

Norm Constructivism: Contesting International Legal Norms

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Iraq has been and remains in material breach of its obligations under relevant resolutions, including resolution 687 (1991). . . . The [Security] Council has repeatedly warned Iraq that it will face serious consequences as a result of its continued violations of its obligations.

—UN Security Council 2002b

In 2002, the UNSC unanimously agreed to Resolution 1441 warning Iraq of “serious consequences” in the absence of “full compliance with all of the relevant Council resolutions” (UN Security Council 2002b).¹ In the event that the Iraqi government continued to challenge the Security Council, it was the duty of all UN member states to punish the Iraqi government for its “continued violations” (UN Security Council 2002b). The world’s powers were united in the face of an Iraqi threat, working through the international legal structure enshrined in the 1948 founding of the UN to address a perceived affront to international peace and security.

Yet consensus in the Security Council and among great powers rapidly disintegrated. Rival interpretations of the threshold for Iraqi compliance surfaced (Puetter and Wiener 2005; Sandholtz 2008; Wiener 2004). Questions surrounding the time frame for compliance emerged. Debates over the extent of consequences applied to the Iraqi government and which actors could legitimately enforce those consequences appeared. In the end, the United States undertook an invasion of Iraq in 2003 to enforce the UNSC resolutions, but did so with much less support than we would expect given US predominance and the consensus evident in the Security Council only months prior. The United States proceeded with its invasion over the objections of China and Russia as well as those of traditional allies France and Germany. Only the United Kingdom, among the great powers, stood with the United States and the invasion went forward without the blessing of the UN. The 2003 invasion appears to be a clear-cut example of the powerful doing what they will and the powerless what they must (Thucydides 1996: 351).

Social constructivism would appear to provide little leverage or value in explaining the 2003 US invasion of Iraq. Yet further scrutiny reveals that we are not simply dealing with a case of powerful actors ignoring social norms and international law to pursue what they perceive as their own best interests. On the contrary, the normative structure of international law shaped how the United States understood and pursued its interests. Further,

this is not a case of some actors following norms and others violating them. *Both* the supporters of US action in Iraq *and* those that opposed the 2003 invasion belonged to the same normative community (Puetter and Wiener 2005; Wiener 2004)—all considered themselves to be international law-abiding actors and considered international law an appropriate standard of behavior (Finnemore and Sikkink 1998). Constructivism has crucial insights that enhance our understanding of the Iraq conflict and other cases like it precisely because norms do not merely delineate what states agree on—they also structure what states debate.

Traditional social constructivist analyses are concerned with convergence—how shared ideas influence what actors believe and do, for example, comply with human rights (Risse, Ropp, and Sikkink 1999), collect international debt (Finnemore 2003), or refrain from using nuclear and chemical weapons (Price 1999; Tannenwald 2007). However, constructivism can also help us understand divergence and the way shared normative commitments can actually structure varied behaviors and spark debates that have significant consequences. In the case of Iraq, the major powers were all constituted by and supportive of international law, but two competing understandings of the meaning and applicability of international law arose in 2002 and 2003. States had different interpretations of their shared commitment to international law, “leading some to justify war and others to oppose it” (Wiener 2004: 193). The contestation among actors who were all in the same community had significant and material consequences (Sandholtz 2008). The US invasion of Iraq took place with little international support, altering both the costs of the invasion and the prospects of post-conflict reconstruction and governance. In addition, as the United States was seen by many as flouting international law and suffering serious consequences, the principle that the UNSC is the legitimate body to authorize the international use of force was arguably strengthened as well.

In this chapter I elaborate this argument in four stages. First, I briefly discuss constructivism with a specific focus on norm contestation. I then establish the existence of a normative community that shared a commitment to compliance with international law using the Gulf War as an example. In the third section I focus on the challenges of the Iraqi state to international law from the Gulf War to the 2003 invasion, examining how the Iraqi government’s challenges tested the community that shared a commitment to the norm of compliance with international law.² In the fourth section I focus on the 2002–2003 Iraq disarmament crisis in the UN, tracing the arguments made by state actors and identifying how the United States/United Kingdom and Germany/France diverged in their interpretations of this norm and the consequences of contestation for both the specific invasion of Iraq as well as the norm itself.

