

APPLICATORY CONTESTATIONS, NORM BOLSTERING AND NORM EROSION

by

Nazira Kozhanova

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Examining Committee:

Richard Price
Supervisor

Lisa Sundstrom
Supervisory Committee Member

Supervisory Committee Member

Additional Examiner

Additional Supervisory Committee Members:

Supervisory Committee Member

Supervisory Committee Member

Abstract

Norm contestation has become a prominent issue in the norm literature lately, however the empirical studies are scarce. In this paper I first propose a theory of the way different types of contestations weaken different aspects of norm robustness, and second, I test this theory using a multi-method approach. The theory I'm proposing is on issue salience being different for two types of contestation, due to different types of backlash contestations cause, with high and lasting contestation salience weakening rhetorical aspect of norm robustness, and not affecting the behavioral aspect, and low and short-term contestation salience weakening behavioral aspect, and not affecting validity aspect of norm robustness. To test this theory in this paper I look at the case of the non-intervention norm applicatory contestation by Russia and anti-whaling norm contestation St. Nevis and Kitts declaration proposed at the International Whaling Commission in 2006. This study offers general support of the hypothesis made in this paper, with an exception of salience dynamics being more important than predicted salience

Lay Summary

Contestations of international norms that don't contest the norm itself, but only the particular application of that norm are generally considered to be less threatening to international norm integrity, even though there isn't enough research to back it. In this thesis I tried to challenge and test this assumption, by proposing a theory of different types of damage that different contestation pose to international norms. I used cases of territorial integrity norm and contesting of it by Russia, and anti-whaling norm and Japan's contestation of it. My research shows support of applicatory contestations also posing a threat to at least one aspect of international norms hypothesis.

Preface

This dissertation is original, unpublished, independent work by the author, N. Kozhanova.

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Dedication

To my family.

Introduction

1.1 The relevance of norms contestation topic

The issue of contestation is of utter importance in both the norms literature and in the practice of international norms right now. The reason for increased attention follows the norms literature gaining acceptance, so the attention of scholars is no longer needed strictly to defend the importance of norms, and the literature has moved in the direction of finding out the way norms function and cease to function, with an emphasis made on progress. The second reason for the topic of contestation of international norms gaining momentum is in today's context of the international environment, with such norms as civilian immunity among numerous other norms being contested by states and other actors.

For this reason, we need to pay closer attention to the way we treat contestations, as they have powerful consequences for the condition and even the very existence of international norms involved in contestations. By studying types of contestations and the way they undermine and strengthen international norms we not only can add to the body of literature on the way norms function in the international relations, but also consequently we can develop better policies for dealing with different types of contestations, given the possible effect they have on the norms. Therefore, in this study I would like to address the topic of applicatory contestations, as currently in the literature they are treated as less damaging to the existence of norms they are referring to, which has consequences in the way international actors are compelled to treat them. However, such a position currently is not supported by sound evidence, as empirical studies of this topic are rare, despite some authors addressing the possible damage of applicatory contestations. Thus, in this study, I would like to propose first to look closer at applicatory contestations from a theoretical perspective, and second, propose an empirical test of their effect on norms. After

completing my project, I would like to tune my theoretical mechanism better and to prepare grounds for a subsequent large-N study of this topic.

1.2 Norm contestation topic overview

The literature on the contestation of international norms falls within the larger debate between materialist and norms explanations for international actors' decisions. This debate tackles the question of whether international actors act based on material gains solely or if their actions to some extent or the other are dictated by what is prescribed by international norms. Such international norms are defined by Finnemore and Sikkink as "shared standards of appropriate behaviour for members of a particular community". (Finnemore, Sikkink 1998, drawing on Katzenstein 1998)

Standards are argued to exist according to norms' life cycles model (Jose and Stefes 2018). This model describes norms within a framework of stages through which norms go once they are launched by norm entrepreneurs. More specifically, norms pre-emerge and emerge in stages of those entrepreneurs lobbying for moral norms, and their transgression into the realm of full-fledged norms is far from inevitable, as they meet resistance at these stages. However, once they make it to the state of an established norm, after reaching a tipping point and passing the diffusion stage, this framework doesn't provide much insight concerning contestation. Contestation, in this case is a sign of the norms' erosion, there is a point at which contestation starts to undermine the norm, but at which point that is and why it happens is largely missing from this literature.

In case if norms face enough contestation, they decline and eventually cease to exist. The outcome of such norm death, as Sandholtz argues, is in a norm being replaced by a different norm (Sandholz 2019).

Contestation discourse can be talked about in the context of whether it undermines or supports norm robustness. Norm robustness can be defined as whether the norm is accepted by actors and is abided by actors in practice., i.e. whether actors do in fact act in accordance with such norm (Roos and Zaun 2014). It can be measured within two dimensions of validity and facticity. The difference between two is essentially in whether the norm is seen as valid and whether actors, in fact, abide by it (even if they don't recognize its validity). In the literature, there is a debate about the relative importance of two dimensions of the norm robustness, as Kirgis and Sandholz argue that it is the norm validity that is more important, while Panke and Peterson argue that both dimensions are equally important for measuring the norm robustness. This point is important for this research project, as it helps us to learn how to measure norm robustness better. In this study, I will use Panke and Peterson's approach because by looking at the norm primarily from the discursive standpoint, we risk mistaking hollow, albeit formally existing norms for norms that are both agreed upon and are abided by international actors. Conflating the two can have a consequence of not appreciating the larger extent of behavior according to this norm. (Panke and Peterson 2015)

1.3 Norm Robustness and norm contestation

The research on norm robustness often focuses on different factors that influence changes in norms' robustness. Such factors are the type of the contestation, norm type, number and power of actors, legality and environment surrounding norms' stability. In the next part of this literature review, I will focus on such process-related factors as the contestation type and the way it influences norms robustness, so in the rest of this paragraph, I will discuss other factors. Norm type is important, according to Wiener, as she wrote that a norm's larger universality makes the norm more difficult to undermine. Panke and Petersen add to this topic with their discussion of

norms' precision, as the more precise the norm is, the more difficult it is to challenge (Ibid). Zimmerman and Deitelhoff discuss that the larger amount and the greater power of actors involved positively influences the norm robustness level (albeit to a smaller extent than was previously assumed) (Zimmerman, Deitelhoff 2016). Also, they argue that if the norm is legal, it gets more difficult to successfully challenge it (Ibid). Panke and Petersen also highlight that we need to look at the environment surrounding norms (Panke, Peterson 2015). However, despite the number of theoretical arguments surrounding the topic of norms robustness, empirical research is scarce.

The same applies to the discussion of the type of contestation influencing the potential success of the aforementioned contestation. Norms contestation is discussed within terms of two types of contestations: validity and applicatory. Validity contestation refers to challenges to the appropriateness of the principle itself. In other words, validity contestations challenge the very core of the norm's legitimacy. Applicatory contestation is defined as those that do not question the norm itself, but rather whether it applies to a given situation or actor. "Here, the issue at stake is what actors can expect of each other independent of a given situation. This means that only those normative claims to which all can agree in principle can be valid" (Günther 1988: 16) precisely it means that applicatory contestations challenge the interpretation and application of the norm, accepting that the core norm is valid. Despite the commonly held notion of value contestation being more likely to successfully undermine the norm, the research is not quite abundant. Schmidt and Sikkink in their article on the USA contestation of anti-torture norm argue that this contestation managed to redefine what counts as torture and which actions are permissible in certain situations, and which aren't. (Schmidt, Sikkink 2018) Zimmerman and Dietelhoff make an argument that through the process of negotiating a norm, applicatory

contestations make the norm more precise, thus strengthening it. At the same time, they argue, value or validity contestations undermine the norm, as they put into question the very normative justification of the norm. (Zimmerman, Deitelhoff 2016)

However, the reverse argument is also present in the literature, albeit on a theoretical level only. Zimmerman and Dietelhoff, despite their overall point being in value contestation being more damaging, admit that applicatory contestations of norms are likely to undermine norms, due to a backdoor contestation effect, as they may make norms hollow, by adding more exceptions to the norms, and eventually norms lose their impact due to their limitations (Ibid).

