

Global Environmental Norms

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Introduction

Governance and policy norms define the fundamental substance of how policy actors and political communities understand the appropriate purposes of environmental policy. Thus, attention to norms should arguably be a core concern among scholars and practitioners. Such attention seems especially important in a policy arena driven largely by a perceived imperative to alter human behavior and its interaction with the natural environment, and where complex social and economic dynamics have produced intense and often fraught debates over the proper course of action given the challenge of reconciling competing values, needs, and conditions among communities affected by such policies.

Yet, early global environmental policy scholarship largely ignored norms in its preoccupation with explaining and promoting any form of cooperation on a set of problems that had previously received very little international attention. The subsequent explosion of research and critical attention to the form and substance of environmental policy in the wake of an increasing sense of crisis has not only corrected that neglect, but has led to insights on norms that are now at the cutting edge of debates on their influence and impact on global politics more broadly.

The chapter begins by defining norms and reviewing antecedents in the literature that provided a foundation for later research that corrected that early neglect. It then identifies the broad normative patterns in global environmental policy and extends the early literature on the evolution of global environmental norms to take account of the increased contestation evident in the global negotiations for the 2012 United Nations Conference on Sustainable Development (Rio+20). It then reviews current debates over how to explain and understand the emergence, influence, and impact of those norms internationally and domestically, and the cutting edge of norms

scholarship that attempts to capture the dynamic and contested terrain of global environmental norms. The chapter concludes with the implications of increased contestation – and the tendency of global negotiations to mask that contestation – for future action on the most serious global environmental problems, including climate change.

The Conceptual Landscape: Definitions and Antecedents

Norms define and regulate appropriate behavior for actors with a given identity (e.g. Finnemore and Sikkink 1998: 891), assign rights and responsibilities regarding the issue in question, and are publicly or collectively understood as such. This broad definition corresponds to the constitutive, regulative, and deontic function of norms. Norms constitute identities and meanings by defining who may act, in what context they may act, and what their actions mean in that particular context. They regulate by pre/proscribing how actors should behave in defined contexts (Dessler 1989: 456). Finally, norms serve a deontic function when they express values that create new rights and responsibilities (Onuf 1997; Ruggie 1998: 21). Norms perform these functions simultaneously, but to varying degrees.

Norms do not necessarily identify actual behavior; rather they identify notions of what appropriate behavior ought to be. Norms are intersubjective, or shared, but only in the sense of being irreducible to individual beliefs. The importance of norms in global politics comes from their *institutionalization*, which makes them “collective” or part of social structure. Institutionalization concerns the perceived legitimacy of the norm as embodied in law, institutions, or discourse even if all relevant actors do not follow it (Onuf 1997: 17). Legitimacy matters because the question is not whether the norm exists, but the political authority the norm enjoys. A claim of legitimacy does not necessarily mean it adheres to a deeper notion of justice – though that is one source of disagreement in the literature. Rather, legitimacy in this context refers to the basis of obligation being rooted in the acceptance and justification of the norm as defining appropriate behaviour because of agreement or recognition by relevant communities (Franck 1990: 16, 38; Florini 1996: 364–365; Bernstein 2005, 2011). The degree of institutionalization is important because it indicates how strongly challenges to the norm are likely to be contested and ultimately the ability of the norm to (re)define state or other key actors’ interests.

Being collectively held, norms are “discrete positivities” and thus can be operationalized more straightforwardly than often portrayed (Onuf 1997: 32). Most international norms are stated explicitly in treaties, resolutions, declarations (including the “soft” declaratory law that has served as a basis for international environmental law and institutions: Dupuy 1991), and in rules and standards established by international organizations. Hence, norms leave behavioral traces in the form of treaty commitments, action programs, practices, policies, and so on.

Norms did not initially attract much attention when the field of global environmental politics began to coalesce in the 1990s. This, despite the almost simultaneous rise of the “social constructivist” research program in International Relations in the late 1980s and early 1990s, where norms figured prominently in its core ontology that rested on the co-constitution of agents and structures. Although English School scholars had long paid attention to the societal aspects of international systems in

contrast to American realism, constructivists much more explicitly placed norms at the center of their research program to show that ideas and specifically “inter-subjective” knowledge had a profound impact on the nature and functioning of international relations.

However, environmental scholars at the time were preoccupied with international environmental negotiations and the search for explanations of international cooperation on environmental problems (e.g. Young 1989; Mintzer and Leonard 1994; Sprinz and Vaahutoranta 1994). Works on how and why environmental cooperation mattered, focused on implementation and effectiveness of international rules, quickly followed (Underdal 1992; Chayes and Chayes 1995; Victor *et al.* 1998; Young and Levy 1999). Yet, even pioneering work that focused on the role of ideas in influencing these outcomes – some of which originated in the environmental politics literature – paid little attention to the specific norms those ideas promoted. Instead, work such as Peter Haas’s (1989, 1992) application of the “epistemic communities” concept to the Mediterranean Action Plan or agreements to combat ozone depletion, on the role of experts motivated and empowered by causal and principled beliefs, focused on how scientific ideas could define an interest in cooperating or create a focal point around which cooperation might converge.

