

## ***A Theory of Contestation – A Concise Summary of Its Argument and Concepts***

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### **Introduction**

When I began to write *A Theory of Contestation* in 2013, I wanted to test the waters for more programmatic contestation research in international relations theory. This book is a shorter and more programmatic follow-up to an earlier book, *The Invisible Constitution of Politics: Contested Norms and International Encounter*,<sup>1</sup> and the decision to write it was triggered by the motivation to rescue the concept of “contestation” from becoming meaningless. My concern was that “the increasingly popular reference to ‘contestation’ comes at a loss of conceptual precision.”<sup>2</sup> By turning into a buzzword in the 2010s, the concept of contestation was in danger of losing its analytical teeth. As *A Theory of Contestation* holds, the concept’s analytical utility lies in understanding the distinct meanings of contestation as both a social practice of merely objecting to norms (principles, rules, or values) by rejecting them or refusing to implement them, and as a mode of critique through critical engagement in a discourse about them. The book’s central conceptual contribution lies in developing and substantiating a dual focus on contestation both as a social activity and a mode of critique.<sup>3</sup> The former is expressed through spontaneous social practices, routine legal practices, or the attribution of a variety of meanings to social science concepts,<sup>4</sup> while the latter is an object of normative political theory.<sup>5</sup> The effort to link empirical practice and normative purpose distinguishes the book’s approach from

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<sup>1</sup> Antje Wiener, *The Invisible Constitution of Politics: Contested Norms and International Encounters* (Cambridge, U.K.: Cambridge University Press, 2008).

<sup>2</sup> Antje Wiener, *A Theory of Contestation* (Berlin: Springer, 2014), viii.

<sup>3</sup> *Ibid.*, 2.

<sup>4</sup> Lawrence Lessig, “Post Constitutionalism,” Review of *Constitutional Domains: Democracy, Community, Management*, by Robert C. Post (Cambridge, Mass.: Harvard University Press, 1995), in *Michigan Law Review* 95 (May 1996): 1422–70; Walter Bryce Gallie, “Art as an Essentially Contested Concept,” *Philosophical Quarterly* 6 (April 1956): 97–114.

<sup>5</sup> Philip Pettit, *Republicanism: A Theory of Freedom and Government* (New York: Oxford University Press, 1997); Philip Pettit, *Made with Words: Hobbes on Mind, Society and Politics* (Princeton, N.J.: Princeton University Press, 2007); James Tully, “The Unfreedom of the Moderns in Comparison to Their Ideals of Constitutional Democracy,” *The Modern Law Review* 65 (March 2002): 204–28; James Tully, *Public Philosophy in a New Key – Volume I: Democracy and Civic Freedom* (New York: Cambridge University Press, 2008); James Tully, *Public Philosophy in a New Key – Volume II: Imperialism and Civic Freedom* (New York: Cambridge University Press, 2008); Rainer Forst, *Das Recht auf Rechtfertigung: Elemente einer konstruktivistischen Theorie der Gerechtigkeit* (Frankfurt am Main: Suhrkamp, 2007); Rainer Forst, *Justice, Democracy and the Right to Justification* (London: Bloomsbury Academic, 2014).

others that tend to fall into either of these two camps. By relating the two themes, *A Theory of Contestation* conveys an immanent dialectic that is central to the book's purpose as a critical intervention into international relations<sup>6</sup> and a critical investigation of international relations theory.<sup>7</sup>

As background for this symposium's discussion of *A Theory of Contestation*, this article sets out to summarize the book's main claims and central concepts. Later, at the end of the symposium, I will provide a "reply to critics" article that will address the points raised by my fellow contributors. That contribution will also discuss the theory's potential for further development and lay out some paths that I consider promising for future research on contestation, such as the theory's engagement with culture, pragmatism, and agnostic theories. Before I get to that, however, this article proceeds in three steps. First, I present *A Theory of Contestation's* central argument about the dual approach to the study of international relations, which seeks to develop a substantial link between the "is" and "ought" questions of global governance. The next section focuses on key definitions of the core concepts used by the book as building blocks for research on contestation, a research area seen as spanning public philosophy and international relations. The last section discusses potential research areas that stand to benefit from the theory and ways to advance the concept of contestation in ongoing conversations among public philosophers and students of international relations.