■ Social Constructivism and Contestation

Social constructivism concerns itself broadly with the dynamic relationship between agents and social structures, investigating how ideas and/or norms tell actors who they are and what they want, as well as how actors produce those same norms through their beliefs, actions, and interactions. These dynamics help constructivists understand outcomes in international relations—how and why actors do what they do. Different waves of constructivist scholarship have addressed different questions using this basic framework (M. Hoffmann 2010). Early constructivist studies focused on demonstrating that ideas and norms matter, as well as on empirically demonstrating how shared ideas about appropriate behavior shaped the actions and interactions of states in world politics.³ Subsequent norms-based constructivist scholarship examined norms themselves, asking how norms emerge and how actors become socialized into communities that accept norms.⁴

Current research on norms has turned to a focus on contestation within communities of norm acceptors (M. Hoffmann 2010, 2005; Sandholtz 2008; Wiener 2004). These works consider that norms do not provide fully specified rules for every situation, and especially not for novel situations. Instead, norms are general principles that must be translated into specific actions (Gregg 2003). Because of this, actors must interpret social norms to take action—they must have a subjective understanding of what their intersubjective or social context demands. Actors will inevitably have different interpretations of what is appropriate “even when a norm is relatively well established and internalized,” because rather than solely eliciting conformity and convergence, social norms also provide the contours within which actors argue and debate (M. Hoffmann 2007: 6). When general standards of behavior are operationalized, divergent interpretations surface leading to debate and conflict. Significant material consequences, as well as the possibility for norm change, result. As Wayne Sandholtz (2008: 101) puts it, “disputes about acts are at the heart of a process that continually modifies social rules. The inescapable tension between general rules and specific actions ceaselessly casts up disputes which in turn generate arguments, which then reshape both rules and conduct.”

Studies of contestation and norm change have begun to examine diverse issues like organizational change in international financial institutions (IFIs), European integration, the environment, election monitoring, and security.⁵ Sandholtz (2008), M. Hoffmann (2011, 2005), and Uwe Puetter and Antje Wiener (2005) propose cyclical models to explain the evolution of norms relevant for this study of the 2002–2003 Iraq disarmament crisis. All begin with a relatively stable normative structure and a community of actors that accept and are constructed by it. Sandholtz (2008: 103) describes the cycle from there:

Actors argue about which norms apply, and what the norms require or permit. The outcome of such arguments is always to modify the norms under dispute,

making them stronger or weaker, more specific (or less), broader or narrower. Through the process of disputing, actors collectively discover the meaning and scope of application of social rules. The crucial point, however, is that the cycle of normative change has completed a turn. The cycle has returned to its starting point, the normative structure, but that starting point is not the same. The altered norms establish the context for subsequent actions, disputes, and discourses.

In the sections that follow I use this cyclical mechanism of contestation to trace how a community of states that shared a commitment to compliance with international law (evidenced by their actions prior to the Gulf War in 1990) came to have different interpretations of this normative context, particularly during the 2002–2003 UN debates over Iraq.

Iraqi recalcitrance in the late 1990s and early 2000s required transforming general principles of compliance with international law into specific actions and responses to Iraq. States had to formulate answers to a number of key questions. Did Iraq's actions constitute a violation of peace and security? What is the appropriate response to this disruption of peace and security? What is the legitimate body/arena for authorizing force? While international law and Security Council resolutions provided general contours for answering these questions, taking action required more detailed answers and not all states devised the same answers. In operationalizing the norm of compliance with international law, the community of norm acceptors separated into distinct camps. The resulting contestation over the meaning of compliance with international law—what was appropriate to do in the specific instance of Iraqi recalcitrance—had enormous material consequences for the conduct of the 2003 Iraq War and for the normative context and community.

■ A Community of Compliance with International Law

The idea of norm contestation provides a framework that accounts for the story of the 2002–2003 Iraq disarmament crisis and explains the nature of the US invasion and its aftermath. In applying this framework, we need to explain the emergence of multiple interpretations found in an established normative context. I therefore begin this analysis with a brief examination of the stable normative context and then trace the emergence of diverse contesting interpretations “with an eye toward analyzing how the contest both feeds back to reconstitute the original norm and may lead to change and establishment of new, more specific norms” (M. Hoffmann 2007: 11).

Convergence Around Compliance with International Law in 1990–1991

International law is a set of general principles that codifies appropriate standards of behavior and structures international interactions, but it only

exists as a normative context in so much as the principles are embodied and practiced by state actors.⁶ As Christian Reus-Smit (2005: 353) notes, "International law . . . [is] the product of negotiations between sovereign states . . . and states [are] obliged to observe such law, not because of fealty, but because they had entered into reciprocally binding agreements with other states—because international law represents the 'mutual will of the nations concerned.'" From universal human rights, nonproliferation, nonintervention, and standards for the treatment of prisoners of war, international law provides a normative structure that establishes general guidelines for appropriate and inappropriate behavior. However, such guidelines only provide general direction, so while the norms are shared by the normative community, "say signatories of conventions, treaties, agreements and the like, the meaning of norms is not standardized and hence open to contestation" (Puetter and Wiener 2005: 8).

