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Antje Wiener

**Norm(ative) Change in International Relations:
A Conceptual Framework**

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Berlin Potsdam Research Group
International Law – Rise or Decline?

Habelschwerdter Allee 34a
14195 Berlin

info@kfg-intlaw.de
+49 (0)30 838-61521
www.kfg-intlaw.de

 Deutsche
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Norm(ative) Change in International Relations: A Conceptual Framework

Antje Wiener*

Abstract:

Current contestations of the liberal international order stand in notable contrast with the earlier rise of international law during the post-cold war period. As Krieger and Liese argue, this situation calls for assessment of the type of change that is currently observed, i.e. norm change (Wandel) or a more fundamental transformation of international law – a metamorphosis (Verwandlung)? To address this question, this paper details the bi-focal approach to norms in order to reflect and take account of the complex interrelation between fact-based and value-based conceptions of norms. The paper is organised in three sections. The first section presents three axioms underlying the conceptual framework to study norm(ative) change which are visualised by a triangular operation to analyse this change in relation with practices and norms. The second section recalls three key interests that have guided IR norms research after the return to norms in the late 1980s. They include, first, allocating change in and through practice, second, identifying behavioural change with reference to norm-following, and third, identifying norm(ative) change with reference to discursive practice. The third section presents the two analytical tools of the conceptual frame, namely, the norm-typology and the cycle-grid model. It also indicates how to apply these tools with reference to illustrative case scenarios. The conclusion recalls the key elements of the conceptual framework for research on norm(ative) change in international relations in light of the challenge of establishing sustainable normativity in the global order.

* Professor of Political Science especially Global Governance, University of Hamburg.

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Introduction¹

Current contestations of the liberal international order stand in notable contrast with the earlier rise of international law during the post-cold war period. As Heike Krieger and Georg Nolte write in the first working paper of this series:

“We are (...) interested in reassessing the state and development of international law in our time. This involves asking whether there is reason to question certain widely-held assumptions about its general development, be they *generally held (factual) expectations* and *(normative) aspirations*.” (Krieger and Nolte 2016: 5; emphasis added)

Against the backdrop, Heike Krieger and Andrea Liese raise the general question:

“Can we detect a metamorphosis while being part of it? Law is constantly evolving between its task to guarantee, protect and thus preserve certain values and the need to develop, and adapt to new exigencies.” (Krieger and Liese 2019: 5)

And they invite scholars from International Law and International Relations “to assess whether we are currently observing yet another period of norm change (*Wandel*) or even a more fundamental transformation of international law – a metamorphosis (*Verwandlung*).” (Ibid.: 5) As a general yardstick for this task, they note that a “metamorphosis would require that more is changing than a single legal norm or a specific international institution.” (Ibid.: 5)

To address the theme of norm change, this paper details the bi-focal approach to norms. It reflects and takes account of the complex interrelation between *fact-based* and *value-based conceptions* of norms. The approach is developed from the perspective of International Relations (IR) theory that straddles the boundaries of law and politics. It is argued that, so far, IR scholarship has largely kept the interrelation between fact-based and value-based inquiries of norm-change apart (Erskine 2013; Havercroft 2018) in IR theory. This separation has left a research gap which presents the ongoing and topical challenge of addressing both the *normativity* of norms in addition to the – by now well-researched – *normalcy* of norms. As Jonathan Havercroft has shown, the predominant interest in the latter has generated a perception of “cryptonormativity” that derives the “goodness” of liberal norms from behaviour rather than from values (Havercroft 2018: 116; Ralph 2020).

To reverse this bracketing of a value-based perspective on norms, this paper sketches a conceptual framework that centres on practice-based norm(ative) change. Building on theories of contestation and interactive international law, it argues that a turn towards practices of contestation and validation enables us to assess degrees of “sustainable normativity” (Wiener 2018, Ch. 3) that reflects the state of legitimacy in the global order. Following the *quod omnes tangit* principle (what touches all must be approved by all) (Owen and Tully 2007), the framework centres on the questions “whose practices count?” (observation) and “whose practices ought to count?” (evaluation) (Wiener 2018: 1). To establish the state of sustainable normativity, empirical research begins from observing global norm contestations, to then follow them to local sites in order to evaluate affected stakeholders’ access to norm contestation and validation in light of the normative opportunity structures that set

¹ For helpful comments on the first draft of this paper I would like to thank Andrea Liese and Heike Krieger. For research assistance, I thank Deborah Kirchgässner and Paula Baurich.

the conditions for norm(ative) change locally. It then engages selected stakeholder groups' respective discursive interventions in a global multilogue to identify norm(ative) change.

The remainder of the chapter is organised in three sections. The *first* section presents three axioms underlying the conceptual framework to study norm(ative) change. They are visualised by a triangular operation to analyse norm(ative) change in relation with practices and norms (**Figure 1**, below). The *second* section recalls three key interests that have guided IR norms research after the return to norms in the late 1980s. They include, first, allocating change in and through practice, second, identifying behavioural change with reference to norm-following, and third, identifying norm(ative) change with reference to discursive practice. The *third* and final section of the paper presents the two analytical tools of the conceptual frame, namely, the norm-typology and the cycle-grid model. It also indicates how to apply these tools with reference to illustrative case scenarios. The conclusion recalls (the) key elements of the conceptual framework for research on norm(ative) change in international relations in light of the challenge of establishing sustainable normativity in the global order.

1. Three Axioms for Studying Norm(ative) Change

The KFG project is topical, for it sheds light on the general question of how to frame research on normative change and which methods to apply. *How do we as students of international law and international relations answer this question about normative change?* This paper approaches the question from the perspective of an IR scholar. It offers a conceptual framework to understand and explain norm-change and normative change (hereafter: norm(ative) change). In doing so, it engages an "international relations perspective [which, as the editors stress,] is well suited to examine if, how and why values embodied in international norms are changing." (Krieger and Liese 2019: 6) The key objective lies in offering a conceptual frame that takes into account the societal context (such as especially socio-cultural background knowledge) and the political rules of engagement (such as the normative opportunity structure) which constitute the environment in which norm(ative) change takes place through practice (Finnemore and Toope 2001, Adler 2019).

Three axioms form the conceptual frame. *First*, norms lie *in* the practice and therefore all practices are normative (Adler 2019). *Second*, given that what touches all must be approved by all (*quod omnes tangit*), analysing norm(ative) change must acknowledge both fact-based (whose practices count) and value-based (whose practices ought to count) drivers of norm(ative) change (Owen and Tully 2007). *Third*, following the theories of contestation (Wiener 2014, 2018) and, relatedly, interactive international law (Brunnee and Toope 2012), the leading normative claim holds that "only a contested norm can ever be? a good norm" (Wiener 2020, in press). Against this backdrop, this paper addresses value decline and norm transformation as interconnected phenomena that are part of a larger historical process of global norm(ative) change. In a nutshell, it proposes a bi-focal approach to norms that conceptualises the fact-based and value-based dimensions of norms as inter-related, and details a conceptual framework to study norm(ative) change.

