

Norm Contestation and Global Governance: Taking Actor Configurations and Practical Reasoning Seriously

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A *Theory of Contestation* is an ambitious and rather challenging book that brings ideas from public philosophy to international relations analysis, but reaches far beyond existing debates on global governance. Wiener offers a theory of contestation and engages with the question of legitimacy in global governance from a new perspective. One helpful way Wiener suggests to think about the overall project she undertakes is to consider it in the context of a broadly critical constructivist approach to normativity. For critical constructivists, the meaning of norms is both constituted by and constitutive of specific uses by actors. In other words, norms are both structuring and constructed by actors through social practice. They do not merely function as “causal factors” that uniformly create some behavioral responses in the social world. To turn this conception of norms into an account of addressing actual governance challenges that are faced by political actors in inter-national relations, contends Wiener, one needs to embrace contestation as the basis of democratic legitimacy in global governance rather than as an obstacle to social order. The central task Wiener undertakes is to provide an account of how norm contestation works as a practice and how it can fill—not close—the legitimacy gap in international relations. Using three thinking tools—the normativity premise, the diversity premise, and the concept of cultural cosmopolitanism—Wiener outlines a theory of contestation based on contestedness as a meta-organizing principle of legitimate governance in the global realm. One of the book’s original contributions is its claim that in order for the legitimacy gap between fundamental norms and standardized procedures to be filled, one needs to recognize the importance of organizing principles at the intermediate level as a stabilizing force for global governance and to provide access to regular contestation at this level for all involved stakeholders.

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A Theory of Contestation extends the critical constructivist program by addressing serious lacunae on the issue of norm contestation. It offers a bifocal approach combining normative and empirical research on global governance issues and draws on James Tully's practice-based approach to action. Crucially, Wiener foregrounds the importance of social processes over static conditions of political life, and cultural diversity over homogeneity in communicative action. I agree profoundly with this pragmatic thrust in Wiener's work because political actors are concerned about issues of legitimacy in inter-national relations only when practical matters are at stake and no *a priori* logical grounds exist for arriving at a decision. Existing attempts to provide such compelling logical solutions to the choice problems of political actors—through the Habermasian theory of communicative action or through the preoccupation with the practice turn—create immense problems, which have led to the current lacunae in our understanding of norm contestations in inter-national relations. For Wiener, the Habermasian theory of communicative action faces severe problems because “the logic of arguing” disregards the dialogical aspect of communicative action among interlocutors, accepts coercion in order to convince those unwilling to follow designated norms, and demands a shared “lifeworld” that disregards cultural diversity among actors.¹ She dethrones homogeneity and uniformity as the primary building blocks of global governance. Likewise, the literature on the practice turn in international relations faces several problems because it relies on the notion of a fixed community of practitioners, confuses agents' practices with the act of repetition, and brackets the norm-generative dimension of contestatory practice. In challenging the current definition of practices as “competent performances” of actors,² Wiener offers a devastating critique of understanding practices as routines, which is implicit in such theorizing.

The three thinking tools that Wiener deploys make the work ambitious and exciting. We are all very much in her debt, but as Wiener would agree, legitimate academic progress also depends on constructive contestation, so I advance two challenges to her work in trying to supplement, not supplant, her theory.

The first challenge highlights what I see as the tension underlying the implicitly hierarchical distinctions Wiener makes among different norm types. Next, I will show why I suspect that the classification of norm types offered here are im-

1. For a creative reading of *A Theory of Contestation*, particularly on this notion of Habermasian communicative action, see Lisbeth Zimmerman in this symposium, “Inter-National’ Habermas: Contestation and Understanding under Conditions of Diversity,” *Polity* 49 (2017): 149–55.

2. Emanuel Adler and Vincent Pouliot, “International Practices,” *International Theory* 3 (February 2011): 1–36.

PLICITLY hierarchical, despite the meaning-in-use terminology utilized, and then show how it is possible to overcome this lacuna. Wiener makes distinctions between three types of norms—fundamental norms (type 1), organizing principles (type 2), and standardized procedures (type 3)—and situates the legitimacy gap between fundamental norms and standardized procedures. First, Wiener claims that fundamental norms, such as non-intervention or abstention from torture, are highly likely to be agreed upon in principle. She also rightly shows that the translation of this fundamental norm into standardized procedures of engagement involves a high degree of contestation. For example, the translation of the fundamental norm of non-intervention into standardized procedures of engagement such as Article 2(4) and Article 2(7) of the UN Charter creates a high degree of contestation or contested compliance among international actors.³

