-setting is the process of allocating attention to certain issues and of prioritizing one issue over other issues.⁸ The agenda-setting phase connects the two generally discerned components of decision-making polities: ‘politics’ and ‘policies’.⁹ In decision-making polities, these components respectively embody the size and shape of a polity and the substance that is brought forward by the polity. Therefore, the agenda-setting process is the phase where form (politics) and substance (policies) come together. In the EU, the form is constituted by the EU institutions and its organizational structure, as well as by the EU Treaties and the actors moving inside and outside the institutional arena. The form –politics- sets the terms of the debate. The content –policies- exposes the outcome of the debate. In the case of the EU, the content often reflects the direction the EU integration process heads to, which means that EU policies may significantly influence EU politics. Indeed, following an assertion made by Theodore Lowi, politics may be determined by policies.¹⁰ Therefore, getting to the bottom of the politics of attention, and understanding why and how attention is allocated to certain issues requires an assessment of how policies influence politics. The notion ‘politics of attention’ implies that there is a logic behind when, by whom, how and why attention to particular issues is allocated, or, in the words of Baumgartner and Jones, behind how a government prioritizes problems.¹¹ The term implies that attention allocation is a matter of politics. Politics, according to Baumgartner and Jones is “simply the struggle among interests and interests win because they have resources”.¹² Hence, to understand why the

⁶ Following the coding scale developed to disclose the relative attention to human rights in the EU institutions, the relative attention to human rights in 1989 can be typified as ‘prominent’: Commission of the European Communities, 22nd General Report on the activities of the European Communities 1989 (Brussels and Luxembourg 1990).

⁷ B.D. Jones and F.R. Baumgartner, *The politics of attention. How government prioritizes problems* (Chicago and London 2005), 1.

⁸ *Ibid.*, 1.

⁹ T.J. Lowi, “Four systems of policy, policies, and choice”, *Public Administration Review* 32 (1972), 298-310, p. 299.

¹⁰ *Ibid.*, 299.

¹¹ Jones and Baumgartner, *The politics of attention*, 1.

¹² *Ibid.*, 3.

EU includes human rights on its agenda we need to unravel the interests at the heart of the EU politics of attention to human rights.

Existing studies of agenda-setting have primarily focused on agenda-setting processes in domestic political systems. Some studies have focused on international and transnational agenda setting, and agenda-setting within the EU institutional arena is a rather new, but significantly growing field of expertise. Sebastiaan Princen has itemized why exactly it is important to study agenda-setting processes at the EU level. Princen postulates that the agenda of the EU reflects the overall European integration agenda.¹³ This means that, if we know what issues are included on the EU agenda, and, for that matter, what issues are not included; we could gain a more profound understanding of the direction of the European integration process.¹⁴ Moreover, understanding the contents of the list to which EU officials pay attention not only helps to grasp the (pre-) decision-making processes in the EU; it also helps to grasp the behavior and strategies political actors resort to while taking part in these processes.¹⁵ Understanding the strategies of agenda-setters, in turn, unveils the characteristics of the EU institutions, as well as the dynamics of day-to-day politics at the EU level. Additionally, it has been argued that some issues by definition receive more political attention than other issues.¹⁶ This is because some issues are directly functional to fundamental EU interests. In this regard, mapping the issues on the agenda of the EU reveals interesting insights regarding the normative dimension and the presumed hierarchy of issues on the list. Princen furthermore indicates that agendas reflect the democratic quality of political systems. He purports: “what matters in terms of agenda biases, democracy, and popular representation is how the EU performs in translating citizen demands into policies”.¹⁷ Agenda-setting is thus related to the EU responsiveness to public concerns, and the democratic quality of the EU can be tested on the basis of a form-substance match. Studying agendas in the EU institutional arena may thus also help to comprehend the alleged ‘democratic deficit’. Scholars of agenda-setting emphasize that, when studying agendas, the focus should be primarily on the agenda-setting dynamics, rather than on the issues subject to agenda-setting. However, as previously said, the political dynamics that allow for issue salience are likely to be influenced by issues and policies, accounting for why and how issues are included on governmental agendas. This thesis is tailored to a more issue-based and context-based analysis than is state of the art in agenda-setting studies.

¹³ S. Princen, *Agenda-setting in the European Union* (Palgrave Macmillan 2009), 4-5.

¹⁴ *Ibid.*, 4-5.

¹⁵ *Ibid.*, 3-4.

¹⁶ P. Bachrach and M.S. Baratz, “Two faces of power”, *American Political Science Review* 56 (1962), 947-52.

¹⁷ Princen, *Agenda-setting in the European Union*, 7.

The Politics of Attention to Human Rights

Initially, with the endorsement of the Treaty of Rome establishing the European Economic Community in 1957, the EU agenda entailed merely economic, agricultural, and institutional topics. Gradually, in the wake of functional integration and the so-called ‘spill-over process’, the EU has greatly expanded its authority and competences, and hence the list of topics on its agenda.¹⁸ Some political actors postulate that the EU should limit its competences to economic integration. Other actors, however, following Nobel Prize winner Amartya Sen, have stated that economic issues arbitrarily surpass other softer and more social issues on governmental agendas; issues of perhaps equal importance. Sen interprets the human freedom and the human dignity as a precondition for economic growth and prosperity.¹⁹ This implies that economic growth and human rights are interconnected issues. Indeed, the original concept of developing an economic community in postwar Europe emerged as a response to the human rights violations that took place during World War II, and the EU itself purports that it was founded on the principles of human rights, democracy, and the rule of law.²⁰ Taking the above into account, evaluating the EU commitment to human rights seems trivial and questioning the importance of this topic on the agenda of the EU invokes scepticism. However, I present a critical view of the normative character of the EU, claiming that the EU resorted to pursuing a human rights agenda merely to maintain a well-functioning internal market and to engender relevance to the EU citizens in the 21st century. In this sense, the thesis feeds into the discussion on the EU as a norm promoter. The appropriateness of the EU role in safeguarding human rights within the EU and outside the EU is and always has been deemed ambiguous.²¹ Violations of human rights are still taking place within and outside the EU borders, and hence the EU role as an international arbiter of human rights standards is severely frowned upon. Furthermore, it is asserted that the principle of subsidiarity *par excellence* applies to human rights as an EU agenda item, meaning that the national level is the most appropriate level to deal with human rights issues. There are, additionally still discrepancies between the human rights standards at the national level and the human rights standards at the EU level. In this regard, policy analysts have detected a discrepancy between the EU rhetorical commitment to protect human rights and the practical implications of this rhetoric; a discrepancy between politics and policies. Lastly, if the EU was in fact founded on the principles of human rights and democracy; then why was a clear commitment to human rights in EU politics only endorsed with the 1992 Maastricht Treaty?

¹⁸ M.A. Pollack, “The end of creeping competence? EU policy-making since Maastricht”, *Journal of Common Market Studies* 38 (2000), 519-538, pp. 537. And: J.J. Richardson, *European Union: power and policy making* (third edition: Routledge 2006), 87.

¹⁹ A.K. Sen, *Rationality and freedom* (Belknap Press of Harvard University Press 2002), 9-13.

²⁰ “Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community”, 13 December 2007, 2007/C 306/01, article 1a.

²¹ P. Craig and Gráinne de Búrca, *EU Law. Text, cases, and materials* (Oxford University Press 2003; third edition), 318.

Notwithstanding that human rights emerged as ‘prominent’ on the EU agenda in 1989, 1992 constitutes the official starting point of the analysis. This is partially because the events in 1989 culminated in the politics of attention that set the EU agenda in 1992, as I will explain in chapter V. More importantly, 1992 is an appropriate starting point because the Maastricht Treaty (February 1992), officially the Treaty on European Union (TEU) launched an EU human rights agenda. In its Article F.2., the Treaty of Maastricht provided that “The Union shall respect fundamental rights, as guaranteed by the European Convention on Human Rights and as they result from the constitutional traditions common to the Member States, as general principles of Community law”.²² This was the first ‘hard’ legal approval of the EU commitment to human rights.²³ Moreover, with the introduction of three institutional pillars, the European Communities, the Common Foreign and Security Policy (CFSP), and Home and Justice Affairs (later Police and Judicial Co-operation in Criminal Matters), the Maastricht Treaty additionally expanded the EU competences to areas of foreign policy, military matters, criminal justice, and judicial cooperation, areas related to human rights. This implies that the Maastricht Treaty implied the first attempt to pursue a political European Union, beside the primary aim of establishing a common economic European market.²⁴ The Maastricht Treaty furthermore launched the so-called co-decision procedure, which under the 2009 Lisbon Treaty has become the ‘ordinary legislative procedure’. This is a joint decision-making process involving the EU institutional triangle; the Council of the European Union, the European Commission, and the European Parliament. The agendas of these institutions together represent the decision agenda of the EU as a polity, and the emphasis on these three institutions most adequately reflects the interplay between EU politics and EU policies. Therefore, the EU decision agenda is used as the main point of reference to assess agenda-setting dynamics. These three institutions are the most democratic institutions in the EU, given that they are directly or indirectly elected by the voting citizen, and this agenda thus functions as the most appropriate tool to assess the democratic quality of the EU. The European Court of Justice is excluded from the analysis, particularly because the present thesis examines policies and politics, rather than legislation.

There have been numerous studies to the relation between the EU, democracy, the rule of law, and human rights. In addition, several studies touch upon the agenda-setting endeavors of international human rights organizations and some studies centralize the role of non-governmental organizations (NGOs) or advocacy groups in setting the EU agenda. However, existing studies of agenda-setting within the

²² “Treaty on European Union”, *Official Journal of the European Communities* (92/C 191/01).

²³ Craig and de Búrca, *EU law*, 350.

²⁴ J. McCormick, *Understanding the European Union. A concise introduction* (third edition; Palgrave Macmillan 2005), 71-72.

Comparative Agendas Project (CAP)²⁵ have never centralized the politics of attention to human rights, nor have these studies mapped the extent to which EU policies determine EU politics. The agenda-setting theory was never applied to any human rights policy, including the EU human rights policy. Perhaps the lack of interest in the EU human rights policy is due to the general assumption that human rights are lower in the alleged hierarchy of issues on decision agendas. This thesis is the first attempt to disclose and to interpret the reason for the political attention allocated to human rights in the EU institutions. Following the CAP, I disclose the relative attention to human rights, meaning that the attention given to human rights is dependent on and can only be understood through comparing it to the attention that is given to other policy areas.

Research Methods

In assessing why human rights landed on the EU agenda, and, consequently, in assessing how the EU allocated attention to human rights between 1992 and 2012, I adopt a mixed-method approach. This approach comprises a quantitative component and a qualitative component. These components are envisaged to be complementary in examining and interpreting whether, why, and how the politics of attention to human rights has changed between 1992 and 2012.

The quantitative component consists of an explanation of the empirical data collection, created on the basis of coding the annually published General Report on the Activities of the European Union, as well as the annually published EU Annual Report on Human Rights. Coding the General Report of the Activities of the EU is necessary to map the relative attention to each of the identified policy areas and to disclose the correlation between policy areas. Coding the EU Annual Report on Human Rights will consequently disclose the relative attention given to the various human rights issues the EU deals with. This provides a panoramic view and an empirical account of the political attention allocated to human rights. A panoramic view, engendered by the empirical data collection, enables us to see how the EU political attention to human rights has developed over time. This view consequently allows us to assess more profoundly what the relations are between the various EU policy areas and how they are interconnected, and, most importantly, whether the attention pattern of one particular policy area correlates to the attention to human rights.

²⁵ Agenda-setting as a field of research within political science started in the USA with the launch of the Policy Agendas Project, seeking to understand the dynamics of US politics since the Second World War. It is characterized by extensive data analysis. Frank Baumgartner and Bryan Jones (1993), John Kingdon, Roger Cobb and Charles Elder (1972), and Elmer Schattschneider (1960) were pioneers in the field of agenda-setting research and developed the first theories that shed some light on the concept of ‘agenda’ and on the dynamics that are behind the contents of these agendas. Gradually, research in this field has extended to other the study of agendas in other countries, and most recently to the European Union. Agenda-setting in the EU as a topic gained ground through scholars like B.G. Peters (2001), M. Pollack (1997), Mark Rhinard, Jonas Tallberg, Sebastiaan Princen, Arco Timmermans, and Gerard Breeman.

The qualitative component of the thesis comprises two elements; a critical discourse analysis (CDA) and an illustrative case study to assess the EU politics of attention to female genital mutilation (FGM). What follows will briefly elucidate why these research methods are the most appropriate tools to answer why and how the politics of attention to human rights has changed. First, if we follow Baumgartner and Jones, who argue that politics is a struggle for interests and that interests win because they have resources, I purport that human rights are on the EU agenda because human rights ‘won’ in a struggle for interests, which means that human rights have resources. CDA helps to identify the resources and interests that are constitutive of the politics of attention to human rights, and CDA helps to identify the reasons for issue salience and for why particular interests have resources. This is because CDA allows for a critical assessment of political speech and of the speech adopted to raise issues to salience. By assessing the EU speech we can detect the ideology and context within which interests have emerged. I argue that an agenda, especially a political agenda, reflects a particular discourse. Discourse, thus, is constitutive of political agendas, meaning that, on the basis of assessing the speech adopted in agendas, we can understand the discourse that allowed for the inclusion of human rights on the agenda. Discourse explains why and how actors speak about issues. While the General Report of the Activities of the European Union and the Annual Report on Human Rights can be used as a tool to disclose the contents of the EU decision agenda, these documents also reflect the discourse in the EU institutions, and the politics of allocating attention to human rights in the EU institutions. On the basis of a diachronic assessment of the EU human rights speech, we can see how the discourse and the EU politics of attention to human rights has developed and changed over time. Through the identification of discursive strategies and structures in the speech, we may identify a type of ideology, in turn revealing the underlying interests. These interests explain why human rights have been included on the EU agenda. Moreover, an analysis of the EU speech, assessing how the EU presents itself during the economic and financial crisis, provides useful insights regarding the contents of the EU agenda and the direction of the EU integration process. This thesis is the first attempt to unravel agenda-setting dynamics based on CDA.

Second, the single case study of assessing the politics of attention to FGM functions to test the extent to which agenda-setting theory and the conclusions of the qualitative analysis are applicable to individual human rights issues. The assessment of the politics of attention to FGM is executed on the basis of a CDA of the speeches of European Commissioners and of the EU General Reports and Annual Reports. Moreover, to gain a more profound understanding of the EU politics of attention to FGM, a number of interviews with civil society experts in the field have been conducted. If we typify FGM as one issue in the range of issues the EU deals with, an exploration of the politics of attention to FGM engenders a more profound understanding of the agenda-setting dynamics surrounding individual issues in the EU

institutions. This, in turn, helps to understand the overall agenda-setting dynamics in the EU institutions. FGM was selected on the basis of several considerations. First, taking into account that the EU does not originally deal with human rights matters and taking into account that FGM as a phenomenon does not originally take place in European societies, it is relevant to assess why and how individual human rights issues are included on the EU agenda. Moreover, FGM touches upon different policy fields, ranging from justice and home affairs to health policies. Especially the latter fall primarily within the remit of domestic jurisdiction, meaning that the principle of subsidiarity applies, hence that FGM should be dealt with at the EU member state level. One way or another, FGM landed on the EU agenda. The case study expounds why FGM landed on the EU agenda and how FGM was represented on the EU agenda.

Contributions of the Thesis

The present thesis contributes to the field of agenda-setting on various levels. First, by assessing the dynamics of raising human rights issues to salience this research project complements existing agenda-setting studies. The emphasis within existing research endeavors of the CAP confirms a neo-liberal focus, and studies therefore exclude a focus on human rights. Therefore, this thesis fills one gap in the field. Precisely because the human rights policy is not merely an independent policy area, but also one that is connected with other areas, identifying the particular dynamics of raising human rights issues to salience reveals unknown agenda-setting dynamics. To this purpose, I identify two specific agenda-setting dynamics; passive agenda-setting dynamics and responsive agenda-setting dynamics.

Second, a valuable contribution of the thesis is the adoption of a CDA to unravel agenda-setting dynamics. CDA transforms the research order by centralizing context and discourse. From context and discourse we are able to retrieve the range of issues the EU deals with, why the EU deals with these issues, and how the EU has subsequently allocated attention. CDA additionally allows for a complete characterization of the politics of attention, providing insights regarding power relations and underlying agenda-setting dynamics. This helps to sketch institutional contexts at certain times and allows for an understanding of how context changes, and how the institutional context affects policies and politics. CDA allows for an approach within agenda-setting studies that includes a focus on policies as constitutive of politics. On the basis of a discursive analysis of policies, we can grasp how policies influence politics. This analysis touches upon a third contribution of the thesis: is the EU more about politics when it comes to human rights or does the EU produce actual and effective human rights policies? I state that the politics of attention to human rights is interchangeably a result of how policies influences politics and of how politics influences policies.

Lastly, tackling human rights and EU agenda-setting provides insights with regards to the

discussions on the alleged democratic deficit in the EU institutions. This thesis clarifies that the EU allocates attention to human rights through the protection of the fundamental rights of EU citizens.

Plan of the Thesis

The thesis falls into three parts. The first part is aimed at shaping the context, at exploring the literature on agenda-setting and agenda-setting theory, and at explaining the adopted methodology. In this part, I define the scope of the analysis and the terms of the debate by providing the definitions of the main concepts. I also expound existing literature to devise a theoretical framework, focusing in particular on the factors that account for why and how attention is allocated to issues. Furthermore, I also explore the extent to which agenda-setting ought to be part of an empirical theory of democracy. In Chapter II I elucidate the methodological framework at the heart of the document analyses.

The second part comprises an analysis of the main findings of the quantitative data collection. In Chapter III I disclose the extent to which the relative attention to human rights and the politics of attention to human rights in the EU institutions has changed between 1992 and 2012. On the basis of the empirical data collection, I proceed with identifying the turning points in the relative attention to human rights, indicating that the overall prominence of human rights on the EU agenda has decreased from ‘prominent’ in 1992 to ‘average’ in 2012. Furthermore, I explain the changes that occurred in allocating attention to human rights between 1992 and 2012. The main conclusion is that the politics of attention to human rights in 1992 is more policy-based, whereas the politics of attention to human rights in 2012 is more politics-based.

The third part consists of three chapters. In Chapter IV I explain why human rights have been on the EU agenda between 1992 and 2012. I explicate the main turning points in the relative attention to human rights between 1992 and 2012, identified in Chapter III, and I indicate why we can conclude that the main turning points in the politics of attention to human rights occur in 1997 and 2009. In this chapter I present a critical view of the normative character of the EU, indicating that the EU resorts to raising human rights to salience as a consequence of perceived threats to the EU internal market and to threats to security in the EU. I also explain how the increased attention to human rights is the effect of a normative spill-over process, and how human rights are used to divert the threat of democratic legitimacy deficits. Not only does this part elucidate how the EU addresses ‘negative’ developments to the integration process by increasing the attention to human rights; it also clarifies how the attention to human rights declines when the ‘negative’ developments are met with ‘positive’ developments. The last part of Chapter IV constitutes an analysis of the EU ideology. The main argument is that the EU has attempted to justify advanced economic and monetary integration by trying to generate ‘closeness’ to the EU citizens on the

basis of emphasizing common values and principles. The EU has resorted to this strategy in order to complement the lack of shared perceptions between the EU and the EU citizens in which the appraisal of the EU is self-evident.

In Chapter V I clarify how human rights landed on the EU agenda. It should be noted that the ‘how’ in this thesis does not reflect process-tracing. Rather, I aim to analyze how human rights were framed in order to engender the representation of human rights on the EU agenda between 1992 and 2012. Hence, I identify the ways in which the main shifts in the politics of attention have been shaped and framed by the agenda-setting actors. The focus is thus particularly on the EU agenda-setting actors. Furthermore, I highlight the role of the Council of Europe in setting the EU agenda, asserting that the Council of Europe plays a passive agenda-setting role. Chapter VI also expounds seven styles of attention allocation, and explains that the EU includes human rights on its agenda by directly bestowing agenda-setting power upon the EU citizens.

At the heart of Chapter VI is an analysis of the politics of attention to FGM as an internal EU matter. An assessment of the politics of attention to FGM reveals that the main turning points in the attention to FGM coincide with the main turning points in the overall politics of attention to human rights (1997 and 2009). These turning points can be assessed as the effects of respectively shock and shame, emphasizing particularly the lack of information on FGM as a contributing factor to human rights violations. The assessment paves the way to the identification of different styles of attention allocation and agenda-setting dynamics. This chapter concentrates particularly on criminalization as a component of securitization in relation to the logic of allocating attention to human rights.

Lastly, I will identify an agenda for future research in the chapter with concluding remarks.

I

Terms and Theory

Defining concepts and notions, subject to research, is crucial. Definitions are indicators of context and they provide a framework for analysis. Definitions set the terms of the debate and they determine the objectives and scope of the analysis. Therefore, the main thrust of this chapter is, first, to explain what I mean by respectively ‘politics’ and ‘policies’, the ‘European Union’, the ‘EU agenda’, and ‘human rights’. I also explicate how the agenda-setting process in the EU institutional arena formally proceeds and what the agenda-setting powers of the various institutions and actors encompass. Moreover, in this chapter I devise the theoretical framework to interpret the research findings and I expound the extent to which agenda-setting should be part of an empirical theory of democracy.

1. Terms

1.1. Politics versus Policies

To explain the basic difference between politics and policies, I adopt the definitions from the Oxford English Dictionary. Politics encompasses “all the activities associated with the governance of a country or area”.²⁶ The Oxford English Dictionary further defines ‘politics’ as a “particular set of political beliefs or principles”.²⁷ ‘Policy’ is defined as a “course or principle of action adopted or proposed by an organization or individual”.²⁸ Policies are the outcome of politics, but policies also determine politics.²⁹ Politics, essentially an organizational process, does on the other hand not always lead to policies. In the case of the EU as one polity, politics is constituted by the processes going on in and outside the EU institutional arena. Politics also comprises the EU treaties, as well as the relationships between the EU and

²⁶ *Oxford English Dictionary* (11th edition; Oxford University Press 2004).

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ T.J. Lowi, “Four systems of policy, politics, and choice”, *Public Administration Review* 32 (1972), 298-310, pp.299.

the member states, contacts among the EU Heads of State or Government and contacts between the EU and the Heads of State or Government of third countries, the EU and the global level and international forums, as well as the dynamics between the EU and civil society and academia, and the public opinion. Two types of politics with regards to European integration have been discerned since the start of the European integration process: supranational politics and intergovernmental politics. The intergovernmental approach stresses the dominance of national interests and preferences, referring to the institutions through which the representatives from the EU member states decide upon the course of the integration process; the Council of the European Union and the European Council. Intergovernmental politics is characterized by compromise, bargaining, and diplomacy.³⁰ The supranational approach emphasizes the interests of the EU as a polity, referring to the European Commission, the European Parliament, and the European Court of Justice. It should be noted that, notwithstanding the supranational character of these institutions, and despite the fact that these institutions are merely agents of the EU member states, these institutions also have distinct and institutional preferences.³¹

In recent decades, political scientists have engaged in debates regarding the core of politics; whether politics are more concerned with politics or whether they are defined on the basis of the policies they bring forth. The initiator of this discussion was Theodore Lowi. In 1972 Lowi published an academic paper in which he asserted that too little emphasis was placed on policy and government, and that political science studies primarily zoomed in on politics. Lowi consequently pursued the assumption that ‘policies determine politics’, and he proposed to invigorate the focus on policies.³² This discussion is especially relevant to the EU, a polity with a character still under discussion. The EU policies embody the output of politics, constituting the public policies that result from the processes within EU politics. In this regard, the subsidiarity principle, ensuring that decisions in the EU are taken at the level as near to the citizens as possible, is relevant, especially because questions often arise about the ‘appropriateness’ of the EU level to deal with certain issues. Many issues that arrive on the agenda of EU policy-makers never find their way from politics to policies. Yet, as Lowi argues, “the interesting conflicts are around issues, and many issues involve basic policies”.³³ This implies that, as conflicts occur in politics, politics was affected by policies, because politics is about issues and many issues themselves involve policies. Lowi furthermore purports that an exceptional change in politics [usually] seems to be driven by an exceptional policy

³⁰ J. McCormick, *Understanding the European Union. A concise introduction* (third edition; Palgrave Macmillan 2005), 93.

³¹ S. Hix and B. Høyland, *The political system of the European Union* (Palgrave Macmillan 2011), 3.

³² Lowi, “Four systems of policy, politics, and choice”, 299.

³³ *Ibid.*

issue.³⁴ In what follows I explicate this argument. The EU is characterized by a large number of actors participating in the decision-making process, both inside and outside the direct institutional arena. In Lowi's view, the increased number of external groups seeking to influence policy leads to new kinds of public policy, in turn altering politics.³⁵ In the case of the EU, it is also the national policies of the respective member states that change the policies, hence politics, at the EU level. In a similar vein, the international scene and the policies pursued by international and multilateral forums are of particular importance to the politics of the EU. Questions pertaining to EU politics arise as a consequence of pursued policies or because of the absence of policies. Critique on policies, for instance critique on the credibility or the effectiveness of policies, as well as critique on the lack of policies pursued in a particular field leads to changes in politics. The critique on the EU human rights and democracy conditionality policy and the EU response to the Arab Spring in 2011 exemplify how policies, or a lack thereof, have an impact on EU politics. The EU is increasingly expanding its scope and competences and, following Lowi, the inclusion and pursuit of new issues and policies should inevitably impact EU politics. Lowi additionally claims that policy patterns could occur on such a frequent basis, that these patterns gradually institutionalize into distinct systems of politics.³⁶ Consequently, I assert that the inclusion of new issues not only leads to changes in politics, but to changes in the politics of attention as well.

1.2. European Union

Due to its complex historical and institutional foundations, understanding the EU as a *sui generis* entity has been subject to various intellectual endeavors. The EU or, rather, the process of European integration, has over the past decades been defined as a confederation, a process of consociationalism, a regime, a regulatory state, or merely a political system or international organization.³⁷ As Europe has moved ahead of the Westphalian state system, and as it has transcended the traditional balance of power, the characterization by Sergio Fabbrini of the EU as a Post-Westphalian system in which supranational and intergovernmental powers coincide, seems most appropriate.³⁸ In an attempt to comprehend how the political system of the EU functions, Fabbrini embroiders on the Madisonian concept of compoundness

³⁴ Ibid., 301.

³⁵ Ibid., 302.

³⁶ Lowi, "Four systems of policy, politics, and choice", 302.

³⁷ S. Bartolini, *Restructuring Europe: centre formation, system building, and political structuring between the nation state and the European Union* (Oxford University Press 2005). And: S. Hix, *The political system of the European Union* (Palgrave Macmillan 1999). And: G. Majone, *Dilemmas of European integration: the ambiguities and pitfalls of integration by stealth* (Oxford University Press 2005). And: F.W. Scharpf, *Governing in Europe: effective and democratic* (Oxford University Press 1999).

³⁸ S. Fabbrini, *PhD course in political theory on international comparative politics* (LUISS Guido Carli Rome, Spring 2011).

dating back to the Philadelphia Constitutional Convention in 1787. This concept was further developed by Robert Dahl in 1956.³⁹ Fabbrini argues that it is particularly useful to compare the EU political system to the political system in the United States of America. He asserts that these ‘transatlantic democracies’ can be best understood by assessing them as ‘compound democracies’.⁴⁰ Compound democracies are unions of states and their citizens, “constituted by units of different demographic size, political history and geographical interests, and as such are necessarily characterized by different views on its constitutional identity.”⁴¹ Indeed, the EU is a compound of 28 member states, with different domestic political traditions, though all democratic, individual cultures and languages, and different interests. The EU has evolved to be a ‘polity’; a political form, in which sovereignty is pooled, and power is distributed among three main decision-making institutions: the European Commission, the Council of the European Union, and the European Parliament.

1.3. The Agenda of the European Union

Prior to defining the agenda of the European Union, it is important to understand what ‘agenda’ itself means. Various prominent scholars in the field of political agenda-setting have provided a definition of ‘agenda’.⁴² In this paragraph I merely elaborate upon the definitions that are used to specify the term used throughout the present thesis. John Kingdon was one of the first to develop a definition of ‘institutional’ or ‘governmental’ agenda: “the list of subjects or problems to which government officials, and people outside of government closely associated with those officials, are paying some serious attention at any given time. (...) The agenda-setting process narrows this set of conceivable subjects to the set that actually becomes the focus of attention.”⁴³ What remains is the more precise ‘action’ or ‘decision’ agenda. In Kingdon’s words, this agenda entails the “list of subjects within the governmental agenda that are taken up

³⁹ R. A. Dahl, *A preface to democratic theory. Expanded edition* (Yale University Press 2006).

⁴⁰ S. Fabbrini, *Compound democracies: why the United States and Europe are becoming similar* (Oxford University Press 2007), 13.

⁴¹ S. Fabbrini, “The constitutionalisation of a compound democracy: comparing the European Union to the American experience”, *Webpapers on constitutionalism and governance beyond the state* 3 (2008), abstract.

⁴² Steven G. Livingston refers to the studies of Keohane and Joseph Nye, and Mansbach and Vasquez, who have defined the political agenda as “a ‘queue’ of issues ranked in salience through actor’s employment of pre-existing international processes or institutions”, Steven G. Livingston, ‘The politics of international agenda-setting: Reagan and North-South relations’, *International Studies Quarterly* 36 (1992), 313-329, pp. 314.

In addition, R.W. Cobb and C.D. Elder make a distinction between the systemic agenda and the institutional agenda of governments (R.W. Cobb and C.D. Elder, “The politics of agenda-building: an alternative perspective for modern democratic theory”, *Journal of Politics* 33 (1971), 892-915, p. 906.), whereas Pollack makes a case for differentiating the formal or procedural agenda from the informal or substantive agenda of governments (Mark A. Pollack, *The engines of European integration. Delegation, agency, and agenda-setting in the EU* (Oxford University Press 2003), 47.)

⁴³ J.W. Kingdon, *Agendas, alternatives and public policies* (2nd edition; New York 2003), 3.

for active decision.”⁴⁴ This is how a governmental agenda differs from the systemic agenda, representing systematic concerns. A systematic concern is an issue that has been on a political actor’s agenda for a long time, which does not mean that this issue is ultimately transformed into an item for policy making. In this case, the issue remains within the realm of politics. ‘Agenda’ in this thesis refers to the decision agenda of the European Union, referring to the list of topics that have ultimately been taken up for policy-making by the EU as one polity. This list includes a number of issues in the ‘range of issues the EU deals with’.⁴⁵ According to Sebastiaan Princen, the EU agenda as it were reflects the extent of the EU integration process, but, more importantly, the EU agenda shapes how the EU deals with the issues on the agenda.⁴⁶ It should be noted that this range of issues is limited by the extent to which an issue is a legitimate concern for policy-making; the EU is not the most appropriate level of governance to deal with all issues due to its particular *raison d’être*.⁴⁷ Hence, there is a particular ambiguity as to whether the EU should include human rights issues on its agenda.

How and why the EU integration process, and thus the EU agenda, has evolved to include the issues the EU currently deals with has been subject to academic and scholarly debates. Sketching the EU priorities from the European Coal and Steel Community in 1951 to the European Union launched with the Maastricht Treaty in 1992 enables us to see how the ‘range of legitimate EU concerns and alternatives’ has come to include human rights. The agenda of the EU is a product of the EU integration process or, as Princen, postulates: “the extent of European integration can be equated with the range of issues the EU deals with”.⁴⁸ A brief review of human rights in the EU integration process permeates the following pages. According to some scholars, the attention to human rights became institutionalized in international governance after 1945.⁴⁹ Indeed, human rights along with peace, security, and the protection of citizens had been at the heart of the immediate postwar discourse, which had in fact led to the creation of the European Coal and Steel Community (ECSC) through the Paris Treaty 1951, and consequently to the endorsement of the 1957 Treaties of Rome, establishing the European Economic Community and the European Atomic Energy Community (Euratom). However, these treaties did not enclose provisions regarding the protection of human rights.⁵⁰ In fact, the Treaty of Paris (1951) and the Treaty of Rome (1957) entailed merely a collection of institutional provisions. The EU indicates that this sectoral and functional approach was a conscious choice as the establishment of the Council of Europe and the 1950

⁴⁴ Ibid., 4.

⁴⁵ S. Princen, “Agenda-setting in the European Union: a theoretical exploration and agenda for research”, *Journal of European Public Policy* 14 (2007), 21-38, pp. 22.

⁴⁶ Princen, *Agenda-setting in the European Union*, 5.

⁴⁷ S. Princen, ‘Agenda-setting in the European Union: a theoretical exploration and agenda for research’, *Journal of European Public Policy* 14 (2007), 21-38, pp. 21.

⁴⁸ Princen, *Agenda-setting in the European Union*, 5.

⁴⁹ D. P. Forsythe, *Human rights in international relations* (Second edition; Cambridge University Press 2006), 6.

⁵⁰ P. Craig, G. de Búrca, *EU Law. Text, cases, and materials* (Oxford University Press 2003; third edition), 317.

European Convention on Human Rights already provided for the protection of human rights.⁵¹ The Maastricht Treaty, article 6 and 7, was the first Treaty in which human rights were identified as inherent to the EU.⁵² Despite the recognition of the importance of human rights as constitutive of the European peace project post-1945, the immediate post-war discourse in the field of international relations and thus European integration was shaped by the theory of realism. Realism presupposed that sovereign nation states functioned as single unitary and rational actors, and emphasized non-interference in state's domestic affairs. The sovereign nation state's interests, according to realists determined by the desire of nation states to preserve and increase power, constituted the world order. Realists generally assert that global politics is characterized by anarchy, paving the way to a perpetual state of conflict in which nation states merely seek to satisfy their own interests and in which the willingness to cooperate is non-existent. Notable in the perception of realists is that they argue that international institutions are not capable of mitigating the ramifications of anarchy and to stimulate international cooperation.⁵³ Moreover, in the realist account, the state's agenda focuses on high politics; the security of the state appears as the number one priority on the political agenda. Realists claimed that the protection of human rights fell within the state domestic jurisdiction and that human rights as an agenda issue was 'trumped' by the interests of the state. If at all on the agenda, human right merely functioned as a tool to conceal and promote national interests. Following an analysis by Robert Keohane, politicians, in the realist account, were rationally egoistic actors, and would have ample reason not to commit to and fight for human rights, as this would confront them with the need for collective action and "ridicule from realistic statesmen and academics".⁵⁴ David Forsythe refers to Stanley Hoffman when explaining that this changed because "the rub came in whether a democratic society should sacrifice the human rights of others to advance its own security and prosperity."⁵⁵

Neo-functionalism⁵⁶ is the first attempt to offer a counter-theory to realism, as well as to provide a theoretical framework for understanding the European integration process.⁵⁷ Neo-functionalists recognized the role of non-state actors in international politics and also envisaged a role for interest groups and bureaucratic actors beyond national politics. Through a more pluralist view, neo-functionalism offers an account of how the EU remit has expanded over the years. To illustrate this, Simon Hix argues that the EU

⁵¹ European Commission, "Fundamental Rights and non-discrimination" > URL: http://europa.eu/legislation_summaries/institutional_affairs/treaties/amsterdam_treaty/a10000_en.htm (accessed 2 October 2013).

⁵² "Treaty on European Union", *Official Journal of the European Communities* (92/C 191/01) article 6 and 7.

⁵³ J.M. Grieco, Anarchy and the limits of cooperation: a realist critique of the newest liberal institutionalism", *International Organization* 42 (1988), 485-507, pp. 485

⁵⁴ R.O. Keohane, "Governance in a Partially Globalized World", *American Political Science Review* 95 (2001), 1-13, pp. 8.

⁵⁵ Forsythe, *Human rights in international relations*, 6.

⁵⁶ Neo-functionalism originates in the theory of functionalism, first advanced by David Mitrany.

⁵⁷ I. Bache and S. George, *Politics in the European Union* (Oxford University Press 2006), 8.

agenda has steadily replaced the ‘integration agenda’ with an agenda of ‘EU politics’.⁵⁸ The concerns on the EU agenda have gradually become similar to the traditional concerns of institutions, political parties, and, as a consequence, of the voting citizen, whereas the EU agenda was originally concerned with the basic features of a European economic community.⁵⁹ This is a result of what neo-functionalists have called the ‘spill-over process’, meaning that integration in one issue area leads to further cooperation and ultimately integration in other issue areas. However, as explained above, the EU is not by definition the ‘appropriate level’ of governance to deal with all issues that are on the agendas of its member states. The expansion of the range of EU issues to include primary domestic matters, according to Hix, has been one of the causes of the alleged democratic legitimacy deficit.⁶⁰

Especially relevant to understanding the politics of attention to human rights in the EU is the social constructivist approach and the proclaimed ‘constitutive effects of norms’. Unlike realism and neo-functionalism, social constructivism does not offer a theory of how the EU integration proceeds, but rather seeks to explain how the European institutional environment shapes the behavior of actors. Constructivism is often juxtaposed to rational choice theory, implying the discrepancy between socialization and rational cost/benefit calculations. Social constructivists stress the logic of appropriate behavior, meaning “collective expectations for the proper behavior of actors with a given identity”.⁶¹ This means that actors are subjected to norms that shape an identity, and that the actors gradually internalize these norms and ultimately adjust their interests to them. This implies at the same time that preferences and interests, and courses of action should be analyzed in the context of the political environment. The norms constituting the political environment establish a constructed identity. In the EU institutional arena these norms are based on the notions of market integration, democracy, human rights, and the rule of law; the bricks of EU legitimacy. Moreover, according to rational-choice institutionalisms, ‘institutions matter’, meaning that policy outcomes are shaped by certain rules characteristic to the decision-making process.⁶²

Human rights issues were not completely absent from the EU agenda before the Maastricht Treaty. Prior to 1992 it was mainly the European Court of Justice that, through jurisprudence, fulfilled a pioneering role in protecting fundamental rights, especially where it concerned the regulation of the activities of respectively the EU institutions and the member states.⁶³ Furthermore, a change in the politics of attention to human rights occurred in 1977, when, through a non-legally binding Joint Declaration, the European Parliament, the European Commission, and the Council of the European Union proclaimed to

⁵⁸ S. Hix, “Dimensions and alignments in European Union politics: cognitive constraints and partisan responses”, *European Journal of Political Research* 35 (1999), 69-106, pp. 70.

⁵⁹ *Ibid.*, 70.

⁶⁰ Hix, “Dimensions and alignments in European Union politics”, 70.

⁶¹ P. Katzenstein, ed. *The culture of national security: norms and identity in world politics* (Columbia University Press 1996), 5.

⁶² S. Hix and B. Høyland, *The political system of the European Union* (Palgrave Macmillan 2011), 11.

⁶³ P. Craig and G. de Búrca, *EU law. Text, cases, and materials* (Oxford University Press 2003; third edition), 351.

respect fundamental rights in the exercise of their powers. The Joint Declaration was not legally binding, but nevertheless conveyed a symbolic message. Moreover, human rights violations in Uganda in 1977 instigated the EU to suspend aid under the Lomé I Convention. This suspension was the first attempt to pursue a human rights conditionality policy. Furthermore, in 1986 the preamble of the Single European Act was the first official European document to contain the commitment to respecting the fundamental rights of EU citizens.⁶⁴

1.4. Human Rights

The focus of this thesis is, in the first place, on agenda-setting and on why and how the EU pays attention to issues at different times. Nevertheless, a proper and detailed definition of what human rights contain, as well as of what human rights issues are perceived of in this thesis is crucial. It is necessary to define human rights for reasons previously mentioned, but especially because a definition of what human rights are and encompass constitute the basis of the coding system that was devised to collect the empirical data. The focus in this thesis is on fundamental rights, and the coding of the General Reports and the Annual Reports is therefore executed on the basis of the articles of the European Charter of Fundamental Rights. Fundamental rights contain a broader scope than the remit of universal human rights, human rights, and derived human rights, as the analysis below elucidates. First, I provide a theoretical account of human rights, followed by an explanation of what human rights mean in international relations.

Various scholars have sought to provide an understanding of the ontology of human rights and of what the ‘list of human rights’ comprises or, at least, ought to comprise. Human rights can be theorized according to four aspects: the nature or the source of human rights, the content of human rights that can be derived from the source, the grounds on which human rights rest, and lastly the normativity on the basis of which human rights derive their authority.⁶⁵ Human rights are derived from ‘rights’. According to the normative positions in the Hohfeldian account, a right is the right of one individual held against another individual.⁶⁶ ‘Right’ implies claims and correlative duties. In this regard there is a distinction between positive and negative rights, as opposed to positive and negative liberties. The former require respectively action or a refraining from action, either legally or morally, whereas the latter refer to respectively the freedom from

⁶⁴ *Singe European Act* (Luxemburg, 1986) > URL: http://ec.europa.eu/economy_finance/emu_history/documents/treaties/singleeuropeanact.pdf (accessed 2 October 2013).

⁶⁵ E. Kollar, “Theories of human rights”, *Handout Lecture Human Rights* (LUISS Guido Carli Rome), 1.

⁶⁶ I. Carter, “The logical structures of rights”, *Handout Lecture Human Rights* (Luiss Guido Carli Rome 2010), 1.

interference by others versus the freedom to pursue one's life goals. According to some philosophers the one and only general right is the equal right of all men to be free.⁶⁷

The Universal Declaration of Human Rights offers an insight into the source of human rights: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."⁶⁸ In the international society human rights are perceived as the rights that are possessed by all human beings; rights that human beings have simply in virtue of being human. These rights are universal, general, fundamental, inalienable, and independent from (international) law. Not all human rights are, however, universal. Universality occurs solely at the source of human rights or at the natural or 'highest-level'. Universal human rights apply to all human beings in each and every setting. Human rights, on the other hand, are not applicable to all human beings, but are considered essential in specific conditions or certain circumstances.⁶⁹ The presupposition that human rights are merely natural and therefore independent from social and political relations is refuted by a number of scholars. As Joshua Cohen argues: "Human rights are not rights that people are endowed with independent of the conditions of social and political life, but rights that are owed by all political societies in light of basic human interests and the characteristic threats and opportunities that political societies present to those interests."⁷⁰ Cohen defines human rights as follows: "universal, urgent standards of political morality that need not be legally expressed and that are open-ended through their content".⁷¹ Griffin distinguishes basic rights from derived or applied rights.⁷² It is necessary to discern these levels, because nowadays it does not suffice to speak of human rights as comprising merely the rights that human beings inalienably have. If human rights were limited to natural rights, they would not be practically useful.⁷³ The difference between universal human rights and human rights is thus important to confirm the practical use of this thesis. Governments have specific negative responsibilities to ensure that human being's fundamental rights, the rights that cannot be derived from anything but 'humanness' or personhood, are ensured. Despite the 'negativity', this responsibility therefore requires significant action because it requires the provision of certain institutional structures.

One important account of the sources of human rights depends on the idea of personhood, a conception developed by James Griffin: a person is a bearer of human rights in virtue of being a normative

⁶⁷ I. Carter, "The right to freedom", *Handout Lecture Human Rights* (LUISS Guido Carli Rome 2010), 2. Carter refers to H.L.M. Hart, "Are there any natural rights?", in: A. Quinton (ed.), *Political Philosophy* (Oxford University Press 1967).

⁶⁸ Article 1 of the Universal Declaration of Human Rights adopted by General Assembly Resolution 217 A (III) of December 10, 1948 > URL: <http://www.un.org/en/documents/udhr/index.shtml#a1> (accessed 2 October 2013).

⁶⁹ James Griffin, *On human rights* (Oxford University Press 2008), 50.

⁷⁰ J. Cohen, "Is there a human right to democracy?", in: C. Sypnowich (ed.), *The egalitarian conscience. Essays in honour of G.A. Cohen* (Oxford University Press 2006), 232.

⁷¹ *Ibidem*, 236.

⁷² *Ibidem*, 50.

⁷³ A. Buchanan, "Equality and human rights", *Politics, Philosophy, and Economics* 4 (2005), 74.

agent, and is thus equal in having human rights.⁷⁴ Personhood determines the standard for human dignity, characterized by a person's autonomy, a minimum provision of nutrition and education in order to be autonomous, and the liberty of not being blocked by others in pursuing autonomy.⁷⁵ Autonomy is derived from the Greek words 'autos' and 'nomos', which literally means self-rule. Autonomy ought to be distinguished from freedom or liberty. According to Griffin autonomy refers to a person's self-legislation, implying that one has the ability to pursue one's own goals, and to make choices concerning one's own conception of a good life.⁷⁶ Liberty in turn is the freedom to pursue this conception.⁷⁷ This is what James Griffin calls 'normative agency'.⁷⁸ Griffin clarifies that human rights are those rights necessary for protecting the personhood of human beings. It is personhood that establishes the main content of the list of human rights.⁷⁹

Governments have several positive duties to provide for the realization of personhood. Cohen and Griffin refer to democracy as the most effective means of ensuring peace and preventing famine.⁸⁰ The positive duty then implies the provision of democratic institutions. Griffin furthermore concludes that the most effective protection of human rights to life and to a minimum material provision, the requirements for autonomy, is indeed democratic participation in social decisions.⁸¹ Although it is empirically possible to be autonomous in a non-democratic modern political culture, democracy nevertheless appears to be the best way of ensuring that the government is to heed the fundamental interest of human beings in being autonomous, also because democracy requires autonomous human beings. Also the EU itself postulates that poverty can be alleviated best in democratic state structures.⁸² There is thus a need for democracy in order for individuals to be autonomous. This does, however, depend on the circumstances, circumstances in which the fundamental interest of human beings in being autonomous is considered necessary for participating in the society. Under particular circumstances, in which the realization of autonomy is considered important, human beings have a fundamental interest in being autonomous. Fundamental interests constitute human well-being and dignity. Hence, the fundamental interests of human beings are those 'urgent' interests that are protected by human rights.⁸³ These urgent interests are not necessarily possessed by every human being, but are dependent upon particular (political or social) settings in which

⁷⁴ Griffin, *On human rights*, 50.

⁷⁵ *Ibid.*, 50.

⁷⁶ Griffin, *On human rights*, 234.

⁷⁷ *Ibid.*, 234

⁷⁸ *Ibid.*, 33.

⁷⁹ Griffin, *On human rights*, 33.

⁸⁰ *Ibid.*, 254. And Cohen, "Is there a human right to democracy?", 227.

⁸¹ Griffin, *On human rights*, 254.

⁸² http://europa.eu/pol/rights/index_en.htm

⁸³ C. Beitz, *The idea of human rights* (Oxford University Press 2009), 110.

the satisfaction of the interest is perceived as important or desirable.⁸⁴ In particular political settings, one could speak of a -derived or applied- human right to democracy. This is due to the assumption that inclusion in particular political settings requires democratic participation. Those human beings experiencing the urgent interest to be autonomous in the light of their membership of a particular society indeed require a human right to democracy, because democracy is in their setting the most likely form of political organization to guarantee their fundamental interest in being autonomous. According to Griffin, the existence of modern conditions is necessary to protect autonomy. Griffin's conclusions feed into the existing literature on the case of a human right to democracy. In the first place, Griffin's thoughts coincide with the emphasis Cohen places on membership or inclusion. He proposes that human rights are norms of membership of a particular organized political society.⁸⁵ Secondly, according to the Modest Objectivist View⁸⁶, explicated by Allen Buchanan, the question whether the right to democratic participation is in fact a human right depends upon "whether living in a state in which this right is extended to all citizens is among the conditions that are generally necessary if the individual is to have an opportunity for a decent human life".⁸⁷ In this regard, Buchanan refers to Article 25 of the *International Covenant on Civil and Political Rights*, which affirms a right to democratic political participation as a human right.⁸⁸ Democracy is a human right only in particular politically organized societies. 'Personhood' and 'participation in democracy' are indirectly guaranteed by the EU Charter of Fundamental Rights.

In international relations human rights refer to "those fundamental moral rights of the person that are necessary for a life with human dignity".⁸⁹ David Forsythe argues that, on the basis of this definition, human rights and the legal system that 'at any given point in time' indicates which rights are fundamental in society as means to 'a greater social end'.⁹⁰ Forsythe thus indirectly acknowledges the importance of the changing context when it comes to the construction of agendas. To illustrate this; in 2011 the United Nations even proclaimed access to internet a human right. This justifies the adoption of the ECFR as the basis of the coding system, because these principles define the terms of the debate in the EU and these principles are constitutive of EU politics. The ECFR identifies those issues that EU politics considers fundamental. The origin of fundamental rights could perhaps be best explained through the 'generations of human rights', purported first by Karel Vasak in 1977. The generations of human rights constitute to some

⁸⁴ Ibid., 110.

⁸⁵ Cohen, "Is there a human right to democracy?", 237.

⁸⁶ The Modest Objectivist View is the view "according to which the list of human rights is grounded in descriptive and normative egalitarian assumptions about what is required to help ensure that every individual has the opportunity for a minimally good or decent human life" in: Buchanan, "Equality and human rights", 79.

⁸⁷ Buchanan, "Equality and human rights", 79.

⁸⁸ Ibid., 78.

⁸⁹ Forsythe, *Human rights*, 3.

⁹⁰ Forsythe, *Human rights*, 3.

extent the basis of the EU perception of fundamental rights. In the spirit of ‘Liberté, Egalité, et Fraternité’, Vasak identified three types of rights, coherent with three stages in modern European history. Although these types, or generations of rights, have been subject to criticism, especially concerning positive and negative implications, they are useful in explaining how the idea of fundamental rights has come about. Starting in the Enlightenment and the French Revolution in the 17th and 18th century, the first generation primarily touches upon citizen’s liberty, and their civil and political rights. A second generation of rights was identified after the Second World War. This generation embroilers upon an egalitarian approach, stressing economic, social, and cultural rights. This generation seeks a positive duty from governments with regards to the creation of a favorable labor market, social security, and health provisions. A third generation touches upon environmental rights and sustainability, while a fourth generation concerns the rights related to biomedicine. It is worth noting that these generations do not encompass the natural source of universal human rights, relating to article 1 of the Universal Declaration. This is notable, because the recognition of universal rights is a precondition for the recognition and creation of human rights, fundamental rights, and derived rights, comprised by the three generations, and is therefore at the heart of any understanding of what human rights are. We could consequently assert that another generation of human rights needs to be identified, one that is based on the first article of the Universal Declaration. This ‘new’ generation could feed into the 2009 United Nations Resolution on the Responsibility to Protect, reflecting the need to protect the life of those who are unable to protect themselves in the wake of genocide, war crimes, ethnic cleansing and crimes against humanity.⁹¹ This is in turn strongly linked to positive duties of polities to protect human rights abroad and therefore to the EU role in global politics. The responsibility to protect touches upon the source of human rights in external policies and legitimizes international action.

1.5. Agenda-setting in the EU

While I provide an in-depth overview of agenda-setting theory and the decisive factors to agenda success subsequent sections, this section serves to explain how setting the agenda formally ensues in the EU institutions. Particular focus is on the three main EU institutions, or the institutional triangle, and the EU decision-making process between 1992 and 2012.

The Maastricht Treaty of 1992 introduced new forms of decision-making in the EU institutions. Most important to the present analysis is the introduction of the co-decision procedure, which was transformed by the 2009 Lisbon Treaty into the ‘ordinary legislative procedure’. In this procedure the

⁹¹ Statement of United Nations Secretary-General Ban-ki Moon >URL: <http://www.un.org/sg/statements/?nid=4063> (accessed 2 October 2013).

European Parliament and the Council of the European Union have equal competence to decide on whether to adopt and amend proposals from the European Commission. The concept of ‘multi-level governance’, advanced by Gary Marks, Liesbeth Hooghe, and Kermit Blank most adequately explicates the institutional change that was brought about by the Maastricht Treaty. It is necessary to briefly sketch this change because the form and structure of decision-making processes has clear ramifications for politics and pre-decisional processes, of which the agenda-setting process is a significant component. Marks described multi-level governance as “a system of continuous negotiation among nested governments at several territorial tiers – supranational, national, regional and local”.⁹² This implies that pre-decisional processes are characterized by the influx of many different interests and preferences, struggling to beget a position on the EU agenda. The notion ‘multi-level governance’ thus acknowledges the complexity of the decision-making process and recognizes the various levels involved. Marks and Hooghe point to the interconnectedness of the EU member states and they indicate that collective decision-making has been inevitably linked to the loss of national sovereignty. Moreover, the monopoly of decision-making no longer rests with national governments, but is shared by various actors at different levels. Multi-level governance is one of the reasons why agenda-setting processes in the EU are so complex. I describe the main agenda-setting actors in the EU institutions below.

As the main executive-bureaucratic institution, the European Commission is responsible for developing and proposing law and policy ideas, but also for enforcing law and implementing and monitoring policies. For an issue to be taken up for active decision, hence, it should land on the agenda of European Commissioners. In terms of agenda-setting, the President of the Commission is a key figure. He drafts the annual work program and he outlines the overall policy agenda.⁹³ The President also allocates portfolios to the prospective Commissioners once nominated. This indirectly bestows upon the president agenda-setting powers, given that he shares preferences and interests with certain candidates, through whom he could pursue a policy agenda. Mark Pollack nuances the agenda-setting role of the Commission by purporting that this is primary a legislative role, as opposed to executive power, which the Commission shares with the Council of the EU.⁹⁴ Moreover, following Pollack, the right to propose legislation does not necessarily guarantee formal agenda-setting power.⁹⁵ Decisions in the College of Commissioners are generally taken on the basis of consensus. If not, an absolute majority is required for a decision to be pursued.⁹⁶ Votes remain confidential, as the Commission is bound by ‘collective responsibility’ and needs

⁹² Bache and George, *Politics in the European Union*, 34.

⁹³ Hix and Høyland, *The political system of the European Union*, 35.

⁹⁴ Pollack, *The engines of European integration*, 48 and 84.

⁹⁵ Ibid.

⁹⁶ Absolute majority rule means that all votes are counted, including abstentions.

to act as one entity vis-à-vis the outside world.⁹⁷ As Pollack argues, the “influence of an agenda-setter will, *ceteris paribus*, be greatest when the voting rule is some form of majority vote and where the agenda-setter’s proposal is difficult to amend: (...) where it is easier to adopt the agenda-setter’s proposal than to amend it”.⁹⁸ Moreover, when unanimity voting is applied, the agenda-setter loses some power because he needs to generate the support of all voters, rather than a majority.⁹⁹

Although the Commission originally owned the exclusive right of initiating legislation, the European Parliament and the Council of the European Union have gathered more agenda-setting powers in the last decades. The Council adopts legislative proposals from the Commission as well as the proposed EU budget, based on qualified majority voting. At the heart of the meetings of the Council are the national delegations of the member states; the Committee of Permanent Representatives, COREPER, comprising the heads of the national delegations, convenes on a weekly basis and plays a key role in EU policy making. This is especially so, because the permanent representatives function as the watch dogs of national interests and maintain contacts between the EU institutional arena and the respective member states. COREPER literally sets the Council agendas, decides upon the allocation of proposals to the different councils and in many cases COREPER decides on behalf of the Councils upon the adoption of proposals. Moreover, through the rotating Council Presidency, every six months, member states have been increasingly empowered to advance their own agendas.

The European Parliament is the second EU legislative institution, and the EU legislature is therefore often characterized as bicameral. In addition to its legislative powers, the Parliament functions as a watch dog over the other institutions. In order to ensure democratic legitimacy, the Parliament has gained significant veto- and agenda-setting powers with the introduction of the co-decision procedure.¹⁰⁰ The power of the Parliament encompasses the competence to approve, hence to reject, European Commissioners and Presidents. After the elections, once every five years, the Members of the Parliament (MEPs) organize themselves in political parties, congruent with their policy preferences. To some extent, European political parties are aggregates of national political parties. On the one hand, following Guy Peters, this means that the European parties “generally lack the unity required to produce a more coherent pattern of agenda-setting”.¹⁰¹ On the other hand, following Hix and Høyland, MEPs are driven by career incentives and policy objectives, rather than by re-election motives.¹⁰² This implies that MEPs are indeed eager to pursue agenda-setting success. The Parliament is considered a pioneer in the agenda-setting of

⁹⁷ Hix and Høyland, *The political system of the European Union*, 35.

⁹⁸ Pollack, *The engines of European integration*, 48.

⁹⁹ *Ibid.*, 49.

¹⁰⁰ Hix and Høyland, *The political system of the European Union*, 17.

¹⁰¹ B. Guy Peters, “Agenda-setting in the European Union” in: Jeremy John Jackson ed., *European Union: power and policy-making* (2nd edition; Routledge 1996), 84.

¹⁰² *Ibid.*, 54-55.

human rights, and the Parliament considers human rights one of its main priorities.¹⁰³ Especially through its Subcommittee on Human rights (DROI), which was installed in 2004, the Parliament seeks to launch resolutions with the aim of generating discussions and debate on human rights. It has, however, been argued that the pioneering role of the Parliament with respect to human rights is due to its otherwise weak power.

Finally, one of the agenda-setters in the EU is the European Council, comprising the Heads of State or Government. Despite its original role outside the EU institutional framework, the European Council has been gradually taking over power from the other institutions, having become the “principal agenda-setter and the core of the EU executive”.¹⁰⁴ Already during the negotiations of the Maastricht Treaty, and especially during the negotiations of the Amsterdam Treaty (1997) and the Nice Treaty (2003) up until the ratification of the Lisbon Treaty (2009), the European Council has played a decisive and defining role regarding the course of the EU integration process.¹⁰⁵ It was the Lisbon Treaty, moreover, that ultimately provided the European Council with a recognized position within the EU institutional framework. Since then, the European Council officially determines the general political directions and priorities of the EU.¹⁰⁶ This indicates that the agenda-success of issues is dependent upon the serious consideration of these issues by the European Council. The analysis in chapter V confirms this.

2. Theory

2.1. Theoretical Framework

What follows devises the theoretical framework that serves to explain, interpret, and illustrate the findings of the document analysis and the case study. The primary thrust of the theoretical framework is to explain how we can answer the two main questions in this thesis: why and how has the politics of attention to human rights changed? The theoretical framework embroiders on existing literature and theories within political agenda-setting research, essentially focusing on work by Frank Baumgartner and Bryan Jones, Sebastiaan Princen, John Kingdon, Roger Cobb, Charles Elder, Jennie-Keith Ross and Marc Howard Ross, Mark Pollack, Richard W. Mansbach and John A. Vasquez, and Arco Timmermans and Gerard Breeman. The most recent work, helpful to understand how the politics of attention changes, is an edited volume by Daniel Naurin and Anne Rasmussen, *Dynamics of Change in the European Union*.

¹⁰³ European Parliament website: <http://www.europarl.europa.eu/aboutparliament/en/0039c6d1f9/Human-rights.html> (accessed 3 October 2013).

¹⁰⁴ CEPS, EGMONT and ECP, *The Treaty of Lisbon: A second look at the institutional innovations* (Brussels 2010), 7.

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*, 11.

Agenda-setting processes in the EU institutions are rather complex, comprising various elements and features. Therefore, in order to fully comprehend the process and to understand each aspect of it, it is necessary to concentrate on the ‘anatomy’ of agenda-setting dynamics. In consequence, individual features constructing the process are to be disaggregated. These features then become pieces of a theoretical puzzle, together shaping the theoretical framework of this thesis. The point of reference in this regard is successful agenda-setting, referring to those issues that have ultimately reached the EU output agenda, or the ‘list’ of policy-makers. The chapter starts with an explanation of what agenda-setting in theory encompasses. Consequently, in order to target directly the research aims of this thesis, the theoretical framework is tailored to provide a theoretical understanding of ‘why’ and ‘how’ the politics of attention changes. ‘Why’ relates directly to issues; the reasons for issue inclusion and the motors behind changes in the politics of attention. ‘How’ directly relates to institutional dynamics and political strategies. However, to some extent why and how are intertwined, and the how occasionally follows from the why, whereas the how provides insights as to why issues are taken up for active decision. Furthermore, I should note that the way in which attention is allocated is sometimes shaped by a necessity (how) and this necessity simultaneously implies the reason for the shift in attention (why). Hence, the ‘why’ at times is a precondition for ‘how’: If A happens, then B follows from A. This is especially so due to the significance of interests. Interests are decisive for why issues are included on the agenda and interests define and determine the behavior and strategies of actors in how they seek to change the status quo of issues. In this regard, the agenda-setter is where ‘why’ and ‘how’ come together, as I explain in a final section.