Even work focused more explicitly on the constitutive basis of global environmental politics, such as the way deeper sovereignty norms delimited it or how sovereignty could be redefined by it (e.g. contributions to Conca and Lipschutz 1993) or that took a critical stance on values being promoted in the name of environment (e.g. Chatterjee and Finger 1994) did so without much explicit reference or analysis of norms. Still, contributions such as Conca and Lipschutz’s pioneering volume drew attention to the constitutive basis and deep structures of global environmental politics that provided a foundation for later work on norms, including not only how structures define and constrain action, but how norm contestation or the introduction of new norms can enable new actors and identities that potentially challenge long-standing practices that were harmful to the environment. Similarly, the literature on compliance and effectiveness began to pay attention to not only material incentives that shifted the costs or benefits of complying with an environmental agreement but also to the force of norms and discourse in social learning, redefining interests, facilitating compliance, and legitimating new practices in compliance with environmental goals.

Meanwhile, international environmental legal scholarship had long paid attention to the substance of environmental norms, but paid less attention to their causal or constitutive effects. That scholarship became a source of interest for social scientists perhaps because much of international environmental law emerged initially through statements of broad principles such as the 1972 Stockholm Declaration and antecedents in various UN declarations such as on sovereignty over natural resources.¹ Thus, the study of norms and “soft law” became an important dimension of international legal scholarship (Dupuy 1991; Kirton and Trebilcock 2004), especially since from the legal perspective the line between norms and rule, in terms of their authority and effects, can be extremely blurry (Bodansky 2010).

Drawing these various strands together, the next section traces the evolution of environmental norms before addressing current trends and controversies in the literature.

The Evolution of Global Environmental Norms

Global environmental norms evolved out of a series of North–South compromises, but also owing to an ideational shift in how the international community framed environmental issues and responses to them over the last 40 years.² It is easy to forget that current formulations of the environmental problematique differ substantially from the dominant views held when the first concerted efforts at wide-scale global responses to environmental problems began in the late 1960s and early 1970s. From the perspective of those earlier efforts, which focused on the negative environmental consequences of unregulated industrial development, suspicions of economic growth, and planetary consciousness and “loyalty to the Earth,” the shift in environmental governance is a remarkable and a largely unforeseen departure. Table 8.1 summarizes the key norms of environmental governance over the last 40 years. It is arranged to identify “norm-complexes” – a set of norms that govern practices in a particular issue area – at key junctures (Bernstein 2001). A norm-complex need not be stated explicitly, or even internally consistent, but can be inferred from specific norms institutionalized at a particular time and can be used to assess the significance of changes.

A logical starting place is the 26 principles of the Declaration on the Human Environment, the main statement of governing norms from the 1972 Stockholm Conference. The political debate in the lead-up to the conference – the first large-scale multilateral gathering explicitly focused on the full range of international environmental issues – quickly began to reflect underlying tensions between North and South. Preparatory meetings especially highlighted concerns in the South over perceived lifeboat ethics, and an unwillingness to give up state sovereignty over resources and policy.

At Stockholm, developing countries succeeded in placing concerns about economic growth on the agenda, but ideas to link environment and development had not yet been formulated. As a result, a weak compromise focusing on *environmental protection*³ prevailed, consistent with the view of Western environmentalists that development and environmental protection are different, often competing tasks. Attempts to further institutionalize environmental governance concentrated on ways to reconcile competing sets of environment and development norms introduced at Stockholm.

“Sustainable development” emerged in the 1980s as that breakthrough idea, becoming the dominant conceptual framework for responses to international environmental problems and capturing the imagination of world opinion. As promoted by the World Commission on Environment and Development (WCED 1987), known as the Brundtland Commission, the concept aimed to legitimate economic growth in the context of environmental protection – a major shift in framing environmental problems since Stockholm. The second column of Table 8.1 highlights the norms promoted in the Brundtland report.

By 1992, a further shift had occurred along one pathway enabled by the sustainable development concept. The UN Conference on Environment and Development or Rio Earth Summit institutionalized the view that liberalization in trade and finance is consistent with, and even necessary for, international environmental protection, and that both are compatible with the overarching goal of sustained economic growth.

Table 8.1 The evolution of international environmental norms: 1972–2012.