In this study proposal, I will look at this argument and will propose the theoretical mechanism and empirical test of this hypothesis. In the next chapter, I will delve into the way applicatory norm contestations can, in fact, be more damaging to norms than their value counterparts, which is the chief counter-intuitive original hypothesis of this study.

Theory

2.1 The difference between the two types of contestations

The first issue at hand when discussing the difference between the influence of two types of contestations is of delving deeper into the difference between the two contestations, in order to investigate outcomes of two. Thus in this section first I will discuss the difference on a theoretical level, and then I will try to explain how differences between incentives and scopes of two types of contestations influence their perception by the international community, which consequently affects the salience level of the respective issue. The difference was discussed by Deitelhoff and Zimmerman in their discussion of two types of contestation:

Norm application contestation involves the following considerations:

- 1) whether the norm in question is appropriate for the situation;
- 2) actions that are implied according to such norm in the given situation;
- 3) in case if several norms apply, which one is the most appropriate one (Zimmerman and Dietelhoff 2016; Gunther 1993, 40, 70; Peterson 2015, 225-26).
- 4) applicatory contestations are also more likely to arise in the context of positive duties, as actors will be compelled to opt out from the fulfillment of such positive duties, which are more resource-intensive.

Norm validity contestation can be distinguished as addressing the issue of:

- 1) which norms actors want to uphold
- 2) what can actors expect from each other regardless of the context of a particular situation
- 3) if normative claims involved in the norm are righteous (Zimmerman and Dietelhoff 2016; Gunther 1993, 6-7)

From these accounts we can see that first of all there is a difference between the respective scopes of contestations. Through greater scope norm validity contestations are reshaping expectations of actors involved, thus making the stakes higher in this scenario. Thus, applicatory contestations would tend to be seen as less outrageous, and therefore provoke less drastic responses from actors involved in norms maintenance, while value contestations change expectations that actors have from the international context, thus making them to be seen as more significant than applicatory contestations.

From this point follows the next, which is that is that in the case of applicatory norm contestations, norms can potentially be beneficial to contenders (so even actors who contest the application of norms are interested in the general upholding of said norm, as international norms, in general, are beneficial to international community, as they reduce uncertainty). However, the issue at question is whether their application is appropriate in a given situation.

2.2 Actors involved in contestations

The next part of my argument that needs to be established is of actors that are involved in contestations of norms, as in the next section I will discuss their differing actions within two types of contestations. Norm application contestation involves two groups that are actively involved in the life cycle of the norm, which are norm entrepreneurs and anti-preneurs. The difference and similarity between strategies and methods employed by either are discussed by Bloomfield and Scott. (Bloomfield, Scott 2016; Clifford 2015). They argue that the basic strategies are similar, as they involve framing, grafting, and international mongering (by actors doing forum shopping). However, there is a difference, as anti-preneurs have an edge in “benefits of incumbency”, as psychological research shows that people, in general, favor the status quo. On the other hand, in the case of established norms, it could be the case that

entrepreneurs generally have this benefit, so we really need to look at the context of which group of actors has benefits of incumbency, depending on what status quo is in that situation, as well as to which degree do actors have benefits of incumbency, as norms being established is really a matter of a degree to which it is accepted and by which groups). (Ibid) Another effect that is at play in the process of contestation is the effect of framing and grafting norms by entrepreneurs closer to already existing norms. Particularly we can look at this issue of incumbency from the moral psychology standpoint: from the literature on changing people's opinions on political issues, we can see that people tend to favor change that is framed in accordance with their previously held beliefs. (Feinberg, Willer 2015)

In the case of value contestations, anti-preneurs are actively trying to undermine the norm itself, while entrepreneurs are interested in the further diffusion of this norm. In this case, I argue, entrepreneurs have incumbency benefits, as value contestations require anti-preneurs to challenge norms that constitute expectations that several international actors have of international order.

In the case of applicatory contestations, this theory argues, it's either anti-preneurs have slight incumbency benefits or entrepreneurs don't have incumbency benefits they have in the case of value contestations, as according to the theory I'm proposing, a possible consequence of contesting only the application of a norm is that contestations don't involve as many actors' expectations from the global order.

Having laid grounds for the main theoretical arguments, I want to gather together the main argument of this paper. First of all, we need to go back to the point of why norms became a prominent topic of discussion: one of the reasons for that is their role in reducing the uncertainty

of the global order, and therefore transforming expectations actors have from each other's' actions one way or another.

Thus, if we go back to the issue of scope and the following issue global actors who are interested in maintaining norms the same, we can conclude that having contestation with a larger scope (value contestations) would hinge on global actors' interests when compared with smaller scope (applicatory) contestations. Particularly, even though applicatory contestations engage interests, validity contestations that target the core norm and, consequently applications of this norm, engage the interests of more actors.

Precisely in this process of contestation, in applicatory contestations anti-preneurs can act with more freedom, due to their actions not being perceived as equally morally outrageous to value contestations, as the scope of value contestations is larger, and therefore they involve a larger number of actors who are interested in the norm being upheld, for the sake of reducing uncertainty. This falls in line with the incumbency benefits argument, as in the case of applicatory contestations, due to a smaller scope of contestation, anti-preneurs do not need to challenge the system of expectation from global order to the same extent as they would in the case of value contestations.

2.3 Backlash and norm bolstering in response to contestations

Going to the topic of the reaction to the contestation from moral entrepreneurs, i.e. backlash, I will clarify the way entrepreneurs resist contestation, depending on the contestation type. Vinjamuri makes a distinction between strategic backlash - that seeks "to block international justice interventions but goes much further. Its ambition is to embed new rules, practices, or, sometimes, alternative sources of authority") and tactical backlash, where actors "may seek simply to restrict or block policies and may be short term in nature." She argues

strategic backlash is more successful in blocking the proposition it opposes (Vinjamuri 2017). In my paper, I will be using Vinjamuri's concepts somewhat liberally, applying the notion of backlash from norms advocates (entrepreneurs) who react to norms challengers (anti-preneurs).

I will try to clarify the difference here between actions of anti-preneurs (as used in my paper, i.e. actors who advocate in favor of norms in response to the contestation, as opposed to Vinjamuri's usage of it, since she talks about anti-norms backlash, while this section talks about anti-contestation backlash) in the two types of contestations. Backlash as used in this paper can also be described as norm bolstering from pro-norm actors, done in response to norms contestations by anti-preneurs, so I will differentiate between mine and Vinjamuri's usage of backlash theory by referring to backlash from anti-norms actors as backlash, and backlash from pro-norm actors as norm bolstering, with similar principle being at play in both cases.

This strategic norms bolstering can show either in the stronger moral language used or in more mentioning of such contestation in a negative context. Applying this distinction to two types of contestations, we can attribute strategic norm bolstering to value contestations, it can be argued that the norm bolstering in the face of value contestations will be strategic, as a response to an attempt to re-write norms, i.e. its purpose would be to not allow new rules take place, which falls under a category of strategic norm bolstering. At the same time, tactical norms bolstering would be used more by entrepreneurs as a response to applicatory contestations, since that would be a response to a contestation that doesn't (at least explicitly) try to impose new norms, so not drastically changing global expectations. Given that entrepreneurs in the case of value contestations have incumbency benefits, and strategic backlash is predicted to be more successful in opposing its target, we can predict the norm either getting stronger or not changing in this case. According to Vinjamuri, the strategic backlash can be differentiated from the

tactical backlash via stronger moral language used, and also the content of backlash being more general, as it opposes not only the particular instance of contestation but also the entire norm that is attempted to be changed by anti-preneurs. Particularly, what is happening in the case of value contestations is that the issue at a stake is seen as more important, which leads to a more calculated and therefore longer lasting response.