2.2. Setting the Agenda

The political agenda contains those issues that receive serious consideration by decision-makers.¹⁰⁷ It is the agenda-setting phase, John Kingdon purports, that narrows down the list of issues to which EU officials pay serious attention to the decision agenda, representing the definite focus of attention.¹⁰⁸ ‘Serious consideration’ does not necessarily imply that the attention translates into actual policy-formation.¹⁰⁹ Human rights issues, like the issue of female genital mutilation, may be under ‘serious consideration’, and may even be included on council agendas, but that does not mean that the issue is on the decision agenda, hence that serious consideration, politics, leads to active policy-making. Nevertheless, setting the decision agenda requires first setting the agenda of policy-makers, and controlling the list of topics that is being discussed by policy-makers. This is the first precondition for

¹⁰⁷ R. Cobb, J.K. Ross and M. Howard Ross, “Agenda building as a comparative political process”, *The American Political Science Review* 70 (1976), 126-138, pp. 126.

¹⁰⁸ J.W. Kingdon, *Agendas, alternatives and public policies* (2nd edition; New York 2003), 3.

¹⁰⁹ Cobb, Ross and Howard Ross, “Agenda building as a comparative political process”, 126.

successful agenda-setting. Agenda-setting processes are thus crucial to those political actors who seek to change the status quo of issues and policy areas.¹¹⁰ In the EU, agenda-setting is also crucial if a change in the direction of the EU integration process is desired.

Obtaining agenda success generates certain advantages to the agenda-setter. Not only does successful agenda-setting provide control over what itself is being discussed, meaning that the agenda-setter to some extent determines the course of, in the case of the EU, the integration process; agenda-success also begets the capacity to set the terms of the debate, as well as to hold considerable power over policy structures.¹¹¹ The initial formulation of policies namely highly influences ultimate action.¹¹² Especially control over policy structures paves the way to agenda-control in the future, in some cases providing the agenda-setter with so-called first-mover advantages.¹¹³ This means that future generations, dealing with the issue, have to comply with the policy structures that had before been determined by the agenda-setter.

This thesis is meant to generate a more profound understanding of agenda-setting in the EU by disclosing why and, consequently, how the politics of attention to human rights changed between 1992 and 2012. The term ‘politics of attention’ by Baumgartner and Jones goes, however, beyond agenda-setting processes and fits within the greater realm of politics. The agenda-setting phase, in theory the first step in the process of decision-making, is thus analyzed to comprehend logic of attention allocation. The ‘politics of attention’ implies the act of allocating attention to a specific topic at a specific time in a particular way, presupposing that there is logic behind this when, how and why more attention is given to particular issues. Getting to the bottom of this logic is the main objective of political agenda research and of this thesis. The politics of attention furthermore implies that there is a certain choice behind the way in which the attention is given and about the way in which the issue is being talked about. Agenda-setting functions as a means of influencing the politics of attention, for instance by bringing new issues to the table, and by framing these issues in a particular way. This ultimately leads to changes in dominant political, social, and cultural perceptions. Hence, this is why critical discourse analysis is a useful tool to analyze the politics of attention.

¹¹⁰ S. Princen, “Agenda-setting in the European Union: a theoretical exploration and agenda for research”, *Journal of European Public Policy* 14 (2007), 21-38, pp. 21.

¹¹¹ S. Princen, *Agenda-setting in the European Union* (Palgrave Macmillan 2009), 2. And: R.O. Keohane, “Governance in a partially globalized world”, *American Political Science Review* 95 (2001), 1-13, pp. 5.

¹¹² S. Princen and M. Rhinard, “Crashing and creeping: agenda-setting dynamics in the European Union”, *Journal of European Public Policy* 13 (2006), 1119-1132, pp. 1119.

¹¹³ Keohane, “Governance in a partially globalized world”, 5.

2.3. Why Does the Politics of Attention Change?

Why the politics of attention changes touches upon a rather abstract dimension, as opposed to an institutional dimension, the latter being central in the paragraph on how the politics of attention changes. The ‘why-question’ is directly related to the source of issues, which comes even before the pre-decisional process. In this regard, I presuppose interplay between issues, interests, and discourse. Agenda-setting revolves around issues that once were merely topics. ‘Issue’ basically concerns a topic for debate or resolution.¹¹⁴ John Kingdon refers to these as ‘problems’.¹¹⁵ According to Sebastiaan Princen, successful agenda-setting requires first and foremost acknowledging the existence of a problem that is considered a legitimate concern of government.¹¹⁶ A political actor wishes to get an issue higher on the agenda because it is felt that the status quo needs to change and that the problem needs to be solved. The origin of this wish to change the status quo is often impossible to trace, and may be due to certain symbolic or sudden events in the regional, national or transnational sphere, or due to personal cognitive frameworks, including interests and experiences. According to Kingdon, however, it is not important to know where issues come from.¹¹⁷ As he postulates, even if it were possible to discover where issues come from without endlessly regressing back in time, this does not account for why and how the issue was raised to salience.¹¹⁸ Nevertheless, if we understand where the initiative to raise an issue to salience comes from, we are a step closer to grasping the ‘why’- aspect of agenda-setting. Moreover, an understanding of how topics become issues reveals the individual preferences of agenda-setters, and this says something about the strategies of these actors. Through mapping actor’s preferences at different times, it may ultimately be possible to predict the contents of policy agendas, especially once these actors are well-established in the EU institutional arena and their preferences are unlikely to alter anymore in the wake of socialization processes.

Kingdon postulates that problems receive political attention due to indicators of problems.¹¹⁹ The results of various research projects, surveys, and monitoring activities by governmental and non-governmental agencies indicate that there is a certain problem in a particular area.¹²⁰ Consequently, political actors critically assess the significance of indicators, the implication of the results, and notable changes compared to earlier times.¹²¹ A changed indicator, according to Kingdon, implies a change in the state of the system, and a changed indicator could therefore imply the existence of a problem.¹²² Kingdon

¹¹⁴ *Oxford English Dictionary* (6th revised edition; Oxford University Press 2006).

¹¹⁵ Kingdon, *Agendas, alternatives and public policies*, 90.

¹¹⁶ J. McCormick, *The European Union: politics and policies* (Westview Press 2004), 242.

¹¹⁷ Kingdon, *Agendas, alternatives and public policies*, 71.

¹¹⁸ Princen, “Agenda-setting in the European Union”. 23.

¹¹⁹ Kingdon, *Agendas, alternatives and public policies*, 90.

¹²⁰ *Ibid.*, 90.

¹²¹ *Ibid.*, 91.

¹²² *Ibid.*, 92.

nuances this by arguing that the changes may possibly be overestimated or exaggerated, which has an effect on policy agendas.¹²³ Reversely, problems are not always self-evident through indicators.¹²⁴ Another explanation of why the politics of attention changes pertains to an alleged ‘issue attention cycle’, a concept developed by Anthony Downs in relation to environmental issues. According to Downs, periods of increased attention and periods of less or no attention at all alternate.¹²⁵ In this regard, Downs discerns ‘high politics’ and ‘low politics’. Assuming that there is a hierarchy of issues on the EU agenda, with security as the highest priority, the agenda position of issues between high and low changes over time.¹²⁶ Low politics can be explained as a technocratic phase in which specialists appear as leading actors, whereas high politics can be explained as the phase in which drama takes the lead.¹²⁷ This difference also shows the difference between policies, at times of low politics, and politics, more characteristic to phases of high politics. Interest in issues can fluctuate, an external focusing event, a crisis, or a disaster possibly leads to a different focus and an issue may suddenly become an issue of high politics, repressing other issues on the agenda. According to Kingdon, “conditions must deteriorate to crisis proportions before the subject achieves enough visibility to become an active agenda item.”¹²⁸ Kingdon proposes that crises and disasters are less important for rather visible policy areas.¹²⁹ Important to note in this regard is that high politics is not a precondition for policy-making.¹³⁰ In this thesis I examine whether the above holds true for human rights issues. Do human rights issues need a crisis in order to receive serious attention? It has been argued that crises and in particular questions related to the future of the EU lead to a stronger focus on EU values like the respect for human rights and on how these values should shape the EU foreign policy.¹³¹ The document analysis exposes the extent to which the decision agenda reflects this assumption.

In existing literature on political agenda-setting, authors often postulate that issues are intertwined with conflicts, arguing that topics only become political issues when political actors disagree on the matter.¹³² The disagreement then leads to increased attention. This is where the why and how possibly converge. A conflict leads to increased intention, but a conflict may also be deliberately created to expand issue attention. ‘Conflict expansion’ can thus be a strategy to raise an issue to salience, which means that actors

¹²³ Ibid., 93.

¹²⁴ Ibid., 94.

¹²⁵ A. Downs, “Up and down with ecology – The “issue-attention cycle””, *Public Interest* 29 (1972), 38-50, pp. 38.

¹²⁶ Ibid., 24.

¹²⁷ G.E. Breeman and A. Timmermans, *The politics of attention for environmental issues: a study of social dynamics, agenda setting and priorities of Dutch environmental policy* (Wot Report 77; Wageningen 2008), 17.

¹²⁸ Kingdon, *Agendas, alternatives and public policies*, 95.

¹²⁹ Ibid.

¹³⁰ Breeman and Timmermans, *The politics of attention for environmental issues*, 17.

¹³¹ S. Lucarelli, I. Manners ed., *Values and principles in European foreign policy* (Routledge 2006), 3.

¹³² R.W. Cobb and C.D. Elder, *Participation in American politics: the dynamics of agenda building* (Boston 1972), 103.

take the conflict to a wider circle of participants, for instance by publicizing or politicizing the issue.¹³³ Conflict expansion offers one theoretical reason why and how the politics of attention changes. Following Princen, in the case of the EU a conflict may occur as a consequence of national differences, which affects why the EU includes some issues on its agenda and how policy agendas come about.¹³⁴ Another insight into why the politics of attention changes was provided by Richard W. Mansbach and John A. Vasquez. Mansbach and Vasquez argue that the emergence of issues is dependent on external and internal sources: the international environment on the one hand and political actors on the other hand.¹³⁵ First, international arenas develop new agenda issues when political actors encounter threats or opportunities.¹³⁶ These do not necessarily have to be linked to a political actor's behavior.¹³⁷ Significant in this regard are the previously mentioned focusing events; the momentum provided by symbolic or sudden events as a consequence of which new agenda priorities emerge. Focusing events allow for a 'policy window' to present itself, providing an opportunity and appropriate momentum for raising attention. Secondly, Mansbach and Vasquez purport, political actors could choose to revive and alter old stakes, or they decide to create new ones.¹³⁸ Therefore, in order to examine why the politics of attention changes we need to take into account the existence of these stakes, hence the relevant political actors and their political preferences. Personal experiences of policy makers are, Kingdon asserts, only occasionally important.¹³⁹ If these are to be taken into account, it is because they enhance something that is already there.¹⁴⁰ Cobb, Ross and Ross argue in a similar vein that issues typically arise in small groups: "These groups are always concerned with expanding awareness of the issue, either because they want to promote expansion or because they want to prevent it."¹⁴¹ In the EU institutional arena, three types of actors and preferences are generally discerned. There are those actors who favor more integration and those who favor less integration. A third kind concerns those who wish to maintain the status quo of EU politics. We could add a fourth category: those who wish to establish an integration process in two speeds. A change in these types of political preferences explains why the politics of attention changes. In the wake of a focusing event or a change of heart due to a perceived threat or opportunity, sometimes brought about by an alleged socialization process in the institutional arena, political actors wish to change the status quo of an issue. Mark A. Pollack illustrated the agenda-setting process in the EU through the principal-agent model of political

¹³³ F.R. Baumgartner and B. D. Jones, "A model of choice for public policy", *Journal of public administration research and theory* 15 (2005), 325-351, pp. 333.

¹³⁴ Princen, *Agenda-setting in the European Union*, 4.

¹³⁵ R.W. Mansbach and J.A. Vasquez, *In search of theory. A new paradigm for global politics* (Columbia University Press 1981), 87.

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*, 88.

¹³⁸ *Ibid.*, 90.

¹³⁹ Kingdon, *Agendas, alternatives and public policies*, 97.

¹⁴⁰ *Ibid.*

¹⁴¹ Cobb, Ross and Howard Ross, 'Agenda building as a comparative political process', 126.

representation; the supranational EU institutions being the agents of the member states, the principals being the creators of these supranational EU institutions that have consequently delegated powers to these institutions. Pollack asserts that “supranational agents develop their own distinct preferences, generally for greater integration, and they pursue these preferences as ‘engines of integration’”.¹⁴² In doing so, they behave like unitary actors, meaning that they “present a coherent and consistent position vis-à-vis the outside world”.¹⁴³ Moreover, Pollack refers to existing studies of EU supranational organizations, in which the latter are characterized as “‘competence-maximizers’ who seek to increase both their own competences and more generally the competences of the European Union”.¹⁴⁴ This, according to Pollack, means that the range of issues the EU deals with is predefined by the course of EU integration.¹⁴⁵ He states that there is a discrepancy between the supranational institutions with a pro-integrationist agenda and the member states with their respective national preferences.¹⁴⁶ The preferences of the supranational organizations as a whole may diverge from the preferences of the member states.¹⁴⁷ To what extent does the above have an effect on the politics of attention, and in which way: when the preferences of the member states change or when the preferences of the supranational institutions change? However, not all agenda-setting actors in the EU are supranational agents. Rather, many agenda-setting actors are intergovernmental actors, such as COREPER, or even national actors, not to mention actors moving outside the institutional arena; think tanks, non-governmental organizations, and lobby groups. Especially the latter are considered to play a decisive role when it concerns the politics of attention to human rights and the advancement of an EU human rights agenda. Intergovernmental and national actors on the other hand tend to prefer less integration, particularly concerning human rights. After all, human rights issues are and have always been perceived as a domestic matter, a matter to which the principle of subsidiarity is applicable *par excellence*. Why human rights issues are a legitimate concern of EU governance is then the first question to be answered. The EU human rights agenda is to some extent the result of the so-called ‘boomerang-effect’. The boomerang-effect occurs when unsuccessful agenda-setters at the national level turn to the EU as an alternative platform to promote an issue. Agenda-setters seek to influence the national level through the EU, hoping that the EU is receptive to taking on the issue and to subsequently propose policy that ultimately influences the national level. Again, even though this explains why issues come under the attention of EU policy-makers, this also reflects ‘how’ issues are raised to salience; the boomerang-effect as a strategy to change the agenda. In addition, the EU treaties postulate that human rights, democracy and the rule of law are core values of the EU. Inherence of human rights to the EU may

¹⁴² M. A. Pollack, *The engines of European integration*, 19.

¹⁴³ *Ibid.*, 16 and 37.

¹⁴⁴ *Ibid.*, 35.

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*

¹⁴⁷ *Ibid.*, 39.

betoken that the EU institutions are biased regarding issues concerning human rights, bias implying that the politics of attention to human rights does not change at all.

2.4. How Does the Politics of Attention change?

How, or the conditions under which agenda success is accomplished in the EU institutions has been mapped by Sebastiaan Princen. Building on results from studies in the fields of respectively domestic political agenda-setting processes, international relations, and EU decision-making processes, Princen has discerned several features that are characteristic to agenda-setting dynamics in the EU institutions. He argues that agenda-setting processes at the EU institutional level are “the outcome of strategic decisions by political actors to shift issues to the venue that is most favourable to them”.¹⁴⁸ Strategies are thus decisive in how the focus on issues changes. Strategies determine the extent to which agenda-setting is successful. Success depends on several aspects: venues, the framing effect, conflict expansion, but also networks and contacts. These elements of agenda-setting are closely intertwined and are discussed in subsequent paragraphs. Generally, there are two directions from which issues land on the decision agenda: from above through the Heads of State in the European Council and from below through officials and policy experts; the former relating to high politics, the latter to low politics.¹⁴⁹

First, institutional choices, made by prospective agenda-setters are decisive when examining how the politics of attention changes. According to functionalists, institutional choices are made on the basis of certain functions that fall within the remit of particular institutions, hence on expected policy outcomes associated with these functions.¹⁵⁰ Baumgartner and Jones have also emphasized the significance of institutional arenas, ‘policy venues’, in the agenda-setting process. Venues are receptive to issues because their tasks and objectives relate to a specific issue or cause.¹⁵¹ Multi-level governance and the variety of actors involved in the decision-making process allow for the existence of plural access points, increasing the likelihood that an issue is placed on the agenda of at least one actor.¹⁵² This is particularly relevant to human rights issues. Human rights as a policy area contains “interconnective” issues, meaning that human rights issues function as a tool to connect two or more broader EU concerns to which political actors and institutions that are possibly receptive. However, the institutional framework of the EU also has constraints. In the EU policy-making process many actors have the right to veto a proposal. Consequently,

¹⁴⁸ Princen, “Agenda-setting in the European Union”, 21.

¹⁴⁹ Princen and Rhinard, “Crashing and creeping”, 1120.

¹⁵⁰ Pollack, *The engines of European integration*, 20.

¹⁵¹ S. Princen, “Agenda-setting in the European Union”, 35.

¹⁵² B.G. Peters, “Agenda-setting in the European Union” in: J.J. Richardson ed., *European Union. Power and policy-making* (2nd edition; London and New York 2001), 77-94, pp. 81.

agenda-setting in the EU requires a degree of consensus among the many actors involved.¹⁵³ This can lead to institutional stickiness and alleged joint-decision traps.¹⁵⁴ How the politics of attention changes then depends on the cleverness, tactics and resources of political actors to circumvent institutional constraints. In this regard, prospective agenda-setters may resort to ‘venue-shopping’ in search of the institution or actor that is most receptive to the political actor’s cause.¹⁵⁵ The policy image and the framing of an issue are then decisive when appealing to the chosen venue. The framing effect, meaning the effect of the way an issue is framed is hence essential.¹⁵⁶ Framing refers to how an issue or a problem is defined and presented.¹⁵⁷ The main incentive for political actors to strategically frame issues is to generate particular opinions on the matter in order to arouse interest.¹⁵⁸ The choice of venue determines the definition of a policy image as well, as the institutional choice in itself contributes to setting the terms of the debate. After all, the issue will be discussed within the scope and through the terms associated with the venue. The way issues are perceived and consequently framed is determined by the cognitive framework that is decisive in how information is processed by political actors.¹⁵⁹ The processing of new information leads to the creation of a perception, or as William Boettcher defines it: a ‘construction of reality’.¹⁶⁰ This construction differs per individual, as it is influenced by personal and ingrained beliefs, depending on a person’s frame of reference and experience. The extent to which framing strategies are successful firstly depends on whether or not there is a link between the issue and a proposed solution to the issue.¹⁶¹ This is particularly important when taking into account that policy-making is often depicted as a ‘cycle of problem-solving attempts’.¹⁶² In addition, success is engendered by a focusing event.¹⁶³ This could, for instance, imply a change of government or a political, economic, or social crisis that is useful to frame an issue. In order for an issue to reach the EU agenda, political actors need to justify the ‘Europeanness’ of an

¹⁵³ S. Princen, *Agenda-setting in the European Union*, 41.

¹⁵⁴ G. Falkner, *The EU decision traps. Comparing policies* (Oxford University Press 2011).

¹⁵⁵ Princen, “Agenda-setting in the European Union”, 27.

¹⁵⁶ F.R. Baumgartner and B.D. Jones, *Agendas and instability in American politics* (The University of Chicago Press 1993), 25. Also: J.W. Kingdon, *Agendas, alternatives and public policies* (2nd edition; New York 2003), 173. And D. Rochefort and R. Cobb, *The politics of problem definition* (University Press of Kansas 1994).

¹⁵⁷ Baumgartner and Jones, *Agendas and instability in American politics*, 25. Also: J.W. Kingdon, *Agendas, alternatives and public policies*, 173. And: D. Rochefort and R. Cobb, *The politics of problem definition* (University Press of Kansas 1994).

¹⁵⁸ J. Jerit, “Issue framing and engagement: Rhetorical strategy in public policy debates”, *Political behavior* 30 (2008), 1-24, pp. 2.

¹⁵⁹ *Ibid.*, 2.

¹⁶⁰ W.A. Boettcher, “The prospects for prospect theory: An empirical evaluation of international relations. Applications of framing and loss aversion”, *Political psychology* 25 (2004), 331-362, pp. 333.

¹⁶¹ Princen, “Agenda-setting in the European Union”, 30.

¹⁶² M. Howlett, M. Ramesh, and A. Perl, *Studying public policy. Policy cycles and policy subsystems* (third edition; Oxford University Press 2009), 3.

¹⁶³ Kingdon, *Agendas, alternatives and public policies*, 94-100.

issue, and, hence, the appropriateness of the EU as a level of government to deal with it.¹⁶⁴ Focusing events provide impetus to developing a European approach.

Arousing interest is crucial to accomplish agenda-success.¹⁶⁵ This is especially so because, as previously indicated, politics and thus the politics of attention is a struggle among interests.¹⁶⁶ Princen identifies two mechanisms to arouse interest: framing through ‘small steps’ and framing through ‘big words’.¹⁶⁷ The former contains the organization of conferences or workshops, whereas the latter refers to the technique of framing an issue in such a way that it feeds into the EU ‘purpose’ and ‘identity’.¹⁶⁸ Princen in this regard refers to Annika Björkdahl, who points to the importance of normative power and, consequently, norm advocacy as a way of acquiring influence in the EU institutions.¹⁶⁹ In addition, particularly relevant to framing issues at the EU level is the so-called ‘mobilization of bias’, an approach originally advanced by Elmer E. Schattschneider.¹⁷⁰ This approach implies that particular political cultures are especially receptive, or biased, to distinct issues in relation to other political cultures.¹⁷¹ This implies that political actors can create receptiveness by framing issues in such a way that it specifically appeals to a particular institution. Human rights are framed as inherent to the EU and attention to human rights is safeguarded through EU treaties. Human rights are hence particularly suitable for ‘issue linkage’, meaning that human rights are often used as a framing instrument for other issues.¹⁷² Human rights are particularly attractive because reference to human rights in the EU context generates a sense of legitimacy.¹⁷³ This implies that human rights frames are a guarantee for agenda-success. Furthermore, according to Joke Swiebel, the existence of ‘friendly elites’ towards a cause is one of the basic requirements for agenda-success at the EU level.¹⁷⁴

In two case studies examining respectively the political attention to anti-smoking and bioterrorism in the EU, Sebastiaan Princen and Mark Rhinard build on the agenda-setting models devised by Roger Cobb, Jennie-Keith Ross, and Marc Howard Ross. I will now further expound these models. In the ‘outside initiative model’ issues emerge from outside the institutional arena, whereas in the ‘mobilization model’

¹⁶⁴ Ibid., 39.

¹⁶⁵ Princen, “Agenda-setting strategies in EU policy processes”, 10.

¹⁶⁶ Baumgartner and Jones, *The politics of attention*, 3.

¹⁶⁷ Ibid., 10.

¹⁶⁸ Ibid., 10.

¹⁶⁹ Ibid., 10. And: A. Björkdahl, “Norm advocacy: a small state strategy to influence the EU”, *Journal of European public policy* 15(2008), 135-154, pp. 138.

¹⁷⁰ Elmer E. Schattschneider, *The semi-sovereign people. A realist's view of democracy in America* (New York 1960), 71.

¹⁷¹ Ibid., 71.

¹⁷² Joke Swiebel, “Lesbian, gay, bisexual and transgender human rights: The search for an international strategy”, *Contemporary politics* 15 (2009), 19-35, pp. 28.

¹⁷³ Ibid., 20.

¹⁷⁴ Ibid., 20.

decision-makers pursue issue expansion, and in the ‘inside initiative model’ issue initiation occurs among decision-makers, agenda-setting remaining within their sphere of influence.¹⁷⁵ The inside initiative model particularly applies to the European Council and the so-called high politics route, in which the Heads of the European member states convene and decide upon the main priorities of the EU.¹⁷⁶ An issue in this model is usually triggered by a focusing event, leading to a perceived common political problem.¹⁷⁷ One illustration is the boycott of the 2012 European Football Championship, proclaimed by European leaders after the human rights violations of Ukrainian opposition leader Julia Timosjenko. The mobilization model, on the other hand, applies to the decision makers in the EU seeking to raise issues to salience by expanding attention to the public agenda.¹⁷⁸ This applies to European Commissioners, but also to MEPs. However, notably, in their article Princen and Rhinard refer primarily to Council working parties, and Commission expert groups, while leaving the Parliament out of consideration. This is notable, because the Parliament, especially regarding human rights issues, is perceived as an important agenda-setter. Lastly, the outside initiative model refers to actors outside the EU institutional arena, comprising non-governmental organizations (NGOs), think tanks, and lobby groups, seeking to acquire political attention often by generating public attention first.¹⁷⁹ The ‘career of issues’ is consequently characterized by four stages: issue initiation, issue specification, issue expansion, and issue entrance.¹⁸⁰ In the next section I explicate where the ‘why’ and ‘how’ of agenda-setting come together.

2.5. The Agenda-Setter

This section centralizes the agenda-setter, in whom the ‘why’ and the ‘how’ of changes to the politics of attention changes are represented. The agenda-setter can be defined as a political agent or a policy entrepreneur, ranging from institutions as a whole to an individual representing a civil society organization. For the purpose of analyzing individual political actors, political scientists have resorted to theories within the field of behavioral economics, and particularly rational choice theory. As a matter of fact, there is an abundance of academic endeavors that seek to grasp political processes, as well as agenda-setting processes, through rational choice analyses. This is popular because this theory provides a mechanism that exposes the behavior of individuals. Gaining an understanding of the behavior and

¹⁷⁵ Sebastiaan Princen and Mark Rhinard, “Crashing and creeping: agenda-setting dynamics in the European Union”, *Journal of European public policy* 13 (2006), 1119-1132, pp. 1120

¹⁷⁶ *Ibid.*

¹⁷⁷ *Ibid.*

¹⁷⁸ *Ibid.*

¹⁷⁹ R. Cobb, J.K. Ross, and M. Howard Ross, “Agenda building as a comparative political process”, *The American political science review* 70 (1976), 126-138, pp. 127.

¹⁸⁰ Princen and Rhinard referring to Cobb, Ross, and Ross, “Agenda building as a comparative political process”, 127.

strategies of political actors is relevant to studies of agenda-setting, because having an idea of the behavior and strategies of (successful) agenda-setters exposes how and why political actors attempt to raise issues to salience. This also exposes insights about the characteristics of the political environment, in this case EU politics, in which the agenda-setter is active.

Rational choice theory postulates that individuals are rational and that individual's preferences can therefore be represented by utility functions, utility referring to "the value of that which is sought to be maximized in any situation involving a choice".¹⁸¹ In this regard, behavior is defined according to utility maximization and cost/benefit-calculations. This means that a political actor generally chooses the most effective way when pursuing a particular goal, and that he is generally risk-averse in doing so. When a political actor wishes to change the agenda status of an issue, he makes a decision, a choice. He chooses to pursue a goal, and to profit from the benefits that come with the accomplishment of this 'mission'. This may involve agenda-success, or at least a change in the status quo of an issue for which a political actor has a certain preference. Agenda success sometimes goes hand in hand with other 'profits', such as continuation in office, or maintenance of reputation and legitimacy. The latter is thought to be significant in the institutional arena of the EU.¹⁸² According to Daniel Kahneman and Amos Tversky, political actors "are generally thought to be effective in pursuing their goals (...), [and]it seems reasonable then to describe choice as a maximization process."¹⁸³ Issue initiation or the inclination to set the agenda thus constitutes a choice, and issue initiation is therefore the start of a process of utility maximization. The function of 'expected utility' is significant in this regard, as it indicates that political actors are often confronted with the possibility of taking several routes to achieve their goal. The outcome of these routes is unclear. This leads to a level of uncertainty and a consequential judgment pertaining to these routes. Actors have to choose among alternatives and in order to make the most beneficial choice they have to calculate the possibility of success, hence to weigh the utility of the different alternative routes. As a result, actors have to gather information regarding these alternatives, and then calculate the probable outcomes of the different routes. Kahneman distinguishes intuition from reasoning, two key elements in this process.¹⁸⁴ The former comprises thoughts and preferences that come to mind instantly and effortlessly, and that are mainly decisive when it concerns the emergence of new issues, whereas the latter is more relevant to the actual behavior of political actors.¹⁸⁵ Reasoning is deliberate, slow, controlled,

¹⁸¹ *Oxford English Dictionary* (11th edition; Oxford University Press 2004).

¹⁸² W.A. Boettcher, "The prospects for prospect theory", 335.

¹⁸³ D. Kahneman and A. Tversky, "Rational choice and the framing of decisions", 59 *Journal of Business*, S251-S278, pp. S251.

¹⁸⁴ D. Kahneman, "Maps of bounded rationality: psychology for behavioral economics", *The American economic review* (2003), 697-720, pp. 698.

¹⁸⁵ D. Kahneman, "A perspective on intuitive judgment and choice: maps of bounded rationality", *American psychologist* 58 (2003) 697-720, pp. 697.

serial, flexible, effortful, rule-governed, and neutral; ingredients for rational behavior.¹⁸⁶ Reasoning is therefore used to rationally calculate probable outcomes, and this inspires a political actor to make a choice, based on the expected value of the respective options available. The political actor chooses the option that will serve best to maximize his utility. The complexity of an actor's calculations is an indicator of the actor's rationality.¹⁸⁷ Thus, when applying rational choice theory to the behavior of agenda-setters in the EU, it is important to take into account whether agenda-setters extensively explore all the options available, to see whether they make an estimation of the consequences of these options through gathering information, to analyze whether they make a probabilistic judgment regarding the consequences of the respective options, calculate costs and benefits, and finally make a comparison of the expected value of the different options.

Kahneman and Tversky further add that competition should be taken into account. Competition thrives with rational individuals and organizations, and ideal decisions under competitive circumstances increase the 'chance of survival'.¹⁸⁸ Competition is indeed present in agenda-setting processes, as agenda-setting processes imply struggles for interests, and political actors compete with other political actors for the agenda-success of their respective issues. Interesting in this respect is Boettcher's idea that political actors in a group wish to be 'better than average', and framing, as well as the persuasiveness of arguments, then become especially important.¹⁸⁹ Frank Schimmelfennig argues in a similar vein that political actors, particularly in political systems like the EU, are concerned with their reputation.¹⁹⁰ The legitimacy of their preferences and behavior is highly important to them, and this is why they seek to justify their interests by appealing to the values of that political culture.¹⁹¹ At the same time, Schimmelfennig claims, this allows political actors to "shame their opponents into norm-conforming behavior, because norm conformation is the right thing to do, and to "modify the collective outcome".¹⁹²

There are a number of drawbacks in applying rational choice theory to studying agenda-setting actors. First, the possibility of 'full' rationality ought to be questioned, especially considering the limited access to 'perfect information' and a lack of time, which leads to uncertain circumstances.¹⁹³ 'Uncertainty' thus poses obstacles to the application of rational choice theory to agenda-setting processes. Political actors could experience uncertainty regarding the objective parameters of the political system.¹⁹⁴ Political

¹⁸⁶ Ibid., 698.

¹⁸⁷ M. Egidi, "Rethinking bounded rationality" (CEEL, University of Trento 2002), 1-23, pp. 3.

¹⁸⁸ Kahneman and Tversky, *Rational choice and the framing of decisions*, S251.

¹⁸⁹ Boettcher, "The prospects for prospect theory", 335.

¹⁹⁰ F. Schimmelfennig, "The community trap: liberal norms, rhetorical action, and the Eastern enlargement of the European Union", *International organization* 55 (2001), 47-80, pp. 48.

¹⁹¹ Ibid., 48.

¹⁹² Ibid.

¹⁹³ Howlett, Ramesh, and Perl, *Studying public policy*, 145.

¹⁹⁴ M.J. Osborne and A. Rubinstein, *A course in game theory* (MIT Press 1994), 4.

actors neither have information regarding the actions or calculations of other political actors, nor are actors fully aware of happenings or focusing events that occur elsewhere in the institutional arena.¹⁹⁵ This implies that the availability of perfect or, at least, strategic and reliable information about the consequences of choices supports political actors in making choices that lead to the highest pay-off. It has even been argued in this regard that authority is not the decisive factor for generating agenda success.¹⁹⁶ Rather, information ultimately engenders agenda success.¹⁹⁷ Taking these limitations of rational choice into account, Herbert Simon proposed the notion of ‘bounded rationality’, acknowledging that, especially in decision-making arenas, it is cognitively impossible to calculate all the probable outcomes among an inexhaustible number of options.¹⁹⁸ This implies that it is impracticable to assess straightforward costs and benefits in agenda-setting processes prior to making a choice, as is required by the rational choice model. Concluding, I state that it is possible to apply rational choice theory to agenda-setting processes, because agenda-setting processes are processes of utility maximization. However, the rationality of political actors is ‘bounded’, rather than ‘full’. I also conclude that individuals are uncertain about their preferences, or that preferences are sometimes incomplete.¹⁹⁹ Rationality is often considered to reflect consistent behavior. However, the constructivist approach refutes consistency, emphasizing socialization, social learning, and social norms as opposed to rational cost/benefit-calculations, (material) incentives, and coercion.²⁰⁰ Especially in an international environment, ideas and beliefs of political actors tend to change over time through processes of persuasion, socialization, focusing events, or other developments. Pollack in this regard refers to the so-called ‘logic of appropriateness’, arguing that agenda-setters do not “consult a fixed set of preferences and calculate their actions in order to maximize their expected utility, but agenda-setters rather assess socially constructed roles and institutional rules to identify what sort of behavior is appropriate in that situation”.²⁰¹ More importantly, preferences are not necessarily fixed, but subject to change and ‘endogenous to institutions’, meaning that -following social institutionalists- ‘membership matters’.²⁰²

Two other concepts should be taken into account when studying the behavior of agenda-setters: ‘commitment’ and ‘sympathy’. In promoting a particular cause, Amartya Sen asserts, political actors need not always be driven by sheer selfish motives. Sen thus proposes an alternative to rational choice theory,

¹⁹⁵ Ibid.

¹⁹⁶ D.C. Mueller, *Public choice III* (Cambridge University Press 1999), 360.

¹⁹⁷ Ibid., 360.

¹⁹⁸ Howlett, Ramesh, and Perl, *Studying public policy*, 145.

¹⁹⁹ S. Bade, “Nash equilibrium in games with incomplete preferences” (New York University 2003), 1.

²⁰⁰ J.T. Checkel, “Why comply? Social learning and European identity change”, *International organization* 55 (2001), 553-558, pp. 553.

²⁰¹ Pollack, *The engines of European integration*, 57.

²⁰² Ibid., 57.

refuting egoism as an intrinsic element of the behavior of political actors. In maximizing utility, agenda-setters could be both sympathetic and driven by commitment. When one is sympathetic, Sen purports, the concern for others is intertwined with the political actor's own welfare.²⁰³ A political actor's ability to be sympathetic allows him to associate and relate to someone else's feelings. Sen illustrates this by referring to the fight against torture: it makes a person sympathetic if torture makes him feel sick. It becomes a matter of commitment when this person is willing to fight against torture. In the words of Sen: "It can be argued that behavior based on sympathy is in an important sense egoistic, for one is oneself pleased at others' pleasure and pained at other's pain, and the pursuit of one's own utility may thus be helped by sympathetic action. It is action based on commitment rather than sympathy which would be non-egoistic in this sense"²⁰⁴ This is especially relevant to actors who wish to raise human rights issues to salience. This is because sympathy and commitment are likely to emerge as a consequence of human rights violations. Political actors that are actively seeking to change the status quo of a human rights issue are driven by commitment. Sympathy may encourage commitment. Moreover, principles of human rights constitute important norms within the EU institutional arena, particularly useful for naming and shaming and in maintaining a legitimate reputation. This implies that commitment may also be contrived, used as a framing strategy to link an issue to a particular human rights cause.

3. Agenda-Setting in Democratic Theory

The people must control the agenda and they "must themselves decide what is important enough to be decided by them"; according to James Griffin, democracy does not merely concern a procedure of how voters have a say, but it also concerns about what they have a say.²⁰⁵ Roger Cobb and Charles Elder, on the other hand, refute that democracy should encompass public agenda-setting powers, due to the ignorance and lack of interest in political affairs of most people.²⁰⁶ To what extent should the EU citizens set the EU agenda? The next pages permeate an attempt to provide a normative account of the role of agenda-setting in democracy at the EU level. This is relevant to determine the extent to which the EU responsiveness to popular demands, hence the EU agenda-setting of public concerns, should make up the list of topics to which EU officials allocate serious attention. This matter feeds into the broader discussion on the democratic deficit that characterizes the debates on EU policy making. 'Democratic deficit' refers

²⁰³ A.K. Sen, "Rational fools: a critique of the behavioral foundations of economic theory", *Philosophy and public affairs* 6 (1997), 317-344, pp. 326.

²⁰⁴ *Ibid*, 326.

²⁰⁵ J. Griffin, *On human rights* (Oxford University Press 2008), 244.

²⁰⁶ R.W. Cobb and C.D. Elder, "The politics of agenda-building: an alternative perspective for modern democratic theory", *Journal of Politics* 33 (1971), 892-915, 893.

to the alleged lack of EU responsiveness to public concerns. EU policy makers are frequently accused of operating in isolation from public opinion. In addition, the EU agenda is often considered biased towards security and economic issues, pushing aside public concerns and issues of ‘soft power’.²⁰⁷ Limited popular participation, more importantly, exposes that the EU does not belong to the ‘European’ citizen. I intend to expose why agenda-setting power is important to the legitimacy of democratic politics, and why agenda-setting should be a component of an empirical theory of democracy. Central is ‘output legitimacy’, one element of the democratic deficit that indicates how voter’s preferences, hence public concerns are diverging from EU policies. In consequence, I hypothesize that the decision agenda of the EU, as well as the EU agenda-setting processes, could expose the extent to which there is a democratic deficit in the institutions of the EU. After all, the agenda indicates what issues are taken up for policy-making and, to some extent, unmasks how the political representation of preferences and demands is organized in the EU institutions. The output agenda thus functions as an empirical indicator of how voter’s preferences are translated into policies.

The characteristics, as well as the substantive quality of democracy remain a widely studied topic that is almost continuously subject to academic, political, and public debates. The discussion is inextricably linked to the matter of legitimacy, which in turn is linked to reflection of the ‘general will’ and consent of the people.²⁰⁸ The perspectives of Griffin, Cobb, and Elder listed above, as well as attempts to introduce new forms of participatory democracy in contemporary societies, especially through the internet, warrant a more in-depth analysis of how this ‘general will’ ought to be reflected through democratic practices. In what follows I engage in an analysis of how and where forms of democracy and the substance of democracy, politics and policies, converge with the aim of specifying the extent to which agenda-setting power of the public should be part of an empirical theory of democracy. Let me first define the notion of democratic theory. As in current democratic systems the people exercise power through their elected political representatives, I secondly classify the role of agenda-setting in political representation. In a third section I expound the extent to which democratic quality can be assessed through output agendas, followed by an analysis of the preferentiality of models of participatory democracy.

3.1. An Empirical Theory of Democracy

²⁰⁷ S. Princen, *Agenda-setting in the European Union* (Palgrave Macmillan 2009), 7.

²⁰⁸ The general will, the ‘volonté générale’, is a concept developed by Jean-Jacques Rousseau. Representation of the general will is a signifier of political legitimacy. Prominent in Rousseau’s idea of a ‘social contract’ is that people are willing to give up a part of their natural sovereignty in exchange for protection through law: J.J. Rousseau, *On the social contract. Book II*, Chapter 1, p. 25.

Democratic theory is a component of political theory as an academic discipline. Democratic theorists mainly focus on how democracy develops, how democracy functions, and how theory can be transformed into practice. Theorists in this regard distinguish form from substance. An empirical theory of democracy seems paradoxical at first sight. ‘Empirical’ refers to those elements that are verifiable by observation and experiments, rather than to elements that are derived from theories or logic. Moreover, studies of democracy and democratic quality are often, if not mostly, concerned with the normative side of democracy, mainly encompassing political justice, freedom and equality, which is in reality translated into accountability structures and responsiveness. The latter is of particular interest when studying agenda-setting within democratic models. Acknowledging the significance of normative components, Leonardo Morlino asserts that the broad application and acceptance of democracy as a form of government allows for empirical observations that pave the way to the identification of patterns and a minimal definition of democracy.²⁰⁹ Precisely because democracy as a form of government is widely accepted, Morlino utters, an empirical blueprint of what democracy minimally entails and how democratic quality and values should be assessed is significant and necessary.²¹⁰

Derived from the Greek ‘demos’ (the people) and ‘kratia’ (power, or rule), democracy literally means ‘the people rule’. The Oxford English Dictionary defines democracy as a form of government in which the people have a voice in the exercise of power.²¹¹ It does not specify how the voice is expressed, nor about what. Robert Dahl classifies democracy according to five key elements: effective participation, voting equality, enlightened understanding of available policy alternatives, control of the agenda, and inclusion of adult residents who enjoy citizenship rights.²¹² With control of the agenda Dahl envisages that the people exclusively decide upon what will be debated.²¹³ Moreover, Dahl stresses the importance of opposition and the possibility of dissent as essential components of a democratic regime.²¹⁴ Notwithstanding that Dahl argues that his listed ‘key elements’ remain the elements of a theoretical utopia, I derive that control of the agenda at least should be part of the very basic democratic standards.²¹⁵ In providing a minimalist definition of the form of democracy, Morlino embroiders on the work of Dahl and Joseph Schumpeter, and he draws a perimeter, identifying the most basic, empirical requirements that any democratic system ought to meet: universal male and female suffrage; free, fair, recurrent and competitive elections; more than one political party; different and alternative sources of information.²¹⁶ Morlino stresses that any political system meeting these procedural criteria of democracy, automatically

²⁰⁹ Ibid.

²¹⁰ Ibid.

²¹¹ *Oxford English Dictionary* (11th edition; Oxford University Press 2004).

²¹² R.A. Dahl, *Democracy and its critics* (Yale University Press 1989), 108-114.

²¹³ Ibid., 113.

²¹⁴ Ibid., 114. See also: L. Morlino, *Changes for democracy* (Oxford University Press 2011).

²¹⁵ Dahl, *Democracy and its critics*, 114.

²¹⁶ Morlino, *Changes for democracy*, 32.

fulfills normative criteria, encompassing the safeguarding of civil and political human rights, the freedom of speech, and the freedom of association.²¹⁷ These elements, however, do not directly engender opportunities for the people to set the agenda. Morlino does not mention control of the agenda as being part of the basic empirical criteria of democracy, while agenda-control is evidently present in Dahl's normative account. He does, however, purport that elections and universal suffrage are central, indicating the relevance of political representation. Therefore, in the following section, I provide an understanding of political representation and the role of agenda-setting.

3.2. The General Will Represented

Following Jean-Jacques Rousseau, the 'list of subjects to which government officials pay serious attention ought to be determined by the general will of the people.'²¹⁸ According to Rousseau, the law should be a mirror of the people's general will, indicating the desires and interests of the people in its entirety.²¹⁹ In contemporary democracies the list of subjects is not determined by the people, but by political representatives of the people. In this regard, Philippe Schmitter and Terry Karl have defined political democracy as "a system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting indirectly through the competition and cooperation of their elected representatives".²²⁰ The focus is thus on representative democracy. However, notwithstanding that representative democracy is the most accepted model of democracy in contemporary societies; this model is not what was originally envisaged as democracy or as 'government by the people'.²²¹ Rather, government by the people implies direct democracy, meaning that the people decide upon the list of subjects to which attention will be paid, whereas in representative democracies the list of subjects is compiled by the representatives of the people. In Rousseau's account, the agenda-setting power of the people implies that the people possess the power to initiate legislation; the government is merely the executive power. Bernard Manin explains that Rousseau saw a difference between a free people making its own laws and a people electing representatives to make laws for it.²²² However, agenda-setting in this account, as John Scott purports, could pose a threat to the people's sovereignty because the government may gradually usurp the legislative powers of the people.²²³ The model of representative democracy is central in this analysis, precisely because this model is the most accepted form of democracy in

²¹⁷ Ibid.

²¹⁸ J.J. Rousseau, G.D.H. Cole, *The social contract* (Cosimo Inc. 2008; originally published in 1762), 34.

²¹⁹ J.J. Rousseau, G.D.H. Cole, *The social contract* (Cosimo Inc. 2008; originally published in 1762), 34.

²²⁰ P.C. Schmitter and T.L. Karl, "What Democracy Is . . . And Is Not", *Journal of Democracy* 2 (1991), 75-88, 75.

²²¹ B. Manin, *The principles of representative government* (Cambridge University Press 1997), 1.

²²² Ibid., 1.

²²³ J.T. Scott, "Anti-agenda-setting and contemporary democratic theory", *The American political science review* 99 (2005), 137-144, pp. 142.

contemporary times, and because this model comprises the most adequate mechanisms for the people to express the 'general will'. Moreover, the identification and the expression of the general will requires mechanisms of political representation.

The relevance of agenda-setting in democratic theory is not only derived from the relation between the list of subjects to which government officials pay attention and the general will of the people; it is also about the role of opposition and dissent in the democratic system. Political actors should have the possibility to make changes to the list of priorities and to raise issues to salience should they feel this is required. Changes to the status quo are required at certain times. Nadia Urbinati purports that political representation is a "perfected form of democracy through which people can articulate themselves".²²⁴ Traditional models of political representation offer accounts of how the general will could be represented, primarily defining the relation between the people and their political representatives. The most widely used account of political representation was provided by Hannah Pitkin. In her account, political representation concerns 'making present' citizen's voices in the public policy making process.²²⁵ Feeding into Rousseau's perception, Pitkin claims that 'sentiments' or 'public feelings' should always be represented.²²⁶ This implies that the control over the contents of policy agendas should be empirically present in a democracy. Bernard Manin has empirically mapped four features of representative democratic regimes: representatives are appointed by recurrent elections; decision-makers maintain independence from the wishes of the electorate; the people may express opinions and wishes without these being subject to the control of those who govern; public decisions undergo the trial of debate.²²⁷ Manin has merely observed these features; he does not provide a blueprint of how representative democracies should be designed, as opposed to what Morlino envisaged with an empirical theory of democracy. As a matter of fact, Manin's features touch upon a highly debated topic in current academic, political, and public debates; the perceived gap between citizens and their representatives is often used to criticize democratic systems. This is because political representation is strongly related to the matter of political legitimacy, according to Rousseau acquired and measured through the extent to which the general will is reflected. Manin's observations clearly demonstrate the lack of public control over policy agendas. Political legitimacy encompasses, in the normative account, the conditions under which a person, a group, or the law has the right to bind or to rule. Political representatives are legitimate only when they have been selected through authorized elections, and laws only become just when endorsed by legitimate political representatives.²²⁸ Under these conditions, political choices should reflect the authentic preferences of a community, or the

²²⁴ N. Urbinati, "Representation as advocacy: a study of democratic deliberation", *Political theory* 28 (2000), 758-786, pp. 761.

²²⁵ H.F. Pitkin, *The concept of representation* (University of California Press 1967), 241.

²²⁶ *Ibid.*, 183.

²²⁷ Manin, *The principles of representative government*, 6.

²²⁸ D.M. Estlund, *Democratic authority: a philosophical framework* (Princeton University Press 2009), 102.

general will of the people.²²⁹ This is important in democracy because policy choices affect the distribution of power in political systems.²³⁰ If the power, belonging to the people, is reallocated to other actors, this could have significant implications for the democratic standards of a system. However, the extent to which representation equals control over the agenda is questionable. Control over the contents of the agenda should at least be in the hands of the directly elected representatives. The agenda is then, in theory, set by the people through mechanisms of political representation under the condition that political representation is legit. The extent to which political representation is legit, hence, indicates the extent to which the general will is reflected, and the extent to which the people control policy agendas. In consequence, I argue that legitimacy ought to be part of an empirical account of democracy. However, the basic features in Morlino's empirical theory of democracy should engender legitimacy to democracy. If legitimacy in itself implies control over policy agendas, and if the empirical account of democracy as put forward by Morlino is characterized by legitimacy, agenda-setting power is already present in an empirical account of democracy. Agenda-setting power is then not granted through political representation, but rather through legitimacy. If legitimacy is a precondition for the reflection of the general will, then the conditions under which legitimacy is engendered allow for the agenda-setting power of the people, because agenda-setting power determines the reflection of the general will. However, legitimacy as a ground for agenda-setting power has some drawbacks, which I identify in the next section.

Frank Ankersmit praises representative democracy as the best tool to address and solve political problems and to guarantee cooperation between the state and the people.²³¹ However, as Ankersmit argues, in representative democracy legitimate political power realistically ends up in the vacuum between the people and the government, or the voter and their elected representatives.²³² Hence, Ankersmit concludes, legitimate political power essentially is aesthetic.²³³ Ankersmit in addition stresses that representative democracy simultaneously is highly inefficient, due to the model's incapacity to cope with problems occasioned by the system itself.²³⁴ Political representation is indirectly present in Morlino's empirical theory of democracy; elections and universal adult suffrage. These elements imply 'equality', a notion that captures what Rousseau envisaged with the expression of the general will; namely that all people should have the equal opportunity to participate in governance. Equal participation is not present in Morlino's theory as such, whereas already in ancient Athens participation and equal opportunities implied a stronger

²²⁹ P. Bovens, D. Curtin, P. 't Hart ed., *The real world of EU accountability. What deficit?* (Oxford University Press 2010), 21.

²³⁰ P. Moser, G. Schneider, G. Kirchgässner, *Decision rules in the European Union: a rational choice perspective* (Palgrave Macmillan), 5.

²³¹ F.R. Ankersmit, *Political representation* (Stanford University Press 2002), 119.

²³² *Ibid.*, 118.

²³³ *Ibid.*

²³⁴ *Ibid.*, 119.

weight than control over the agenda.²³⁵ Political legitimacy is thus bestowed upon decision-makers because they are elected to represent the general will of the people. The substantive component of democracy is, consequently, determined by its form, meaning that the output agenda of representative democratic regimes indeed ought to accurately reflect the general will.

Legitimacy can be understood through input legitimacy and output legitimacy or, as Abraham Lincoln uttered in the 1863 Gettysburg Address: ‘government by the people’ and ‘government for the people’. Input legitimacy refers to representation and accountability, whereas output legitimacy concerns the relation between the substance of decisions and the expectations and interests of the voting citizen.²³⁶ It is important to make this distinction, because legitimacy is about direct political representation (output) vis-à-vis indirect political representation (input), and because the type of legitimacy determines the extent to which citizens decide what is on the agenda. Direct representation and output legitimacy (the legislative level) implies the possibility to influence fundamental policy choices, while indirect representation and input legitimacy (the executive level) implies the presence of mechanisms to hold decision-makers and representatives, elected by the citizens, accountable. At the EU level input legitimacy is not relevant. This is because input legitimacy matters only for pre-existing *demos* with a collective identity; democratic participation is an essential component of this identity.²³⁷ The citizens of the EU do not belong to one *demos* with one particular identity, and input legitimacy is realized only through democratic authorization, representation, and accountability at the level of the member states.²³⁸ Legitimacy of the EU and the EU institutions is not direct: it is achieved through the existing democratic mechanisms in the respective member states. Hence, only output legitimacy matters at the EU level. The existence or non-existence of a collective identity does not have implications for the relevance of output legitimacy.²³⁹ Output legitimacy, ‘government for the people’, does matter because the EU is the only appropriate level of governance to tackle certain issues or to ensure effective collective action in certain situations. Moreover, the principle of subsidiarity indicates that the EU should only tackle those issues that are most effectively dealt with at the EU level. It is thus the substance of the EU agenda that allows for an assessment of output legitimacy. As output legitimacy matters and touches upon the responsiveness of the EU towards its citizens, the agenda of the EU is indeed indicative of the existence of a democratic deficit. I claim that output legitimacy matters more at the EU level than it does at the national level, precisely because legitimacy is realized through output legitimacy only. The authors of “The Real World of EU Accountability” argue that the identification of collective solutions does require the existence of a clearly defined constituency, as is the

²³⁵ Manin, *The principles of representative government*, 22.

²³⁶ F.W. Scharpf, *Governing in Europe: effective and democratic* (Oxford University Press 1999), 2.

²³⁷ Bovens, Curtin, ‘t Hart ed., *The real world of EU accountability*, 21. And: F.W. Scharpf, *Governing in Europe: effective and democratic* (Oxford University Press 1999), 2.

²³⁸ *Ibid.*, 21.

²³⁹ *Ibid.*

case with input legitimacy.²⁴⁰ However, where it concerns output legitimacy, what matters is to specify a “perception of a range of common interests that is sufficiently broad and stable to justify institutional arrangements or collective action”.²⁴¹ ‘Common interests’ in this respect refers to those interests that are shared by the majority of EU citizens. It makes sense to, as the editors argue, perceive the EU voting citizen as a ‘client’ or ‘consumer’, and to see output legitimacy as interest-based as opposed to identity-based.²⁴² This implies that, to meet the standards of output legitimacy, the EU agenda ought to reflect voter’s interests. The European Citizen’s Initiative, launched by the 2009 Lisbon Treaty, offers the possibility to meet the standards of output legitimacy more effectively. The Citizen’s Initiative enables the EU citizens, entitled to vote in elections, to make a proposal for legislation. I elaborate upon this in Chapter V. The democratic deficit is often felt to be derived from the input-oriented perspective, which, as we concluded, is not relevant at the EU level.²⁴³ The fairness of presuming a democratic deficit in the EU and the EU institutions ought to be questioned. The editors of “The Real World of EU Accountability” even argue that the EU is gradually shaking off the alleged democratic deficit and, more importantly, after assessing the accountability structures in the EU institutions, warn for the possibility of an accountability overload.²⁴⁴ If the democratic deficit is mainly caused by EU isolation from public opinion, output legitimacy indicates the extent to which there is a democratic deficit. Legitimacy is consequently dependent upon the substance of the EU agenda, which ought to reflect the range of common interests of the EU voting citizen to meet the standards of output legitimacy. This range is established on the basis of concerns within European society. Let me explicate this argument further.

In general, people prefer to have included on the political agenda those issues they consider important. Hence, I posit that all individuals have an interest in deciding the contents of the policy agenda. Subsequently, the voting citizen selects those politicians that they feel will be most successful in raising particular issues to salience on the agenda. Normatively then, the output agenda in a democratic model ought to reflect the voter’s preferences, and that the policy agenda derives legitimacy on the basis of reflecting the general will. It is, however, questionable to what extent it is realistically preferable to let the people decide upon the contents of democratic decision-making. Where it concerns output legitimacy, it is merely required to specify a “perception of a range of common interests that is sufficiently broad and stable to justify institutional arrangements or collective action”.²⁴⁵ Rousseau, in a similar vein, noticed that the general will could in fact never be represented. If at all, it is merely possible to represent the will of the

²⁴⁰ Ibid.

²⁴¹ Ibid.

²⁴² Ibid.

²⁴³ R. Bellamy, “Democracy without democracy? Can the EU democratic ‘outputs’ be separated from the democratic ‘inputs’ provided by competitive parties and majority rule?” *Journal of European public policy* 17 (2010), 2-19, pp. 2.

²⁴⁴ Bovens, Curtin, ‘t Hart ed., *The real world of EU accountability*, 197.

²⁴⁵ Ibid, 26.

majority of the people, and the majority is able to manipulate the general will or may ignore particular interests. In agenda-setting theory, majority voting is assessed as a tool to manipulate the contents of agendas. Unanimity, on the other hand, which expresses more densely the general will, saves individual interests from ‘selfish agenda-setters’.²⁴⁶ Moreover, it has been argued that agenda-setting itself is a way to manipulate decision-making procedures.²⁴⁷ William Riker has claimed in this regard that “the typical exploitation of voting procedures in the pursuit of individual ends undermines the attempt to respond to collective interest.”²⁴⁸ This poses a considerable threat to democratic standards, and to the representation of the general will. Furthermore, this justifies a reinvigoration of the relevance to study the role of agenda-setting in an empirical theory of democracy. The relevance of agenda-setting in democracy notwithstanding, there are a number of drawbacks that should be taken into account when discussing an active role of the people in setting the agenda.

3.3 Agenda-Setting by the People: a Nuanced Perspective

In this section I clarify the extent to which the public involvement in setting the political agenda is preferable and practical. I argue that the quality of democracy can be assessed through empirically mapping and assessing the contents of output agendas. The extent to which the content matches majority preferences could indicate the reflection of the general will and therefore this indicates democratic soundness. Empirically assessing the extent to which the majority’s preferences are reflected on the output agenda requires sophisticatedly developed tools. It might even be impossible to map the many and diverging preferences of ‘the voting citizen’. A clarification should be provided as to what is meant by voter’s preferences and voter’s interests. Voter’s preferences are directly related to voter’s opinions and feelings, but they are not always similar to what is in the voter’s (best) interest. Interests are rational, and political representatives are appointed to serve the interests of voters. In traditional accounts of political representation a principle elects an agent because it is felt that the agent has the matching skills, expertise, and experience to serve the principle’s interests. However, a voter may have a preference for including a particular issue over another issue. This reaffirms the relevance of voter’s preferences, in addition to voter’s interests. Another aspect that ought to be taken into account when analyzing the preferentiality of the public to determine the contents of the agenda is the occurrence of focusing events, or turning points. An (urgent) event may lead to a change of policy priorities, whether or not this is anyone’s preference. A direct reflection of the general will requires direct democracy. Direct democracy, as was practiced in ancient Athens, is simply impossible in contemporary democratic entities. Nevertheless, various attempts

²⁴⁶ D.C. Mueller, *Public choice III* (Cambridge University Press 1999), 114.

²⁴⁷ Moser, Schneider, Kirchgässner, *Decision rules in the European Union: a rational choice perspective*, 4.

²⁴⁸ *Ibid.*, 4. See also: W.H. Riker, *Liberalism against populism* (San Francisco 1982).

to include the public in political decision-making through forms of participatory democracy can be observed in contemporary societies. Referenda have been used to consult the public on controversial, yet essential political decisions. The endorsement of the Lisbon Treaty in 2009 has, in addition, launched forms of participatory democracy to reinvigorate the engagement of EU citizens with decision-making. We could, however, question whether it is preferable to return to models of direct democracy. Referenda have been applied to consult peoples of the European Union regarding new steps in the integration process. So far, these endeavors have merely displayed the impracticability of this form of direct democracy. Due to divisive options, referenda usually do not provide answers, but merely result in the postponing of decisions, which are ultimately still taken by the expert leaders. Governance and decision-making are nowadays considered to be fields of expertise. Manin in this regard mentions the ‘principle of distinction’, meaning that eligible representatives in ancient Athens were supposed to have a particular social status, at least relatively higher than the electing citizen.²⁴⁹ Over the years the notion of status has evolved to include expertise. As Cobb and Elder rightfully argue, the competence of the public to decide upon policy has demonstrated to be a myth.²⁵⁰ Cobb and Elder nevertheless refer to Lester Milbrath, purporting that society as a whole would benefit from active public participation in politics.²⁵¹ Indeed, beside the lack of competence of the public to decide upon the inclusion or exclusion of issues, there is also a general lack of engagement of the public. Low election turnouts and the lack of active participation diminish the importance of the debate about agenda-setting powers by the public, but the lack of engagement also possibly indicates the ‘soundness’ of the democratic system.²⁵² This is, of course, presuming that active public participation in democracy does in fact contribute to a stronger democratic model. In a similar vein, Schattschneider has asserted that a lack of participation could negatively affect the list of subjects and the substance of democracy, as this possibly leads to the reinforcement of bias in the selection of issues.²⁵³ The type of issues included on the list of subjects is determined by a small group, and is therefore restricted, and those issues not represented are unlikely to acquire agenda status at all.²⁵⁴ Cobb and Elder in this regard refer to William Gamson’s idea of ‘stable unrepresentation’, stating that groups of citizens are not included in the “political arena in which competition and influence occur”.²⁵⁵ Stable unrepresentation thus affects the distribution of influence.²⁵⁶ If this is valid, I argue that the soundness of the system is determined by the non-existence of bias towards the inclusion of issues on the agenda and, consequently, by the level of participation of the public. If these elements are indicators of the

²⁴⁹ Manin, *The principles of representative government*. 94.

²⁵⁰ Cobb and Elder, “The politics of agenda-building”, 893-894.

²⁵¹ *Ibid.*

²⁵² *Ibid.*, 894.

²⁵³ E.E. Schattschneider, *The semisovereign people. A realist view of democracy in America* (New York 1960), 71.

²⁵⁴ Cobb and Elder, “The politics of agenda-building”, 897.

²⁵⁵ *Ibid.*, 897.