The United States, the United Kingdom, France, and Germany were and remain clearly members of the same normative community constituted, in part, by a shared commitment to compliance with international law. They have been and remain committed to upholding the notion that states cannot invade other states and that the UNSC has legitimate standing to authorize the international use of force. In the early 1990s when forced to react to Iraq's invasion of Kuwait, these four states had similar answers to the three questions posed above. That is, they agreed that Iraqi actions constituted a threat to peace and security, that force was an appropriate response, and that the UNSC was the legitimate body to authorize the use of force. They acted in concert, and the convergence around a set of principles that is a hallmark of traditional constructivist accounts was clearly in evidence. Thus in the 1990s great powers interpreted and understood the relatively general strictures of international law in a similar way and acted cooperatively.

When the Iraqi government invaded and successfully annexed Kuwait on 2 August 1990, the UNSC worked to secure Iraq's withdrawal. Within days of Iraq's invasion, the UNSC condemned the Iraq government's actions and called for Iraq's immediate withdrawal from Kuwait. UNSC Resolution 660 specified that the invasion was a "breach of international peace and security" (UN Security Council 1990h), while Resolution 661 maintained that the invasion needed to end in order to "restore the sovereignty, independence and territorial integrity of Kuwait" (UN Security Council 1990g). In an effort to restore the authority of the legitimate sovereign government of Kuwait, the Security Council further instituted a worldwide trade embargo and naval blockade on Iraq that was respected by most states.

A series of additional UNSC resolutions specified that annexation of Kuwait was illegal and that the Iraqi government was continuing to disregard international law. Finally, on 29 November 1990, UNSC Resolution 678 made clear that if the Iraqi government did not comply fully with prior

resolutions and withdraw from Kuwait by 15 January, the Council would authorize the removal of the Iraqi government by force (UN Security Council 1990a). This resolution authorized all member states to provide support to use "all necessary means to uphold and implement resolution 660 (1990) and *all subsequent relevant resolutions* and to restore international peace and security in the area" (UN Security Council 1990a, emphasis added).

But the deadline for Iraq's withdrawal from Kuwait came and went, prompting an attack on Iraqi forces in Kuwait by a US-led multinational coalition in January 1991. UNSC cooperation during this time period clearly demonstrates that the major players interpreted and operationalized their understanding of international law and its enforcement in the same way. The consensus was unprecedented and at the time was described as evidence of a renewed approach to the UN doctrine of collective security (see Gray 2002 and Morris and Wheeler 2007). Debates did emerge regarding the underlying motivations for the war and the way it was conducted using a US rather than UN military command. Nevertheless, the United States, the United Kingdom, France, and Germany were in unanimous agreement that the Iraqi government had infringed on international law and needed to be punished. That is, these states had a common understanding of appropriate behavior in the face of the Iraqi invasion of Kuwait.

The UN resolutions also created the legal canopy for combat operations against Iraq, which were a precedent for dealing with future breaches in international law by the Iraqi government. The major state actors including the United States, the United Kingdom, France, and Germany were staunch supporters of the Gulf War in large part because they agreed that the Iraqi government had breached international law and it was their legitimate duty to uphold compliance with international law to sustain international peace and security. For example, on 20 August 1990, the US government signed the National Security Directive 45, which identified US objectives as "the immediate, complete and unconditional withdrawal of all Iraqi forces from Kuwait . . . the restoration of Kuwait's legitimate government to replace the puppet regime installed by Iraq" (White House 1990: 2).

Similarly, the British called for the "collective will" of the UN members to condemn the invasion, and Margaret Thatcher noted that "the Iraqi violation of the territory of a full UN member was totally unacceptable" (Stothard and Bremner 1990). Like Thatcher, "Mitterrand clearly regarded the Iraqi invasion as an unacceptable violation of international norms," and "French officials indicated that as a permanent member of the UN Security Council, France had special responsibilities in upholding those principles" (Bennett, Lepgold, and Unger 1994: 60). While German foreign minister Hans-Dietrich Genscher repeatedly called for a peaceful resolution to the crisis, nonetheless Germany fully supported the military effort with large financial contributions (Bennett, Lepgold, and Unger 1994: 66–67). The

German chancellor claimed that Saddam Hussein's actions "threatened the norm against forcible changes in borders" and argued that "once the international community allows the forceful extinction of one of its members as a state, it will have unforeseeable consequences in other parts of the world" (quoted in Bennett, Lepgold, and Unger 1994: 67).