The general argument begins from the observation that, despite the widely-shared constructivist understanding that norms and their meanings are context-dependent (Kratochwil 1984; Krook and True 2012; Wiener 2007), norms research has predominantly addressed the effect of norms on behavioural change and, especially, the behaviour of states (Katzenstein 1996, Finnemore and Sikkink 1998). Essentially, therefore, we know more about the practice of norm-following and strategies to enhance or enforce compliance than about norm-generation as a bottom-up process that centres

on relations between people, including individuals (Gholiagha 2016; Hofius et al. 2014). The former demonstrates whether a “powerful” or “robust” norm matters to state actors (Risse, Ropp and Sikkink 1999; Deitelhoff and Zimmermann 2019). The latter asks whose practices count and whose practices ought to count in order to achieve legitimacy of governance norms, thereby raising normative questions that move norms research beyond facts and towards values (Wiener 2014, 2018). By doing so, this approach ultimately seeks to establish whether a normative order is based on equal access to contestation for its constituent agents, identifying access to contestation as the condition for sustainable normativity based on ethical and legal terms (Brunnée and Toope 2011; Tully 2002; Wiener 2018).

With regard to the legitimacy and legality of the international legal order, a bi-focal approach that is able to capture both fact-based and value-based triggers of norm(ative) change is therefore key. Regarding effects on the international legal order, it is proposed to examine norm-generative practices of contestation in order to identify norm(ative) change and establish how it affects the modicum of “sustainable normativity, i.e. a widely-shared perception of legality or justice that corresponds with a given social environment” required for maintaining the legitimacy of the international legal order (Wiener 2018: 38, citing Kratochwil 1984; Owen and Tully 2007; Forst 2010; Brunnée and Toope 2011). To document the point, this paper turns to the practices that are – actually – carried out (i.e. ‘the doing’) vis-à-vis a norm that works in and/or emerges from a given context such as a socially constituted and politically regulated order. It is argued that by studying norm-generative practices rather than norm-following practices, it becomes possible to identify pathways to participation via ‘organising principles’ at the meso-scale of the global order.

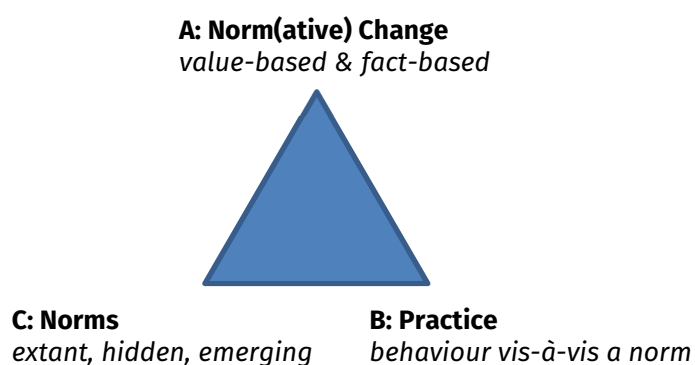
With a view to undertaking the empirical research steps that lead to sites of contestation and facilitate the data-base to carry out normative evaluation, it is important to note that, while interrelated, research on ‘norm’ change and research on ‘normative’ change have been largely addressed by distinct methodological and conceptual frames. To take account of norm(ative) change that includes both as interrelated, this chapter recalls the key features of the “bi-focal” approach which connects ethical principles with social practices (Havercroft 2018; Wiener 2014; Ralph 2020). It is argued that in order to establish the effect that norm contestations have on change of the global order, it is necessary to overcome the bifurcated perspective that either addresses norms “as social facts” or “as ethical values” (Havercroft 2018: 116ff). To that end, the chapter recalls the “bi-focal” – empirical and normative – approach which “postulates that both the legitimation of norms and the generation of norms come about not via compliance, but via contestation.” (Havercroft 2018: 122, citing Wiener 2014) According to this approach which draws on James Tully’s public philosophy, conflict is a form of justice (Tully 2008 a, b, 2002, 2004).

Against this backdrop and following the theory of contestation, the focus lies on the distinct practices of “reactive and proactive contestation”. This practice-based framework to study norm(ative) change aims to map scenarios of stakeholder engagement at local sites. It therefore assesses the legitimacy of the international order through case-based research of norm(ative) change that also facilitates perspectival claims on long-term conditions that are indicated by degrees of sustainable normativity. Conceptually speaking, this framework zooms in on the conditions that facilitate access to practices of contestation as the drivers of norm(ative) change. To establish the conditions of affected stakeholders’ access to these practices, the conceptual framework allows for zooming in on local contestations that are conditioned by local “normative opportunity structures” on the one hand, and then zooming out onto the global stage to explore potential pathways for staging global

multilogues including a majority of affected stakeholders to explore “themes of tension” and “global issues” that are reflected by the global “normative structure of meaning-in-use”, on the other (Wiener 2018, Ch. 8). Norm(ative) change in a global context is thus assessed with reference to two analytically distinct – local and global – normative structures, norm(ative).

The framework centres on two methodological tools. The *first* is the norm typology that makes norm research viable for interdisciplinary research by distinguishing types of norms according to their moral reach and the expected degree of contestedness. The *second* is the cycle-grid model which facilitates a three-by-three table and the overlaying cycle that enable allocating the respective practices of contestation and types of validation (Wiener 2008, 66; 2018, Figure 2.1 and Table 3.1 respectively, Wiener 2020, in press). The argument is developed against the background of the *three main axioms* of norms research which hold that first, norms have a dual quality (they are socially constructed and structuring), second, norms lie in the practice, and third, normative meaning is always contested (Wiener 2004, 2007; Puetter and Wiener 2009; Krook and True 2012; Winston 2017). Following the interconnected concepts of ‘norm(ative) change’, ‘norms’ and ‘practice’, respectively, the triangle situates early constructivist research on behaviour vis-à-vis norms (point B) with research on norm-change based on discursive practices (point C) on the one hand and practice-based concepts of norm(ative) change (point A) on the other hand.

Figure 1: Triangle



The triangle highlights the challenge that arises for research seeking to analyse ‘norm(ative)’ change that takes account of both norms as social facts and norms as ethical values (compare point A at the top of the triangle). To that end, it presents norms and practices as necessarily related on the base line (compare points B and C of the triangle). Thus, it becomes possible to address change which is indicated with reference to a *norm* itself (does a formerly hidden norm emerge, does an extant norm change, is a new norm constituted?) as well as change that is revealed with reference to the underlying *normative value* of a norm (degrees of legality, legitimacy or acceptance). While the concepts at points B (practice) and C (norms) of the triangle represent the core elements that have been addressed by constructivist norms research over the past two decades or so, the norm(ative) practice concept at point A highlights the persistent and ongoing challenge of tackling values in relation with norms which norms researchers have often commented upon (compare Finnemore and Sikkink 1998: 891; Katzenstein 1996: 5), yet barely managed to master (Frost 1996; Havercroft 2018). Following the practice-based perspective on norm(ative) change at point A of the triangle, the following section recalls the main constructivist arguments with regard to points B and C of the triangle.