2.4 Backlash, norm bolstering and salience

Delving deeper into the connection between different types of norms bolstering behaviour and the outcome of the contestation, we need to mind the issue of salience. This difference in the perception of applicatory and validity contestations affects the salience level of the issue at hand. In this paper, I use the concept of salience clarified by Rosert, as she defined it as “the amount of attention granted to an issue and reflected in agendas – ‘ set[s] of issues that are viewed at a point in time as ranked in a hierarchy of importance’ . Rosert argued that salience is a key part of both norm emergence and norm decay processes. Particularly, it takes root from issue attributes affecting the initial journalistic selection (which affect attention dynamics) and attention dynamics and has circular causal relations with norm entrepreneurs picking this issue, framing of the issue (both of which consequently influence mobilization), mobilization, and finally affecting social pressure (both by itself and through norm entrepreneurs, framing and mobilization). (Rosert 2018)

Precisely the issue of salience fits within the proposed theory by showing the connection between contestation type (that falls within the issue attributes part of Rosert’s theory), initial journalistic selection, and attention dynamics, that affect salience, which in turn affects the outcome of contestation. However, I excluded the mobilization and framing parts of this model (both of which have reciprocal relationships with salience variable), replacing it with a norm

bolstering variable. The main reason for this is in the difference between actions of moral entrepreneurs in situations of pushing for a new norm and pushing against changes in the old norms (i.e. norm bolstering). In particular, due to the norm already being established, tactics would focus more on reinforcing an established framing and rely on public shaming.

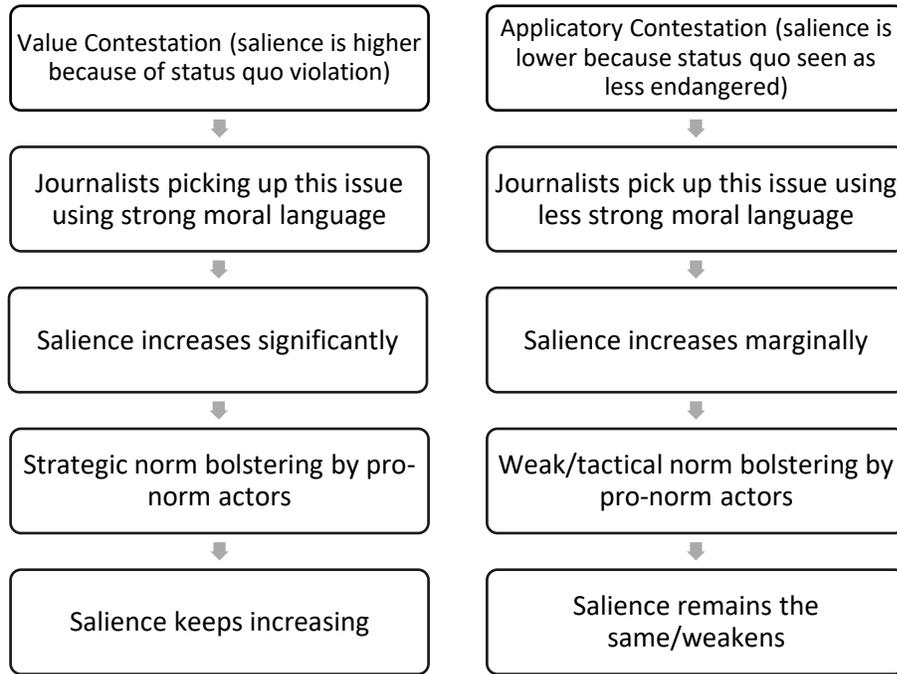


Figure 1

If we look at this process from actors' standpoint, the key to applicatory contestations that are likely to undermine norms, in the long run, is in the way they are perceived (as less dangerous for the status quo). This is where norm robustness breakdown comes in handy, as we can hypothesize about the way particular contestations affect rhetorical and behavioral aspects, respectively. Precisely, according to this theory, applicatory contestations would weaken behavioral aspect of norms since they prepare grounds for consequent violations of norms. Moreover, applicatory contestations, if met with moderate norm bolstering can set a precedent for violating a norm in the future, while not weakening the rhetorical aspect of norms due to not advocating for the removal of the general norm.

At the same time, value contestations would weaken the rhetorical aspect of norms since they would question the validity of norms publicly, which would mean the norm no longer is taken for granted. At the same time, behavioral component could actually get strengthened by validity contestations, as through the norm bolstering received they showcase the consequences of violating norms to potential anti-preneurs.

2.5 Main hypotheses

Thus, the main hypotheses regarding this topic are:

H0a: The type of contestation does not have any effect on either dimension of norms robustness

H0b: Validity contestations weaken both dimensions of norms robustness, while applicatory contestations make both stronger or do not affect them

H1: Applicatory contestations weaken the behavioral dimension, due to a norm bolstering, but do not affect the rhetorical dimension of norms robustness, while validity contestations weaken the rhetorical dimension, hollowing it out and do not affect the behavioral dimension of norms robustness (because of norm bolstering from entrepreneurs). This is the primary hypothesis that I will be testing in this paper.

Methodology

3.1 Methodology overview

In order to test this hypothesis, I will be conducting case studies of instances of justificatory and applicatory contestations. The selection of this method is explained by the need to look closer at the process, in order to verify the theory proposed in this study proposal. I selected two cases of contestation: one by Russia contesting the non-intervention norm in the Ossetia case, and the second of anti-whaling norm contestation by Japan in 2006.

I will be doing process tracing analysis of the mechanism proposed by this theory. Particularly I will be reviewing a response given by members of the international community (entrepreneurs) in order to test this theory. The processes that I will be tracing are the following:

For applicatory contestations:

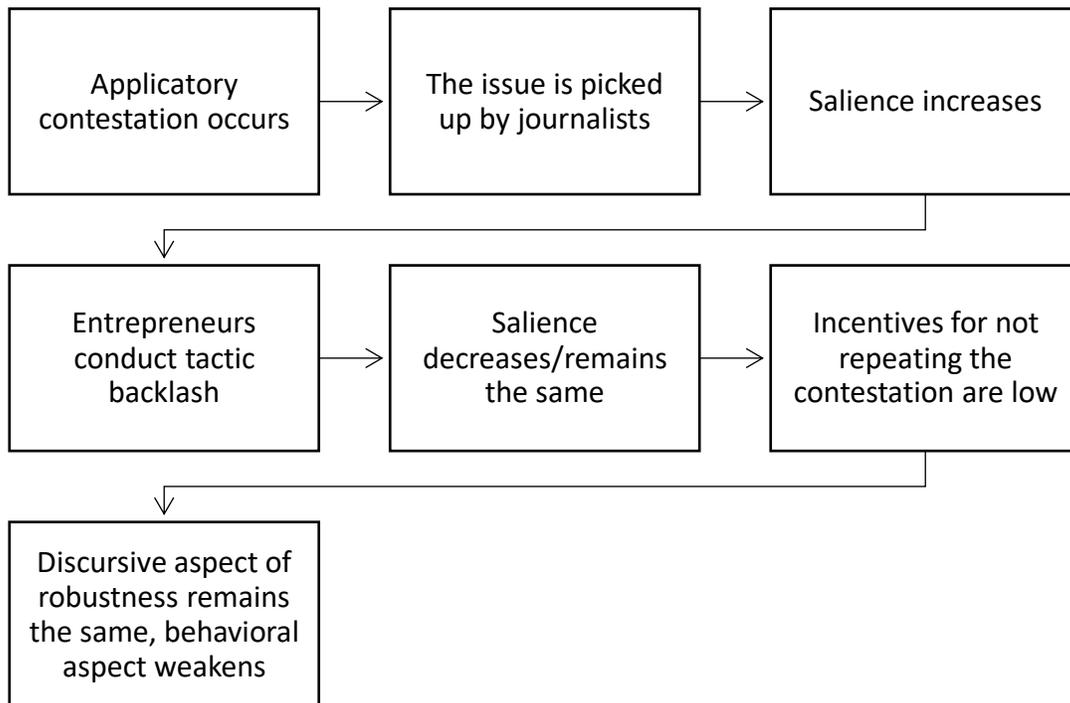


Figure 2 Process of applicatory contestations weakening behavioral aspect of norm robustness

As I have mentioned above, the independent variable, in this case, is in either applicatory or value contestation occurring. Then, depending on the type of contestation and danger they are

perceived to pose for the status-quo, more or less media attention is attracted to the instance of a contestation. The amount of initial coverage by journalists affects the salience of an issue (measured here via the volume of a public discussion of an issue). Then, the issue is getting picked up by moral entrepreneurs, depending first on the salience of the issue (as more salient issues are seen as more important ones) and the probability of success in the eyes of moral entrepreneurs (which also depends on the salience). Thus, depending on the importance of an issue and the probability of success (because strategic norm bolstering is costlier), entrepreneurs engage in either strategic or tactical norm bolstering. From that, we can trace a change in salience, with the direction depending on the type of norm bolstering preceding change (strategic norm bolstering tends to increase the salience of the issue, tactical norm bolstering would either have it remain the same or gradually decline). From the degree of norm bolstering, incentives for repeating the contestation emerge, influencing the behavioral dimension of norm robustness, and then the discursive dimension of norm robustness changes (with higher salience undermining the discursive norm dimension).