Second, Wiener argues that in order to think about the solutions to the problem of contested compliance, one has to focus on the conditions of politics and policymaking at the intermediary level of organizing principles. By providing access to regular contestation at this level, Wiener contends, we could fill the legitimacy gap in innovative ways. Thus, for example, by offering space for contestation to actors engaged in the debates on the organizing principle of the Responsibility to Protect, one fills the legitimacy gap between the fundamental norm of non-intervention and the contested standardized procedures of Articles 2(4) and 2(7) of the UN Charter. According to Wiener:

It is at the point where the intermediary *level* of norms and the *referring stage* of compliance intersect—in politics and/or policy-making—that a conceptual opportunity to establish institutionalised access to regular contestation for multiple stakeholders could be established. In the absence of stable social groups, which would facilitate social recognition that is required to implement international law, the process of negotiating which organising principle might be appropriate, offers to fill the legitimacy gap between fundamental norms and contested standardised procedures.⁴

I share Havercroft and Duvall's view in this symposium that limiting norm contestation to specific practices and stages poses difficult problems for the theory;⁵ however, more specifically, I contend that Wiener's conceptualization also

3. See Antje Wiener, *A Theory of Contestation* (London: Springer, 2014), 38.

4. *Ibid.*, 38–39.

5. Jonathan Havercroft and Raymond Duvall, "Challenges of an Agonistic Constructivism for International Relations," *Polity* 49 (2017): 156–64.

leads to an implicit, problematic hierarchy among norm types. She treats fundamental norms as relatively stable and as having the broadest moral reach, organizing principles as always in a state of flux generated through politics and policy processes, and standardized procedures as straightforward instructions. Analytically, these norm types move top-down, with fundamental norms taking a meta-level position and standardized procedures resting at the micro level. As Wiener puts it:

By distinguishing the morally most broadly defined fundamental norms (such as for example the right to non-intervention, abstention from torture, the rule of law and so on) from organising principles (such as, for example, the responsibility to protect, the culture of sovereign equality or the principle of common but differentiated responsibility) which are generated through politics or policy processes or, for that matter through jurisprudence or jurisprudential practice, and from standardised procedures (such as stipulated for examples by treaties, agreements or conventions) which entail straightforward instructions, it is possible to address specific conditions of compliance, contestation and potential conflict.⁶

However, the theory is not clear on how contestation at the intermediary level changes (or fixes) the meaning of fundamental norms on the one hand, or the patterns and mechanisms of standardized procedures on the other hand. Focusing on the organizing principles is important, but if the meaning of norms is both constituted by and constitutive of specific uses by actors, then Wiener's assumption of the stability of fundamental norms and her claims about standardized procedures as straightforward instructions are unnecessary. As Wiener herself notes, fundamental norms are also in a state of flux, with diverse meanings of fundamental norms expected to be *in use* all the time.⁷ Yet her argument does little to account for the function of actors' contestatory practices at the level of organizing principles upon fundamental norms and standardized procedures.

Wiener appears to affirm this suspicion in the epistemological advice that she offers on engineering case studies, which focuses on reconstructing organizing principles alone—neglecting the impact of contestation at this level on other norm types. As she puts it:

6. Wiener, *Theory of Contestation*, 37.

7. *Ibid.*, 41–42; emphasis in the original.

According to the theory of contestation these organising principles are expected to reflect negotiated normativity. I therefore suggest that they be valued as governance norms with often considerably more weight than fundamental norms which have been included in international law, but which are often less respected by the increasingly diverse group of inter-national agency.⁸

Nothing is made of how changes in relations here (organizing principles) alter the meaning and function of other types of norms. More seriously, this implicit hierarchy of norm types in *A Theory of Contestation* resembles the erstwhile regime theorizing in international relations that established a problematic hierarchy between principles, norms, rules, and decision-making procedures with an instrumental relationship between these distinctions that does not actually exist.⁹