2. Indicators of ‘Change’: Extant Constructivist Norms Research

With the research object of analysing ‘norm(ative)’ change in international relations in view, this section first identifies leading research questions that have been identified by the well-known constructivist literature on norms in international relations by scholars working at the interface of IR theory and International Law (IL). Secondly, it turns to the argument about ‘degrees of sustainable normativity’ in global society and how to identify them with the help of a conceptual framework and specific research tools. Throughout, this paper uses the term ‘norm(ative)’ rather than ‘norm’ or ‘normative’ because neither change takes place in isolation. Norm-change is identified with reference to the local normative opportunity structure, in turn normative change is identified with reference to the global normative structure of meaning-in-use (Milliken 1999; Wiener 2009). Through the method of zooming in on local sites of contestation and then zooming out towards staging global multilogues, norm(ative) change, norms, and practices are analytically connected (compare **Figure 1** below). It follows that change is indicated with reference to both a specific norm and the underlying normative value of a norm. Both are revealed through practice vis-à-vis the norm, where the practice is brought to the fore by “norm-violations” (Wunderlich 2019) and or “contested compliance” (Wiener 2004) with an extant norm.

a) Allocating Change Within and Through Practice

Constructivist norm research has predominantly been interested in addressing the “dynamics” of “change” in relation to norms (Finnemore and Sikkink 1998; Deitelhoff and Zimmermann 2018; Stimmer and Wisken 2019). Notably, when probed for the indicator for ‘change’, most researchers would not focus on substantial change of a given norm but instead analyse changing patterns of – state – agents’ *behaviour* with regard to that norm. That is, when “norms returned” to IR with the critical regimes literature (Kratochwil and Ruggie 1986) in the late 1980s (Finnemore and Sikkink 1998: 890), constructivist scholarship considered changing state behaviour as a key indicator to demonstrate the important impact of norms. As “social facts”, norms were considered as a key indicator of behaviour next to material facts (Katzenstein 1996; Finnemore and Sikkink 1998; Ruggie 1998). At the time and throughout much of the following decade, change was therefore identified with reference to behaviour, and norms, by contrast, were considered as stable structures that had a powerful effect: they were perceived as structuring state behaviour which, in turn, had a stabilising effect on the power (or legitimacy) of international law and order.

This allocation of the indicator for change has paved the development of norms research for two decades or so, and it matters for today’s questions with regard to norm(ative) change. Today, as the editors emphasise, studying norm-change and normative change is no longer a mere matter of studying behaviour, nor should it be. While studying norm-change based on the concept of norms as social facts has by now been well-researched (Sandholtz 1998, 2019; Fligstein and Sandholtz 2008), value-based normative change remains widely under-researched. The current challenge therefore lies in the task of addressing norm(ative) change along the two substantively and qualitatively different dimensions of change, namely, studying norms as both social facts *and* as ethical values (Havercroft 2018). Accordingly, the leading questions are twofold. *First*, with regard to norm-change, researchers ask whether a formerly hidden norm emerges, an extant norm changes, or a new norm is constituted. For example, with regard to the prohibition of sexualised violence during wartime as a codified fundamental norm of international law (= extant *type 1* norm), the ‘culture of impunity’ was a formerly hidden norm that emerged through contestations (= emergent formerly hidden *type*

2 norm), and the acceptance of ‘women’s meaningful participation’ emerged through behavioural practice (= new type 3 norm) (True and Wiener 2019, Table 1, p. 558; Wiener 2018: 181, Table 7.1).

Second, in order to identify change with regard to underlying normative values, researchers raise questions about changing degrees of legality, legitimacy or acceptance of a norm (Brunnée and Toope 2012). This involves, for example, whether normative opportunity structures are strengthened through the growing acceptance of “norm bundles”, such as the Women, Peace and Security strategy (True and Wiener 2019: 553). The conceptual framework that is presented by this chapter addresses these dimensions and links them based on a “bi-focal” approach to research on norm(ative) change (Havercroft 2018: 116). The remainder of this section addresses the two dimensions, whereas the following section then turns to the conceptual framework (i.e. the bifocal approach) and its two central tools (i.e. the norm-typology and the cycle-grid model) that are offered as a vantage point to study degrees of sustainable normativity.

b) Behavioural Change: Norm-Following

With the “return to norms” in IR theory in the 1990s (Finnemore and Sikkink 1998: 889)², social constructivists forged a new research programme which centred on ‘norm-following’. As Finnemore and Sikkink emphasise when explaining emergence, cascade, and internalisation as the three stages of the norm “life-cycle”,

“we argue that the primary mechanism for promoting norm cascades is *an active process of international socialization intended to induce norm breakers to become norm followers.*”
(Finnemore and Sikkink 1998: 902; emphasis added)

Constructivists were well aware of the normative environment that set the conditions for compliance with good norms, such as women’s rights, the abolition of slavery, or human rights. That is, “new norms never enter a normative vacuum but instead emerge in a highly contested normative space where they must compete with other norms and perceptions of interest” (Finnemore and Sikkink 1998: 897).³

At the time, the focus on compliant behaviour did reveal large patterns of change in so far as it triggered a paradigmatic shift in how to think about the importance of ‘the social’ as the fabric that did in fact matter for the constitution of international orders, borders, and identities and, equally, the question whether or not the norms of this order were implemented. This was acknowledged by international lawyers and IR theorists alike (compare Finnemore and Toope 2001). Furthermore, social constructivist norms research has identified significant behavioural change with reference to norms that was expressed as “international norm dynamics and political change”. This research

² As Finnemore and Sikkink argued: “The ‘turn’ away from norms and normative concerns began with the behavioral revolution and its enthusiasm for measurement” (Finnemore and Sikkink 1998: 889).

³ “In the case of women’s suffrage and later women’s rights, norm entrepreneurs encountered alternative norms about women’s interests and the appropriate role for women. In other words, new norms never enter a normative vacuum but instead emerge in a highly contested normative space where they must compete with other norms and perceptions of interest. This normative contestation has important implications for our understandings of the ways in which a “logic of appropriateness” relates to norms” (Finnemore and Sikkink 1998: 897).

followed a core research interest “in the role norms play in political change” (Finnemore and Sikkink 1998: 888). For example, David Jacobson observed changing behavioural patterns with regard to the reference to and compliance with the fundamental norm of human rights, when a rising number of individual and nonstate based claims were accounted for with a range of international institutions. These human rights cases indicated a large change in the political landscape: “In the Euro-Atlantic core of the world order (...), the basis of legitimacy is shifting from principles of sovereignty and national self-determination to international human rights” (Jacobson 1996: 2). The fact that these human rights claims were brought by “individuals and nonstate entities” demonstrated that, in addition to states, these agents “are increasingly able to partake in shaping the international legal order through the forum of the state and are becoming international, indeed, transnational actors in their own right” (Jacobson 1996: 3). According to Jacobson, this behaviour demonstrated a “*paradigmatic shift* from state sovereignty to international human rights” in the 1970s, when “human rights become both the vehicle and the object of this revolution” (Ibid.; emphasis added). According to social constructivism, in international relations, such changes in the behaviour of states demonstrated the up to then underestimated impact of “social facts” as opposed to material facts (Ruggie 1998).