### Central Argument

Contested compliance has been observed by lawyers and political scientists alike. It lies at the core of international negotiations. But the observation of contested compliance includes shifting the analytical emphasis from "compliance" (how can compliance be achieved, such as through conditionality, arguing, and so on) to "contestation" (what is the effect of contestation as a practice of critical engagement). When analyzing "contested compliance" in two important cases concerning contested decisions, I observed objections to fundamental norms: the decision to undertake military intervention into Iraq in 2003, and the decision in favor of

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<sup>6</sup> Compare for example Karin Fierke's concept of "diplomatic intervention" in K.M. Fierke, *Diplomatic Interventions: Conflict and Change in a Globalizing World* (Hampshire, U.K.: Palgrave, 2005).

<sup>7</sup> Compare Chris Brown's early proposition to undertake critical interventions into International Relations in Chris Brown, *International Relations Theory: New Normative Approaches* (New York: Harvester Wheatsheaf, 1992). Note that *Theory of Contestation* uses "the concept of 'International Relations theories' (commonly abbreviated as 'IR' in the political science literature)...exclusively for reference to the academic discipline of International Relations theories" (Wiener, *Theory of Contestation*, 6; see note 2 above). "In distinction from the concept of International Relations theories, 'international relations' are understood to comprise the sum of all relations between states or nations, which are located outside domestic contexts.

the European Union's massive enlargement to the East in 2004. At the time, I was less interested in how to achieve compliance than in the question of how these contestations affected politics as "interventions in the normative structure of world politics".<sup>8</sup>

Taking into account the relational quality of contestatory practices, *A Theory of Contestation* seeks to move beyond observing the effects of social practices, by making a normative claim. This opening toward normative theory benefited substantially from Tully's *Public Philosophy in a New Key*<sup>9</sup> which, in my reading, provides a platform for critical intervention into governance relations: by observing struggles over norms of governance, a link between struggling agents and scholarship becomes possible. The dual focus on empirical and normative aspects reflects a dual practice of critical engagement. The struggling agents' objections to norms places them in the democratically legitimate role of citizens realizing their rights to question the norms that govern them,<sup>10</sup> while scholars' engagement represents a practice of normative intervention. Understood in this way, contestation over norms becomes a space where interventions and investigations meet. *A Theory of Contestation* seeks to highlight this space and to develop a framework for applying this dual approach to inter-national relations (understood as relations between actors with different national root contexts, as opposed to "international relations" which is used to qualify interaction among actors representing different governments in politics and law in the global domain. As *A Theory of Contestation* notes, "inter-national relations also need to be understood as inter-cultural relations."<sup>11</sup>

### *Contestation: A Dual Approach*

Contestation is defined as a "social practice [that] entails objection to specific issues that matter to people"; in "international relations, contestation...involves the range of social practices which discursively express disapproval of norms."<sup>12</sup> As a discursive practice, contestation is observable with reference to speech and language. However, as the *Theory of Contestation* emphasizes, the concept's meaning leads beyond the definition of the social practice of objection. For example, political theorists consider "contestatory practice" as a facilitative condition for citizens to obtain freedom from domination within a given society,<sup>13</sup> or they present "contestation all the way down" as an enabling condition that allows citizens to critically engage with the norms that govern them.<sup>14</sup> As I argue in the book, while the

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<sup>8</sup> Antje Wiener, "Contested Compliance: Interventions on the Normative Structure of World Politics," *European Journal of International Relations* 10 (June 2004): 189–234.

<sup>9</sup> Tully, *Public Philosophy in a New Key - Volume I*; Tully, *Public Philosophy in a New Key - Volume II* (see note 5 above).

<sup>10</sup> Tully, *Public Philosophy in a New Key - Volume I*, 5 (see note 5 above).

<sup>11</sup> Wiener, *Theory of Contestation*, 3 (see note 2 above).

<sup>12</sup> *Ibid.*, 1.

<sup>13</sup> Pettit, *Republicanism* (see note 5 above).

<sup>14</sup> Tully, "The Unfreedom of the Moderns," 207 (see note 5 above).

observable practice of taking issue with norms raises empirical questions (such as which norms are contested by whom, where, and how), a principled approach to contestation raises normative questions about the conditions that warrant freedom from oppression or the right to question authority (such as how to justify contestation and who should have access to contestation). In the book, I am interested in the interplay of these two questions under conditions of inter-national relations and global governance. Accordingly, the book takes a bifocal approach; it explores the conditions for contestation in international relations and how access to contestation should be justified.