I argue that a theoretical account of norm contestation should direct empirical inquiry to examine the interactive and conjunctive effects of different types of norms. For example, to understand legitimacy gaps in international relations, one might ask how contestations among actors on the organizing principle of the Responsibility to Protect actually alters relations between agents and thereby transforms the meaning and function of the fundamental norm of non-intervention and the procedural norm of interpreting Article 2(4) and Article 2(7) of the UN Charter. Further, opening up avenues for norm contestation at the intermediary level on the Responsibility to Protect should be expected to change the relations between, for example, established and rising powers, create new configurational bonds between post-colonial states, and alter how actors interpret the fundamental norm of non-intervention and the enforcement of Article 2(4) and Article 2(7) on mass atrocity crimes. In this relational way of looking at actors' engagement with different norm types, the focus is on the configuration of actors in a network and their interplay with different norms in different settings. Further, any interesting discussion of the sources and nature of change in international politics cannot distinctly focus on regular contestation within an institutional setting and simultaneously treat fundamental norms as stable.

Therefore, I propose supplementing Wiener's theory with a configurational network approach in order to resolve the problems caused by the implicit hier-

8. Ibid, 65.

9. The best treatment on the limitations of regime theory and this hierarchy still remains Friedrich Kratochwil, *Rules, Norms, and Decisions: On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (New York: Cambridge University Press, 1989), 59–60.

archy between the different norm types in the *A Theory of Contestation*.¹⁰ With this route, one focuses on the *complex network* of practices, in which contestation alters the relations and meaning of all types of norms at multiple levels. For example, in the process of multilateral humanitarian intervention in Haiti, the Lula administration in Brazil recognized that there is a legitimacy gap between the fundamental norm of non-intervention and the standardized procedures of Article 2(4) and Article 2(7) of the UN Charter. However, in its contestatory practices, the Lula administration combined multiple meanings of the fundamental norm (claiming that nonintervention does not mean indifference)¹¹ and used past cases of applying standardized procedures (claiming that Chapter VII intervention under the Bush administration in 1994 is different from the commitments of Chapter VII intervention under the Lula administration)¹² to produce novel configurations of beliefs and identities (Brazil is offering a helping hand to a fellow Black Brother country in the Western Hemisphere).¹³ Thus, a configurational

10. For a variety of relational-configurational methodologies, see Patrick Jackson and Daniel H. Nexon, "Relations Before States: Substance, Process and the Study of World Politics," *European Journal of International Relations* 5 (1999): 291–332. For a recent treatment, see also Osmo Kivinen and Tero Piiroinen, "Toward Pragmatist Methodological Relationalism from Philosophizing Sociology to Sociologizing Philosophy," *Philosophy of the Social Sciences* 36 (2006): 303–29.

11. "We do not believe in interfering in the internal affairs of other countries, nor do we hide behind omission and indifference when facing problems that affect our neighbors"; from the speech by President Luiz Inácio Lula da Silva at the 59th United Nations General Assembly, New York, September 21, 2004. Also see his inaugural address January 1, 2003; see Ministry of External Relations, *Brazil Foreign Policy Handbook* (Brasília: Ministry of External Relations, Bureau of Diplomatic Planning, Esplanada dos Ministérios, Palácio Itamaraty, 2008). For more details see Karin Ekström and Leonardo Miguel Alles, "Brazilian Foreign Policy Under Lula: From Non-Intervention to Non-Indifference," *Political Perspectives* 6 (2012): 9–29.

12. "[Unlike the American intervention in Haiti to place Aristide in power,] it is different from the current situation where there is vacuum and threat of chaos [in Haiti.];" speech by Minister Celso Amorim at the Joint Meeting in the Federal Senate of the Permanent Commission of External Relations and National Defense, May 12, 2004, 11; see <http://www.camara.leg.br/internet/ordemdodia/integras/216676.htm>, my translation. For more details see Monica Hirst, "South American Intervention in Haiti," FRIDE Comment (Brussels: Fundación par las Relaciones Internacionales y el Diálogo Exterior (FRIDE), 2007); Kai Michael Kenkel, "South America's Emerging Power: Brazil as Peacekeeper," *International Peacekeeping* 17 (2010): 644–61.