This interpretive consensus had material effects in shaping the multi-lateral nature of the 1991 Operation Desert Storm, as well as in how it strengthened the normative context of compliance with international law. Yet, consensus was not destined to endure.

The Ongoing Iraqi Challenge to the Normative Community

Even before the Gulf War, Saddam Hussein had engaged in a series of actions challenging international norms. During the Iran-Iraq War in the 1980s, Hussein used chemical weapons to kill thousands of Iranians, although international law prohibits the use of such weapons, and the 1925 Chemical Weapons Treaty, to which the Iraqi government is party, designated the use of chemical weapons to be a war crime (Price 1997). Saddam Hussein also used chemical weapons against the Kurdish town of Halabja during the 1988 Anfal Campaign, which sought the massive displacement of the Iraqi-Kurdish population and was responsible for killing thousands of people (Human Rights Watch 1993). As Security Council Resolution 667 (UN Security Council 1990b) noted, Iraq continued to escalate its violation of international law with regard to diplomatic immunity, the treatment of Kuwaiti nationals and foreign nationals, and its refusal to provide humane treatment to prisoners of war as established in the Geneva Convention.

Iraq continued to flout international law in the decade after the Gulf War. In 1993 it violated the terms of the Gulf War's cease-fire agreement and attempted to enter the demilitarized zone established on the border between Iraq and Kuwait (Prados 2002: 6). Later in the decade it contested the imposed no-fly zone (Gray 2002: 10) and in October 1998 ended its co-operation with UN weapons monitoring and inspections (Katzman 2009: 2). Throughout the 1990s Iraq's behavior severely tested the "community" of norm acceptors and, by the early 2000s, the United States and the United Kingdom had decided it was time to demand enforcement. In his 12 September 2002 speech to the UN General Assembly, President Bush maintained that the Iraqi government was "a grave and gathering danger" and that "Iraq has answered a decade of U.N. demands with a decade of defiance" (Bush 2002c). If the UN refused to enforce its resolutions, he argued, the UN would demonstrate that it was incapable of maintaining international peace and security and would therefore become an irrelevant international institution.

Here, however, was a central difference among the states who shared the same normative commitment to international law. The German and

French governments agreed that the international community needed to confront the Iraqi government and that it could not ignore Hussein's blatant disregard for international law. However, for France and Germany the confrontation needed UN authorization. Rather than interpreting Iraqi behavior as evidence of the UN's potential growing irrelevance, these actors saw the UN as the guardian of international law and the chief endorsing body for enforcing its resolutions. It was noncompliance with the UN that would trigger consequences. Crucially, these different interpretations of the meaning of the Iraqi challenge and the legitimate response to it both emerged as lessons drawn from a common experience—the Gulf War. The United States and the United Kingdom focused on the success brought about by decisive action, while France and Germany concentrated on the legitimacy afforded the multinational coalition by clearly acting within UN auspices.

■ **Contestation: Divergent Interpretations in the Operationalization of International Law**

A key lesson from the constructivist literature on contestation is that even when states "know" what is appropriate and share the general contours of that knowledge, the implementation of what they all know varies. In other words, "every state may 'know' that chemical weapons are taboo (Price 1997), but different states have different ideas about how the taboo works. Further it is these differing interpretations that drive change and politics" (M. Hoffmann 2007: 9). Thus myriad divergent reactions contesting the meaning and applicability of international law surfaced during the 2002–2003 Iraqi disarmament crisis. In particular, the operationalization of UNSC Resolution 1441 ignited the most divergent interpretations.

Resolution 1441 maintained that the Iraqi government had been in material breach of its obligations across twelve years of UN Security Council resolutions and so Resolution 1441 was seen by many as the final in a series of resolutions created to deal with the threat Iraq posed to international peace and security. After failing for years to cooperate with authorized inspectors and failing to disarm and destroy all chemical and biological weapons, the Security Council unanimously decided to afford Iraq "a final opportunity to comply with its disarmament obligations under relevant resolutions" (UN Security Council 2002b). In an effort to structure an enhanced inspection regime, Resolution 1441 required the Iraqi government to submit to inspections by UNMOVIC and the IAEA (UN Security Council 2002b). But after a sixty-day inspection period and submission of the arms inspectors' security report, the Security Council could not "reach a consensus on how to deal with Iraq's failure to comply with Resolution 1441" (Wiener 2004: 208). Actors that were all members of the same normative community had different understandings of an appropriate next step.