### *Modes of Contestation*

To elaborate on these questions, the *Theory of Contestation* undertakes critical investigations into international relations theory. This is carried out based on “three thinking tools”<sup>15</sup> that are borrowed from public philosophy: the normativity premise, the diversity premise, and the concept of cultural cosmopolitanism. Working with thinking tools makes it possible to explore three aspects: the engagement with norms as structures vis-à-vis enacted normative meanings-in-use; the constraints caused by working with community and diversity ontologies; and the norm generative power of political and cultural practices. The book’s critical investigations focusing on normativity and diversity reveal contestation and contestedness as the two concepts at the center of a bifocal research on norms. Contestation comprises the contingency of social practices. In operationalizing the concept, researchers need to distinguish modes of contestation by taking into account the context where it is practiced. Accordingly, the book defines four typical modes of contestation that matter for inter-national relations: courts; regimes and international organizations; protest movements; and epistemic communities. In each of these typical contexts, while other modes are likely to be present, one mode of contestation is expected to be dominant:<sup>16</sup> arbitration (in courts), deliberation (in international organizations and regimes), contention (in societal protest) and justification (in epistemic communities).<sup>17</sup>

The second key concept, contestedness, draws on the constant practice of border crossing and the related latent contestation of norms by individual agents. Individually held normative baggage will always spark conflict. Notably, *contestations* are always expected in

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<sup>15</sup> Wiener, *Theory of Contestation*, 2-3, citing Anna Leander, "Thinking Tools: Analyzing Symbolic Power and Violence," in *Qualitative Methods in International Relations: A Pluralist Guide*, ed. Audie Klotz and Deepa Prakash (New York: Palgrave, 2008), 11-27; and chapter 5 of *A Theory of Contestation* (see note 2 above).

<sup>16</sup> Wiener, *Theory of Contestation*, 3, 8ff (see note 2 above).

<sup>17</sup> This concept has been further developed within the context of a research group at the University of Hamburg. For contributions to this development, I would like to thank Markus Kotzur, Stefan Oeter, Jan Wilkens, Florian Jeßberger, Maren Hofius, Sigrid Boysen, Christine Landfried, Andreas von Arnould, and Karsten Nowroth.

international inter-cultural encounters; that is, they occur at all layers of society.<sup>18</sup> For when actors cross international boundaries and leave their social groups behind, normative meanings are no longer shared, but become individual baggage.<sup>19</sup> It follows that international relations operate under conditions of diversity, where "iterated social interaction is not necessarily conducive to the shared interpretation of norms."<sup>20</sup> Due to the diversity of individual background experiences which come into play in an inter-cultural encounter, the shared recognition of norms becomes less likely and, accordingly, clashes about norms are to be expected. Whether these clashes culminate in conflict, or whether they form the basis of finding shared organizing principles (such as mutual recognition) depends on how these encounters are conducted. To explore the constructive potential of such encounters, we need more detailed knowledge about how normative structures of meaning-in-use<sup>21</sup> emerge and how they change through everyday practice. Accordingly, *A Theory of Contestation* suggests working with "contestedness" as a meta-organizing principle of global governance. According to the typology of norms discussed below, it is an organizing principle because it is derived through practice (i.e., the practice of border crossing); it is a meta-organizing principle because it represents latent contestation (i.e., all inter-national encounters bear the potential of clashing meanings-in-use). *A Theory of Contestation* takes the condition of latent contestation as the starting point for thinking about strategies for filling the legitimacy gap in the meso-level of global governance. It notes that the

principle of contestedness reflects the global agreement that, in principle, the norms, rules and principles of governance are contested and that they therefore require regular contestation in order to work. For the legitimacy gap between fundamental norms and standardised procedures to be filled, therefore, access to regular contestation (as opposed to ad-hoc contestation) needs to be facilitated, in principle, for all involved stakeholders.<sup>22</sup>

Filling the legitimacy gap, which has been noted especially by policy researchers,<sup>23</sup> is addressed with reference to three empirical cases regarding three sectors of governance (fisheries, security, and climate governance) in the book's sixth chapter, but remains an important challenge.

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<sup>18</sup> Wiener, *Theory of Contestation*, 3 (see note 2 above).

<sup>19</sup> Thomas Risse, "'Let's Argue!': Communicative Action in World Politics," *International Organization* 54 (January 2000): 1–39; Uwe Puetter and Antje Wiener, "Accommodating Normative Divergence in European Foreign Policy Coordination," *Journal of Common Market Studies* 45 (December 2007): 106–88.