13. "This [intervention in Haiti] is a democratic action, an external projection of Brazil's desire to help maintain peace and security in the Continent and contribute to the reconstruction of a brother-country"; speech by Minister Celso Amorim at the Joint Meeting in the Federal Senate of the Permanent Commission of External Relations and National Defense, May 12, 2004, 14 (my translation). See <http://www2.camara.leg.br/atividade-legislativa/comissoes/comissoes-permanentes/credn/documentos/notas-taquigraficas/NT12052004.pdf>. Djuan Bracey, "O Brasil e as Operações de Manutenção da Paz da ONU: Os Casos do Timor Leste e Haiti," *Contexto Internacional* 33 (2011): 315–31; Carlos Aurélio Pimenta de Faria and Clarisse Goulart

network approach does not eliminate the impact of contestation at one level upon the meaning of norms at another level, but rather, it appeals to further empirical research to examine these interactive effects. In this way, norm contestation is both firmly rooted in social practice and sufficiently articulated at different levels in different configurations to confer rich variety in meaning at different levels.

My second challenge points to *A Theory of Contestation's* lack of a fully developed account of practical reasoning by norm contesting actors. In other words, I argue that the theory neglects the conditions under which and processes through which actors engage in contesting norms. To be sure, Wiener works with the idea of “multilogue” to conceptualize the generation of normativity through contestations. Multilogue offers a distinct emphasis on the multiplicity of stakeholders and facilitates negotiation of normativity under conditions of diversity in global governance. According to Wiener:

. . . multilogue offers a bottom-up approach that enables multiple stakeholders to become involved. It is juxtaposed with Kant's philosophical practice of moral reasoning expressed in the space of a dialogue. This analytical juxtaposition of two different cosmopolitan logics of practice, which are both constitutive for a particular political order, has been chosen to emphasise the assumption that both are considered as equally important for the constitution of a just political order.¹⁴

However, the explanatory burden of multilogue, which is missing in Wiener's account, is precisely to show the process by which multiple actors negotiate norms under conditions of diversity. Here, I believe, the game of giving and asking for reasons is very relevant. Practical reasoning is reasoning towards action—figuring out what to do—and it focuses on the question of which inference patterns are legitimate methods of arriving at a decisions or intentions to act.¹⁵ On

Paradis, “Humanism and Solidarity in Brazilian Foreign Policy under Lula (2003–2010): Theory and Practice,” *Brazilian Political Science Review* 7 (2013): 8–36; Oliver Stuenkel and Marcos Tourinho, “Regulating Intervention: Brazil and the Responsibility to Protect,” *Conflict, Security & Development* 14 (2014): 379–402.

14. Wiener, *Theory of Contestation*, 47 (see note 1 above).

15. The spectrum of practical reasoning is wide. For good comprehensive accounts, see Elijah Millgram, *Varieties of Practical Reasoning* (Cambridge, Mass.: MIT Press, 2001); Robert Audi, *Practical Reasoning and Ethical Decision* (London and New York: Routledge, 2006). For international relations scholarship, see Isabela Fairclough and Norman Fairclough, “Practical Reasoning in Political Discourse: The UK Government's Response to the Economic Crisis in the 2008 Pre-Budget Report,” *Discourse & Society* 22 (2011): 243–68; Chris Brown, “The ‘Practice Turn’, Phronesis and Classical Realism: Towards a Phronetic International Political Theory?,” *Millennium—Journal of International Studies* 40 (June 1, 2012): 439–56.

the issue of legitimacy gaps, which is of central concern to Wiener, it is through the game of giving and asking for reasons that actors can justify their support for particular norms and bring to bear negotiated normativity. After all, Wiener does emphasize the importance of multilogue in order to foreground “Kant’s ideal of public enlightenment in the face of *cultural diversity*.”¹⁶ Thus, an interpretation of norm contestation through multilogue, which does not fully account for the role of practical reasoning of actors, seems to be missing a crucial aspect of the general spirit of the Kantian enterprise. There are multiple ways of conceiving how actors engage in the game of giving and asking for reasons in contesting norms. One need not settle for the traditional instrumentalist account of practical reason, à la Hume, or take reason as the only dimension of agents engaged in contestation, à la Aristotle.¹⁷ Before proposing a distinctive way of conceiving practical reasoning that I believe works within the critical constructivist thrust of *A Theory of Contestation*, I briefly examine why Wiener’s current conception of multilogue needs this supplementation.