To summarise, what constructivist norms research does very well is to explain norm compliance with reference to behaviour. Behavioural change was explained with reference to organisation sociology and there, especially March and Olson’s rediscovery of institutions and their impact on habit, appropriateness, and social recognition that were observed in given social communities (March and Olson 1989). In this regard, social recognition documents the appropriateness of a norm in a given normative environment. However, to demonstrate that a norm is followed merely documents behaviour vis-à-vis a norm. It does not reveal anything about the substantive quality of a norm. As Toni Erskine notes, “somebody needs to defend evaluative criteria (however grounded) for moral judgment if there is any hope of the happy marriage between the ethical and the empirical in IR.” (Erskine 2012: 458-9; in critical appreciation of Price 2008).

c) Norm-Change: Discursive Contestation

As long as research brackets norm-generative practices, this substantive quality of normative change therefore remains unknown. To bring this normative quality to that end, it must be de-bracketed. Research on contestation has begun to address the task of analytical de-bracketing with varying degrees of success. Effectively, constructivist research that sought to unpack practices of dissent proposed various types of contestation that distinguished discursive from behavioural contestation. For example, Stimmer and Wisken “differentiate between contestation by means of discourse, which we call ‘discursive contestation’, and contestation by means of actions that affect implementation, which we call ‘behavioural contestation’” (Stimmer and Wisken 2019: 516). While both types of contestation define behaviour vis-à-vis a given norm, it is important to note the latent long-term effect that lies buried by the concept of behavioural contestation. In other words, as long as it remains unspecified by discursive contestation, behavioural contestation is likely to generate a lasting unknown threat of a future normative back-lash: as long as the underlying normative values that motivate behavioural contestation remain analytically bracketed, important information with regard to identifying policy options to counter norm-breaching, such as pathways to participation (see e.g. the WPS ‘norm bundle’, True and Wiener 2019) remains unaccounted for. The following picks up from these distinct practices of norm validation to address the task of de-bracketing norm(ative) change.

In retrospective, it is notable that, rather than focusing on practices of contestation and their effect on normative change, social constructivist empirical research prioritised studying compliance with norms as indicated by norm-following and while finding the norm-generative effects of contestation observed by lawyers “instructive” (Finnemore and Sikkink 1998: 915) largely left research on contestation and therewith details of the variety of norm-generative practices to international lawyers. This separation between norm-following and norm-generative behaviour meant that norm-generation was predominantly studied as a formal rather than a socio-cultural process. They criticise social constructivists for being unable to study norm-generative effects, as “they struggle to explain the emergence and constitution of norms themselves” (Bueger and Gadinger 2015: 3). This has become a main point of critique of the “practice turners” (Hofius 2019, in press) who suggest studying the shared knowledge about interconnected elements of the larger practice instead (Bueger and Gadinger 2015: 4, citing Reckwitz 2002: 250).

The practice-based and relational concept of norm(ative) change that is visualised by the triangle (see **Figure 1** above) seeks to re-incorporate cultural knowledge. In addition to the international law literature on norm-generative practice as constitutive for the legal validity of a norm, this reference to everyday experience, cultural capability, and background knowledge (Wenger 1998) accounts for norm-generative practices that are constitutive for cultural validity of a norm. Together, social recognition, formal validation, and cultural validation represent practice-based accounts to answer the question of ‘whose practices count’ in the larger constitutive process of normative order. To recall this norm-generative process, it is important to study discursive practices rather than behavioural practices. For non-discursive behaviour, such as social recognition or behavioural contestation, merely reflect the workings of a norm that is perceived as a *social fact*. It cannot reveal information about the meanings an agent associates with a norm, i.e. the workings of a norm as an ethical value. It follows that, to devise the ethical value of a norm from its observed power as a social fact would imply working with the principle of “cryptonormativism”. As Jonathan Havercroft observed, the “focus on demonstrating that norms exist and shape the behaviors of states necessarily brackets the international ethics question of whether or not a norm is ‘good’ or ‘bad,’ ‘just’ or ‘unjust.’” And, as a consequence of this methodological bracketing of the ‘normative’ dimension of norms, “a kind of cryptonormativism has crept into constructivist research”. That is, “constructivist scholars often assume or imply that a given norm (such as norms prohibiting weapons use, norms against torture, or norms promoting human rights) is good without fully elaborating the reasons for it” (Havercroft 2018: 117).

To address the editors’ question about the type of norm(ative) change the crisis of international law implies requires studying practices of discursive contestation that disclose why and how norms are objected, by whom, and under which wider normative conditions. The only way of tapping into the meanings that a plurality of affected stakeholders ascribes to a norm’s meanings therefore lies in the empirical analysis of discursive contestation. While this has been done quite comprehensively by constructivist norms research over the past two decades, most research has centred on discursive contestation as practiced within given formalised settings (compare especially the literature following Habermas 1995 and Teubner, e.g. Deitelhoff and Zimmermann 2019). Yet, these formalised settings are exclusively accessible to a selection of privileged agents, such as state representatives, bureaucrats, and/or diplomats. This implies that the empirically collected ‘repertoire’ generated through the collection of discursive contestations leaves the majority of affected stakeholders to one side. Rather than taking account of the *quod omnes tangit* principle as a condition of sustainable normativity, these contestatory practices remain exclusive.

Focusing on elite-based discursive contestation is therefore more likely to work inside political communities with formal membership with a functioning liberal representational scheme that relies on a strict separation of internal and external norms (and obligations) (Jahn 2018), and which therefore is more capable of keeping latent behavioural contestation in check. In a globalised setting with plural forms of political representation that reflect complex economic, social, and cultural inter-relations, the meanings that are associated with norms even though they may be shared in principle become more diverse. Consider, for example, the general acceptance of fundamental norms (*type 1*), such as human rights, democracy, and the rule of law which are characterised by an expectation of a low degree of (proactive) contestation, but which will become more contested when it comes to detailed implementation with regard to the specific organising principles (*type 2 norms*) and standardised procedures (*type 3 norms*) that are required for their implementation (compare **Table 1**, below). To understand norm(ative) change and to build on that insight in order to establish and maintain sustainable normativity in global society, therefore requires a conceptual frame that facilitates tapping into the discursive contestatory practices of the plurality of global agents. The following turns to the details of this conceptual frame.

3. Norm(ative) Change and Sustainable Normativity

This section details the conceptual framework to study norm(ative) change. It is known as the ‘bi-focal’ approach because it links the two pillars of norms studies, i.e. norms as social facts and norms as ethical values. In the following, this section details the elements and concepts of this framework and illustrates their application as it evolves. The framework centres on the norm-typology and the cycle-grid model. Both facilitate an interdisciplinary perspective on norm(ative) change that frames norms research as an activity that “follows the conflict” (Marcus 1995: 110) in order to establish the basis for sustained normativity. The research framework is structured by three ethical principles, each of which initiates distinct research activities.

First, the principle of *contestedness* (*P1*) reflects diversity and distinct individual background experience which imply that a norm’s meanings are always contested when addressed by those affected by it. Therefore, norm contestation is central to establishing mutually shared recognition at local sites where global norms stand to be implemented. The principle of contestedness indicates the first research activity of identifying contestations through sensitising reading and zooming in on local sites of conflict.

Second, the principle of *quod omnes tangit* (*P2*) implies the ground rule of *what touches all must be approved by all*. Therefore, it matters to establish whose practices count in local norm contestations, and relatedly, raise the question of whose practices ought to count in order to improve access to contestation as a condition for sustainable normativity. The QOT principle leads to the second research activity of mapping local sites of norm contestation.

And third, the principle of *sustainable normativity* (*P3*) represents a situation where local access to practices of norm contestation and types of norm validation are balanced. It serves as an indicator for assessing the probability of conflict as a consequence of a tip of the balance, when affected stakeholders’ access to proactive contestation is threatened. The principle of sustainable normativity enables the third and fourth research activities of identifying norm-change and evaluating normative change, respectively.