The United States and the United Kingdom maintained that Resolution 1441, along with previous resolutions (such as Resolution 660), legitimized force against Iraq in the case of continuing noncompliance. An alternative interpretation, most clearly articulated by France and Germany, argued that these resolutions neither legitimated force against Iraq nor ceded the responsibility to use force to individual states. Security Council disagreements are not new given a long history of opposing positions, but as Wiener observes, "the fact that it manifested itself as crossing right through the community of (western) liberal states" was novel (2004: 208). Although it was not clear that a failure on the part of the Iraqi government to cooperate with Resolution 1441 would or would not justify unilateral action by individual states, it was clear that the Security Council was to be consulted in the event of a compliance failure and given the opportunity to consider the situation and to act under paragraph 12 of Resolution 1441. Considering that Resolution 1441 was regarded by all member states as the "final opportunity" for the Iraqi government to comply, the benchmarks for compliance/noncompliance and their consequences were vague and left room for considerable divergence in interpretations.

The language in the resolution, like all other resolutions, was broad and general in an effort to gain wider acceptance across a large group of actors while at the same time this broad and general language gave rise to a wider range of "permissible interpretations" (Chayes and Chayes 1993: 189, as cited in Wiener 2004: 198; see also Van Kersbergen and Verbeek 2007 on the design of vague norms). As noted above, actors must operationalize context as the first step in taking action. For Sandholtz (2008: 105), multiple interpretations are possible because of two features of the normative system: incompleteness and internal contradictions. No system of rules can provide guidelines for every possible situation and, because of their incompleteness, norms often prove to be ambiguous thus leaving room for contesting interpretations. The different interpretations themselves emerge through what Margaret Archer calls an actor's internal conversation: "because they [actors] possess personal identity, as defined by their individual configuration of concerns, they [actors] know what they care about most and what they seek to realize in society" (Archer 2003: 130, as cited in M. Hoffmann 2007: 8).

Why, then, did multiple interpretations surface in the 2002–2003 Iraqi disarmament crisis and not in the Gulf War context? There are several reasons. First, during the Gulf War, action was relatively uncontroversial because Iraqi actions were clearly contrary to the normative structure shared by all the major powers. The gap between general rules and specific situations, in the actions leading to the Gulf War, was far narrower and tensions between and within the normative framework created fewer openings for

disputes. In the 2002–2003 time period, on the other hand, the normative context was more ambiguous, particularly concerning the operationalization of Resolution 1441 and the gaps between the general rules and specific situations widened. This occurred both because the Iraqi actions were more ambiguous—there was no clear violation engendered by one state invading another—and because the domestic political situations and interests of the observers diverged significantly even while they remained part of the same normative community.

This is the second reason why divergent interpretations emerged. The most obvious difference from the 1990–1991 period was the domestic political situation within the United States in the aftermath of 9/11. This altered US perceptions of threat from the region in a fundamental way and consequently influenced the domestic political calculations made in response to continued Iraqi recalcitrance. The 9/11 attacks were seen by the Bush administration to have exposed a threat originating from the Middle East, and “hard-liners . . . saw this as an opportunity to mobilize support” for an invasion to eliminate the threat (Hinnebusch 2007: 11). Formulated in response to the 9/11 attacks, the Bush Doctrine and the 2002 *National Security Strategy* articulated a move from traditional containment strategy, which required multilateral consultation and consent, to “preventive wars” and a belief that states not with the United States were against it (see Jervis 2003b).

Although the Bush administration was ultimately bent on Iraqi regime change, it still went through UN channels in an attempt to gain legitimacy for its preferences. French and German opposition to the 2003 invasion was in part an attempt to deny the United States sought-after legitimacy. This opposing interpretation had domestic political roots as well. Jacques Chirac and Chancellor Gerhard Schröder’s opposition was strategically motivated in an effort to put themselves ahead of a vast public opinion majority in Europe that was expressly concerned with the war (Wall 2004: 133). “There were between 5 and 6 million Muslims in France who were bitterly opposed to the war, and Chirac wanted to improve relations with Algeria and avoid incurring the enmity of the Muslim world” (Wall 2004: 133). In the domestic sphere, different interests influence how governments interpret and operationalize their intersubjective context.