²⁵⁶ *Ibid.*, 897.

soundness of the system, measuring output agendas with citizen's preferences is a way to assess democratic quality. This strengthens the argument in favor of including public agenda-setting in an empirical theory of democracy. In this regard, Schattschneider pursues a definition of democracy that is more accurate to grasp contemporary democratic regimes: "Democracy is a competitive political system in which competing leaders and organizations define the alternatives of public policy in such a way that the public can participate in the decision-making process."²⁵⁷ This definition indicates that democracy as a procedure is strongly linked to the substantive component of democracy. It is a definition, moreover, that was created on the basis of observations of modern representative democracies. Therefore, democratic theory as a discipline is in need of a more consolidated or, at least, updated empirical theory of contemporary representative democracy. Moreover, we should discern an empirical theory of democracy from a blueprint of basic democratic regimes, and we ought to take into account the emergence of hybrid democracies as a transition phase between authoritarian regimes and modern democracies. Public agenda-setting power plays a more decisive role in processes of democratic consolidation and in societies that are making a transition towards democracy. The uprisings in the Maghreb region, especially in Egypt, in the spring of 2011, exposed the desires of the citizens to have a voice in what is decided on their behalf. In this initial phase of democracy it could be crucial that the citizens decide upon the selection of subjects on the list. Here, form and substance are of equal importance. On the other hand, in certain authoritarian regimes the dictator gradually gives the people more freedom, as is illustrated by the case of Morocco. In this case, I question the extent to which it is favorable to give the people agenda-setting powers in the early stages of transition. Freedom and democratic practice is a learning process and freedom and democracy cannot simply be bestowed upon people.

Concluding remarks

The objective of this analysis was to give a modest account of where form and substance of democracy come together. Therefore, I specified the extent to which agenda-setting power of the public should be part of an empirical theory of democracy. In its most basic meaning, democracy means that governance occurs by the people and for the people. The list of subjects to be dealt with by representatives is indicative of the contents of policy-making and of what is decided on behalf of the people. Therefore, it seems only appropriate that the people should have the power to decide what is and what is not on the agenda. After all, the people bestow upon the representatives legitimacy through election mechanisms. In

²⁵⁷ Schattschneider, *The semisovereign people*, 141. A similar definition has been provided by J.A. Schumpeter, *Capitalism, socialism, and democracy* (London 1942).

reality, it is impossible to give the public direct agenda-setting powers. This symbolizes the primary reason why control over the agenda is not included in an empirical theory of democracy; because it has not been observed in reality. However, the question should not be how voters have a say over the agenda, it is about the fact that they ought to have the power to define policy priorities in the first place. This is why agenda-setting is indeed part of a normative theory of democracy, and not (yet) of an empirical theory of democracy. If we would, however, consider Morlino's empirical theory of democracy a blueprint of minimal democracy, I purport that agenda-setting power could ultimately become a feature of an empirical theory of democracy. That it is not empirically detected does not mean that it should not be. With the launch of the Citizen's Initiative, the EU is in fact an example of an empirical case of democracy that includes a public agenda-setting mechanism. An agenda for future research is to define an updated empirical theory of contemporary representative democracy, allowing for a certain nuance of the extent to which the public has agenda-setting power.

With regards to the EU, the agenda of the EU, as well as the EU agenda-setting processes, expose the extent to which there is a democratic deficit in the institutions of the EU. Democracy encompasses the opportunity of the voting citizen to have a say about what is included on the agenda. This means that the agenda of a democratic government ought to reflect the interests and preferences of the voting citizen, so that the agenda reflects the 'range of common interests' of the people. The EU is by design a compound democracy with directly and indirectly elected representatives operating in cooperating intergovernmental and supranational institutions. If the democratic deficit is felt to be caused by the assumption that EU policy-makers move in relative isolation from public opinion, the output agenda can be used to assess how voter's interests and preferences are reflected on the agenda. Input legitimacy, comprising mechanisms to assess accountability, is not relevant at the EU level, because input legitimacy touches upon the domestic governance of the respective EU member-states. As opposed to input legitimacy, output legitimacy is particularly significant to assess democracy in the EU institutions, as output legitimacy concerns the substance of policy-making. This is directly relevant to the voting citizen, especially because the original 'EU integration agenda' has gradually become an actual 'EU policy agenda'. If voter's interests and preferences are similar to the contents of the EU policy agenda, I conclude that the existence of a democratic deficit in the EU institutions ought to be severely questioned. Empirically, however, it is challenging to prove the extent to which voter's interests and preferences are reflected on the agenda. With the introduction of the Citizen's Initiative, quantitative data research of how ideas and preferences of EU citizens become policies might become possible.

II

Methodology

In this chapter I expound the research methodology that is at the heart of this thesis. I adopt a mixed-method approach that consists of an empirical data component and a qualitative research component. These components are envisaged to function as complementary in the analysis. The empirical data collection is value-neutral, aimed at delineating the general course of relative political attention over a longer period of time. This helps to disclose the extent to which the relative attention to human rights and the extent to which the politics of attention to human rights has changed between 1992 and 2012. Consequently, the empirical component is devised to identify patterns and trends in the allocation of attention. The qualitative component is concerned with interpreting why and how the politics of attention to human rights has changed, enabling an in-depth understanding of the agenda-setting dynamics within the EU institutions. Moreover, the qualitative component aims at disclosing the extent to which the EU commitment to human rights is carried by policies or by politics. The qualitative research component comprises a critical discourse analysis and a case study, executed on the basis of document analyses and interviews. I will discuss the abovementioned methodology more profoundly in subsequent sections.

1. Quantitative Component

1.1. Empirical Data Collection

This section explicates the empirical component of the thesis. What follows first indicates the relevance and significance of the documents that were selected for the analysis. Secondly, what follows clarifies the coding scales that were devised to execute the data collection. Within the field of domestic agenda-setting, scholars have resorted primarily to mapping and assessing parliamentary questions and so-called ‘executive speeches’, characterized by a substantive function, presenting the policy intentions and priorities of governments for an upcoming year. These speeches are known to affect policy outcomes. Within the field of EU agenda-setting, scholars have focused in particular on the European Commission

COM documents and European parliamentary questions to assess the contents of decision agendas. This thesis maps and assesses the relative attention to human rights and the politics of attention to human rights by examining the contents of the *General Report on the Activities of the European Union* (hereinafter General Report) and the *European Union Annual Report on Human Rights and Democracy in the World* (hereinafter Annual Report). These documents have been selected because they signify the contents of the EU decision agenda and, in consequence, these documents reflect EU politics and the EU policies. An assessment of the General Reports and the Annual Reports between 1992 and 2012 therefore generate insights pertaining to the extent to which the EU policies determine EU politics and, thus, the politics of attention.

1.2. The Relative Attention to Human Rights

In order to disclose the relative attention to human rights allocated by the EU, the prominence of the different EU policy areas is coded on the basis of the contents of the General Reports between 1992 and 2012. I disclose the ‘relative attention’ to human rights issues, because the attention given to one issue on the list of priorities has implications for the attention given to other issues on the list. If we perceive the EU agenda as a cake that should be divided among the different policy areas; the division of the cake into slices reveals the attention allocated to the different policy areas. The volume of the slice to one policy area therefore has implications to the volume of other slices. Hence, mapping the attention to human rights as one policy area in the range of policy areas the EU deals with requires mapping the attention allocated to a selection of different policy areas. Only then we see how the attention among issues and thus to one issue in particular is distributed. In this regard, the General Report is useful to assess the attention to human rights as one issue in the range of issues the EU deals with because the General Report reflects in detail on the main priorities and policy changes, as well as on the main challenges and achievements of the EU during a particular year. The General Report was, following Article 249.2 of the TFEU since 1992 annually published by the European Commission, and presented to the European Parliament. I therefore purport that the General Report represents the output agenda of the EU as a polity.

The EU has identified a number of policy areas. ‘Human rights’ is one of these institutionalized policy areas.²⁵⁸ The policy areas constitute the EU policy agenda, and therefore ultimately determine the contents of the EU output agenda. In order to disclose the relative attention to human rights and eventually the respective discrepancy between and coherence of policies and politics, a coding scheme was developed on the basis of the EU policy fields. The function of a coding scheme is to observe and identify conduct, in this thesis the conduct of allocating attention. The coding of the General Report allows for an

²⁵⁸ Appendix I itemizes the EU policy areas.

assessment of the attention given to every single policy area. The overall outcome of the coding displays the dispersion of attention allocated by the EU. To ensure reliability, the coding was executed twice. Moreover, the coding scale was tailored to the composition of the General Report, which implies that individual chapters are indicative of higher prominence than the individual sections or subsections in the General Report. Even when the contents of chapters are not as substantial as some sections in the reports, the fact that a policy area was allocated an independent policy chapter indicates that it was allocated a prominent place on the agenda. This exposes the politics of allocating attention. A supplementary report, in turn, weighs more than individual chapters. The introductory chapter in the General Report is in this thesis considered as a reflection of EU ‘politics’, rather than of EU ‘policies’ that constitute the contents of the General report. Therefore, the introductory chapter is excluded from the empirical data collection, which will focus solely on the politics behind policies. Instead, the introductory chapters in the General Reports are subjected to a discourse analysis. In addition to disclosing the relative attention to human rights as one among other policy fields, this thesis aims to calculate the ‘interconnectedness’ of the various policy fields. Interconnectedness (IC) is a notion used to explain the extent to which policy areas are interwoven with other areas and functions as a tool to indicate the overall prominence of policy areas on the agenda. Interconnectedness is discussed in more detail in Chapter IV. In consequence, the following coding scale was developed to disclose the relative attention to human rights issues:

Code	Meaning
1	X is the main focus, which means that X features in a supplementary report, published in conjunction with the General Report, or; X has an independent policy chapter in the General Report, and X has at least five subsections in other policy sections, or; X has an independent policy section in the General Report, and X has 10 or more subsections in other policy sections. IC: X is mentioned in more than 30% of relevant and other policy sections.
2	X is prominent, which means that X is an independent policy chapter; X has an independent policy section, and X is has more than two subsections in different policy sections. IC: X is mentioned in 25-30% of relevant and other policy areas.
3	X is average, which means that X is on the agenda, but not prominent: X has a basic mention as an independent policy section or subsection (two or less). IC: X is mentioned in 20-25% of relevant or other policy (sub) sections.
4	X is on the agenda, but the attention is insignificant, meaning that X is not an independent policy section, and X is mentioned in 10-20% of the other policy sections.
5	X is not on the agenda, which means that X is not an independent policy section, and there is no mention of X, or an extremely basic reference to X (0-10%) in relevant or other policy sections.

1.3. The Prominence of Human Rights Issues

The EU Annual Report on Human Rights and Democracy in the World (hereafter Annual Report) was launched first in 1999. Until 2009 the Annual Report was a joint annual publication by the European Commission, the European Presidency, and the European Council Secretariat. Since 2009, publication of the Annual Report falls under the responsibility of the EU External Action Service. This publication reflects the priorities within the human rights policy of the EU as a whole. Assessing the contents of the Annual Report hence discloses the priorities within the EU human rights policy, as well as the prominence of the various human rights issues on the EU agenda. Consequently, the data findings of the coding of the General Report can be compared to the findings of the coding of the Annual Report, allowing for the identification of trends in the attention to specific human rights issues. Whereas the coding of the General Report centralizes EU politics, the coding of the Annual Report focuses directly on policies. The prominence of issues is hence determined on the basis of the extent to which an issue is met with the adoption of concrete legal instruments to implement policy. This provides a clear picture of the extent to which the EU human rights action is a matter of politics or a matter of policies. It should be noted that the

EU discerns two types of human rights action; human rights inside the EU and human rights outside the EU. The EU instruments differ per type of action. The following coding scheme was used to disclose the prominence of the various human rights issues (X) within the EU human rights policy area:

Code	Meaning	Specification Inside EU	Specification Outside EU
1	Very Prominent/Main Focus	Attention to issue X is characterized by the adoption of a directive/regulation/decision (or any other binding exercise of EU competence).	The EU adopts Common Strategies & Joint Actions
2	Prominent	Attention to issue X is characterized by the adoption of resolutions/recommendations/communications (or other non-binding exercise of EU competence).	The EU adopts Common Positions and Démarches
3	Average	Attention to issue X is characterized by an independent section or a subsection in the Annual Report that merely elaborates upon progress made in the policy area. This code also entails Ministerial declarations, general educational or awareness raising activities, and general action plans.	Attention to issue X is characterized by an independent section or subsection in the report.
4	Insignificant	Issue X is mentioned in the Annual Report; in the introduction or in other sections of the Annual Report.	Issue X is mentioned in the Annual Report; in the introduction or in other sections of the Annual Report
5	Not on the agenda	There is no reference at all to issue X in the Annual Report.	There is no reference at all to issue X in the Annual Report

Upon completion of the document analysis, I assess the extent to which the issues on the EU decision agenda as a whole and the EU human rights agenda are similar. For instance, does the attention to policy area ‘public health’ relate to the attention to human rights issue ‘health’?

2. Qualitative Component

The qualitative component of the thesis is needed to understand why and how the relative attention to human rights changed between 1992 and 2012, and to explain why and how the politics of attention to human rights changes in the EU institutions. The chapters are hence divided according to the main questions: the first chapter identifies the extent to which the political attention changed, the second chapter explains why the political attention changed, a third chapter consequently assesses how attention allocation changed, whereas a final chapter tests the theoretical framework and the earlier conclusions on the basis of a single case study; the politics of attention to female genital mutilation. To answer the main research questions the thesis relies on information acquired on the basis of a number of interviews, and on a document analysis, particularly focusing on the pragmatic and semantic aspects of language. In this regard, the thesis adopts a critical discourse analysis to explain why and how the politics of attention to human rights in the EU institutions changed between 1992 and 2012. In subsequent sections I explicate why and how critical discourse analysis is an appropriate method to unravel agenda-setting dynamics in the EU institutions.

2.1. Unraveling Agenda-Setting Dynamics through Critical Discourse Analysis

The qualitative research component rests primarily on a critical discourse analysis (CDA). This is because the politics of attention is a product of discourse. To what extent can CDA unravel the agenda-setting dynamics that are characteristic to the EU institutional arena? What follows constitutes a proposal to adopt CDA as a tool to identify and assess agenda-setting dynamics in the EU institutional arena. Through a discursive analysis we can unravel the politics that is behind agenda-setting. Through the identification of discursive strategies and structures in speech, we can identify a type of ideology, in turn revealing underlying interests. These interests reveal why human rights are on the EU agenda. Moreover, an analysis of the EU speech, assessing how the EU presents itself during the economic and financial crisis, provides useful insights regarding the contents of the EU agenda and the direction of the EU integration process. Applying CDA to understanding the politics of attention and to understanding why issues are on the EU agenda implies an expectation that there are hidden or overt meanings in the EU human rights speech. Adopting CDA moreover suggests the existence of interests behind the employment of a human rights speech. In understanding whether there are hidden interests and to unveil what these interests are, we need to look at what the EU human rights speech entails and at how the EU communicates and uses this speech. Particular focus is on shifts in speech, indicating shifts in ideology, hence interests. By

adopting CDA this thesis seeks to enrich the field of agenda-setting research by expanding the mixed-method approach, common in agenda-setting studies, and by focusing directly on why and how the politics of attention changes.

Scholars of agenda-setting as a component of political science rely heavily on empirical data collection and quantitative analysis. Scholars identify attention patterns on the basis of advanced coding systems. Consequently, they map and assess the policy statements in written texts with the aim of disclosing the concrete attention given to certain issues by political entities. Scholars subsequently seek to explain and interpret the emergence of policy priorities and policy changes. While this methodology bears fruit, CDA complements existing studies by looking beyond the actual emergence of issues; by providing an in-depth analysis of the ‘why’ behind issue salience, of the social, political, and cultural context in which issues emerge, and of the preconditions under which issues have been raised to salience.

After explicating what CDA entails, I indicate why CDA is likely to complement methodologies in agenda-setting, and, secondly, how CDA can be employed to assess agenda-setting dynamics in the EU political arena. In a third section I explain how CDA is able to account for causal relations between issue emergence, while I outline ideas on how the application of CDA contributes to building agenda-setting theory further in a final section.

2.2. Critical Discourse Analysis

Discourse encompasses the set of dominant cultural, political, and social beliefs that determine why and how people discuss the matters they speak about. Therefore, discourse determines what is being discussed, how it is being discussed and in this sense discourse represents ‘the limits of appropriate and acceptable speech’.²⁵⁹ Discourse thus constitutes written or spoken communication or debate. Following discourse analysts, the language employed in communications consequently reflects the social practices dominant in discourse, and language is therefore crucial in understanding discourse. This is because language is thought to serve as a means of legitimizing relations of organized power.²⁶⁰ In the Foucauldian sense, power constitutes and produces knowledge, with knowledge constructing discourse. Discourse is, following Michel Foucault, constructed by actors who have power and who possess mechanisms to

²⁵⁹ This is an interpretation of the Foucauldian concept of discourse by Judith Butler: Judith Butler, *Excitable speech: a politics of the performative* (Routledge New York 1997), 34.

²⁶⁰ R. Wodak and M. Meyer, *Methods of critical discourse analysis* (Sage Publications Ltd 2001), 2.; referring to Jurgen Habermas (1977).

communicate the knowledge that was created by the powerful.²⁶¹ Knowledge is thus constructed or framed, and it functions as a mechanism of the powerful to control the non-powerful. ‘Appropriate and acceptable speech’ thus refers to the knowledge that was brought forward by power. The power, in turn, is shaped by existing social practices and relations, hence by political practices and relations. The limits of acceptable speech are determined by the most powerful that impose meaning on others. Discourse is therefore historically determined and socially constructed, and the analysis of discourse hence reveals the social reality or *Zeitgeist* of a particular period. The study of discourse is consequently concerned with analyzing collective meaning systems.

CDA, to be interpreted as a perspective within the study of discourse, rather than as a model or a paradigm, focuses on language as a social practice, and CDA underscores the social context of language as paramount to understanding discourse. Language is thus used to account for and explain social processes and to understand the social, economic, cultural, political, and psychological structures and contexts in which the users of language operate. In this paper, the agenda-setting process is the (social) process that is subjected to analysis. Furthermore, and the emphasis on causality is important when seeking to apply CDA to agenda-setting, CDA attempts to explore “relationships of causality and determination between (a) discursive practices, events, and texts, and (b) wider social and cultural structures, relations and processes; to investigate how such practices, events and texts arise out of and are ideologically shaped by relations of power and struggles over power; and to explore how the opacity of these relationships between discourse and society is itself a factor securing power and hegemony”.²⁶² Notably, CDA aims to, through language, discover transparent, as well as opaque structural relationships of power and control.²⁶³ Norman Fairclough was the driving force behind the development of CDA. He identified three dimensions on the basis of which CDA can be executed; discourse as a linguistic practice, discourse as a discursive practice, and discourse as a social practice.²⁶⁴ How this applies to agenda-setting is subject of section three. It should be noted that discourse analyses are particularly useful for longitudinal studies, identifying trends and patterns, as well as changes, over a longer period of time. In this regard, CDA meets the scope of agenda-setting research projects. When proposing to adopt CDA as a means to unravel agenda-setting dynamics, we purport that discourse is constitutive of policy agendas. Consequently, in order to understand how CDA can help to understand agenda-setting dynamics we need

²⁶¹ S. Jäger, “Discourse and knowledge: Theoretical and methodological aspects of a critical discourse and dispositive analysis” in: R. Wodak and M. Meyer, *Methods of critical discourse analysis* (Sage Publications Ltd 2001), 32-62.

²⁶² N. Fairclough, “Critical discourse analysis and the marketization of public discourse: the universities”, *Discourse society* 4 (1993), 133-168, pp.135.

²⁶³ *Ibid.*

²⁶⁴ J. Blommaert en C. Bulcaen, “Critical discourse analysis”, *Annual review of anthropology* 29 (2000), 447-466, pp. 448.

to answer the following question: why and how does discourse constitute policy agendas and how can we identify underlying dynamics? I will answer this question in the next section.

2.3. Discourse analysis in European studies

The reason for neglecting discourse analysis as a tool in agenda-setting studies is unclear. A possible explanation is that paradigms have proven unreliable and non-conclusive, or that scholars in the political and social sciences may fear, as Teun van Dijk purports, that CDA would imply ‘reduction’ of their field.²⁶⁵ Notwithstanding the risks of a non-conclusive analysis, CDA provides new insights into the underlying dynamics of attention patterns. Hence, CDA should not replace, but complement the existing mixed-method approach that is state of the art in agenda-setting studies. What follows briefly explains why discourse seems particularly appropriate for understanding European Union politics.

The EU is a political entity with certain powers, and as a political entity the EU produces policies and politics. I characterize EU politics and policies as ‘knowledge’. The EU communicates the knowledge produced by its politics and policies to the European citizens and to the outside world. Discourse determines the context in which European policy-makers do this, just as policies affect politics and politics influences policies. The EU was originally founded in response to the atrocities of the Second World War and it is often defined as a community of values, particularly seeking to convey a clear message, set by discourse, regarding fundamental rights, democracy and the rule of law. Agenda-setters do not operate in isolation from this context. On the contrary, their actions are determined by a set of cultural, social, and psychological frameworks that are constitutive of the EU institutional arena. These frameworks indicate the conditions of power politics and *Zeitgeist*. Moreover, these frameworks constitute the reasons for including or excluding issues on the EU agenda. Discourse determines what political actors talk about and, by definition; discourse is the reason why issues emerge on the EU agenda. The list of topics to which EU officials pay attention is a type of written speech that allows for the identification of discourse. In a similar vein, the identification of discourse through agendas helps us to understand why the list of topics comprises precisely those topics on the list.

The EU power politics is frequently characterized, by academics and politicians alike, as ‘normative’ or ‘soft’ as opposed to ‘hard’. On the other hand, some political actors within the EU institutional arena have stated that the EU speech is at times strikingly similar to the vocabulary that was employed by the leaders of the former Soviet Union; comparing, for instance, the ‘irrevocability of

²⁶⁵ T.A. van Dijk, “What is political discourse analysis”, in: J. Blommaert en C. Bulcaen eds., *Political linguistics* (John Benjamins Publishing Company 1997), 11-52, pp. 12.

socialism' to the 'irrevocability of the euro'.²⁶⁶ This type of language provides useful insights regarding the 'limits of acceptable speech' within the EU institutional arena, as well as insights regarding how the EU attempts to consolidate and legitimize power, and how the EU constructs knowledge. This warrants further analysis. Discourse analysis has been used within EU studies, focusing on how the EU creates and uses discourse, often specified per policy field. Vivian A. Schmidt and Claudio M. Radaelli in particular have discussed discourse in an attempt to understanding EU policy change. Moreover, Kennet Lynggaard has explored the possibility of adopting discourse analysis to assess the implications of European integration and Europeanization on decision-making at the member-state level.

2.4. Why Agenda Dynamics through Discourse?

In order to be relevant as a methodology in agenda-setting studies, CDA ought to be able to provide answers to the most important questions within the field; why and how do issues emerge at a particular time and place? Reversely, agenda-setting as a subject of analysis needs to fit within the remit of CDA as a methodology. I state that there is a match between the field and the methodology because of several factors. The first reason is related to the notion of power, the second to agenda-setting strategies, and a third reason touches upon the interrelation of discourse, politics, and policies.

Politics, Power and Agenda-Control

Politics embodies the distribution, negotiation, and allocation of power. Hence, also the politics of attention is about power. Power is prominent in both CDA and in agenda-setting as a social or political practice. If we understand politics as a struggle for power and a struggle for the domination of particular political, economic, and social perceptions, agenda-setting implies a similar struggle. In this struggle we must accept language as a tool for understanding political action. This is because political action is embodied by language.

'Power' accounts for the reason why issues emerge on agendas while other issues fail to do so or, at least, power accounts for the reason why agenda-setters wish to alter the status-quo of certain issues. In behavioral economic terms, agenda-setting may be described as a process of utility-maximization. First, with regards to agenda-setting in political arena's, power is related to accomplishing 'agenda-success' and to controlling the contents of policy agenda. Agenda-success refers to the arrival of one particular issue onto the political agenda. Agenda-success differs per agenda, per institutional arena and per context, as well as per agenda-setter. Obtaining agenda-success generates political influence, or at least certain

²⁶⁶ Derk-Jan Eppink, "Ongelovige onder de verstokte eurofielen; op pad met europarlementariër Derk Jan Eppink", *Elsevier* 68 (December 2012), view: <http://www.djeppink.eu/nl/blog/ongelovige-onder-de-verstokte-eurofielen-op-pad-met-europarlementari%C3%ABr-derk-jan-eppink> (accessed 1 November 2013).

benefits to agenda-setters. Within the EU institutional arena policy-makers seek to exert some degree of political power and to this end they wish to set the agenda, or at least seek to change the status quo of an issue, inspired by a number of possible events or actors moving around in the institutional arena. As I explained previously, agenda-success leads to control over policy structures. It is the task of the discourse analyst to, on the basis of the text produced and distributed by the political entity, identify these policy structures and to subsequently unravel what dynamics are underlying existing or changing policy priorities.

Discourse analysts interpret language as a signifier of (political) power. When assessing texts, produced by a particular political entity, the use of language employed in a text reveals indicators of the power of the political entity, as well as of power surrounding particular issues. The language adopted in a text reveals how powerful the political entity is, how the political entity seeks to manifest itself and, more importantly in agenda-setting, how powerful the entity is with regards to a particular issue. Does the EU primarily employ language of ‘soft’ power, or are does language also give hard politics signals? Analyzing language thus is an assessment of power, but also an assessment of (social) context. If agenda-setting is used to beget power, either by one actor within the EU or by the EU as a whole, CDA exposes the context in which this happens, first by indicating how and why issues fit within power politics, hence why and how issues land onto the agenda.

Issues, Conflicts, and Crises

The presence of issues in itself reveals discourse. As Sebastiaan Princen explains: ‘the range of issues the EU deals with equates the European integration process’, and this tells us something about the state of the EU and how the EU deals with issues.²⁶⁷ The issues that constitute policy agendas reveal something of the “nature of the beast” and how far the EU reaches. In a similar vein, the language employed in written communications reveals politics behind the issues on the agenda, and behind why some issues are prioritized over other issues, in turn providing more information on the ‘beast’. I argue, therefore, that this range of issues simultaneously reveals the ‘limits of acceptable speech’. This is particularly important as the EU does not deal with all issues, especially due to the principle of subsidiarity. Whenever issues emerge for the first time or when issues are evolving into policy areas, CDA engenders insights as to why the issue emerged at that particular time, as well as to what the conditions are under which the issue is being discussed. However, even when dealing with well-established policy areas CDA is helpful to assess how and why a well-established issue suddenly gains increased attention

The emergence of an issue that once was merely a topic implies the existence of debates or policy problems. In existing literature on political agenda-setting, as was already explained in the previous

²⁶⁷ Princen, *Agenda-setting in the European Union*, 5.

chapter, authors often postulate that issues and policy problems are intertwined with conflicts. Scholars argue that topics only become political issues when political actors disagree on the matter.²⁶⁸ A conflict surrounding an issue thus leads to increased attention. Conflicts revolve around problems, or perceptions of problems, and these conflicts reflect the discourse in which agenda-setters function. Agenda-success largely depends on whether or not the problem can be matched to a solution.²⁶⁹ CDA then reveals information about the choice for an acceptable and appropriate course of action, among the available options, to addressing a problem. CDA is particularly helpful to comprehend whether or not courses of action change over years, how policy makers decide on this, and what they consider appropriate solutions at a particular time. Policy makers are accountable and, depending on the politics of attention, they are likely to emphasize relevance and legitimation of the course of action. Solutions are hence indicative of context and discourse, because discourse is constitutive of social practice and structures. Discourse is constitutive of the practice of choosing to pay attention to an issue and the practice of choosing appropriate and relevant solutions to an emerging policy problem. Assessing how issues, problems, and solutions are framed on the basis of CDA is therefore useful. CDA could capture the way the political entity wishes to talk about an issue: how the issue is framed and how and why the issue or problem is linked to other issues. When agenda-setters aim for agenda-success, framing issues in a certain way, using discourse, is crucial. Discourse is often, though unknowingly, strategically used or possibly deliberately scrutinized to generate attention. Next to the framing of issues, the framing of policy solutions is likely to be equally helpful in assessing discourse and the politics of attention, as policy solutions are likely to provide an understanding of the primary sources of problems that need to be addressed by the solution.

Additionally, crises of many kinds are so-called focusing events that affect politics and the politics of attention. Crises set the agenda by determining what policy makers discuss. It should be noted, however, that it is not merely the occurring of a crisis that sets the agenda. It is often the way in which crises are interpreted, and subsequently framed, that defines the way an agenda is set. Interpretations hence characterize the politics of attention, and interpretations thus influence the way the political entity communicates knowledge, the interpretation, of the crisis. How a crisis is being framed within a particular context may therefore be of more significance than the actual emergence of an issue or a crisis. In a similar vein, as has been exposed by the EU performance in times of crises, particularly during the outbreak of the Arab Spring in 2011, crises warrant leadership, or display a lack of leadership. Leadership, strongly linked to power, reflects discourse, and this affects politics and the politics of attention. CDA is a useful tool to get to the bottom of how leadership influences the politics of attention. On the other hand,

²⁶⁸ Roger W. Cobb and Charles D. Elder, *Participation in American politics: the dynamics of agenda building* (Boston 1972), 103.

²⁶⁹ J. Jerit, "Issue framing and engagement: Rhetorical strategy in public policy debates", *Political behavior* 30 (2008), 1-24, pp. 2. And: Lynggaard, "Discursive institutional analytical strategies", 91.

one focusing event or crisis is not always enough to bring about a dramatic change in policy priorities. The transformation from issues to well-established or even evolving policy areas is sometimes a process of years with issues gradually entering the institutional arena and slowly gaining significance through the brokering of coalitions and internal lobbying. Also the dynamics underlying the career of issues can more easily be identified through CDA, rather than through coding sheer output agendas. Especially when using CDA to interpret the context and framing of issues in written and oral communications, it is possible to identify the reasons for issue inclusion.

Policies and Politics

There is another reason why CDA is helpful to studying agenda-setting. As explicated above, CDA can be used to identify political priorities and policy changes within a certain context, but CDA additionally discloses the conditions under which issues have translated into policies and how this has happened. This allows for a diachronic comparison and analysis, providing new information about attention patterns and agenda-setting dynamics. CDA discerns the way in which a written communication merely constitutes politics (of attention) from the way in which issues also translate into policies. Under what circumstances do issues transform into policy areas? This is important information to agenda-setters, seeking to alter the status-quo of an issue or even the rules of the game. How policy is linguistically formulated, moreover, indicates politically acceptable solutions to policy problems, which indicate the limits of acceptable speech and provides insights into the why and how issues gain attention by policy makers. Rather than analyzing and assessing the policy statements discursively, scholars working in the field of agenda-setting pay attention, empirically, to the actual issues and policy statements on the output agenda of the political entity. However, as indicated in earlier chapters, policies influence politics, and policies thus influence the politics of attention. The assessment of policies and policy statements in a discursive manner, therefore, helps to identify agenda-setting dynamics. This is why CDA goes beyond existing methods; CDA allows for an assessment of policies, as opposed to the assessment of merely output agendas, without shifting the focus away from agenda-setting, which is often a danger when studying agenda-setting. It must be noted, however, that the dynamics surrounding an issue or policy do not necessarily reveal general agenda-setting dynamics. Hence, there is a danger of generalizing research findings, based on individual issues. Issues therefore require an independent discursive paradigm.

2.5. CDA to unravel Agenda-Setting Dynamics

Unraveling agenda-setting dynamics is a complicated endeavor. Agenda-setting is characterized by top-

down- and bottom-up dynamics and there is an innumerable amount of variables that could possibly affect the list of priorities to which EU government officials pay serious attention. It is, moreover, never entirely clear where issues come from, which makes it even more complicated to get to the bottom of why and how issues emerge at certain times and places. How could CDA help to unravel and assess the variables that account for issue emergence? In what follows I explain how we can go about adopting CDA in agenda-setting studies, and how CDA accounts for causal relationships. Hence, the focus is on the relation between issue emergence and the system of meanings, focusing events and other situations and events. Moreover, I will elaborate on how the application of CDA further advances theory-development in agenda-setting studies.

Discourse can most effectively be identified and assessed on the basis of a document analysis. Document analysis allows for a longitudinal approach, required by both agenda-setting and discourse studies, and this paves the way for the identification of preferences and ideas, issues, (perceptions of) problems, and the framing of these, sources of problems, problems and framing, policy fields, policy formation, as well as causal relations over a longer period of time. On the basis of a longitudinal document analysis we are also able to map patterns of agenda attention, as well as to map evolving discursive concepts underlying patterns and variables.

In order to identify agenda-setting dynamics in the EU institutional arena on the basis of CDA, paradigms should be developed. It should be noted that, although it is possible to make at least a few generalizations as to why and how issues manage to get on the agenda, every issue is different and every issue requires to some extent an independent paradigm. In providing a basic idea of what a paradigm should entail, and of how to use one to better understand agenda-setting and the politics of attention, I adopt Norman Fairclough's three-dimensional framework of CDA.²⁷⁰ This framework is based, firstly, on the assessment of linguistic features in communications, secondly on the assessment of discursive practice, and thirdly on an assessment of discourse as a social practice.

First, Fairclough addresses the descriptive component of CDA. He purports that language employed in a communication reveals the discourse that is characteristic to a particular political entity. When performing a longitudinal analysis of, for instance, the EU Annual Report on Human Rights, it is possible to diachronically identify a certain group of words and concepts, related to topics and issues, that characterize discourse and the politics of attention in the EU institutional arena. I expect that human rights is a particularly rewarding subject for explaining how CDA can be applied to EU agenda-setting studies. Especially in the EU political arena, human rights play a prominent and normative, yet controversial role. A linguistic analysis as part of CDA helps to understand how and why human rights are

²⁷⁰ Norman Fairclough, *Language and power* (Longman Group UK Limited 1989).

on the EU agenda at all. Assessing the choice of words and metaphors in communications, as well as grammatical considerations of the EU as text producer, but also linguistic modality and transitivity, text cohesion and structure, allows us to determine and classify the conditions under which and the reasons why human rights are on the agenda. At least, CDA here shows how issues and policies are framed within the ‘limits of acceptable speech’, and how we can characterize the politics of attention and changes in the politics of attention over a longer period of time. In addition, as previously indicated, discursive constructs are employed by agenda-setters to generate attention. A linguistic analysis therefore helps to recognize the strategies used by agenda-setters.

The second phase is the interpretative phase of CDA. Fairclough’s framework recommends analyzing discourse as a discursive practice. Fairclough means that discourse does not merely represent the limits of acceptable speech, but that discourse simultaneously signifies an act. Therefore, discourse should be perceived as something that is produced, circulated, distributed, and consumed in society.²⁷¹ In this regard, Fairclough refers to the necessity of placing the communication in its context through assessing inter-textuality and text coherence, as well as through identifying ‘speech acts’.²⁷² The concept of ‘speech acts’, meaning acts performed through speech, was developed by John Searle and J.L. Austin.²⁷³ Searle and Austin focused on examining politics *through* discourse, instead of examining the politics *of* discourse, acknowledging that discourse is more than sheer representation.²⁷⁴ It can even be argued that European integration can be understood as a chain of speech acts, as a process of translating concerns into policies through speech acts.²⁷⁵ This process is notably similar to the process of decision-making that started with agenda-setting, meaning that this chain of speech acts is initiated and further developed through agenda-setting endeavors. Consequently, through mapping and analyzing speech acts it is possible to determine the impact of speech acts on discourse and on the politics of attention. Austin and Searle did acknowledge that language serves political purposes, and that discourse therefore does not always reflect reality as such.²⁷⁶ It is often rhetoric, a political tool that exposes that power is indeed vested in discourse.²⁷⁷ Thomas Diez refers to Austin who distinguished ‘performative’ or ‘illocutionary’ sentences from ‘constative’ or ‘locutionary’ acts. The former means that the act of speaking signifies doing something simultaneously, whereas the latter merely entails the act of speaking itself.²⁷⁸ Through

²⁷¹ J. Blommaert and C. Bulcaen, “Critical discourse analysis”, *Annual review of anthropology* 29 (2000), 447-466, pp. 448.

²⁷² Blommaert and Bulcaen, “Critical discourse analysis”, .448-9.

²⁷³ T. Diez, “Speaking ‘Europe’: the politics of integration discourse” in: T. Christiansen, K.E. Jorgensen, and A. Wiener ed., *The social construction of Europe* (Sage Publications 2001), 87.

²⁷⁴ *Ibid.*, 88.

²⁷⁵ *Ibid.*

²⁷⁶ *Ibid.*

²⁷⁷ *Ibid.*, 90.

²⁷⁸ *Ibid.*, 87.

CDA we could detect respectively performative sentences and constative acts as a means of assessing whether the document is more about politics or about policies. Does the EU create and adopt concrete action plans and policies or does it merely produce knowledge? However, to some extent politics and policies are intertwined.

Lastly, in the explanatory phase of CDA Fairclough emphasizes discourse as a social practice, stressing that language is a socially conditioned process, with an internal and dialectic relationship with society, and that discourse is therefore determined by social context.²⁷⁹ In other words, discourse is a process of social interaction, of which an oral or written communication is a part.²⁸⁰ Assessing intertextuality is important in this regard. People's preferences and ideas cannot always be specified, but as Fairclough argues, cognitive features have social origins, as these features depend on social relations and struggles out of which they were generated, transmitted, and consequently unequally distributed. Moreover, "people internalize what is socially produced and made available to them and they use this (...) to engage in their social practice, including discourse".²⁸¹ I perceive the politics of attention, like discourse, as a process of social interaction and as a struggle for issue dominance. Consequently, if we consider discourse as closely associated to power and knowledge, and subsequent social processes, discourse exposes ideology and features of hegemony.²⁸² This is important to agenda-setting actors. The leader, the hegemon, determines what is being discussed and how, and what does or does not fit within the dominant ideology. As Jan Blommaert and Chris Bulcaen explain; "Hegemony concerns power that is achieved through alliances and integrating classes and groups through consent, so that 'the articulation and re-articulation of orders of discourse is correspondingly one stake in a hegemonic struggle'".²⁸³ In this thesis, the EU is the hegemon, operating on the basis of an ideology that allows for issue inclusion or issue exclusion. Furthermore, this struggle can be understood as the struggle for issue dominance. Hegemony in agenda-setting implies the control over the agenda, hence control what is being discussed and how. Moreover, hegemony is indicative of the force that controls participation surrounding an issue. Discourse reveals hegemonic changes, leading to changes in discourse, which in turn helps us to understand policy changes and the context in which this occurs. In that sense, therefore, I apply Fairclough's third dimension to studying agenda's. In the next paragraph I touch upon causality claims and upon how we can draw conclusions on the basis of the findings from document analysis through CDA.

²⁷⁹ N. Fairclough, *Language and power* (Longman Group UK Limited 1989), 22-3.

²⁸⁰ *Ibid.*, 24.

²⁸¹ *Ibid.*, 24.

²⁸² Blommaert and Bulcaen, "Critical discourse analysis", .448-9

²⁸³ Blommaert and Bulcaen referring to Fairclough: Blommaert and Bulcaen, "Critical discourse analysis", 449.

Causality in Agenda-Setting

One of the main challenges of applying CDA to agenda-setting studies pertains to the concerns over causality and the extent to which we can make claims of causality; when to conclude on valid and accurate indications of cause and effect between issue emergence and variables accounting for issue emergence. One of the main objectives of CDA is to explore causal relationships and determination between discursive practices, events, texts and the social and cultural relations surrounding the practices. Hence, if we perceive the agenda-setting phase as a social process and as a struggle for power or as a struggle for the dominance of issues, CDA could, through assessing the discursive constructs and social and cultural context in which this struggle takes place, explore causal relationships between issue emergence and the underlying dynamics. As context and discourse are at the heart of why and how issues emerge, providing the social conditions constituting discourse, CDA is indeed able to identify and assess the variables accounting for issue emergence. Moreover, through exploring discursive constructs and understanding discourse at a particular time, we will also gain an understanding of what characterizes the politics of attention. Consequently, on the basis of this characterization, we can identify variables that possibly account for and influence discourse and the politics of attention. An assessment of discourse and the politics of attention at different times exposes differences among these. This unveils fluctuations in the limits of acceptable speech, and, in the case of the EU, the limits of the span of the EU attention, which helps to understand what type of issues emerge at different times.

When seeking to make claims of causality through CDA, we may, following Kennet Lynggaard, discern discourse as an explanatory variable shaping actor's preferences and behavior, discourse as a strategic context through which developments and events are organized and comprehended, and discourse as a strategic choice, meaning that discourse itself is used as a strategy to maintain or change the status quo.²⁸⁴ If this latter is the case, claims Lynggaard, discursive change in itself indicates a moment of decision-making because a discursive change constitutes a strategic choice of action.²⁸⁵ Agenda-setting occurs before decision-making. If we can trace back instances of decision-making, through CDA we should be able to identify some of the underlying (agenda-setting) dynamics. As Lynggaard explains: "The causality at play here seems to be one between discourse as process and discursive change as an instance. That is, developments and shifts in conceptions about the implications of European integration among a set of agents over a period of time amounts to a change in discourse at a given point in time."²⁸⁶ Hence, I argue that policies or issue inclusion construe instances within the wider agenda-setting process or within politics (of attention).

²⁸⁴ Lynggaard, "Discursive institutional analytical strategies", 92-93.

²⁸⁵ Lynggaard, "Discursive institutional analytical strategies", 93.

²⁸⁶ *Ibid.*, 93-4.

While Lynggaard seeks to explain discourse in Europeanization and domestic contexts, his propositions may be valid for agenda-setting processes. First, agenda-setting is a precondition for decision-making, and, moreover, a process that embodies a chain of strategic choices to achieve agenda-success. This process is also constructed by discursive conceptions. Changes in these conceptions are therefore likely to change the agenda-setting process; hence the contents of the list of priorities to which EU government officials pay serious attention. Secondly, Europeanization is a form of agenda-setting, or at least a dynamic that contributes to the formation of policy agendas at the domestic level. Furthermore, Europeanization also sets the agenda in the other direction. Domestic issues may be taken to the EU level, leading to a boomerang effect; domestic issues are taken to the EU level and in the course of EU policy-making the issues is addressed again at the national level. This is related to discourse, as the EU level at times offers a more ‘appropriate’ level to deal with certain issues due to the European discourse that may diverge from the discourse in a particular domestic political arena. CDA is then helpful to identify and assess variables that account for how and why European discourse affects the domestic political discourses of the EU member states. Consequently, this helps to comprehend the impact of European discourse on domestic agenda-setting and policy-formulation. Reversely, domestic priorities and discourse affect agenda-setting at the EU level. CDA on the basis of a document analysis could thus indicate variables to explain where issues come from and why. Discourse can thus be adopted as both an independent and a dependent variable. This is particularly useful when focusing on the politics of attention; how the discourse within the politics of attention leads to policy-making and, reversely, how policies affect politics and discourse.

2.6. Contributions to Agenda-Setting Theory

The application of CDA to agenda-setting studies advances agenda-setting theory. CDA can contribute to agenda-setting theory by centralizing discourse and context, hence by highlighting a different type of dynamic that accounts for why and how issues emerge at certain times and places. In this regard, CDA is likely to expose conditions under which issues are discussed and, moreover, CDA is likely to reveal why particular issues are on the EU agenda in the first place. Moreover, the emphasis on power relations unveils some of the institutional frictions with which agenda-setters see themselves confronted. I will explicate this further in what follows.

First, CDA exposes new agenda-setting dynamics by emphasizing discourse as an additional agenda-setting dynamic. Existing studies in the field of agenda-setting focus on assessing output agendas. On the basis of the conclusions of the empirical data analysis, on the basis of mapping of attention to

issues on the agenda, scholars search for attention patterns and for events that may account for the issue being on the agenda. Reversely, the approach proposed in the present thesis, based on CDA, transforms the research order by centralizing context and discourse. From context and discourse we can retrieve the range of issues the EU deals with, why it deals with these issues, and how they have emerged within the context. In addition, this allows for an actual characterization of the politics of attention. The emphasis on context helps to mitigate the danger of making too many generalizations in theory. This is particularly important because context differs per issue, but depends upon issues at the same time. If it is possible to typify discourses, it is possible to sketch context, and therefore to identify the dynamics and conditions under which certain issues emerge.

Secondly, another opportunity that arises with the application of CDA to agenda-setting studies is that CDA possibly allows for the assessment of opaque relationships that underlie agenda-setting dynamics. An emphasis on underlying power relations engenders more information on the institutional context at certain times, how this changes, and how the institutional context affects policies and politics. One of the main challenges of studying agenda-setting processes is the lack of transparency and the informality that characterize the process. Deliberations, the weighing of options regarding courses of action, and the brokering of alliances and agreements occur behind closed doors, making it practically impossible to capture the entire process. CDA offers a way to assess some of these underlying dynamics that cannot be identified, mapped or analyzed on the basis of sheer empirical data collection. This is especially so because discourse reveals power and power relations, particularly through the knowledge produced by the powerful entity. Discourse therefore exposes frictions that are the result of the power struggle, or the struggle for the dominance of issues. This, in turn, provides useful information regarding agenda-setting actors. In a similar vein, Kennet Lynggaard points to discursive agency and the creation of policy structures: “Through CDA it is possible to register ‘first-movers’ on the use of specific policy perceptions, including the use of conceptions first articulated at the EU-level and then carried into a national context.”²⁸⁷

Lastly, CDA allows for an approach within agenda-setting studies that includes policies as such. On the basis of a discursive analysis of policies, we can grasp how policies influence politics, hence the politics of attention. This, in turn, helps to gain a more profound understanding of the dynamics that account for issue emergence.

²⁸⁷ Lynggaard, “Discursive institutional analytical strategies”, 91.

2.7. Single Case Study

The last component of this thesis' methodology concerns a single case study. A single case study is useful to examine the extent to which agenda-setting theory and the conclusions of the qualitative analysis are applicable to individual human rights issues. Through assessing the politics of attention to female genital mutilation (FGM) as an internal EU affair we could expose how and why the politics of attention changes. It is crucial to emphasize that, on the basis of this one case study, generalizations or blue prints cannot be made. Nevertheless, tracing the process of agenda-setting of FGM can test and even challenge existing agenda-setting theory and possibly provide additional variables to the theory, as well as agendas for future research and discussions.

Female genital mutilation as an issue was selected because it is a 'new issue' in EU politics and which is an example of 'successful agenda-setting', because the issue has reached the agenda of policy-makers. It is an issue that does not have any origins in the member states of the EU or in the wider European context. Moreover, FGM falls within the remit of health and justice policies, which implies that the issue is primarily a domestic affair of EU member states. Nevertheless, FGM has come under the attention of EU policy makers in the 1990's. It is therefore relevant to assess why and how the EU is considered an appropriate actor to deal with FGM. On the basis of a document analysis and interviews with experts on FGM, the case study aims to assess how and why the issue of FGM as an internal EU affair has come to the attention of EU politics.

The last two chapters identified the scope of the analysis at the heart of the present thesis. The following chapter permeates an account of why agenda-setting should constitute a part of an empirical theory of democracy. The emphasis is on the role of agenda-setting in the EU compound democracy. Consequently, in Chapter IV I map the extent to which the relative attention to human rights in the EU institutions has changed between 1992 and 2012 and the extent to which the politics of attention to human rights in 2012 differs from the politics of attention to human rights in 1992. Chapter IV and V respectively explain why and how the EU allocated attention to human rights between 1992 and 2012, followed by an analysis of the politics of attention to FGM in Chapter VI.

III

Identifying Attention Patterns and Change

In this chapter I assess the extent to which the politics of attention to ‘human rights’ as a policy field in the EU institutions has changed between 1992 and 2012.²⁸⁸ The emphasis is on the identification of attention patterns and moments of change, rather than on an explanation of patterns of change. In subsequent chapters I expound the reasons why and the way in which the politics of attention to human rights has changed or has not changed at all between 1992 and 2012. Assessing the extent to which the politics of attention has changed between 1992 and 2012 requires first the mapping of the relative attention allocated to human rights on the EU agenda. The relative attention indicates the attention to human rights as one among the various other policy fields on the EU agenda. Mapping the relative attention to human rights allows for the identification of a pattern of attention over twenty years. On the basis of this diachronic view it is consequently possible to identify moments that constitute a change or a ‘turning point’ in the allocation of attention. Furthermore, I present an overall picture of the relative attention allocated to the different human rights issues on the EU agenda. By mapping the contents of the EU human rights agenda over twenty years, I examine whether and in what way the number and type of issues on the EU agenda has changed, diversified, or even abated.

This chapter consists of three parts. The first part comprises a description of the results of the empirical data collection, mapping the relative attention to human rights. At the heart of part two is the identification of the relative attention to the various human rights issues on the EU agenda. In consequence, I assess whether or not the politics of attention to human rights has changed between 1992 and 2012 in the third part. Changes in the politics of attention will be detected on the basis of an analysis and comparison of various documents, including the Treaties on the European Union, a critical discourse analysis of the General Reports on the Activities of the European Union, the EU Annual Reports on Human Rights and Democracy in the World, the annual State of the Union, as well as speeches by EU

²⁸⁸ ‘Human rights’ in this thesis is adopted as the name to refer to the fundamental freedoms and fundamental rights identified in the Charter of Fundamental Rights of the European Union. Prior to the endorsement of the 2009 Lisbon Treaty, the EU referred to “human rights” as an independent policy area. Since 2009 human rights merged with Justice and European Citizenship under the Directorate General of Justice, Fundamental Rights, and Citizenship.

officials.²⁸⁹ This analysis helps to gain an understanding of the way in which the EU allocates attention to human rights; does the EU allocate attention through policies or merely through politics? In other words, does attention translate into concrete output or is the attention embodied by the use of political tools only?

I The Relative Attention to Human Rights

3.1. One among Many: Human Rights on the EU Agenda Since 1992

In this section I describe the political attention to human rights on the EU agenda from 1992 until 2012. It should be noted that the political attention to human rights implies the relative attention to human rights. This is because the allocation of attention to one policy field is always dependent upon the attention given to other policy fields. Human rights constitutes one policy field among several other policy fields on the EU agenda, and the prominence of human rights on the EU agenda can only be understood through analyzing the attention to human rights in comparison to the attention granted to the other issues on the agenda. Therefore, I also elaborate upon similarities and discrepancies between the relative attention to human rights and the relative attention to other policy fields. The empirical data, gathered from the General Report, on the basis of which the relative attention is disclosed, reflect the politics of the EU, rather than that the data reflect the EU policies. The choice of allocating attention to certain issues indicates a political choice. Moreover, the choice of raising a policy field or issue to salience does not automatically imply the existence of a policy to address that particular issue or policy field.

Overall Attention Pattern

Figure 1 displays the prominence of human rights in relation to the other EU policy fields on the EU agenda between 1992 and 2012. The chart is based on the empirical data that was gathered through coding the prominence of policy fields in the General Report, published annually since 1992.

²⁸⁹ The General Report has been annually published since 1992. Publication of the General Report is an official obligation under the Treaty on the European Union: Article 156 of the EC Treaty, Article 17 of the ECSC Treaty and Article 125 of the EAEC Treaty.

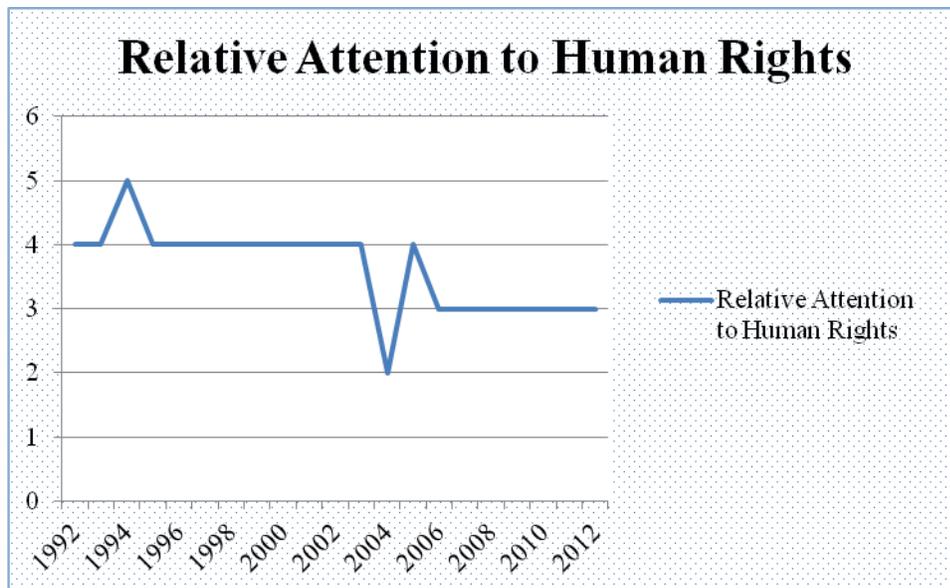


Figure 1. The relative attention to human rights between 1992 and 2012.

The X-axis indicates the years from 1992 until 2012, while the Y-axis indicates the prominence of human rights issue on the EU agenda. Prominence ranges from five to one, with five indicating that the issue is very prominent. Four means that the issue is prominent, and three indicates that the issue receives average attention. Two reveals that the issue is not prominently present on the agenda, and one indicates that the issue is not on the agenda at all.²⁹⁰

Figure 1 exposes that the relative attention to human rights on the EU agenda between 1992 and 2012 has not remained constant.²⁹¹ Relative attention increases in 1994, to decrease again in 1995 to the level of attention allocated in 1992. The relative attention then remains constant until 2004 when the relative attention decreases significantly. In 2005 the relative attention increases significantly, and then decreases again in 2006. From 2007 onwards, the relative attention to human rights on the EU agenda remains ‘average’. Overall, the relative attention to human rights on the EU agenda has changed from ‘prominent’ in 1992 to ‘average’ in 2012. In subsequent chapters I identify and explain the reasons for the changes in the relative attention allocated to human rights. Figure 2 shows that five other policy areas reveal a similar overall attention pattern: employment & social affairs, energy, environment, institutional affairs, and research & innovation were prominent in 1992 and were granted average attention in 2012.

²⁹⁰ A more detailed definition and explanation of the different codes can be found in Chapter II on Methodology. A list of coded policy fields can be found in Appendix I.

²⁹¹ An overview of the prominence of all the coded policy fields can be found in Appendix II.

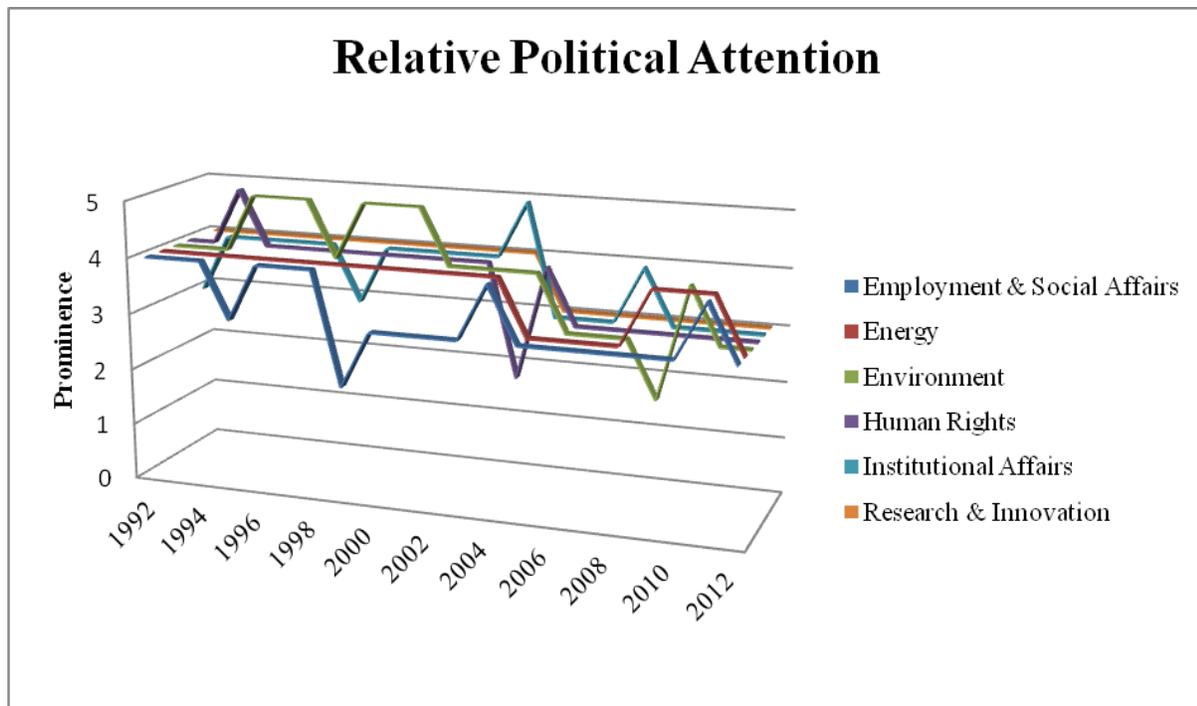


Figure 2. Graph revealing the policy areas that were ‘prominent’ in 1992 and ‘average’ in 2012.

Notwithstanding that the overall prominence of the abovementioned policy fields decreases from ‘prominent’ in 1992 to ‘average’ in 2012, figure 2 additionally indicates that the attention patterns of the different policy fields diverge significantly. This implies that we cannot assume a relation between the relative prominence of human rights and the prominence of these other five policy fields. An overall similar trend does not automatically lead to a similar pattern of attention. While human rights and research & innovation remain constant after 2006, employment & social affairs, energy, environment, and institutional affairs not only show fluctuations in the pattern of attention; the chart reveals a trend of decreasing attention after 2010. As figure 2 displays, all five policy fields are granted average attention from 2006 until 2008, with only institutional affairs showing an increase to prominence in 2008. Notably, with the exception of only five policy fields out of thirty five policy fields, the empirical data collection reveals that all policy fields receive average attention in 2006 and 2007. There has been a trend of allocating average attention to most of the policy fields since 2006. The attention pattern of human rights thus fits into the overall trend.

Specific Changes

The previous section exposed the overall pattern of relative attention to human rights on the EU agenda, disclosing the absence of a relation between human rights and the policy fields with a similar overall

attention pattern. The present section further explores the specific changes in the relative attention pattern of human rights. The first specific change, as we can see in figure 1, occurs in 1994. The relative attention to human rights increases from ‘prominent’ to very prominent. This means that, in 1994, the relative attention to human rights is equal to the relative attention allocated to agriculture, competition, and external relations. Hence, the human rights policy field begets one of the highest positions on the EU agenda in 1994. However, while the relative attention to human rights in 1994 is characterized by an increase, the relative attention to respectively agriculture, competition, and external relations in 1994 is characterized by a continuation of the agenda position of earlier years. Therefore, we cannot assert that there is a link between the attention allocated to human rights in 1994 and the attention given to agriculture or competition and external relations.

However, we can acquire insights regarding the relations between human rights and other policy fields if we examine the policy fields that have also gained attention in 1994. Beside human rights, European citizenship is the only policy field in 1994 that received more attention than in previous years. In 1994, the relative attention to European citizenship increased from ‘insignificant’ to ‘average’. Figure 3 shows the relative attention to human rights and European citizenship between 1992 and 2012. The chart exposes that, together with human rights, the attention to European citizenship increases in 1994. In 1995 the attention to European citizenship continues to increase to ‘prominent’, while the attention to human rights decreases from ‘very prominent’ to ‘prominent’. The EU allocates an equal level of prominence to European citizenship and human rights until 2004, when the prominence of human rights and European citizenship drops to an insignificant agenda position.

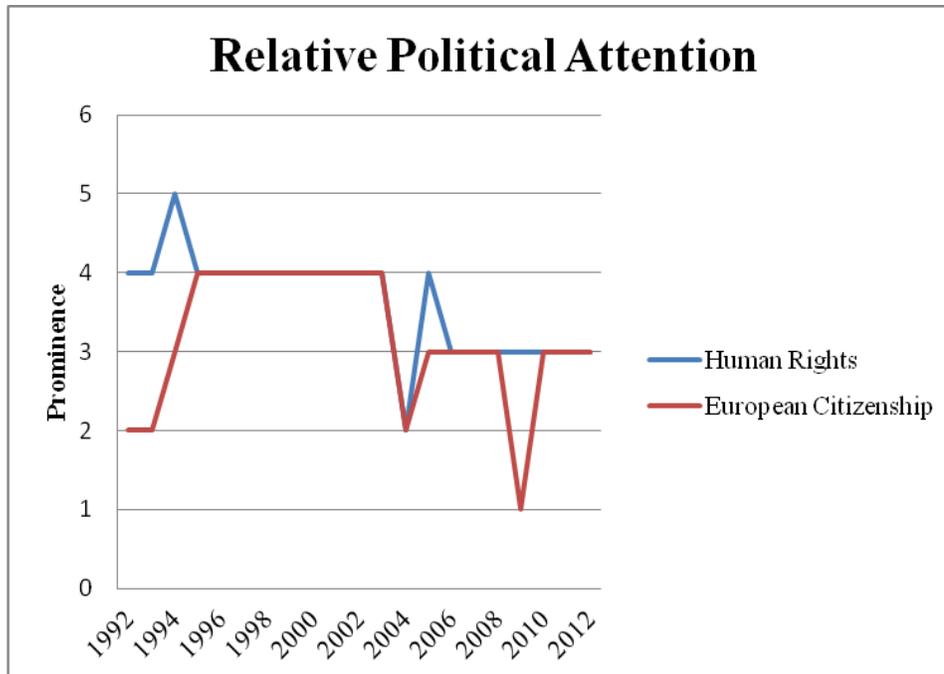


Figure 3. The relative attention to Human Rights and European Citizenship.