The conceptual framework details four research steps: *first*, sensitising reading identifies and defines a contested norm according to the norm-typology; *second*, zooming in on the site of contestation with reference to the cycle-grid; *third*, identifying conditions of access to contestation for affected stakeholders; and *fourth*, evaluating norm change with reference to the local normative opportunity structure, as well as normative change with reference to the global normative structure of meaning-in-use (Wiener 2018, esp. Ch. 8). The following summarises this conceptual framework and illustrates its application with reference to the two methodological tools – norm-typology and cycle-grid model – and points of illustration through case scenarios.⁴

a) Norm Typology

The bi-focal approach seeks to tackle the challenge of de-bracketing norm-generative practices. Taking account of the constructivist axiom that “while stable at times, in principle, the meaning of norms is always contested” (Wiener 2004, 2007; Krook and True 2012; Winston 2017). The primary research step consists in sensitising reading where the principle of “contestedness” is conceived as a “sensitising concept” (Blumer 1954: 7; cited in Bowen 2006: 2). Subsequent research “follows the conflict” (Marcus 1995) about norms to the sites of contestation, establishes the conditions of participation in the conflict for all affected stakeholders, and evaluates norm(ative) change. While contestation lies in the nature of socially constituted entities like norms, the efforts to capture the work of norms have often fallen hostage to the conundrum of Multidisciplinarity.⁵ To avoid interdisciplinary misunderstandings⁶ and enable more focussed efforts to study shared research issues based on a terminology that allows for more rigorous transdisciplinary research collaboration⁷, the norm-typology helps clarifying the terminology, especially with regard to the definition of types of *norms* as well as the types of *practices* that are brought to bear in relation to them.

Underlying are three assumptions that are devised from qualitative methodologies in the social sciences: *first*, the relation between practice and norms is a necessary condition in order to understand norm(ative) change as indicated by the triangle (compare **Figure 1**); *second*, norms come in different types that can be generally distinguished with reference to these indicators: on the one hand, the degree of objection to a norm (observable as practices of contestation) and on the other hand, the moral or ethical reach of a norm (devised from ethical theories). Together, the respective degree of contestation and moral reach of a norm represent the analytical relation between norms as social facts and as ethical values (Havercroft 2018). This relational display underlies the distinction

⁴ The framework is developed and illustrated in considerably more detail in its book-length version which details three illustrative case scenarios based on the norms of fundamental rights, the prohibition of torture and the prohibition of sexualised violence against women and girls during wartime (see Wiener 2018; and for a summary of the framework and research results, see Table 8.1, p. 222).

⁵ For a philosophical and more general take on disciplinary distinctions including the social sciences and life sciences, note these three definitions: “*Multidisciplinarity* draws on knowledge from different disciplines but stays within the boundaries of those fields. *Interdisciplinarity* analyses, synthesizes and harmonizes links between disciplines into a coordinated and coherent whole. *Transdisciplinarity* integrates the natural, social and health sciences in a humanities context, and in doing so transcends each of their traditional boundaries” (citing Choi and Pak 2006: 359; in Alvargonzalez 2011: 388).

⁶ The following definition of interdisciplinary applies here: “interdisciplinarity refers to an activity that exists among existing disciplines or in a reciprocal relationship between them.” Notably, “interdisciplinarity would not negate the independence of each discipline” (Alvargonzalez 2011: 388).

⁷ The following definition of transdisciplinarity applies: transdisciplinarity “concerns transcending the disciplines, going across and through the different disciplines, and beyond each individual discipline” (Alvargonzalez 2011: 388).

of three norm types. Against this background, the typology provides a methodological reference for research that seeks to establish two things: first, *why* a given norm is considered as more or less prone to contestation, and second, *where* at the distinct scales of order the norm is ‘at work’ (Wiener 2018: 62).

Table 1 (see below) illustrates the distinct norm types with reference to global climate governance, where fundamental norms (type 1) include protecting human kind (UNCLOS) and climate justice; organising principles (type 2) include the principle of Common but Differentiated Responsibility (UNFCCC); and the standards (type 3) of CO2 emission goals and limits of temperature increase, for example. Each norm type entails a distinct degree of moral reach and institutional detail, respectively, which implies that distinct inputs of contestation need to be accounted for. For example, the need for proactive contestation is especially high with fundamental norms (type 1) which are defined based on *values* leave details of norm implementation to be negotiated amongst stakeholders, on the top of the range, and reactive contestation where standards (type 3) represent institutional or legal facts, that may stakeholders may object to, rather than critically engage with, on the other. The most important and politically relevant norms are organising principles (type 2) which represent a hybrid quality, insofar as they are derived from values, while leaving a relatively broad and flexible margin for negotiation with reference to procedures and institutions. It is here, at the meso-scale of any order (local, regional, national, global), where the two fact- and value-based dimensions of norms are present. It is here, where issue-related value-based policy strategies are generated through practice.

Table 1: Norm Typology

Climate Governance

- | | |
|---|---|
| <ul style="list-style-type: none"> • Type 1 – Macro: Fundamental principles • <i>Example: Climate justice, Protection of Humankind (UNCLOS)</i> | <ul style="list-style-type: none"> • Moral reach (high) • Contestation: • Reactive (low) • Proactive (high) |
| <ul style="list-style-type: none"> • Type 2 – Meso: Organising principles • <i>Examples: Common But Differentiated Responsibility (CBDR); Deep Decarbonisation</i> | <ul style="list-style-type: none"> • Moral reach (moderate) • Contestation: • Reactive (moderate) • Proactive (medium-high) |
| <ul style="list-style-type: none"> • Type 3 – Micro: Standards • <i>Example: CO2 emission standards, temperature increase between 1.5 and 2%</i> | <ul style="list-style-type: none"> • Moral reach (low) • Contestation: • Reactive (high) • Proactive (low) |

Together with the cycle-grid model (compare **Figure 2**) which will be presented below, this typology allows for assessing and addressing the sustainable normativity in global society. The norm-typology includes three types of norms: fundamental norms (*type 1*), organising principles (*type 2*), and standardised procedures and rules (*type 3*). As the following will detail, most theories have an established terminology of referring to *type 1* and *type 3* norms, even when not using these typological distinctions. What most theories lack is the concept of *type 2* norms, yet, as I have argued elsewhere, it is usually the *type 2* norm which indicates room for compromise and space for progress with regard to building novel pathways for international policy strategies. It is argued that *type 2*

norms represent a central role in the norm-generative process. This is due to the balance between reactive and proactive contestation at the meso-scale of political order. The following first details the typology and then offers illustrative examples before the norm-generative effect of the distinct practices of discursive contestation will be addressed in the concluding section on sustainable normativity.