	<i>Stockholm 1972</i>	<i>WCED 1987</i>	<i>UNCED 1992</i>	<i>UNCSD 2012</i>
State Sovereignty and Liability	1. Sovereignty over resources and environmental protection within state borders. Responsibility for pollution beyond state borders. (Principles 21–23).	1. Unchanged.	1. Unchanged (Principles 2, 13, 14) except: (a) advanced notification of potential environmental harm (Principles 18,19); (b) state right to exploit resources is to be pursuant to <i>development</i> in addition to environment policies.	1. Unchanged in terms of rights and obligations, but greater recognition of role of business and stakeholders in governance and implementation.
Political Economy of Environment and Development	2. Developed and developing countries differ on sources of and solutions to environmental problems. (Principles 11–13). 3. Balance free trade with commodity price stability. (Principle 10).	2. States have the following <i>common</i> responsibilities: (a) revive global growth; (b) share responses to global environmental problems. 3. Free trade plus an emphasis on global growth balanced with managed interventions and commodity price stability.	2. Common but differentiated responsibility (Principles 3, 7, 11). Development takes precedence if costs of environmental protection too high (Principle 11). 3. Free trade and liberal markets. Environment and free markets compatible. (Principle 12).	2. Unchanged, but increased North–South contestation over the meaning of differentiation; pressure to universalize sustainable development goals. 3. Unchanged, but increased tensions on intellectual property (tech transfer), fossil fuel and “green” subsidies, access to resources, markets for environment goods.

(continued)

Table 8.1 (Continued)

	<i>Stockholm 1972</i>	<i>WCED 1987</i>	<i>UNCED 1992</i>	<i>UNCSD 2012</i>
	4. Environmental protection requires technology and resource transfers to developing countries. (Principles 9, 20).	4. Unchanged plus specific proposals such as a tax on use of the global commons.	4. Transfers left primarily to market mechanisms, except for least developed countries.	4. Transfers left primarily to market mechanisms, but contestation over intellectual property rules, e.g. compulsory licensing model and technology clearinghouses.
	5. States should cooperate to conserve and enhance global resource base. (Principles 1–7 and 24). Multilateralism.	5. Multilateral cooperation for global economic growth as necessary for other goals.	5. Same as WCED plus human centered development. (Principles 1, 7, and 27).	5. Contested multilateralism; complex governance.
Environ-mental Management	6. Command-and-control methods of regulation favored over market allocation in national and international planning. (Principles 13 and 14).	6. Mix of command-and-control and market mechanisms. Polluter Pays Principle (PPP) endorsed.	6. Market mechanisms favored. PPP and Precautionary Principle. (Principles 16 and 15).	6. Market mechanisms still favored, increased role for the private sector and public–private partnerships, pressure for greater role of state in regulation. Growth of civic environmentalism.
Norm-Complex	Environmental Protection.	Managed Sustainable Growth.	Liberal Environmentalism.	Contested Sustainable Development.

Source: Adapted from Bernstein, Steven. 2001. *The Compromise of Liberal Environmentalism*. New York: Columbia University Press: 109. © 2001 Columbia University Press. Reprinted with permission of the publisher.

Thus, the Earth Summit embraced, and perhaps even catalyzed, the new economic orthodoxy then sweeping through the developing world (Biersteker 1992). These norms are embodied most explicitly in the Rio Declaration on Environment and Development – “the one ‘product’ of UNCED designed precisely to embody rules and principles of a general and universal nature to govern the future conduct and cooperation of States” (Pallemmaerts 1994: 1).

Notably, proponents of the concept of sustainable development meant it to incorporate *three* pillars: environment, economic, and social. However, although the Rio Declaration mentions social goals such as poverty eradication, participation of major groups in decision-making, and recognition of the contribution of indigenous peoples and knowledge to sustainable development, the word “social” appears only once in the Declaration and any goals that could be broadly construed as social appear in the context of “development” more generally. Norms of individual rights and equity, employment, or access to resources are notably absent from the Declaration, with the exception of a general call for equity in meeting environmental and developmental needs (Principle 3). Not surprisingly, 20 years later, a central institutional goal of the 2012 UN Conference on Sustainable Development (Rio+20) remained greater coherence among the three sets of goals in the UN system.

Instead, the main elements of the normative compromise institutionalized at Rio 1992 include state sovereignty over resources (and environment and development policies) within a particular state’s borders on the political side, the promotion of global free trade and open markets on the economic side, and the polluter pays principle (and its implicit support of market instruments over strict regulatory mechanisms) and the precautionary principle on the management side. For example, according to Principle 12: “States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation.” The polluter pays principle (Rio Principle 16) refers to the idea that the polluting firm ought to shoulder the costs of pollution or environmental damage by including it in the price of a product. This principle thus favors market mechanisms (such as tradable emission permits or privatization of the commons) since they operate by institutionalizing schemes that incorporate environmental costs into prices. It also promotes an end to market-distorting subsidies. The precautionary principle essentially says that a risk of serious environmental harm warrants a precautionary stance even under conditions of uncertainty. Notably, however, its institutionalization remains limited, in part because it provokes contestation whenever it appears to bump up against liberal trade norms.