Human rights and European citizenship gain attention in 2005, but while human rights becomes ‘prominent’ again in 2004 and consequently drops to average in 2007 – human rights maintains this status on the agenda until 2012-, European citizenship does not exceed the level of average any more. In 2009 European citizenship disappears as a policy field, but then regains average attention from 2010 onwards. Considering the similarities in the attention patterns of human rights and European citizenship, I carefully assert that there is a connection between the relative attention to human rights and the relative attention to European citizenship. Subsequent chapters explore and interpret this connection.

Human rights and European citizenship are not the only policy fields that are characterized by a decrease of attention in 2004. Figure 4 displays the other policy fields that reveal a similar attention trend in 2004. The policy field with the most significant loss of attention is the common foreign and security policy (CFSP). The attention to this policy field shifts from average attention on the agenda to not on the agenda at all. The CFSP, European citizenship and human rights are the only policy fields that decrease with two levels on the coding scale in 2004.

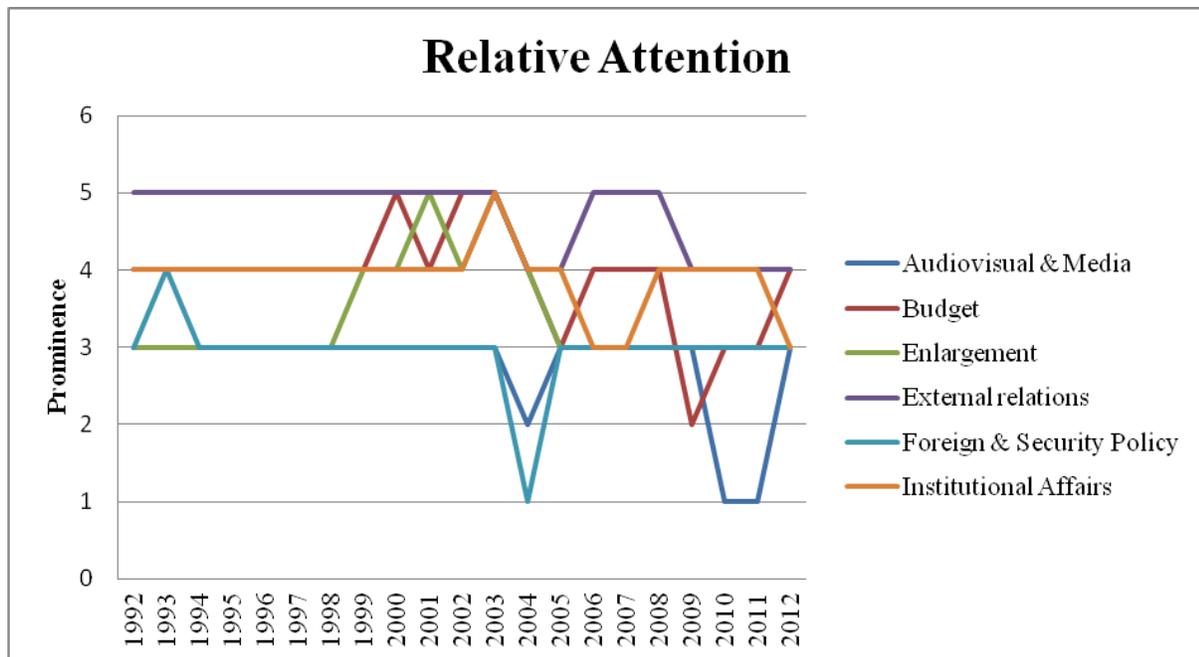


Figure 4. Attention patterns of the policy fields with a decrease of prominence in 2004.

Interconnectedness of Human Rights

Due to its normative character and due to the claim that human rights constitute an inherent part of all EU policies and activities, as explained in the introductory chapters, the present section examines the extent to which the General Report reflects the alleged interconnectedness of human rights with other policy fields. Assessing the interconnectedness of human rights is relevant not only to test the extent to which human rights are indeed by definition interconnected to other fields; assessing interconnectedness is also relevant because the choice of connecting human rights to other policy fields is, again, a matter of politics. Therefore, interconnectedness and the extent to which human rights is ‘interconnective’ help us to gain insights regarding the EU politics of attention to human rights. Lastly, an assessment of the interconnectedness is useful to examine how and why the politics of attention changes. Interconnectedness could be of strategic importance to agenda setters, as interconnectedness may allow for the strategic linkage of policy fields in the attempt of raising issues to salience. Mapping interconnectedness thus allows for an overview of when and consequently of why issues are interlinked at what time. Interconnectedness was calculated on the basis of coding ‘mentions’ to human rights in the sections on the other policy fields. These mentions were either policy-related or not at all policy-related. The lack of a distinction between policy statements and sheer reference is due to the fact that interconnectedness is about politics, rather than policies. The number of mentions was consequently divided through the number of policy fields and multiplied by 100 in order to calculate the percentage of interconnectedness. Thus, if

human rights are mentioned in nine out of thirty five policy fields, the percentage of interconnectedness is 25,71%. The higher the percentage, the more interconnected the policy area. A decrease of interconnectedness does not automatically indicate a decrease of relative attention. In fact, a decrease of interconnectedness may even indicate the allocation of more relative attention, because the attention to one particular policy area is concentrated into one section, rather than that attention is dispersed among the various other policy sections. The concentration of attention implies higher prominence because concentration indicates more substance, hence more policies as opposed to sheer politics. In this regard, I coin the notion of ‘attention concentration’. The level of attention concentration is indicative of the extent to which the EU pursues policies, as opposed to interconnectedness which is indicative of EU politics. Attention concentration thus relates to substance, evincing that the EU allocates attention on the basis of a more in-depth reflection on the contents of policy fields and policies. Thus, a decrease of interconnectedness even portends prominence, whereas a high percentage of interconnectedness implies that the attention to issues is primarily an indication of politics. Figure 5 depicts the interconnectedness of human rights from 1992 until 2012. Overall, we see that the percentage of interconnectedness in 2012 is higher than in 1992. The fact that the percentage of interconnectedness changed indicates that the politics of attention to human rights changed. On average, over twenty years the percentage of interconnectedness of human rights is 26.43%. Calculations of the percentage of interconnectedness of other policy areas reveal that all policy areas have a percentage of at least 7.6% (common foreign and security policy) and at most 40.86% (environment). This means that the interconnectedness of human rights is above average, but not high in comparison to the interconnectedness of other policy fields.

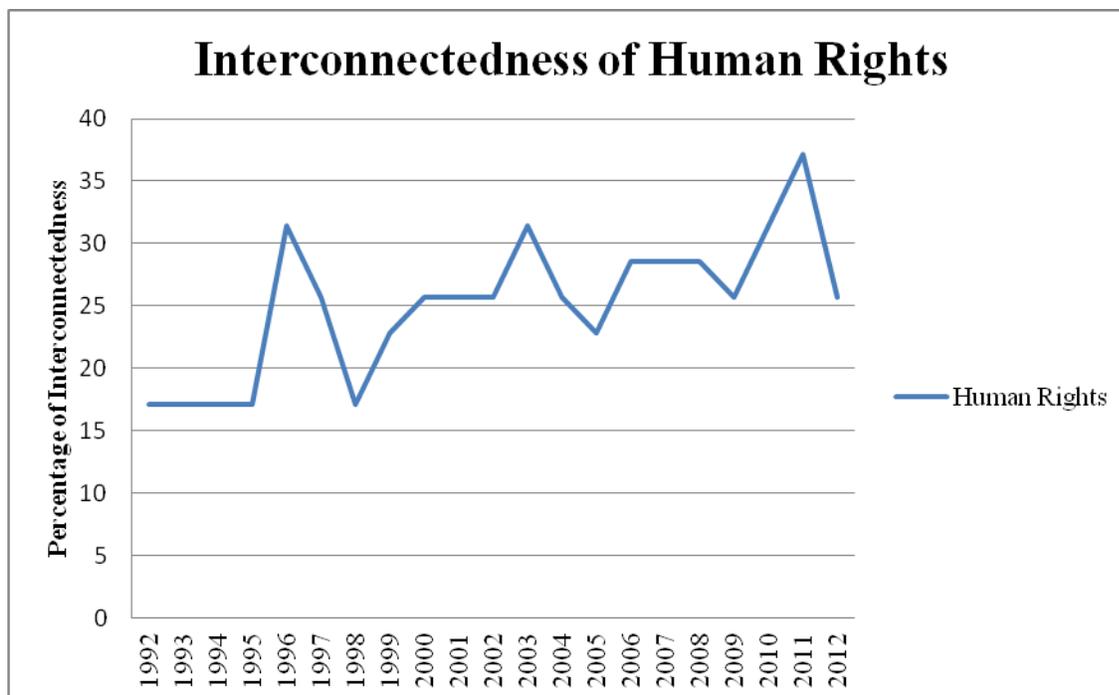


Figure 5. The interconnectedness of human rights.

The interconnectedness of human rights remains at a constant level of 17.14% between 1992 and 1995. In 1996 the interconnectedness of human rights increases significantly, to decrease again during the following two years. The pattern of interconnectedness is characterized by longer periods of stability, followed by periods of fluctuations, with the highest percentage of interconnectedness in 2011. It should be noted, however, that the policy fields to which human rights are connected are not fixed. At times when the percentage of interconnectedness remains stable, the policy fields in which there is mention of human rights are different. These alterations show how and why the politics of connecting human rights to other policy fields has changed between 1992 and 2012.

3.2. The EU Human Rights Agenda

At the heart of the previous section was the relative attention to human rights as one of the various policy fields on the EU agenda. This second part, on the other hand, focuses particularly on the EU human rights agenda and the issues represented on this agenda. It is only since 1998 that the EU annually publishes an Annual Report on Human Rights and Democracy in the World (Annual Report). Due to the absence of the Annual Report before 1998 the EU human rights agenda between 1992 and 2012 was mapped on the basis of coding the contents of the General Reports. Consequently, I proceed to compare the attention to human

rights issues in the General Report to the attention to human rights issues in the Annual Report. It should be noted that the prominence of the different human rights issues was measured on the basis of the use of the EU legal instruments to implement policy. Prominence, therefore, is not an indicator of relative attention, but an indicator of the extent to which the EU pursues policy through its legal instruments. ‘Very prominent’, number five on the coding scale, means that the EU makes use of legal instruments with a binding effect, meaning that the provisions of the legal act have a direct effect on the national legislation of EU member states. Directives, regulations, and decisions are legal instruments that serve binding exercise of competence. ‘Prominent’, number four on the coding scale, indicates the use of legal instruments without a binding effect, such as communications, recommendations, and action plans. It occurs that the EU uses both binding and non-binding legal instruments to address an issue in one year. In these cases, the issue was allocated code number 1.5 on the coding scale. ‘Average’, number three on the coding scale, refers to declaratory statements, White papers and Green papers, constituting documents that are meant to spur the discussion or to devise the EU stance regarding certain matters. Moreover, ‘average’ means that the situation of a particular issue is discussed in an independent section or subsection. When an issue meets the criteria of both ‘average’ and ‘prominent’, or ‘average’ and ‘very prominent’, the issue is granted respectively ‘prominent’ or ‘very prominent’. The choice of including an issue on the agenda is a matter of politics in itself. Therefore, there is no need to emphasize that attention is characterized by both politics and policies. Every issue on the agenda is subject to the politics of allocating attention. In some years, particular issues may have merely been mentioned, but it is the choice of mentioning the issue that implies the existence of a politics of attention surrounding that issue and of the potential effect of this issue on the politics of attention. In a similar vein, the sheer mention of an issue on the EU agenda evinces the range of issues to which EU officials pay attention. ‘Insignificant’, number two on the coding scale, thus indicates the sheer mentioning of a particular issue, whereas ‘not on the agenda’, number one on the coding scale, shows that the EU did not allocate attention at all. Finally, I purport that ‘very prominent’ implies ‘policies’ as opposed to ‘politics’ which is implied by the range from ‘prominent’ (4) to ‘not on the agenda’ at all (1). Therefore, mapping the attention to different human rights issues is not necessarily about the relative attention, but about the extent to which the issue are met by concrete action, or whether attention to issues is characterized merely by political acts. First, on the basis of mapping the human rights issues, tackled in the General Report, we can gain an understanding of how the range of the human rights issues to which the EU pays attention has developed between 1992 and 2012. Moreover, this engenders insights into the relative attention to the different human rights issues on the EU agenda.

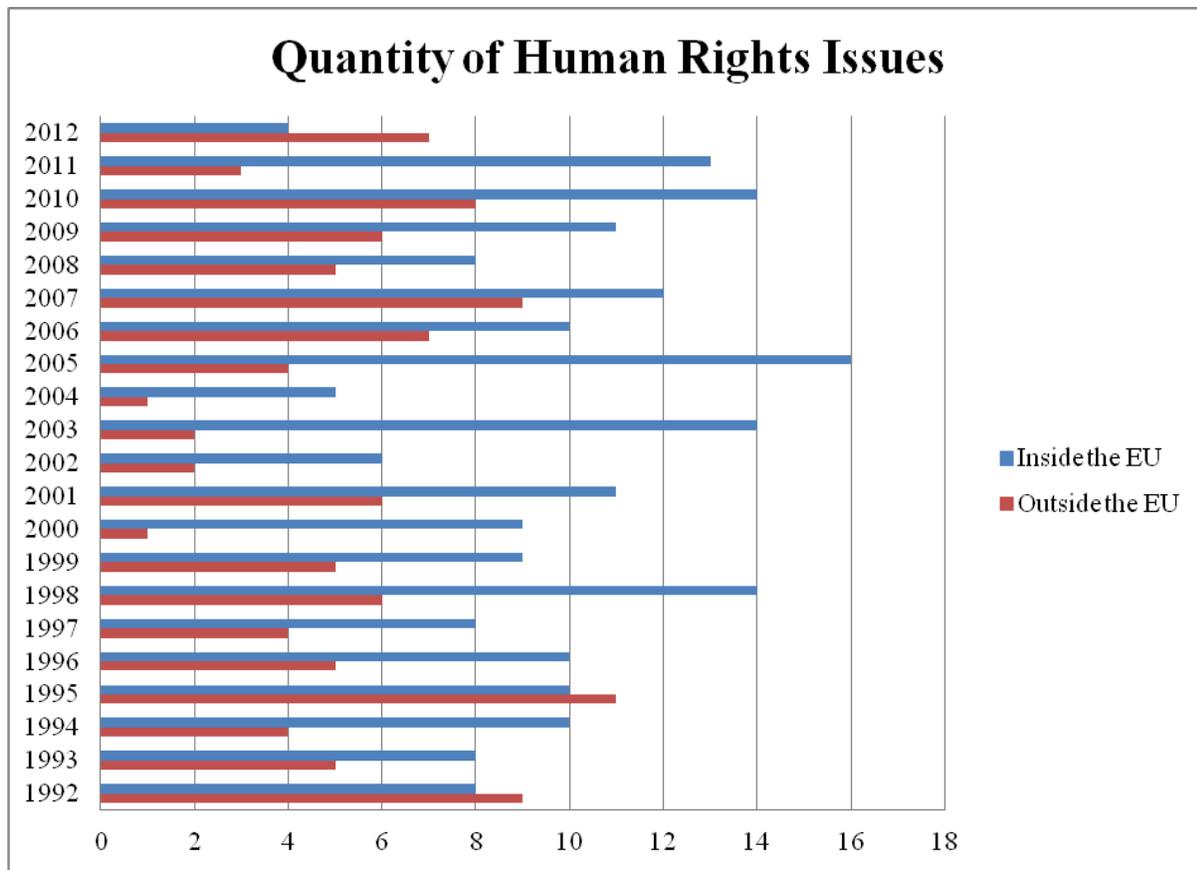


Figure 6. Quantity of human rights issues on the EU agenda between 1992 and 2012

In the Annual Reports, the EU makes a distinction between action and issues within the EU and actions and issues outside the EU. Figure 6 represents the quantity of issues in the sections ‘Inside the EU’ and ‘Outside the EU’, allowing for a comparison of the number of human rights issues in 1992 and the number of human rights issues in 2012. Overall, we see that the number of issues, both in the ‘inside’ and ‘outside’ sections, has decreased if one merely compares the quantity of issues in 1992 and 2012. However, figure 6 also indicates that the quantity of issues has not remained constant during the twenty years between 1992 and 2012, and that the range of issues the EU deals with is not fixed. As a matter of fact, figure 6 reveals dramatic increases and decreases of the quantity of issues, particularly in 1998, 2003, and 2005. Despite the clear fluctuations in the quantity of ‘outside-EU’-issues, we see that the changes to the quantity of the latter are less dramatic than the changes to the quantity of ‘inside-EU’-issues. Moreover, the variety of internal EU issues appears to be greater than the variety of external EU issues. This discrepancy indicates that the politics of attention to human rights changed between 1992 and 2012. The quantity of issues does not provide information concerning the differentiation of issues. When the quantity remains constant, the type of issue may have changed. The most pertinent question that arises

from the discrepancy in the number and type of issues over the years is why issues arrive, disappear and return on the EU agenda. Moreover, why do some years cover a broad variety of issues, while in other years the EU deals with a more limited range of human rights issues? Another question to be answered is why some issues, initially dealt with as an internal matter, transform into an external matter. Reversely, why do issues that landed on the agenda as an external matter gain relevance as an internal matter at one point? The scope of this thesis is too narrow to answer all these questions. However, in subsequent chapters I address why and how human rights emerged on the EU agenda at different times.

Mapping the attention to the different human rights issues is more complicated than mapping the relative attention to human rights as one among many. This is because of the high number of different human rights issues. Therefore, figure 7 only displays those ‘inside the EU’-issues with the most significant changes between 1992 and 2012.

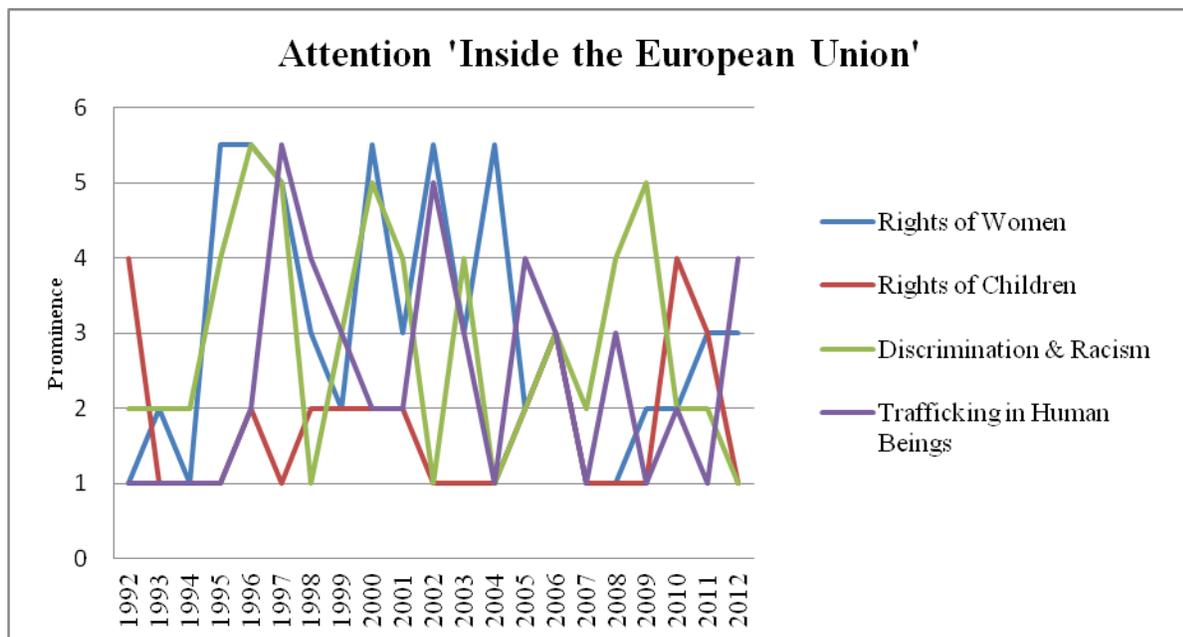


Figure 7. Attention to issues ‘inside the EU’.

The coding on the basis of concrete policy implementation leads to charts that reveal dramatic increases and decreases in attention, unlike the more smooth attention pattern of the relative attention to human rights as one in the range of EU issues. The results are thus of a different kind and the results help us to acquire insights regarding the EU as a political entity and the EU as a policy-producing entity. A discursive analysis paves the way to more conclusive results in subsequent chapters. It is notable that, in

cases of a lack of policy, a politics of attention is not necessarily present. This implies that an issue is included on the agenda primarily if the EU takes concrete action, and that, if the EU does not resort to concrete action, the issue is not on the agenda at all.

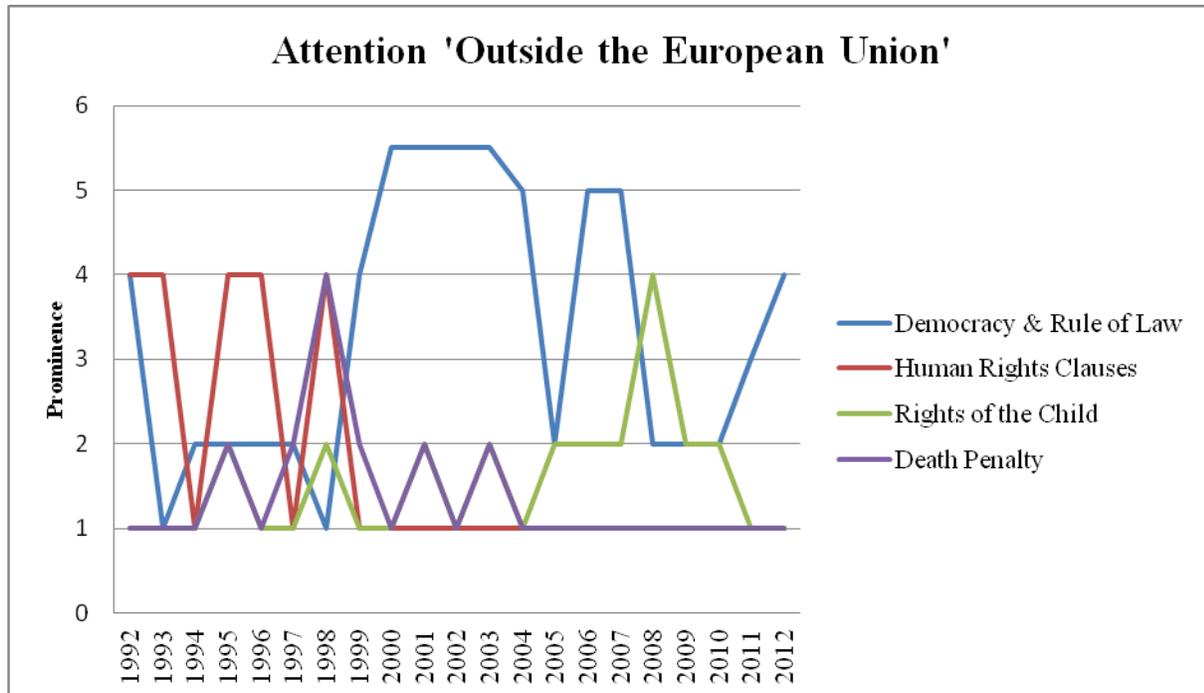


Figure 8. Attention to issues ‘outside the EU’.

Figure 8 shows the ‘outside the EU’- issues with the most significant changes between 1992 and 2012. The attention pattern shows a similar dramatic pattern to the changes in the attention to issues that are dealt with at the internal level. Comparing the attention to the rights of the child as an internal matter and the attention to the rights of the child as an external matter, figure 9 demonstrates that there are significant discrepancies in the attention patterns. Therefore, the politics of attention to the rights of the child as an internal matter and the politics of attention to the rights of the child as an external matter diverge. Moreover, we see that the politics of attention to the rights of the child as an internal and external matter has changed. The attention patterns reveal dramatic increases and decreases, and it is particularly notable that in 2008 attention to the rights of the child outside the EU is prominent, while as an internal matter the rights of the child is not on the agenda at all. To conclude, the politics of attention to the different human rights issues has changed between 1992 and 2012. In addition, the attention patterns reveal dramatic changes. I assess these changes in subsequent chapters. In what follows I assess the extent to which the politics of attention to human rights has changed between 1992 and 2012.

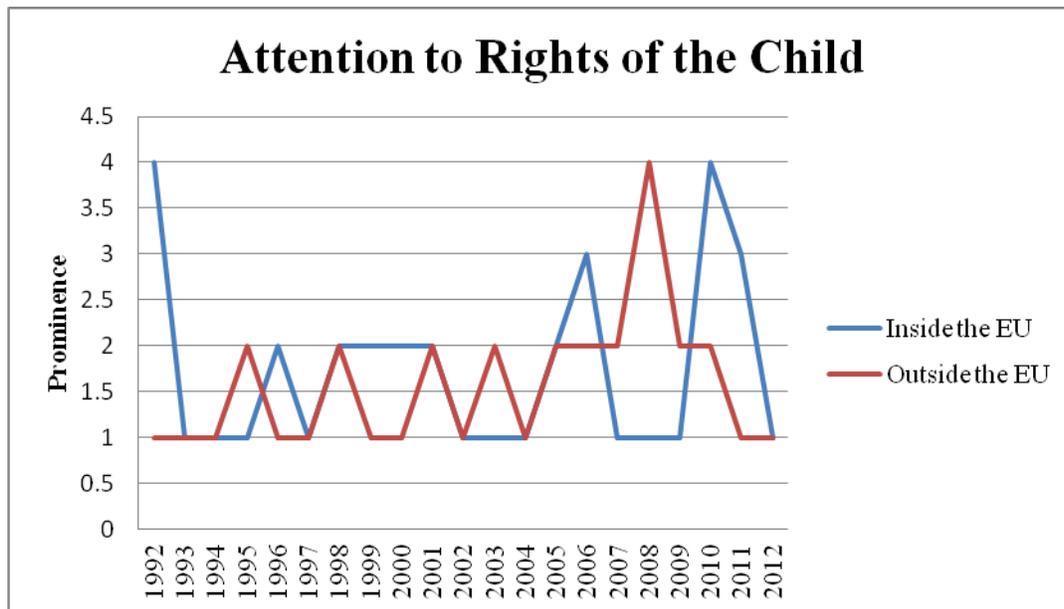


Figure 9. Attention to the rights of the child as an “Inside the EU” and “Outside the EU” matter.

II The Politics of Attention to Human Rights

The previous sections in this chapter demonstrated that the relative attention to human rights on the EU agenda and the relative attention to different human rights issues on the EU agenda have changed between 1992 and 2012. What follows permeates an exploration of the extent to which the politics of attention to human rights has changed between 1992 and 2012. Even when the relative attention to human rights remains constant, the politics of attention may change. Seeking to assess whether the politics of attention to human rights has changed since 1992 implies that we assume that there was a politics of attention to human rights in 1992 to begin with. Furthermore, seeking to assess the changes to the politics of attention implies that we assume that the politics of attention and in particular the politics of attention to human rights *can* change at all. This is because we assess the mention of human rights issues as a political choice. The presence of a political choice in turn indicates that there is politics of allocating attention to the issue. Consequently, the fact that, as we have seen in the previous sections, the number and type of issues on the agenda changed between 1992, indicates that the politics of attention can change and, indeed, has changed.

I first aim at identifying and characterizing the politics of attention to human rights in the EU institutions at the starting point of the analysis, the year 1992. In disclosing the extent to which the politics

of attention has changed, what follows furthermore juxtaposes the politics of attention in 1992 to the politics of attention in 2012. It should be noted, however, that even though the politics of attention seems similar if one compares merely the 1992 politics of attention to the 2012 politics of attention, changes could have occurred within the twenty years since 1992. In subsequent chapters I therefore address the intermediate period. In seeking to identify and assess changes in the politics of attention between 1992 and 2012, the focus is on a comparison of various features that indicate a difference in the politics of attention. First, the focus is on an analysis of discourse and on the pragmatic and semantic aspects of language. Language reveals insights regarding power politics, interests and ideology, and the social processes and contexts that have inspired issue prominence. In this regard, the emphasis is on strategic frames and key words that were used to raise (human rights) issues or issues to salience. In addition, emphasis is on the identification of speech acts, seeking to discern performative and constative utterances, also indicating the difference between politics and policies. Secondly, the focus is on the use of instruments. The selection of instruments is also an indicator of the politics that is at the heart of issue salience. The instruments adopted reveal something of the nature of the issue and displays what is considered appropriate within the discourse and politics of attention at that time. A comparison of the instruments that were adopted to tackle issues enables us to acquire insights as to whether or not the politics of attention has changed.

3.3. The Politics of Attention in 1992

In this section I identify, characterize, and assess the politics of attention to human rights in the EU institutions in 1992. This analysis of the politics of attention in 1992 is primarily performed on the basis of assessing the contents of the General Report 1992 and the Treaty on European Union (the Maastricht Treaty of 1992). Consequently, I present a starting point that allows for the identification and measurement of change between 1992 and 2012. It should be noted that the analysis discerns the ‘general’ politics of attention and the politics of attention surrounding human rights in particular. The general politics refers to EU politics in the broad sense, and this implies the general logic of allocating attention by the EU. The politics of attention to human rights in particular refers to logic of allocating attention to human rights and to human rights issues. However, I state that the politics of attention to human rights is constituted and defined by the general politics of attention in the EU institutions. They are thus closely intertwined.

Identification and Characterization

If an issue makes it onto the EU agenda, there is a politics of attention to this issue. This is because the

choice to include one issue, as opposed to another issue, is in itself a matter of allocating attention, hence a matter of politics. The choice implies that there is logic behind why and how this issue has come on the agenda and why this issue was chosen over another issue. The Maastricht Treaty is the first EU Treaty that includes reference to human rights. This Treaty implies a historic moment in the European integration process, especially because it allowed for the transformation of the European Economic Community into the European Union.²⁹² Moreover, as can be disclosed in the General Report of 1992, the Treaty suggested the announcement of new start, with new ambitions to move the EU forward, and with the intention to bring ‘fresh impetus’ to EU policies.²⁹³ Against that backdrop of having reached a ‘new stage in building Europe’, the ‘new’ attention to human rights illustrates precisely this new beginning. Treaties define the scope of the EU integration process, and thus determine what is included on the EU agenda. Therefore, I attest that reference to human rights is indicative of a politics of attention to human rights in 1992, simply because the EU chose to allocate attention to human rights in the Treaty. Article 6 of the Treaty emphasizes the respect for the principles set out in the Charter of Fundamental Rights, making reference to rights that have been bestowed upon European citizens as users of the internal market and as inhabitants of the European Union.²⁹⁴ It should, however, be noted that this article does not extend or enhance the EU competences in the field of human rights. Rather, this article is to be used as a parameter to measure all secondary legislative acts.²⁹⁵ Furthermore, human rights as such are mentioned merely in relation to development cooperation. Article 130 u, point 2 describes that “Community policy in this area [development cooperation] shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms.”²⁹⁶ Reference to human rights in this context touches upon the external dimension of EU activities and merely points to one of the objectives of the EU external development policy. The emphasis on human rights in the EU development cooperation policy affirms the intent of making a ‘new’ start; the development aid arrangements were revised to include the more human aspects of development.²⁹⁷ The respect for human rights constitutes one of these aspects.

Furthermore, human rights can be identified in relation to three other fields in 1992. First, human rights in particular are briefly mentioned in relation to the EU enlargement process. Also in this case, the rhetoric is defined by the EU ambitions to move the integration process forward. However, this reference constitutes no more than a mention of human rights, together with ‘European identity’ and ‘democracy’.

²⁹² “Treaty on European Union”, *Official Journal of the European Communities* (92/C 191/01).

²⁹³ Commission of the European Communities, 26th *General Report on the Activities of the European Communities 1992* (Brussels and Luxembourg 1993), 1-2.

²⁹⁴ “Treaty on European Union”, article 6.

²⁹⁵ *Ibid.*

²⁹⁶ *Ibid.*, article 130 u, point 2.

²⁹⁷ Commission, *General Report on the Activities of the European Communities 1992*, 7.

Second, there is substantial attention to social rights in 1992. This attention has even resulted in a directive on the safety and health at work of women who are pregnant or have recently given birth or are breastfeeding.²⁹⁸ There is also mention of the acknowledgement of the problem of social exclusion. These two issues are directly related to the economic and social policy of the EU, which is one of the main priorities in 1992. The report repeatedly refers to the ‘poor economic outlook’, and the report highlights the importance of the single market and the opportunities that were created by the single market to overcome economic challenges.²⁹⁹ Attention to economic and social rights, therefore, feeds into a larger concern of the EU in 1992. Hence, the attention to these rights may be perceived as a solution to a problem; as one of the possible factors contributing to economic recovery. Lastly, the 1992 General Report displays much emphasis on the democratic nature and the transparency of the EU decision-making process. Specifically emphasized is the right of access to information. The alleged need to enhance the democratic structure of the EU institutions is also touched upon in the chapter on human rights (Chapter V on Intergovernmental Cooperation and Human Rights in the General Report of 1992). The main concerns relate to the transparency of the decision-making process, or lack thereof, and were raised by EU citizens, who had expressed their concerns during the treaty ratification process at the member state level. The EU seems to have been eager to respond to these concerns, and the Commission even pursued a communication, a framework and rules, as well as a declaration “A Community close to its citizens”. Moreover, chapter V on human rights adopts the need to strengthen democracy as a primary issue and concern. Emphasis in this regard is on the ‘ability of citizens to voice their aspirations’.³⁰⁰ The wish to immediately respond to citizen’s concerns is the main motivator for placing the issue of transparency and democracy on the EU agenda.

In allocating attention to human rights specifically, the EU discerns action ‘inside the EU’ and action ‘outside the EU’. Pertaining to the internal dimension, the EU grants attention to specific human rights issues. However, this attention is merely built around the set-up of a new committee and an advisory body, and around the appointment of an ombudsman responsible for the safeguarding of children’s rights; the EU does not necessarily elaborate upon the action taken to actively tackle issues and concerns. In addition, we see that attention to human rights is allocated as a consequence of human rights violations, shaped by a condemnation of these violations. The report states that the European Parliament and the EU citizens have raised these issues to salience. Therefore, at the internal level, these actors are the main agenda-setters of human rights. Why the EU is receptive to these actors as human rights agenda-setters is subject of analysis in subsequent paragraphs. Regarding the external dimension, the 1992 General Report emphasizes that the ‘Community and its Member States continued their policy of promoting human rights

²⁹⁸ *Ibid.*, 4.

²⁹⁹ *Ibid.*, 2.

³⁰⁰ *Ibid.*, 366.

and fundamental freedoms in the world at large'.³⁰¹ This reference to an existing human rights policy implies that there has been a politics of attention to human rights prior to 1992. This policy and this politics of attention are likely to have influenced the politics of attention in 1992. Moreover, this policy has been at the heart of the decision to adopt reference to human rights in the Maastricht Treaty. In addition, the EU declares that it pursues an active policy, paving the way to 'react appropriately' to violations of human rights. The emphasis on 'active' and 'appropriately' suggests that the EU policy had been deemed not active or insufficiently active before. Critique on the EU policies, thus, led to changes to the politics of attention to human rights. This illustrates how policies determine politics. Furthermore, this implies that questions have been raised regarding the appropriateness of the EU as a level to deal with human rights and regarding the extent to which the EU may act. Democracy and the rule of law are also emphasized in the external dimension. With regards to the promotion of democratic principles and human rights abroad, particular focus is on the inclusion of human rights clauses and a resolution in this respect. The EU additionally emphasizes its participation in international forums and elaborates on the role of the European Parliament, raising attention to certain regions in the wake of human rights violations.

Based on the above, I conclude that attention to human rights and fundamental freedoms can be identified in an independent chapter, which implies acknowledgement of human rights as an independent policy field. However, attention to human rights as an independent field throughout the report, in particular in the General Report's introductory section, is lacking. This is consistent with the percentage of interconnectedness, which is lowest in 1992. On the other hand, the attention to human rights in the 1992 General Report appears to be dependent upon the scope, attention, and prominence of other policy fields in the EU. In the introductory section human rights as such is merely mentioned in relation to other policy fields, fields that touch upon both the external and internal dimension of EU politics. Apart from the allocation of an independent chapter to human rights, the EU does not reflect upon human rights as one of its main priorities. This is confirmed by the very last sentence of the Report's introductory section: "By resolving the problems raised by the Danish 'no' and by giving itself the means to achieve its ambitions, the Community proved that solidarity, cooperation and democracy were and would remain its guiding principles".³⁰² Hence, the emphasis on solidarity and democracy notwithstanding, the EU does not reflect upon human rights as constitutive of its guiding principles. The EU presents itself as a community of norms, and even though human rights is a part of these norms, as can be derived from the new angle in the development cooperation arrangements and the enlargement policy, the EU does not consider human rights a guiding principle.

³⁰¹ *Ibid.*, 367.

³⁰² *Ibid.*, 7.

The general politics of attention is characterized by ambition and the anxiety to take the EU integration process to ‘new’ levels. Additionally, the extensive elaboration upon concrete action plans, the adoption of communications, a directive, and frameworks in 1992 implies a focus on the contents, on concrete policies. Furthermore, the politics of attention to human rights with regards to the internal dimension is rather weak, and is primarily focused on ‘safer’ or ‘legitimate’ rights in the EU context; economic and social rights, as well as democracy. Externally, the politics of attention to human rights is stronger. The EU indicates that it pursues an active policy, in which appropriate reaction to violations is justified, and the EU even highlights the adoption of a resolution. The following section explores the language that the EU employs in the General Report of 1992.

Language

EU actors use frames to raise issues to salience in order to legitimize the allocation of attention to issues. As I already explained, the strategic framing of issues is paramount to raising issues to salience. How issues are being framed reveals something of the reasons why issues have made it onto the agenda, because the language employed relates to the predominant sentiments on the basis of which the attention is deemed needed. First, the EU uses internal market-frames in the Maastricht Treaty, explicating certain rights European citizens have when moving around on the internal market. Even though this focus is merely practical, the internal market provides an incentive to define citizen’s rights on the internal market and to consequently raise these rights to salience. The socio-economic frame, secondly, is the frame used to place social rights on the agenda. This frame exposes the existence of a non-favorable economic climate, and the extent to which rights of workers are a crucial component of maintaining a well-functioning internal market. The frame displays the way in which the EU seeks to integrate ‘new’ and human aspects into its activities. More importantly, rights are framed as a solution to the problem of unemployment. The frame of responsiveness, thirdly, refers to the EU ambition to be a Union of citizens, not merely in speech, but also in acts. The adoption of a communication on subsidiarity affirms this commitment. Furthermore, the EU claims that it pursues ‘appropriate’ action in case of human rights violations abroad. This can be identified as a fourth frame, the ‘frame of appropriateness’, providing a legitimate reason to intervene in case third countries render themselves guilty of violating human rights.

An analysis of the General Report clearly reveals that the EU has entered a new stage, with ‘new’ being one of the main keywords in the text of the report. Because human rights are a part of this rhetoric, related to the revised priorities of the policy on development cooperation, we see that the EU uses a ‘new-stage’-frame to mention human rights on its agenda. However, it is more likely that ‘human rights’ itself functions as a frame to draw more attention to the development cooperation policy. This is notable, as the

report seems to reflect a rather weak politics of attention to human rights, while, simultaneously, the EU does seem to use human rights as a frame to draw attention to other policy fields, namely development cooperation, enlargement, and economic and social affairs.

The General Report reflects on the main developments and achievements of a particular year. The detection of performative utterances, following the theory of speech acts by J.L. Austin, therefore, seems redundant as most matters have already taken place. Moreover, the General Report, as the name already implies, is merely a report, rather than a legal instrument to implement a policy that may change reality. Nevertheless, it is indeed possible to identify speech acts that, during the year, could have been identified as performative or constative. The General Report encompasses a number of illustrative performative acts: ‘By signing the Treaty on European Union’, as well as ‘the Parliament and the Economic and Social committee roundly condemned such acts of intolerance’.³⁰³ First, the signing of the Treaty implied the start of a new phase in the European integration process, not only changing the procedures within the EU institutions, but also bringing the internal market to a new level and changing the reality of the EU citizens. Second, the act of condemning implies the denouncement and the criticizing of certain acts, possibly leading to changes in diplomatic relations or improvement or worsening of human rights standards.

In addition to identifying speech acts, the use of language itself reveals the extent to which the EU is an entity of acts or an entity of rhetoric. We see that the EU adopts a language of empowerment, which is exposed by the last sentence of the introductory section. “By giving itself the means the EU has been able to change reality in the past by acting and tackling problems”.³⁰⁴ The focus is on problem-solving and of responding to concerns. On the other hand, the following quotation exposes a rather weak act, hence a constative performance: “In response the Community institutions have endeavored to define a framework and detailed rules.”³⁰⁵ ‘Have endeavored’ shows that the EU institutions have tried to define a framework, but that efforts have proven to be unsuccessful. The lack of outcome notwithstanding, the EU mentions the attempts made, seeking to inform the public that the EU, though in vain, has taken steps to tackle problems, herewith depicting itself as responsive to public concerns.

The EU Legal Instruments

This section is concerned with the legal instruments adopted to implement policy, adopted by the EU in 1992. It is relevant to elaborate upon these instruments, because the choice of adopting a particular policy instrument also constitutes a political act. An analysis of the type of instruments therefore provides

³⁰³ Ibid., 366.

³⁰⁴ Ibid., 7.

³⁰⁵ Ibid., 1.

insights regarding the politics of attention. The introductory section of the 1992 General Report primarily functions as an overview and description of the main achievements of the EU during the year under evaluation. In this regard, the report underscores the policy acts that were endorsed in 1992. The EU extensively elaborates upon its various communications, its directive on workers basic rights, frameworks, White Papers, and Green Paper, as well as upon a number of new initiatives and programs it has drawn up. The clear emphasis on these instruments indicates that the politics of attention centralizes the main objectives and concrete output of the EU.

The EU interchangeably uses binding (directive) and non-binding (communications) exercises of competence, hence balancing politics and policies. With regards to human rights in particular, the EU has adopted a directive on social rights. This is the only binding legal exercise of competence in this year, meaning that human rights, more than any other policy field in 1992 is characterized by policies, instead of merely politics. In addition to this, attention to human rights was allocated through the creation of committees and institutions to address human rights issues in particular. Venue creation thus is a crucial element of the politics of attention to human rights in 1992. These venues were created to secure attention to human rights and to maintain momentum for raising issues to salience.

3.4. The Politics of Attention in 2012

In this section I identify, characterize, and assess the politics of attention to human rights in 2012. The analysis relies on the 2012 General Report, but also on the 2012 State of the Union, and on the 2012 Annual Report on Human Rights and Democracy in the World. The publication of this latter report in 2012, where it was not published in 1992, indicates in itself a change in the politics of attention. The decision to publish an annual EU report on human rights issues implies that the EU considers it appropriate to allocate attention in a report specifically dedicated to human rights. In turn, this indicates that the EU considers human rights a prominent issue.

Identification and Characterization

Starting with an analysis of the brief foreword in the General Report 2012 by European Commission President José Manuel Barroso, which has replaced the relatively long 1992 ‘overview’, I conclude that human rights as such are not mentioned. Instead, the focus is on ‘values’ and assistance to those in need: “Europe’s capacity to engage in diplomacy, participate in multilateral forums and provide assistance to those in need demonstrated our values in action in so many practical ways”.³⁰⁶ ‘Values’ may be an indirect reference to human rights, but the notion is general to the extent that ‘values’ also refer to, indeed,

³⁰⁶ European Commission, *General Report on the Activities of the European Union 2012* (Brussels 2013) 4.

diplomacy, or even the principles of the free market economy, democracy, and solidarity. Therefore, the politics of attention to human rights is absorbed by the general politics of attention. The general politics of attention in 2012 is defined by the difficult circumstances the EU sees itself confronted with, primarily by financial and economic crisis. However, the politics of attention is at the same time defined by a sense of pride of how the EU deals with these circumstances.³⁰⁷ Barroso emphasizes common challenges, not only challenges common to all EU citizens, but challenges common to all parts of the world. In this regard, the report underscores the role of the EU in the world, the role of the EU as an actor that leads the way and that sets the agenda.³⁰⁸ Barroso acknowledges the need for a long term vision, while making concrete steps, and, in doing so, the EU seems to want to be ahead of critique on its vision, or lack thereof, and ability to act. I consequently purport that the politics of attention is also influenced by matters of leadership. This could be an indication of institutional frictions, subject of analysis in subsequent chapters.

The 2012 State of the Union makes more explicit reference to human rights, also through the notion of values. Barroso, responsible for the State of the Union, again highlights human rights within the ‘value-frame’, arguing that values make a difference and that they are ‘ours’, referring to the European citizens. Barroso hence aims at generating a sense of unity, emphasizing factors that bind all EU citizens together in times of economic and financial hardship that seems to primarily bring the differences among the peoples of Europe to the surface. Moreover, Barroso directly links his argument on the importance of values, referring to freedom, democracy, the rule of law, and solidarity, to the ability of Europe to be influential. Barroso purports that respect for values is a decisive factor for the realization of an influential Europe. Consequently, he argues that an influential Europe plays a decisive role in the world. Hence, Barroso claims that there is a connection between European values and the state of the world. This ‘influential-Europe-frame’ is complemented by a ‘universality-frame’, as is illustrated by the following quotation from the State of the Union: “(...) More than ever our citizens and the new world order need an active and influential Europe. This is not just for us, for the rest of the world it is important that we succeed. A Europe that stands by its values. And a Europe that stands up for its belief that human rights are not a luxury for the developed world, they should be seen as universal values. (...)”³⁰⁹ Furthermore, the following reflects not only that the politics of attention in prior to 2012 had been defined by the felt need to apologize or to be modest about European values, but also that the politics of attention has changed to the extent that the EU takes a distance from this apologetic politics of attention: “(...)We do not have to apologize for our democracy, our social market economy and for our values, with high levels of social cohesion, respect for human rights and human dignity, equality between men and women and

³⁰⁷ Ibid., 4.

³⁰⁸ Ibid., 4.

³⁰⁹ J.M. Barroso, “State of the Union 2012 Address” (Plenary session of the European Parliament/Strasbourg 12 September 2012), 10.

respect for our environment. These European societies, with all its problems, are among the most decent societies in human history and I think we should be proud of that.”³¹⁰ In addition, the quote reveals another frame, the ‘decency-frame’; proposing that the respect for values is indicative of decency, and that the lack of recognizing human rights is indicative of a lack of decency.

The 2012 General Report dedicates the first section of chapter IV, “A stronger focus on EU citizens”, to fundamental rights and citizenship. Notably, this chapter also focuses on justice, home affairs, and on ‘easing citizen’s everyday concerns’. This touches upon one of the essential elements of the politics of attention to human rights in 2012. Human rights as an independent policy area was merged into a policy area with justice and citizenship: ‘fundamental rights, justice, and citizenship’, with Viviane Reding as European Commissioner for this portfolio and as Vice-President of the European Commission. The focus is on fundamental rights, and not necessarily on human rights. ‘Fundamental rights’ is one of the bricks of a chapter that is built around citizens, touching primarily on the more practical rights of European citizens as users of the single market, ranging from solidarity and European political parties to data protection and passenger’s rights. Many rights are discussed in the section on justice, indicating that the attention to justice and the attention to human rights overlap. In a similar vein, the attention to fundamental rights and citizenship and to justice and citizenship overlap. European citizens constitute a prominent part of this chapter, primarily as, through the ‘Citizen’s Initiative’, launched with the Lisbon Treaty in 2009, attention was raised to the daily life issues and concerns of citizens. Through new electronic mechanisms, citizens can launch policy initiatives, and set the EU agenda. Individual human rights issues as such are not discussed in the section on human rights. There is a sub-section on ‘trafficking in human beings’ in the section of justice, as well as a brief subsection in the section on economic policy regarding the ‘glass ceiling’ that prevents the equality of men and women on the labor market. In addition to including fundamental rights on the EU agenda for internal matters, the section on external relations highlights ‘human rights and democracy’ as a top priority on its agenda. There is thus a discrepancy between ‘fundamental’ and ‘human’, which I explicate more profoundly in the following section. The importance of unified and collective action is emphasized, but attention does not extend beyond this general rhetoric. Moreover, despite an emphasis on the issue of democracy and electoral observance, the politics of attention to human rights on the external level is not organized around specific human rights issues.

To sum up, the EU focus on human rights in 2012 is twofold. Internally the focus is on the fundamental rights and freedoms of EU citizens, whereas the external focus is on human rights. There is not a particular focus on individual human rights issues. Instead, emphasis is on the bigger picture of citizen’s daily lives. The main indicator of this conclusion is the creation of a new portfolio on

³¹⁰ Ibid., 14.

‘fundamental rights, justice, and citizenship’. The confluence of these three fields is particularly apparent in Chapter IV of the 2012 General Report. The chapter focuses primarily on citizens and their role on the internal market, as well as the concerns of citizens in their daily lives. Moreover, there is a strong focus on the ways citizens can voice these concerns and their aspirations. This means that the politics of attention is not merely inspired by responding to EU citizens; the politics of attention is also created by citizens in the sense that they determine the range of issues the EU institutions deal with. I conclude that the politics of attention is constructed around two streams of agenda-setting. First, we can discern a stream that is embodied by the ‘values-frame’ and the frames that can be derived from the ‘values-frame’, as previously explained. Second, there is a stream in which the citizen-frame dominates, as well as a focus on more practical everyday issues.

Language

The 2012 General Report complements written communication with elements of non-written communication. The foreword contains a photo of the President of the European Commission Barroso, giving the EU a face. In addition, the use of colors and photos throughout the report, in combination with a reduced amount of text, in comparison to the 1992 Report, clearly indicates a particular and different way of allocating attention. Attention is being marketed, and attention is focused on EU promotion. More importantly, however, the section on economic policy in the 2012 General Report includes a photo of European Commissioner Reding. This implies that the EU attempts to add elements of the policy on fundamental rights to the text on economic policy. In subsequent chapters I analyze issue linkage on the basis of the inclusion of photographs.

Barroso initiates the foreword with “we can take pride”, immediately addressing the European citizens, and conveying a message that EU citizens belong to a community of which they can be proud. I discuss this more profoundly in chapter V. The word ‘proud’ is also used in relation to human rights in the 2012 State of the Union, and again together with the word ‘we’.³¹¹ This is a way of generating support for the EU activities and of promoting confidence that the EU will be able to meet its challenges. In this regard, values are framed as a common instrument to tackle common challenges. ‘Values’, however, is a general notion, perhaps implying that the use of ‘values’ instead of ‘rights’ embodies an acknowledgment of the occasional controversy surrounding human rights. The use of ‘our values’ over ‘rights’ additionally implies that certain knowledge is required to understand what these values entail. This is inside-knowledge for those who are part of the club only, and contributes to the sense of community that the EU seeks to create. At the same time, the values-frame is compensated by an ‘action-frame’. The following

³¹¹ Barroso, “State of the Union 2012 Address” (Plenary session of the European Parliament/Strasbourg 12 September 2012), 14.

quote, “(...) demonstrated our values in action in so many practical ways”³¹², implies that the EU is conscious of potential critique that values itself are merely normative and rhetorical, and that an active and solution-oriented approach is required to complement the normative commitment. The foreword repeatedly speaks of fixing and tackling problems; the word ‘demonstrated’ reflects this sense of action. The EU also adopts a problem-solving frame. The 2012 General Report is entrenched with words of determination. The determination of meeting common challenges and to move the debate forward is also reflected in the emphasis on words like ‘strong’, ‘strengthened’ or ‘reinforced’, words that are used in every chapter title of the report. Furthermore, the EU discerns fundamental rights and human rights. Fundamental rights refer to rights inside the EU, whereas human rights refer to rights in external relations. Following Barroso’s argument in the State of the Union, expounded earlier in this chapter, this suggests that ‘fundamental’ refers to decent, European societies, whereas ‘human’ is used for the developing countries.

The EU Legal Instruments

Even though the EU emphasizes practical delivery and action, the politics of attention in 2012 is not centered on the use of actual decisions and policy instruments. Apart from highlighting a developed blueprint on how to complete the economic and monetary union, the foreword makes no reference to concrete legislative proposals or decisions. The politics of attention to human rights throughout the 2012 General Report displays a similar lack of concrete legal and policy action. One communication on the trafficking in human beings is highlighted in the section on justice, and another communication was adopted on democracy in the section on the EU external relations. The following section will juxtapose the politics of attention and 1992 and the politics of attention in 2012.

4.5. A Comparison

This section reiterates the main findings of the analyses to explicate the extent to which the politics of attention in the EU institutions has changed between 1992 and 2012.

The general politics of attention has changed between 1992 and 2012. The general politics of attention in 2012 is characterized by promotion of the EU by the EU on the basis of ‘our values’. In this regard, the 2012 General Report constitutes a direct address to EU citizens. The general politics of attention in 1992, on the other hand, is characterized by a more formal and descriptive report of the EU activities and achievements. Moreover, where the 1992 General Report emphasizes mainly achievements, the 2012

³¹² European Commission, *General Report on the Activities of the European Union 2012* (Brussels 2013) 4.

General Report elaborates upon primarily challenges. Another significant difference is the rhetoric used to provide information on the external relations of the EU. Where the reports of the respective years clearly display EU ambitions, the way in which this ambition is shaped unveils differences in the politics of attention. The 1992 Report highlights merely the interactions with third countries, while the 2012 Report emphasizes the role of the EU in the world, as well as how the EU is a major agenda-setter at the global stage, helping to move the debate further. Notwithstanding that the EU in 1992 seeks to stress its global relevance; the EU in 2012 seeks to manifest itself as a global leader.

In addition to disclosing a change to the general politics of attention, we also saw that the politics of attention to human rights specifically has changed between 1992 and 2012. What follows explicates this in more detail. In the first place, the logic of allocating attention to human rights in 2012 is different from the logic in 1992. This is primarily because ‘human rights’ in 2012 does not constitute an independent policy area, as it was in 1992. Rather, attention to human rights in 2012 is merged with the attention allocated to justice and citizenship. This raises questions regarding the extent to which and regarding how the EU human rights agenda is influenced by policies and politics surrounding justice and European citizenship. Moreover, the General Reports reveal a shift from human rights in 1992 to fundamental rights in 2012. Moreover, in 2012, the EU discerns fundamental rights from human rights as respectively internal and external matters.

Second, in 1992 and in 2012 the EU depicts itself as a community of norms and principles. However, in 1992 the EU does not define human rights as constitutive of this community, whereas the EU in 2012 emphasizes human rights as a component of the values that shape community action. On this note, I refer to the differences in frames that the EU adopts to raise attention to issues. The table below sums up the various frames discerned in respectively 1992 and 2012.

Frames	
1992	2012
Internal market-frame	Values-frame
Socio-economic frame	Influential-frame
Responsiveness-frame	Universality-frame
Frame of appropriateness	Decency-frame
Fresh-impetus-frame	Citizens-frame
Human rights as a frame	Action-frame

Figure 10. The frames adopted by the EU to legitimize the EU human rights action.

The different use of frames implies a clear discrepancy in the politics of attention to human rights in 1992 and the politics of attention to human rights in 2012. Nevertheless, the responsiveness-frame of 1992 and the citizens-frame of 2012 are interrelated to some extent. Similar in 1992 and 2012 is the focus on citizens. However, where the EU in 1992 attempted to bring the EU ‘closer to its citizens’, the 2012 General Report reveals that the EU has taken its commitment to the EU citizen to a higher level; the 2012 agenda is even directly set by EU citizens. Attention is diverted from transparency and democracy matters, as well as socio-economic matters in 1992 to matters and concerns that directly touch upon the daily lives of citizens in 2012.

In addition to a clear difference in the use of frames, the difference in the use of legal instruments is additionally evident. The number of legal instruments, adopted to implement policy, in 2012 is significantly lower than in 1992. Moreover, the importance the EU attaches to its accomplishments in the shape of policy proposals is more evident in 1992. As a matter of fact, the foreword of the 2012 Report does not refer to directives, decisions, or communications at all. Hence, where the politics of attention in 1992 is specifically focused on highlighting the specific use of legal instruments, the politics of attention in 2012 merely vaguely refers to Commission blueprints. This implies that the politics of attention in 1992 is more focused on policies, and that, on the other hand, the politics of attention in 2012 is characterized by mainly politics. On that note, finally, another indicator of the difference between 1992 and 2012 is the fact that attention to values and human rights was given a face; not only in the person of European Commission President Barroso, but also in the person of Viviane Reding, European Commissioner for fundamental rights, justice, and citizenship. This decision to personify attention underscores the ‘politics-character’ of 2012 as opposed to a more policy-oriented politics of attention in 1992.

Concluding Remarks

This chapter aimed at disclosing the extent to which the politics of attention to human rights has changed between 1992 and 2012. To this end, I mapped the relative attention to human rights, indicating that the prominence of human rights on the EU agenda has decreased from ‘prominent’ in 1992 to ‘average’ in 2012. Moreover, the overall attention pattern indicates that there have been notable turning points in the allocation to human rights between 1992 and 2012. The empirical data additionally revealed that the interconnectedness of human rights with other policy fields has increased between 1992 and 2012.

The second part of this chapter aimed at disclosing the extent to which the EU attention to different human rights issues has changed between 1992 and 2012. First, the range of human rights issues the EU deals with is not fixed, but the data display a rather dynamic pattern. Second, the focus was

primarily on the prominence of human rights issues measured on the basis of the use of legal instruments to implement policy. The results exposed dramatic changes in the allocation of attention to various human rights issues. Furthermore, mapping the attention allocated to one particular issue as an internal matter and to the same issue as an external matter revealed a discrepancy in the allocation of attention.

The third part aimed at describing and juxtaposing the politics of attention to human rights in 1992 and the politics of attention to human rights in 2012. On the basis of the identification of attention patterns, of an analysis of language, and of the use of policy instruments, I conclude that the politics of attention to human rights in 1992 differs from the politics of attention in 2012. The primary acquired insight indicates that the politics of attention to human rights in 1992 is more policy-based, whereas the politics of attention to human rights in 2012 is more politics-based. In the following chapters I elaborate upon the research findings of this chapter by explicating the changes in the politics of attention and by analyzing why and how the politics of attention has changed between 1992 and 2012.

IV

Beneath the Surface

Human Rights on the EU Agenda

At the heart of chapter III was an assessment of the extent to which the relative attention to human rights, the prominence of human rights issues, as well as the politics of attention to human rights has changed between 1992 and 2012. In the present chapter I aim at unraveling the reasons behind why, first, human rights issues were on the agenda between 1992 and 2012, and, second, why the politics of attention to human rights has changed between 1992 and 2012. To a certain level, these two questions are intertwined. The arrival of new issues on the agenda implies in itself a change in the politics of attention, primarily because the choice to include an issue or to replace issues on the agenda is a political choice and a matter of politics. Following Baumgartner and Jones, politics is the struggle among interests, and interests win because they have resources.³¹³ Therefore, in unraveling why human rights were on the agenda and why the politics of attention has changed, we need to focus on the interests and the resources behind the choice of including human rights on the agenda.