<sup>20</sup> Uwe Puetter and Antje Wiener, "The Quality of Norms," 3 (see note 20 above).

<sup>21</sup> Jennifer Milliken, "The Study of Discourse in International Relations: A Critique of Research and Methods," *European Journal of International Relations* 5 (June 1999): 232.

<sup>22</sup> Wiener, *Theory of Contestation*, 3 and chapter 5 (see note 2 above).

<sup>23</sup> Compare, for example, Steven Bernstein, "Conclusion," in *Unsettled Legitimacy: Political Community, Power, and Authority in a Global Era*, ed. Steven Bernstein and D. William Coleman (Vancouver: UBC Press, 2009); Robert Falkner, ed., *The Handbook of Global Climate and Environment Policy* (Oxford, U.K.: Wiley-Blackwell, 2013).

Based on normative theory, the book raises the question of stakeholder and norm ownership, and, relatedly, the conditions for access to regular contestation of norms. The latter is understood as a key condition to enhance legitimacy in global governance. To probe the point, three sectors of global governance are discussed: security, fisheries, and climate governance.<sup>24</sup> In each sector, the potential access of stakeholders to negotiate organizing principles that matter for the best way of linking fundamental norms with standards and regulations is discussed (see Table 1):

**Table 1:** Organizing Principles in Selected Sectors of Global Governance

<b>Governance Sector</b>	<b>Climate</b>	<b>Security</b>	<b>Fisheries</b>
<b>Levels</b>			
<b>Meta</b>	Sustainability	Civilian inviolability; Non-intervention; Sovereignty	Sustainable fisheries
<b>Intermediary</b>	Common but differentiated responsibility; Economic and sustainable development	Responsibility to protect	Ecosystem approach; Equity principle; Precautionary principle
<b>Micro</b>	Emission standards	UN Charter regulations	Fishing quotas, mesh size

Source: Wiener, *Theory of Contestation*, 65, Table 6.1 (see note 2 of text of this article).

As chapter six of *A Theory of Contestation* demonstrates, the legitimacy gap that has been identified between fundamental norms, on the one hand, and standards and regulations, on the other, is helpfully addressed by studies that examine stakeholder practices at the intermediary or meso-level of global governance. In *The Theory of Contestation*, this has been illustrated by organizing principles such as Common But Differentiated Responsibility in the sector of climate governance, the responsibility to protect principle in the sector of security governance, and the precautionary principle in the sector of fisheries governance.<sup>25</sup> All these organizing principles have been constituted through repeated and prolonged complex stakeholder interactions over time. They express concern for recognition of the fundamental norms in each sector, while at the same time acknowledging the need for compromise so as to establish viable principles of procedure at the meso level that are accepted by the involved stakeholders. The following section will address the role of organizing principles in more detail when presenting a typology of norms.

<sup>24</sup> Wiener, *Theory of Contestation*, chapter 6 (see note 2 above).

<sup>25</sup> Ibid.

## Core Concepts

*A Theory of Contestation* builds on core concepts that have been developed by contributions to critical norms research in international relations theory. These include "types of norms" and "practices of norm validation" that allow for a better understanding of diverse normative structures of meaning-in-use,<sup>26</sup> what they entail, and how they emerge through social practice.<sup>27</sup> Effectively, this critical norms research program raises questions about the "taken-for-grantedness" of liberal norms in twentieth-century inter-national relations. However, given the cultural diversity and the related latency of contestation<sup>28</sup> vis-à-vis the local flanking measures that are required to implement universal norms and values, can the validity of fundamental norms be taken for granted? The book argues that, while the universality claim of fundamental principles such as human rights holds true for member states of the United Nations based on the UN Charter, as norms research in international relations theory has demonstrated, their effect remains to be realized by a range of flanking measures. For example, the implementation of fundamental human rights may include the responsibility to protect, and the latter will have effects on a state's sovereignty if it is enacted. These include references to other closely related norms (i.e., adjacent norms), as well as organizing principles and standards or regulations, all of which involve practices of norm validation that add contingency to the process. To address this contingency as both a constraint and an opportunity, the *Theory of Contestation* places the three distinct validating dimensions of norms on a 'cycle of contestation' (see Figure 1 below).<sup>29</sup> Before presenting that figure, I will first discuss the book's typology of norms and validating dimensions.