Force Option: International Law According to the United States and the United Kingdom

In the run-up to the 2003 Iraq invasion, both the US and UK governments stated that they did not want to invade Iraq, but stated that if the Iraqi government did not comply with Resolution 1441, conflict would be inevitable. Colin Powell (2003: 1) noted, “We wrote 1441 not in order to go to war, we wrote 1441 to try to preserve the peace. We wrote 1441 to give Iraq one last chance. Iraq is not so far taking that one last chance. We must not shrink

from whatever is ahead of us." When the sixty-day period came and went and the arms inspectors produced their report, the United States and some European leaders were pessimistic about the chances of Iraq's compliance with any of the UN resolutions and called upon the UN to "face up to its responsibilities" (*The Guardian* 2003b, as quoted in Wiener 2004: 208).

The US and British governments made continual appeals to the international community of states for an Iraq invasion though they stressed "the role of 'international law' and the issue of compliance with resolution 1441" (Wiener 2004: 210; emphasis in the original). For these states, Resolution 678, which authorized member states to take action against Iraq in the Gulf War, provided them with the authority to use "all necessary means to restore international peace and security in the area" (UN Security Council 1990a). The United States in particular was concerned about the precedents of the Iraqi regime's challenges to international law and worked to persuade the international community that the Iraqi government would not comply with international law willingly. The United States was at least partially successful in these endeavors. A letter from eight countries of "New Europe" supported the United States, referring to a common commitment to "individual freedom, human rights and the rule of law," repeating the US mantra that the Iraqi government was a "clear threat to world security" and that "we must remain united in insisting his regime is disarmed" (*The Guardian* 2003b, as quoted in Wiener 2004: 208).

In an effort to further legitimize the US interpretation of international law, considerable effort was also made to identify action against the Iraqi government as legally acceptable self-defense. President Bush maintained that the United States possessed the "sovereign authority to use force in assuring its own national security," and that the United States and its allies "were authorized to use force in ridding Iraq of weapons of mass destruction" (Bush 2003b). Yet ultimately the US and British arguments justifying the Iraq invasion were unsuccessful in persuading most states. France and Germany, along with the broader international community, were unconvinced that the invasion was legal. Neither the earlier Security Council resolutions (e.g., 678) and Resolution 1441, nor the self-defense justification advanced by the United States, were viewed as applicable (Sandholtz 2008: 109). According to Sandholtz (2008: 108), "when UN Secretary General Kofi Annan labelled the war in Iraq 'illegal' (he had previously termed it 'not in conformity' with the UN Charter), he was voicing a widely shared assessment."

No Force: International Law According to Germany and France

The French and German governments had their own competing interpretation of Iraq's behavior and a legitimate response to it. Identifying Resolution

1441 as “strengthening the role and authority of the Security Council,” the French government made clear that their objective toward the Iraqi government was a “two-stage approach to be established and adopted so as to ensure that the Security Council maintains control of the process of each stage” (Levitte 2002: 1). Although both France and Germany maintained a common objective with the United States and the United Kingdom regarding the effective disarmament of Iraq, it was the means and methods of achieving this objective that caused divergence. On 6 March 2003, the French, German, and Russian governments issued a joint statement:

Our common objective remains the full and effective disarmament of Iraq, in compliance with resolution 1441. We consider that this objective can be achieved by the peaceful means of the inspections. . . . Russia, Germany and France resolutely support Messrs Blix and ElBaradei and consider the meeting of the council on March 7 to be an important step in the process put in place. . . . We will not let a proposed resolution pass that would authorise the use of force. Russia and France, as permanent members of the Security Council, will assume all their responsibilities on this point. (*The Guardian* 2003a, as cited in Wiener 2004: 210)

The different meanings of Resolution 1441, that is, the particular interpretations of the resolution and larger reaction to Iraqi recalcitrance, were revealed in debate.

For Germany and France, a war with Iraq, as suggested by the United States and Great Britain, would be a breach of international law. German chancellor Schröder asked, “does the degree of threat stemming from the Iraqi dictator justify a war that will bring certain death to thousands of innocent men, women and children? My answer was and is no” (BBC News 2003, as quoted in Puetter and Wiener 2005: 13). The priority for both the French and German governments was to achieve full disarmament through the inspection regime. These states were not convinced that the conditions for using force against Iraq had been fulfilled; rather, they sought to ensure the continued use of the UN to ensure Iraqi compliance (Puetter and Wiener 2007). Thus despite being part of a community of norm acceptors and sharing a respect for international law and liberal values, France and Germany remained divided from the United States and the United Kingdom.