The attempt to identify and analyze the reasons why human rights are on the EU agenda touches upon an abstract dimension. We can never fully disclose the reasons behind issue salience, nor the reasons for why topics have become issues while other topics remain topics. This is primarily due to a lack of available and complete information regarding context, actors, issues and problems, the sources of these, as well as information pertaining to relevant external or internal dynamics. The main challenge hence is to provide a conclusive analysis. To mitigate the danger of an inconclusive analysis, the analysis in this chapter is executed on the basis of both agenda-setting theory, as explained in Chapter I, and a Critical Discourse Analysis (CDA), explained in Chapter II. Agenda-setting theory and CDA are complementary tools to understanding why human rights are on the agenda and to assess why the politics of attention to

³¹³ Baumgartner and Jones, *The politics of attention*, 3.

human rights issues has changed. In this regard, particular focus is on the semantic and pragmatic aspects of the language used in the General Reports and the Annual Reports between 1992 and 2012.³¹⁴

The analysis of why human rights have been on the agenda between 1992 and 2012, consequently, constitutes a critical approach to the normative character of the EU. I argue that the EU was not originally founded on the principles of democracy, human rights, and the rule of law, and that the EU has throughout the years merely resorted to normativity in an attempt to maintain the status quo of EU integration, to justify the advancement of EU integration, and to mitigate threats to the EU and its *raison d'être*. The human rights agenda thus signified a strategy to address fear and threats. I develop this main argument in four sections. The first section pertains to an analysis of the political choice to raise human rights as a prominent issue on the EU agenda in 1989. In answering why the EU as a polity pays serious attention to human rights issues, we need to identify and assess the emergence of human rights as a prominent policy area. 1989 constitutes the starting point of the analysis. The second section directly addresses a component of agenda-setting theory; issues emerge or are raised to salience when political actors are confronted with threats or opportunities. I attest that this theoretical assumption is valid for human rights issues on the EU agenda. In the third section I elaborate upon the prominence of human rights with regards to the EU accession of candidate countries, while the fourth section entails a CDA of the EU human rights speech. CDA allows us to characterize the EU ideology at the heart of the EU speech, in turn enabling us to acquire insights about the interests beneath this ideological surface.

4.1. The Prominence of Human Rights

The empirical data collection revealed that the overall attention to human rights between 1992 and 2012 changed from being 'prominent' in 1992 to being 'average' in 2012. The political choice behind the prominence of human rights in 1992 is the starting point of the analysis and subject of the present section. In order to understand why human rights were prominent in 1992, we should assess when and why this prominence was inspired. Since the creation of the European Coal and Steel Community in 1951 human rights gradually emerged on the EU agenda through the jurisprudence of the European Court of Justice. Prior to 1951 the emphasis had been on economic recovery after the depression of the 1930s and the Second World War. Economic cooperation and integration were hence stimulated by removing trade barriers, and economic cooperation was warranted by the 1947 Marshall Plan, devised by the United States of America to support the reconstruction of the European continent. Consequently, attention to human rights, democracy and the rule of law was embodied by the establishment of the Council of Europe

³¹⁴ The General Report on the Activities of the European Union and the Annual Report on Human Rights and Democracy in the World.

in 1949 by the representatives of the EU founding states. However, even though the founding fathers of the Council of Europe expressed hopes that this council would one day develop into a Parliament of Europe, the Council of Europe should be seen as an independent development, separate from European integration. The Schuman Declaration launching the European Coal and Steel Community in 1951 as the first step towards European integration, made no reference to human rights, and stressed primarily the importance of peace and solidarity, especially between France and Germany. European integration, thus, was driven by the desire to maintain peace and to accomplish solidarity. This desire does not automatically imply a correlation with the desire to promote the principles of human rights, democracy, and the rule of law. I argue that mention of human rights in the Treaty establishing the ECSC and the subsequent Treaty of Rome of 1957 would have been redundant due to the existence of the Council of Europe. However, if human rights are considered inherent to the EU integration process, the absence of even a minor reference in the founding treaties is notable. Inherence of human rights to the EU implies that a reference to human rights by the EU is self-evident, while the absence of any reference to human rights at all enhances the credibility of the claim that a community of values developed –if at all– separately from the European economic integration process. More importantly, the redundancy and the self-evidence of reference to the inherence of human rights alike may inspire us to pose question marks behind the inclusion of ‘foundation-frames’. Foundation-frames are speech constructions adopted by the EU to indicate that the EU was founded on the principles of human rights, democracy, and the rule of law. The EU has adopted these frames only in later treaties and speech. However, if reference were redundant it is notable that the EU, at later stages, includes reference at all. On the other hand, if inherence of the mentioned principles were self-evident, this would make reference equally self-evident, and we may consequently ask why the EU started to include these frames only at later stages. I interpret the use of ‘foundation-frames’ in chapter V. Let me first identify the reasons behind why human rights became a prominent issue on the EU agenda.

Fundamental Rights on the Internal Market

In 1989, for the first time, human rights appeared prominently in the General Report, implying prominence on the EU output agenda. In the 1989 General Report, an independent chapter deals specifically with intergovernmental cooperation and human rights. In earlier years human rights were only on the agenda in a small section in the chapter on community law, indicating ‘average’ attention. Why did human rights emerge as a prominent policy area in 1989? The first paragraph in the human rights chapter of the 1989 General Report states that “implementation of the Single Act has to be accompanied by

increased social rights for the citizens of the Community, especially workers.”³¹⁵ This implies a causal relation between the Single European Act (SEA) and the increased attention to and prominence of fundamental rights at the EU level. The SEA, which came into force in 1987, constituted the first major change to the 1957 Treaty of Rome, and was intended to liberalize trade, and to remove the final barriers to a free European market, thus to stimulate the process European integration. The SEA is a legal act that enables the EU to implement policies that serve the broader EU objectives and interests of advancing European integration, and, indeed, the SEA does encompass an allusion to human rights in its preamble: “Determined to work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, notably freedom, equality and social justice (...)”.³¹⁶ Hence, against the backdrop of completing the internal market, but particularly against the backdrop of realizing the freedom of movement, more attention was being paid to protecting the fundamental rights of citizens working on the internal market and beyond. This resulted in 1989 in the adoption of the Community Charter of Fundamental Social Rights of Workers, and this explains the attention to social rights in 1992. Therefore, I purport that the increased attention to fundamental rights in 1989 is the outcome of the neo-functional idea of political spill-over through functional integration, or an example of how the implementation of one policy (internal market policy) gradually leads to a focus on new issues (rights of citizens). This is moreover an illustration of how EU policies influence EU politics and the politics of attention to human rights, in turn defining new policies. The SEA initiated internal market policies that caused a political debate on how to mitigate the consequences of the free movement of persons, resulting in a Charter. Internal market policies have thus set an EU fundamental rights agenda. In a similar vein, the protection of social rights is directly linked to the politics of stimulating the well-functioning of the internal market. Functional spill-over in this regard explains why the Maastricht Treaty in 1992 included provisions pertaining to the protection of citizens on the internal market. In consequence, I assert that the emergence of human rights as prominent on the EU agenda is consistent with the concept of normative spill-over, devised and explained by Berthold Rittberger and Frank Schimmelfennig: (...) functional supranational integration has regularly undermined existing democratic and human rights institutions at the national level and thereby created a democratic legitimacy deficit of European integration. This legitimacy deficit triggered arguments in which interested or committed actors drew on the shared liberal-democratic community norms in order to create normative pressure in favor of the

³¹⁵ Commission of the European Communities, 22nd General Report on the Activities of the European Communities 1989 (Brussels and Luxembourg 1990), 398.

³¹⁶ “Single European Act 1987”, *Official Journal of the European Communities* (L 169/1), preamble.

constitutionalization of the EU.”³¹⁷ If we accept the notion of normative spill-over, the increased attention to human rights at the EU level emerged as a consequence of the increased consciousness of a democratic legitimacy deficit. This implies that the attention to human rights is used by the EU to circumvent claims of a democratic legitimacy deficit, hence that the attention to human rights increases when the EU is confronted with the threat of a democratic legitimacy deficit. I will construe this claim further in subsequent paragraphs.

Securitization of Human Rights

Scholars of the realist tradition refute the concept of functional spill-over in explaining why issues are included on agendas and they instead allocate a dominant role to the interests and power aspirations of polities. According to realists, thus, the EU agenda is determined by the EU desire to preserve and strengthen its position, security and power in the international system. The EU agenda is set accordingly. This implies that human rights are on the agenda because the EU recognizes the protection of human rights as a contributing factor to power and security interests. Preventing war and preserving peace and solidarity through economic cooperation have been the motors behind European integration. Security, inside the EU, but also in the EU neighborhood and beyond, is therefore indeed a significant item on the EU agenda because security serves to achieve peace and solidarity within the EU. Therefore, it is relevant to assess the link between security and the role of human rights on the EU agenda. To some extent, the alleged link between security and human rights is a matter of how human rights are being raised to salience, and is discussed as an agenda-setting strategy in chapter V and VI. After all, presuming that human rights are on the agenda due to matters of security implies that securitizing human rights is a useful strategy in raising human rights to salience. Chapter VI on the politics of attention to female genital mutilation as an internal EU affair furthermore elucidates the role of criminalization as a component of securitization. In the next paragraph I elaborate upon the relation between security and the inclusion of human rights on the EU agenda.

Prior to 1989 security matters were on the EU agenda, though not prominently and security matters were particularly linked to European political cooperation. Human rights also constituted a non-prominent issue before 1989. I purport that 1989 is characterized by a shift in attention, causing intergovernmental cooperation and human rights to become prominent on the EU agenda. The notion ‘intergovernmental cooperation’ is here understood as referring to security, addressing the relations between the EU and third countries and in particular addressing matters of security, politics and human rights. On the semantic

³¹⁷ B. Rittberger and F. Schimmelfennig, “The constitutionalization of the European Union: explaining the parliamentarization and institutionalization of human rights’ in: S. Meunier and K.R. McNamara eds., *Making history. European integration and institutional change at fifty* (Oxford University Press 2007), 216.

level, we see a relation between intergovernmental cooperation, hence security, and human rights. The fifth chapter in the 1989 General Report is called “Intergovernmental Cooperation and Human Rights”, and, even though these matters are subject of independent sections within this chapter, the merging of these matters into one chapter and the title of the chapter at least indicate that the EU seeks to create a link between security and human rights.

The 1989 chapter on intergovernmental cooperation and human rights centralizes the relations between the EU and the different regions of the world, commenting on the political situation in the various countries, and highlighting the human rights record of these countries. The chapter touches upon concrete internal, regional, and global interest of the EU. The first focus is on stability in the EU immediate neighborhood, in particular on security in Europe and the implementation of the recommendations of the 1975 Helsinki Final Act, outcome of the Conference on Security and Co-operation in Europe (CSCE-process). The Helsinki Final Act helped the EU to mitigate tensions in the Eastern European Region and to strengthen economic and humanitarian cooperation with the countries in the region. Especially ‘overcoming the divisions within Europe’ is presented as a concern of the EU, because stability in Europe contributes to security in the overall region. Promoting human rights is a component of the strategy to engender stability, hence security, in the Eastern European region. The EU thus raises attention to human rights in relation to stability in countries that are geographically close. The CSCE-process is furthermore mentioned as an ‘appropriate framework to achieve tangible results’ in tackling the ‘changes in the USSR announced’ in November 1989.³¹⁸ These changes refer to the reunification of Germany, hence changes to the status quo of the EU integration process and subsequently to the EU agenda. It should be noted that the chapter on external relations in the 1989 General Report additionally includes an independent section on the economic and political changes in the German Democratic Republic of November 1989.³¹⁹ The focus in this regard is initially on economic cooperation and German internal trade and does not extend explicitly to security matters. The 1987 and the 1988 General Reports already mention the improved relations between the EU and the USSR, and the latter General Report indicates the potential role of the Helsinki Final Act in this regard. We see that improved relations between the USSR and the EU, and the ultimate collapse of the USSR in November 1989 raised matters of security higher on the EU agenda. To what extent can we argue that the prominence of human rights and security is due to the interconnectedness between these two matters? It is unclear whether we can speak of a securitization of human rights. Nevertheless, we may purport that the emergence of human rights as prominent on the agenda is related to security as an agenda item. This is consistent with the realist point of view.

³¹⁸ Commission of the European Communities, *22nd General Report 1989*, 387.

³¹⁹ *Ibid.*, 334.

Furthermore, in the introduction of the 1992 General Report, we can disclose a link between human rights, security, and enlargement. The 1992 General Report reflects on the EU policy toward those Eastern European countries that have the prospect of becoming an EU member, a policy that was devised to contribute to the security in Eastern Europe. Despite the absence of a direct mention of human rights in this regard, the EU emphasizes the role of political dialogue in the process of strengthening democratic societies in the Eastern European countries. The attention to human rights is a component of political dialogue. This presupposes a link between security, human rights, and enlargement. The link between human rights, security, and enlargement provides an explanation of why there is less attention to human rights during those years in which new countries accede to the EU. If human rights are primarily linked to enlargement because enlargement requires pre-dominantly stability and security, which had in turn been facilitated by the attention to human rights as a contributing factor to security, human rights become less important when stability and security have been achieved. At times of accession, therefore, security is achieved because stability and security are prerequisites of EU membership. If the situation in EU candidate countries is stable and secure, there is less need to raise human rights to salience. Hence, the 2004 EU Eastern enlargement explains why the attention to human rights is insignificant in 2004 and why the common foreign and security policy is not on the EU agenda in 2004. I explore the link between the attention to human rights and enlargement in section 1.3. In the following section I interpret the link between the political attention to human rights and a democratic legitimacy deficit, highlighting the role of threats.

4.2. Change through Threat

In the present section I expound the role of threats in analyzing the reasons why the politics of attention to human rights has changed. Agenda-setting theorists have argued that threats and opportunities serve as the initiators of agenda-setting and motors of changing the politics of attention. International arenas, following Mansbach and Vasquez, may adopt new issues when political actors see themselves confronted with threats or with opportunities.³²⁰ In the case of the EU, these threats and opportunities could arise in various contexts and threats or opportunities may be perceived by various political actors, ranging from the local or member state level to the level of the Heads of State or Government and the level of global politics. The following pages, therefore, permeate an explication of the role of threats in why human rights issues were raised to salience between 1992 and 2012. Opportunities play a larger role in identifying how issues came onto the agenda and are therefore addressed in Chapter V. Indicators of problems, posed by John Kingdon

³²⁰ R.W. Mansbach and J.A. Vasquez, *In search of theory. A new paradigm for global politics* (Columbia University Press 1981), 87.

as reasons for why issues emerge on agendas, play a role in both the perception of threats and the perception of opportunities. In order to address threats and opportunities as factors contributing to agenda change, I briefly indicate how we can define and identify these factors as such. A threat constitutes a possible menace. In the EU context, this implies a menace to factors contributing to the progress of EU integration, as well as to factors relating to interests at the various levels of governance in the EU. Menaces are possibly perceived after shifts in politics and shifting power relations through inter- and intra-institutional changes and adaptations. In order to mitigate potential consequences of the threat, political actors may decide to change the status quo of certain items on the agenda. In this regard, political actors look for an opportunity to do so. An opportunity provides a favorable moment or occasion to attend to an interest or to realize an existing objective. These opportunities could be directly related to a threat, because political actors are receptive to finding ways of diverting the threat when confronted with one.

The empirical data collection reveals an increase in the relative attention to human rights in 1994. I assess this increase of attention as the response to a perceived potential threat. Empirically, the relative attention increased in 1994 because the 1994 General Report contains two chapters that focus on fundamental rights; the first chapter of the report focuses on the rights of EU citizens, while a fifth chapter centralizes human rights and fundamental freedoms. Increased attention, as we see on the basis of a document analysis, is due to the launch of European citizenship, raising fundamental rights high on the agenda. If we can equate the contents of the EU agenda with the status-quo of the EU integration process, as purported by Sebastiaan Princen, I claim that, given its position on the agenda, the consolidation of EU citizenship is a significant factor contributing to EU integration.³²¹ Moreover, as indicated in the 1994 General Report, the development of EU citizenship is considered a component of the approach to strengthen democratic legitimacy.³²² This implies that democratic legitimacy is not strong enough and that increased attention to citizens and the rights of citizens through developing citizenship helps to enhance democratic legitimacy. Citizens thus provide legitimacy to the EU and to the advancement of the EU integration process. There is a perceived threat in the potential consequences of a democratic legitimacy deficit, which has implications for the future of the EU integration process because democratic legitimacy justifies cooperation at the EU level. Without democratic legitimacy the EU lacks *raison d'être*. I purport that increased attention to citizen's rights and to the creation of citizenship mitigates this potential threat because the focus on citizens was meant to engender legitimacy. As a result, fundamental rights are raised to salience and even newly defined. This is illustrated by the emergence of a right to access of information. In 1994, the newly

³²¹ Commission of the European Communities, 32nd *General Report on the Activities of the European Communities 1998* (Brussels and Luxembourg 1999), 13.

³²² Commission of the European Communities, 26th *General Report on the Activities of the European Communities 1994* (Brussels and Luxembourg 1995), 9.

announced right to access of information is explicitly linked to the declining support of citizens and the attempt to bring the EU closer to the people.³²³ Therefore, by raising fundamental rights to salience and by creating ‘new’ rights, policy makers seek to divert the threat of a democratic legitimacy deficit.

If we argue that the emergence of threats by political actors at times leads to increased attention to human rights, thus to a change in the politics of attention to human rights, we could ask ourselves if the elimination of threats implies the decrease of attention to human rights and a change in the politics of attention to human rights as well. How can we define and identify the absence of threats? An examination of the extent to which the General Report reflects on developments in favor of EU integration is useful in this regard. I call these ‘positive’ developments; developments that are expected to advance the EU integration process. These developments should not be confused with focusing events, even though focusing events may also provide an impetus to threat aversion. Threats, on the other hand, revolve around ‘negative’ developments; developments that are expected to endanger or obstruct the EU integration process, for instance a possible democratic legitimacy deficit. This implies that, if the danger of a legitimacy deficit is eliminated or at least mitigated, the relative attention to fundamental rights decreases. In what follows I explain the extent to which this assumption is valid.

In 1995 EU citizenship remains prominent, but there the focus on citizen’s rights as such is weaker, leading to a decrease of the relative attention to human rights from ‘very prominent’ to ‘prominent’. ‘Prominent’ means that human rights still constitute a significant item on the agenda, implying that the perceived threat is not entirely eliminated and possibly embodies a perpetual concern. In addition, one remark seems appropriate regarding the decrease of the prominence of issues on the agenda. A decrease from ‘very prominent’ to ‘prominent’ or even to ‘average’ may not necessarily be related to the absence of threats, and we do not need to identify this change as a ‘decrease’ as such. In fact, ‘average’ is a starting point, a neutral basis for issues on the agenda. In this regard, I state that the attention to issues on the agenda is characterized by a regression to mean, in this case to ‘average’. From there, we may identify increases or decreases. This means that from 2006 onwards human rights as a policy field is on the agenda without being associated with prominence or insignificance. Decreases in the relative attention, therefore, cannot always be related to the elimination of threats. Nevertheless, decreases are connected to developments that mitigate or at least temporarily avert threats. The decrease of prominence in 1995 can be explained by the occurrence of positive developments that outweigh developments that had previously been identified as negative. In 1995, significant results were achieved regarding further consolidation of the framework of cooperation in the field of justice and home affairs, and the 1995 General Report links

³²³ Ibid., 235.

these achievements directly to ‘bringing the EU closer to its citizens’.³²⁴ These achievements are thus identified as a step to eliminate the threat of a democratic legitimacy deficit. Furthermore, and in particular with regards to citizenship, the Report emphasizes the appointment of the first EU Ombudsman, as well as the various directives to facilitate the functioning of the internal market and the freedom of movement. Not only is the focus on EU citizenship and the appeal to the EU citizens used to tackle the threat of a legitimacy deficit; a decrease of the relative attention to human rights is directly linked to positive developments embodied by the adoption of measures to mitigate the threat. In addition, the EU enlarged in 1995 with three new member states, providing a positive boost to EU integration.

In 2004 the relative attention to human rights decreases significantly from ‘prominent’ to ‘insignificant’. On 29 October 2004 the Treaty establishing a Constitution for Europe was signed in Rome. The adoption of a treaty in itself is a positive development because a treaty has the function of consolidating the European project. The 2004 General Report states that the purpose of this treaty “is to make the enlarged European Union more democratic, more transparent and more efficient.”³²⁵ ‘Enlarged’ EU implicates that there is an EU that was now expanded, which constitutes a positive development; the accession of new EU member states in 2004, pointing to an advancement of the EU integration process. ‘More democratic, more transparent and more efficient’ implies that the EU is democratic, transparent, and efficient, but not to satisfactory standards; the use of the word ‘more’ implies that the EU is in need of adding strength to these three features in order to avoid a democratic legitimacy deficit, which, as previously illustrated, constitute a threat leading to increased attention to human rights. The Treaty establishing a Constitution for Europe allowed for new ways to divert this threat and, moreover, incorporated the Charter of Fundamental Rights adopted in 2000. Contributing to consolidating the EU integration process, the latter is also a positive development. Additionally, in 2004 the EU attributed ‘fresh impetus’ to the process of accomplishing an area of freedom, justice, and security. Fundamental rights are treated as an agenda item that falls within the remit of this area, together with citizenship. This ‘merger’ of attention to justice, fundamental rights and citizenship accounts for the reason why the attention to human rights itself has declined in 2004; the relative attention to human rights becomes more relative because it ‘shares’ attention with justice and citizenship as policy fields. I assess this as a positive development because the ‘merger’ is one way in which the EU seeks to consolidate the integration process. Lastly, European Parliament elections were held in 2004, which makes 2004 a ‘moment of democracy’, temporarily diminishing accusations of a democratic legitimacy deficit.

³²⁴ Commission of the European Communities, *26th General Report on the Activities of the European Communities 1995* (Brussels and Luxembourg 1996), 5.

³²⁵ European Commission, *General Report on the Activities of the European Union 2004* (Brussels and Luxembourg 2005), 14.

To test if the abovementioned assumption of the relation between the absence of threats and the decline of issue salience is valid, we need to additionally assess whether or not the increase of attention to human rights in 2005 can be explained by the emergence of a perceived threat, and whether the consequent decline in 2006 can be explained by the elimination of a threat. This test creates a framework for analysis to understand why issues are not included on the EU agenda. In 2005, relative attention increases from ‘insignificant’ to ‘prominent’. The question is thus whether or not this significant increase can be explained by the emergence of a perceived threat. The 2005 General Report identifies this year as a defining moment due to the “halting of the process of ratifying the Treaty establishing a Constitution for Europe following the ‘no’ votes in the referendums in France and the Netherlands.”³²⁶ If we examine the signing of a treaty as a positive development, an event that stands in the way of treaty ratification engenders the opposite effect. The ‘halting’ of the EU is thus a negative development, embodying a threat to the EU integration process. The 2005 General Report elaborates upon the EU response and approach to tackle this threat: “(...) These events (...) on the future of the institutional process (...) did not paralyze the Union. Instead they highlighted and in effect reinforced the importance of realigning the processes already embarked upon in accordance with the four guiding principles which the European institutions consider essential in responding to public concerns and which provide the structure for their action: prosperity, solidarity, security and the presence of Europe in the world.”³²⁷ First, the EU refers to treaty ratification as a building brick of the future of the EU institutional process, hence as a positive development. Second, in dealing with threats to the future, the EU declares the importance of addressing public concerns. Therefore, a renewed focus on citizens implies the pursuit of a strategy that is adopted when there is a perceived threat to the democratic legitimacy of the EU. Moreover, the EU focuses on prosperity, solidarity, security and presence in the world as essential elements to secure the ‘future’. The EU emphasizes these elements when attempting to mitigate the consequences of potential danger. In all Annual Reports on Human Rights, annually published since 1999, the EU explicitly purports that the protection of human rights is constitutive of economic prosperity. Notably, fundamental rights and common values are explicitly addressed in the chapter on solidarity. This means that the EU appears to be raising fundamental rights to salience as part of a threat-diverting-strategy, as well as of a strategy to boost economic prosperity. In addition, fundamental rights are particularly referenced in relation to an area of freedom, security and justice.³²⁸ This linkage of human rights to freedom, justice, and security shows that perceived threats to the future of the EU result in the securitization of fundamental rights. The 2005 General Report additionally reflects that combating terrorism goes hand in hand with the respect for the

³²⁶ European Commission, *General Report on the Activities of the European Union 2005* (Brussels and Luxembourg 2006), 9.

³²⁷ *Ibid.*, 9.

³²⁸ *Ibid.*, 11

rule of law human rights.³²⁹ The respect for human rights is thus framed in an issue contributing to security, which is a factor contributing to the preservation of the future of the EU. Again, this is consistent with realist views on EU integration.

In 2006 the relative attention to human rights decreases from ‘prominent’ to ‘average’, the level of prominence that human rights maintains until 2012. The validity of the assumption that there is a link between a decrease of issue salience and the aversion of threats ought to be confirmed by the existence of positive developments in 2006. The introduction of the 2006 General Report states: “Although doubts had surfaced in 2005 following the ‘no’ votes in the referendums in France and the Netherlands on ratification of the Treaty establishing a Constitution for Europe, the momentum generated by the relaunched Lisbon strategy was a powerful push factor for progress in several key areas and for ambitious new projects in others.”³³⁰ With ‘doubts’ the EU refers to what we have identified as a negative development or threat. Consequently, the 2006 General Report reflects on why momentum was recovered, hence why the threat was reversed from a doubt into a ‘push for progress’, meaning a stimulating event to the EU integration process. Furthermore, in 2006 several ambitious projects were launched, indicating that the perceived threat to the future of the EU is mitigated. In addition, the decrease of the prominence of human rights in 2006 is due to the desire of rationalizing attention and by making the report more concise and readable, as announced in a ‘note to readers’.³³¹ As in 2005, the 2006 General Report addresses fundamental rights both inside and outside the EU within the wider context of solidarity. I argue that through this link with solidarity the EU attempts to make fundamental rights more broadly and economically relevant.

Fundamental rights were raised to salience in order to preserve European integration. Without the protection of the fundamental rights of citizens moving on the internal market the future of the internal market, and the EU, may have been at stake. This implies that the existence of a possible threat led to a change in the politics of attention to human rights. Following the concept of normative spill-over, the increased attention to human rights is a consequence of a perceived democratic legitimacy deficit. A perceived democratic legitimacy deficit constitutes a threat to the internal market and to the future of the EU. I previously explained how internal market policies triggered a politics of attention to human rights. Moreover, politics also determine policies. Taking into account that the attention to human rights decreases when policies have been adopted to mitigate a threat; these policies addressing a threat lead to a more modest human rights discourse. The adoption of policies then ultimately leads to a politics of

³²⁹ Ibid, 11.

³³⁰ European Commission, *General Report on the Activities of the European Union 2006* (Brussels and Luxemburg 2007), 11.

³³¹ Ibid., 9-10.

attention with a decreased focus on human rights. The following section further construes the politics of attention to human rights, particularly focusing on enlargement and the EU attention to human rights.

4.3. Human Rights on the Expansion Agenda

The respect for human rights is said to be at the heart of the EU and its policies. In addition, the respect for human rights constitutes a component of the 1993 Copenhagen criteria developed to indicate and assess the eligibility of countries to join the EU. In the present section I elaborate upon the decline of prominence of human rights and the accession of member states to the EU. It is useful to further develop this relation because previous sections exposed that the attention to human rights decreases when threats to the internal market or to the future of the EU are mitigated by positive developments. It is notable that the prominence of human rights on the EU decreases exactly at times of EU expansion, in 1995 and in 2004. In 2007, when Bulgaria and Romania joined the EU, the attention to human rights remains ‘average’ and enlargement is thus not associated with the prominence or insignificance of human rights on the agenda. Nevertheless, the above confirms that EU expansion is considered a positive development, and that enlargement is hence accompanied by less political attention to human rights.

The empirical data collection reveals that enlargement in the Annual Reports is primarily discussed in relation to the EU Neighborhood Policy and that enlargement as such is an insignificant item on the EU human rights agenda. The Annual Reports, hence the EU output agenda, reflect primarily upon the EU action outside the EU, and it is therefore notable that enlargement does not constitute a more pivotal role on the EU human rights agenda. The EU thus deals with enlargement as an internal affair. Indeed, if we argue that the accession of new member states touches upon the core of the EU because enlargement expands the internal market boosts the integration process, and if the core of the EU in turn is defined by the principles of human rights, democracy and the rule of law, as purported by the EU treaties, we may expect a strong link between the attention to human rights in relation to enlargement. After all, new member states are expected to identify with the EU founding principles. Why, then, is enlargement an insignificant item on the EU human rights agenda? The politics of attention to human rights does not seem to influence enlargement policies beyond the Copenhagen criteria, nor do enlargement policies seem to have an effect on the politics of attention to human rights. The low significance of enlargement on the EU human rights agenda is due to the link between human rights, security, and enlargement. When enlargement is no longer accompanied by security concerns and enlargement is transformed into a positive development, the attention to human rights decreases. This is an example of how perceptions on security

and enlargement define the politics of attention to human rights, in turn influencing the extent to which there are human rights policies. Moreover, this is an example of the role of human rights in the politics of attention to security, hence enlargement. Perceptions, possibly inspired by dominant norms and values or defined by experience with previous policies or policy outcomes, influence the logic of allocating attention, hence the politics of attention and subsequent policies. However, the case of the application of human rights conditionality to trade agreements between the EU and Serbia does not reflect this line of reasoning. This case, in fact, reveals that there is already a discrepancy between the politics of attention to human rights and the enlargement process itself, rather than merely a discrepancy between the attention to human rights and the moment of the accession of new member states. What follows constitutes an analysis of the EU human rights conditionality applied to trade agreements with the Republic of Serbia, an EU candidate country. This analysis reveals additionally that the EU human rights policy in relation to Central and Eastern European countries can be used to question the EU normative commitment, because the EU fails to apply its politics of centralizing human rights as a key element of its foundation to the enlargement policy. This is notable because through enlargement the EU engenders a positive development to the integration process and an expansion of the EU touches upon its foundations. Moreover, the case of Serbia shows that the politics of attention does not necessarily have an impact on policies. Instead, critique on the EU human rights conditionality policies led to a change in the politics of attention that is characterized by a less attention to human rights.

The EU and the Republic of Serbia signed an Interim Agreement on trade and trade-related issues and a Stabilisation and Association Agreement (SAA) in April 2008. The EU, Serbia's largest trading partner, applied political conditionality to these agreements.³³² Although the agreements do not include provisions regarding the tensions between Serbia and Kosovo, in October 2011 the EU expanded its conditionality for Serbia by urging the country to improve its relations with Kosovo. In March 2012, and after the successful attempt of the EU to broker an agreement between the Serbian government and Kosovo, Serbia was granted EU candidate status.³³³ Following the 2012 Progress Report for Serbia, Serbia is meeting its agreement commitments and has moreover displayed its commitment to European integration.³³⁴ Despite Serbia's role in the Balkan wars of the 1990s, and the subsequent controversy over the search for former military leader Ratko Mladić and the laborious cooperation with International Criminal Tribunal for the

³³² The EU applies human rights conditionality to its trade and association agreements with third countries. This means that the EU includes human rights and democracy clauses, accompanied by political dialogue in trade agreements and that the EU provides positive incentives to countries that comply with the EU human rights standards, whereas non-compliance leads to the application of appropriate measures such as the withdrawal of aid.

³³³ The EU demands of candidate countries to resolve conflicts with their neighboring countries, but does not explicitly demand Serbia to recognize Kosovo as an independent state.

³³⁴ European Commission, *Serbia 2012 Progress Report SWD (2012) 333 final (October 2012)*, 6-8.

formal Yugoslavia in The Hague, as well as tensions between Serbia and Kosovo, Serbia's democratic consolidation and compliance with EU standards are seen as promising. Nevertheless, the following analysis illustrates the discrepancy between the EU human rights commitment and Serbian human rights perceptions, as well as a discrepancy between the EU politics of attention to human rights and its attitude in implementing human rights policies. This example concerns the decision of the Serbian government to ban the Belgrade Gay Pride parade in October 2012. Prior, in September 2012, the Serbian Prime Minister Ivica Dacic had explained the stance of the Serbian government regarding Gay Pride parades: "screw the kind of Union for which gay pride marches are the entry ticket"³³⁵. Serbia had banned the Gay pride already in October 2011 after the Gay Pride parade in October 2010 had led to violence by far-right extremists. However, one year later Serbia had reached candidate status for EU accession, which implies new responsibilities pertaining to the Copenhagen criteria that require a different approach to the protection of human rights than the approach pursued by Serbia. The Serbian authorities purported that they merely intended to avoid a repetition of the 2010 events, and that the ban was necessary due to security matters. However, if the respect for and protection of gay, lesbian, bi-sexual and trans-sexual rights is an indicator of the respect for human rights in a candidate country, I assert that the ban on Gay Pride parades is indicative of the violation of fundamental freedoms and human rights. As the respect for human rights and democracy are not only prominent requirements of the SAA, but also conditional for EU accession, I consequently state that a ban of the Gay Pride parade means that the Serbian government does neither meet the EU human rights standards nor the Copenhagen criteria. Moreover, Hannes Swoboda, head of the Socialist grouping in the European Parliament, has indicated that prohibiting the Gay Pride also displays the inability of the Serbian government to guarantee the freedom of expression, which means that more than one fundamental freedom is violated by banning the Gay Pride parade.³³⁶ The Serbian authorities stressed that in the decision to ban the Gay Pride parade security matters 'trumped' the need to guarantee the right to freedom of expression and to protect the rights of gay, lesbian, bi-sexual and trans-sexual people. Although this implies that the Serbian authorities had a grounded motivation for not complying with human rights rules, the attitude of Serbian Prime Minister Ivica Dacic, uttering "screw the kind of Union for which Gay Pride marches are the entry ticket", is indicative of an underlying dynamic and a discourse that does not centralize the respect for fundamental rights and freedoms. The sentence implies that the Serbian government does not share the EU founding values of respecting human rights, democracy, and the rule of law. In fact, it displays Serbia's unease to comply with human rights conditionality, even at the expense of its EU membership.

³³⁵ "Gay rights not decisive for Serbia-EU talks", *EUobserver* (4 October 2012). At: <http://euobserver.com/enlargement/117756>

³³⁶ "EU 'regrets' candidate Serbia's Gay Pride ban", *EU Business* (4 October 2012). At: <http://www.eubusiness.com/news-eu/serbia-gays-rights.in9/>

While the European Parliament has been strong in condemning the ban on the Gay Pride parade, the European Commission merely expressed its ‘regret’ that the Serbian authorities had banned the parade.³³⁷ The EU Commissioner for Enlargement Füle did urge the Serbian authorities to act against violations of fundamental freedoms, and to engage in a ‘constructive’ political debate on toleration, but reference to the EU accession process of Serbia was lacking.³³⁸ The response of the EU to the ban of the Gay Pride parade makes a lenient impression and this is notable as the EU had positioned itself strongly regarding gay rights only in July 2012. In July 2012 the EU clearly stated that the respect for and the protection of gay rights is a legal criterion for EU accession.³³⁹ The response to the ban on the gay pride conveys a discrepancy between the EU speech and politics of attention to human rights and EU action. The lenient attitude implies a response to earlier critique on the EU human rights policy made by third countries. Due to a lack of consistency, credibility, and effectiveness of the conditionality policy third countries frown upon the EU attitude as condescending, especially when human rights violations occur within the borders of the EU itself. In adopting a less critical attitude to human rights violations in third countries, the EU may have been seeking to avoid the critique of being patronizing to future members. The impact and outcome of policies may thus have inspired the EU to change its politics of attention. It is notable that the EU displayed a particularly lenient attitude with Serbia, especially because the EU has posed as a strong human rights defender in the accession negotiations with Turkey. This discrepancy indicates additional inconsistencies in the EU human rights commitment. Due to its geographic location and economic significance, Turkey is a more important partner to the EU than Serbia. Therefore, if the EU is particularly critical of Turkey, then why is the EU lenient with Serbia? The following section more specifically addresses the EU human rights speech and identifies and assesses the EU politics of attention to human rights.

4.4. Beneath the Surface of the EU Human Rights Speech

Where the previous sections highlighted the contents of the EU agenda and underlying agenda-setting dynamics, this section focuses specifically on the EU human rights discourse, providing a diachronic analysis of the EU human rights speech. The identification of discursive strategies and structures in speech paves the way to the identification of an ideology, in turn revealing underlying interests. This ideology and these interests reveal why human rights are on the EU agenda. Moreover, an analysis of the EU speech, assessing how the EU presents itself during the economic and financial crisis, provide useful

³³⁷ Ibid.

³³⁸ “Gay rights not decisive for Serbia-EU talks”, *EUobserver* (4 October 2012). At: <http://euobserver.com/enlargement/117756>

³³⁹ “Gay rights is EU entry criterion, Brussels says”, *EUobserver* (13 July 2012). At: <http://euobserver.com/lgbti/116963>

insights regarding the contents of the EU agenda and the direction of the EU integration process. Applying CDA to understanding the politics of attention and to understanding why issues are on the EU agenda implies an expectation that there are hidden or overt meanings in the EU human rights speech. Adopting CDA moreover suggests the existence of interests behind the employment of a human rights speech. In understanding whether there are hidden interests and to unveil what these interests are, we need to look at what the EU human rights speech entails and at how the EU communicates and uses this speech. Particular focus is on shifts in speech, indicating shifts in ideology, hence interests. In identifying the EU ideology I discern two levels of discourse: speech for action within the EU and speech for action outside the EU. Despite this distinction, however, I argue that these levels overlap and also reinforce one another.

Ideology

Before I start analyzing how ideology reveals interests, let me first provide a definition of ‘ideology’. Teun van Dijk³⁴⁰ refers to ‘ideologies’ as ‘systems of beliefs’ that ‘control and organize other socially shared beliefs’, and Van Dijk characterizes ideologies as foundational, general and abstract.³⁴¹ Ideologies, following Van Dijk, have the cognitive function to bring coherence to the beliefs of a group, and ideologies ‘specify the general cultural values, for instance equality, freedom and justice, that are relevant for the group’.³⁴² CDA can be used to map the function of ideologies at different times. As Van Dijk explains, a discourse analysis is a tool to analyze the structures and functions of underlying ideologies, which are ‘acquired, confirmed, changed and perpetuated through discourse’.³⁴³ Hence, by identifying discursive structures and strategies we can gain more insights pertaining to the ideology that is at the heart of these structures and strategies. One of the discursive structures Van Dijk is referring to consists of the use of words such as ‘we’ and ‘ours’. We should note that the words as such are not biased to specific ideologies. Rather, the way in which words are employed in particular contexts typify words as biased. In what follows I analyze the identified discursive strategies in the EU General Reports, taking the most recent publication as a starting point of the analysis. In the foreword of the 2012 General Report, already discussed in Chapter III, European Commission President José Manuel Barroso, makes explicit use of ‘we’ and ‘ours’. According to Van Dijk, the use of these pronouns indicates that Barroso positions himself as a member of a group, the European Union, and he addresses his audience as belonging to the same group. This presupposes the existence of an ideologically biased context model.³⁴⁴ A context model refers

³⁴⁰ In “Ideology and discourse analysis” Teun van Dijk explicates ‘ideology’ particularly in the context of discourse analysis: T.A. van Dijk, “Ideology and discourse analysis”, *Journal of Political Ideologies* 11 (2006)115-140, pp. 115-6.

³⁴¹ *Ibid.*

³⁴² *Ibid.*, 116.

³⁴³ *Ibid.*, 115.

³⁴⁴ *Ibid.*, 124.

to a particular situation or context that was defined and characterized by episodic memory. This means that reference is being made to a specific context that was shaped on the basis of (shared) contextual knowledge, and of shared memories related to certain times, places, and emotions. These models are ideologically biased due to the existence of underlying attitudes that were dominant in this particular context. Therefore, ideologically biased context models possibly engender biased discourses.³⁴⁵ By using pronouns Barroso was attempting to appeal to an ideologically biased context model that he shares with his audience. Through his language he seeks to address common ground with the audience, suggesting a degree of ‘closeness’ with the EU citizens. Moreover, the vague reference to ‘our common values’ implies that more is being communicated than is being said, in the sense that using the notion of ‘our common values’ requires pre-existing knowledge or presuppositions by the public. Only the public as the ‘in-group’ enjoys complete knowledge of ‘our’ values that are more abstract to ‘others’. This generates a sense of belonging to a group. Furthermore, this particular discursive structure, which I assess as an expression of ideology as well as of a particular politics of attention, was in the General Reports adopted for the first time in 2010. In order to understand why this discursive structure, hence ideology was adopted only in 2010 we need to identify and assess shifts in the EU ideology. This means that we need to assess one type of speech or discourse in different contexts. On the basis of assessing speech in different contexts we can gain a more profound idea of when and why the EU takes on human rights issues. Therefore, the following pages permeate an analysis of the EU human rights speech, starting in 2012. This analysis exposes that human rights are on the agenda, first, to divert threats of democratic legitimacy deficits, and, second, to justify further EU integration and economic and monetary cooperation.

Creating an Ideology - Human Rights on the EU Agenda

Consistent with the human rights speech in the 2012 General Report, the 2012 State of the Union by European Commission President José Manuel Barroso reveals a similar discourse: “A political union also means that we must strengthen the foundations on which our Union is built: the respect for our fundamental values, for the rule of law and democracy.”³⁴⁶ Fundamental values refer to fundamental rights and freedoms. Once again, Barroso positions himself as a member of a group, addressing fellow members of the group and emphasizing the inherence of values, a vague notion of which the meaning is known to the group. This implies that the discursive utterance is an expression of ideology that conceals underlying interests. In order to identify these interests, we need to look at how this discourse has developed over the years. The words ‘strengthen’, ‘foundation’, ‘built’ are pivotal in the relation between the EU and fundamental values. The use of these words implies attribution of elements to the very core and *raison*

³⁴⁵ *Ibid.*, 21.

³⁴⁶ J.M. Barroso, “State of the Union 2012 Address” (Plenary session of the European Parliament/Strasbourg 12 September 2012), 10.

d'être of the EU. This in itself is notable, especially because human rights arrived on the EU agenda relatively late. Even though the forerunner of the EU, the European Coal and Steel Community, is often considered to embody a response to the human rights violations in the Second World War, the ECSC was an economic project, enabling cooperation on equal footing among the Western European nation state. Despite its political character, found in the creation of a new balance of power, fundamental rights and freedoms were merely given attention through the establishment of the Council of Europe in 1949. The general assertion that the EU, if we consider the EU a product of what once was the ECSC, was built on fundamental values therefore is not valid. At the most, the establishment of a Council of Europe is a testimony of the existence of an ideologically biased context model in which the relevance of protecting human rights was acknowledged. In a similar vein, the discursive structures in Barroso's speech indicate the existence of an ideologically biased context model in which the respect for values is generally accepted and considered inherent to the group. However, the fact that these discursive structures were only adopted in the General Reports from 2010 onwards implies that effort is being made to actively emphasize this context model, or even to create one. What follows is a more in-depth explication of this argument.

Firstly, notable in the General Reports from 2010 onwards is that the emergence of the abovementioned ideology in which common ground is emphasized is accompanied by an emphasis on the misapprehension of citizens and on mechanisms to engage citizens more actively in EU decision making. This confirms the validity of conclusions made in previous sections, namely that the attention to human rights becomes more prominent at times of a lurking democratic legitimacy deficit. A democratic legitimacy deficit leads to more attention to citizens, as citizens are a factor providing legitimacy. The EU thus seeks to appeal to the citizens by emphasizing common ground, characterized by a pivotal role for values, in order to mitigate legitimacy deficits and to justify cooperation at the EU level. In doing so, the EU citizens are more directly targeted because the existence of a shared context model relating to the self-evidence of the necessity of a European Union is not necessarily self-evident and requires reinvigoration. This is why human rights, constitutive of common values, are on the EU agenda and why human rights are prominent in the EU ideology. In consequence, I claim that the EU speech reveals an ideology that promotes the EU interest of securing the future of the EU. This ideology was created in the attempt of diverting the threat of a democratic legitimacy deficit. This confirms that the adoption of human rights on the agenda is due to motivations of mitigating threats. The first discursive shift occurred in 2009, when the Treaty of Lisbon was endorsed. The document lay-out of the 2009 General Report initially provides an indication of change as through the use of colors in the text and the transformation of the introduction into a foreword with a photo of Barroso the EU seeks to appeal directly to the reader or general public. In addition, the 2009

General Report includes a chapter on “A More Efficient and Democratic EU”. This is consistent with the contents of the Lisbon Treaty, which launched a number of participating mechanisms for citizens, including the Citizen’s Initiative.

Secondly, pertaining to the reinvigoration of an ideologically biased context model, I argue that a possible reason for why the abovementioned discursive structures were employed relatively late is due to the absence of episodic memory and the absence of a shared ideologically biased context model at the times these structures were adopted. On the other hand, there was indeed episodic memory and hence a shared ideologically biased context model in the immediate aftermath of the Second World War due to the common experience of the atrocities during the war. Therefore, at the start of the construction of the EU and the initial phases of the EU integration process, this context model provided a justification, even *raison d’être* of the EU without having to be emphasized within the EU context. There may have been an idea of the inherence of human rights, democracy and the rule of law, but this idea has never been made explicit as such beyond the launch of the Council of Europe. Nowadays, however, the general public decreasingly associates the EU with the immediate motivations for establishing a European Coal and Steel Community in 1951. Therefore, the EU seeks to justify advanced economic cooperation and increased political cooperation to its own group, especially at times of economic and financial uncertainty through reinvigorating ‘closeness’ to its citizens on the basis of emphasizing common values. To illustrate this, in the section on economic and monetary cooperation of the General Reports in 2011 and 2012, the EU includes a photograph of Viviane Reding, European Commissioner for justice, fundamental rights, and citizenship. The producers of the report have sought to add characteristics of the photo to the text, without further reference in the text. This is another way in which the EU tries to link values to economic and monetary cooperation. Fundamental rights, thus, are on the EU agenda to justify economic and monetary integration in the absence of an ideologically biased context model through which economic cooperation is considered necessary.

The Foundation-Frame

In this section I explicate the so-called ‘foundation-frame’. The foundation-frame is a connotation used to refer to the way in which the EU frames the existence of an EU identity by purporting that the EU was founded or built on the respect for human rights, democracy, and the rule of law. Qualitative data expose that the foundation frame that characterizes the EU human rights speech originates in 1997, and more specifically in the Amsterdam Treaty. The Treaty states that “The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles

which are common to the Member States”.³⁴⁷ The sentence in the Amsterdam Treaty is consequently cited in later years to identify the source of the EU foundation. One example: “In accordance with the Treaty on the EU, the EU is founded (...)” in the 2006 Annual Report”.³⁴⁸ Why did human rights arrive on the agenda as part of an identity frame and why did this occur in 1997? What follows constitutes an attempt to answer this question.

The Amsterdam Treaty is characterized by additional ‘new’ characteristics related to human rights beside the foundation-frame; the Amsterdam Treaty launched the so-called area of freedom, justice and security, and expanded the EU competences by providing the EU with the means to ‘appropriately combat acts’ of racism and xenophobia.³⁴⁹ This reveals information pertaining to the context and discourse in which the foundation-frame was launched. Furthermore, the EU designated the year 1997 as the ‘Year Against Racism’. Therefore, in answering why the foundation-frame was launched and why this frame became central in the EU human rights speech, I first underscore the link between security and human rights. I already disclosed that the emergence of the prominence of human rights on the agenda is connected to the prominence of security on the agenda. The launch of the foundation-frame is therefore notable because it was launched simultaneously with the launch of the area of freedom, justice, and security. How can we characterize the link between security and human rights in 1997? Or, to what extent is human rights a prominent policy area due to the emergence of security as a prominent matter? For security to become prominent I surmise the existence of insecurity. Consequently, and based on my earlier conclusions, the threat of insecurity is then the motivation behind the launch of the foundation-frame. The introduction of the 1997 General Report starts with a quote by Jacques Santer, president of the European Commission, stating that : “The way towards unification of the continent is now open: unification under the sign of democracy, liberty and prosperity.” The use of the word ‘continent’ implies that unification extends to the countries beyond the borders of the EU to affect all the countries of Europe. In addition, the word ‘now’ indicates that a step was taken to ensure that unification is possible where it was not earlier. As the introduction of the 1997 General Report starts with an explanation of the Treaty of Amsterdam, I conclude that this ‘step’ is signified by the endorsement of the Treaty. Moreover, the addition ‘under the sign of democracy, liberty and prosperity’ indicates why the foundation-frame was launched, namely as guiding principles to accomplish unification. The addition implies furthermore that there are other ways of achieving unification than on the basis of the EU core principles. Reference to these possible other ways

³⁴⁷ “Treaty of Amsterdam amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts”, 1997 O.J. C 340/1 [hereinafter Treaty of Amsterdam], Article 8a.

³⁴⁸ Council of Ministers and European Commission, *EU Annual Report on Human Rights 2006* (Brussels and Luxemburg 2006), 6.

³⁴⁹ Treaty of Amsterdam, article K1 and article 7.

are not made. However, these other ways have inspired the EU to emphasize the path chosen instead. This emphasis is enhanced by the concrete attention to not merely preventing racism but also to combating racism, suggesting that racism had been identified as a threat prior to adopting measures in the Treaty. Racism is then directly linked to security, and both are strongly related to human rights. In order to understand the underlying dynamics of the foundation-frame and the attention to racism, we may look at issues that were prominent prior to 1997 and that hence have inspired the politics of attention in 1997. These issues are indicative of the route towards endorsing the Treaty of Amsterdam.

The 1996 General Report highlights cooperation in justice and home affairs as paramount to security in Europe, particularly pertaining to protecting certain fundamental rights and freedoms.³⁵⁰ Moreover, the EU emphasizes its crucial role in the consolidation of peace and crisis settlement in the former Yugoslavia.³⁵¹ The present paragraph permeates an analysis of how we may link the foundation frame to the events in former Yugoslavia. I purport that the observation of the events of the Yugoslav wars caused a cognitive association with the Second World War. Perceptions of the Yugoslav wars and fear for another war on the EU continent have inspired the EU to evaluate not only what happened in the Yugoslav wars but also to evaluate how the events reflected on the EU as a peace and solidarity project. The Yugoslav wars inspired the moral consciousness that genocide and mass murder could still occur on the European continent, even after WWII. This evaluation consequently inspired action, namely the action to make the EU constitutive ideals explicit. According to Charles Taylor, descriptive and evaluative characteristics of moral judgments embody moral characteristics that inspire action. Taylor argues that a strong evaluation presupposes the existence of constitutive ideals that are made explicit through moral action.³⁵² The EU strongly evaluated and condemned the genocide and mass murder that occurred in the Yugoslav wars. The ideals that constituted the strong evaluation were the ideals that inspired the post-WWII generation to engage in economic cooperation. However, due to the self-evidence of the underlying ideology these ideals had never been codified. The Yugoslav wars embodied a focusing event that urged the EU to make explicit its constitutive ideals. I argue that moral judgments inspired EU action, and thus policies, which in turn influenced politics and the politics of attention in which the foundation frame became prominent. This exemplifies that the EU allocated more attention to human rights when confronted with fears. Chapter V further untangles the foundation-frame. The following paragraph elaborates upon the EU human rights speech in its external action.

³⁵⁰ European Commission, *General Report on the Activities of the European Union 1996* (Brussels and Luxemburg 1997), 6.

³⁵¹ *Ibid.*, 7.

³⁵² C. Taylor, *Sources of the self. The making of the modern identity* (Cambridge 1989).

The EU Global Human Rights Speech

Previous sections touched upon the EU internal human rights speech. In its human rights policy the EU discerns inside action and outside action. In this section I assess the EU human rights speech in relation to non-EU countries. How can we characterize the EU global human rights speech and why are human rights on the EU foreign relations agenda? In congruence with its internal human rights speech, the EU external human rights speech reflects ideology. In this regard, Teun van Dijk purports that ideology is expressed through creating a positive presentation of the actions of the group, the European Union. This presentation may go hand in hand with a more negative depiction of the actions of other groups. In the foreword of the 2012 General Report Barroso does not emphasize the ‘bad’ things of other groups, beyond asserting that the EU should ‘help others’ in meeting their obligations, indirectly criticizing these ‘others’ for failing to do so. However, accusations remain vague, whereas the foreword is replete with concrete and precise statements pertaining to successful EU action. Barroso emphasizes results and accomplishments during times in which the EU sees itself confronted with many challenges, particularly highlighting the Nobel Peace Prize that was bestowed upon the EU. He furthermore claims that ‘we can take pride’ in how the Commission has tackled ‘Europe’s challenges’, asserting in addition that the EU sets the (global) agenda and leads the way in certain areas.³⁵³ The content of the 2012 General Report is more precise in condemning human rights violations in other countries. Already in 1989 the EU applies this politics of condemning and deploring. In this regard, the EU is careful to ‘express satisfaction’ about improvements, and rather focuses on highlighting the concerns relating to human rights and condemning violations of human rights by other countries.³⁵⁴ In the case of human rights violations taking place in China the EU even speaks of a ‘deep shock’.³⁵⁵ This implies the expression of ideology, in which ‘their bad things’ (the actions of other countries) are emphasized, while implying that these violations are unknown to the EU. In line with the human rights conditionality policy the EU suspended trade and assistance measures ‘to mark the Community’s disapproval’.³⁵⁶ This suspension may also be seen as a sign of ideology. In a similar vein, the EU addresses the political situation and deplors human rights violations in the Maghreb region, the Middle East, Asia, and other countries raising attention to the need for peace and democracy.

The emphasis on the human rights violations and standards of other countries in comparison to the accomplishments of the EU is yet another way of justifying European integration. This speech implies that only through European integration, at the heart of which is the respect for democracy, human rights, and the rule of law, peace and prosperity may be achieved. This discourse has dominated the EU external

³⁵³ European Commission, *2012 General Report on the Activities of the European Union* (Brussels 2013), 4.

³⁵⁴ Commission of the European Communities, 22nd General Report on the Activities of the European Communities 1989 (Brussels and Luxembourg 1990), 388.

³⁵⁵ *Ibid.*, 393.

³⁵⁶ *Ibid.*, 393.

human rights speech since the launch of the first reports and, therefore, we cannot disclose discursive shifts. Moreover, where the use of pronouns emerged in the General Report relatively late, the forewords of the Annual Report, especially focusing on the EU external human rights engagement, are characterized by this type of speech since the second Annual Report (2000) was launched. Hence, the desire to address the public on the basis of closeness was warranted earlier in relation to the EU external human rights action. This implies that the EU sought to justify its external human rights action since the launch of the human rights policy. This assertion is substantiated by the speech through which the EU argues that the protection of human rights is a ‘legitimate concern of the international community’. The EU hence positions itself as a member of the international community, using this ‘membership’ to explain why it engages in human rights action. In this regard, I identified the first discursive shift in the 2006-2007 Annual Report, when the EU speaks of the EU ‘global responsibility to protect and promote human rights’.³⁵⁷ This implies that the ‘legitimate concern’ has translated into a concrete responsibility that requires active engagement, or from negative to positive human rights engagement. Another discursive shift in the EU speech on its international human rights action occurs in the 2009 Annual Report.³⁵⁸ This shift is characterized by a ‘citizen-frame’, and is therefore consistent with the discursive shift that was identified in the 2009 General Report. In the 2009 Annual Report preface, the EU High Representative for Foreign Affairs and Security Policy Catherine Ashton, uses a ‘citizen-frame’ to explain why the EU engages in human rights promotion at the global stage. She purports: “the message from citizens across is clear. They want the EU to do more to promote and defend human rights throughout the world. I believe that by showing what we are doing and by speaking with a unified voice on the world stage, we can answer these expectations”.³⁵⁹ The 2009 Annual Report also shows differences in speech through the inclusion of photos, colored text, and quotations. I purport that these changes exemplify the attempt to directly appeal to the EU citizens, as these features account for broad accessibility. The need to meet the expectations of citizens in order to mitigate the potential threat of a democratic legitimacy deficit is a motivation for the EU to raise human rights high on its external action agenda. Notwithstanding that the emphasis on citizen’s expectations is an indication of why the EU itself claims to include human rights on its agenda, I hypothesize that the use of this citizen-frame is also a strategy. I therefore discuss the citizens-frame more profoundly in Chapter V.

³⁵⁷ Council of the European Union and European Commission, *EU Annual Report on Human Rights 2007* (Luxemburg 2007), 7.

³⁵⁸ Unlike the Annual Reports from before 2009, the Annual Report of 2008-9 covers an 18 month period; from July 2008 until December 2009. Subsequent reports, starting in 2010 cover one year from January to December.

³⁵⁹ Council of the European Union and European Commission, *EU Annual Report on Human Rights and Democracy in the World 2009* (Luxemburg 2010), 1.

Concluding Remarks

In answering why human rights were on the agenda between 1992 and 2012, this chapter constituted a systematic analysis of the EU human rights speech, in which I adopted a critical approach to the EU normative character. The main argument is that the EU uses human rights as a strategy to mitigate threats to the development of the EU integration process. The EU translates its fears into a focus on values.

Human rights became a prominent item on the EU agenda in 1989 when increased attention was paid to the protection of workers on the internal market. The emergence of prominence was a direct result of the implementation of the 1986 Single European Act and the consequent realization of the free movement of workers on the internal market. This is consistent with neo-functionalism views that new agenda items may be taken up in the wake of functional spill-over. The increased attention to human rights in 1989 is also a consequence of normative spill over, as a mechanism to respond to the threat of a democratic legitimacy deficit. In addition, the emergence of prominence of human rights on the EU agenda is connected to the prominence of security, as human rights are perceived as contributing factors to establishing and preserving peace and solidarity, the main objectives of the EU. This is consistent with realist perspectives.

I explained why human rights are being raised to salience when the EU perceives a threat to the integration process or its *raison d'être*. The EU addresses 'negative developments' by raising human rights to salience. The attention to human rights decreases after the integration process is boosted with a 'positive development'. The threat of a democratic legitimacy deficit runs through the politics of attention as a red thread. We may purport that the politics of attention to human rights was initiated and used to divert the threat of a democratic legitimacy deficit. In a similar vein, enlargement appears to inspire less attention to human rights, as enlargement constitutes a positive development to European integration.

Lastly, I addressed the EU ideology, asserting that the EU has increasingly resorted to engendering a sense of closeness to its citizens in order to justify advanced economic and monetary cooperation. The EU attempts to engender closeness by highlighting the EU shared values. We may conclude that after the Second World War there was an ideologically biased context model in which the importance of these values, namely the respect for human rights, democracy, and the rule of law was self-evident. The establishment of the Council of Europe is the product of this ideologically biased context model. However, even though the EU is a product of this ideologically biased context model, the EU developed independently. The EU was a project to establish and preserve peace and solidarity. This does not automatically imply that the EU was founded on the principles of democracy, human rights, and the rule of law. If there is indeed a connection between these values and the EU, the connection was only made explicit in 1997. This connection was consequently translated into a foundation-frame, used to

reinvigorate an ideologically biased context model to justify the EU, to circumvent democratic legitimacy crises, and to justify the advancement of European integration on the economic and monetary level to the EU citizens. The latter explains why human rights have been on the EU agenda.

This chapter has raised many questions pertaining to how human rights are raised to salience. Chapter V therefore continues to explore why human rights have been on the agenda between 1992 and 2012 by focusing on the way in which the EU paid attention to human rights. In this chapter I focus in particular on agenda-setting strategies and on logic of allocating attention.

V

Framing Fear and Values

The literature on European politics and agenda-setting is increasingly replete with studies of the day-to-day practices in the EU institutions. Through empirical analyses scholars seek to map the details of decision-making processes. They consequently evaluate the impact of inter-institutional changes, intra-institutional relations and the relations between the EU institutions and the member states.³⁶⁰ With this thesis I do not aim to contribute to this field as such, nor do I seek to trace (agenda-setting) processes. In the previous chapters I identified and assessed changes in the politics of attention to human rights in the previous chapters, explaining why the politics of attention changed between 1992 and 2012. In the present chapter I focus on the logic of bringing about change and the logic of making change explicit through attention allocation. How have human rights been raised to salience on the EU output agenda? To answer this question, I apply agenda-setting theory to the politics of attention to human rights. Moreover, I examine how the position of human rights on the EU agenda decreased from ‘prominent’ in 1992 to ‘average’ in 2012. Despite an inevitable evaluation of the relations between agenda-setting actors, the focus in this chapter is in the first place on an assessment of how human rights are represented on the EU agenda, hence on the conditions under which the politics of attention to human rights has changed. On the basis of assessing the logic and strategies behind issue salience we can gain an even more profound understanding of why human rights were raised to salience between 1992 and 2012. Following agenda-setting theorists, this is because speech and strategies are envisaged to serve a particular goal and they are devised accordingly. Through an analysis of strategies we could thus acquire insights related to this goal and the reasons and interests behind issue salience. However, this is only partially valid. In this chapter I argue that at times there is a discrepancy between why issues land on the EU agenda and how they are ultimately represented on the EU agenda.

I already disclosed that the European Parliament and EU citizens have played a pivotal role in raising human rights issues to salience. Moreover, I raised questions on the role of the Council of Europe

³⁶⁰ Among others: D. Naurin and A. Rasmussen eds., *Dynamics of change in the European Union* (Routledge 2013); G. Falkner ed., *The EU decision traps. Comparing policies* (Oxford University Press 2011); M.A. Pollack, *The engines of European integration. Delegation, agency, and agenda-setting in the EU* (Oxford University Press 2003).

in the allocation of attention to human rights and I also argued that matters of leadership possibly affect the way in which attention is allocated. To address these factors and their role in the agenda-setting process, I focus specifically on the actors and the strategies involved in issue salience and I identify ‘styles’ of allocating attention. I argue that the actors responsible for changes in the politics of attention were driven by fear and that they tried to address fear by allocating attention to common values.