For value contestations:

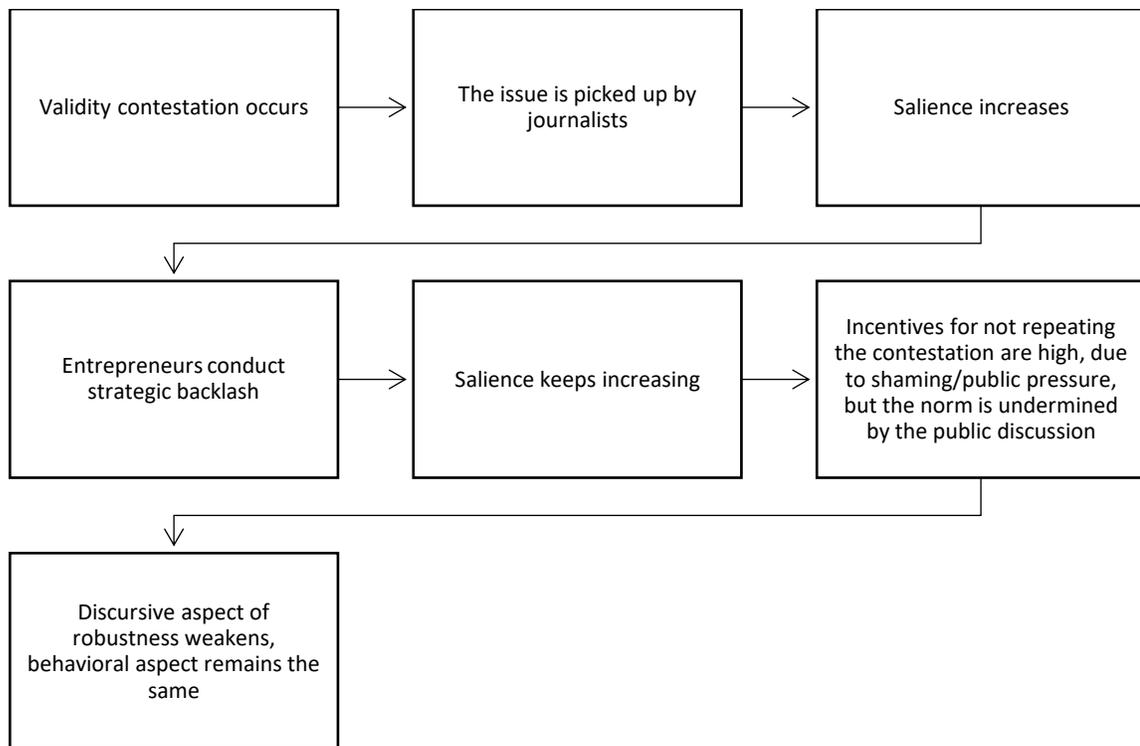


Figure 3 Value contestations weakening discursive aspect of norm robustness

3.2 Measuring and data sources

In the following two sections I will look at each case selected and will make an argument for why it is appropriate for this case study. The first case is the one of Russia contesting the norm of non-intervention in the case of its intervention into Ossetia. Here we are looking at the case of applicatory intervention, as we can see from Jose and Stefes work on Russian norm antipreneurship. (Jose, Stefes 2018) This case can be classified as one of the least likely cases for the theory proposed in this paper since if we look at factors other than contestation type, such as norm type, number and power of actors, legality and environment surrounding norms stability these seem likely to be crucial. Norm type here is relatively precise and legal since non-intervention gets its legitimacy from being included in international law, which would predict the contestation not being successful. The power of actors variable here is tricky since, despite

Russia's hard power, its soft power at the moment of the contestation can be questioned.

However, despite some exceptions, this case can be classified as a hard case, when talking about testing the theory proposed here, since given other variables that could influence norm robustness the expectation would be that this case would lead to norm robustness remaining the same (which would be the case for the rival theory).

The second case I will consider in this study is one of Japan contesting the norm of anti-whaling. Particularly I will be looking at the period from 2006 onwards, since Japan's previous contestations of anti-whaling norm were in line with anti-whaling norm, only contesting particular instances of its application. (Deitelhoff, Zimmerman 2013) Particularly I will be looking at the St Kitts and Nevis Declaration that was proposed during the 2006 meeting of IWC by pro-whaling actors. This declaration offered a proposal to remove a whaling moratorium. . (Deitelhoff, Zimmerman 2013)

This is arguably an easy case for the rivaling theory since if we look at factors other than contestation type influencing norm robustness, most of them point in the direction of this norm weakening in the face of justificatory contestation. Precisely, looking at the primary anti-preneurial actor in this case (Japan), it can be argued that with Japan's soft power (Japan frequently provides foreign aid to other states), the contestation is likely to be successful in challenging norm robustness. (foreignpolicy.com 2010) The environment surrounding this norm however is a trickier variable, since even though at the moment that we are considering the norm was relatively stable, previous contestations (by Japan, Norway and Iceland) preceding it make it less stable, thus making it more likely that justificatory contestation is more successful. Whether anti-whaling norm was a part of international law at the moment we are looking at is debatable: on the one hand, International Whaling Commission featured anti-whaling ten years long

moratorium in 1986, on the other hand, this moratorium was introduced as a temporary measure until more evidence on endangered status of this species is found, so I would argue that this norm wasn't a part of international law in the 2000s. (The Guardian 2018) Overall, most of the factors other than contestation type point at the direction of justificatory contestation by Japan being successful.

Therefore, I will analyze these two cases, and in order to do so, I will gather information on the independent variable (the rhetoric concerning the contestation in question) from conducting a content analysis of media sources that covered these events. To measure the dependent variable, which is the norm strength, I will gather data on preceding and subsequent violation (to measure facticity dimension) and will try and analyze international documents preceding and following the contestation to assess the validity dimension.

To measure the independent variable, I will use official statements by anti-preneurs (who in this state are cases of Russia and Japan. I will be demonstrating how these contestations do in fact fall under categories of applicatory or value ones.

The next stage is in the journalistic coverage. I will be looking at the initial coverage of the issue, mainly from a quantitative perspective since I will primarily be looking at the initial amount of coverage.

The next stage of processes I will be looking at is the salience of this violation. To measure it I will be looking at search engines statistics data, precisely Google Trends. Particularly under the assumption of searches in search engines reflecting the media, I will be looking at dynamics of such searches, and measuring the duration and the robustness of the spike in the public interest to violations.

To measure norm bolstering, I will be using statements from moral entrepreneurs and the way they were picked up by media. Since this part of my argument has more to do with the content rather than the amount of the coverage, I will be doing qualitative analysis. Particularly I will be looking at the language of those statements and the way they were represented in the media, looking for particularly morally charged language (which I would for the purposes of this paper define as using negative characterizations of actions of the actor, as opposed to neutral reporting). To do so I will first be conducting a qualitative analysis of the initial media coverage and INGO responses towards contestations from both secondary (when available) and primary sources.

Considering the dependent variable, to measure norms robustness, I will split this variable into two parts: discursive and behavioral. Since the discursive component is more about whether the norm is still accepted for granted, this part can be somewhat tricky to measure. In this paper, I offer to look at the public reaction to subsequent violations of a particular norm, since, the norm is discursively present if it is seen as such by the public, even though it can be weakened from the behavioral standpoint. To measure the former, I will be using online statistics tools again looking for the public response to subsequent contestations (such as Crimean contestation or Japan's decision to leave IWC), including their longevity and volume, comparing morally charged search requests with more neutral ones. I will once again use Google Trends tool, checking whether and how exactly does the interest in norm-related searches increases following the contestations. I will also be looking at secondary sources, when available (particularly, I will be looking at responses from global NGOs and newspapers for measurement of a norm bolstering from pro-norm actors for both cases).

