Contestation from within: norm dynamics and the crisis of the liberal international order

Lesch, M.; Zimmermann, L.; Deitelhoff, N.

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Max Lesch
Peace Research Institute Frankfurt, Germany

Lisbeth Zimmermann
Goethe University Frankfurt, Germany

and

Nicole Deitelhoff
Peace Research Institute Frankfurt, Germany

To what extent is the current "crisis of the liberal international order" a result of features of the order itself? In this article, we focus on the role of formal and informal hierarchies by comparing two cases of contestation of core norms of the liberal international order: The African states and the African Union contesting the duty to prosecute institutionalized in the International Criminal Court and the United States contesting the international prohibition of torture. The African contestation of the duty to prosecute became radicalized and diffused, leading to challenges to the broader international criminal accountability regime. The US contestation of the prohibition of torture did not spread, leaving the broader human rights regime untouched. We argue that the formal and informal hierarchies in both orders shaped their contestation dynamics more than their formal institutionalization. While the duty to prosecute is situated in a highly hierarchical setting that fueled frustration and contestation, the contestation of the prohibition of torture evolved in the less hierarchical setting of the human rights treaty bodies, which helped prevent contestation from spreading.

Dans quelle mesure la ≪ crise de l'ordre libéral international ≫ actuelle est-elle une conséquence des caractéristiques de l'ordre lui-même ? Dans cet article, nous nous concentrons sur le rôle des hiérarchies formelles et informelles en comparant deux cas de contestation de normes fondamentales de l'ordre libéral international : les États africains et l'Union africaine qui contestent le devoir de poursuivre en justice institutionnalisé dans la Cour pénale internationale et les États-Unis qui contestent l'interdiction internationale de la torture. La contestation africaine du devoir de poursuivre en justice s'est radicalisée et diffusée, pour découler sur une remise en cause du régime de responsabilité pénale internationale au sens large, y compris des tentatives de réorganisation non libérales. La contestation américaine de l'interdiction de la torture ne s'est pas diffusée, laissant intact le régime des droits de l'Homme aux frontières. Nous affirmons que les hiérarchies formelles et informelles des deux ordres ont bien plus façonné la dynamique de leur contestation que leur institutionnalisation formelle. Quand le devoir de poursuivre en justice se situe dans un cadre hautement hiérarchique qui a alimenté la frustration et la contestation, la remise en cause de l'interdiction de la torture a évolué dans le cadre moins hiérarchique des ensembles de traités sur les droits de l'Homme, ce qui a permis d'éviter que la contestation ne se diffuse.

¿Hasta qué punto está provocada la actual ≪crisis del orden internacional liberal≫ por las características del propio orden? En este artículo, nos centramos en el papel de las jerarquías formales e informales comparando dos casos de impugnación de normas básicas del orden internacional liberal: por un lado, los Estados africanos y la Unión Africana, que impugnan el deber de enjuiciar institucionalizado en la Corte Penal Internacional, y, por otro lado, los Estados Unidos, que impugnan la prohibición internacional de la tortura. La impugnación africana del deber de enjuiciar se ha ido radicalizando y también difundiendo, lo que ha dado lugar a ciertos desafíos contra el régimen internacional general de responsabilidad penal, incluyendo intentos de reordenamiento iliberal. La impugnación por parte de Estados Unidos de la prohibición de la tortura no se extendió, dejando, de esta manera, intacto el régimen de derechos humanos en general. Argumentamos que las jerarquías presentes en ambos órdenes, tanto formales como informales, moldearon su dinámica de impugnación en mayor medida que su institucionalización formal. Si bien el deber de enjuiciar se sitúa en un entorno altamente jerárquico que contribuye a alimentar tanto la frustración como la impugnación, la impugnación de la prohibición de la tortura se desarrolló en el entorno menos jerárquico de los órganos creados en virtud de los tratados de derechos humanos, lo que ayudó a evitar que se extendiera la impugnación.

Introduction

The liberal international order (LIO) is in crisis. The causes and consequences of this crisis are extensively debated by International Relations (IR) scholars (see the discussion in Lake, Martin, and Risse 2021). Some point to external pressures and shocks, focusing, for example, on the rise of China in the face of declining Western hegemony (see e.g., Cooley and Nexon 2020; Weiss and Wallace 2021), and the Russian war of aggression against Ukraine (see e.g., Flockhart and Korosteleva 2022). Others, including the editors of this special forum (Goddard et al. 2024), emphasize the internal sources of the crisis, such as the persistence of economic inequalities and the growing authority of international organizations (IOs). These contestation dynamics have been

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amplified by the rise of populist movements and authoritarian regimes in the center and periphery of the LIO (see e.g., Adler-Nissen and Zarakol 2021; Börzel and Zürn 2021; Kreuder-Sonnen and Rittberger 2023). The crisis of the LIO is also linked to challenges to some of its fundamental norms. Such norm contestation is often used as an indicator of the crisis of the order more broadly (Krieger and Liese 2023, 2). However, less attention has been paid to when and how contestation of specific norms affects the LIO and its suborders.