The chapter is divided into three parts. The first part elaborates upon the agenda-setters of human rights and the way in which these actors sought to raise the attention to human rights between 1992 and 2012. Focus is in particular on the two main shifts in the politics of attention; 1997 and 2009. The second part addresses the logic behind the EU allocation of attention, emphasizing the role of opportunities and elaborating upon how EU speech reflects the way in which the EU deals with human rights on its agenda. Lastly, at the heart of the third part is a more in-depth analysis of the so-called ‘citizens-frame’ and the role of agenda-setting in democracy.

5.1. Actors behind Shifts in the Politics of Attention

Interests and actors are essential factors in explicating how human rights landed on the agenda between 1992 and 2012. Sebastiaan Princen argues that what is being talked about depends on who is doing the talking.³⁶¹ Thus, in expounding how human rights came onto the EU agenda we need to expose the relevant actors and the ways in which these actors engage in the struggle to pursue their interests and to raise issues to salience. Furthermore, agenda-setting theorists argue that successful agenda-setting requires the expansion of the number of actors talking about the issue and, for that matter, agenda-setting requires the inclusion or exclusion of actors. In order to control agendas and interests, therefore, actors need to control participation.³⁶² Concrete actors behind issue salience are not easily identified, particularly due to the lengthy and complex agenda-setting and decision-making processes within the EU institutions, causing stakes to alter over time. In addition, agenda-setting and decision-making partially take place behind closed doors. Anne Rasmussen and Daniel Naurin emphasize that the EU has been undergoing a continuing process of institutional reform since the mid 1980’s which has had implications for actors and their agendas.³⁶³ This continuous state of reformation complicates efforts to fully understand the EU internal processes. Nevertheless, the identification of actors behind issue salience gives us an idea of the applicability of agenda-setting models to shifts in attention; the outside initiative model, the mobilization model, or the inside initiative model.³⁶⁴ In this section I assess the extent to which the agenda-setting

³⁶¹ S. Princen, *Agenda-setting in the European Union* (Palgrave Macmillan 2009), 10.

³⁶² *Ibid.*, 10.

³⁶³ Naurin and Rasmussen eds., *Dynamics of change*, 1.

³⁶⁴ I provide an explanation of these models in Chapter I.

dynamics identified in the first chapter of this thesis can be applied to the politics of attention to human rights. In doing so, the analysis relies on the main shifts in the allocation of attention, 1997 and 2009.

Chapter III revealed that the main shifts in the relative attention to human rights occur in 1994, 2004, and 2005. Chapter IV, consequently, exposed that two primary shifts in the logic of allocating attention to human rights occurred between 1992 and 2012. The first shift was identified in 1997 and the second shift was identified in 2009. In the history of European integration these years are characterized by EU Treaty reforms; the Treaty of Amsterdam and the Treaty of Lisbon. Notwithstanding that treaties do not necessarily expand the scope of EU competence, and this is particularly the case with provisions pertaining to human rights, often due to matters of subsidiarity, treaties have an important function in terms of changing or consolidating the politics of attention. Through wording and framing the actors behind treaty endorsements bestow certain characteristics upon the EU; characteristics that ultimately become guiding principles in policy formulation or policy legitimation. EU actors consequently resort to using treaties as a source for justifying action where this source was absent before. This is an example of how politics influences policies. I purport that this politics of attention in which treaties are used as a justification for action in certain fields could have been influenced by previous policies, because these policies lacked ‘treaty back-up’, leading to a politics of attention in which there was a clear wish to create treaty back-up. In the case of human rights, this type of politics of attention could have been the result of normative spill-over when the implementation of policies at the EU level has provided reasons to question the democratic legitimacy of these policies at the national level. Concerns over the legitimacy of policies and action in the field of human rights then result in a different politics of attention in which the respect for human rights is highlighted as a legitimate concern of the EU. The creation of a new politics of attention through treaty reforms consequently play a role in circumventing threats posed by a possible democratic legitimacy deficit. Policy experience or even policy failure thus leads to changes in the politics of attention. This is how we can explain the shift in the politics of attention in 1997. In 1997 a politics of attention in which human rights play a pivotal role is enabled and consequently justified by the Treaty on the European Union. The 1997 Amsterdam Treaty hence paves the way to talk about human rights, to pursue human rights policies, and to mainstream human rights policies into other fields. I also assess the introduction of the foundation frame, constituting the politics of attention since the 1997 Amsterdam Treaty as the outcome of EU policies. What follows explains this further and explains that how an issue landed and is represented on the EU output agenda does not automatically signify why the initiative to issue inclusion was taken.

5.2. The Foundation-Frame

The main motivation for issue inclusion or the reason behind the adoption of a frame is not always reflected by how the issue or frame ultimately landed on the agenda. For instance, the Yugoslav wars may have been the reason to pursue a foundation-frame in 1997 and the Yugoslav wars may have been at the heart of the increased focus on racism and discrimination in the Amsterdam Treaty. However, the way in which the EU launched the foundation-frame and the way in which the EU allocated attention to racism and discrimination in 1997 appears disconnected from the Yugoslav wars. Even when threats or fears inspire the attention allocation to human rights and EU values, the fears and threats are not necessarily explicitly mentioned in relation to EU values. I state that, when the EU tackles its fears with values, the presence of human rights or values on the agenda is a signifier of the presence of fear, even when this fear is not expressed as such. In this section I further clarify the foundation-frame and the increased attention to racism and discrimination.

Indeed, the Yugoslav wars may have functioned as a catalyst and could even be perceived as a focusing event that inspired agenda-change. However, the main actors behind the 1997 foundation-frame are the European Council, the EU internal market policies, and the Reflection Group established in 1995 to prepare for the 1996 Intergovernmental Conference. Moreover, the foundation-frame landed on the EU agenda through frames pertaining to the internal market, democratic legitimacy, and security. The discrepancy between ‘why’ and ‘how’, despite the similar outcome, namely the inclusion of the issue on the agenda, may be due to diplomatic considerations. In addition, concerns over accountability, legitimacy, and the extent to which the EU is an appropriate actor to deal with a particular issue or event may be at the heart of the difference between the issue and the logic of allocating attention. Since its creation the European Council has played an increasingly decisive role in setting the overall EU agenda and in reforming treaties since the reform of the Maastricht Treaty in 1992.³⁶⁵ In fact, as is shown in a joint study by the European Policy Centre, the Egmont Institute and the Centre for European Policy Studies of September 2010, the European Council has stepped up as the protagonist in the Amsterdam Treaty negotiations and has continued to do so.³⁶⁶ Although the European Council does communicate its conclusions to the public, the processes leading to these conclusions remain non-transparent as negotiations take on the basis of primarily informal interaction. We can therefore never fully disclose why and how issues have ultimately made it onto the EU output agenda. Nevertheless, we can assess the speech of the European Council, as well as the context in which the Intergovernmental Conference (IGC), launched to review the Maastricht Treaty and to formulate the treaty revisions that would culminate in the

³⁶⁵ CEPS, EGMONT, and EPC, *The Treaty of Lisbon: A second look at the institutional innovations* (Brussels September 2010), 7.

³⁶⁶ *Ibid.*

1997 Amsterdam Treaty, took place. This speech provides information on underlying interests and ideology.

The Italian Presidency has played a leading role in organizing the 1996 Intergovernmental Conference. The IGC took place at the level of the EU Foreign Affairs Ministers and also the European Parliament has been closely involved in the implementation of the IGC. Nevertheless, it was the European Council that defined the scope and the focus of the IGC, hence the future of the EU.³⁶⁷ The White Paper on the 1996 IGC indicates that the European Council first underscored citizen's fundamental rights and freedoms, as citizens constitute the 'core of the EU construction'.³⁶⁸ This 'citizen-frame' to raise human rights to salience is also applied to justify increased attention to an area of freedom, justice, and security launched by the 1997 Amsterdam Treaty. The White Paper on the 1996 IGC furthermore states: "European citizens pay growing attention to justice and home affairs. In an area of free movement (...), the exercise of (...) rights according to the Treaty provisions must be accompanied by adequate protection. A strengthened control of the Union's external frontiers shall contribute to it. In this context, the Conference is called upon to (...) [ensure] better protection of the Union's citizens against international crime, in particular, terrorism and drug trafficking; developing coherent and effective asylum, immigration and visa policies (...)." ³⁶⁹ This citation shows that the EU adopts the citizen-frame and the 'treaty-frame' as a ground for action in the field of justice, freedom, and security. Moreover the EU directly links justice, freedom, and security to the protection of the exercise of rights. The EU first positions the EU citizens at the heart of its *raison d'être*. Consequently, by claiming that justice, freedom, and security are warranted by the EU citizens, the EU justifies the insertion of provisions into the EU Treaty, and the EU hence justifies action in the field of security and human rights. The 1997 foundation frame is thus accompanied by the securitization of human rights in order to pursue policies in the field of justice and home affairs. This is further visible through the launch of a 'genuine area of freedom, justice, and security' by the 1997 Amsterdam Treaty, as well as through the integration of the Petersburg tasks in the Treaty. The Petersburg tasks, defined in 1992 by the Ministerial Council of the Western European Union³⁷⁰, describe the EU scope of action in its security and defense policy, comprising conflict-prevention and peacekeeping tasks, but also disarmament operations and military assistance. Notable in the White Paper on the 1996 IGC, moreover, is the emphasis on a European identity in relation to the task of the IGC to define ways in which the EU can assert its identity within the framework of security and

³⁶⁷ European Union, *White Paper on the 1996 Intergovernmental Conference*, available at: http://www.europarl.europa.eu/igc1996/pos-toc_en.htm (URL accessed 21 August 2013). And: General Secretariat of the Council of the European Union, *Reflection Group Report and other references for documentary purposes* (Brussels 1995).

³⁶⁸ European Union, *White Paper on the 1996 Intergovernmental Conference*, 10.

³⁶⁹ *Ibid.*, 10.

³⁷⁰ The Western European Union (WEU) is the predecessor of the EU Common Security and Defence Policy.

defense.³⁷¹ Reference to the ‘European identity’ was absent in the 1992 Maastricht Treaty, and present in the 1997 Amsterdam Treaty. The EU thus not only asserts its identity- and foundation-frame in 1997, but additionally applies the foundation-frame to its security and defense policy. The emphasis on a relation between security and justice and the European identity implies an imposed relation between the foundation-frame and security. Furthermore, this alleged connection between security and the foundation-frame indicates that the foundation-frame is an instrument to generate more security. This feeds assumptions that there is indeed a correlation between the foundation-frame and the Yugoslav wars because the latter exposed the lack of security in Europe. However, the citation also illustrates that securitization is required to maintain a well-functioning internal market. The removal of barriers leads to the realization of the four freedoms, but the removal of barriers also paves the way to the free movement of criminality, terrorism, and drugs from which EU citizens need to be protected. Hence, just as the EU internal market policies created a politics of attention to human rights after the Single European Act was endorsed, the EU internal market policies inspired a politics of attention in which securitization is considered inevitable. Securitization, as indicated above, is considered inevitable because it serves to protect the rights and freedoms of citizens. An emphasis on citizens, in turn, inspired the launch of the foundation-frame. This is how internal market policies have ultimately contributed to the politics of attention to human rights in which the foundation-frame became prominent. Contribute, because this politics of attention was further incited by declining support of citizens for the EU. The report by the IGC Reflection group indicates that, even though the general scope was determined by the European Council, the identity-frame and the foundation-frame were more specifically endorsed by the members of the Reflection Group, embroidering on the decisions and the guidelines already adopted by the European Council to set an agenda for the 1996 IGC.³⁷² In its report the Reflection Group purports that the ‘men and women of Europe’ are in need of a common project because the complexity of the EU nowadays makes it “difficult to grasp the significance of the EU integration process”.³⁷³ In this regard, the Reflection Group stressed the need for increased transparency and relevance of the EU to the EU citizens, emphasizing the increasing lack of support from the EU citizens. This means that the threat of a democratic legitimacy deficit constituted a significant motivation for raising human rights to salience already in 1997.

Based on the abovementioned role of the European Council in defining the foundation-frame and the overall direction of the treaty reforms, I purport that the politics of attention to human rights underwent a change that was inspired by a top-down dynamic in combination with the mobilization model. Top-down

³⁷¹ European Union, *White Paper on the 1996 Intergovernmental Conference*, 13.

³⁷² “Letter of transmission” in: General Secretariat of the Council of the European Union, *Reflection Group Report and Other References for Documentary Purposes* (Brussels 1995).

³⁷³ *Ibid.*, 19.

because the overall scope was defined by the European Council; an example of the mobilization model because the Reflection group mobilized sentiments already present within the EU institutions.

The shift in the politics of attention to human rights in 1997 is additionally characterized by increased attention to racism, discrimination, xenophobia, and anti-Semitism. The European Commission stated in 1995 that the “struggle against racism is a constituent element of the European identity”.³⁷⁴ The link between racism and the European identity explains why the foundation-frame emerged simultaneously with racism as a core element on the EU agenda. The increased attention to racism in 1997 is made explicit through the insertion of provisions enabling appropriate action to combat racism, discrimination, and xenophobia in the Amsterdam Treaty, and through the allocation of a more significant part of the EU budget to racism and discrimination.³⁷⁵ In addition, the increased attention is expressed through the launch of the European Year against Racism in 1998, as well as through venue-creation; the European Monitoring Centre for Racism and Xenophobia was established with Council Regulation No 1035/97 of June 1997. These matters became prominent through the indication of problems, according to John Kingdon one of the ways in which matters land on political agendas.³⁷⁶ From the Commission 1995 Communication on racism, xenophobia and anti-Semitism, we can gather that problems were indicated by the outcome of the European Values Survey.³⁷⁷ Poor education, incomplete integration, unemployment, poverty, exclusion and urban decay, but also individualism and uncertainty are considered contributing factors to the increase of racism and discrimination.³⁷⁸ This is how the increased attention to racism landed on the EU output agenda. The 1997 General Report consequently underscores employment and social affairs as a main priority, which is reflected by the inclusion of the social protocol into the Amsterdam Treaty.³⁷⁹ Moreover, the 1997 General Report highlights the relation between citizen’s rights and employment, while linking these issues to a genuine area of freedom, justice, and security.³⁸⁰ This shows that how issues land on the agenda indeed reflects why issues were on the agenda, namely the protection of the internal market. However, it should be noted that the European Values Survey was already conducted in 1981 and 1990-1991, whereas the attention to racism was absent in the 1992 Maastricht

³⁷⁴ European Commission, *Communication on racism, xenophobia, and anti-Semitism*, COM (95) 653 final (Brussels, 13 December 1995), 4.

³⁷⁵ European Commission, *General Report on the Activities of the European Union 1997* (Brussels and Luxembourg 1998), 29. Referring to: The Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts (2 December 1997).

³⁷⁶ J.W. Kingdon, *Agendas, alternatives and public policies* (2nd edition; New York 2003), 9

³⁷⁷ European Commission, *Communication on Racism, Xenophobia, and Anti-Semitism*, COM (95) 653 final (Brussels, 13 December 1995), 3.

³⁷⁸ *Ibid.*

³⁷⁹ European Commission, *General Report on the Activities of the European Union 1997* (Brussels and Luxembourg 1998), 1.

³⁸⁰ *Ibid.*, 1.

Treaty. This indicates a discrepancy between why and how issues land on the agenda, because how racism landed on the agenda in 1997 pertains to urgency identified in a different context; at an earlier time, namely in 1981 and 1990-1991. The European Parliament was the first to raise attention to racism in 1986 through the Evrigenis Report. The Parliament continued to take the initiative in raising awareness to racism by pursuing declarations and resolutions, making an appeal for the inclusion on provisions to combat racism. However, the attention, initiated by the Parliament, was only taken up by the European Council in the wake of the process towards the endorsement of the Amsterdam Treaty in 1997. This indicates that, even though the issue lands on agendas of MEPs and other EU actors, it is the European Council that ultimately decides upon the inclusion or exclusion of the issue on the agenda. This confirms that why issues land on agendas in the EU institutional arena may not ultimately be how the issue lands on the EU output agenda. In other words, racism may have initially emerged on agendas in the EU institutional arena due to indicators of increased violence and racism in the EU in the 1980s and early 1990s, but racism may have made it onto the EU output agenda as a consequence of other developments or the emergence of interests that did inspire the European Council to include the issue where these developments or interests may have been absent before. Issue initiation, therefore, occurs in different contexts before a particular discourse allows for the ultimate inclusion of the issue on the output agenda. Issue inclusion thus depends on context and discourse, rather than on indicators of problems as such. This confirms that the EU only made certain constitutive ideals explicit in 1997 after the problems had been identified before. The next section expounds the 2009 shift in the politics of attention to human rights.

5.3. A ‘Crisis of Values’

The second shift in the EU politics of attention to human rights occurred in 2009. This shift is particularly characterized by a greater emphasis on the EU citizen. In 2009, human rights function as an instrument to ascertain political re-election and human rights are raised to salience through the creation of a new post. One of the protagonists in defining the politics of attention in 2009 was European Commission President José Manuel Barroso (European People’s Party). I argue that the increased attention to fundamental rights in 2009 is also a consequence of how political actors address fears with values. In this regard, however, it does not concern threats to security and the internal market. Rather, it concerns the fears of an individual political actor, using EU values when confronted with the fear of non-election.

In the run up to his campaign to secure a second term as President of the European Commission Barroso pledged to appoint a commissioner for fundamental and citizen’s rights. This pledge implies that there was a demand for more political attention to human rights issues among European politicians.

Moreover, as Barroso was gaining support for his re-election, his pledge insinuates that he felt that the topic is 'electorally advantageous'. As explained in chapter I, agenda-success is about power. Hence, actors wish to arouse interest and to raise issues to salience in the attempt to acquire power or, for that matter, maintain power. Politicians therefore set agendas, if only *pro forma*, to appeal to their electorate as the electorate ultimately decides whether or not politicians can stay in office or get into office. If an issue is being raised to salience during times of elections, issue salience is a consequence of the wish of politicians to maximize power. When, at times of elections, incumbent leaders seek to set the agenda I expect they do so to consolidate their leadership with the objective of remaining in office. Therefore, in order to maximize his chances to remain in power, Barroso appealed to a politics of attention in which a European human rights speech was justified or into a politics of attention that voiced the desire to integrate a human rights speech. I evaluate this as an example of the mobilization model. This is because Barroso expanded attention to an issue that was already present on the agenda of Commissioners, MEPs, and national governments. By addressing an issue already on the agenda Barroso sought to mobilize support for his re-election.

Commission Presidents are proposed by the European Council. The European Parliament consequently elects or rejects the candidate. In order to be re-elected, therefore, Barroso's first objective was to gain support from the European Council. According to Joke Swiebel, the existence of 'friendly elites' is one of the basic requirements for agenda-success at the EU level.³⁸¹ I expect, therefore, that Barroso encountered a European Council with a friendly attitude towards his objective due to the lack of alternative candidates. In order to acquire support from the European Parliament and to be endorsed as Commission President Barroso presented his *Political Guidelines for the Next Commission*. Even though Barroso's European Peoples Party (EPP) had remained the largest party in the 2009 elections, Barroso lacked an absolute majority in favor of his re-election. Therefore, the Socialist Party and the Liberal Party, respectively the second and third largest party, together with the Green Party positioned themselves as opponents of Barroso's candidacy. The opposing parties demanded clear political guidelines and key posts in the new Commission in exchange for their support.³⁸² Moreover, in particular the Liberal Party (ALDE) had been pushing for increased attention to fundamental rights for a while. Therefore, in order to build support for his candidacy, by meeting the demands of his opponents, Barroso drafted his political guidelines and created a new post for fundamental and citizen's rights. I argue that he created the post, hence raised fundamental and citizen's rights to salience, to render opponents silent and to secure a second term as Commission President. This confirms why it is relevant to question the EU normative character

³⁸¹ J. Swiebel, "Lesbian, gay, bisexual and transgender human rights: the search for an international strategy", *Contemporary Politics* 15 (2009), 19-35, pp. 20.

³⁸² H. Mahoney, "Barroso to publish policy programme for next Commission", *EU Observer* (2 September 2009), available at: <http://euobserver.com/news/28610> (URL accessed 22 August 2013).

and this also confirms that the European Parliament is biased toward human rights issues. One of Barroso's strategies in setting the agenda was thus to mobilize bias. Elmer E. Schattschneider launched the notion 'mobilization of bias', claiming that particular political cultures are especially receptive, or biased, to distinct issues in relation to other political cultures.³⁸³ This implies that political actors can organize participation by framing issues in such a way that the issue appeals specifically to one particular institution. What follows outlines the strategies Barroso resorted to in arousing interest to human rights. It is important to make a distinction between Barroso's strategies to set different priorities on the agenda, and his strategies to gain support for his re-election. Notably, agenda-setting as such appears to be a tool Barroso resorts to in order to mobilize supporters for his re-election. In the document announcing the political guidelines for his second term as EC President Barroso even proclaims the 'need for a transformational agenda'.³⁸⁴ Furthermore, in his speech elucidating the political guidelines for a second term, Barroso stressed that "we cannot allow a return to business as usual".³⁸⁵ Words as 'reinvigorate', 'reinforce', or notions as 'a fresh approach', and a 'renewed social agenda' express that Barroso acknowledges that change is required. These expressions reflect that Barroso was attempting to meet the demands of his opponents to set a clear political agenda. Agenda-setting for Barroso was furthermore crucial, because agenda-setting comprises one of his main tasks as Commission President, and he had been criticized for lacking vision and ambition. Moreover, agenda-success allowed Barroso to set the terms of the debate, as well as to, once re-elected, hold considerable power over policy structures.³⁸⁶ Agenda-success would additionally pave the way for agenda-control in the future, providing him with so-called first-mover advantages.³⁸⁷ Taking the above into account and focusing on Barroso's agenda-setting strategies, it is useful to look at how Barroso framed his proposal for endorsing a commissioner for fundamental and citizen's rights. Following agenda-setting theory outlined in chapter I, Barroso was using big words to arouse interest, attempting to appeal to the EU identity.³⁸⁸ In his *Political Guidelines for the Next Commission* Barroso addresses two key concerns of the EU to frame the importance of human rights issues; the internal market and the role of the EU in global politics. What follows further explicates these two matters.

First, Barroso's speech feeds into the Commission's main objective of achieving economic and financial stability. As previously explained, the EU internal market embodies the *raison d'être* of the EU and we

³⁸³ E.E. Schattschneider, *The semisovereign people. A realist view of democracy in America* (New York 1960), 71.

³⁸⁴ J.M. Barroso, *Political guidelines for the next Commission* (Brussels 3 September 2009), 1.

³⁸⁵ J.M. Barroso, *Passion and responsibility: strengthening Europe in a time of change* (European Parliament Plenary Strasbourg, 15 September 2009), 3.

³⁸⁶ Princen, *Agenda-setting in the European Union*, 2. And: R.O. Keohane, 'Governance in a partially globalized world', *American Political Science Review* 95 (2001), 1-13, 5.

³⁸⁷ *Ibid.*, 5.

³⁸⁸ *Ibid.*, 10.

may expect actors to be biased toward the significance of a well-functioning internal market. Linking issues to the internal market therefore paves the way to agenda-success. Barroso introduced his guidelines by stressing that the economic and financial crisis encompasses a ‘crisis of values’.³⁸⁹ He thus adopted a normative discourse, in which he applied the urgency of the economic and financial crisis to human rights. By emphasizing ‘our common history and experience’ Barroso claimed that the way to economic recovery should not be solely searched for in markets or states. Referring to the economic uncertainty of European citizens and increased unemployment, Barroso stressed the importance of human dignity and of the ‘social dimension on all levels’.³⁹⁰ He furthermore asserts that social cohesion and common values constitute the motor of European economic integration. Barroso thus directly linked the free movement of people to the equal treatment of people, which is according to him essential in any human rights policy.³⁹¹ I conclude that Barroso was seeking to use and mobilize bias towards a well-functioning internal market to draw attention to human rights. Reference to a focusing event that appeals to citizens and politicians alike, namely the financial and economic crisis, furthermore allowed Barroso to frame human rights issues as a necessary means to consolidate social coherence, a requirement for sustainable and inclusive growth of the internal market. This constitutes a solution-oriented approach, increasing Barroso’s chances to agenda-success. According to Princen, agenda-success depends on the extent to which policy issues are framed on the basis of proposed solutions to an issue.³⁹² The internal market and human rights functioned as mutually reinforcing in securing Barroso’s re-election.

Second, Barroso applied the normative dimension to a longer term objective of the European Commission; pursuing a leading role for the EU in global politics, notably on the basis of values.³⁹³ In this sense, Barroso responded to the debates addressing the relevance of the EU on the world stage by reaffirming the respect for human rights as a core value of the European Union. Moreover, he presented a renewed emphasis on values as a strategy to reinvent the EU as a normative power and to make a difference at the global level. The priorities indicated for his second term as Commission President in 2009 differed strongly from the agenda he presented for his first term in 2004. Human rights issues were not represented on Barroso’s list of priorities when he was put forward as a candidate for the position of Commission President in 2004,³⁹⁴ whereas the importance of human rights was underscored in the proposed political guidelines he presented during his re-election campaign in 2009. This is consistent with the empirical data collection, showing a significant collapse of the attention to human rights from

³⁸⁹ Barroso, *Political guidelines*, 1.

³⁹⁰ Barroso, *Political guidelines*, 3.

³⁹¹ *Ibid.*, 3.

³⁹² S. Princen, “Agenda-setting in the European Union: a theoretical exploration and agenda for research”, *Journal of European Public Policy* 14 (2007), 21-38, pp. 30.

³⁹³ Barroso, *Political guidelines*, 3.

³⁹⁴ Barroso, “Speech to the European Parliament” (Plenary session of the European Parliament/Strasbourg 26 October 2004).

‘prominent’ to ‘insignificant’ in 2004. The priorities in 2004 differed from the priorities in 2009 because the conditions under which Barroso became Commission President in 2004 differed from the conditions in 2009. In 2004 Barroso was the third choice candidate after Guy Verhofstadt and Chris Patten. Barroso did not have much to lose, whereas the impact of losing his office while being the only preferred candidate in 2009 is likely to have increased the pressure of maintaining the status quo of him being Commission President. Failing to be re-elected would have been a loss. This explains why Barroso adopted a more risk-averse attitude and ‘played safe’ by meeting the demands of his opponents. His opponents demanded change, and, in addition, ALDE had been pushing for increased political attention to fundamental and citizen’s rights for a longer period of time. Barroso was thus merely uttering what those in charge of his re-election wanted to hear. Meeting the demands of his opponents was a necessary step to generate the required support for Barroso’s re-election. This is confirmed by Barroso’s *Political Guidelines* and his speech, in which he addresses the main concerns of his opponents, while continuously emphasizing the need for change and responding to earlier critique on his sense of responsibility, his ambitions and passion for Europe. Secondly, economizing human rights issues is rather safe, as the internal market is the main EU priority. Frank Schimmelfennig argues in a similar vein that political actors, especially in political systems such as the EU, are concerned with their reputation.³⁹⁵ The legitimacy of their preferences and behavior is highly important to them, and this is why they seek to justify their interests by appealing to the values of that political culture.³⁹⁶ Following Schimmelfennig, thus, Barroso used the EU values to build his reputation and to justify his interest of being re-elected. At the same time, Schimmelfennig claims, this type of behavior allows political actors to ‘shame their opponents into norm-conforming behavior’ and to ‘modify the collective outcome’.³⁹⁷ The above indicates that elections do not necessarily have an impact on the politics of attention to human rights. Rather, the attention to human rights during European elections depends on whether and consequently on how the allocation of attention to human rights serves the goals of politicians. Actors and their political interests thus define the extent to which the EU pursues a human rights agenda.

Lastly, the shift in the politics of attention to human rights in 2009 is characterized by the endorsement of the Lisbon Treaty. The Lisbon Treaty provides for and requires EU accession to the European Convention on Human Rights (ECHR). The obligation to accede to the ECHR is thus indicative of a politics of attention in which the EU is entitled to a human rights agenda, and to step up the EU responsibility to

³⁹⁵ F. Schimmelfennig, “The community trap: liberal norms, rhetorical action, and the Eastern enlargement of the European Union”, *International Organization* 55 (2001), 47-80, pp. 48.

³⁹⁶ *Ibid.*, 48.

³⁹⁷ *Ibid.*, 48.

protect human rights. In the following section I elaborate upon this by highlighting the agenda-setting role of the Council of Europe.

5.4 Agenda-setting by the Council of Europe

This section does not provide an in-depth exploration of the relations between the EU and the Council of Europe. However, earlier analyses in this thesis do warrant an assessment of the extent to which the Council of Europe has played a role in changing the politics of attention to human rights in the EU institutions between 1992 and 2012. In understanding how the Council of Europe influenced the politics of attention to human rights in the EU institutions, I discern the Council of Europe as an agenda item in itself and the role of the Council of Europe as an agenda-setter of the EU output agenda.

The Council of Europe as an Agenda Item

The Council of Europe is an international organization based in Strasbourg, established in 1949 to promote cooperation among its 47 member states in the field of human rights, pluralist democracy, and the rule of law. To guarantee the protection of fundamental civil and political human rights the Council of Europe drafted a treaty, the Convention for the Protection of Human Rights and Fundamental Freedoms, known as the European Convention on Human Rights (ECHR), which entered into force in 1953. The ECHR provided for the establishment of the European Court of Human Rights to effectively enforce the rights of the ECHR through binding decisions. The Court deals with human rights violations by its members against individuals upon the exhaustion of domestic means.

The provisions of the ECHR are enshrined in the national legislation of all EU member states, and all EU member states have the obligation to ratify the European Convention on Human Rights (ECHR). However, this obligation remains an unwritten rule, as the EU treaties, including the accession agreements, do not explicitly state that EU members must have ratified the ECHR. To date, moreover, the ECHR does not have a direct effect on the acts of the EU as a legal entity. Negotiations to formalize EU accessions are nevertheless ongoing. The legal basis that not only provides for EU accession to the ECHR, but also requires EU accession to the ECHR was pursued with the 2009 Lisbon Treaty. Upon accession, the EU will be under scrutiny of the European Court of Human Rights for its compliance with the ECHR. This means that individuals have the opportunity to appeal to the Court when the EU infringes upon their rights, and when the matter cannot be resolved at the EU level.

Chapter IV exposed that the EU seeks to divert threats of a democratic legitimacy deficit by reinvigorating attention to human rights and to citizens. I argue that EU accession to the ECHR serves a

similar goal, and, moreover, that EU accession engenders more credibility of the EU as a norm promoter. In a memo the European Commission states that “(...) accession will complete the EU system of protecting citizens’ fundamental rights and is therefore of high symbolic and practical significance for EU citizens and anyone who lives in the Union. (...) This will reinforce the credibility of the human rights’ system in Europe and of its external policy (...).”³⁹⁸ The accession of the EU to the ECHR was an attempt to strengthen EU accountability to the EU citizens, even at the expense of its own efficiency. After all, accession to the ECHR is likely to add to the complexity, hence inefficiency of EU decision-making processes. This is because EU decisions are now also under the scrutiny of the Court of Strasbourg, which implies an additional hurdle to the efficiency of a process that is already lengthy. In their volume *Dynamics of Change in the European Union* Daniel Naurin and Anne Rasmussen argue that matters of legitimacy and efficiency play a role primarily in public debates whereas the internal negotiations revolve around changes to the distribution of competences.³⁹⁹ I do not refute this. However, I do aim to explicate that democratic legitimacy and efficiency are indeed matters of significance to the EU institutions, as are changes to the distribution of competences. As is stated in the 2007 General Report, the Lisbon Treaty was designed to make the EU more efficient and democratically legit, particularly by integrating provisions on the rights of citizens, and by addressing the distribution of competences among the EU institutions and member states.⁴⁰⁰ Hence, the EU does openly acknowledge the importance of the distribution of competences in its communications to the public and allocates equal attention to the distribution of competences and democratic legitimacy. I also purport that if the EU were not receptive to matters of legitimacy and efficiency, the EU would not have provided for the legal basis and obligation to accede to the ECHR, especially as accession is likely to pose impediments to the decision making process. I presume that, to the EU, the costs of acceding to the ECHR outweigh the potential efficiency costs of ECHR ratification. Thus, human rights are being raised to salience through accession to the ECHR with the objective of meeting demands of democratic legitimacy.

At the same time, accession to the ECHR provides further justification to the EU in pursuing a human rights agenda. This is because meeting the ECHR provisions is now the legal responsibility of the EU. With ECHR accession human rights become an appropriate concern within the range of issues the EU deals with. Accession furthermore strengthens the credibility of the foundation-frame, because accession does base human rights at the, at least, legal foundations of the EU. This, in turn, provides a solid ground for applying a human rights-based approach to policy-making. In consequence, those critical of the

³⁹⁸ European Commission, “European Commission proposes negotiation directives for Union's accession to the European Convention on Human Rights (ECHR) – Frequently asked questions”, MEMO/10/84 (Brussels, 17 March 2010).

³⁹⁹ Naurin and Rasmussen eds., *Dynamics of change*, 1.

⁴⁰⁰ European Commission, *General Report on the Activities of the European Union 2007* (Brussels and Luxemburg 2008), 11.

appropriateness of the EU as a human rights promoter, as well as those who question the democratic legitimacy of the EU are rendered silent through the EU accession to the ECHR. What follows clarifies the conditions under which accession to the ECHR gained substantial agenda attention.

The accession of the EU to the ECHR had landed on the EU agenda long before the Treaty of Lisbon was endorsed. The European Parliament had first raised the issue in the wake of the 1990-2 Intergovernmental Conference. However, the issue only gained substantial attention over developing concerns related to matters of efficiency, transparency and democracy within the EU institutions. The accession of new member states to the EU even enhanced these existing concerns that created momentum for pursuing the legal basis needed for the EU to accede to the ECHR. Article 1-9 of the Treaty establishing a Constitution for Europe was the first treaty to provide for the legal accession of the EU to the ECHR.⁴⁰¹ The draft of this treaty, rejected in 2005 by France and the Netherlands through a referendum, was the product of the so-called Convention, a commission established by the European Council to assess how the EU could reform into a more democratic, efficient, and transparent entity. The European Council had launched the Convention in a response to the outcome of the 2000 Intergovernmental Conference, launched to negotiate treaty reforms in anticipation of EU enlargement. Concerns over transparency, efficiency, and democracy in the EU institutions had been raised during the 1996 Intergovernmental Conference, but became more prominent during the 2000 Intergovernmental Conference (IGC) that resulted in the 2002 Nice Treaty, and hence the launch of the Convention. A European Commission opinion of February 2000 on the IGC reveals that concerns pertaining to the democratic, efficient and transparent nature of the EU had further risen over the accession of new members.⁴⁰² The agenda of the IGC and the Commission's opinion confirm that EU enlargement was expected to require changes to the voting procedures and other institutional matters as enlargement was expected to affect the efficiency, transparency, and democratic practices in the EU institutions.⁴⁰³ In this regard, the opinion indicates that "the challenge of this process is to extend to our European neighbors the benefits of peace, solidarity and economic growth."⁴⁰⁴ These benefits are directly related to the core objective of maintaining a well-functioning internal market, and the Commission specifically expresses the need to integrate the EU Charter of Fundamental Rights as an

⁴⁰¹ European Union, "Treaty establishing a Constitution for Europe", *Official Journal of the European Union* C310 (16 December 2004), article 1-9.

⁴⁰² Commission opinion on the calling of a Conference of Representatives of the Governments of the Member States to amend the Treaties: "Adapting the institutions to make a success of enlargement" COM (2000) 34 final (Brussels, 1 February 2000), 4.

⁴⁰³ Ibid. And: "Schedule for the 2000 Intergovernmental Conference (IGC)", available at: http://www.cvce.eu/content/publication/2005/1/26/ef3a3fc2-7190-4fa9-b9ed-63710cd825a8/publishable_en.pdf (URL accessed at 21 August 2013).

⁴⁰⁴ Commission Opinion on the calling of a Conference of Representatives of the Governments of the Member States to amend the Treaties: "Adapting the institutions to make a success of enlargement" COM (2000) 34 final (Brussels, 1 February 2000), 4.

instrument to meet the ‘challenge’.⁴⁰⁵ Human rights, raised to salience through the mention of the EU Charter of Fundamental Rights, thus function as a mechanism to address threats to democracy, transparency, and efficiency that are expected to emerge after EU enlargement. More democracy, transparency, and efficiency, in turn, are needed to maintain a stable and prospering internal market. We can further substantiate this argument by examining the work programs of the German and Portuguese Presidencies. From the 2007 General Report we can gather that the Trio Presidency of Germany, Portugal and Slovenia between 2007 and 2008, have played a decisive role in initiating and defining the route towards the endorsement of the Treaty of Lisbon in 2009. The work programs of the German and Portuguese Presidencies recognize the need to tackle efficiency and democratic legitimacy and allocate a pivotal role to values and rights in this regard.⁴⁰⁶

If we argue that the matters raised during the IGC 2000 inspired the establishment of the Convention, which for the first time pursued explicitly the accession of the EU to the ECHR, then matters of transparency, efficiency, and democracy constitute the main reasons behind the pursuit of a legal foundation for EU accession to the ECHR. In addition, enlargement further consolidated the perceived need to address these matters (transparency, efficiency, and democracy) through increased attention to human rights in order to protect the internal market. Increased attention to human rights in this regard is portended by the provision of a legal basis for the EU to accede to the ECHR. Another way in which human rights make it onto the EU agenda is through the relations between the EU and the Council of Europe. Let me now explicate how the Council of Europe plays a role in setting the EU human rights agenda.

The Council of Europe as an Agenda-Setter

Quadripartite meetings, convening the Council of Europe’s Secretary General and Chairman, the EU Presidency, and the European Commission, take place on a bi-annual basis since the Council of Europe and the EU signed a Memorandum of Understanding in 2007. These meetings provide a platform for the exchange of knowledge and perspectives and are envisaged to consolidate mutual interests and cooperation through joint programs and activities. It is during these meetings that the Council of Europe is able to influence the politics of attention to human rights in the EU institutions. However, the Council of Europe influences the EU politics of attention to human rights not merely through its direct engagement

⁴⁰⁵ Ibid., 5.

⁴⁰⁶ Work Programs of the German and Portuguese Presidencies: The Federal Republic, “Europe – Succeeding together. Presidency programme (1 January to 30 June 2007)”, available at http://www.eu2007.de/includes/Downloads/Praesidentschaftsprogramm/EU_Presidency_Programme_final.pdf (URL accessed at 21 August 2013). And: Portuguese Presidency of the Council, “A Stronger Union for a Better World (1 July – 31 December 2007)”, available at: http://www.cvce.eu/obj/priorities_of_the_portuguese_presidency_of_the_eu_council_july_december_2007-en-0d5f5fa9-2aec-409c-b4b1-9180c3aa992d.html (URL accessed at 21 August 2013).

with the Commission and the Presidency. It does so also by providing a framework of reference for EU action through the ECHR and through its expertise and enforcement mechanisms. The EU speech with regards to the Council of Europe is replete with acknowledgements, recognition, appreciation, and the ‘welcoming of initiatives’. This is how the EU ascribes authority to the Council of Europe and the EU justifies its human rights commitment on the basis of an appraisal of the standards of the Council of Europe as leading in the field. In this regard, the Council of Europe does not necessarily function as an active agenda-setter, but the Council of Europe functions as a reinforcing mechanism for EU action due to the authority ascribed to the Council by the EU. From the Annual Reports on Human Rights and Democracy in the World, we can gather that the connection between the EU, the EU member states and the Council of Europe provides a tactic for the EU to raise human rights issues to salience. The agenda-setting role of the Council of Europe could thus be assessed as a passive agenda-setting dynamic. The EU uses the Council of Europe and the ECHR as a framework of reference for human rights protection because all the EU members are party to the ECHR. Due to the fact that the EU member states are also member of the Council of Europe the EU has a legitimate reason to include human rights on its agenda and raise particular issues to salience. This is because membership of the Council of Europe sets the agendas of the EU member states and the agendas of the EU member states are of direct relevance to the EU. The EU consequently uses the member states’ membership of the Council of Europe to pose itself as an appropriate actor to deal with human rights. However, the extent to which this –indirect- connection between the EU and the ECHR has indeed provided a legitimate reason for the EU to pursue a human rights agenda is questionable. Two factors are relevant to discuss.

First, the EU has never codified that membership of the Council of Europe is a prerequisite for EU membership. Even though the combination of article 2, article 6, and article 49 of the TEU can be interpreted in such a way that the ratification of the ECHR is an essential element of EU membership, ratification of the ECHR can also be conceived of as merely an unwritten rule due to the lack of explicit adherence. If, hence, the ratification of the ECHR is not an official requirement of EU accession, the attention to human rights should remain within the realm of the Council of Europe. This implies that human rights are not a legitimate concern of the EU to include on its agenda, because human rights issues are then subject of the relationship between the respective EU member states and the Council of Europe, rather than of the respective member states and the EU.

Second, notwithstanding that the EU does refer to the ECHR in its treaties, the EU justifies its human rights commitment on the basis of the assumption that the values of democracy, human rights, and the rule of law, as laid down in the ECHR, “result from the constitutional traditions common to the EU

member states”.⁴⁰⁷ Furthermore, on this basis, the principles of the ECHR “shall constitute general principles of the Union’s law”.⁴⁰⁸ This implies that the ECHR and, based on this, the law of the EU, is the product of traditions already present in the societies of the EU member states. The word ‘tradition’ furthermore implies a deeply rooted or long established phenomenon that has survived several generations, and the word ‘common’ indicates that all the EU member states by definition share these values. If the values are indeed traditions, and are indeed ‘common to all member states’, ratification of the ECHR need not be a prerequisite for EU membership, because the principles of the ECHR are already deeply rooted and common without ratification. Inherence of the values to all the EU member states provides the EU with a justified motivation for preserving and protecting these values through the pursuit of a human rights agenda. However, if ECHR ratification were a prerequisite for EU membership while ECHR ratification is also considered a ‘tradition’ at the same time, I attest that one (tradition) follows from the other (ECHR ratification). Then, the tradition is embodied by the common ratification of the ECHR. The tradition is imposed by the EU, rather than that the tradition is inherent to the societies of all the EU member states beyond their EU membership. Consequently, I argue in favor of a distinction between the tradition of respecting fundamental rights and freedoms and the tradition of ratifying the ECHR as a prerequisite for joining the EU. The following quote from the 2003-2004 Annual Report confirms that the ‘tradition’ of meeting certain human rights standards is EU imposed: “The EU very much appreciated the Council of Europe’s special contribution in helping ten new Member States to meet political criteria before their accession to the EU. The EU also acknowledges the active work of the Council of Europe with the current applicant States in this regard.”⁴⁰⁹ If new and prospective member states need help to meet the political criteria required for EU accession, we cannot speak of the presence of a deeply rooted tradition pertaining to the political criteria in these societies. Based on the above, the ‘tradition’ of ECHR ratification was imposed and used by the EU to create a legitimate ground to pursue a human rights agenda. There is a passive agenda-setting dynamic at play, because the Council of Europe as an actor has not initiated issue salience, nor has the Council of Europe actively pursued changing the politics of attention. Rather, the Council of Europe merely provided and provides the EU with the opportunity of imposing a tradition with the objective of appropriately pursuing a human rights agenda. In a similar vein, we can assess EU accession to the ECHR as a process of legitimizing the existence and necessity of an EU human rights agenda. The Council of Europe additionally engenders a passive agenda-setting dynamic in two directions. First, the EU uses the Council of Europe to securitize human rights, as is exemplified by the following quote: “The EU highlights that using the Council of Europe standards as

⁴⁰⁷ European Union, *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 13 December 2007, 2007/C 306/01, article 6.

⁴⁰⁸ *Ibid.*, article 6, para 3.

⁴⁰⁹ Council of the European Union, *Annual Report on human Rights 2004* (Brussels 2004), 58.

benchmarks for the respect to be shown by partner countries for common values is an important part of the ‘European Neighborhood’ policy and will contribute towards the prevention of new divisions in Europe.’⁴¹⁰ In doing so, the EU appeals to peace and security, earlier defined as the main reason for establishing the European Coal and Steel Community. Moreover, this feeds into the objective and helps to support the objective of creating an area of justice, freedom, and security. Second, the relations between the Council of Europe and the EU provide the EU with leverage at the international scene. In the Annual Reports the EU reflects upon its role in international forums. Cooperation between the EU and the Council, as well as between the EU and the United Nations are prominent in this section. Cooperation with the Council of Europe, particularly due to its authority in the field of human rights, provides the EU with a mechanism to consolidate its leading role in global politics. Moreover, cooperation with the Council of Europe justifies the EU as a global human rights promoter.

5.5. Styles of Attention Allocation

This section focuses in particular on the EU logic of allocating attention to human rights. This means that, on the basis of a document analysis, I analyze the way in which human rights were brought to the attention, or the way in which attention was allocated. The allocation of attention is not necessarily related to strategies as such, as the logic of how attention is allocated may be influenced by different types of discourse, events, or the interaction with other actors. An assessment of allocation logic indicates how the overall relative attention to human rights decreased from ‘prominent’ in 1992 to ‘average’ in 2012. Understanding ‘logic’ as valid reasoning, this section exposes how the EU connects human rights to political attention. This section assesses this logic by highlighting several features of the EU politics of attention to human rights. The logic of allocating attention to human rights can be characterized on the basis of an assessment of the EU human rights speech in the Annual Reports on Human Rights and Democracy in the World, annually published since 1999. Speech reveals logic as it is the way in which valid reasoning is voiced and translated into political attention. To some extent, therefore, logic is related to the strategy of framing. It is useful to assess the EU logic of allocating attention, because how the EU speaks of human rights determines the way policies are shaped. This is how politics influences policies. However, what follows reveals that, in the case of human rights, politics is shaped by policies as well. An assessment of the EU logic does not reveal significant shifts between 1998 and 2012. The primary shift can be identified in 2009, as I clarify later in this section. The EU adopts several ‘allocation styles’. The first style is related to critique, and concerns the way in which the EU overtly criticizes human rights violations by others, and the way in which the EU, less overtly, addresses critique or anticipated critique

⁴¹⁰ Ibid.

on its own human rights commitment. This is consistent with the expression of an EU ideology, as explained in Chapter IV. The second style is related to the EU as a global human rights defender and the EU as an international player, while a third style centralizes mainstreaming. The fourth allocation style pertains to agenda-setting as logic, and the fifth allocation style is shaped by the receptiveness of the EU to popular demands. Subsequently, a sixth allocation style indicates the logic of politics itself as a human rights policy and, lastly, the seventh allocation style entails issue linkage.

Allocation Style One – Strategizing Critique

To illustrate the first style of allocating attention I emphasize the logic of using critique as a justification for pursuing a human rights agenda. In the first Annual Report of 1998-1999 the EU states that the “human being is at the center of the EU policies”, that “making human rights a reality is a never-ending challenge”, and that “a human rights policy starts at home”.⁴¹¹ Despite this latter utterance, we should note that the Annual Report was initially designed to address the EU actions outside the EU. Throughout the years the EU attention scope has gradually come to include a focus on internal human rights matters, and the focus transformed later into the logic of addressing issues on a thematic basis. By acknowledging that a human rights policy is also relevant within the EU itself, the EU positions itself one step ahead of those who make claims about the internal EU human rights standards. The second Annual Report, covering the last six months of 1999 and the first six months of 2000, reveals that the publication of reports and the subsequent feedback on reports lead to changes in the politics of attention. Based on the feedback on the first report, this second report proclaims the need to additionally address the human rights situation in the EU besides the external focus. The EU addresses critique on its own performance by asserting that the EU continuously seeks to translate its human rights commitment into action.⁴¹² This sentence in itself reveals the uneasy balance between ‘human rights’ and ‘action’ and displays the challenge of addressing human rights violations with the appropriate instruments. The sentence implies moreover that the EU policies have not been sufficiently effective, hence illustrating how policies have an effect on the EU speech and thus the politics of attention to human rights. This leads to the pursuit of differently formulated policies. Furthermore, by centralizing the human being the EU seeks to justify its human rights commitment, because the EU human rights commitment then serves the ‘core’ of its *raison d’être*. By using ‘human being’ instead of ‘citizens’ the EU adds a primitive and essential element to its human rights commitment, indicating that without the protection of the human being through a human rights policy there is no need for other policies. Hence, human rights policies to protect the human being are a precondition for policy-making in other fields. The EU additionally centralizes critique in attention allocation by expressing

⁴¹¹ Council of the European Union, *EU Annual Report on Human Rights 1999* (Brussels 1999), 3.

⁴¹² *Ibid.*, 3.

‘shock’ and resentment regarding the violations of human rights by external actors; by ‘others’. The EU thus adopts a politics of condemning human rights violations by these actors. Moreover, the EU refutes cultural claims made by those rendering themselves guilty of human rights violations, those arguing that their cultures do not share the universal and interdependent values proclaimed by the EU.⁴¹³

Allocation Style Two – Following the International Trend

The focus on the EU human rights commitment abroad is the result of the desire to take on a role as human rights defender at the global stage. This explains why the focus of the Annual Report is primarily on external relations. This focus and desire are translated into speech and logic of allocating attention. The following quote reveals how the EU uses international trends to set its own human rights agenda: “The Union therefore welcomes, and promotes, the growing international trend towards integrating the promotion of human rights, democracy and the rule of law into development co-operation, trade policies, and the promotion of peace and security. Many efforts are made to this end by international organizations, and they are thus an important forum for the Union’s human rights policies.”⁴¹⁴ Even though the latter part of this sentence implies that the EU takes its policies to external forums, we also see that, as the EU is welcoming, and hence following international trends, the international forums set the EU human rights agenda. The integration of the promotion of human rights additionally touches upon another allocation style, the allocation of attention through mainstreaming.

Allocation Style Three – Mainstreaming

The integration of human rights into other policy fields touches upon another aspect of the logic behind attention allocation. The EU seeks to increase the visibility and commonly recognized significance of human rights by mainstreaming human rights issues into other policy fields. As the first Annual Report indicates, the concept of mainstreaming, particularly within the work of the United Nations, was introduced in 1998 with the adoption of ECOSOC’s Agreed Conclusions in response to the 1993 World Conference on Human Rights in Vienna.⁴¹⁵ The EU thus adopts a politics of attention similar to the politics of attention in the United Nations. I assess mainstreaming as an agenda-setting logic and even as a strategy because mainstreaming is a distinct method of raising attention to human rights among various policy fields. At the EU level mainstreaming was initially pursued through integrating the gender perspective in EU policies, activities, and mandates. Moreover, the EU started its politics of mainstreaming by integrating the fight against racism, discrimination, and xenophobia into the fields of

⁴¹³ Ibid., preface.

⁴¹⁴ Ibid., 4.

⁴¹⁵ Ibid., 5.

judicial and police cooperation, education, research, youth, development, and external policies.⁴¹⁶ Mainstreaming human rights thus also serves the well-being of the internal market. Mainstreaming is consistent with the objectives of the Amsterdam Treaty. The logic of mainstreaming is related to allocation style seven, the relocation of attention, and constitutes one way to explain how the overall relative attention to human rights has decreased from ‘prominent’ to ‘average’. Moreover, if we consider mainstreaming an agenda-setting strategy, setting the agenda in itself constitutes logic of allocating attention.

Allocation Style Four and Five – Setting the Agenda and Citizen’s Engagement

Indicating that there is a need to set the agenda is in itself a strategy to allocate attention. Emphasizing the need to set the agenda insinuates that there is an attention gap that ought to be filled. The need to review and assess priorities indicates that there is a lack of attention to certain issues or a lack of adequate prioritizing. This is particularly evident in the third Annual Report, covering the final six months of 2000 and the first six months of 2001. The report reflects on the newly identified EU policy objectives within the field of human rights. One item on the agenda concerns agenda-setting: “regular identification and review of priority actions in the implementation of its human rights and democratization policy.”⁴¹⁷ Moreover, in the effort to set a human rights agenda the EU emphasizes its responsiveness to concerns of citizens and civil society organizations. In this regard, emphasis is on how the EU acknowledges the importance of aligning its human rights agenda with the agenda of civil society as a whole. Setting the agenda, on the basis of external input, is then a strategy to elucidate the societal relevance of an EU human rights agenda. The use of agenda-setting as a style of attention allocation is also a passive agenda-setting dynamic. As stated in the preface of the 2002-2003 Annual Report: “The Annual Report forms part of the general efforts to work towards the objective of greater transparency and a strengthened dialogue with civil society at large. The EU thus aims to strengthen its citizens’ involvement in the protection and promotion of human rights and to broaden the discussion on the EU human rights agenda. Therefore, the report (...) represents a starting point for reflection of ways and means to enhance the coherence and effectiveness of the EU human rights policy.”⁴¹⁸ Based on this passage, I conclude that the efforts toward achieving greater transparency have an effect on the politics of attention. The need to achieve greater transparency leads to new agenda-setting dynamics in which citizens and civil society play a more central role. This does not in fact reveal how civil society influences the EU agenda, but it does indicate that the EU uses the pretention of engaging with civil society to give its human rights commitment more credibility. Credibility in turn is a prerequisite for democratic legitimacy, serving the EU as a whole.

⁴¹⁶ Council of the European Union, *EU Annual Report on Human Rights 2001* (Brussels 2001), 22.

⁴¹⁷ *Ibid.*, 47.

⁴¹⁸ Council of the European Union, *EU Annual Report on Human Rights 2003* (Brussels 2003), preface.

Allocation Style Six - Where Politics is Policy

Another pivotal element of the logic behind the allocation of attention to human rights is constituted by the politics-policies dichotomy. In the case of the EU human rights agenda, at least to some extent, the dichotomy of politics and policies disappears and politics itself constitutes policies. This is because politics can prove an effective means to address violations of human rights and to protect human rights. When the dichotomy disappears, a problem is not tackled by a solution through policy endorsement. Rather, politics provides an answer to an issue or problem. This is particularly visible in how the EU raises human rights to salience through rising opportunities. Let me briefly elaborate upon the role of opportunities in agenda-setting. Following Richard W. Mansbach and John A. Vasquez opportunities constitute one of the reasons why international arenas include issues on the agenda.⁴¹⁹ However, we should underscore in this regard that issue inclusion does not automatically imply the formulation of policy. Opportunities provide momentum to either reinvigorate the attention to an issue or to create new stakes. Opportunities may take different forms and, in the case of human rights, often remain within the realm of politics. Opportunities can arise through focusing events, through the publication of (non-) academic studies, but also through conferences, agendas of other political entities, anniversaries, and through critique on policies. Especially the latter offers an opportunity to change the politics of attention in favor of either more or less attention to human rights. It should be noted that opportunities should be seen as independent developments that are detected and consequently transformed into an opportunity, rather than that they are necessarily ready-made policy windows. Speech and the way in which the EU frames opportunities are determining factors in how the EU uses opportunities. An example of how politics can be an effective means to address human rights issues are boycotts of sports events as a response to human rights violations by the state hosting the event. In this regard, overt and public condemnation of human rights practices possibly lead to improved human rights standards in that state, which can be seen as the aim of any human rights policy. The same holds for human rights dialogues. These dialogues, though part of the EU human rights and democracy conditionality policy often remain within the realm of politics. However, even though socialization and the exchange of perspectives are sheer politics; this policy of politics may prove an efficient means to improve human rights standards. Another notable example of the logic of using politics as policy is the logic of using anniversaries to renew the attention to certain issues. Anniversaries of, for instance, the Universal Declaration of Human Rights (UDHR), are often accompanied by the organization of conferences around certain themes or declarations to reinvigorate commitment. The 50th anniversary of the UDHR, for instance, was at the heart of launching the Annual Report on Human Rights in 1998.⁴²⁰ Conferences in honor of anniversaries

⁴¹⁹ *Ibid.*, 87.

⁴²⁰ European Commission, "Bulletin of the European Union" 10 (1999), p 17.

in turn provide platforms for knowledge exchange. Conferences organized by the UN, in addition, provide an opportunity for the EU to ‘assert its international role’.⁴²¹

Allocation Style Seven – Relocation of Attention

The relocation of attention touches directly upon issue linkage, and more specifically the institutionalization of issue linkage. I call this ‘attention merging’; two or more policy areas are merged into one policy area. The ‘relocation’ of attention is particularly evident in the 2009 shift in the politics of attention. Human rights ‘merged’ into one policy area with European Citizenship and Justice and a Commissioner for justice, fundamental rights, and citizenship was appointed. Issue linkage feeds into a more general trend of compressing attention. This compression of attention -in which attention is allocated in a more concise and effective way- was introduced in 2004 when Barroso took office as Commission President. This is reflected by the empirical data, indicating that the relative attention to human rights sunk to ‘insignificant’ in 2004. This trend is also visible in the other policy areas, and explains why the overall relative attention to human rights decreased between 1992 and 2012. On the other hand, issue linkage is warranted due to external events and the politics of pursuing policy coherence. This is particularly the case with fundamental rights, freedom, justice and security, and citizenship. In tackling internal and external threats to the internal market, for instance crime and terrorism, these three policy fields often overlap. The politics of policy coherence then leads to rationalization of attention. The relocation of attention can also take the shape of venue creation. This is one of the ways in which the attention to racism, discrimination and xenophobia was allocated in 1997. The creation of a commissioner post for justice, fundamental rights, and citizenship can also be seen as an example of venue creation.

5.6. Citizens - Frame and Function

In explaining how human rights are represented on the EU agenda and how the politics of attention to human rights shifted in 2009, this section further elaborates upon the role of agenda-setting in democracy. In doing so, the following pages permeate a follow-up to the analysis in the previous section on agenda-setting as a strategy and on the analysis in Chapter II regarding the role of agenda-setting in an empirical account of democracy. I hypothesized that agenda-setting ought to be a feature in an empirical account of democracy. Here I attest that, with the launch of the Citizen’s Initiative in 2009, agenda-setting has become empirically present in the EU democratic model. The main argument is, consequently, that

⁴²¹ Commission of the European Communities, *General Report on the Activities of the European Communities 1995* (Brussels and Luxembourg 1996), 5.

fundamental rights and freedoms are on the EU agenda through the democratic practice of setting the agenda.

The 2009 Lisbon Treaty launched the EU Citizen's Initiative. Through the Citizen's Initiative it is possible for the EU citizens, entitled to vote in elections, to engage directly in the EU policy formation process by submitting a legislative proposal to the Commission that is supported by at least one million signatures. Through the Citizen's Initiative the EU creates space for issues to emerge on the EU agenda via the outside-initiative-model. Even though agenda-success is not guaranteed, with the launch of the Citizen's Initiative the EU adds agenda-setting to an empirical case of democracy. This is because the Initiative bestows upon EU citizens the power to set the EU agenda. In turn, agenda-setting power of EU citizens enables the EU to represent the 'general will' of the EU citizens more adequately. This increases EU responsiveness to popular demands. Throughout this thesis we have seen that the EU frequently applies the 'citizen-frame' to substantiate the inclusion of an issue on the agenda, and to justify securitization and spill-over policies. With the 'citizen-frame' the EU emphasizes that an issue is included on the agenda because the citizens have expressed the desire for the EU to deal with this issue. The following quotation in the 2009 Annual Report by Catherine Ashton, the EU High Representative for Foreign Affairs and Security Policy, distinctly exemplifies the citizen-frame: "The message from citizens across Europe is clear. They want the EU to do more to promote and defend human rights throughout the world. I believe that by showing what we are doing, and by speaking with a united voice on the world stage, we can answer these expectations."⁴²² Hence, the citizen-frame enables the EU to at least feign responsiveness and accountability.

The emphasis on responsiveness as an agenda-setting strategy is likely to engender agenda-success. This is because responsiveness is a signifier of democratic practice; the representation of the general will of the people through political representation. The consent of the general public, owning the general will, consequently signifies legitimacy. Responsiveness is thus closely related to legitimacy, and legitimacy determines the extent to which a political entity has *raison d'être*. The launch of the Citizen's Initiative can be assessed as the outcome of a politics of pursuing responsiveness in order to maintain *raison d'être*. This type of politics ultimately leads to policies tailored to represent the general will. This is an illustration of how politics influence policies. On the other hand, the pursuit of responsiveness is due to the threat of a democratic legitimacy deficit. If this deficit is caused by policy-making and the pursuit of policies at the EU level, the EU may require normative spill-over to mitigate the threat. In this case, EU policies have led to a particular politics of attention that culminated in the launch of the Citizen's

⁴²² Council of the European Union and European Commission, *EU Annual Report on Human Rights and Democracy in the World 2009* (Luxemburg 2010), 1.