Fundamental norms entail the broadest possible moral or ethical reach and the lowest degree of contestation as *type 1* norms. These norms include human rights, democracy, sovereignty, the rule of law, torture prohibition, sustainable fishery, the right to fish, and so on. They are located at the macro-scale of global order. In the language of international law, *type 1* norms are also referred to as peremptory norms, *grundnorms*, or principles (compare De Wet, in this volume; Slaughter 2004; Alexy 2010). At the opposite end of the typology's spectrum, we find standardised procedures or regulations with a very limited moral or ethical reach, yet with a high probability of contestation. These are classified as *type 3* norms. Lawyers also refer to these norms as 'rules' (Alexy 2010). *Type 3* norms provide the details for implementing *type 1* norms. They are located at the micro-scale of global order and contested on local sites. Alexy summarises the relation concisely when noting that

“(R)ules are norms that require something definitively. They are definitive commands. (...) If a rule is valid and applicable, it is definitively required that exactly what it demands be done. If this is done, the rule is complied with; if this is not done, the rule is not complied with. By contrast, principles are norms requiring that something be realized to the greatest extent possible, given the factual and legal possibilities at hand. Thus, principles are optimization requirements” (Alexy 2010: 21; Alexy 2014: 512).

What has been addressed in less concise terms are ‘organising principles’ or *type 2* norms that are located at the meso-scale ‘in-between’ *type 1* fundamental norms and *type 3* standardised rules. These *type 2* norms play a central role for norm-generative purposes, for they emerge directly from practices through ‘doing’ politics or policy-making. Examples of these *type 2* norms range from the well-known principles of common but differentiated responsibility (CBDR), the responsibility to protect (R2P), and, relatedly, the less prominent principle of responsibility while protecting (RwP) or the ‘Solange’ principle of European Union politics (compare the proto-types listed in Table 1, below). They are hence shared by groups of policy-makers or politically engaging affected stakeholders. As such, this type of norm comes closest to being generated through discursive practices of contestation (as opposed to mere reiterated interactive behaviour). This norm-generative effect of discursive contestation at the meso-scale is significant with regard to assessing sustainable normativity. The effect remains to be established by the four research stages (i.e. sensitising reading, mapping contestation, evaluating access to contestation, identifying norm(ative) change). The following will elaborate on the details of this evaluation with reference to the three practices of norm validation (as the cycle-grid model demonstrates in more detail below).⁸

To summarise, the recourse to a norm ‘typology’ is carried with reference to interdisciplinary sources drawing on sociological methodology, on constructivist norms research as well as on public

⁸ The distinction between rules and principles requires establishing the weight of one principle over another when opposing principles are at play. To that end, Alexy proposes a focus on ‘balancing’. As he explains, “(R)ules aside, the legal possibilities are determined essentially by opposing principles. For this reason, principles, each taken alone, always comprise merely *prima facie* requirements. The determination of the appropriate degree of satisfaction of one principle relative to the requirements of other principles is brought about by means of balancing. Thus, *balancing is the specific form of application of principles*” (Alexy 2014, 512; emphasis added AW).

philosophy.⁹ It offers three main conceptual reference points for research that seeks to study norm(ative) change. *First*, it offers a conceptual framework that speaks to the state-of-the-art literature in both international relations theory and international law. This interdisciplinary context seeks to prevent cross-disciplinary misinterpretations and provide a background for forging more rigorous transdisciplinary research on norm(ative) change. *Second*, by linking types of norms through distinct practices of contestation (i.e. reactive and proactive) at the macro-, meso- and micro-scales of global order, it becomes possible to account for and evaluate the norm-generative effect of discursive practice with reference to norms as social facts and norms as ethical values. And *third*, the typology allows for assessing norm-change with regard to stages of norm-change indicated by the categories of emergent, extant, and/or hidden norms (Wiener 2018). When applying the typology to study norm(ative) change, case studies will undertake empirical research that identifies types of norms, practices of contestation, and norm-change with reference to selected situations of conflict where the principle of ‘contestedness’ is brought to the fore by contested encounters.

b) The Cycle-Grid Model

To evaluate the effect of the norm(ative) change that is generated through practices of contestation, the cycle-grid model represents a selection of nine ideal-typical local sites on the grid where types of norms, involved stakeholders, and local normative opportunity structures are accounted for through local mapping on site (compare **Figure 2**, below). The following details the application of the cycle-grid model.

⁹ The norm typology has been developed through interdisciplinary conversations over the past two decades. It was kicked off by recurring critical encounters in academia and beyond that centred on diverging interpretations of the citizenship norm: while some defined citizenship according to the standardised rules and regulations that followed from the status, others regarded it as a fundamental norm with a significant role in the process of state-building. By distinguishing the two norms according to their respective moral reach and expected degree of contestation where the former ranks as a *type 3* norm and the latter as a *type 1* norm, it became possible to consider the findings of the respective empirical research as complementary rather than competitive, and thus make sense of the ‘workings’ of these respective norm-types. The current chapter summarises the typology drawing on earlier publications of the typology (see Wiener 2008, 2014, 2018).

Figure 2: Cycle Grid Model

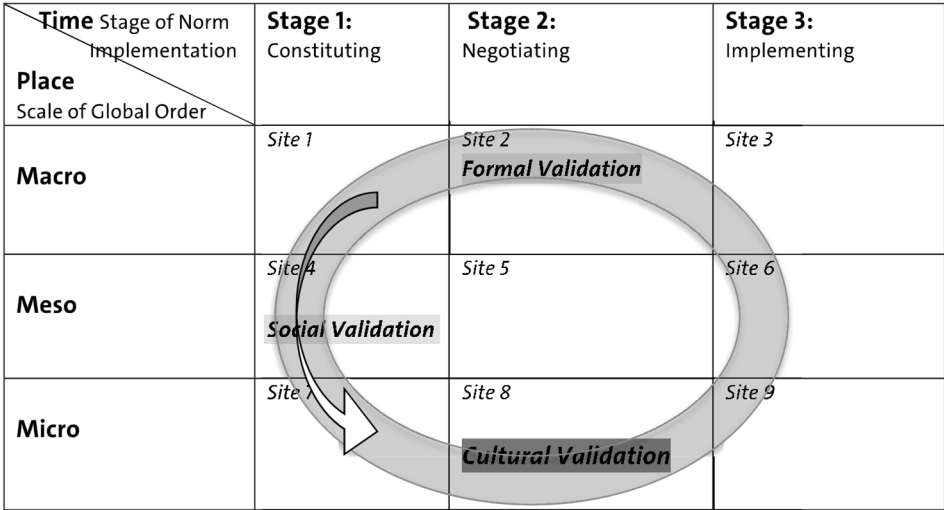


Figure 2.1 Cycle-Grid Model: Sites of Contestation and Practices of Validation
 Source: Adaption from Wiener 2014: 21, Figure 2.1; Wiener 2017b.

Source: Wiener 2018: 44

The grid offers a frame to present the interconnectedness of local contestations with global normative change.

“By establishing a connection between interaction on the ground and contested norms in the global normative structure of meaning-in-use through engagement, the practices of norm validation and contestation are brought to bear through mapping and evaluating the utterances of distinct affected stakeholders. This connection is generated by turning directly to the ‘field of interaction in which the conflict arises’” (Wiener 2018: 30).

Against this background, the next steps include identifying practices of contestation: are they merely reactive (i.e. revealing objection to a norm or its violation) or are they proactive (i.e. revealing proper access to critical engagement with normative substance)? As well as evaluating access to the three practices of norm validation (i.e. formal, social and cultural) that ought to be available to affected stakeholders in the best-case scenario in accordance with the *quod omnes tangit* principle. “To situate agency on the ground through these practices”, the model “differentiate(s) three practices of norm validation (formal, social, and cultural validation) and two types of contestation (reactive and pro-active)” (Wiener 2018: 30). In this regard, praxiography suggests the method of ‘zooming in on a distinct practice, a crisis situation, or an object’ (Bueger and Gadinger 2015: 9; Hofius 2016: 942). The method is helpful for examining practices of norm validation on site.