The one norm that most directly implies that any obligations toward the environment might operate in anything but a liberal market context is Principle 7, which recognizes the “common but differentiated responsibility” of developed and developing states. It harkens back to long-standing demands for differential obligations of the North and South and hence some possible interference in what might be the most economically efficient means of dealing with global environmental problems (it has also faced significant contestation in recent years, discussed further below).

This principle can also be found in Articles 3(1) and 4(1) of the UN Framework Convention on Climate Change (UNFCCC) and is a fundamental element of the implementation of the treaty, which creates different obligations for developed and

developing states. It is repeated in Article 10 of the 1997 Kyoto Protocol. The main operative provisions of the UNFCCC deserve mention in this regard since “common but differentiated responsibility” still appears to fit with using or creating markets and liberal economic norms more generally. In line with common but differentiated responsibilities, Article 4(2)(a) obligates developed states to “tak[e] the lead” in modifying their greenhouse gas emissions, but to do so while recognizing, *inter alia*, “the need to maintain strong and sustainable economic growth.” It further states that, “Parties may implement such policies and measures jointly with other Parties.” This idea of “joint implementation,” along with emission trading and the Clean Development Mechanism, became one side of the compromise that produced agreement on the Kyoto Protocol. The compromise linked quantitative reductions or limits in greenhouse gas emissions in developed countries to the inclusion of these three market mechanisms, which were justified as a way to achieve emissions reductions cost-effectively. Ironically, emission trading, promoted most heavily by the United States in negotiations, has proliferated largely outside of the Protocol, but the norms supporting market mechanisms remain relatively strong, despite a number of criticisms of specific instruments.

The discourse of compatibility between the trade regime and the climate regime has also been an important part of the latter’s legitimation (Eckersley 2009). Language in the UNFCCC thus closely mirrors Principle 12 of Rio Declaration: Article 3.5 states parties should “promote . . . [an] open international economic system that would lead to sustainable economic growth” enabling them better to address the problems of climate change, and includes General Agreement on Tariffs and Trade (GATT)/WTO language on non-discrimination. Whether or not future trade measures that might result from the international climate regime or national climate policies could be justified under WTO rules in practice is a matter of some controversy (Eckersley 2009; Hufbauer *et al.* 2009). The point here is that to the degree that policies, such as border tax adjustments on imports not subject to rules limiting emissions (to prevent carbon “leakage,” for example), reveal contradictions within that legitimating discourse or lead the WTO to rule against such a measure, it poses a serious challenge to the climate regime. This risk underlines the enormous normative pressure on UNFCCC, Kyoto Protocol, or any successor agreement to be compatible with international trade rules.

Table 8.1, column three, summarizes the norms institutionalized at UNCED, with principles in parentheses referring to the Rio Declaration. Elsewhere, I have characterized the norm-complex institutionalized as “liberal environmentalism,” which predicates environmental protection on the promotion of a liberal economic order.

While space limitations prevent a full account of the institutionalization of these norms in specific treaties, practices, and policies, it is worth noting that states subsequently reaffirmed these norms at Rio anniversary global conferences, including the 1997 UN General Assembly Special Session to review the implementation of Agenda 21 and again at the 2002 World Summit on Sustainable Development (WSSD) in Johannesburg – or Rio+10. The latter is notable for further reinforcing global liberalism, the importance of the private sector, and the declining hope for multilateral management. It thereby reflected underlying structural conditions of freer and accelerated transaction flows, globalizing markets, and the fragmentation of political authority. Rio provided the normative foundations for environmental governance

to adapt to such conditions. WSSD also heralded the legitimation of another trend consistent with the pattern of working with the market and private sector: public-private partnerships for sustainable development. This move broadened the location of environmental activity, but without deepening core commitments by states or improving multilateral coordination efforts. The proliferation of “corporate social responsibility” initiatives – which vary widely in terms of their scope, authority, and effectiveness – and NGO-led “certification” systems that attempt directly to regulate environmental and social practices in the marketplace, also emerged out of this compromise. Many emerged in reaction to inadequate or missing multilateral responses.

Ten years on, the process of global negotiations to implement the Rio goals persists. The Rio+20 Conference (or UN Conference on Sustainable Development) in June 2012 is just the latest round, following not only the 2002 WSSD, but also the Financing for Development initiative that emerged out of the 2002 Monterrey Consensus and the 2008 Doha Declaration on Financing for Development. These efforts are notable for the way they reflect a rapprochement between traditional development concerns such as aid and poverty alleviation with the Bretton Woods institutions’ focus on liberalization (Pauly 2007). Specifically, the 2008 Doha Declaration on Financing for Development identifies two mechanisms aimed at building macroeconomic coherence by linking the finance and trade regimes – the Enhanced Integrated Framework (EIF) and Aid for Trade (AfT) initiatives, which mostly focused on trade facilitation – as the means of fulfilling the Monterrey Consensus. The latest manifestation of the compromise is the “Green Economy” agenda, one of two conference themes (the other being the reform of the institutional framework for sustainable development) of Rio+20.