Initiative. Then, policies have created politics and agenda-setting power of the people is the outcome of normative spill-over. This reveals, again, interplay between EU politics and EU policies. Furthermore, the politics of pursuing responsiveness in itself constitutes a politics of attention to human rights. This is because the politics of pursuing responsiveness signifies the agenda-setting of human rights. What follows explains this further.

Chapter I disclosed that we can understand democracy as a derived human right. This means that the exercise of democratic rights embodies the exercise of human rights. If agenda-setting by the people is considered a feature of an (empirical) account of democracy, I assess agenda-setting as a democratic right, especially because agenda-setting allows for an adequate reflection of the general will, required to generate political legitimacy. If agenda-setting is a democratic right, agenda-setting is a derived human right as well. The exercise of agenda-setting power then equals the exercise of a (derived) human right. Consequently, through the agenda-setting power bestowed upon the EU citizens with the launch of the Citizen's Initiative, the EU citizens have the opportunity to exercise a human right. The human rights of EU citizens are thus protected through the opportunity to set the agenda. Furthermore, I claim that this opportunity for citizens to set the EU agenda simultaneously constitutes an agenda item. This is because we can consider the Citizen's Initiative an EU agenda item. If the Citizen's Initiative is an agenda item, we can predicate that human rights are represented on the agenda through the exercise of human rights. In other words, there is the assurance that there is attention to human rights through the active and ongoing exercise of the right itself. The EU uses agenda-setting as a tool to engender responsiveness in order to mitigate the threat of a democratic legitimacy deficit. As a result, human rights are on the agenda through the act of setting the agenda in itself.

Concluding remarks

In this chapter I clarified how human rights have been represented on the EU agenda between 1992 and 2012. In addition, I explained how the main shifts in the politics of attention, in 1997 and 2009, have been shaped and framed by the EU agenda-setting actors. How issues land on the agenda is strongly linked to the agenda-setting actors and the interests these actors pursue. I showed that the European Council, the internal market, and the Reflection Group have played a pivotal role in establishing the politics of attention in 1997. The analysis exposed that the way in which issues land on the agenda do not always reflect the reasons why the issue land on the agenda. Moreover, the analysis disclosed that issues land on the agendas of EU institutions long before they reach the EU output agenda. The European Council

ultimately decides to include or exclude issues.

In 2009 the politics of attention changed as a consequence of Barroso's re-election campaign and Barroso's attempt to meet the demands posed by his opponents. Barroso used agenda-setting, as well as the agenda-setting of human rights as a strategy. To frame human rights as a significant item, Barroso adopted a normative discourse, and he applied the urgency of the economic and financial crisis to human rights. Furthermore, the politics of attention to human rights shifted in 2009 with the launch of the Lisbon Treaty and the implied requirement of EU accession to the European Convention on Human Rights (ECHR). EU accession to the ECHR was required with the aim of generating democratic legitimacy and to justify the pursuit of an EU human rights agenda. I have disclosed the Council of Europe as a passive EU agenda-setting actor.

Issues land on the EU agenda through a particular style of attention allocation. Seven styles of attention allocation have been identified on the basis of a discursive analysis of the Annual Reports on human rights: strategizing critique, following the international trend, mainstreaming, agenda-setting, responsiveness, the logic of politics, and the logic of relocating attention. Moreover, human rights are represented on the EU agenda through the act of agenda-setting itself. By bestowing upon citizens the right to set the agenda through the Citizen's Initiative, there is an ongoing assurance that human rights are an item on the EU agenda.

VI

From Shock to Shame Female Genital Mutilation on the EU agenda

In Chapter IV I explicated why the politics of attention changed and in Chapter V I analyzed how the EU allocated attention to human rights on its output agenda. In the present chapter I explore the politics of attention to female genital mutilation (FGM) as an internal EU issue. The aim of the exploration is to identify the dynamics that led to increased attention among EU policy makers. Therefore, at the heart of this chapter is the following question: why and how did FGM land on the agenda of EU policy makers between 1992 and 2012? If we identify FGM as one issue in the range of issues the EU deals with, an exploration of the politics of attention to FGM engenders a more profound understanding of the agenda-setting dynamics pertaining to human rights in the EU institutions. On the basis of assessing the politics of attention to one particular human rights issue, I also examine the extent to which the general conclusions of the previous analyses in this thesis apply to specific cases. This helps to understand the overall agenda-setting dynamics in the EU institutions, because the knowledge on specific cases helps to engender generic insights pertaining to agenda-setting.

The empirical data collection indicates that FGM as one of the issues the EU deals with was either not present or insignificantly present on the EU output agenda between 1992 and 2012.⁴²³ Therefore, we cannot assert that the relative attention to FGM in the EU institutions has changed as such. On the one hand, the relative attention to FGM is insignificant because the EU tackles this issue as a concern within other human rights fields, such as trafficking in human beings, women's rights, the rights of the child, and discrimination. On the other hand, the insignificance of FGM on the EU output agenda is because we cannot expect a specific individual human rights issue to constitute a significant part of the EU output agenda. This is especially so due to the fact that the EU does not originally deal with human rights matters. Moreover, to some extent FGM falls within the scope of health policies, meaning that the principle of subsidiarity ought to be taken into account as health remains an issue that is primarily dealt with at the EU member state level. Therefore, the single case study of assessing the politics of attention to

⁴²³ For a graph showing the prominence of FGM on the EU output agenda, see Appendix III.

FGM does not adopt the EU output agenda as the main reference point for measuring (relative) political attention. Rather, change lies in the fact that, between 1992 and 2012, FGM arrived on the EU agenda where it was absent before. This indicates that the politics of attention has changed, which is confirmed by the empirical data on the application of EU legal instruments to FGM. Agenda success of FGM is embodied by the fact that the issue receives ‘serious consideration’ by EU policy makers. ‘Serious consideration’ by EU policy makers is substantiated first by the launch of the DAPHNE Initiative in 1997 and secondly by the endorsement of the Lisbon Treaty in 2009, which allowed for the launch of an investigation to the phenomenon of FGM in January 2010 by the European Commissioner for Justice, Fundamental Rights and Citizenship. I primarily focus on these two turning points in assessing the politics of attention to FGM.

This chapter falls into three sections. After a brief explanation of the case study in the first section, I assess the politics of attention to FGM in 1997 and the politics of attention to FGM in 2010 in the second section. I argue that FGM received attention because the issue feeds into broader human rights concerns, allowing the issue to be mainstreamed into holistic EU strategies to tackle these concerns. Furthermore, I explain that concrete attention to FGM in 1997 and 2010 is a consequence of shock and shame. Finally, I identify the dynamics through which the European Parliament and civil society are involved in setting the FGM agenda in the EU institutions.

6.1. The Case of Female Genital Mutilation

FGM as a case study to assess the politics of attention to human rights was selected on the basis of several considerations. First, FGM is a specific human rights issue. If we follow conclusions drawn in previous chapters and if we state that human rights are not originally an appropriate issue on the EU agenda, it is useful to assess why and how specific and individual human rights issues do land on the EU agenda. Moreover, the fact that FGM landed on the EU agenda is notable because FGM is a phenomenon that does not originate in European countries. Yet, FGM received more serious consideration by EU policy makers as an internal matter than as an external matter. EU policy-makers seem to adopt a speech in which they depict FGM as a matter of external affairs, while modestly explaining that it is also important to include the issue on the internal EU agenda.⁴²⁴ The word ‘also’ implies that the attention to FGM as an internal matter is more unusual, while FGM has in fact been allocated a more pivotal position on the internal agenda than on the external agenda between 1992 and 2012. Assessing why and how FGM landed on the

⁴²⁴ V. Reding, EC Vice-President, designate in charge of Justice, Fundamental Rights and Citizenship, *European Parliament Hearing of European Commissioner Designate* (European Commission Audiovisual Services, 12 January 2010), available at <http://ec.europa.eu/avservices/video/player.cfm?ref=I064122> (URL last accessed on 23 September 2013).

EU internal agenda is thus relevant. Lastly, by including FGM on its agenda the EU expands into the competences of EU member states and, by including FGM on its agenda, the EU possibly scrutinizes the subsidiarity principle. This is because FGM concerns an issue that touches upon the health policies of the EU member states, as well as upon the immediate private sphere of families, which falls within the remit of domestic jurisdiction. Hence, it is not necessarily clear why and how the EU is an appropriate actor to deal with this issue. Before I engage in a fully-fledged analysis of why and how FGM landed on the EU agenda, I provide a definition of the phenomenon. It should be noted that, in studying and unraveling agenda-setting dynamics, the issue subject to agenda-setting is of secondary importance. Nevertheless, an understanding and an interpretation of the specific nature of FGM is useful to learn how we can assess the link between the issue and the EU agenda, especially as it concerns a non-European phenomenon. The nature of the issue itself is indicative of the conditions under which the EU agenda is set. Additionally, as FGM touches upon several policy fields and upon broader human rights concerns it is useful to map these concerns in order to engender a complete view of the issue's 'access points' to the EU agenda.

A report of the European Institute for Gender Equality (EIGE) refers to a definition and interpretation of FGM provided by the World Health Organization (WHO): "(...) [FGM] refers to all procedures involving the partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons. It is at heart an expression of gender inequalities, recognized as a serious form of gender-based violence against girls and women and a gross violation of their human rights. The term 'mutilation' is used deliberately, as it reflects the severity of harm done to girls, women and the community at-large in any act of FGM."⁴²⁵ The issue of FGM thus touches upon gender equality, violence, and women's rights. The issue could therefore emerge on the EU agenda within the context of the internal market, home affairs, justice, external affairs and development cooperation, and health. The EIGE Report and the European Parliament resolutions furthermore indicate that the practice of FGM became an issue in the EU in the wake of immigration. The group at risk of undergoing the practice thus concerns primarily female immigrants. This implies that FGM is also relevant within the framework of the EU immigration and asylum policies.

The EU first paid attention to FGM through the joint EU/ACP Amsterdam resolution of September 1991. However, this commitment touches upon the external dimension of EU engagement, while the analysis here focuses on the attention to FGM as an internal EU matter. If we look at the broader internal commitment of the EU to gender equality, and if we consider that FGM is an indication of gender inequality, we can see that the Commission has been active in this field since the Rome Treaty was

⁴²⁵ European Institute for Gender Equality, "Female Genital Mutilation in the European Union and Croatia. Report" (European Union 2013), 13.

endorsed in 1957. Addressing the discrepancies in the treatment of men and women on the labor market, the Rome Treaty already provided for the principle of ‘equal pay for equal work’.⁴²⁶ Moreover, the Commission played a pivotal role in the development of national sex equality laws in the context of the second feminist wave of the late 1960s and 1970s.⁴²⁷ On the basis of assessing the chronology of events pertaining to FGM we can furthermore see that the EU actors ‘talked’ about FGM on a regular basis between 1992 and 2012. The (sexual) rights of women gained attention in 1993 at the Vienna Conference on Human Rights and once more at the 1995 Beijing Conference, inspiring the endorsement of a Parliament Resolution on “Equality, Development and Peace”. Furthermore, child sex tourism was subject of a Commission Communication in December 1996. The sexual rights of children thus obtained serious consideration by EU policy makers prior to the arrival of FGM on the agenda. What follows indicates that the inclusion of FGM on the EU agenda is an effect of the increased attention to the protection of women and children through the launch of the DAPHNE Initiative in 1997. The DAPHNE Initiative triggered more serious consideration to FGM, leading to the launch of a European Year of Action to Combat Violence Against Women in 1999 and an International Day of Zero Tolerance Against Female Genital Mutilation in 2000, and a Council Decision to launch the DAPHNE Programme in 2000. This resulted in the allocation of a specific DAPHNE budget line to FGM in 2000. There was, furthermore, mention of FGM in the 2000 Cotonou Agreement, in a Commission Communication in 2000, and more attention was allocated to gender equality through the 2000 Community Framework Strategy. In addition, the Parliament has been particularly active in 2001 and 2003, leading to a Regulation by the Council and the Parliament on sexual and reproductive health and on the rights of women and children in developing countries in July 2003. After the Parliament resolution on the violation of women’s rights in November 2003, there is no particular attention to FGM and women’s rights on the EU agenda until the submission of a petition by Cristiana Muscardini in March 2007. Consequently, in the run up to the Parliament elections of 2009 the Parliament endorsed resolutions in January 2008 and March 2009. Furthermore, in a statement on February 2008 European Commissioner for External Affairs Benita Ferrero-Waldner and the European Commissioner Louis Michel for Development Cooperation explicitly spoke out against FGM. Since the endorsement of the Lisbon Treaty in 2009, subsequently, FGM has been under serious consideration by policy makers. Not only did FGM land on the agenda of European Commissioner Viviane Reding for Justice, Fundamental Rights, and Citizenship, leading to the launch of a Women’s Charter, a Strategy for Equality between Women and Men (2010-2015); FGM also landed on the agenda of several EU Presidencies and the agenda of High Representative for External Affairs Catherine Ashton.

⁴²⁶ Treaty establishing the European Economic Community (Rome 1957), article 19.

⁴²⁷ S. Mazey, ‘The European Union and women’s rights: from the Europeanization of national agendas to the nationalization of a European Agenda’, *Journal of European Public Policy* 5 (March 1998) 1, 131-52, pp. 131.

Serious consideration and the emergence of a politics of attention, however, did not translate into concrete policies.

A Problem without Solutions

The socio-cultural background of the practice of FGM portends the complexity of the matter. It is precisely this complexity that poses obstacles to the successful agenda-setting of FGM, especially at the EU level. The main obstacle to successful agenda-setting is the lack of clear and distinct solutions to the problem. Solutions to policy problems are identified by Sebastiaan Princen as a decisive factor contributing to agenda-success.⁴²⁸ Therefore, I identify the lack of available solutions as one reason for limited agenda-success. FGM is a deeply-rooted practice in certain African societies, taking place within the structure of oral community traditions. While FGM was for a long time assessed as a cultural tradition, it is increasingly recognized as a violation of the human rights of women and children. Because FGM implies a cultural connotation the violators of human rights or the practitioners of FGM are not easily identified, and prosecuted. In this regard, Thomas Risse and Tanja A. Börzel state that human rights policies have significantly changed over the past ten years.⁴²⁹ Following Risse and Börzel, one indicator of this change is that human rights policies are increasingly shaped by a discourse imputing responsibility of human rights violations on private actors, including families and communities.⁴³⁰ The most significant obstacle to the successful agenda-setting of FGM at the national and at the EU level lies precisely in this matter. This obstacle is twofold. First, if we identify the prosecution of human rights violators as a solution to the problem of FGM, then the possibility to prosecute human rights violators conduces to generate serious consideration by policy makers. This is because, as explained above, EU policy makers are susceptible to problems when there is an available solution to the problem. As the responsibility for the practice of FGM lies with entire communities and families, practitioners of FGM, hence the violators of human rights are of an abstract nature. This makes it impracticable to prosecute these violators of human rights. Secondly, a solution to the problem of FGM constitutes a long-term approach. FGM is a long winded-affair that, in turn, requires a long-term strategy. The solution to the problem should be found in the people that allow for the endurance of the practice; in the attitudes and perceptions of the people.⁴³¹ In order to tackle FGM, the people as builders of communities should be targeted directly, and bridges should be built between the communities in Europe and the communities in Africa.⁴³² FGM National Ambassador Zahra Naleie, representing the Federation of Somali Associations in the Netherlands (FSAN),

⁴²⁸ Princen, "Agenda-setting in the European Union", 30.

⁴²⁹ T. Risse and T.A. Börzel, "Human rights: The new agenda", *Transworld Working Papers* 07 (December 2012), 2.

⁴³⁰ *Ibid.*

⁴³¹ Z. Naleie, *Interview* (Amsterdam, 23 August 2012).

⁴³² *Ibid.*

furthermore indicates that, in order to effectively address the problem of FGM, a simultaneous top-down and bottom-up change is needed; top-down through the commitment of pioneers and statements by policy makers, and bottom-up through targeting youth and education.⁴³³ Naleie explains that the youth in Europe has a pivotal role to play in bringing about long term change: “through the campaigns to raise awareness and through the engagement of youth health care institutions (...) women and girls have more access to information regarding their rights and opportunities. (...) The children growing up here and attending school (...) [in Europe] are the real agents of change. They will prevent the practice of FGM on their own children.”⁴³⁴ Education of the children in the practicing communities in Africa is also needed. As the communities in which FGM is practiced are primarily illiterate and oral, the people in these communities should be targeted accordingly, perhaps through theatre or other non-verbal methods.⁴³⁵ Increased literacy of the African communities increases the susceptibility of these communities to awareness-raising campaigns from Europe. However, this long-term approach requires commitment at various levels and this costs money. Therefore, engendering agenda-status of FGM in itself is a long-winded process. In the next paragraphs I explicate why FGM became a concern of EU policy makers in 1997 and in 2010 and I clarify how this attention was articulated on the EU agenda.

6.2. From Shock to Shame

The EU politics of attention to FGM as an internal EU affair changed in 1997 and in 2010. The change in the politics of attention was constituted by the fact that the European Commission allocated serious attention to the issue. What follows expounds the reasons why 1997 and 2010 are turning points in the politics of attention to FGM and the reasons why the EU included FGM as an internal affair on its agenda. I explain that we can characterize the politics of attention to FGM in 1997 as an effect of shock, while we can characterize the politics of attention to FGM in 2010 as an effect of shame. Furthermore, I indicate that the connection between shock and shame signifies the extent to which policies influence politics in the EU institutions.

The Shock

In order to acquire insights pertaining to why and how FGM landed on the EU agenda in 1997, we need to enhance our understanding of the attention allocated to the human rights of women and children. It is through the increased attention to violence against children, young people, and women in the mid-1990s

⁴³³ Ibid

⁴³⁴ Z. Naleie, *Interview* (Amsterdam, 23 August 2012).

⁴³⁵ Ibid.

that FGM attained ‘serious consideration’ in the EU institutional arena. Additionally, the increased attention to discrimination and racism paved the way to increased attention to gender-based violence and inequalities on the basis of sex, especially through the endorsement of the Amsterdam Treaty. Lastly, assessing the politics of attention to FGM explains why gender mainstreaming was introduced as logic of allocating attention from the mid-1990s onwards. What follows explicates these assertions further.

As indicated in the previous chapter, the 1997 shift in the politics of attention was partially characterized by the increased allocation of budget to human rights. The additional budget reserved for human rights was allocated to the EU DAPHNE Initiative or ‘measures relating to violence against children, young persons, and women’.⁴³⁶ The new focus on ‘children, young people, and women’ in 1997 targets specifically the category of human beings that fell victim to the crimes and human rights violations committed by Marc Dutroux in Belgium between 1995 and 1996.⁴³⁷ In response to the Dutroux-affaire, and taking advantage of the momentum generated by the First World Congress against the Commercial Sexual Exploitation of Children in Stockholm in August 1996 the European Commissioner for Justice and Home Affairs, Anita Gradin, launched an *aide-mémoire* on the EU contribution to tackle the problem of the sexual exploitation of children.⁴³⁸ Gradin consequently announced the launch of a hearing, organized to acquire information pertaining to the trafficking and the sexual exploitation of children.⁴³⁹ This hearing was held in Brussels on 11 April 1997, and gathered representatives from thirty NGOs, representatives from the European Commission, MEPs, and experts in the field of law and child protection. This hearing led to the launch of the DAPHNE Initiative in May 1997.⁴⁴⁰ The DAPHNE Initiative symbolized an EU policy to ensure the protection of children, young people, and women. The objective of the Initiative was to fund concrete NGO projects through a call for project proposals, aimed at combating violence against the most vulnerable human beings in society. In “From Classical Myth to Cutting-Edge Action. More Than a Decade of Daphne” the Commission explains how the Initiative was inspired by Daphne, the nymph in an ancient Greek myth. When Apollo upset Venus, Venus retaliated by having Eros devise two arrows; one lead-tipped and one golden tipped to pierce hearts with respectively coldness and longing.

⁴³⁶ European Commission, *General Report on the Activities of the European Union 1997* (Brussels and Luxemburg 1998), 29. Referring to: The Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts (2 December 1997).

⁴³⁷ The website of the 1997 DAPHNE Initiative states that the discovery of the bodies of the missing girls, kidnapped, sexually abused, and killed by Marc Dutroux constituted the focusing event that led to a politics of attention in which the protection of vulnerable groups in society became pivotal. URL: http://ec.europa.eu/justice_home/daphnetoolkit/html/daphne_experience/dpt_experience_12_en.html (last accessed on 23 August 2013).

⁴³⁸ European Commission, “Contribution of the European Union to intensifying the fight against the sexual abuse and exploitation of children”, SG/T/TLM/md D(96)II (Brussels, 25 September 1996).

⁴³⁹ European Commission, “Commission hearing with NGOs on fighting trafficking and sexual exploitation of children - Friday 11 April Borschette Brussels”, IP/97/273 (Brussels 1997).

⁴⁴⁰ European Commission, “From classical myth to cutting-edge action. More than a decade of Daphne” (Brussels 2007), 5.

Eros pierced Apollo's heart with love and longing, while Daphne's heart was pierced with the arrow of coldness. Apollo fell in love with Daphne and grew insane when Daphne remained unaffected by his advances. When he started to chase her, Daphne called for help from her father. Her father, river-god Peneus, then transformed her into a laurel tree. The Commission states that the story of Daphne "reminds us that, where vulnerable children, young people and women are in need of help, like the young nymph, we will work to provide support and protection."⁴⁴¹ The use of this myth indicates that protection is a means to realize the victory over human rights violations, and the urge to protect the vulnerable is thus characteristic to the politics of attention that emerged in the aftermath of the Dutroux-affaire. In addition, the attachment of a girl's name to an initiative helps to personify and articulate the shock that emanated after the Dutroux-affaire. Shock, and consequently the aim of protecting and supporting the vulnerable are thus the main words to typify the politics of attention. The shock was, first, engendered by the discovery of human rights violations. Secondly, from the main priorities of the DAPHNE Initiative we can see that the shock was additionally epitomized by the lack of available information in the field of protecting vulnerable groups.⁴⁴² This is because the main aim of the DAPHNE Initiative was to develop research and to create networks of information in the area of the rights and protection of children, young people, and women. This lack of information was identified as a threat to societies in the EU, implying that the unavailability of information had engendered a climate in which human rights violations could occur. In the next paragraph I develop this claim further and I address how the EU allocated political attention to FGM in 1997.

This section identifies the logic of attention allocation to FGM in 1997. On the basis of analyzing the speech employed in relation to FGM in 1997 and the speech adopted in the DAPHNE project on FGM we can gain a more profound insight in how and why FGM landed on the EU agenda. First, it should be noted that the launch of the DAPHNE Initiative in itself reveals logic of allocating attention to human rights, and in particular to FGM. Through the DAPHNE Initiative, and later through its successor the DAPHNE Program, human rights are permanently represented on the EU agenda. On the basis of a policy that consists of funding on-going projects the EU is able to simultaneously include various human rights issues on its agenda and for a longer period of time. There is hence an 'attention-guarantee' to human rights on the EU agenda. This on-going commitment satisfies the demands and needs of civil society and human rights defenders, while on-going commitment also functions as a tool to address threats to the safety of citizens and the internal market before they emerge. This is an example of relocating attention, because

⁴⁴¹ Ibid., 5.

⁴⁴² The website of the 1997 DAPHNE Initiative, available at URL: http://ec.europa.eu/justice_home/daphnetoolkit/html/daphne_experience/dpt_experience_12_en.html (URL last accessed on 23 August 2013).

the EU has relocated, even externalized political attention by requesting the engagement of NGOs. Moreover, this is an illustration of how high politics, starting with the shock in 1996, culminates in low politics when policy experts and NGOs take over in the phase of implementing projects. High politics is thus picked up by low politics, maintaining the agenda-status of FGM through projects.

The broad scope of the DAPHNE Initiative engendered an arena for individual human rights issues to surface, one of the issues being FGM. One of the first projects funded by DAPHNE was an initiative by civil society in Belgium named “Female Genital Mutilation – Toward a Consensus”. The Dutroux-affaire and the subsequent launch of the DAPHNE Initiative through which this project was pursued explain why FGM emerged as an internal EU affair, rather than as an external EU affair. The project on FGM was one project among a group of projects established to protect the children, young people, and women within the EU. As is stated on the website of the DAPHNE Initiative, the identified priorities of the initiative evince the political impetus behind the launch of the initiative.⁴⁴³ Hence, the priorities and objectives reveal the reason why violence against children, young people, and women, and thus FGM, landed on the EU agenda. The first objective of the Initiative encompassed the creation of “EU-level networks to promote and coordinate information and actions on measures” devised to protect the target group.⁴⁴⁴ The need to create EU-level networks implies, firstly, that networks may have existed at the domestic level, but that these networks were deemed to have been unsuccessful in protecting children, young people, and women. This explains why action at the EU level, as opposed to action at the national level, was considered appropriate. The focus on improving the availability of information, furthermore, implies a perceived lack of information. This exposes that the lack of information was one of the reasons why human rights violations could occur and, hence, a lack of information was recognized as a threat to the protection of human rights. This argument confirms that the attention to human rights increases as a consequence of perceived threats to the safety and security of EU citizens. Increased attention to the accessibility of information, needed to circumvent human rights violations, was used as an instrument to address these safety threats and to maintain satisfactory security standards. The identified priorities additionally focused on the prevention and protection of persons belonging to the target group, the rights of children, young people, and women, discrimination, and in particular on sexual rights and sexual abuse. I evaluate this emphasis on prevention and protection as a reflection of the shock that inspired the launch of the DAPHNE Initiative.

Feeding into the overarching scope of the DAPHNE Initiative, one of the objectives of the FGM project was to execute a study on FGM in the EU with the aim of advancing information on the issue.

⁴⁴³ DAPHNE Initiative (1997): http://ec.europa.eu/justice_home/daphnetoolkit/html/daphne_experience/dpt_experience_12_en.html (last accessed on 23 August 2013).

⁴⁴⁴ Ibid.

Even though the focus on information reveals why the EU allocates attention to human rights, we could also identify the emphasis on the need for more information on FGM as logic of allocating attention. Proclaiming the need for information symbolizes commitment, while this commitment at the same time remains within a safe area. In a similar vein, the launch of an expert group meeting on FGM was one way to collect information. This effort indicates that the EU takes FGM seriously without having to pursue legislation or policy. The expert meeting on FGM was launched by the International Centre for Reproductive Health, together with GAMS Belgium, The Royal Tropical Institute Amsterdam, and Defence for Children in Ghent from 5-7 November 1998. This meeting, aimed at formulating and discussing recommendations for the Commission on how to combat FGM, brought together experts from Europe, Africa and the United States. I expect the report of the meeting to reflect the discourse in which FGM emerged on the EU agenda. This is because the meeting was launched at the request of the Commission and because the meeting should echo the objectives of the project, earlier selected by the EU through the DAPHNE Initiative. Therefore, I purport that the expected outcome of the project constitutes the reason why the EU has selected the project. Consistent with the overall aims of DAPHNE and the FGM-project, the participants in the expert group meeting also identified a lack of information as one of the main concerns pertaining to FGM. This is because FGM has become an internal EU affair as a consequence of international migration. Because FGM does not originate in the EU, Europe-based health professionals, legislators and social workers see themselves confronted with the unfamiliarity of the issue, leading to the emergence of many questions.⁴⁴⁵ Notable is that the report occasionally refers to FGM as female ‘circumcision’ as opposed to female genital mutilation. The title of the project reflects this: ‘Towards a consensus on female genital mutilation in the European Union. An inventory and international workshop on legal, medical, and socio-cultural aspects surrounding traditional female circumcision as applied in the European Union’. The project title and the choice of words reveals focus and discourse; the title and the report interchangeably adopt ‘traditional female circumcision’ and ‘mutilation’ in referring to FGM. The former indicates that FGM is a matter of culture, whereas the latter contains a speech act, the act of condemning the practice because ‘mutilation’ implies that the practice is harmful. The word ‘consensus’ in the project title furthermore suggests that there is a lack of consensus, indicating that the project was devised precisely to contribute to establishing consensus on FGM. The lack of consensus is one of the ways in which the project was justified; the need to generate consensus as an essential step to protect the vulnerable. A lack of consensus on FGM hence constitutes a reason for issue inclusion on the EU agenda. The focus is thus on FGM inside the EU due to a lack of information and a lack of consensus on the practice inside the EU. Moreover, the focus of the project is broad, indicating that the issue should

⁴⁴⁵ E. Leye, M. De Bruyn, and S. Meuwese, “Daphne Project 1997-096. Proceedings of the expert meeting on female genital mutilation Ghent 5-7 November 1998”, *ICHR Series 2* (the Consultory Lokeren), 4.

be tackled on multiple fronts; on the socio-cultural front, targeting education and prevention; on the medical front, focusing on the development of guidelines for health professionals; and on the legal aspects, pertaining to advocacy and legislation.⁴⁴⁶ The focus of the project is consequently on the capacity building of practicing communities.

The attention to FGM in 1997 is additionally formatted according to the attention allocated to trafficking in human beings. In the 1997 General Report the attention to the DAPHNE Initiative was mainstreamed into the section on trafficking in human beings. Moreover, MEP Marijke van Hemeldonck, speaking on behalf of Commissioner Gradin at the expert meeting, indicated that the meeting was taking place within the framework of other action against violence, in particular action against trafficking in human beings.⁴⁴⁷ The agenda-setting of FGM in relation to human trafficking is discussed later in this thesis. I first clarify the role of the Parliament in setting the EU FGM agenda.

Before the Hearing in April 1997, and before FGM arrived on the EU agenda through the DAPHNE Initiative, the Parliament had already attempted to raise FGM to salience. To understand how FGM landed on the agenda thus requires an elucidation of the agenda-setting role of the Parliament. In its resolution of 13 March 1997 on the violation of women's rights, the Parliament paid particular attention to FGM under point C, making a reference to "UNICEF estimates that 130 million women have been the victims of sexual mutilation, with 2 million new cases being added every year, an unknown number die as a result and all the victims of this torture remain irreversibly mutilated for the rest of their lives."⁴⁴⁸ Indicators of problems, in this case numbers based on estimates by UNICEF, thus set the agenda of the Parliament. Additionally, under point F.5 it is stated that the Parliament "strongly condemns the practice of sexual mutilation and calls on the Member States to prohibit sexual mutilation on their territory".⁴⁴⁹ Notably, the Parliament did not call upon the Commission to take action. Rather, the focus is on the responsibility of individual EU member states. This raises questions regarding the extent to which the Parliament considered the EU an appropriate level of governance to tackle the issue of FGM. Whereas the Parliament focused on women's rights in its resolution, the Commission had focused on the rights of children after announcing the hearing that culminated in the DAPHNE Initiative. In addition, the Parliament did not mention the Dutroux-affaire, whereas the Commission indicated that the Dutroux-affaire constituted a focusing event that inspired the endorsement of concrete action to protect the vulnerable.⁴⁵⁰ The

⁴⁴⁶ Ibid., 5.

⁴⁴⁷ Ibid., 7.

⁴⁴⁸ European Parliament Resolution on the Violation of Women's Rights, 1997 O.J. C 115/172.

⁴⁴⁹ Ibid.

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DAAPHNE Initiative (1997): http://ec.europa.eu/justice_home/daphnetoolkit/html/daphne_experience/dpt_experience_12_en.html (last accessed on 23 August 2013).

Parliament furthermore outlined that it had taken notice of International Women's Day, as well as the declarations of the 1993 Vienna Conference on human rights and the 1995 Beijing Conference on women's rights prior to outlining the recommendations in the resolution. The Commission abstained from referring to these events, but indicated that the First World Congress against the Commercial Sexual Exploitation of Children in Stockholm in August 1996 provided a framework within which the attention to children's rights is warranted. In the announcement of the Hearing, the Commission did not make any reference to the resolution of the Parliament. Therefore, it is unclear whether and how the Parliament has played any role in encouraging the Commission to include the rights of children, young people, and women on the EU agenda. This does, however, indicate that the Commission and the Parliament are susceptible to different agenda-setting dynamics. We can nevertheless affirm that the attention to FGM was mainstreamed into the attention to the rights of women and children. The increased attention to children, young people, and women by the EU as a whole emerged in a wider context that was characterized by increased attention to the rights of vulnerable groups. The EU defined its agenda within this discourse and directed the attention to FGM through mainstreaming the issue into broader human rights concerns. The agenda-success of FGM was thus dependent upon on the agenda-success of other issues. In addition, FGM as an internal affair landed on the EU agenda due to shocking focusing event and the momentum engendered by the First World Conference on the Sexual Exploitation of Children. The threat to the safety of citizens consequently expanded the range of issues the EU deals with to include FGM. Attention to FGM was allocated within the framework of addressing this threat, primarily by launching projects to create and develop channels of information. In the following paragraph I analyze the politics of attention to FGM in 2010.

The Shame

At the heart of the present section is an assessment of the politics of attention to FGM in early 2010. I expose the extent to which the politics of attention to FGM is an effect of shame. It should be noted that shock and shame to some extent overlap and, therefore, I also touch upon the similarities in the politics of attention in 1997 and in 2010. Two key moments in particular are subjected to analysis; the European Parliament Hearing of European Commissioner Viviane Reding on 12 January 2010 and the speech held by Reding at the United Nations High Level Conference on the Status of Women on 1 March 2010. During the Parliament Hearing, as well as during the speech at the United Nations, Reding identified the main priorities of a strategy to take concrete action on FGM. An assessment of these priorities and the speech through which these priorities are conveyed help us to learn why FGM landed on the agenda of Viviane Reding in 2010.

In her first Parliament Hearing as European Commission Vice-President responsible for Justice, Fundamental Rights, and Citizenship on 12 January 2010 Viviane Reding distinctly mentions FGM within the framework of violence against women. In the 179th minute of the Hearing Reding states that she wants concrete action on FGM because she “believes that is a shame”.⁴⁵¹ The word ‘shame’ indicates the presence of condemnation, guilt, or embarrassment, but the word also includes an implication of responsibility, in the case of FGM an actor’s failure to meet the negative responsibility of not violating human rights. ‘Shame’ is mentioned in one sentence with FGM and concrete action. The combination of ‘concrete action’, ‘FGM’, and ‘shame’ implies that there is a correlation between these three notions. I interpret this combination in two ways. The first interpretation focuses on the practice of FGM as such and on the extent to which the EU condemns this practice as a shame. In this interpretation, the shame of FGM is externalized and the responsibility for executing the shameful practice is designated to the individuals practicing FGM. However, the second interpretation links ‘shame’ and ‘FGM’ to ‘concrete action’, implying that shame is an internal EU matter and that there is a need to develop concrete action to combat FGM. This, in turn, implies that concrete action was absent before or that concrete action has not been sufficiently effective. In this interpretation, shame may refer to (the lack of) concrete action and the EU embarrassment about not having adopted concrete action. Shame then refers to the negative and positive responsibility to protect human rights and the EU condemns the failure of meeting negative and positive responsibility to guarantee human rights as a shame. The word ‘concrete’ as an addition to ‘action’ furthermore implies that action to tackle FGM had indeed been pursued, but that action was deemed insufficiently concrete or insufficiently effective. This second interpretation thus connects responsibility to the lack of concrete action, internalizing the shame as a responsibility of the EU. The lack of concrete action or the failure of existing actions consequently led to a politics of attention to FGM that is characterized by shame. Thirteen years after the DAPHNE Initiative was launched, concrete action pertaining to FGM was still needed. This implies that the DAPHNE Initiative had not been sufficiently effective, illustrating how the unsuccessfulness of action or policies at the EU level determine EU politics and how actions inspire a different type of politics of attention. The politics of attention to FGM in 2010, characterized by shame, was thus set by the EU policy on FGM pursued in 1997, inspired by shock. In this regard, at the Parliament Hearing Reding adopted the citizen-frame, emphasizing responsiveness. She spoke of finding herself in a ‘strong moment of democracy’.⁴⁵² This implies the general discourse in which the need for increased attention to FGM was voiced, indicating that the inclusion of FGM is a matter of responsiveness. Within the framework of responsiveness and existing policies, Reding furthermore

⁴⁵¹ Reding, *European Parliament Hearing*, 179th minute.

⁴⁵² Reding, *European Parliament Hearing*, 5th to 6th minute.

explained that the Lisbon Treaty, endorsed in December 2009, provides a mechanism to balance security and justice by including fundamental rights and freedoms, whereas the focus of policies during the last decade had been on primarily security. Reding emphasized that the EU should not be driven by fear, and she vouched for an EU that is driven by values instead.⁴⁵³ I state this is an example of how EU policies influence EU politics, because the policies of the last decade have warranted a ‘reorientation of thinking and results’.⁴⁵⁴ It is precisely this reorientation of results that indicates that results have not been satisfactory and thus require reorientation. This reflects the discourse in which the need for concrete action to FGM was voiced. The need for concrete action fed into the aim of engendering a reorientation of results, exposing that the interpretation of shame as the embarrassment and the responsibility of the EU is at least partially valid. This politics of reorientation is made explicit with the Lisbon Treaty, which can hence be assessed as an embodiment of how the assessment of EU policies changes EU politics. FGM constitutes an issue on this agenda of reorientation and that is why the Lisbon Treaty embodies the turning point in the politics of attention to FGM.

Secondly, on 1 March 2010 Viviane Reding held a speech at the United Nations High Conference on the Status of Women. In her speech, entitled “Making Gender Equality a Reality Today: ‘No’ to Violence against Women and Female Genital Mutilation”, Reding proclaimed that “(...) there is another question which should be high on the agenda. That is violence against women. Up to 25% of women in Europe have experienced physical violence at least once during their adult lives and 10% have suffered sexual violence. (...) And I am outraged to know that every day an estimated 6000 girls worldwide suffer female genital mutilation. That is a brutal crime that cannot be accepted, neither in the European Union, nor anywhere else in the world.”⁴⁵⁵ Reding additionally stated that “no stone will be left unturned in eradicating the violence against women”.⁴⁵⁶ This speech reflects the shock and the shame pertaining to FGM. This is particularly visible in the title; the words ‘today’ and ‘no’ indicate that combating FGM is a matter of urgency that has to be tackled as soon as possible. Moreover, in her speech Reding did not only proclaim the need to set an FGM agenda; she also indicated that FGM should be high on the agenda, adding to this sense of urgency. The sense of urgency, in combination with the reference to concrete numbers and figures of human rights violations, primarily functions to convey the shock-factor of FGM. The EU uses the ‘shock-factor’ to express shame, which is in turn used as a justification for taking FGM up on the agenda. The shame is conveyed through the use of specific words, in particular the word

⁴⁵³ Ibid., 29th minute.

⁴⁵⁴ Ibid., 9th to 10th minute.

⁴⁵⁵ V. Reding, “Making gender equality a reality today: “no” to violence against women and female genital mutilation”, *United Nations High Level Conference on the Status of Women* (New York, 1 March 2010), 3-4. URL: http://www.un.org/womenwatch/daw/beijing15/general_discussion/Viviane_Reding_Speech_NY_final.pdf (URL last accessed on 23 September 2013).

⁴⁵⁶ Ibid.

‘outraged’ that refers to an emotion that was caused by a scandalous or abominable act. The shock-factor and the emotion of being ‘outraged’ incline us to presuppose the existence of a subject at which this emotion is directed. Moreover, the metaphor of leaving no stone unturned implies that Reding intends to find this subject that is allegedly hidden. I already explained that this subject is either the EU itself, the individuals practicing FGM, or a combination of these subjects.

Reding’s commitment to tackle FGM in 2010 remained within a rather safe, even passive, realm. Reding emphasized the need to develop research on the matter of FGM and she proclaimed the intent of studying the legal area within which FGM can be tackled.⁴⁵⁷ In the 2010 strategy she furthermore highlighted the importance and the need to acquire insights and information on FGM and, therefore, the priorities in 2010 overlap with the priorities of the 1997 DAPHNE Initiative. Reding stated that FGM requires a coherent list of actions, as well as the involvement of civil society. In a similar vein, the 1997 DAPHNE Initiative also underscored the role of NGOs and in 1997 the action against FGM was even executed on the basis of NGO projects. The conditions under which FGM landed on the agenda in 1997 and in 2010 are thus similar. Another similarity in the politics of attention to FGM in 1997 and the politics of attention to FGM in 2010 lies in issue linkage. In 2010 and in 1997 the EU connects FGM to the issue of human trafficking. In the 1997 General Report the attention to the DAPHNE Initiative was mainstreamed in the section on trafficking in human beings, and the attention to the protection of children, young people, and women in 2010 is allocated within the framework of the objective to tackle human trafficking.⁴⁵⁸ This calls for a more profound understanding of how the EU perceives trafficking in human beings and how FGM pertains to trafficking in human beings. European Commissioner for Home Affairs, Cecilia Malmström, describes trafficking in human beings as the ‘slavery of our time’.⁴⁵⁹ The notion ‘slavery of our time’ indicates that slavery is a phenomenon that does not originally belong to ‘our time’; rather, the notion indicates that slavery is a phenomenon that constitutes part of the past. The description of slavery as a reality of the past that does not have a place in the present additionally indicates that slavery is a practice that should not have any relevance in contemporary society. The fact that slavery still is relevant adds to the sense of shame already present in the politics of attention to FGM. The 2001 Annual Report on Human Rights and Democracy in the World is the only Annual Report that distinctly links trafficking in human beings to slavery.⁴⁶⁰ This report indicates why the EU tackles FGM within the context of human trafficking and slavery. These two matters are in the report identified as an ‘indisputable

⁴⁵⁷ Reding, *European Parliament Hearing*.

⁴⁵⁸ C. Malmström, *Mission statement 2010*. Available at URL: http://ec.europa.eu/commission_2010-2014/malmstrom/my-work/what-i-do/mission-statement_en.htm (URL last accessed 23 September 2013).

⁴⁵⁹ *Ibid.*

⁴⁶⁰ Council of the European Union, *EU Annual Report on Human Rights 2001* (Brussels 2001), 28. N.B. the 2004 Annual Report also connects slavery to trafficking in human beings, but does so merely in the context of OECD action.

violation of human dignity’: “(...) the victims [of human trafficking] are subjected to violence, rape, battery and extreme cruelty as well as other types of pressure and coercion.”⁴⁶¹ Human trafficking thus touches upon a broad range of human rights violations pertaining to the human dignity. Respect for the human dignity is a main element in the EU Charter of Fundamental Rights and human dignity is therefore part of the EU constitutive ideals. The human dignity implies the inherence of the human nature and is considered by the EU as universal because all human beings have human dignity simply in virtue of being human. Therefore, human dignity is the main reference point for defining (universal) human rights. The human dignity is inalienable and independent from (international) law. Hence, every deliberate act of mutilating inherent elements of the human body are a violation of the human dignity, hence of human rights. Human trafficking and FGM are both violations of the human dignity because these acts constitute alien acts against the human body. These acts are contradictory to the EU constitutive ideals, and the EU therefore subjects acts of this kind to a descriptive and moral evaluation. The EU constitutive ideals are consequently made explicit through this evaluation that culminates in moral action. Moral action in this case embodies the condemnation of FGM as a violation of human dignity and of FGM as a shame. Following the theory of Charles Taylor, I argue that the moral judgment that condemns FGM as a shame has inspired action. This action is constituted by the inclusion of FGM on the agenda and consequently by the political will to launch concrete action in tackling the practice. However, in the 2001 Annual Report the EU refrains from blaming concrete actors for the violations of human dignity. Rather, through this report the EU identifies the root causes of human trafficking as follows; unemployment, a lack of education, and a lack of gender equality.⁴⁶² FGM is practiced on the basis of sex and, as previously indicated, FGM is the output of gender inequality. Moreover, as explained earlier, education is a contributing factor to the possible solution to FGM, and hence a lack of education constitutes a factor contributing to the problem.

In her speech at the UN on 1 March 2010 Reding proposed a “multi-disciplinary package of actions, not excluding European level harmonization of criminal offences and sanctions in the field of FGM”.⁴⁶³ The emphasis on harmonization indicates that the EU wants concrete action, and shows that FGM is interpreted as a cross-border issue that is most effectively tackled on the basis of cross-EU action. Moreover, in acknowledging the cross-border character of FGM and in striving for concrete action, Reding pointed out that FGM will also be integrated into the EU development aid policies.⁴⁶⁴ This implies a connection between FGM as an internal affair and FGM as an external affair. The willingness to apply sanctions furthermore implies that the strategy has gone beyond the sheer gathering of information to

⁴⁶¹ Ibid.

⁴⁶² Ibid., 28.

⁴⁶³ Reding, “Making gender equality a reality”, 4.

⁴⁶⁴ Ibid., 4.

embody ‘concrete action’. This exposes that in 2010 the EU does see the need to blame concrete actors for violating human dignity. In this regard, notable in the politics of attention to FGM in 2010 is the strong and repeated emphasis on co-operation with Cecilia Malmström, European Commissioner responsible for Home Affairs. Reding argued that protecting the rights of children, young people, and women as well as the prevention of human rights violations is not merely a matter of the Directorate-General for Justice, but also a matter of the Directorate-General for Home Affairs. Malmström had identified two main priorities in her work for Barroso’s second term; security and migration.⁴⁶⁵ When assuming office, Malmström emphasized the importance of solidarity and fundamental rights, as well as the importance to protect individuals in need.⁴⁶⁶ The emphasis on a connection between home affairs and FGM on the EU agenda implies that FGM is directly linked to migration and security. I address this matter more profoundly in the next paragraph.

The Politics of Attention to FGM

In this section I clarify how FGM landed on the EU agenda in 2010 and I identify additional styles of attention allocation. The focus is thus on the EU logic of allocating attention and the way in which FGM is represented on the EU agenda. This section substantiates the claim that FGM receives attention because it functions as a ‘bridge-issue’ between security and justice. Moreover, this section expounds the speech and framing strategies adopted by Viviane Reding and Cecilia Malmström, the respective European Commissioners for Justice and Home Affairs, to raise FGM to salience. The main argument is that the EU resorts to the criminalization of FGM as an agenda-setting strategy, while mainstreaming FGM into the broader issue of violence against women.

In the Parliament Hearing of January 2010 Reding used numbers and figures to convey the importance of allocating attention to women’s rights. This adds to Princen’s theory of agenda-setting strategies, stating that big words pertaining to the EU identity are used by agenda-setters to frame an issue with the purpose of begetting agenda-status. I consider the emphasis on numbers and figures, though not directly relevant to the EU identity, as one way of using big words. Reding made explicit use of numbers and figures in the 188th minute of the Parliament Hearing, reiterating that 180.000 female immigrants are at risk to falling victim to FGM.⁴⁶⁷ She also resorted to concrete numbers in the speech at the United Nations. Numbers and figures constitute ‘hard data’ that provide a reason to include an issue on the agenda, because numbers and figures are indicators of problems and threats. This is logic of allocating attention because numbers and figures provide a justification for attention. FGM is consequently depicted as a problem or a threat that

⁴⁶⁵ Malmström, *Mission statement 2010*.

⁴⁶⁶ *Ibid.*

⁴⁶⁷ Reding, *European Parliament Hearing*, 188th minute.

needs to be addressed. Identifying FGM as a threat and indicating the need to sanction responsible parties are indicative of a discourse characterized by criminalization. Consequently, the emphasis placed on cooperation with Cecilia Malmström, the European Commissioner responsible for Home Affairs, implies that FGM is a problem related to security. A link between security and justice constituted part of the politics of reorientation, pursued with the Lisbon Treaty. On the one hand, FGM is employed as an instrument to conjoin security and justice. On the other hand, the intention of the EU to link security and justice more clearly paves the way to justifying the inclusion of FGM on the EU agenda. In her 2010 mission statement Cecilia Malmström indicated that she has identified terrorism and organized crime as the main priorities of the EU security policy. In this regard, especially the attention to organized crime is related to the attention to FGM. This is because the EU has allocated attention to the protection of children, young people, and women within the framework of the attention to trafficking in human beings. Trafficking in human beings is a violation of human rights that touches upon both (irregular) migration and organized crime. Human rights violations fall within the remit of the EU Directorate-General of Justice and organized crime falls within the remit of the EU security policy. The inclusion of FGM on the EU agenda thus allowed for a policy through which the EU simultaneously tackles organized crime and pursues the protection of fundamental rights. This is an illustration of how the EU seeks to reorient its focus from security and fear to justice and values. Hence, the inclusion of FGM on the EU agenda was enabled by a politics of attention through which the EU aspired to engender a reorientation of results, underlining the citizen at the heart of EU policies. This new focus on values and justice in conjunction with security symbolizes precisely the new EU focus on citizens. To illustrate this further; at the Parliament Hearing in January 2010 Reding spoke of the need to connect the internal market to the EU citizens, where the concentration in the years before had been too much on the market.⁴⁶⁸ Moreover, Malmström's mission statement identifies the safety of citizens as the reference point of the EU home affairs policy.⁴⁶⁹

FGM thus landed on the EU agenda by making use of a discourse that allowed for the criminalization of human rights violations. This discourse, in turn, exposes the politics of attention that is characterized by the desire to engender a reorientation of results.

6.3. Setting the Agenda within the Agenda

In this section I interpret the role of the Parliament and civil society in setting the EU FGM agenda. I argue that the Parliament and NGOs play a role in setting the issue's agenda once the overall EU agenda

⁴⁶⁸ Ibid., 12th minute.

⁴⁶⁹ Ibid.

has already been set. There is a responsive agenda-setting dynamic at play when the Parliament and civil society are involved in raising issues to salience, while the agenda-setting role of the Parliament and civil society is passive. What follows untangles these dynamics further.

Passive Dynamics

The involvement of the Parliament and civil society embodies a passive agenda-setting dynamic. This is because EU policy makers avail themselves of the commitment, expertise, and authority of the Parliament and NGOs to justify the need for issue inclusion and for concrete action. Hence, the Parliament and NGOs set the agenda without engaging in a proactive approach. Rather, this use of the knowledge and expertise of the Parliament and NGOs by EU policy makers in setting the agenda transforms the Parliament and NGOs into passive agenda-setters. The speech adopted by Anita Gradin in announcing the hearing with NGOs on fighting trafficking and sexual exploitation of children in April 1997 provides an illustration of this passive agenda-setting dynamic. In the press release announcing the hearing Gradin allocated a pivotal role to NGOs. She states that “(...) NGOs have played an important role in placing the sexual crimes against children on the political agenda. They were the ones fighting for abused children long before most politicians and authorities took up the subject.”⁴⁷⁰ This speech reveals that the Commission sought to justify the inclusion of children’s sexual rights on the agenda, and secondly, that the Commission sought to justify the involvement of NGOs. Moreover, the Commission attempted to justify the politics of attention in which the issue of children’s rights is tackled on the basis of NGO-projects. This speech furthermore indicates that there was political will to include the issue and to tackle the issue on the terms of civil society. However, Gradin’s acknowledgment of the role of NGOs notwithstanding, this speech also illustrates that NGOs were heard only after politicians and authorities had decided to include the issue on the agenda. The availability of the expertise and information of NGOs was consequently used to build the politics of attention that shapes the EU policies. This exposes passive agenda-setting dynamics, because NGOs play a role in setting the agenda without engaging in a proactive approach. Another example of passive agenda-setting dynamics concerns the use of civil society by civil society organizations. In trying to influence the agenda of EU Presidencies, civil society organizations in Brussels refer to the expertise, knowledge and experience of civil society organizations in the country holding the Presidency. Reference to the name and involvement of these organizations on the ground is a useful tool to exert pressure on the government holding the presidency, notwithstanding that the knowledge and experience are sometimes absent. For instance, in drafting the recommendations for the Hungarian Presidency of the EU in 2011, the Amnesty International Hungary Office was mentioned as a

⁴⁷⁰ European Commission, “Commission hearing with NGOs on fighting trafficking and sexual exploitation of children - Friday 11 April Borschette Brussels”, IP/97/273 (Brussels 1997).

main contributor and drafter of the recommendations to the Presidency.⁴⁷¹ The need to include FGM on the Presidency's agenda was one of these recommendations. The report, however, was written by the Amnesty International European Office in Brussels and made reference to the expertise of the Hungary Office to indicate the need of the Hungarian Presidency to pay attention to FGM. This issue, however, was not on the agenda of the Amnesty International Hungary Office.⁴⁷² Hence, the Hungary Office was a setter of the Presidency's agenda and a protagonist in raising FGM to salience, but the role of the Hungary Office remained entirely passive.

A similar dynamic can be identified in the relations between MEPs and civil society. MEPs use the commitment and expertise of NGOs and human rights defenders in trying to get the Commission or the Council to pay serious attention to an issue. This is especially evident in the attempts made by MEP Emine Bozkurt (Dutch Member of the European Parliament for the Socialist and Democratic Party) to influence the agenda of the European Council. On 4 March 2010 Bozkurt, together with Christine Loudes, director of Amnesty International's campaign against FGM, and Zahra Naleie of the Federation of Somali Associations in the Netherlands (FSAN) sent a letter to the Spanish minister of Gender Equality, Bibiana Aido. The letter, sent in anticipation of the EPSCO meeting⁴⁷³, was an appeal to the Spanish European Presidency to raise attention to FGM and particularly stressed the need to devise a European-level approach, as well as to gather data on FGM.⁴⁷⁴ The issue was indeed taken up by the EPSCO. However, despite the agenda success generated by the joint effort to write a letter, it should be noted that Bozkurt and Naleie, the representatives of respectively the Parliament and civil society, have never been in personal contact. Various attempts to get in touch with Bozkurt notwithstanding, Naleie never managed to talk to Bozkurt or to organize a meeting with her.⁴⁷⁵ The letter thus merely functioned as a tool for an MEP to generate agenda success, using the name and commitment of a member state-based NGO to build a case. This confirms that the agenda-setting dynamic through which NGOs are involved is primarily a passive agenda-setting dynamic. In addition, the agenda-setting role of NGOs exemplifies responsive agenda-setting dynamics because the letter was drafted in response to the EU strategy on tackling FGM. The next paragraph elaborates upon this.

⁴⁷¹ Amnesty International, "Recommendations to the European Union during the Hungarian Presidency" (Brussels 2011).

⁴⁷² D. Átol, *Interview* (Budapest, 25 October 2012).

⁴⁷³ The Employment, Social Policy, Health and Consumer Affairs *Council (EPSCO)* of the European Union.

⁴⁷⁴ E. Bozkurt, C. Loudes, Z. Naleie, "Joint Letter to Spanish Minister Bibiana Aido on 'EPSCO Meeting of 8-9 March 2010'" (Brussels, 4 March 2010).

⁴⁷⁵ Z. Naleie, *Interview* (Amsterdam, 23 August 2012).

Responsive Dynamics

Responsive agenda-setting dynamics also play a role in setting the EU human rights agenda. In this regard, I discern responsive agenda-setting dynamics and responsive strategies. Responsive agenda-setting dynamics touch upon the dynamics that set the politics of attention after issue inclusion. Responsive strategies are a component of responsive dynamics, and pursued in particular by civil society in response to EU-level action. In the next paragraph I further construe responsive dynamics and responsive strategies.

When responsive dynamics are at play, the Parliament and NGOs have the opportunity of influencing the course of action once the EU policy makers (the Commission, the Council, or the Council of the EU) have decided to include an issue on the EU decision agenda. This is consistent with the assertions made by Sebastiaan Princen; the agenda success of issues depends on who is doing the talking.⁴⁷⁶ While the Parliament and NGOs may have ‘talked’ about an issue for years, the issue is only included on the EU agenda once the Commission and the Council start talking about it. The terms of the debate, consequently, have already been set by Commission or the Council by the time the Parliament, NGOs, and policy experts are requested to deliver knowledge and expertise. Only through this involvement these actors are able to influence the agenda and the politics of attention. The involvement of the Parliament and NGOs in the hearing on children’s rights in 1997 is an illustration of responsive agenda-setting dynamics. Upon issue inclusion, the Commission requested the input of NGOs and of the Parliament in determining the course of action. Furthermore, responsive dynamics explain the interplay between the Commission and the Parliament; upon the launch of proposals for legislation and other communications by the Commission, the Parliament is able to influence the politics of attention and the terms of the debate. I will elaborate upon this below.

Prior to the launch of the DAPHNE Initiative in 1997, and prior to the issue landing on the agenda of the Commission, the Parliament had already attempted to raise FGM to salience through several resolutions, especially in the aftermath of the 1993 Vienna Conference on Human Rights and the 1995 Beijing Conference on Women’s Rights. The Parliament continued to adopt resolutions on women’s rights and FGM on a frequent basis. However, we already concluded that the Parliament did not play a significant role in setting the EU FGM agenda prior to the launch of the DAPHNE Initiative. The resolutions of the Parliament functioned merely as political tools, creating momentum. In addition, resolutions were often subject to passive agenda-setting dynamics. I state that the Commission sets the agenda of the Parliament, rather than that the Parliament plays a significant role in setting the agenda of the Commission. After the launch of the DAPHNE Initiative the Parliament adopted another resolution on women’s rights. In this resolution of 16 September 1997 on the need to launch an EU wide campaign for the zero tolerance of violence against women, the Parliament explicitly condemned FGM as a criminal act

⁴⁷⁶ Princen, *Agenda-setting in the European Union*, 10.

and made a number of concrete recommendations to the Commission to act against FGM.⁴⁷⁷ The concrete appeal of the Parliament to the Commission indicates that the politics of attention in the Parliament changed between March 1997 and September 1997. In its resolution of March 1997 the Parliament made an appeal primarily to the EU member states. In September 1997, on the other hand, the Parliament recognized the role of the Commission in combating FGM and the Parliament addressed the Commission directly. By launching the DAPHNE Initiative the Commission took on the responsibility of protecting the vulnerable and of preventing violence against the vulnerable. This self-imposed responsibility paved the way for the Parliament to pursue concrete recommendations pertaining to the Commission action on women's rights. These recommendations were indeed integrated by the Commission. Therefore, the Parliament did play a role in determining how the attention to FGM was allocated, but only after issue inclusion and, notably, in response to the Commission approach. This is a responsive agenda-setting dynamic.

The joint letter of March 2010 by Bozkurt, Amnesty International, and FSAN to Spanish Minister Aido, was also responsive. This 'coalition' managed to get FGM on the agenda of the EPSCO, as can be seen in the conclusions of the EPSCO meeting: "An international approach in the exchange of knowledge, policies and best practices, within the EU and with non-EU countries that have experience in fighting harmful traditional practices (such as female genital mutilation) and trafficking in human beings, is essential, as this can contribute to the prevention and eradication of these forms of violence in Europe. Despite the progress achieved in recent years, there is still a lack of timely, reliable, accurate and comparable data, both at national and EU level, and there has still been no detailed EU level study on violence against women. This limits understanding of the real extent of such violence and impedes the further development of national strategies and actions and an efficient response by the EU."⁴⁷⁸ The meeting's report reflects the demands of the joint letter that in turn fed into the statements made by Viviane Reding in January and March 2010. The coalition thus took advantage of the discourse and momentum in which the commitment to FGM had been articulated by the Commission to push for more results. The letter was sent only after the European Commissioner had announced her commitment to develop studies and to gather data on FGM. This means we can assess the joint effort as a responsive dynamic, especially because the requests fed directly into the scope of action announced by Reding. However, from an interview with an FGM expert at the Amnesty International Brussels Office, we learn that this is a responsive strategy as well. Responsive strategies that emerge after EU-level action are proactive dynamics, and these strategies constitute a framework of action devised as a consequence of discontent with EU action. These strategies were influenced by EU-level policies. Amnesty indicates that,

⁴⁷⁷ European Parliament Resolution on the Violation of Women's Rights, 1997 A4-0250.