To measure the behavioral component, I will be using the data from UCDP in the case of non-intervention norm, and Whale and Dolphin Conservation non-profit for anti-whaling norm.

The main issue here is in the temporal point from which we should start looking at the change in norms robustness, as this can be somewhat arbitrary. To reduce arbitrariness, I argue that to trace the continuous process, we should start looking after the contestation, and from then on. In the case of non-intervention, I will be using UCDP data on two-sided (i.e. involving two states) conflicts, as a proxy for state integrity norm.

Results

Applicatory contestation

In this part of the results section, I will be talking about the case of the contestation of the territorial integrity norm by Russia in 2008. First, I will provide some historical context of this contestation, and second, I will provide results of testing each stage of the process predicted by my theory in this paper.

The territorial integrity norm as it is understood now, roughly takes its start from 1648 Westphalia Peace Order, with states starting to rely on this norm for the security of their borders. The norm took modern legal form after World War I, with Article 10 of the League Covenant, with Western states being its main proponents. However, it is after the World War II that this norm truly gained its prominence, with the UN Charter of 1945 stating the states' obligation to not use force in order to alter state borders, which is where the norm gained its acceptance by the international community. This statement had an influence on the consequent de-colonization process, which is when the institutionalization of the norm took place. Then, having been established amongst Western states, the norm has spread to Post-Soviet states who wished to apply for international agreements and institutions, such as the OSCE, partially through international pressure, partially from the recognition of their interest in accepting this norm. (Zacher 2001)

Thus, when talking about the case of Russia, we start from a point where the norm was accepted by Post-Soviet states and then contested by Russia. Here I will discuss the historical context of said contestation, by describing origins of Georgian-Abkhaz conflict and stakes that Russia had in it. This conflict takes its roots in the 1980s, with the weakening of central governance of the USSR, Georgian government working towards the autonomous governance of

Georgia, while neglecting concerns of Georgian minorities (particularly Abkhaz and Ossetin ethnicities who pushed towards greater independence from Georgia). (Brooke 1991) What followed with the disintegration of the USSR was the struggle of the South Ossetia for its autonomy from Georgia, which has escalated into a military conflict that was continuing, except for some breaks for popular referendums which South Ossetia has conducted with the majority voting for leaving Georgia, from 1991 to 1992. On July 14, 1992, Russian, Georgian, and Ossetian armies jointly were involved in supporting peace, supervised by OSCE. ("История Вспроса." Kommersant 2008) Consequently, despite lacking international recognition, South Ossetia started functioning as an independent state, by adopting its own constitution, and due to a lack of control from Georgia (even though formally South Ossetia remained a part of Georgia). South Ossetians have also started receiving Russian citizenship, and after the restrictions were put on the general process of receiving Russian citizenship by citizens of Post-Soviet states in 2002, Russia set citizenship stations on South Ossetian territory that made receiving citizenship easier. Thus, the percentage of Russian citizens among South Ossetians grew from 60% in 2002 to 80% in 2006, which was called by Georgian officials to be an annexation of Georgian territory. ("Механизм Обрусения." Kommersant 2008) What exacerbated this situation was the election of Mikhail Saakashvili, whose electoral platform was built upon his promise of restoring control over Georgian territories. (Ibid) The tension escalated to the point where there were two sets of parliamentary elections conducted at the same time on the territory of South Ossetia. Georgia was insistent on Russian peacekeepers being ousted from South Ossetia, and in 2006 an agreement was signed between Russia and Georgia about peacekeeping troops leaving Ossetia until 2008. (Ibid) However, there was tension remaining, with Georgia accusing Russia of arming rebels, and Russia denying it. Georgia eventually has started re-organizing its military in

accordance with NATO standards, which according to Vladimir Putin's statement, has led to the further escalation of the conflict. (ntv.ru 2008) This exacerbated the conflict, because of the perception by Russia of USA intervention in its bordering territories, with Vladimir Putin directly putting the blame for the Georgian conflict on Dick Cheney.

The conflict started to escalate in August of 2008, when, according to the EU-organized Independent International Fact-Finding Commission on the Conflict of Georgia investigation, the Georgian army started its attack on Tskhinvali, which Russia responded to. However subsequent military actions of Russia were considered to be excessive, given military action being continued beyond the territory under Georgian attack, which contradicts international law. This investigation also states that the violation of Georgian territorial integrity did not start in August 2008, but instead while distributing Russian passports and citizenships on Georgian territory. (IIFFMCG 2008)

I would classify this instance of international norms contestation as applicatory, based on the way Russia has justified the violation of the norm. Particularly official statements were mentioning this case only, without making any comments about the norm in general. Particularly Vladimir Putin argued that "what is happening in South Ossetia is a genocide . . . concerning Russia, from the standpoint of international law, our actions are absolutely reasonable and legitimate. Moreover, they are necessary for this situation." Also, he emphasized particulars of the South Ossetian situation that warranted actions of Russia, without making any comments regarding the norm itself. (ntv.ru 2008)

In this part of process tracing, I used both primary and secondary sources, as the coverage of this conflict was covered extensively in the scholarly literature. I did not use the sources from

Russian media, as due to the Russian authoritarian regime, it would be difficult to detach the media interest to an issue from the official governmental interest in this issue.

Particularly, if we would look at the number of articles dedicated to this issue, we can crudely estimate the number of 342 articles one way or another related to this issue by the NYT from August 1st 2008 to September 1st 2008.

Regarding the content of the coverage, generally, despite an extreme polarization of Western and Russian media, with some falsifications and using graphic images happening, the lack of a particularly strong moral language can be observed.

According to Heinrich and Tanaev, who did a study of the coverage of Russia-Georgian conflict by such most popular global media, as NYT, Le Monde, The Guardian, Standard, The Washington Post, Handelsblatt, and NZZ (with such prominent global newspapers as Le Monde (France), The Guardian (UK), Standard (Kenya), Handelsblatt (Germany) and NZZ (Switzerland) offering a balanced coverage of the conflict, to avoid the USA possible bias in this case), and the language surrounding it (categorizing it as aggressive, balanced and criticism/hard stances, the latter of which I will be using as a proxy for moral outrage language), the coverage of this event mostly falls within a category of balanced coverage, with NZZ being an outlier with the majority of coverage falling under negative/ harsh category, and the Guardian where negative/harsh coverage is only two percent behind balanced coverage. (Heinrich and Tanaev 2018)

In this part on the salience of the issue, I will be using Google Trends data. I will be using such keywords as “Georgia Russia conflict” “Georgia Russia intervention”, and “Russia Ossetia”. In the following graph blue line stands for “Georgia Russia conflict”, yellow line stands for “Russia Ossetia”, and red line stands for “Georgia Russia intervention”.

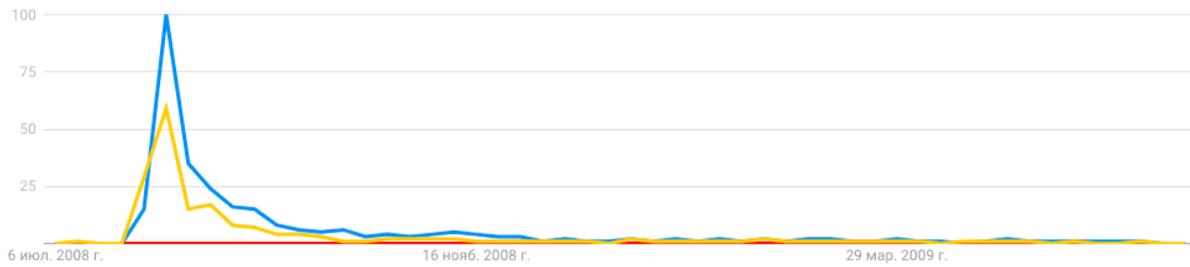


Figure 4 Salience after the contestation

This graph shows the dynamics of public interest in the topic of contestation from July 2008 to July 2009. As we can see from this graph, after the initial spike of interest, public interest falls rapidly. (Google Trends 2018)

When we look at the response by such moral entrepreneur actors as INGOs, we can see that the language is generally rather neutral. Particularly I looked closely at two documents: the one by Human Rights Watch and the one by Amnesty international. Both of them discuss both sides of the conflict, and while doing so use harsher rhetoric against Georgia, while for example in Human Rights Watch documents Russia is primarily discussed within a context of its failed positive duty to protect, rather than within a context of any other violations of norms. There is no moral outrage language used concerning actions of Russia, however, the document by Amnesty International does employ interviews from people who have suffered from the actions of both sides. Also, both documents refrain from making definitive judgements concerning the violation of international law. (Amnesty.org.ru 2008, Human Rights Watch 2008) I would classify this type of norm bolstering as a tactical norm bolstering, due to a lack of strong moral language used.