The model reflects the bi-focal approach with reference to the distinction of nine sites that allow for allocating and zooming in on local sites of contestation (on the grid) and, in addition, for evaluation of the conditions of access to contestation that constrain or enable affected stakeholders’ participation in norm-generative practice on these sites (on the cycle). The three practices of norm validation (formal, social, and cultural) demonstrate the range of options. In the best-case scenario, the most powerful stakeholders will have access to all three practices of norm validation and therefore achieve the highest degree of legitimacy, therewith sustaining the legality of a norm. By

contrast, in the expected everyday scenario, affected stakeholders will be expected to enjoy access to contestation that is constrained according to societal, political, geographic, or economic conditions on site. This bi-focal approach thus expands social constructivist research that centred on norm-following behaviour (as shown in **Section 1** above), insofar as it adds three practices of norm validation that have been developed from the “political approach’ to norm conflict that begins with a conflict instead of with a norm, and then turns to ‘struggles over recognition’ about a norm” (Wiener 2018: 38, citing Owen and Tully 2007: 267).

While earlier, constructivist research “stressed constitutive over evaluative norms and hence established an analytical preference for the normalcy of norms” (Katzenstein 1996), the resulting emphasis on constitutive practices leaves room to add a normative dimension that seeks to appreciate the norm-generative effect of all practices of validation, i.e. formal validation, social recognition (aka habitual validation), and cultural validation. The cycle is designed to take account of both contingent and principled conditions that influence norm implementation. *Three research assumptions* follow for allocating practices of reactive and proactive norm contestation empirically. *First*, given the indication of breaches with extant fundamental norms through objection by affected stakeholders, reactive contestation is expected to occur on Sites 3, 6, and 9 (i.e. the macro-, meso-, and micro-scales at the implementing stage). *Second*, pending on the involved stakeholders and the local conditions for critical engagement with these breaches, proactive contestation is most likely to take place at Sites 2, 5, and 8 (i.e. the macro-, meso-, and micro-scales at the negotiating stage). And *third*, depending on the affected stakeholder’s position vis-à-vis formal government institutions, both reactive and proactive contestation may take place at Sites 1, 4, and 7 (i.e. the macro-, meso-, and micro-scales at the constituting scale). Notably, the ascription of the distinct scales of global order depends on the contestation repertoire within the wider global context. For example, the allocation of, say, state representatives engaging in contestatory practices depends on their position vis-à-vis a given norm conflict. That is, in case scenarios that examine globally constituted norms, state representatives are located on Site 7 (this is the case in the torture prohibition case scenario (Wiener 2018, Ch. 6)).

To summarise, by allocating contestations to sites, empirical research establishes where distinct groups of stakeholders engage. Given the importance of dialogue for achieving shared positions (such as organising principles) or pathways for policy-making to counter breaches of norms, stakeholders would need to engage on the same site. This stands to be examined empirically. The cycle-grid model advances an “agency-centred vantage point” that emphasises the question of

“access. That is, who among the affected stakeholders has the opportunity, if not the right, to partake in this interaction? In most cases of conflict about extant fundamental norms in international relations, access to norm validation and contestation remains clearly restricted (i.e. favouring state representatives operating through international organisations). And the access opportunities become even more exclusive with court proceedings. The exploratory approach circumvents these restrictions by putting affected stakeholders into a dialogue, even though they have – most likely – not been in a real-time conversation” (Wiener 2018: 30).

Drawing on the principles of mutual recognition and mutual elucidation that are central to Tully’s public philosophy (see especially Tully 2016, and Tully 2019 in press), the link is performed by academic intervention when zooming out of a local conflict. That is, following the conflict allows for zooming in on a conflict site, mapping the details and evaluating access to then intervene by

establishing a series of inter-textual encounters. The intention is to “give affected stakeholders a ‘virtual voice’ in the global multilogue” (Wiener 2018: 4).

“Following from the exercise of allocating stakeholders and compiling contestation repertoires, the next research endeavour identifies the conditions of access to norm validation. This assessment of access to practices of norm validation is undertaken in order to evaluate the cultural underpinnings of the norm-change that is generated through these contestations. The evaluation is facilitated by the spatio-temporal allocation of practices of norm validation at each site, and by taking spatio-temporal stages of governance and socio-cultural layers of society into account. Notably, the cycle metaphor is used to indicate conditions of unequal access to norm validation. The three practices are on the revolving cycle, and the arrow indicates the condition that, in principle, each practice ought to be accessible for all stakeholders at all times. This is not the case in practice, however because contingent normative opportunity structures apply. To document that, research examines which practice is accessible to whom. This is achieved through the method of zooming in on sites of contestation. At each site affected stakeholders encounter themselves in a contingent context that enables or constraints distinct options of access to three practices of norm validation” (Wiener 2018: 44-45).

Conclusion

In order to address the question ‘whose practice counts?’ in global norm conflicts, the cycle-grid model offers a framework to illustrate a conflict that usually centres on an extant *type 1* norm. This is achieved through the method of sensitising reading as the first of four steps to analyse norm(ative) change. The second step then follows the conflict to locate it on one of the nine ideal-typical sites on the cycle-grid model (see **Figure 2**) to identify affected stakeholders. To address the question ‘whose practices ought to count?’, stakeholders’ access to the practices of contestation (i.e. reactive = objection only, or proactive = critical engagement with the norm’s substantive values) and the three types of norm validation (formal, social, cultural) is assessed and evaluated against the *quod omnes tangit* principle and the local normative opportunity structure which defines the local conditions of participation (compare also Brunnee and Toope 2011). It is therefore key to understanding the conditions of sustainable normativity in a given case. Typically, research will seek to group affected stakeholders according to their claims regarding a given norm conflict. And it will then organise interventions in a series of settings according to the time and place of these interventions. To analyse norm(ative) change, it is helpful to study practices of contestation prior to and following a point in time when a significant change with regard to the quality of a norm has been accomplished. For example, with regard to global climate governance, such moments are represented in 1995 with the Kyoto Protocol, with regard to the prohibition of sexual violence, the moment is represented by Resolution 1325 that established Women, Peace, and Security policy in 2000, and so on.

By reconstructing the reactive and proactive contestations about the breaches with a given norm, it becomes possible to demonstrate how extant norms are contested, how hidden norms come to the fore, or, how new norms emerge. Of key interest with regard to the goal of achieving sustainable normativity, i.e. a balance between access to reactive contestation allowing stakeholders to voice objection, on the one hand, and proactive contestation enabling stakeholders to critically engage with a norm’s substance, on the other, are emerging organising principles (*type 2* norms) and/or

pathways towards them. The cycle–grid model’s distinction among three practices of norm validation helps bringing a second – previously hidden – type 2 norm to the fore.