In this article, we draw on the IR literature on norm contestation and link it to the debate on the crisis of the LIO. We begin by distinguishing between the contestation of the application and contestation of the validity of international norms (Deitelhoff and Zimmermann 2020). We argue that norm contestation is more likely to challenge the LIO as a whole when it targets not only the application of norms, but also the validity of core norms of a liberal (sub)order, and spreads among the addressees of key norms and members of that order. One endogenous factor driving such spillovers, which is not explicitly covered by the focus of this special forum on formal delegation and sanctions, is the formal and informal hierarchies embedded in many LIO institutions. By drawing on recent research on hierarchies and inequality in IR, we show how hierarchical institutions that remain unresponsive to contestation can incite the radicalization and diffusion of contestation.

We illustrate this argument by comparing the African contestation of the duty to prosecute, institutionalized in the International Criminal Court (ICC), with the US contestation of the international prohibition of torture. These norms are rooted in key principles of the LIO, broadly described as a commitment to "institutionalized multilateralism, the promotion of individual liberties, the rule of law, and open markets" (Goddard et al. 2024; see also Eilstrup-Sangiovanni and Hofmann 2020, 1078–79), and at the core of their specific liberal (sub)orders. The duty to prosecute is at the heart of the international criminal law regime that is based on the liberal norm of establishing individual accountability for international crimes (Kim and Sharman 2014, 439–41). The prohibition of torture is a core norm of the liberal human rights regime and one of the key individual physical integrity rights. It is enshrined in international treaties—not only in human rights law, but also in humanitarian and criminal law, both at the international and regional levels (Rodley and Pollard 2009, 46–47). Both norms are entrenched in the vision of individual liberties and the rule of law.

Following the typology suggested by the editors (Goddard et al. 2024), both the international criminal law regime and the human rights regime can be described as "strongly institutionalized liberal orders".[1] Their norms are precise, binding, and enforceable, although the nature and level of enforcement mechanisms differ.[2] While within the framework of this special forum, we would expect similar contestation patterns for a strongly institutionalized liberal order, we observe a radicalization of contestation of the duty to prosecute, but none of the prohibition of torture. We argue that this difference is due less to the degree of formal institutionalization than to how hierarchies play out in institutional procedures.

African contestation of the duty to prosecute and the ICC erupted after the arrest warrant for the sitting president of Sudan, Omar al-Bashir, was issued in 2009. The US contestation of the international prohibition of torture arose during the "war on terror" in the early 2000s. Challenges to the duty to prosecute have become radicalized and have diffused across the African continent, potentially challenging the entire regime of individual criminal accountability. The US contestation of the prohibition of torture, in contrast, did not diffuse and did not undermine the broader human rights regime. One of the reasons for these different reactive sequences can be found in the hierarchical setting of the ICC and the United Nations (UN) Security Council and its lack of responsiveness to the criticism voiced by this central group of ICC members. In the torture case, avenues for contestation were kept open and the institutional setting of the Committee against Torture (CmAT) helped prevent further diffusion—contributing to broader international and domestic reactions to the torture allegations against the United States.

The article contributes to this special forum and the debate on the crisis of the LIO in three ways. First, by focusing on *norm* contestation, it adds an additional analytical layer and specifies the link between norm contestation and liberal (sub)orders to better understand the conditions under which contestation is more likely to spread. Second, it contextualizes the current debate by relating it to insights about the outcomes of earlier challenges to international norms and orders (see also Eilstrup-Sangiovanni 2022). Third, it zooms in on the endogenous factors of the crisis of the LIO by examining how formal and informal hierarchies play out in practice—beyond a focus solely on formal delegation and sanctioning.

The remainder of this article proceeds as follows. In the next section, we link the analytical framework proposed for this special forum to recent insights from IR norm research and describe our case selection and methods. We then illustrate our argument with two case studies of norm contestation in the human rights and criminal accountability regimes. We conclude by outlining avenues for further research on the contestation of international norms and its links to the crisis of the LIO.