### *The Typology of Norms*

*A Theory of Contestation* is conceived as a theory with interdisciplinary relevance. The central building block consists of a threefold typology of norms, consisting of fundamental norms, organizing principles, and standards and regulations. As the book notes, contestations express an objection to norms.<sup>30</sup> These contestations have been addressed by a growing interdisciplinary literature, including especially international law, international relations,

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<sup>26</sup> Milliken, "The Study of Discourse in International Relations" (see note 21 above).

<sup>27</sup> Roxanne Lynn Doty, "Aporia: A Critical Exploration of the Agent-Structure Problematique in International Relations Theory," *European Journal of International Relations* 3 (September 1997): 365–92; Wiener, *The Invisible Constitution of Politics* (see note 1 above); Antje Wiener, "Enacting Meaning-in-Use: Qualitative Research on Norms and International Relations," *Review of International Studies* 35 (January 2009): 175–93; Markus Kornprobst, "From Political Judgements to Public Justifications (and Vice Versa): How Communities Generate Reasons Upon Which to Act," *European Journal of International Relations* 20 (March 2014): 192–216; Maren Hofius, Jan Wilkens, Hannes Hansen-Magnusson, and Sassan Gholiagha, "Den Schleier lichten? Kritische Normenforschung, Freiheit und Gleichberechtigung im Kontext des 'Arabischen Frühlings' – Eine Replik auf Engelkamp/Glaab/Renner, Ulbert und Deitelhoff/Zimmermann," *Zeitschrift für Internationale Beziehungen* 21 (December 2014): 95–105.

<sup>28</sup> For the concept of 'latent contestation' I thank the 2016 research group on Unbound Constitutionalism at the University of Hamburg, and especially Peter Niesen.

<sup>29</sup> Wiener, *Theory of Contestation*, Figure 2.1 (see note 2 above).

<sup>30</sup> *Ibid.*, 1.

sociology and public philosophy. Despite a common interest in compliance with norms, this literature often applies a confusingly diverse set of terms. The result is silence on conceptual matters across disciplinary boundaries. To encourage communication and mutually beneficial knowledge exchange, I have elsewhere suggested working with a "typology of norms" that defines norms according to what they entail and what they do.<sup>31</sup> Accordingly, three types of norms can be helpfully distinguished (see Table 2).

**Table 2: Norm Types**

<b>Norm Type</b>	<b>Examples</b>	<b>Level</b>	<b>Moral Reach</b>	<b>Contestation</b>
<b>Fundamental Type 1</b>	Human rights, Rule of law, Democracy	Macro	Wide	More
<b>Organizing Principle Type 2</b>	Responsibility to Protect (UN), Rule of law mechanism (EU Treaty), Qualified majority voting (EU)	Meso	Medium	Medium
<b>Standardized Procedures, Regulations Type 3</b>	Responsibility to protect pillars, Specific rule of law implementation, Electoral rules	Micro	Narrow	Less

Source: Adaption from Table 4.2. Wiener, *Invisible Constitution of Politics*, 66 (see note 1 of text of this article).

The typology defines fundamental norms (elsewhere also called principles or values) as being of universal quality. These type 1 norms are notable for their wide moral and ethical reach. They are most likely to be negotiated by representatives of government at the macro level of governance (and as I specify in the *Reply to My Critics* in this special issue, at the macro “layer of societies”). They are stipulated by treaties such as the United Nations Charter, or the Lisbon Treaty of the European Union (EU). As such, they are of quasi-constitutional quality in the global realm. By contrast, type 2 norms, or organizing principles, are constituted through policy and political practice at the meso-level. Given their closer proximity to politics and policy-making processes, their meanings are more directly linked to stakeholder expectations than are fundamental norms. Finally, the type 3 norms (standards and regulations) are the least negotiable type of norm. They entail specific directives for implementation by designated norm followers, such as firms or individuals at the micro-level of global society.

This typology is derived from two questions. First, what is the moral reach of the norm (high – medium – low)? Second, what is the expected degree of contestation of a norm (high – medium – low)? Answering the first question, we find human rights, the rule of law,

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<sup>31</sup> Wiener, *The Invisible Constitution of Politics*, 66 (see note 1 above).



democracy, sovereignty and other leading principles falling into the type 1 group of norms ("fundamental norms").<sup>32</sup> All share a high degree of moral substance with wider implications for theory and practice, and they also share a significant lack of specification. The latter implies that their validity remains to be specified by adjacent norms which stand to be implemented by additional flanking action.