To look at the change in the salience, I once again used Google Trends data, from 2004 to 2019, to look at the longevity of heightened salience of this issue. As can be seen from the next graph, the salience that was high at one point, quickly faded into being marginal at best.

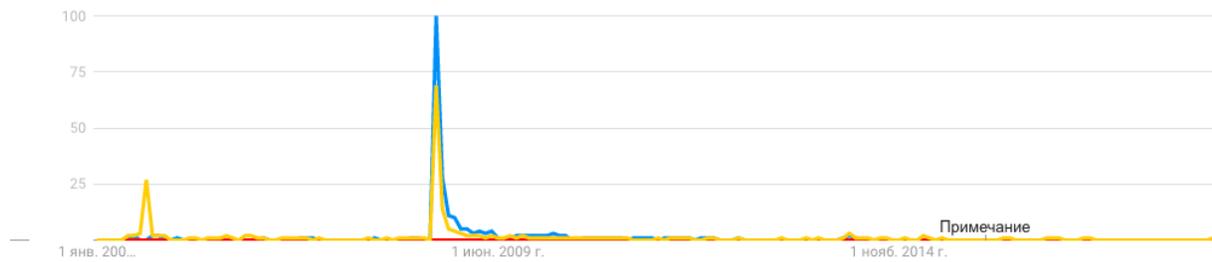


Figure 5 Salience change over time

To measure the change in the discursive dimension I compared the keyword (in blue) “Russia Crimea invasion” (which makes a judgement), and neutral “Russia Crimea” (in red) that is used as a baseline:

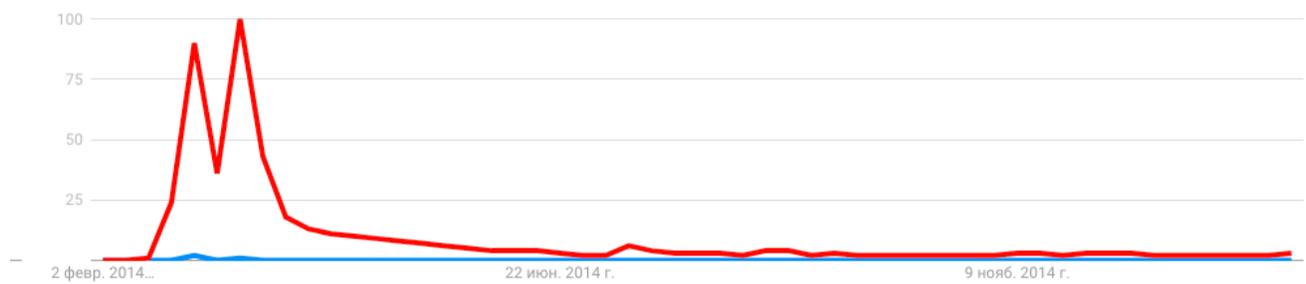


Figure 6 Change in discursive dimension

As we can see from this graph, the ratio of charged keyword searches to non-charged keyword searches is quite low (in comparison to the case of value contestations in the next subsection). (Google Trends 2018)

Regarding the change in behavioral dimension of non-intervention norm, we can refer to the consequent instances of violation of the norm and then analyze if there is the similar framing of these violations as in the case of the contestation in question. I use UCDP data on interstate conflicts (i.e. conflicts between two or more governments) to measure this dimension of non-intervention norm robustness. In the following figure, I show descriptive statistics of conflicts,

starting with 2000 (I used this point that is earlier than 2008, but later than the Soviet Union Collapse as a threshold value because earlier dates may prove to be incomparable, with the instability that came with state-building processes happening at the same time). In the following chart, we can see that there is a small bump in conflicts frequency happening after 2008.

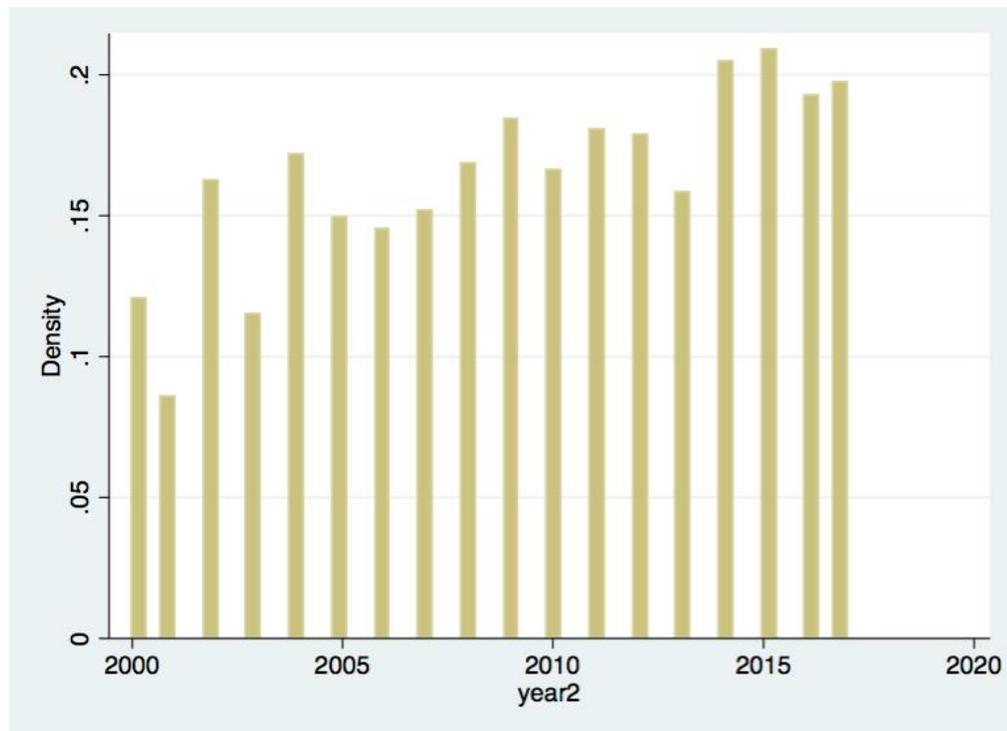


Figure 7 Conflicts density

Justificatory discourse

In this section, I will test my theory using a case of Japan's 1990s contestation of the anti-whaling norm. First, I will briefly outline the history and status of the anti-whaling norm, and then I will test the process I outlined in the theory section using the case of Japan.

An anti-whaling preservationist norm started emerging in the middle of 1960s, with a threat of extinction whales started to face due to the whaling industry being burgeoning and largely unregulated. (Catalinac and Chan 2005) The emergence of commercial whaling dates back to the middle of the 20th century. (Ibid) Given how widespread and profitable whaling

industry was, initial regulation efforts of the whaling industry were industry-preserving rather than species-preserving. (Stoett 1995: 115) Thus the International Whaling Commission was established in 1946. (Stoett 1997: 57) Due to whales being considered a common resource, the membership in IWC was available to any state, regardless of whether the state participated in whaling or not. Any amendments to IWC policies required a three-fourths majority and was deemed as binding for all members.