Norm Contestation and the Crisis of the LIO

Contestation dynamics of international orders and their specific norms and institutions are deeply intertwined. In this section, we link the scholarship on norm contestation to the debate on the crisis of the LIO to better understand the circumstances in which norm contestation evolves into a crisis of the entire LIO or its suborders. To distinguish between norm contestation and order contestation, we differentiate between the constitutive principles of liberal orders, such as multilateralism, individual freedoms, the rule of law, and free trade (Goddard et al. 2024; see also Eilstrup-Sangiovanni and Hofmann 2020, 1078–79), and the core norms of their respective suborders in which these principles are enshrined and further norms are anchored along with the rules for their implementation.[3] Without such core norms, these orders would lose their liberal aspiration. Building on the reactive sequences proposed by the editors

[1] There are several differences that this rather broad categorization does not reflect, however, such as the extent to which states have committed themselves to these norms, as evidenced by the higher ratification rates of human rights treaties, and the extent to which they are also institutionalized and enforceable at the national and regional levels (see also below n5 and n9).

[2] At the *international* level, enforcement in the human rights regime is mainly organized through informal, quasi-judicial mechanisms such as the human rights treaty bodies, whereas the ICC provides the international criminal law regime with a formal, judicial enforcement mechanism (see Lesch 2023, 4–5).

[3] The English School makes a similar distinction between international society, institutions, and norms (Reus-Smit 1997, 557–58).

of this special forum, we argue that institutional hierarchies are a key factor in escalating and mediating the dynamics of contestation. Hierarchical settings are more likely to spur contestation of core norms and to incite spillover effects throughout the order.

Contestation refers to the open questioning of norms and institutions in discourse (Wiener 2014, 1). Contestation is an essential—and often normal—part of any normative order. Normative orders are rarely consistent, let alone linear in their evolution. The LIO is no exception. It is an "assemblage of many different orders at different scales" (Cooley and Nexon 2020, 23). Some of these orders align and overlap, some exist in parallel, and some even contradict each other. Because of their many inconsistencies and failed promises, the suborders have always been contested. Consider the disputes over the World Trade Organization and the Washington Consensus (see e.g., Weinhardt and Schöfer 2022). In these disputes, challenges to the international economic order based on one of the key principles of the LIO, the promise of open markets, rely on the competing LIO principles of equality and fairness. This contestation has led to the emergence of a global movement—to which the economic order has proven to be at least partially adaptive (Anderl, Daphi, and Deitelhoff 2021; Tallberg et al. 2013). In other suborders, states have repeatedly challenged liberal norms, for example in disputes over women's rights (Cupać and Ebetürk 2020) and the asylum and refugee regime (Lavenex 2024, in this forum), as well as in controversies over China's Belt and Road Initiative (Lesch and Loh 2022) and multilateral decision-making structures (Qobo 2022, ch. 2). How does contestation affect these norms and under what conditions does it also challenge the liberal (sub)orders in which they are embedded?

A Typology of Contestation

Norm researchers in IR agree that norm contestation can take various forms (Clark et al. 2018, 332; Deitelhoff and Zimmermann 2020, 56–57; Ralph and Gallagher 2015, 555; Stimmer and Wisken 2019, 518–21; Welsh 2014, 132–33; Wiener 2018, 38–42). Where they differ, however, is in how they expect contestation to affect norms. Some see contestation as an indicator or a causal factor in the destabilization or even erosion of norms (Heller, Kahl, and Pisoiu 2012, 283; McKeown 2009, 11; Panke and Petersohn 2012, 2016; Rosert and Schirmbeck 2007). Others argue that contestation actually strengthens norms by providing spaces for legitimation processes (Wiener 2008; Hurd 2017; Clark et al. 2018). Here, we follow the distinction between validity and applicatory contestation, introduced by Nicole Deitelhoff and Lisbeth Zimmermann (2020, 56–57), and link it to the typology of order contestation proposed by the editors of this special forum.

Validity contestation refers to statements that question whether a particular norm should regulate a class of situations in general. It concerns the acceptability of a norm. *Applicatory contestation* deals with different questions: Does this situation belong to the class of situations to which this norm should be applied? What does the norm require an addressee to do or not to do in this particular situation? What is the meaning of the categories or definitions enshrined in the norm? Applicatory contestation concerns specific situations, validity contestation concerns the general normative claim. Deitelhoff and Zimmermann (2020, 58) argue that the former weakens international norms, whereas the latter can even strengthen them. But how does norm contestation relate to international orders? In a nutshell, the applicatory contestation of international norms is likely to leave the overarching liberal orders untouched, whereas validity contestation of core liberal norms has the potential to challenge liberal orders as a whole.