By contrast, norms with low moral implications are those that are most clearly defined such as, emission standards entailing specific percentages, fishing quotas, or electoral details. All of these fall into the group of type 3 norms (standards and regulations). By definition, type 3 norms are more detailed than fundamental norms. That is, while the knowledge of fishing quota or mesh size regulations entails all the information required by the designated norm follower in order to implement the norm, knowledge about sustainable fisheries does not. That is, while the fundamental norm of sustainability may be adhered to as a taken-for-granted norm that enjoys wide social recognition, its implementation requires a variety of flanking actions. As the *Theory of Contestation* argues, the success of these flanking measures depends on the socio-cultural contexts in which they are implemented. They therefore add contingency to the way any fundamental norm works in inter-national relations. While the universality vs. particularity distinction has been discussed widely, for example in the field of citizenship studies,<sup>33</sup> the interplay between both has been underestimated in norms research.

This leads to answering the second question, about the degree of contestation expected with regard of the distinct groups of norms. This is related to the answer to the first question because as the lower the degree of validity detail, the more additional flanking measures are required in order to achieve implementation, and therefore the higher the chance of contestation with regard to each of these measures. That is, contestation is higher with regard to fundamental norms than with regard to standards or regulations. While the latter may be more easily rejected, such as by jaywalking, over-fishing, or deciding not to vote in protest of the available candidates, objection to fundamental norms usually involves a chain of contestatory practices that refer to distinct flanking measures including organising principles (type 2 norms) and standards/regulations (type 3 norms). All can be brought to the fore by distinguishing the normative dimensions and practices of norm validation that are attached to them. Before I turn to these in the next paragraph, the group of type 2 norms shall be briefly introduced as well. According to the typology, organizing principles, such as Common But Differentiated Responsibility (CBDR) in climate governance,<sup>34</sup> evolve through policy or political

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<sup>32</sup> Ibid., 66.

<sup>33</sup> Yasemin N. Soysal, *The Limits of Citizenship: Migrants and Postnational Membership in France* (Chicago: University of Chicago Press, 1994); Margaret R. Somers, "Narrating and Naturalizing Anglo American Citizenship Theory: The Place of Political Culture and the Public Sphere," *Sociological Theory* 13 (November 1995): 229–74; Michael Hanagan, "Introduction: Changing Citizenship, Changing States," in *Extending Citizenship, Reconfiguring States*, ed. Michael Hanagan and Charles Tilly (Lanham, Md: Rowman & Littlefield, 1999), 1–16.

<sup>34</sup> Jutta Brunnée and J. Toope "The Responsibility to Protect and the Use of Force: Building Legality?" *Global Responsibility to Protect 2* (2010): 191–212.

practices. They are placed on the meso-level linking the universal quality of fundamental norms, on the one hand, with the particular quality of standards and regulations, on the other.

*Practices of Norm Validation in the Cycle of Contestation*

By distinguishing practices of norm validation, it is possible to undertake an empirically separate reconstruction of contestatory practices vis-à-vis norms. Three such practices have been identified by norms research in the social sciences: formal validation, social recognition, and cultural validation. Formal validation entails validity claims with regard to formal documents, treaties, conventions, or agreements. In the context of international relations, formal validation is expected in negotiations involving committee members of international organizations, negotiating groups, ad-hoc committees, or similar bodies involving high-level representatives of states and/or governments. Social recognition entails validity claims that are constituted through interaction within a social environment. The higher the level of integration among the group, the more likely becomes uncontested social recognition of norms. Different from formal validation, where validity claims are explicitly negotiated, social recognition reflects mediated access to validity claims qua prior social interaction within a group. Cultural validation is an expression of individual expectation that is mediated by individually held background experience. Each dimension has evaluative potential with regard to each of the three norm types. The key point, which I sought to highlight in the *Theory of Contestation*, is that access to these three dimensions is not equally shared among all stakeholders. This point is elaborated with reference to Figure 1, which depicts the cycle of contestation.

**Figure 1: Practices of Norm Validation on the Cycle of Contestation**

<b>Stages (Norm Implementation)</b>	<b>Constituting</b> Treaties, Agreements	<b>Referring</b> Stakeholder access?	<b>Implementing</b> Local practice
<b>Level (Governance)</b>			
<b>Macro /</b>		<b>Formal Validation</b>	

<b>Meso</b>	<b>Social Recognition</b>		
<b>Micro</b>		<b>Cultural Validation</b>	

Source: Adapted from Wiener, *Theory of Contestation*, 21, Figure 2.1.