International Whaling Commission switched into a forum for whales sustainability advocacy later in the 1960s, with first the price of the whale products going down with an emergence of new alternatives, thus making whale industry less lucrative, and second with the public sentiment switching to protecting the environment. (Garner 1993: 40–4). Particularly whales started to be seen as intelligent animals that deserve to not be killed, as researchers argue this shift happened due to first the size of whales, and second the common perception of their intelligence being comparable to human. (Catalinac and Chan 2005)

As Stoett argues, having open membership for non-whaling states to join IWC and public sentiment on their side allowed environmental groups to pursue this cause. (Stoett 1995: 118) Their strategy was in pressuring the US government to first stop whaling in the US on a legislative level, and second to exercise pressure on other states using mechanisms of the US foreign policy, such as banning all fishery import from states that either jeopardize international fishery conservation agreement or hunting endangered marine animals. (Wong 2001: 108-9) Furthermore under environmental groups pressure the Secretary of State started negotiating with the IWC ten-years moratorium on whales killing, which was rejected by The Scientific Committee of the IWC on the grounds of not having a solid scientific justification. (Catalinac

and Chan 2005) Other ways transnational non-governmental organizations executed pressure on the whaling industry are consumer boycotts and direct protest action. (Ibid)

The US wasn't the only state pressured by anti-whaling actors to join the cause. Such non-whaling states as New Zealand, the Netherlands and Australia all re-joined the IWC in the 1970s. (Bailey 2008) This was done in efforts to raise the number of anti-whaling states to the three-fourth IWC majority. Next steps of anti-whaling actors were in persuading and occasionally (in the case of the Seychelles, whose membership was funded by the Threshold Foundation) states that don't have a direct interest in whaling to join the IWC. By 1982, 28 of 39 IWC members did not whale, with 19 of them being newly joined members. This provided for the three-fourth majority that is required to change the Schedule of the ICRW, which eventually allowed for ten years long total whaling moratorium to be passed in 1982. (Catalinac and Chan 2005)

Further efforts of anti-whaling actors have resulted in opening the IWC meetings to observers from NGOs who could also be appointed as advisors in 1977. This allowed them with an opportunity to present their arguments, which was used in 1979 with three NGOs presenting evidence of Japan's non-compliance with whaling ban. (Ibid)

At 1981 IWC meeting with Costa Rica and India as new members, the UK proposed a moratorium on whaling. This attempt wasn't successful until 1982 when eight new non-whaling members joining made a vote of 25 for, 7 against and 5 abstainers possible, with a moratorium being accepted. (Deitelhoff, Zimmerman 2013)

After the moment of acceptance of the ban, anti-whaling norm had quite a few attempts at applicatory contestations, mostly by indigenous communities or states that are willing to qualify for indigenous sustainability whaling or scientific research whaling. However, until the 1990s

anti-whaling norm did not meet a resistance that used justificatory discourse. (Ibid) Particularly Japan made sure to try to defend its instances whaling as being in line with IWC's moratorium. (Hirata 2004)

However, by the 1990s, this began to change. Deitelhoff and Zimmerman outline reasons for a change in strategy as first despite the ban itself being presented as a temporary measure, and with some whale species no longer having endangered status, attempts at allowing some whaling were blocked by anti-whaling coalition, and second domestic support for whaling has increased in the 1990s, compared with 1980s in Japan, Norway and Iceland, framed as an anti-colonial issue, with anti-whaling actors framed as a strictly Western movement. (Catalinac and Chan 2005)

Thus, on June 20, 2006, pro-whaling states passed St. Kitts and Nevis Declaration that contested the validity of a whaling ban, which constitutes a validity contestation of the anti-whaling norm. This declaration stated that first, the moratorium was no longer warranted by the scientific evidence in a way it was when it was initially accepted, therefore regulation of commercial whaling should take its place, and second bashing NGOs pursuing self-interested goals for using threats in their campaigns. Despite gaining one vote more than the anti-whaling group, which allowed them to pass this resolution, pro-whaling actors didn't get three-fourths support in the IWC necessary to remove the ban. (News.bbc.co.uk, 2006) In the next part of this chapter, I will be testing the proposed theory, using this declaration as a time point of contestation and its consequences for anti-whaling norm robustness.

Despite the grounds for a whaling ban beyond the initial 10 years period being somewhat shaky, at the moment of contestation, both aspects of norm robustness showed that the norm was strong. Particularly, from looking at statistics provided by Whale and Dolphin conservation data,

despite a small, but steady increase in a number of incidents of whaling, starting from 1994, the overall number of incidents remained low, with 1904 incidents in total in a year preceding the contestation in question. (WDC, Whale and Dolphin Conservation, 2016)

Whaling (Japan, Norway, Iceland and Aboriginal Subsistence Whaling) 1945-2016

The impact of the Moratorium agreed in 1985/86 has seen a dramatic decrease in the number of whales killed by the leading whalers. The Moratorium remains one of the greatest environmental success stories of the last hundred years.

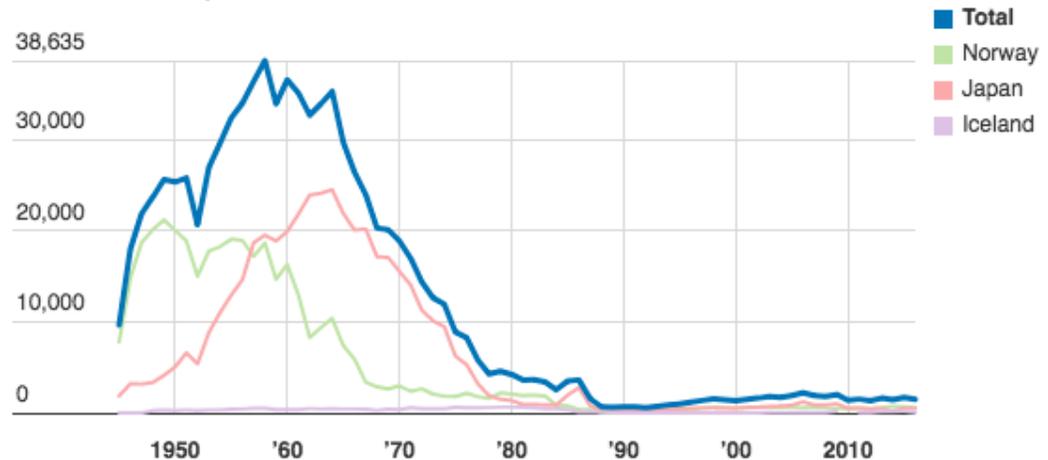


Figure 8 Whaling trends

Regarding the rhetorical aspect of anti-whaling norm robustness, according to the results of (the most comprehensive available) six-country survey by Gallup in 1992, this norm was somewhat divisive, with Australia, England, Germany and the US citizens opposing to a varying degree (with Australia and Germany opposing whaling under any circumstances with a two to one margin, and other two states being more divided on this issue) whale hunting, and Japan and Norway citizens agreeing with “there is nothing wrong with whaling, if properly regulated” statement. Thus, this norm, albeit divisive, was admitted to be valid in at least in four out of six states.

The initial coverage of this issue shows that the coverage of this contestation shows a spike of media attention. Particularly, The Guardian has five articles in a week following the

contestation, which is more than in previous six months (The Guardian only had two articles covering the issue of whaling from December 2005 to May 2006). (the Guardian, 2019) NYT data, however, doesn't necessarily support this part of the process, with this contestation attracting only moderate attention (3 articles talking about whaling in two weeks after the contestation versus 1 in six months before it). (Nytimes.com, 2019) The language of those publications was increasingly alarmist and supported by a relatively strong moral language, which roughly corresponds with strategic backlash.