Still, the outcome document, following the pattern of Rio+5 and Rio+10, “reaffirms” the core principles in the 1992 Rio Declaration and reflects the universal consensus not to reopen negotiations on norms (United Nations 2012: para. 7). That does not mean debate is closed, however. Contestation continued to bubble through the surface of this latest round of global negotiations. Debate persists, for example, on the meanings of some key norms – not only “common but differentiated responsibility,” but also polluter pays, which implies internalizing costs for some but responsibility of industrialized countries “to pay” for their historical pollution for others. More broadly, the Green Economy concept is explicitly linked to sustainable development in a way that highlights still-sharp disagreements about what sustainable development means in practice. Notably, the outcome document identifies this theme as “Green Economy in the context of sustainable development and poverty eradication.” This formulation reflects the suspicion articulated by developing country governments in their submissions that the concept may tilt policy too far towards an emphasis on environment and “green” jobs and investment at the expense of poverty alleviation or more general economic growth and social stability concerns. Some developing countries also articulated opposition as a concern over green protectionism and that they will be unable to benefit from such a transition owing to their lack of access to technology, expertise, or investment, thus leaving them even worse off. In many ways, the same conflicts over aid, development financing, and technology transfer that have characterized North–South bargaining persist even as this latest articulation of sustainable development suggests a compromise that attempts a

correction from too “liberal” an environmentalism, or, more positively, a more fundamental transformation to a greener, less carbon intensive, capitalism (Newell and Paterson 2010). This contestation signals stress on liberal environmentalism on the one hand, but on the other hand signals that the market-based compromise remains resilient in lieu of a clearly articulated alternative.

Moreover, owing to that ambiguity in interpretation and history of conflict in implementation, the compromise remains weak in policy terms because it masks differences rather than confronts or resolves them. In practice, this has meant that institutions with specific mandates to address parts of the compromise have continued to emphasize their primary missions while using the rhetoric of sustainable development. While there have been some serious efforts to integrate the concept of sustainable development into policy, especially in UN institutions, the ambiguity and lack of precision has contributed to the limited implementation of the integration of environmental and social concerns into core policies and practices of the key financial and trade institutions with greater legal, financial, and political weight in development policy. Thus, although the fundamental compromise appears to remain legitimate, the final column of Table 8.1 reflects increased contestation on a number of fronts.

Explaining Norm Emergence and Evolution

Environmental social movements, norm entrepreneurs, the “teaching of norms” (Finnemore 1996) from IOs such as the United Nations Environment Programme (UNEP), and especially epistemic communities of scientific experts who brought environmental cause–effect relationships to the attention of governments (Haas 1989, 1992) have all contributed to the promotion of international environmental norms. The role of “agency” is thus clearly important, consistent with the first wave of constructivist scholarship on norms (e.g. Haas 1992; Finnemore 1996; Finnemore and Sikkink 1998). The focus on agency is also useful for research on how norms influence domestic policies because actors carry, support, and utilize norms to wield influence. However, agency alone cannot easily explain the evolution toward liberal environmentalism, which is not only a general trend, but is pervasive in a number of policy contexts. For example, scholars have noticed similar normative underpinnings in climate change generally (Eckersley 2009; Newell and Paterson 2010) and specifically in transnational and experimental forms of climate change governance largely outside of the formal multilateral regime (Hoffmann 2011), as well as in forest governance (Humphreys 2006) and water governance (Conca 2005).

Although these authors come from various theoretical perspectives, they all pay attention to the way in which the wider structural environment has shaped responses to global environmental problems. In my own work (Bernstein 2001, 2011) I have emphasized that norms emerge through the interaction of new ideas with broader social structure, an argument based in sociological institutionalism and the idea that that the *social* fitness of proposals for new norms with extant social structure better explains why some norms are selected, while others fall by the wayside (see also Florini 1996). On this view, social structure is composed of global norms and institutions. It serves a constitutive function by defining what appropriate authority is, where it can be located, and on what basis it can be justified. It also serves a regulative

function by prescribing and proscribing the boundaries of governance activities. A number of Constructivist IR scholars employ such a notion of social structure under various formulations including an “environment” in which organizations operate, “normative structure,” and “social structure” (Finnemore 1996; Meyer *et al.* 1997; Ruggie 1998: 22–25; Reus-Smit 1999; Barnett and Coleman 2005). Their basic insight is that already institutionalized norms define appropriate and inappropriate courses of action, legitimate and delegitimate institutional forms, create a context in which cost–benefit analysis occurs, or, put more generally, make the purposes, goals, or rationale of an institution understandable and justifiable to the relevant audience in society (Weber 1994: 7).

Not surprisingly, there are considerable theoretical differences in the way different authors understand this wider environment, especially in terms of how they understand structure and its social and material bases. My own position is that the evolution of environmental norms occurred in a context of wider shifts in the norms of the international political economy: liberal environmentalism tapped into an evolving set of neoliberal norms around global economic governance, a consensus from which it drew legitimacy for a growth-oriented, privatized, and market-based orientation that favored working with the market to solve social problems.