The purpose of applying a bi-focal approach to study the norm(ative) effect of a norm conflict lies in establishing whether a change of the normative opportunity structure merely contributed to *institutional change within the normative opportunity structure*, or, whether the contestations (i.e. the practice repertoire of a given conflict) might potentially have a *wider transformative effect on the global normative structure of meaning-in-use*. Two research assumptions guide the analysis. *First*, in a sub-unit of global society (i.e. as demonstrated by practices on site) the degree of sustainable normativity is expected to rise with balanced access to reactive and proactive contestation on behalf of affected stakeholders. *Second*, and relatedly, when this balance is threatened and reactive contestation prevails, the potential for political conflict beyond a sub-unit grows (i.e. as demonstrated by practices on n+1 sites). To examine the effect of both practices of contestation over the two periods (i.e. settings 1 and 2 in a given case scenario), the empirical research zooms in on the contestations and maps these within a global multilogue. Against this background, multiple and distinct contributions within a conflict that is mapped over time are reconstructed with reference to specific utterances and then evaluated with regard to novel norms and global normative change. This reconstruction of contestations that form part of a global norm conflict follows the step of sensitising reading. It shows how access to the two types of contestation (i.e. reactive or proactive) and the three practices of norm validation (i.e. formal, social, and cultural) in reflection of the normative opportunity structure on site, works on normative change in global society.

The cycle–grid model offers the framework for identifying norm validation at local sites. Sensitising reading – applying the principle of contestedness (P1) indicates instances where the sexual violence norm is breached. The conceptual framework features an agency-centred approach that begins from the practice to explore its effect on norm change. It facilitates studying contestation repertoires for a given norm conflict and evaluating affected stakeholders’ opportunities to generate norm appropriation through access to norm validation as the platform for proactive contestation. In a chosen case scenario, the run-up to a ‘landmark’ moment in the trajectory was indicated by reactive contestation, and the follow-up brought *proactive* contestations to the fore as the driver for normative change and, more generally, normative change, as it were. The potential for norm appropriation is probed against the principle of sustainable normativity (P3) and the potential for proactive contestation is probed against the *quod omnes tangit* principle (P2). The sensitising reading is guided by the principle of contestedness (P1), seeking to locate local contestations according to stages of norm implementation and scales of global order. The cycle–grid model thus serves as a frame to allocate practices of contestation on the *grid* and, relatedly, determine the conditions for specific stakeholders’ proactive contestation based on the *cycle*’s three practices of norm validation. As such, the cycle–grid model seeks to move beyond a research operationalisation from the starting point of a choice between a pre-defined ‘bottom-up’ or ‘top-down’ perspective. Instead, it allows researchers to take into account the impact of crisscrossing normative orders which do not develop along state-centred organisational patterns, and shed light on crisscrossing stakeholder practices that engage with these orders.

To summarise, the bi-focal approach facilitates a frame in order to demonstrate how practices of contestation and norm validation change the meaning-in-use throughout the process of norm

implementation.¹⁰ The hybrid value- and fact-based approach includes the principled evaluation of norm(ative) change in addition to observable norm change. That is, the moral reach of this change is evaluated by taking the *quod omnes tangit* principle (P2) and the *sustainable normativity* principle (P3) into account when studying norm(ative) change in global society. To account for crisis effects of international law, the illustrative case that was summarised in the previous section, followed a global conflict to the local sites where affected stakeholders engaged in contestations about breaches of the norm. The underlying ethical goal consists in countering injustice, the empirical study asks whether the negotiation and implementation of the sexual violence prohibition norm has generated organising principles that facilitate novel pathways of participation (i.e. measures or policies that enhance access for affected stakeholders).¹¹

Following the cycle-grid model, the best possible outcome of proactive contestation consists in emergent *type 2* norms that enhance access to norm validation for affected stakeholders. These organising principles are key indicators of norm(ative) change. When taking into account that, by definition, *type 2* norms are key to establishing and maintaining a *modicum* of normative sustainability (i.e. medium moral reach and degree of contestation), they point towards pathways for enhanced participation (i.e. 'entry points' bringing stakeholders into policy-making and/or politics). Given contingent environments in each global conflict scenario, outcomes are expected to differ. For example, proactive contestation may either generate more than one *type 2* norm, or shed light on other previously hidden norms. If the latter is the case, the sensitising reading of available primary and secondary sources will add to the literature on both empirical and normative accounts, as it were.

Notably, the bi-focal approach emphasises the local-global co-constitution of norm(ative) change. For each norm conflict represents global proportions, insofar as it comes to the fore through objections to the perceived situation of injustice from the perspective of affected stakeholders at a variety of locations. When presented as a process spanning an arc from the constitution of an extant norm through contestations of norm breaches to the re-constitution of the global normative structure of meaning-in-use, these trajectories reveal critical engagements that bring cultural background capabilities to bear. The trajectories are contingent. They span norm contestations which are shaped by a variety of contingencies which the cycle-grid model allows to locate (grids) and evaluate (cycle).

¹⁰ For the latter, see also Laura Shepherd's insightful article on NGOs and the UNSC as the two main sites of 'authority' for the construction of meaning in the UN policy process; see Shepherd 2008: 384, quoting Yanow 1996.

¹¹ The pathways reflects what is called 'entry points' for addressing impacts on Sexual and Gender Based Violence (SGBV); see <http://www.unhcr.org/sexual-and-gender-based-violence.html> and recurrence of conflict, for example, at present through International Financial Institutions (IFIs) in the policy debate.

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The Author



Professor Antje Wiener holds the Chair of Political Science, especially Global Governance at the University of Hamburg. She is an elected By-Fellow of Hughes Hall University of Cambridge since 2017, and a Fellow of the UK's Academy of Social Sciences since 2011. Before coming to Hamburg, she held Chairs in International Studies at Queen's University Belfast and the University of Bath and has taught at the Universities of Stanford, Carleton, Sussex and Hannover. Her research and teaching centres on International Relations (IR) theory, especially norms research and contestation theory. Current projects include contested climate justice (Cluster of Excellence, CLICCS, Hamburg), democratising security (Graduate College, LFF) and multiplicity and international order/s (Lauterpacht Centre for International Law, Cambridge). With James Tully, she is co-founding editor of *Global Constitutionalism* (CUP, since 2012). And she also edits the *Norm Research in International Relations Series* (Springer). She currently serves on several Committees of the Academy of Social Sciences, as well as of the International Studies Association, and she has been re-appointed to the ESRC's Global Challenges Research Fund Peer Review College in 2019. In 2018, she was elected to the Executive Committee of the German Political Science Association (DVPW) in 2018. Her most recent book *Contestation and Constitution of Norms in Global International Relations* (CUP 2018) was awarded the International Law Section's Book Prize in 2020.

The Kolleg-Forschungsgruppe “The International Rule of Law – Rise or Decline?” examines the role of international law in a changing global order. We assume that a systemically relevant crisis of international law of unusual proportions is currently taking place which requires a reassessment of the state and the role of the international legal order. Do the challenges which have arisen in recent years lead to a new type of international law? Do we witness the return of a ‘classical’ type of international law in which States have more political leeway? Or are we simply observing a slump in the development of an international rule of law based on a universal understanding of values? What role can, and should, international law play in the future?

The Research Group brings together international lawyers and political scientists from three institutions in the Berlin-Brandenburg region: Freie Universität Berlin, Humboldt-Universität zu Berlin and Universität Potsdam. An important pillar of the Research Group consists of the fellow programme for international researchers who visit the Research Group for periods up to two years. Individual research projects pursued benefit from dense interdisciplinary exchanges among senior scholars, practitioners, postdoctoral fellows and doctoral students from diverse academic backgrounds.