Focusing on practice enables a bottom-up perspective that establishes a link between everyday practices of norm validation, on the one hand, and fundamental norms, on the other. Thus, it becomes possible to take account of diverse stakeholder experiences. That is, it becomes possible to first identify "ordinary virtues" held by individual stakeholders, and then to address the existing potential for shared recognition of fundamental norms and the establishment of additional "means" (i.e., access to contestation for stakeholders) in order to generate recognition. As the cycle demonstrates, the position of the claims maker vis-à-vis the norm determines access.

The arrow on the cycle in the figure indicates that the three practices of norm validation (formal validation, social recognition, and cultural validation) are flexible, not static. It also is meant to indicate that in principle all three practices of validation can overlap, although this is not usually the case in international relations. While all agents have independent background experiences that inform the practice of cultural validation, only those agents with a trajectory of iterated interaction have access to shared social recognition; similarly access to formal validation is available only to agents with an authoritative role. It follows that while, in principle, a single agent could have access to all three practices of norm validation, in reality access is differentiated among stakeholders. Subsequently, contestation rises as access to practices of norm validation decrease.

For example, at the treaty-making stage, where government representatives of different national provenance come together, an individual will be able to evoke negotiating power, gain access to formal validation and the cultural validation of sustainable fisheries, and, depending on the negotiating group's frequency of gatherings, relate to and shape social recognition as well. By contrast, at the implementing stage at the micro-level of global governance, individual fishers will be able to accept or oppose sustainable fisheries based on social recognition and to follow or oppose the fishing quota. There is no room left for evoking powers of negotiating. The cycle of contestation demonstrates the potential positions of actors in fields of global governance. By shedding light on the position of stakeholders, the *Theory of Contestation* may be considered as a vehicle for shifting the perspective in norms research from the motivation and success of the implementation of norms (one commonly taken by social constructivists) to a perspective on stakeholders and their access to norm ownership. The question shifts from "why comply with norms" to "who has access to negotiation?"

Social constructivists' main interest in norms research has been norm implementation

and norm following. Accordingly, their research has focused on behavioral change, and on causes and indicators of it. The effectiveness of the process, according to the three logics of consequentialism, appropriateness, and arguing depends on the positive practices of internalization, arguing, and bargaining, or, if those fail, on the negative practices of blaming and shaming actors into compliance. In the EU enlargement case, conditionality worked as a major enhancer to speed up the enlargement process. By contrast, raising a question about access implies going beyond the logic of "competent practices"<sup>35</sup> and engaging with the principle of contestedness.<sup>36</sup> As an organizing principle of global governance, "contestedness" reflects the likelihood of contested validity in light of ongoing diversity in global society. Hence, I intend it to be used to broaden the research perspective in the area of norms research in international relations to include a focus on the power to make validity claims.

Studying access to contestation certainly means focusing on degrees of empowerment. As the recognition literature has convincingly argued, accommodating cultural diversity while maintaining the universal validity of fundamental norms presents a dilemma.<sup>37</sup> As long as diversity prevails in global society, in principle, all norms are contested at all times, unless iterated interaction has generated a sound basis for social recognition and therefore a disposition for norm following. As seen in the cycle of contestation, access to contestation is differentiated by contingency. The broader the access to validating dimensions of a norm, the higher the potential for norm ownership by any individual stakeholder. This is a conceptual advance that has been developed subsequent to the publication of the *A Theory of Contestation*. Hence, I will elaborate on it in my "reply to critics" article at the end of this symposium.

## Outlook

Normative meaning is in crisis when instances of contested compliance become frequent, thereby defying international agreements about fundamental norms. Such contestations indicate a declining disposition to compromise about appropriate measures to maintain sustainable normativity among stakeholders. This raises deeper questions about fundamental liberal norms: How robust are they? Are current treaty regimes and regulatory bodies suitable to ensure implementation? How is IR theory to counter the declining trend and re-establish

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<sup>35</sup> Emanuel Adler and Vincent Pouliot, eds., *International Practices* (Cambridge, U.K.: Cambridge University Press, 2012).

<sup>36</sup> Antje Wiener, *Demokratischer Konstitutionalismus jenseits des Staates? Perspektiven auf die Umstrittenheit von Normen* (Frankfurt am Main: Suhrkamp, 2007).