Another trend in broader social structure worth highlighting is the growing normative consensus since the end of the Cold War on the need to “democratize” global governance. These norms include demands for democratic reform and improved public accountability of international institutions to states and/or broader affected publics (e.g. Payne and Samhut 2004; Held and Koenig-Archibugi 2005), increased transparency (e.g. Florini 2010; Gupta 2010), as well as “stakeholder democracy” that calls for collaboration and truer deliberation among states, business, and civil society (Bäckstrand 2006). Such normative pressure is especially prevalent in international environmental institutions, treaties, and declaratory law, which have been at the forefront of promoting increased public participation and transparency at all levels of governance since the 1972 Stockholm Conference (Mori 2004). Examples of codification include Rio Declaration Principle 10 (which states that environmental issues are best handled with participation from all “concerned citizens at the relevant level”) and the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, which came into force in 2001.

The focus on social structure opens up a deeper theoretical debate that is the new frontier in research on norms of global governance, namely the shift from research on the static influence of norms on behavior to an examination of power and contestation to understand and explain norm dynamics.

Norms and Power: Two Views

Hoffmann (2010) draws a useful distinction in the current wave of norms literature between those who view agents as reasoning *about* norms and agents who reason *through* norms. These two views coincide with different ways to understand the relationship between norms and power.

The reasoning “about norms” perspective tends to dominate work on norm compliance and socialization – what I would call the “influence” literature. On this view,

norms are sources of power and influence because they are persuasive, that is, result from good arguments or related forms of communicative action (e.g. Risse 2000), or because they are attached to rules that carry sanctions, either legally or because they mobilize political action such as protests or boycotts with material consequences. Norms can also expose norm-violators to shaming or other harm to their reputation.

The reasoning “through norms” perspective focuses on contestation within a normative community, that is, where intersubjectively held norms may be taken for granted, but where interpretations of the norm can vary and clash. This view raises questions of normative change and transformation as well as the power/knowledge nexus, where norms may reflect dominant discourses. As Wiener (2004: 203) has argued:

[T]he interpretation of the meaning of norms, in particular, the meaning of generic socio-cultural norms, cannot be assumed as stable and uncontested. On the contrary, discursive interventions contribute to challenging the meaning of norms and subsequently actors are likely to reverse previously supported political positions.

One way to think about contestation is the “gap between general rules and specific situations” (Sandholtz 2008: 121; Hoffmann 2010: 10).

However, contestation may also result owing to changes in background knowledge or social structure that produce changed understanding of identities, situations, or relationships. If one takes the sociological approach to normative evolution outlined above, for example, underlying social structure evolves, which conditions and constrains as much as it enables particular norms (Bernstein 2001; Adler and Bernstein 2005). Similarly, Epstein (2012) takes a more explicitly Bourdieuan perspective in her work on the anti-whaling norm as a form of structural power, or what Bourdieu calls “symbolic domination.” Understood in this way, norms do not merely persuade or even simply define interests, they evacuate “other ways of acting or talking about the issue.”

For example, anti-whaling states stripped Iceland of its voting rights in the International Whaling Commission when it sought to rejoin in 2001 (after leaving in 1992) by voting on its membership, which is not normally subject to a vote (Epstein 2012: 168–169). This move was made possible, in part, because the *nomos* shifted from a “whaling order” to an “anti-whaling” order owing to the successful recategorizing of whaling as commercial, but specifically defining aboriginal subsistence as outside of that order. Bourdieu’s “*nomos*” refers to the “the underlying matrix of norms regulating the practices, or ways of doing and seeing, pertaining to a particular field” (Epstein 2012: 171). The redrawing of the field allowed the norm of anti-whaling to gain traction where scientific evidence had failed to produce sufficient momentum for a moratorium, but it did so through an anti-whaling discourse that cast commercial whaling as bad, but aboriginal whaling as acceptable.

Adler and Bernstein (2005) similarly draw attention to the “background knowledge” or “episteme” as productive of a normative order. An episteme is the “intersubjective knowledge that adopts the form of human dispositions and practices” or the “bubble” within which “people happen to live, the way people construe their reality, their basic understanding of the causes of things, their normative beliefs, and their identity, the understanding of self in terms of others.”

These authors draw in different ways from Foucault and Bourdieu in an effort to capture how norms are part of deeper understandings of the world. As part of a background knowledge, norms are a form of productive power in the sense of defining the order of things or distinguishing normal from abnormal, and producing both social relations and the institutional forms that reflect this background knowledge. In turn, norms can empower some actors over others depending on how they stand in relation to that background knowledge. Such a view of norms draws attention to the perspective of norm “takers” or “targets” who in their resistance may be confronting underlying power relations (Epstein 2012).

