ISA Workshop Report

Unsteady Lives: The Dynamics of Norm Robustness, 15 March 2016

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Description of workshop and plans for future publications

The workshop started with a presentation by the two coordinators. The coordinators gave an introduction to the theme and the puzzles linked to changes in norm robustness. They also proposed a potential framework of how to study changes of norm robustness in their paper "A Phoenix tale? The Dynamics of Norm Robustness." The paper proposes a conceptualization of norm robustness and a pragmatic operationalization of robustness based on five dimensions (1) norm acceptance, (2) third-party reactions to norm violations, (3) ratifications, (4) compliance and (5) institutionalization. Moreover, the paper presents first conjectures on the link between norm challenges and norm robustness.

Following a joint discussion, the next session dealt with "robust norms." Sarah Percy presented a paper on "What makes a norm robust", which analyzed the anti-female combat norm's surprising robustness– which remained high although it came under pressure during WW II and is not written in international law. Beth Simmons gave a presentation of a paper jointly written with Hyeran Jo on "Measuring norms and normative contestation: the case of international criminal law". This bundle of norms is currently gaining robustness but is not yet settled. Jo and Simmons argue that norms are robust as long as their adherents are diverse.

The third panel session asked to what extent contestation can weaken the robustness of norms. Averell Schmidt presented a paper, co-authored with Kathryn Sikkink, on "Mixed messages, mixed effects: Explaining the impact of US contestation of the torture ban". They argue that the US used a strategy of covert validity contestation to weaken the torture ban, a strategy that might most often be used for non-derogable prohibition norms which cannot be openly rejected. While no general decay of the norm can be observed, a subset of countries engaged in more acts of torture after collaborating with the US during the 'War on Terror'. In a study on the Responsibility to Protect (R2P), Jennifer Welsh argues that the R2P has a special status as a political principle. Persistent applicatory contestation of pillar three ("timely and decisive response") has brought about a decreasing number of situations which are framed in R2P terms – a sign of potential decay.

A fourth session dealt with questions of norm translation and implementation. Tanja Börzel und Thomas Risse presented a paper on "Diffusion, translation and the robustness of human rights norms", aiming at integrating translation and diffusion research. This can be the basis, they argued, to develop scope conditions to explain domestic human rights change. The authors also explored how domestic outcomes of diffusion link back to norm robustness at an international level. Phil Orchard explored the informal regime on internally displaced persons ("Informal regimes and their effects on norm durability: The case of internally displaced persons protection"). According to him, the norm's imprecision produced variance in the interpretation and implementation of claims at a domestic level.

The workshop's fifth session discussed if and when norms are weakened and replaced. Adam Bower presented a paper entitled 'Contesting the ICC: Sudan, Kenya, and the status of the criminal accountability norm in world politics'. It dealt with the critique of the International Criminal Court in the context of the Bashir and Kenyatta/Ruto cases. Bower argues that contestation using a legal discourse is more damaging than other kinds of contestation, especially if this legally framed contestation challenges core legal institutions. This kind of contestation led to the current legitimacy crisis of the ICC. Next, Wayne Sandholtz presented a paper on the "Multiple paths to norm replacement": He argues that norms seldom die but are more often replaced by other norm types. He explores these modes of replacement and their differences: A prohibition norm, for example, can be replaced by either a permissive one or a directive one.

The last session focused on norm evolution as well as on norm discourses. Christopher Daase presented a paper on the "Unequal success of humanitarian intervention and preventive war". The initiatives to establish norms on humanitarian intervention and preventive war both attempted to change the principle of non-use of force. One was successful, resulting in the Responsibility to Protect. Preventive war, in contrast, was rejected. According to Daase, this can neither be explained by power constellations, nor by the character of the norm. Two factors seemed to be of importance: (1) formative events and (2) procedural legitimacy of contestation and norm creation. Next, Sidra Hamidi discussed state identities in "Beyond the nuclear taboo: The normative underpinnings of the global nuclear regime". She argues that instead of simply having internalized a taboo, many states have created identities based on different normative discourses leading to an interest in the non-use of nuclear weapons.

Following these presentations and their discussions, a final wrap-up session aimed at outlining further plans and a publication strategy for the papers. A proposal for a joint special issue will be submitted this summer and a workshop has been planned for mid-December for another round of paper revisions.