Consequences of Contestation

Different interpretations arose, as they often do, as states operationalized a general principle (compliance with international law) for a specific situation (reaction to Resolution 1441). As noted, differing interpretations can arise from multiple sources, but crucially they are conditioned by the existence of a common community and framework. In other words, being in the same normative community (e.g., one that accepts the importance of com-

pliance with international law) actually creates the possibility of contestation. The common foundation provides the fodder for debates over how the shared general ideas apply in particular situations. Obviously states have interests and domestic political considerations (both socially constructed, according to constructivists) that influence how they understand their intersubjective context and this gives rise to different interpretations. Although substantial overlap existed and still exists across the United States, the United Kingdom, France, and Germany regarding international law and in particular the Iraqi disregard for international law, the failure to cooperate on Iraqi disarmament in 2002 and 2003 demonstrates how contestation can come from within a normative community.

Such contestation has consequences. This was immediately apparent when the United States decided to forgo UN blessing and led an invasion of Iraq in 2003. The United States and the United Kingdom lacked international consensus (or even substantial support) for the invasion and experienced a number of negative consequences as a result, particularly during the post-invasion period. The US reputation in the Middle East and globally was damaged. Washington's "coalition of the willing" provided minimal technical, financial, and/or troop support for the war, and many of its allies requested hefty aid packages in return for their participation (Hinnebusch 2007: 25). The Iraqi people did not welcome the invasion as a form of liberation, as the Bush administration had hoped, which led instead to deteriorating security conditions in Iraq.

Because it had focused on the immediate invasion and not on any long-term strategy, the United States went into Iraq "undermanned and under-resourced, [expecting to] skim off the top layer of leadership, take control of a functioning state, install imported pro-Western exiles, be out by six weeks and get oil funds to pay for it" (Hinnebusch 2007: 17). Instead, an insurgency developed that led to thousands of deaths and a prolonged venture that further absorbed US resources and limited both its capability and will to undertake military interventions elsewhere. "The perception that the US invasion of Iraq contravened international rules [effectively] imposed significant costs on the United States" (Sandholtz 2008: 108). Sandholtz continues:

The war in Iraq has so far cost the United States hundreds of billions of dollars. The widespread view that the 2003 war in Iraq was illegal also meant that fewer countries (as compared to 1991) contributed military forces to the effort. The United States has borne the burden of troop and hardware commitments that have markedly reduced the capacity of the US military to respond to other threats or undertake other missions. In other words, even the most powerful country in the world pays the costs when its actions are seen as contrary to international rules. (2008: 108)

Normative Change

Beyond the material consequences, it is crucial to consider what the US invasion meant for the normative community itself—whether and how it changed the community and normative context. Ironically, the divergent interpretations regarding Iraq and its challenge to international law actually reified and strengthened specific norms surrounding the legitimate use of force—particularly the principle that the UNSC is the legitimate body for authorizing the use of force internationally. While one could argue that UN and international law credibility was damaged by the US and UK invasion of Iraq without clear UN authorization (Morris and Wheeler 2007), in fact a majority of state actors considered the crisis a vindication of the UN and international law. What emerged was a clear and collective belief that the use of force must be legally determined by and acted upon by the UNSC. As states argued over the parameters for legitimate use of force and the legitimate actor entrusted to use force, the internationalization of legitimate force deepened. The positive feedback to universal participation (e.g., UN-focused force) was further evident with the growing perception that the US and British preemptive strategy was illegitimate.

The preemptive security policy espoused by the United States was an effort to put forward a novel interpretation of general principles that legitimately responded to threats to peace and security, yet ultimately its efforts were unsuccessful. The actions taken by the United States, the United Kingdom, and their supporters came to be viewed as violations of international norms. In addition to outrage and international criticism, there was simply no move by governments around the world to consider “preventive attacks and justify them in terms of a new rule of permissible preventive self-defence,” a necessary step for “the US conduct [to] be seen as initiating a process of rule change” (Sandholtz 2008: 109).