My specific worry is that with the notoriously broad notion of multilogue, Wiener undercuts the practical aspects of legitimacy problems in norm contestation. As Fritz Kratochwil shows, issues of legitimacy are voiced only when practical issues are at stake, and, crucially, political actors’ engagement with legitimacy issues is linked with judgment on the one hand and rules on the other.¹⁸ Inquiry on legitimacy gaps thus concerns the more specific practical reasoning for action where there are no logically compelling solutions available for these political actors. The concept of multilogue can very well embrace the diversity of actors, enable us to discern where issues stand in relation to multiple interlocutors, and, as Wiener claims, reveal political instances of contestation for cultural cosmopolitanism. The problem consists in deciding whether by the introduction of cultural cosmopolitanism, problems of practical matters where actors—through contestation—have to figure out what to do is neglected in some ways. To put it more boldly, argument pitched at the level of cultural cosmopolitanism and multilogue, without any actual account of the conditions under which and processes through which actors engage in this enterprise, limits the engagement with practical legitimacy problems that are the central concern in *A Theory of Contestation*.

16. Wiener, *Theory of Contestation*, 9, emphasis in the original (see note 1 above).

17. The best treatment on the limits of Humean instrumentalist account on practical reasoning is Christine M. Korsgaard, “The Normativity of Instrumental Reason,” in *Ethics and Practical Reason*, ed. Garrett Cullity and Berys Gaut (New York: Oxford: Clarendon Press, 1997), 215–54.

18. Friedrich Kratochwil, “On Legitimacy,” *International Relations* 20 (2006): 302–08.

There is a pragmatic route to resolve this tension in Wiener's current conception of multilogue, illuminated by Robert Brandom's work on deontic scorekeeping practices.¹⁹ If we accept that norm contestations are necessarily assertional practices of agents, then making, challenging, and retracting assertions is always done within the game of giving and asking for reasons, in which multiple interlocutors keep track of their own and each other's normative commitments and entitlements. Every time one contesting actor undertakes, acknowledges, or attributes a commitment or entitlement, it changes how other actors keep track of each other's responsibilities and obligations—this is what Brandom calls keeping “deontic scores” on each other.²⁰ Thus, understanding the changing deontic scores of a conversation among norm-contesting actors can shed light on the processes of norm contestation and its impact on the meaning of other types of norms. In other words, practical reasoning in deontic scorekeeping terms can shed light on how actors justify their support for particular course of action and address the legitimacy gap in the process.

I believe this pragmatic supplementation is indeed novel, but taking the pragmatic route is not obligatory. However, the upshot is that an account of practical reasoning that supplements multilogue can shed light on the central processes of norm contestation at different levels. By incorporating an account of practical reasoning, one also overcomes the book's rather narrow conception of culture. Wiener claims that cultural validation is the active component that reflects and constitutes the meaning of norms that are in use. However, it is unclear whether she conceives of culture as a loose repertoire of justification that rationalizes the choices that individuals make in their day-to-day practices or as a motivational factor in shaping behavior. Emphasis on motivational or justificatory understanding of culture is a matter of a scholar's personal preferences.²¹ Given the varied meaning of culture in social research, any attempt to separate culture and norms might be a difficult undertaking. It is here that practical reasoning can be

19. Analytical pragmatist works based on Brandom's philosophy are extensive. However, the most important are Robert Brandom, *Making It Explicit: Reasoning, Representing, and Discursive Commitment* (Cambridge, Mass: Harvard University Press, 1994); Robert Brandom, “Action, Norms, and Practical Reasoning,” *Noûs* 32 (1998): 127–39; Robert Brandom, *Articulating Reasons: An Introduction to Inferentialism* (Cambridge, Mass.: Harvard University Press, 2001).

20. The account here is brief, but see Brandom, *Making It Explicit*, 180–98 (see previous note). For a recent critical engagement of Brandom's work, see Bernhard Weiss and Jeremy Wanderer, eds., *Reading Brandom: On Making It Explicit* (London: Routledge, 2010).

21. Stephen Vaisey, “Motivation and Justification: A Dual-Process Model of Culture in Action,” *American Journal of Sociology* 114 (2009): 1675–1715.

come particularly useful in showing that norm contestation rests on the game of giving and asking for reasons in a relational network. In other words, emphasis on practical reasoning can show why and how actors with their characteristic cultural differences offer the reasons they do, take the roles in which they are cast, and arrive at decisions.

The two challenges offered above raise general questions of how to account for the multiple configurations and interactive effects of norms in the contestatory process and whether practical reasoning of agents rather than multilogue could capture how multiple stakeholders come together to make practical decisions on issues of global governance. A theory cannot account for everything, but only indicates that some factors are more important than others and specifies the relations among them. These challenges aim to see how far *A Theory of Contestation* can be pressed, and I have no doubt that it can stand up to such prodding.

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