These approaches highlight not only the deontological function of norms, but also that the defining of good and bad is infused with power relations. This perspective stands in some tension to the subtext of much of the literature on norms that suggests that norms gain traction through communicative action, which is a form of truth-seeking (Risse 2000).

Taken a step further, some scholarship has explicitly examined the negative consequences of environmental norms. Dimitrov (2005), for example, argues that the norm of “environmental multilateralism” helps explain the creation of a multilateral institution to address forestry – the UN Forum on Forests (UNFF) – with universal participation. However, given other norms and interests actually driving forest policy, the creation of the institution served only to produce a hollow institution “designed to be idle” and “preempt governance” (Dimitrov 2005: 4).

What Do Norms Do? Influence and Impact

More or less coinciding with these two views of power, norms affect outcomes in global politics in two ways. First, they may have direct influence over choices which reflects a “reasoning about norms” approach. A large literature compares the influence of norms to material interests, judging norms based on whether actors respond to normative prescriptions or because they provide guidance in the absence of clearly defined interests. This literature often asks whether behavior in a particular situation is driven by a logic of consequences, which would suggest norms do little or no work apart from the underlying interests of actors, as opposed to a logic of appropriateness, where behavior reflects judgments about what is socially acceptable, legitimate, or the “right” thing to do in a particular circumstance (March and Olsen 1998).

In this regard, Keck and Sikkink outline a series of strategies that transnational actors can undertake to encourage states to follow norms – the politics of information, symbolism, leverage, and accountability (Keck and Sikkink 1998). This literature debates the degree to which domestic policy-making institutions and networks, culture, or ideology can influence the uptake of norms (e.g. Risse *et al.* 1999), and many studies find that some “fit” with domestic factors is important (e.g. Cortell and Davis 1996). More recently, Acharya (2004) has emphasized the ability of local actors to reconstruct international norms to fit with local norms or to reinforce local beliefs or institutions. Others have shown the importance of learning gained through interaction in transnational networks, explicit efforts at dialogue, and/or participation in formal and informal international gatherings or conferences and transgovernmental networks (e.g. Holzinger *et al.* 2008; Bernstein and Cashore

2012) as important mechanisms for the dissemination of, and possible transformation of, norms.

Recent studies of norms promoted by powerful international organizations such as the World Bank and IMF similarly highlight that the apparent stabilization of norms within those organizations does not necessarily fix the impact of norms “on the ground,” since the implementation of policies interacts with domestic circumstances and processes (Park and Vetterlein 2010). This interaction can also be a source of norm contestation that feeds back into the life cycle of the norm since it can be a factor in contestation that then occurs in the IO.

A number of studies on the influence of environmental norms on domestic and firm behavior highlight norms influence along these lines. For example, Falkner (2006) attributes China’s decision to reverse policy and halt the authorization of new genetically modified crops to the influence of transnational networks promoting environmental norms as well as China’s shift in preferences owing to economic globalization.

In the case of forestry, Keskitalo *et al.* (2009) find that the implementation of international environmental and indigenous rights norms promoted by forest certification systems differed in Sweden, Finland, and Russia depending on national infrastructure and market characteristics. Similarly the widespread diffusion and implementation of norms around “sustainable forest management,” and some variance in interpretation, have depended in large part on linking with other domestic processes, especially learning processes, links with domestic and transnational networks in support of the norm, and resonance with domestic laws and practices (Bernstein and Cashore 2012). In addition, the norm of transparency, also prevalent in forestry, has had effects, for example in Central Africa, where the raising of awareness and reporting of corruption by international NGOs such as Transparency International, Global Witness, and Resource Extraction Monitoring have been key drivers, though that influence is largely limited to the formal forest sector and not the much larger informal sector (Eba’a Atyi *et al.* 2008: 24).

Haufler has similarly documented transparency’s increasing influence in the extractive (oil, gas, and mining) sector, through the Extractive Industries Transparency Initiative (EITI). Its relative success stems both from powerful support through the agency of Tony Blair, but also its intersection with transnational networks with complementary global norms, which facilitated the construction of transparency as a solution for management of resource revenues. Similarly, Florini (2010) found more generally that the domestic uptake of transparency varies based on the norms (e.g. views on democratization, privatization, and regulatory policy) and capacities of countries. Together, these findings suggest different domestic factors and transnational interactions can affect the impact of international norms, but also can feed back into the norm life cycle.

Constructivists have also stressed a second way norms matter that coincides closely with the “reasoning through norms” approach: social structure or background knowledge may define interests and identities in the first place, making it difficult to disentangle interests and norms in practice. Moreover, new policy ideas themselves may stem from the interaction of deeper, sometimes taken-for-granted norms and their interactions with “experienced events” (Hurd 2008: 303). This understanding of norms means that changing ideas and behavior at once reflect some interpretation or understanding of underlying norms but also reproduce or alter

those norms in interaction with new circumstances. This can be both unconscious and conscious, for example when states attempt to reconstruct rules to condone their behavior (Hurd 2007).