⁴⁷⁸ Council of the European Union, 'Council conclusions on the eradication of violence against women in the European Union' (Brussels, 8 March 2010), 4.

in her speech, Reding emphasized the need to sanction the practitioners of FGM, which displays a focus on the criminal point of view.⁴⁷⁹ However, the criminal point of view merely constitutes one of the many facets of this issue. Amnesty would rather see a clear focus on prevention; on the training of professionals and on education, and Amnesty would devise a strategy to reorient the EU agenda accordingly.⁴⁸⁰ Discontent with the EU approach thus inspired an Amnesty strategy in response to this approach. Amnesty's expert consequently explains that the discourse at the EU-level warrants a strategy that is more member-state-oriented. This is in the first place because it is felt that the criminal point of view on FGM, adopted by Reding, could lead to stigmatization: "(...) that is why we (Amnesty International) are cautious and why we are using the national level. We use the momentum generated by the Council of Europe's Convention on Violence against Women of 2011. We use the Convention to ask the member states to sign and to ratify, while explaining the impact it would have on FGM. On the basis of this strategy, we try to encourage the member states to take the lead in EU negotiations to develop an EU strategy." This is also as an example of passive agenda-setting dynamics in which the authority of the Council of Europe is used to set the EU agenda. Furthermore, this is a responsive strategy through which Amnesty seeks to directly target EU Presidencies in order to generate a boomerang effect; via the national level back to the EU institutions.⁴⁸¹ The expert explains that, notwithstanding Reding's commitment, the Commission strategy does not suffice as a strategy. Moreover, the expert explains that "Reding is trying to work on issues for which there is a clear legal basis and which would not require too much negotiation with the member states. This is the case with violence against women as well. During the negotiations it is not easy to achieve a compromise due to the absence of a clear legal basis for violence against women as such, which would require an interpretation of existing tools and measures. When you have to interpret and find a legal basis, you have to use the unanimity voting procedure, rather than the majority voting procedure. This makes it more challenging to find a compromise. The Commission is therefore reluctant to take a risk with these kinds of issues."⁴⁸² Agenda-success thus requires a clear legal basis to work from and the lack of a clear legal basis poses an obstacle to agenda-setters. Amnesty, with the support of the Parliament, therefore resorted to addressing the national level through the European Council in order to exert pressure on the Commission.⁴⁸³ This case illustrates that responsive dynamics may in fact engender proactive, yet responsive, strategies to achieve agenda-success. Passive agenda-setting dynamics, in turn, may result from proactive approaches.

⁴⁷⁹ Amnesty International Expert, *Interview* (Brussels, 16 May 2012).

⁴⁸⁰ *Ibid.*

⁴⁸¹ *Ibid.*

⁴⁸² *Ibid.*

⁴⁸³ *Ibid.*

Based on the above, I conclude that in responsive and passive agenda-setting dynamics, the politics of attention functions as a bridge between EU politics and EU policies. This is because EU politics engenders a politics of attention that is characterized by requests for the input of actors in determining the course of EU policies. The Parliament and NGOs play an agenda-setting role in shaping policies once politics warrants policies. However, the Parliament and NGOs do not play a role in shaping the politics that warrants policies. EU policy makers determine the politics, in turn creating space for policy-influential -responsive- dynamics. Agenda-success for the Parliament and NGOs is hence not determined by issue inclusion, thus politics, as such; agenda-success rather consists of influencing the way in which an issue is represented on the agenda and the way in which issue inclusion translates into policies. Influencing the way issues are represented, however, may lead to the inclusion of other issues, as also FGM arrived on the agenda within the framework of the increased attention to women's and children's rights. We can also see that a proactive approach and responsive dynamics are not necessarily mutually exclusive, as the respective approaches may be expected to complement or even reinforce one another.

Concluding remarks

At the heart of this chapter was an analysis of why and of how FGM emerged on the EU agenda as an internal matter between 1992 and 2012. I claimed that FGM landed on the agenda to ensure the security of citizens on the internal market and to meet demands of democratic responsiveness. The analysis exposed that the politics of attention to FGM in 1997 was determined by the shock of the discovery of the human rights violations in Belgium in 1996. The EU consequently stressed the importance of protecting the vulnerable groups in society; children, young people, and women. On the basis of funding on-going projects through the DAPHNE Initiative the EU adopted a policy that provided for a 'guarantee of attention' to the rights of children and women. FGM emerged on the EU agenda as one of the projects funded within this framework. Hence, the attention to FGM was mainstreamed into the attention to the human rights of women and children. One of the main objectives of the DAPHNE Initiative, as well as of the FGM-project feeding into the objectives of DAPHNE, was the creation of information networks and the gathering of data on human rights violations. I conclude that a lack of information was interpreted as a contributing factor to the possibility of human rights violations. This lack of available information was subsequently assessed as a threat to the safety of EU citizens and to the security of the internal market as a whole. The lack information moreover reveals the reason why FGM emerged as an internal EU affair; FGM entered the EU through international migration. Hence, the fact that FGM is not inherent to European societies is closely aligned to the unfamiliarity of EU based professionals confronted with FGM.

This unfamiliarity called for more information on the practice, as well as for consensus on FGM in the EU. In addition, the attention to FGM in 1997 was mainstreamed into the attention to human trafficking. This is where the politics of attention to FGM in 1997 is similar to the politics of attention to FGM in 2010.

In 2010 FGM functioned as a bridge-issue that allowed the EU to connect its policies on justice and its policies on security. The emergence of FGM in this regard occurred within a discourse of reorientation, through which the EU seeks to change the focus from fear to values, feeding into concerns over responsiveness to public concerns. However, we can detect a simultaneous trend of criminalization, which notably implies a policy driven by fear instead of values. Where the focus had been on protection and prevention in 1997, the politics of attention to FGM in 2010 is determined by criminalization with an emphasis on sanctioning. The politics of attention to FGM in 2010 was influenced by the emergence of shame; shame pertaining to the lack of successful and effective concrete action, implying that the politics of attention to FGM is the output of the policies pursued in 1997. However, shame was also associated with the fact that FGM still occurs in ‘our time’ and on European soil.

Lastly, on the basis of studying the politics of attention to FGM we have been able to identify and explain several agenda-setting dynamics; passive agenda-setting dynamics and responsive agenda-setting dynamics. Within the latter, moreover, I discerned responsive agenda-setting strategies that are characterized by action undertaken as a consequence of the discontent with EU policies. This is an example of how EU policies lead to changes in the politics of attention. Lastly, I indicated that the agenda-success of a particular issue depends on the extent to which EU policy makers have a clear legal basis to work on this particular issue.

Conclusions

The EU politics of attention to human rights emerged because human rights are functional to fundamental EU interests. This is the main conclusion of the present thesis. At the heart of this thesis was an analysis of the politics of attention to human rights in the EU institutions between 1992 and 2012. In expounding the reasons why and the way in which human rights have been included on the EU output agenda, I presented a critical assessment of the normative nature of the EU. I argued that the reference to human rights as constitutive of the founding principles of the EU is not genuine. Rather, the EU human rights agenda between 1992 and 2012 was a signifier of fear, meaning that the EU has resorted to include human rights on its agenda as an instrument to reinvigorate *raison d'être*, to mitigate perceived threats to the European internal market and to circumvent threats to the security and safety of EU citizens. Furthermore, the EU has allocated attention to human rights as a consequence of normative spill-over processes in order to eliminate the threat of a democratic legitimacy deficit.

The overall relative attention to human rights on the EU agenda decreased from 'prominent' in 1992 to 'average' in 2012. This is due to a general trend in the EU institutions of engendering policy coherence and rationalization, leading to 'attention merging' and 'attention compression'. This implies that human rights 'merged' into one policy area with European Citizenship and Justice and that the EU started to allocate attention in a more concise and effective way. Human rights emerged as 'prominent' on the EU agenda in 1989. This was the result of normative spill-over. The impact of internal market policies, aimed at facilitating the freedom of movement, compelled a politics of attention to the safety of workers and to the security of citizens. This politics of attention implied a politics of attention to human rights, needed to protect the EU citizen as a core element of the internal market and the EU. Internal market policies thus led to a politics of attention that was characterized by the economicization and securitization of human rights. This illustrates how EU policies influence EU politics. Moreover, the emergence of human rights as prominent exemplifies one of the main conclusions in this thesis: the EU tackled its fears and perceived threats to the EU by allocating more attention to human rights and to common values. Furthermore, the attention to human rights decreased again when these 'negative' developments were balanced with 'positive' developments, or developments that were expected to advance European integration.

On the basis of critical discourse analysis I identified two turning points in the politics of attention to

human rights between 1992 and 2012. The first turning point occurred in 1997 and the second turning point occurred in 2009. These turning points coincide with the main turning points in the politics of attention to female genital mutilation (FGM). The EU speech in 1997 and in 2009 is primarily indicative of the lack of an ideologically biased context model in which the relevance of the EU is self-evident to EU citizens and political actors. A context model refers to a set of dominant common beliefs and perceptions at a specific moment in time, and that is often the result of shared episodic memory. After the Second World War, the EU constitutive ideals, of which human rights are a component, were recognized within a specific context model that determined the perceptions of EU actors and EU citizens. However, with the advancement of economic and monetary integration in the 1990s and the 21st century, this ideologically biased context model had been replaced by a context model in which EU integration and common values were not necessarily recognized as constitutive of contemporary society and citizen's daily lives. Therefore, EU policy makers have been trying to reinvigorate an ideologically biased context model in which not only the relation between common values and economic and monetary integration are acknowledged, but in which also the relevance of the EU is more widely recognized. This was needed to enhance democratic legitimacy, a key element to ensure the future of EU co-operation and integration.

The EU politics of attention to FGM emerged as a consequence of the violations of the human rights of children, young people and women in Belgium in 1996. Consequently, FGM landed on the EU agenda because the issue was mainstreamed into the overall attention to the rights of children and women and to human trafficking. The EU allocated attention to the rights of women and children to ensure the security and safety of EU citizens on the internal market. The absence of concrete actions on FGM inspired the EU to criminalize FGM in 2010. In 2010 FGM functioned as a bridge-issue that allowed the EU to connect its policies on justice and its policies on security. The emergence of FGM in this regard occurred within a politics of reorientation, through which the EU sought to change the focus from fear to values, feeding into concerns of democratic responsiveness. Where the focus had been on protection and prevention in 1997, the politics of attention to FGM in 2010 is determined by criminalization with an emphasis on sanctioning.

How issues land on the EU agenda is strongly linked to the main EU agenda-setting actors and the interests these actors pursue. The analysis exposed that the way in which issues land on the agenda do not always reflect the reasons why the issue land on the agenda. Moreover, the analysis disclosed that issues land on the agendas of EU institutions long before they reach the EU output agenda. European Commissioners and the European Council ultimately decide to include or exclude issues. The role of the

European Parliament in raising human rights to salience notwithstanding, issues only make it to the decision agenda if the European Council or the European Commission considers issue inclusion functional to their interests. These actors use several frames to justify issue inclusion and they resort to securitization and economicization of human rights as an agenda-setting strategy. Moreover, issues land on the EU agenda through a particular style of attention allocation. Seven styles of attention allocation have been identified on the basis of a discursive analysis of the Annual Reports on human rights: strategizing critique, following the international trend, mainstreaming, agenda-setting, responsiveness, the logic of politics, and the logic of relocating attention. Moreover, human rights are represented on the EU agenda through the act of agenda-setting itself. By bestowing upon citizens the right to set the agenda through the Citizen's Initiative, there is an ongoing assurance that human rights are an item on the EU agenda.

I identified two specific agenda-setting dynamics in this thesis; passive dynamics and responsive dynamics. Especially the agenda-setting role of the Council of Europe is passive, meaning that the Council of Europe itself does not engage in influencing the EU politics of attention actively. Rather, the EU uses the Council of Europe to pursue a human rights agenda. In a similar vein, I concluded that the EU accession to the ECHR is instrumental to mitigating the threat of a democratic legitimacy deficit. Hence, the agenda-setting role of the Council of Europe is instrumental to EU interests, but remains primarily passive.

The role of the Parliament and civil society in setting the EU agenda can be characterized as a responsive dynamic. This is primarily because these actors set the agenda only after the European Commission and the European Council have decided to include an issue on the agenda. Responsive agenda-setting dynamics include responsive strategies. These are the strategies agenda-setters pursue in a reaction to their discontent with EU policies. This indicates another way in which EU policies determine EU politics.

Agenda for Future Research

In this final section I briefly outline a number of aspects that warrant closer attention. The main conclusions of this thesis call for further analysis of the normative nature of the EU. Human rights are only inherent to the EU as a strategy to mitigate threats to the internal market and to security. This complicates the application of human rights to the EU narrative, both at the internal and at the external level. Future research projects are needed to identify the way in which the EU could be a local and global human rights defender.

I exposed that the attention to human rights increases when the EU sees itself confronted with

‘negative’ developments to the EU integration process. Moreover, I exposed that the attention decreases again when the ‘negative’ developments are met with ‘positive’ developments. This is useful to understand why issues disappear from policy agendas, and the agenda for future research should include the need to identify the extent to which this is valid for other issues.

One of the main contributions of this thesis is the use of critical discourse analysis to studying agenda-setting. Further analysis is needed to identify and consolidate the discursive variables to explain why and how issues are included on policy agendas.

Lastly, an updated empirical theory of contemporary representative democracy is needed, identifying the extent to which the public should have agenda-setting powers.

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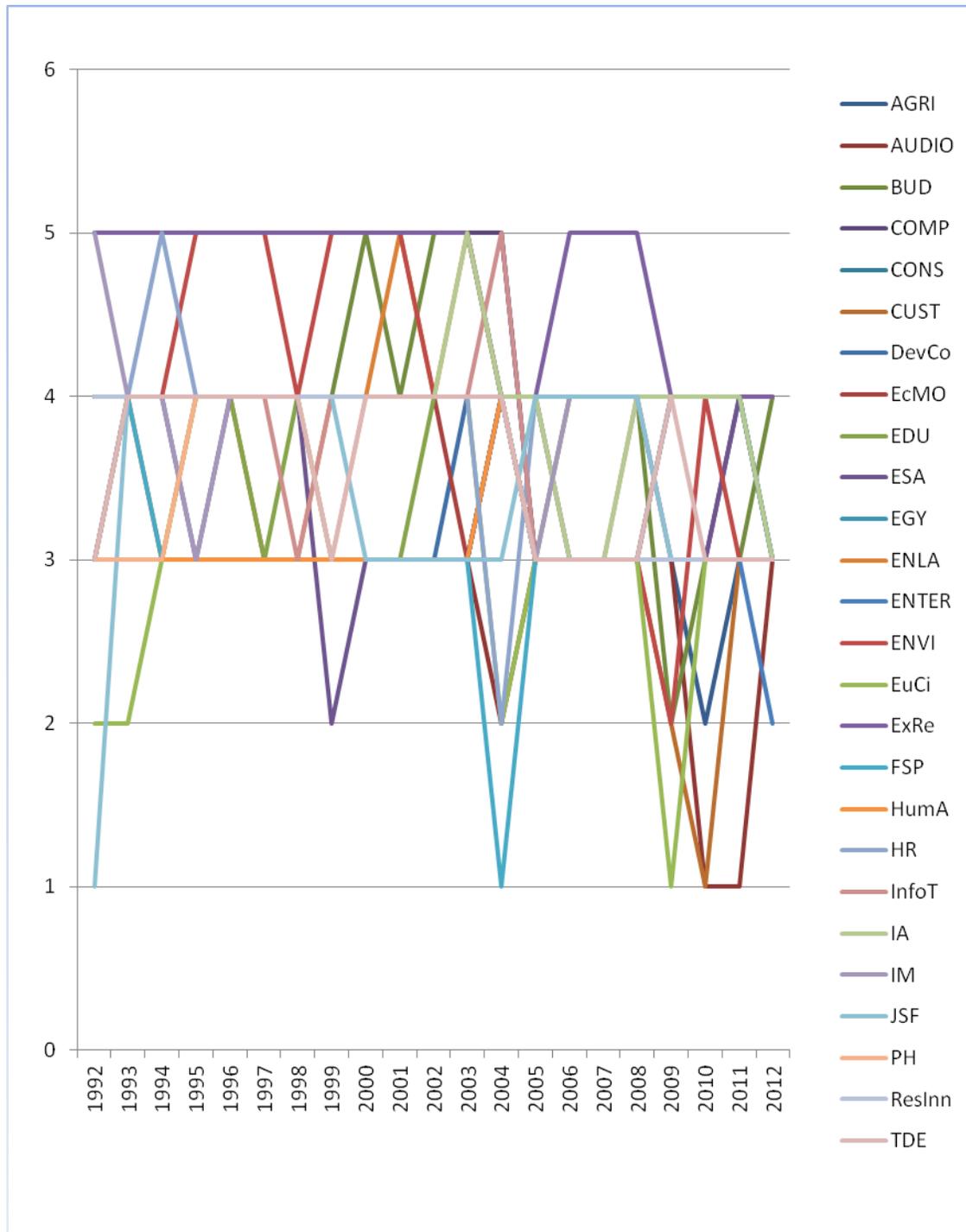
Appendix I

EU Policy Areas

1. Agriculture
2. Audiovisual & Media
3. Budget
4. Climate Change
5. Competition
6. Consumers
7. Culture
8. Customs
9. Development Cooperation
10. Economic and Monetary Affairs
11. Education
12. Employment and Social Affairs
13. Energy
14. Enlargement
15. Enterprise
16. Environment
17. European Citizenship
18. External Relations
19. Fight against Fraud
20. Foreign and Security Policy
21. Food Safety
22. Humanitarian Assistance
23. Human Rights
24. Information & Technology
25. Institutional Affairs
26. Internal Market
27. Justice, Freedom, Security
28. Maritime Affairs & Fisheries
29. Multilingualism
30. Public Health
31. Regional Policy
32. Research & Innovation
33. Taxation
34. Trade
35. Transport

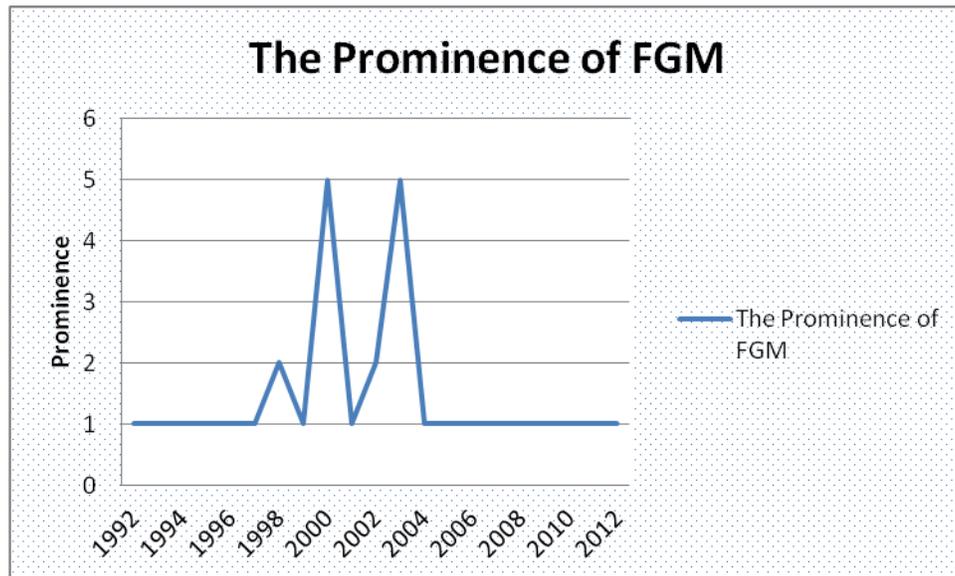
Appendix II

The Distribution of Attention among the Policy Fields on the EU agenda



Appendix III

Female Genital Mutilation on the EU Output Agenda



Appendix IV

Interviews

Interview

Name: Anonymous

Organization: Amnesty International EU Office – End-FGM Campaign

Brussels, 16 May 2012

Brief introductory note:

My PhD project is about the politics of attention to human rights in the EU institutions. This means that I am identifying and assessing the agenda setting dynamics surrounding human rights issues in the EU institutions. My main question is: why and how did the politics of attention to human rights issues in the EU institutions change between 1992 and 2012? My single case study concerns the politics of attention to female genital mutilation (FGM) and through this interview I hope to gain a more profound understanding of how Amnesty International is involved in setting the EU agenda and of the role Amnesty plays in changing the politics of attention to FGM in the EU institutions.

Could you explain how the End-FGM Campaign was initiated and could you explain why AI became involved?

The End-FGM campaign is led by AI Ireland, rather than by the AI Brussels office. However, as the campaign targets the EU institutions, it makes sense that we cooperate with the European office in Brussels. When the campaign was launched, research had been done by other actors in the field of FGM. AI Ireland, increasingly working to implement the human rights-based approach and strengthening partnerships with community-based organizations and rights holders, decided to engage in the endeavor to raise attention to FGM and to make sure that the voice of these organizations and rights holders are heard. The research identified the lack of work done on FGM at the EU level. Most of the work and projects are taking place in Africa, and to some extent in other regions like Kurdish Iraq. The EU may have financed those projects, but there is an apparent gap between the financing of projects and the concrete work done in the EU. The End-FGM campaign was launched with this understanding in mind. The objective of the campaign was to somehow reinforce the network of community-based organizations working specifically on FGM, using AI's name to enter some institutions that are not always easily accessed and approached from outside. That is the main spirit, although this, as well as the fact that we are trying to reinforce the network, is not public information.

During the first stage of the campaign the main priority was to identify the partners working on the campaign. Through the European network 'Euronet-FGM', that already existed and of which AI is a member, some information in this regard was available. AI consequently tried to identify women's rights organizations in countries where FGM is not known, for instance in Hungary or Lithuania, but where it could happen as well considering the fact that more migrants are also settling in those countries. In countries where we could not identify community-based organizations or organizations that are actively working on FGM specifically we decided to work together with women's rights organizations. When this network was established, in January 2010, we identified the areas of work and we consequently devised a strategy, "Ending Female Mutilation – A Strategy for the European Union Institutions". This is the result of daily discussions with the people and organizations working on the ground.

In September 2010 the EU presented a strategy for the equality between women and men. The strategy entails a specific focus on FGM. Is this a direct effect of Euronet-FGM's strategy?

The problem with advocacy work is that you cannot directly identify and evaluate the impact you have. Even if you have been successful in influencing policy in some way or if you managed to draw attention, you never know how it was ultimately decided behind the closed doors. If Reding refers to FGM, you

cannot purport that this was thanks to the AI campaign. Perhaps she wanted to work on it before, or perhaps it is an obligation that flows from the Stockholm Programme.

Have you received feedback on the Euronet-FGM strategy and is there any notable outcome?

This strategy functions as a tool for every advocacy action that we undertake. The extent to which we can ascribe progress to this initiative is unclear. Therefore, AI uses this strategy as a basis and as guidelines for engagement. The strategy entails five dimensions:

- We asked the EU institutions to work on data collection tools;
- We asked the EU institutions to include FGM within the work on violence against women, and to;
- We asked the EU institutions to include FGM, or to at least develop gender sensitive policies, within asylum.

Two additional dimensions encompass:

- Health as one of the access points, but health is less actively pursued because it does not concern one of the major EU competences. It is an issue generally tackled at the national level.
- Development Cooperation and External relations

How do you frame the need for increased attention to FGM at the Directorate-General of Health?

How to develop the health-frame is one of my current tasks. Since I came to work for AI in September 2010, I have been refocusing my work on violence against women and asylum and data collection, meaning that health was not that high on my own agenda. We do have partners that are developing tools for health professionals. Our entry point will be to examine how we can use the open method of coordination, the obligations of the member states and their good practices in the field of FGM. We are still exploring this, and we do not know if we want to involve many associations and put much effort in it because the outcome could be tricky. Moreover, we have to be aware of the context. I am just repeating what I have been told by other organizations. There is a lack of clear competencies regarding the type of work the Commission could develop specifically on this issue. It is difficult to get in touch with the Commission and the Commissioner, who is not really in favor of working on these issues. The main argument is that FGM falls within the remit of national competences, and that it should thus be dealt with at the level of the member states. It is a matter of subsidiarity. I am not informed about the details, but I was told that some organizations have stopped working with the DG Health and that they focus more on working with the DG EDU. FGM is a consensual topic, which means that for us it might be easier to knock at the door of DG Health, but we have not made an attempt yet.

Is it more effective to knock on the doors of several DGs or is it more effective to approach one DG at the time?

This depends on the type of level at which you wish to execute your advocacy work. If it were only a matter of promoting this tool on FGM, and since the tool is developed for both asylum- and health professionals, we would need to try to insert it into the mainstream issues and to use the fact that the issue could be taken up for discussion in the college of commissioners. We could additionally try to talk to Reding about FGM and to other perhaps more friendly commissioners. We may decide to use the fact that these commissioners are part of the college of commissioners and that they need to define a vision on the matter. It is such a particular issue at the same time that you cannot feed it into more broad issues easily, so it depends on the level of governance. We have to make a risk calculation and try to measure and evaluate the impact in advance. We have to find the most effective strategy.

How do you measure success?

To measure success is the main challenge and success varies per case and per topic. You cannot merely adopt an active approach; you also need to see the issue from a general point of view and to assess the impact of access point in the bigger process. Another colleague at AI is working to map the general FGM picture and the actors involved. Nevertheless, success depends upon the type of action. At times, we can

see that the AI's amendments have been included directly into Parliament reports. This shows that we have a direct impact. However, it is easy to approach and access the Parliament with this issue as they are generally more receptive to human rights issues of this kind. Some MEPs actively promote the issues themselves so it is easier to liaise with them. The cooperation with the Commission and the member states proceeds on a different note. Nevertheless, working with the Parliament may help AI to find an access point with some of the permanent representatives.

How would you define a successful argument?

The success-factor of an argument depends on the topic and the receptiveness of venues, as well as on the sensitivity of the person you are trying to influence, for instance whether or not the MEP has worked on the same or similar issues before. One success-factor in the Parliament entails practicality. MEPs have to work on many different issues at the same time, especially through their committees and discussions. They cannot have expertise on everything. This is where outside experts from civil society and lobbyists come in to provide knowledge and arguments. For instance, MEP Emine Bozkurt wants to work on FGM. The reason for this is unclear, but her commitment is real and this is why we work with her. Moreover, we have created a list of MEPs committed to FGM. Before the elections in 2009, we tried to engage MEPs, and we sent them a request for becoming a 'champion on FGM' upon re-election. We work with this list and most of the time MEPs are susceptible because they like to work on these issues and it is relevant to the committee they are in.

How does AI use momentum to raise attention to FGM? For instance, did the recent Swedish cake incident create an opportunity for AI to generate more attention? And how can you maintain the momentum?

The cake issue in Sweden entailed a public approach; promoting our approach externally with the media. We work at the national level through our partners. We undertake capacity building when it comes to efforts to influence the EU agenda. We also have a network coordinator who performs the function of media officer. Our approach thus includes a media angle and we also have an assistant working with social media. We monitor happenings on Facebook and Twitter, and we make the connections, watch the news, and spread the word regarding what is happening on FGM in Europe and why. Basically, incidents are used for media work and for externally promoting the work we do. This is a way to reach the institutions as well because the media attention also spills into the EU media. In this regard, incidents are a way to set the grounds for future work. In November 2010, during the 16 days of activism, we launched a public online petition. In addition, we are working with artists creating pieces of art for hospitals to show the people in Europe that they can provide a strategy against FGM. We work with Walter van Beirendonk and with Fendi to engage people at the national level and to make sure they understand that they should also make their voice heard at the EU level. We are asking for a strategy on violence against women that includes FGM to enable a protection mechanism. The Commission promised to launch a strategy on violence against women and stated that FGM would constitute part of this strategy. The Parliament endorsed resolutions, also on FGM specifically. The Commission, furthermore, is stepping up the work on violence against women/FGM, because so far, since September 2010, no steps have been taken to combat violence against women. Not even a draft was presented. The Commission purports that it will work on FGM only through specific measures; for instance, work pertaining to the rights of victims of all crimes. These are the main measures, but a specific strategy on FGM as such has not been developed. For us, this is not a strategy. Viviane Reding has already announced that she does not work with formal texts; she says she does not need a specific piece of paper to call it a strategy. Hence, the Commission does not have a strategy on FGM, Parliament's efforts and Council conclusions notwithstanding. What could push the Commission to do more work on FGM and to articulate the EU commitment to combat FGM? Our approach, taking into account that the Parliament is behind us with the same goal, is to work from the national level. This means that AI is focused on influencing the Council's point of view. We think that the Commission will feel more inclined to devise a strategy once the EU member states, also through the

Council, request the Commission to do so.

Does this mean that AI is hoping to engender a boomerang effect?

Exactly! Once FGM lands on the agenda of the Council, we can use this fact to state that the Council has indicated the need to strengthen efforts on FGM. The Council has decided to stop much work because of the crisis. This is an argument that is often used when justifying the lack of work done in the field of human rights. The argument returns in many texts related to human rights. Our approach, in response, is to use the numbers of the Council of Europe, criticizing the EU for not dealing with violence against women. There is no data on FGM specifically, but hard data may convince them. Viviane Reding is committed to work on women's rights, but when she talks about FGM and violence against women it is only from the criminal point of view. The criminal point of view is just one part of the issue. Moreover, another problem concerns the lack of case law and legislation. Even though legislation is important, it is not the way to end the practice. Rather, what is needed to end FGM is prevention through education and the training of professionals. Reding is committed, but the criminal point of view she adopts can also lead to stigmatization. That is why we are cautious and why we are using the national level. We use the momentum generated by the Council of Europe's Convention on Violence against Women of 2011. We use the convention to ask the member states to sign and to ratify, while explaining the impact it would have on FGM. This way, we try to encourage the member states to take the lead in EU negotiations to develop an EU strategy. We have been organizing events in Cyprus and Portugal. We are targeting Cyprus because we are pushing to make FGM a priority of the upcoming Cypriote Presidency. In doing so, we have also targeted the parliament of Cyprus. Now that we are informed that FGM will be on the Presidency's agenda, our work is to make sure that FGM is on the EU agenda as a whole. We take it step by step. In addition, we managed to get violence against women on the agenda of the Danish presidency. We organized a meeting with the Minister of Labor who is in charge of the EPSCO, and who will be the right person to get violence against women on the EPSCO agenda and not just on the agenda of one Commissioner.

Reding is trying to work on issues for which there is a clear legal basis and which would not require too much negotiation with the member states. This is the case with violence against women as well. During the negotiations it is not easy to achieve a compromise due to the absence of a clear legal base for violence against women as such, which would require an interpretation of existing tools and measures. When you have to interpret and find a legal base, you have to use the unanimity voting procedure, rather than the majority voting procedure. This makes it more challenging to find a compromise. The Commission is therefore reluctant to take a risk with these kinds of issues." This is why Amnesty, with the support of the Parliament, resorted to addressing the national level through the European Council in order to exert pressure on the Commission. In addition, we focus on the future presidencies; Ireland and Portugal. We focus on these countries in order to reinforce the work on FGM at the national level. Issues land on the EU agenda because officials bring the matters they are discussing at the national level to the EU level. However, citizens are not always open to Brussels, which makes it more challenging to influence the EU agenda through the national level. Citizens feel that what happens in Brussels is far away, whereas, in fact, what happens in Brussels is decided by their very own Heads of State or Government. With the co-decision procedure the Parliament has more input, but the extent to which this procedure will have an impact on the attention to FGM is unclear.

Nevertheless, EPSCO has drafted conclusions on violence against women, and these were partially inspired by what Amnesty submitted. We must wait and see how the effect of these attempts will help to influence the other member states. We will have to work with the succeeding presidencies, hoping our commitment will have an impact. The long term impact remains hard to measure. The short term impact, especially now with the media attention and the success at the level of the Presidency, may open more doors in Brussels.

The Parliament has gained power, but the Parliament's focus on FGM and their resolutions do not really seem to have an impact...

The Parliament's resolutions are primarily instrumental. Some lobbyists and policy advocates make the mistake of concentrating their activities on the Parliament. It is, however, easier to find the people who want to do what you want to do. Resolutions are only political, but they are necessary because you need them to remind the other institutions of the importance of these issues. Moreover, the Parliament functions primarily as a watchdog, and serves to provide momentum.

What is the added value of the International Day of Zero Tolerance against FGM?

An International Day on FGM is a real hook to Amnesty. Every time we organize media work, we need to find a hook to put forward a statement. The designation of an International Day to promote this cause provides momentum to write pieces, talk to the media, make a video, to partner up on the national level, to be invited on TV. We know that the 6th of February is a way to get some response and commitment from politicians and policy makers. It is a way to ensure that FGM is still on the public and political agenda, and it is a way to remind the institutions to be committed. Moreover, afterwards we can use the statements for our cause. This is a hook as well.

Does Amnesty approach the European Court of Justice in raising FGM to salience?

Amnesty uses legislation, but Amnesty does not seek to cooperate with the ECJ, because our approach was not built on the legal point of view. We seek to engender policies, more than legislation. It is more about trying to raise attention around the fact that FGM is also an EU issue, and that the professionals in the EU need to be trained. Therefore, the legal point of view does not fall within our approach.

How would you estimate the chances of FGM to get a place on the EU agenda?

The fact is that FGM is not an entirely new issue. Hence, more attention to FGM would merely constitute the implementation of existing commitments. We have been told that there will not be any European strategy on FGM under the present Commission. However, with the pressure from the presidencies there may be more inclination to devise concrete measures. The Commission is currently drafting the working plan for 2013. There is thus still space, but the Commission has its own vision. The Commission is reluctant to develop something comprehensive, a priori, because the European Institute on Gender Equality (EIGE) has launched a mapping study. The argument of the Commission is that it needs to wait for the results of the study in order to decide upon the best approach. This study was launched in April 2011 and nothing has changed since then. Based on the EIGE study, the Commission will define its action and create the framework for national strategies. In the mean time, one of our major priorities concerns asylum. In this regard, we are trying to ensure that within the asylum directive there will be a reference to gender sensitive procedural reception. This allows for the mainstreaming of FGM into asylum policies. Consequently, this will provide more opportunities for training and information. Mainstreaming and training are two key instruments for gender issues. This is a way of requesting a framework and of influencing existing EU structures in order for the EU to integrate FGM in its current endeavors.

Interview

Name: Zahra Naleie

Organization: Federatie van Somalische Associaties in Nederland (FSAN)

Amsterdam, 23 August 2012

Brief introductory note:

My PhD project is about the politics of attention to human rights in the EU institutions. This means that I am identifying and assessing the agenda setting dynamics surrounding human rights issues in the EU institutions. My main question is: why and how did the politics of attention to human rights issues in the EU institutions change between 1992 and 2012? My single case study concerns the politics of attention to female genital mutilation (FGM) and through this interview I hope to gain a more profound understanding of how FSAN is involved in setting the EU agenda and of the role Amnesty plays in changing the politics of attention to FGM in the EU institutions.⁴⁸⁴

Perhaps you could start by explaining the contents of the FGM-project and by explaining how FGM landed on your agenda?

In the past few years FSAN has engaged in concrete action against FGM. Much of the work by FSAN (as the overarching organization of Somali associations) was supported and enabled by the political attention we managed to generate. In particular Dutch ministers Jet Bussemaker and Hans Hoogervorst have played a pivotal role in begetting agenda-status of FGM. At the initiative of FSAN, in cooperation with the African community, several different pilots on FGM were on-going between 2006 and 2009. My responsibility is to coordinate the activities, especially because of my personal and professional experience in Somalia. Because I am Somali and because I am a victim of FGM, I have been committed to this issue for a long time. In the past few years we have done much work at the community-level, especially with regards to the training of key figures, education and information, house visits, and several other activities aimed at awareness-raising and engendering consciousness of FGM. Our work was tailored specifically to the training of professionals, the drafting of protocols for youth health care, religious communities, child protection etcetera. The progress in the Netherlands is admirable, especially when comparing the output to the output in other European countries. Unfortunately, after two years, the Dutch government resigned in 2009, and the subsidies for the work on FGM were cancelled. Moreover, the commitment of Jet Bussemaker was no longer self-evident. In 2010 and 2011 we acquired some funds through the Dutch Ministry of Health, the GGD (Dutch Health Services, Faros and the Dutch refugee organization). These projects have been successfully implemented. Since January 2012 we have not been able to launch any new projects. This is primarily due to the absence of structural financial means. Moreover, project-based work is by definition temporary, and there has not been a follow-up at the national or local level, whereas FGM is still an issue and is not yet solved. That is disappointing, especially because we have allocated much time and energy to this cause. We are motivated to continue, but without the financial support of the government there are not many opportunities to engage in structural action. There is one more opportunity of launching a project in October 2012. This project was devised to provide care for the victims of FGM.

Is it possible to generate political attention, even when there are not any funds available? Are the policy makers susceptible to raising FGM to salience?

Yes, even without the availability of subsidies it is possible to get political attention. And this is essential, because nothing happens when there is no political will. In the past few years it was Dutch politics that set the FGM agenda. The Ministry of Health has actively coordinated the activities and it has been motivating

⁴⁸⁴ The original interview was conducted in Dutch. Translation was executed by the author of the thesis.

and inspiring to establish cooperation between the Dutch and African institutions and organizations. That is a unique development that is primarily absent in other European countries. If there is no engagement from policy makers, however, all initiatives are cancelled while the problem remains. The solution to the problem of FGM requires a change of behavior and attitude and that takes much time. What may be a solution is to integrate the victims of FGM into existing programs. There are many programs aimed at eliminating the violence against women. The issue of FGM could be mainstreamed along the lines of existing projects. However, until today the victims of FGM are not being integrated into other projects targeting women. I consider this a missed opportunity. The community should be addressed directly. The problem will not be solved through sheer legislation and the imposition of rules from the top. Rather, the practitioners of FGM should be targeted directly and the solution to the problem should be found in the people. Therefore, I would propose a combined bottom-up and top-down approach to tackle FGM. Harmonization at EU level would help.

Could you elaborate upon the differences between the EU member states in tackling FGM?

As previously indicated, much is dependent upon the political will. Therefore, I feel that there is not any political will at the EU level. This is partially due to the fact that the political will to tackle FGM comes with a price tag. Moreover, the agenda-success of FGM requires high-level commitment if the momentum is to be maintained. After the cabinet resigned in 2009 and when we lost the support of Minister Bussemaker, there has not been anyone to support our cause. There has to be a pioneer, a political actor, to promote and support the action against FGM. In addition, we need to raise awareness of the fact that FGM is a violation of human rights, of the rights of women and of the rights of children. This is why the practice needs to be ended. Short-term projects do not provide a solution to the problem.

What could the EU do?

Millions of Euros are allocated to the DAPHNE Programme. However, these millions do not reach the people, the target group. At least the topic is up for debate, and we managed to eliminate the taboo that once characterized the issue. The money goes primarily to research, government officials, and the organization of conferences. This is useful. Change, however, must occur at the heart of the problem; in the villages. The people in the villages need to change; their attitudes and perceptions need to be adjusted. We cannot engender this change from the desks in the Brussels-based offices, or on the basis of two-year programs. The people in the villages do not read any books; these villages consist of oral communities. This means that a different approach is needed; perhaps change may be engendered through plays and theatre instead. This is merely one idea. Instead, the government wants to see hard data; numbers and figures. That is the only information officials are susceptible to. They need numbers and figures to indicate how many trainings we have organized. Numbers and figures allow them to assess the situation.

Could you indicate the effect of the Joint Letter by FSAN, Amnesty International and MEP Emine Bozkurt to the Spanish Presidency in March 2010?

Lobbying is a significant component of politics. Without engaging in lobby-activities you cannot generate results. Especially lobbying through pioneers is important, for instance through this joint letter or through European Commissioner Viviane Reding. These pioneers need to provide statements on the matter of FGM; people will forget about FGM if leading actors do not affiliate themselves to the cause. However, the proclaimed commitment of Reding notwithstanding, we have not seen any results so far. This is partially because these leading figures allocate attention to women in general, which is important, particularly to stimulate the integration of women and girls, but this means that FGM as such does not receive serious consideration. FGM is thus mainstreamed into matters of domestic violence and child abuse, whereas 90% of the Somali communities still practice FGM. This is why this is such an important problem, and why a holistic approach is the only way in which this issue is to be effectively tackled.

Could you elaborate upon how the cooperation with Amnesty International and Emine Bozkurt was

established?

The contact between FSAN and Bozkurt and Amnesty International was established by Christine Loudes of the Amnesty International End-FGM project, of which we are a partner. Personally, I have never been in touch with Emine Bozkurt. It seems to be impossible to establish contact with her. I cannot tell whether this is decided by herself or by her assistants and officials.

This means that you wrote a joint letter with someone you never personally talked to?

That is correct. It is difficult to get in touch with Bozkurt, and I expect that Amnesty International has more access to the European Parliament. The connection with Bozkurt is essential, especially for End-FGM, because of her position as MEP. As a Dutch-Somali woman, as an African woman, I have tried everything to get in touch with her, but my attempts have been in vain. This is disappointing. Her officials always give me hope, but a meeting never took place. You need someone to work with you on the cause. You need engagement, especially in a world that is defined by networking. You cannot get anywhere if you do not have personal contacts.

You would say that personal, informal contacts are decisive in generating political attention?

Yes, your story is irrelevant if you do not know the right people. I have been working on FGM and in this field for twenty years, and I have been trying to get in touch with Emine Bozkurt since 2009.

Do you see a connection between the economic situation and the political attention to FGM?

Of course, there is a connection between the economic crisis and the attention to FGM. Everyone talks about the economic crisis, and in doing so, other problems are pushed aside. We must be honest; the economic situation deserves a priority position. This is the most important issue of the moment. In addition, the group of people working on FGM is much smaller than the group of people occupied with the economy as a whole.

Do you adopt specific strategies in raising FGM to salience?

In Europe there is a lack of knowledge on the extent to which FGM takes place. This is notable, as political attention to FGM thrives with the presentation of numbers and figures. Agenda-setting is relatively successful if you manage to indicate exactly how many girls have been mutilated or how many girls and women are at risk. Faros, together with the University of Rotterdam, are mapping the situation. However, it is important to note that concrete numbers are impossible to provide; we may rather speak of a situation analysis. In addition, also these endeavors cost money. Through the information campaigns and home visits, certain groups have become aware of the severity of FGM. These groups are ready to put a stop to FGM and will help to prevent their daughters to fall victim to FGM. However, there are also individuals who wish to persist in practicing FGM, in name of the Islam. This group consists of primarily people from Somalia and Sudan. It is difficult to convey the message to these people. The message should be framed in such a way that the issue also appeals to the people in Africa. This is why it is important to build bridges between communities in Europe and communities in Africa. In order to engender strong links we need a political actor willing to use his position to try to put an end to FGM here and in Africa. Hence, we need to map how many girls have been mutilated in Europe, and we need to map and assess the impact of information campaigns, trainings and home visits implemented during the past few years. Political actors want numbers and figures. From this perspective we can devise our strategy for the future. Research and scientific proof are needed to convince the African communities to stop. Especially the youth, growing up in Europe, may become the bridging element needed to eliminate FGM. We therefore seek to engage young people in our campaigns. As is the case with my children, these young people will realize that FGM is in fact abuse. This is what will ultimately lead to long-term change, and this is hopefully reality in the future. Short-term projects will not engender this change. We need to find ways to realize continuity without projects. This may even be easier; to combine and coordinate among existing projects. We need continuity, in addition to monitoring and evaluation. The output of projects can be used

to inform people of the added-value of the work we do. This is one of the strategies. Politics, however, is at the heart of the work, at least to be able to structurally engage in activities.

Could you explain how you established contact with the Dutch government?

The discussion on FGM was launched by Ayaan Hirsi Ali in 2003. At the same time, the Vrije Universiteit Amsterdam and the Dutch Ministry of Social Affairs published research results pertaining to FGM. The recommendations following the research showed that training and awareness raising had been successful and should therefore be continued. Consequently, the Ministry established a committee in 2005 in order to gather more data and information on FGM. The recommendations of this committee fed into earlier recommendations, indicating the added-value of previous projects and emphasizing the need to focus on prevention. In addition, these recommendations entailed a focus on physical exams. Ayaan Hirsi Ali had already proclaimed the need to physically examine women, whereas youth care was opposed to physical exams and renewed a focus on prevention. The government provided subsidies and coordination of the research project, but when the government resigned everything came down to Bussemaker. She made a strong effort to tackle FGM, and together with the Ministry of Foreign Affairs she organized an international conference in The Hague aiming to build bridges with the African countries. A diverse number of initiatives were launched. I was one of the invitees, being the FGM International Ambassador in the Netherlands for Somalia, Nigeria, Sudan, Sierra Leone, and Ethiopia. In this capacity, I have attended many events and conferences.

Do you feel FGM needs a focusing event to stimulate political awareness? For instance, the Swedish cake incident?

The Swedish cake event is repulsive. This incident has got nothing to do with generating attention; it was meant to be offensive. Political actors are generally interested in suing someone for committed crimes. I tend to agree, but the problem is that the responsibility never lies with one person. If there were one person to blame, criminalization would help the people in the community and this would additionally generate political attention. This does not have anything to do with specific law or general law. There have been police reports on FGM, but the girl and women are afraid to go to the police, especially those who were born in Africa. Through the campaigns to raise awareness and through the engagement of youth health care institutions these women and girls have more access to information regarding their rights and opportunities. In the Netherlands we can clearly see the progress made. The children growing up here and attending school here are the real agents of change. They will prevent the practice of FGM on their own children. This is also how it works with my own daughter.

The media plays a pivotal role, especially in raising FGM to salience among the public. Moreover, the media engage politics and politicians. Through the media, as well as through radio, poems, dance, and football, we can reach the people. This is how the home visits have an impact; it symbolizes bottom-up change. Moreover, the public needs to know that this issue touches the young people and their human rights. The EU allocates much funding to Africa, but the focus should be on protecting human rights and on preventing FGM.

Interview

Name: Dorottya Átol

Organization: Amnesty International Hungary Office

Budapest, 25 October 2012

Brief introductory note:

My PhD project is about the politics of attention to human rights in the EU institutions. This means that I am identifying and assessing the agenda setting dynamics surrounding human rights issues in the EU institutions. My main question is: why and how did the politics of attention to human rights issues in the EU institutions change between 1992 and 2012? My single case study concerns the politics of attention to female genital mutilation (FGM) and through this interview I hope to gain a more profound understanding of how the Amnesty International Hungary Office is involved in setting the EU agenda and of the role Amnesty plays in changing the politics of attention to FGM in the EU institutions.

Could you begin by explaining the work of the Amnesty International Hungary Office?

We are the local AI section, and not –as is commonly misunderstood, an independent organization. Amnesty works as a movement, and we work closely with the headquarters in London. The Brussels office is a relatively new office, created by the Western European sections who decided to pool material resources in order to ensure more effective use. We may speak of a European regional space, devised to create a European platform mostly to lobby with the EU institutions to carry out the European perspective. Brussels, as opposed to London, is the EU center. Most activities are related to lobbying, but AI also pursues media activities.

We normally cooperate with the ECA team (European and Central Asia Program) within the international secretary. The ECA has researchers and campaigners. Each researcher deals with a number of countries. If you are lucky, you will get one country to assess. For instance, the researcher dealing with Turkey, a country confronted with many problems, deals only with Turkey. However, the researcher in the AI Hungary Office deals with five countries (Hungary, Czech Republic, Bulgaria, Romania, Slovakia). AI has a six year strategy campaign, but also focuses on three terms in a two years period of global priority statement. This statement identifies the global goals, and the movement has to somehow align to this. When we develop next year's operational plan, we have to take the global focal points into account; what is the European strategy and how do we fit into that? Being here, we have to focus much on the local context. This is especially the case in Hungary, where the public is mostly interested in Hungarian affairs. The fact that our researcher has to focus on several countries indicates that Hungary, unfortunately, is not a priority whereas there are many problems to be addressed.

May I conclude that you identify and prioritize issues based on Amnesty's organizational structure?

Yes, this is why it is called the global priority statement. There are global campaigns, and within the global statement AI identifies three main campaigns. For these two years, there are two main campaigns. The first campaign is called MENA (Middle East and Northern Africa), inspired by the Arab Spring. The second campaign centralizes slums and forced evictions. This is a relatively new issue for AI. Since 2000, Amnesty decided to focus more on economic, social, and cultural rights. In addition, the Demand Dignity Campaign started. This campaign focuses on the Millennium Development Goals, and particularly addresses the right to housing, maternal mortality, corporate accountability.

Is there a particular reason for these issues to emerge now?

AI has gradually moved towards these issues. It started with the Prisoners of Conscience campaign on political prisoners. The classic topics within this framework are torture (Amnesty's efforts in this regard

have been rewarded with the Nobel Peace Prize in 1977), detention, and civil and political rights. Then, as the movement was expanding, AI acknowledged that the reason for many human rights violations was poverty and poverty is a huge problem, which is in turn caused by human rights violations. Consequently, AI realized that the movement needed to broaden its scope. Every country section sends a delegation to the so-called International Council Meetings (ICM's). It is during these meetings that major changes are pursued. In 2000 Amnesty decided to endorse the whole HR agenda. Of course, this does not mean that we focus on all the human rights, but it means that we focus on also economic, social and cultural rights as opposed to merely political and civil rights. This is why the Demand Dignity Campaign was launched, and this is the second priority in the global priority statement. The third one was the arms trade treaty. AI started campaigning for this in the 1990's and in terms of agenda-setting this could be interesting, because they started in the 1990's (AI Hungary was very active in the campaign in 2007-2008), but then they suddenly stopped. However, in 2012, there was the one-month long UN conference on the arms trade treaty, which is why AI revived this old stake for 2011-2012. All AI sections were requested to contribute to this cause, at least to some extent, whereas these sections had already set different priorities. Therefore, we engaged in minor lobbying to our government, some media work, and we collected some signatures. Unfortunately, the arms trade treaty was not signed. The draft of the treaty is sound, but the US administration pulled out at the last moment, also in the wake of the American elections.

To what extent does the United Nations define AI's agenda?

AI lobbied the UN member states to focus on the arms trade treaty as a priority. We could see the arms trade treaty as a case of mutual influencing. AI became part of a global coalition favoring the arms trade treaty. We partnered globally with other organizations, and NGOs contributed much in 2006-7. NGOs inspired the UN General Assembly to actually embark on the process of creating this treaty. It has been more than a five year process. The UN's conference was the peak of the campaign.

With regards to the death penalty, there has been a great deal of behind the scenes lobbying and public campaigning. AI does intensive and strategic work on getting a UN resolution. UN resolutions are of course not binding. However, because the UN is the only forum through which all these member states are involved, UN resolutions have a political and moral weight. The death penalty issue is very political and AI is very careful with saying anything on the matter this early in the process. We have four target countries; Tunisia, Cuba, Myanmar, and Ghana. These four countries have shown signs that they are underway to abolish the death penalty. This is our main international campaign at this moment.

Referring to your comment on how political the work may be; do you feel that politics sometimes stands in the way of results?

Politics definitely determines the extent to which we generate results. In my perception, especially with regards to the death penalty, it is primarily about politics. The politics is not necessarily about the issue; it is rather about the political dynamics of human rights. For instance, AI collects signatures to put pressure on the target countries. This is a traditional AI tactic, but we do not use online petition for these four countries. Even though online petitions are far more effective than collecting signatures on the street as we can mobilize more people through online engagement; the governments of target countries are sensitive, and, subsequently, the message of the campaign can get out of control. The political negotiations are so delicate; and it is not even a binding resolution despite its weight. Despite our independence from governments and political parties, we still have to take into account the underlying political dynamics, especially when lobbying and pressuring countries.

If you were to identify an issue in Hungary, would you be able to get that on the broader AI agenda?

Hungary is not a priority country for AI at this moment. This is because the strategic campaigns leave no place on the agenda for Hungary. Obviously, there are many problems and concerns in Hungary, but these do not fit into the wider agenda. One of the most important campaigns in Hungary is the Roma campaign. Amnesty does much work on Roma discrimination in Europe, mostly focusing on education and housing.

We are special in the sense that we focus on hate crimes. The situation in many countries is abominable in this regard, but in Hungary there have been a number of particularly tragic events in 2008-9. There was a series of murders within the time span of two years, with about two or three months in between and it occurred in different cities. The suspects targeted poor houses with an opportunity to escape, and the crimes became more professional as time was passing. The suspects threw cocktail bombs into houses, setting the houses on fire, and started to shoot the people as they were leaving the house. One particular example concerns a Roma family that was attacked in this way. The father and son were shot by hunting guns. They took many bullets and died. Some people claim that there were more than nine attacks, but this one was the most tragic. When the local police arrived to investigate, they concluded that the fire had started due to the poor facilities of the house. They purported that it was nothing more than an ordinary house fire. Their attitude was condescending. The local doctor additionally claimed that the family had died of smoke inhalation, whereas the entire body was filled with bullets (it appeared later in the autopsy report). There was such an outrage – Hungary can be quite prejudiced- but this was considered a police blunder. The police framed it as a domestic accident, but when a detective went to the place, she noticed that this was a serious act of violence. The event was terrible, but the most shocking was the way in which the local police had treated the situation. AI investigated this event and published a report. This is usually how AI works. AI consequently used this report to launch a campaign. The actual focus was on the systemic problems and on how the police had failed to address hate crimes properly.

There have been many other racist and homophobic incidents. Based on this report, we have been able to pursue a different approach; this campaign is quite unique because none of the other AI offices focuses on hate crimes. Another type of bottom-up agenda-setting is exemplified by the case of the Hungarian EU Presidency in 2011. The Hungarian government announced that Hungary would contribute to Roma inclusion and AI was asked to create a Roma framework. In the wake of the Hungarian EU Presidency, coinciding with these series of hate crimes, extremist groups demonstrated and refused to leave the villages while claiming the need to protect the villages from gypsy criminality and gypsy violence. Extremists were marching on the streets of the Roma villages, harassing them, and questioning the state power and police rules. The police did not do anything for a couple of weeks, purporting that it is a legal right to protest and to assemble. There were many incidents in this period and many NGOs were vocal about it. There was also much awareness-raising at the EU level. We launched an Amnesty-Hungary Urgent Action campaign, which is a type of urgency lobbying on a six weeks basis. AI published a one-page call for attention about the HR violations, calling upon people to act. This was issued globally. Some letters were sent out to the prime minister, but it was also meant to gain some international media attention. We disseminated this urgent action program to EU policy makers through the Brussels office. The green MEP Cohn Bendit came to Hungary and he used our material to raise the issue to salience. It took the Hungarian government two months to realize that they were on the wrong track, and that there was ethnic discrimination going, while they trumped the right to association. The government pursued some changes at the criminal court, as well as some other positive changes. However, there was much external pressure and media attention, and only under the influence of this pressure the government decided to take action. During the EU Presidency the Hungarian government made a few controversial moves. The government has a 2/3 majority; they were able to change the constitution, to adjust many laws, and many of these laws were deemed very controversial. Even though it was not meant to be on the original campaigning agenda, and even though Hungary was not a priority, AI undertook reactive work on the situation in Hungary, using the EU presidency. Some of these controversial laws gained much attention; especially the media law. The media law was launched at the moment the Presidency started; excellent timing. There was much coverage in various EU countries, and, therefore, in cooperation with the Hungary office, AI decided to do extensive reactive work on that. We worked closely with the Brussels office in this regard.

Would you say that you used the EU level to bring about change at the national level?

Nothing really changed with regards to the media law. The Commission criticized a few points and the

Hungarian government made the requested changes. Notwithstanding the adjustments, the situation remained the same and the law remained controversial. European Commissioner Neelie Kroes said her hands were tied because the Commission cannot act when it concerns national policy on which the EU does not have any legal competence. It was a matter of subsidiarity. The EU can only, with regards to merely certain aspects of the law, put light pressure on governments. At a later stage, Neelie Kroes was more vocal about the problems in Hungary, despite the lack of tools she had to make a change.

Did this have any effect?

At least her statements helped to keep the issue on the EU agenda. In addition, the constitutional court ruled a judgment in 2011, requesting the Hungarian government to make more changes. Controversial points were made once more. Internally, it is quite hard to bring about changes in Hungary, especially because people are not that active. The opposition movement started to become more engaged in the last two years, but with regards to certain issues, it is really hard to bring about change even when there are many people demonstrating against the media laws. I feel that primarily pressure from the Commission may help. Our prime minister is stubborn and he is not easily influenced. However, even though he blames much on the EU and he uses much anti-EU rhetoric; to the EU and Barroso he seems more susceptible. In addition, the Council of Europe focused much on Hungary, and published reports on the situation in Hungary and its political and judicial system. This is also putting pressure on the government, as well as on the European Parliament. MEPs discussed Hungary in the different committees and consequently published reports. MEPs have visited Hungary to address the issue. This has not engendered the effect for which we had hoped, it may still help to gradually bring about some changes.

AI Hungary's name is affiliated to the report comprising draft recommendations to the Hungarian EU Presidency, issued by the EU office in Brussels. However, AI Hungary does not work on some of the issues that AI wanted the Hungarian Presidency to include on its agenda, for instance the issue of female genital mutilation). How does this dynamic work? How has the AI Hungary Office been involved in drafting recommendations for the Hungary EU Presidency?

The issue of FGM is not really an issue in Eastern Europe. When we were helping with the petition for Viviane Reding, the EU had just declared the year of EU citizens. In preparation of the European Year of EU Citizens, Reding launched an online survey addressing the EU citizens. In this survey she did not make reference to human rights violations; she merely asked what citizens consider problems and what citizens consider important in their daily lives. AI used this opportunity to state that Viviane Reding is not only the European Commissioner for citizenship and justice, but that she is also the Commissioner for fundamental rights and freedoms. She has to pay attention to the very important issues within the EU, such as discrimination against Roma but to also violence against women. FGM was therefore a highlighted topic. When I was collecting signatures in Hungary, the people did not know what FGM was. The Hungarian people are not interested in the issue because they do not know what it entails, and the AI Hungary office, therefore, does not address the issue.

Is there any political intention of the Brussels office, perhaps to gain credibility when they connect the name of the AI Hungary Office to the report?

Even though the AI Hungary Office does not work on the issues as such, it was very important to engage in some activities on the matter, if only to put the issue on the agenda of the Presidency. The same was valid for other matters. For instance, Hungary maintains close relationships with Croatia, and therefore we proposed to use the Hungarian Presidency to put some pressure on Croatia. We engaged in various common advocacy activities with the Brussels office on the framework for Roma inclusion. The EU platform meeting for Roma took place in Budapest during the Presidency on 8 April 2011. We organized a demonstration together with local organizations, while the murder trial was taking place. The work was coordinated with the Brussels office, especially because this office took part in the European Roma Policy Coalition.

Do you feel that human rights need a crisis to gain political attention or is it something that is by nature always on the agenda?

The extent to which human rights need a crisis depends on the issue and on the situation. It is always a struggle to generate attention. Of course, when a major crisis occurs, for instance the crisis in Syria, human rights gain a position on the agenda. But Syria has been dragging on for a long while and it has started to fade away, whereas there are still huge problems. Another issue, at the EU level primarily, concerns the CIA program. For a long time, the EU refused to pay attention to it, but then the European Parliament, which is usually more open to human rights issues, took it on. The Parliament started to focus on the issues and to write reports about it. During the Presidency we were able to draw much attention to the media law, and to Roma issues. Without the Presidency, we would have never gotten so much (international) attention.

Would you consider lobbying with the Presidency successful?

Our lobby activities with the Presidency were partially successful. The EU framework for Roma inclusion was eventually created, although it is not perfect. It was important to work on it and through the Presidency we were able to receive international attention. Human rights problems were highlighted to some extent as well, both inside and outside Hungary. Another international advocacy tool we used with the Hungarian government was the UPR (the Universal Peer Edict Review of the Human Rights Council). Through the UPR we can take part in a process through which we can submit shadow reports. Hence, the government is supposed to organize conferences and engage with civil society. We also lobbied at embassies of different countries in order to inspire governments to ask questions in the Human Rights Council. The Human Rights Council has used many of AI's recommendations. Hungary received much critique on Roma issues and on hate crime. Our work was successful in the way that the government accepted most of the recommendations that were important to us, but as usual the government did not properly follow up or consult with us back in Hungary. The government did organize a consultation with NGOs. We purported that it is one thing to accept the recommendations, but that the government should put the money where the mouth; the government should implement the recommendations before the next UPR takes place. We proposed the government to create working groups of semi-government stakeholders and NGOs. The government was reluctant, but did create a human rights working group. Now we can even apply to become part of the governments NGO platform. We will probably not become a member, because they are usually quite selective as to who gets in and not. But at least they created this mechanism with the goal of implementing the recommendations. I am skeptical, but it is a good sign. And the government accepted many strong recommendations.

What do you do once issues have made it onto the agenda? How do you maintain momentum?

If I think about Hungary, you would have to use the media, but then to get media attention you would have to organize actions. AI uses a variety of tools. In Hungary the media is often very divided and politicized and they do not always pay attention to the topics that you want them to pay attention to. This poses obstacles to AI's work. AI tries to use different tools, like public stunts that allow us to talk about the issue from there. For instance, in the Roma Campaign we try to work together with artists and we organized an exhibition with photo's and depictions of the attacks and the families who were attacked. This is how we are trying to generate attention to hate crime. In Hungary we actually work to get local and strong NGOs to join the lobby on hate crime. We were quite successful in influencing the new criminal court; they partially accepted our recommendations. And now we are working together to organize police training on hate crimes, as well as to create a proper protocol on hate crimes, including cooperation on monitoring hate groups. Furthermore, to monitor happenings here we often issue joint media statements. Of course, we are the only international NGO here, but we are the smallest one, as most NGOs have bigger offices with lawyers working for them. We try to use our external partners to create some international attention. Unfortunately, due to the current government we do not have access to diplomatic

channels.