<sup>37</sup> Glen Sean Coulthard, "Culture, Consent, and the State in the Struggles of Indigenous Peoples for Recognition and Self-Determination: Social Constructivism and the Politics of Critique" a paper prepared for presentation at the Consortium on Democratic Constitutionalism (DEMCON) Conference on "Consent as the Foundation for Political Community," University of Victoria, BC, October 1-3, 2004; James Tully, "Recognition and Dialogue: The Emergence of a New Field," *Critical Review of International Social and Political Philosophy* 7 (2004): 84–106.

sustainable normativity based in global society? Constitutional democracies bridge the gap between universal norms and daily practice with constitutional frames to regulate participation and norm implementation. This bridge is however unavailable in international relations, where sustainable normativity depends on international organizations, treaty regimes, and political advocacy. In light of enhanced cultural diversity through uneven globalization, this gap is likely to grow. This development requires more detailed attention by international relations theorists. *A Theory of Contestation* may be considered a first step toward a research program that addresses the challenge of accommodating diversity while maintaining fundamental norms with reference to practices of norm validation.

Such a program would further develop norms research in order to stress the link between the "is" and the "ought" of norms. Three objectives need to be addressed: first, to identify sites where norms are contested, by mapping the visible effect of normative meaning in crisis; second, to elaborate on a sound methodological approach to assess stakeholder access to contestation, by deriving normative conditions for access to contestation from norms research in international relations theory and recognition theory; and third, to illustrate the interplay between practices of norm validation in selected societal scenarios (these may include domestic, regional and/or global settings) which share the condition of cultural diverse stakeholders, yet differ according to their access to participation in the negotiation of contested fundamental norms.

Two years after the book's publication, I am cautiously optimistic that this is a viable option for future norms research. *A Theory of Contestation* has not gone entirely unnoticed. As the contributions to this symposium highlight that the book's proposal to work with a bifocal approach works well insofar as it speaks to both the more practice-oriented and the more normatively oriented IR theorists. And to current students of international relations the debate about contestatory practices and their impact matters in particular.<sup>38</sup> In turn, the *Theory of Contestation's* normative dimension has been especially noted among political theorists and lawyers.<sup>39</sup> Future research will reveal whether the Theory of Contestation ultimately achieved

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<sup>38</sup> Christian Bueger and Frank Gadinger, "The Play of International Practice," *International Studies Quarterly* 59 (September 2015): 449–60; Jennifer Welsh, "Norm Contestation and the Responsibility to Protect," *Global Responsibility to Protect* 5 (2013): 365–96; Jonas Wolff and Lisbeth Zimmermann, "Between Banyans and Battle Scenes: Liberal Norms, Contestation, and the Limits of Critique," *Review of International Studies* 42 (July 2016): 513–34; Lisbeth Zimmermann and Nicole Deitelhoff, "A Phoenix Tale? The Dynamics of Norm Robustness," a paper presented at the workshop "In A Phoenix Tale? The Dynamics of Norm Robustness," Goethe University, Frankfurt/Main, December 4-6, 2015; Sasikumar S. Sundaram, *Deontic Scorekeepers and Norm Instituted Social Practices in International Relations: Bringing Practical Reasoning Back to Critical Constructivism* (Budapest: Central European University, 2016), Unpublished Manuscript, 1–35.

<sup>39</sup> See for example Rainer Forst, "Legitimacy, Democracy, and Justice: On the Reflexivity of Normative Orders," a paper presented at the workshop "Global Constitutionalism and Critical Theory," WZB Berlin Social Science Center, Berlin, December 11, 2015; Hauke Brunkhorst, "Democracy Under Siege: Global Constitutionalization as Structural Transformation of the Public Sphere: the European Case," a paper presented at the workshop "Global Constitutionalism and Critical Theory," WZB Berlin Social Science Center, Berlin, December 11, 2015; Jutta Brunnée, "International Law and the Practice of Legality:

the aim of highlighting the potential of the contestation concept for international relations theory. In any case, this symposium is a great place to begin to assess some of the points raised in *A Theory of Contestation* for international relations and beyond, and I am most thankful to have been given this opportunity both at the American Political Science Association in San Francisco 2015, and now within the context of this symposium.

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Stability and Change," a paper presented at the workshop "In A Phoenix Tale? The Dynamics of Norm Robustness," Goethe University, Frankfurt/Main, December 4-6, 2015; James Tully, Jeffrey L. Dunoff, Anthony F. Lang Jr., Mattias Kumm, and Antje Wiener, "Editorial: Introducing Global Integral Constitutionalism," *Global Constitutionalism* 5 (March 2016): 1–15.