This increased attention to whaling following this contestation instance also led to an increase in the salience of this issue increasing, as Google Trends data shows. In this graph the blue line corresponds with “whaling” results, the red line indicates “whale hunting”, and the yellow line shows “illegal whaling”. The next graph shows the period from January 2006 to January 2007: (trends.google.com 2019)

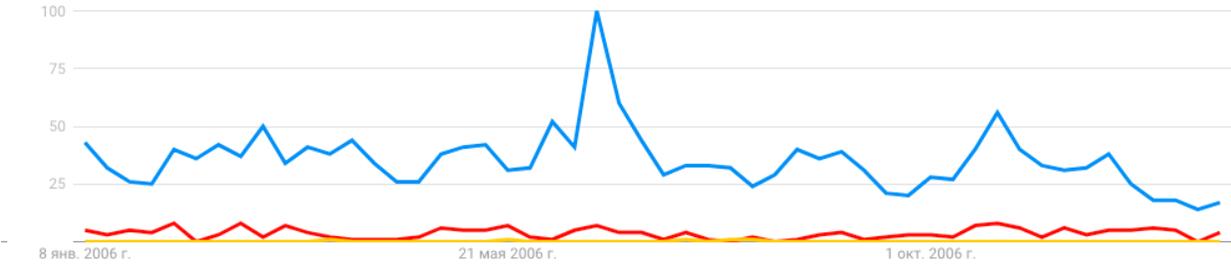


Figure 9 Salience before the contestation

The next chart traces the salience of this issue from June 1 2006 to September 1st 2006 (trends.google.com 2019)

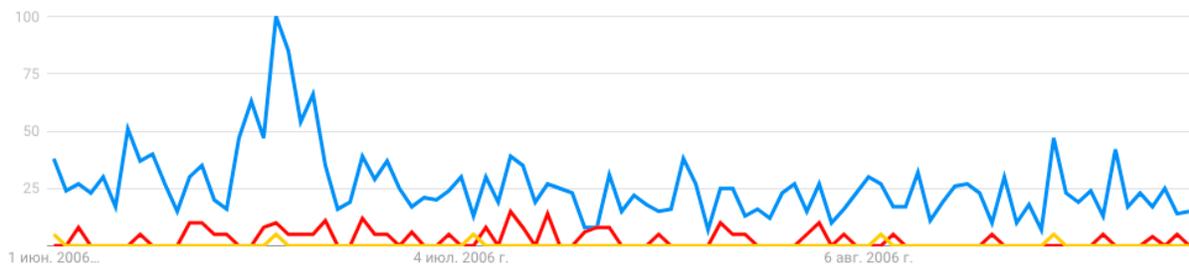


Figure 10 Salience after the contestation

Particularly, it can be seen that after the contestation initial coverage, there is some increase in the coverage, however, it quickly fades into levels that are normal for an interest in this topic.

As for the response from pro-norm actors, this contestation has led to some initial uproar amongst pro-norm actors. Particularly, Greenpeace International representative made a statement "Greenpeace is disgusted that any member of the IWC would seek to promote whaling based upon the false notion that whales consume so much fish that they are a threat to food security for coastal nations" in June 2016. They also have made a claim to only be participating in peaceful protests, responding to an accusation of using threats made in St Kitts proposal. Dr. Joth Singh from the International Fund for Animal Welfare said that "after losing on every single proposal they brought to this meeting, the whaling countries and their supporters cooked up a non-binding statement, sprang it on the commission and pushed it to a vote - they want to kill whales, and they're willing to kill the Commission to do it.". (IFAW - International Fund for Animal Welfare, 2006) I would classify this case of norm bolstering as a strategic one, due to a strong moral language used in this case.

As for the latter period, Greenpeace International and the Sea Shepherd Conservation Society both claimed to be hunting down whalers in December 2006, calling, using two ships and about 100 volunteers. Sea Shepard Conservation Society representative has called Japanese

whaling for scientific purposes “a criminal operation” in his description of this operation. (the Guardian, 2006)

Regarding the longevity of whaling’s heightened salience, from the next chart, we can see that the heightened salience of this issue, starting from the contestation was longer than it was in the case of an applicatory contestation in the previous part of this paper.

(trends.google.com 2019)

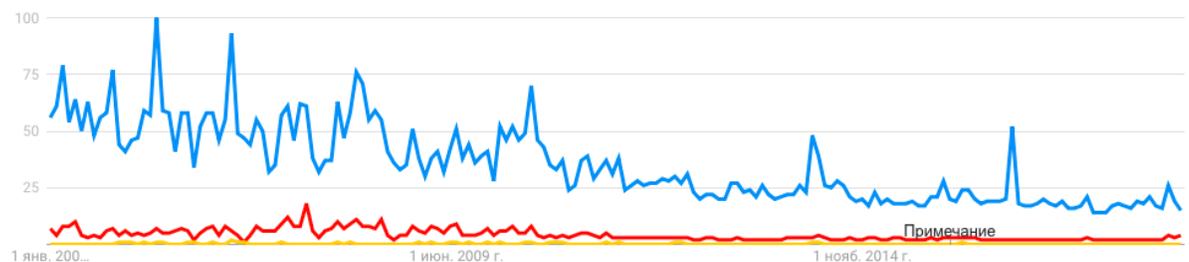


Figure 11 Salience change over time

Regarding the change in a behavioral dimension of norm robustness, from Figure 5.3 we can see that this contestation did not weaken the behavioral norm robustness dimension. The opposite shows to be true, with fewer incidents happening over time.

Regarding the change in rhetorical dimension, the norm remained strong. Despite the lack of a comprehensive survey, we have the data from two surveys, one done in the US and another in Japan, which represent states that are traditionally pro-whaling and against whaling, so despite the smaller amount of cases, this sample is quite representative. What can be seen from the 2012 survey in the USA is that this issue has support, with 77 percent of respondents opposing commercial whaling. (International Fund for Animal Welfare, 2012) In Japan, even though unanimous support is still lacking, the respondents are divided on the issue of whaling permissibility, which shows that in this regard the norm actually became stronger. Greenpeace in

2006 and 2008 conducted their survey amongst Japan citizens, and found out that 25% were anti, 44 percent neither agreed nor disagreed with whaling practice, and 31 percent being pro. Despite the support for whaling in Japan, it should be noted that first, the support level is only six percent higher than the anti-whaling percentage, and second, that compared with pre-contestation, it certainly doesn't show a decrease in support of the norm. (marinesciencetoday.com 2009)

However, it should be noted that despite the lack of decrease in whaling support, contestation by Japan in the form of leaving IWC in 2018 can be seen as a sign of the norm weakening. The issue of interpreting it as a consequence of norm contestation in question is temporal, since these events are divided by 12 years, so it's hard to trace a connection within the scope of this study, due to possible extraneous variables.

Discussion

In this part of my paper, I will outline the primary findings of this study and will check the hypotheses made before gathering the data. First of all, I will talk about the evidence supporting or disproving the primary hypotheses and provide a brief overview of the process tracing, then I will talk about the meaning of these findings in the context of norms research, and finally will discuss limitations of this study and areas of potential research it indicates towards.

In the first case, we can see that the case of applicatory contestation was followed by the lack of change in the discursive dimension of norm robustness and the weakening of the behavioral dimension. Particularly, we can see that the non-intervention norm applicatory contestation did not diminish its discursive dimension, but this contestation was in fact followed by more frequent interventions, which indicates to the weakening of the behavioral dimension of norm robustness.

In the second case, we can see that the instance of value contestation did weaken the rhetorical aspect of norm robustness, but did not affect the behavioral aspect, which supports the hypothesis proposed in this study.

As for the process described by the theory proposed in this paper, results support the proposed theory in all parts but one, which is a higher (compared with that of applicatory contestation) salience that follows a validity contestation, which did not show to hold in this study. I would ascribe it to first, overestimating the importance of heightened salience, as opposed to longevity of heightened salience, as in the case of anti-whaling norm validity contestation, the salience was more lasting. The second factor affecting higher salience of an applicatory contestation is in the case of Russia being more high profile, as it involved an issue of national security.

These findings imply that most importantly, we shouldn't take applicatory contestations lightly since while their effect is different from the one of validity contestations, they still tend to weaken norm robustness.

Despite this paper offering promising initial results, the limitations of available data are numerous, which subsequently weakens our confidence in the conclusions made here. A particular limitation of this study is that due to first data availability and second realistic constraints of MA thesis project scope, some measures are less than ideal, with for example leap that needs to be made to measure discursive aspect of territorial integrity norm, using norm bolstering regarding the following contestation.

This paper's findings warrant a future large-N research, in order to check the robustness of the findings, and later to use them in policy-making process.

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