I argued earlier that the international normative structure constrains and constitutes actors. Establishing a set of general rules around which actors can behave, this normative context facilitates principles and standards around which actors can determine appropriate and inappropriate behaviors. On the basis of their liberal democratic identities and their partnership in the UN, the United States, the United Kingdom, Germany, and France are members of a community of norm acceptors and are constrained and constituted by international legal norms. As such, these states are likely to maintain greater norm convergence. This was made clear in the Gulf War case, with all state actors interpreting the challenges of the Iraqi government to international law as necessitating immediate consequences in the form of force. However, the normative context only provides general rules that do not provide specificity in all circumstances. The meaning of norms is itself not standardized and when operationalized inevitable tension surfaces that

creates openings for contestation. Contestation is thus triggered by action. This was made clear in the examination of the 2002–2003 Iraqi disarmament crisis. The community of norm acceptors became divided on the question of compliance/noncompliance and its consequences. The United States and the United Kingdom worked to persuade the international community that the invasion of Iraq was justified by precedent norms and rules of self-defense. Germany and France, on the other hand, worked to reify the norms associated with the legitimate use of force. The outcomes of these arguments modified the normative context. The general rules came to be reified, clearly qualifying the UN as the legitimate institution for establishing subsequent uses of force.

■ Beyond Iraq: Applying Norm Contestation

Contestation is a feature of normative systems. Norms are often characterized by a low degree of specificity and a high degree of generality, and thus are open to a high degree of contestation (Wiener 2007). While norms must be shared ideas accepted by a community (otherwise they would not exist or would simply be ideas about appropriate behavior), the meaning of these norms for specific situations can and often will be understood differently by actors in the community. This will lead to debate and conflict even as actors adhere to and comply with norms. Normative interpretations arise and vary on the basis of domestic politics, historical experience, and interactions and conflicts between multiple norms and different identities (states with different identities, e.g., developed and developing, may view norms differently). However, to be clear, prevailing norms structure and contextualize the debate between different interpreters and their interpretations. The normative context not only structures the debate but shapes the parameters of the debate for actors and their actions. Actions taken on the basis of these diverse interpretations have material consequences and they have consequences for the normative structure, because it is through interpretation and action based on interpretation that norms emerge, are altered, or are reified (M. Hoffmann 2007).

This idea of norm contestation helped structure an explanation for extensive disagreement between allies in the year leading up to the 2003 Iraq invasion. A community constructed in part by their shared commitment to upholding international law came to see Iraqi behavior and the proper response to it very differently. Different interpretations of and different ways of carrying out the general principles that all the major liberal democratic states adhered to produced the 2003 Iraq invasion. Contestation within the community of norm acceptors had significant consequences for both the conduct and aftermath of the invasion and for how the world continues to understand the legitimate use of force internationally.

But the details of this case may obscure the general applicability of the approach. I would like to end by suggesting some areas where the idea of norm contestation may prove fruitful. First, the social constructivist approach is valuable in that it can be used to investigate global change and transformation. The approach can be applied to explore how norms are constantly in motion and how this built-in dynamism intimately shapes political outcomes. Using the mechanisms of contestation and interpretation to trace activity will contribute insight on how norms change and develop over time. Beyond the Iraq case, contestation can be used to explore norms associated with nuclear proliferation and how divergent interpretations of these norms might be changing; discussions on tactical nuclear weapons could alter what has been a taboo on the use of nuclear arms (see Price and Tannenwald 1996; Tannenwald 2007). A contestation framework can be used to explore norms associated with terrorism or torture and how divergent interpretations of these norms might challenge or reify the existing understandings of appropriate state actions toward combatants and criminals.

Social constructivism and the mechanisms of contestation and interpretation provide insight into how norms change in their substantive content and specificity in both directions: toward strong, specific norms or weak, vague norms (Sandholtz 2008). Understanding how this process plays out enhances our ability to understand some of the most interesting pressing issues of the day.

■ Notes

1. I would like to thank Jennifer Catallo for research assistance on this chapter.
2. I discuss "compliance with international law" in two ways. First, I examine Iraqi compliance (or not) with Security Council directives and resolutions. Second, I assess great power arguments about what was legally allowed or demanded in the face of Iraqi recalcitrance.
3. See Finnemore (1996); Finnemore and Sikkink (1998); Klotz (1995); Price (1997).
4. See Checkel (2001); Finnemore and Sikkink (1998); Risse, Ropp, and Sikkink (1999).
5. See Bailey (2008); Chwioroth (2008); Dimitrakopoulos (2008); M. Hoffmann (2005); Kelley (2007); Kornprobst (2007); Meyer (2005); Van Kersbergen and Verbeek (2007).
6. See Brunnée and Toope (2010); Finnemore and Toope (2001); Kacowicz (2005).