An example in practice is the active contestation over the norm of common but differentiated responsibility (CBDR). Developing states invoke the norm to justify deferring or differentiating their commitments as a group on environmental action. A number of developed states contest that interpretation. Some, for example, interpret the norm as consistent with differentiation within the group of developing countries. Others have introduced language to emphasize common and universal obligations, even as most still accept some differentiation on commitments based on level of development and capacity, an argument also accepted by some developing countries including Egypt and Bangladesh (Brunnée 2010). Notably, outright rejection of the norm has not been tolerated; rather, debate is around its interpretation. For example, climate negotiators debate how much to weigh historical emissions in calculating obligations, whether to look at per capita versus national level of commitments, or, more broadly, whether all “major” economies should have commitments to reduce their projected growth of greenhouse gas emissions. The latter became the basis for the 2010 Cancun Agreements, although that bargain came at the expense of legally binding commitments.⁴

By addressing contestation, the latest wave of constructivist literature is more careful to step outside of a strict idea of co-constitution. At the same time constructivists do not wish to cede ground to the rationalists who simply juxtapose a logic of consequences and logic of appropriateness as more or less alternative explanations. The middle ground is gained by focusing on “background knowledge” rooted in “practices” or competent performances (Adler and Pouliot 2011: 7, 17). On this view, practices – say of diplomacy or North–South bargaining – take on a common-sense character that is conscious, but largely taken for granted. Moreover, norms, even when followed or promoted, may be “practiced” competently or incompetently as this background knowledge is enacted and reified within relevant communities.

Whether one finds the notion of background knowledge useful, the idea that norms must be enacted and that there is some room for reasoning about them means they are also subject to contestation and should be thought about dynamically.

Contestation and the Future of Global Environmental Norms

The recent turn in the constructivist literature on norms towards a focus on contestation tells us that the apparent stability reflected in a political consensus to not “reopen” discussion of norms may mask underlying contradictions and tensions to its own detriment. The framers of sustainable development norms built the concept around the idea that no significant trade-offs needed to be made to achieve environment and development goals. The norms promoted a win-win (or win-win-win if the social is included) discourse, which evolved to reflect the compatibility of the market with all other social purposes. In practice, however, liberal environmentalism does involve compromises, on principles and substance, of policies sufficient to address sustainable development goals effectively. If formulated in a way that denies that compromises or concessions are necessary, ongoing bargaining on substantive problems becomes more difficult to the degree that it reveals the contradictions previously glossed over.

The Kyoto Protocol and subsequent climate change negotiations are prime examples that reveal these contradictions. When it came time to commit to the compromises the Kyoto Protocol embodied, the United States balked at legal commitments to reduce emissions on one hand, while developing countries refused to budge from a principled commitment to unfettered growth and differential responsibility on the other. The current round of negotiations has made explicit the need to reconcile developing countries' recognition that they are likely to suffer most from the consequences of climate change with the understanding that the North is unwilling to make all the trade-offs necessary to decarbonize capitalism, the ultimate and necessary goal of a green economy. What appears left is an ongoing mutual commitment to, or faith in, the market while multilateralism continues to come under pressure as the appropriate institutional form to work out these differences.

Meanwhile, pressures in deeper social structures – whether reinterpretations of “background knowledge,” shifts in the global distribution of power, the proliferation of new actors with legitimate claims to be heard in a shifting and more complex governance environment, or new forms of resistance to global liberalism in light of contradictions revealed in the aftermath of the 2008 financial crisis – suggest that contestation over the meaning and legitimacy of many existing norms will continue to reflect reasonable differences in social purposes on a global scale. The tendency to mask these differences bodes ill for moving forward on the need to transform the global economy sufficiently to avoid dangerous climate change and related planetary crises.

Notes

- 1 For example, Sohn (1973). State sovereignty over resources is widely considered the foundational norm of international environmental law, existing in various forms in legal decisions and documents such as the UN Charter, but stated explicitly beginning with UN General Assembly Resolution 1803/62 (1962) on Permanent Sovereignty over Natural Resources, and later Principle 21 of the Stockholm Declaration on the Human Environment and Principle 2 of the Rio Declaration, which expanded it to include a sovereign right to exploit resources pursuant to a state's own environment and development policies.
- 2 This section draws liberally from Bernstein (2001) and Bernstein (2012).
- 3 The term admittedly does not capture the uneasy mix of conservation, economic development, sovereignty, and state responsibility norms that characterized Stockholm outcomes, but is consistent with common understandings of what Stockholm institutionalized.
- 4 The agreements can be downloaded at http://unfccc.int/meetings/cancun_nov_2010/items/6005.php. The lack of legally binding commitments may also be temporary, but so far only the European Union, Australia, and a handful of smaller states have agreed to legally binding commitments in a second phase of the Kyoto Protocol.

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