The editors of this special forum distinguish between order-consistent and order-challenging contestation. Contestation is "order-consistent" when it criticizes the way liberal principles are implemented in a particular suborder (Goddard et al. 2024). Disputes over individual norms, which are linked to their application, are always consistent with the order. Here, actors dispute that liberal principles are being implemented correctly in specific cases without involving the order as such. We can also see this with widely shared liberal norms such as anticorruption and its contested translation even in Western countries (Lesch 2021). It is important to note, however, that applicatory contestation can also conceal more fundamental challenges (Schmidt and Sikkink 2019, 106), or aim at incrementally hollowing out international norms, leading to what the editors have termed an "illiberal subversion" (Goddard et al. 2024). Consider, for instance, the challenges to reproductive rights by conservative US administrations, which couch their arguments within the broader human rights regime but fundamentally challenge key women's rights (Barbé and Badell 2023).

Contestation is "order-challenging" when it rejects liberal principles and their underlying institutions (Goddard et al. 2024). Contesting the validity of international norms is not necessarily order-challenging. Indeed, validity contestation is an important driver for developing new norms and replacing old ones (Finnemore and Sikkink 1998, 897)—what the editors of this special forum refer to as strategies of "liberal reform" or "liberal counter-institutionalization" (Goddard et al. 2024). For example, international intellectual property law on HIV drugs sparked validity contestation which, however, did not challenge free trade in general and later also led to international policy change (Wolf and Scholz 2017). Normatively speaking, this is a productive effect of validity contestation for liberal orders. But when validity contestation of *core* norms of a particular suborder increases, it not only calls into question a specific norm, but also norms that depend on or are related to the core norms of the suborder, such as in the case of democracy clauses in regional organizations like the European Union or the Organization of American States. In addition, validity contestation of such core norms not only casts doubt on specific aspects of institutionalization, but can quickly turn into attempts at illiberal reordering of a "sub-order's liberal aspiration while resisting or abandoning its institutions and calling for their wholesale transformation" (Goddard et al. 2024). This kind of "order-defiant" or "systemic" contestation goes beyond challenges to specific norms (see Lesch and Marxsen 2023, 32; Zimmermann et al. 2023, 262). We can observe this in some of the challenges to the international economic order that call for a retreat from commitments to globalization and the institutions that govern it (Hooghe, Lenz, and Marks 2019, 736).

Taken together, when validity contestation of a suborder's core norms becomes dominant and spreads among key members of a liberal order, it can challenge the order as a whole.

Radicalization and Diffusion of Contestation: Endogenous Factors

What drives contestation dynamics? Norms research in IR locates the the onset of many episodes of contestation in conflicts over the correct interpretation of what the norm

actually requires (Chayes and Chayes 1993), which erupt when norms are translated to different contexts (Acharya 2004; Zimmermann 2017) or clash with specific (state) preferences (Weinhardt and Brink 2020, 263–64). Similarly, the editors of this special forum argue that the contestation of liberal orders more widely usually begins with concerns about negative distributional effects, norm conflicts, or hypocrisy in the implementation of the order's principles (Goddard et al. 2024). But contestation can also take a more fundamental form from the outset. Powerful actors might opt to challenge the validity of norms directly because they are more optimistic about the chances of norm change. They care less about potential shaming or sanctioning (Deitelhoff and Zimmermann 2019, 9–10). Similarly, actors who already see themselves as outside the liberal order might opt for open transgression and fundamental contestation (Adler-Nissen 2014, 153–54; Evers 2017, 789–90). In all of these scenarios, the central question is when and why contestation of a particular kind grows and spreads.

In addition to the focus of this special forum on the formal institutionalization of liberal orders, we demonstrate how hierarchies in formal and informal institutional procedures drive contestation dynamics. Goddard et al. (2024) argue that strongly institutionalized liberal orders (in terms of their precision, obligation, and delegation),[4] are less responsive to contestation (as existing rules are more precise and do not leave room for behavioral variance). This type of liberal order shines more light on noncompliance based on their monitoring mechanisms, and might increase the level of hypocrisy as it might be difficult to meet their standards. They might also bring about more institutional exclusion based on their more formalized procedures.[5] We go beyond this formal distinction between strongly and weakly institutionalized liberal orders by focusing on how hierarchies in institutional procedures shape contestation dynamics.

International institutions, and by extension norm disputes within such institutions, are structured by hierarchies "through which actors are organized into vertical relations of super- and subordination" (Mattern and Zarakol 2016, 624). Hierarchies come in various forms and "stratify actors in multiple, mutually reinforcing ways" (Egel and Ward 2022, 753–56). Here, we focus on formal and informal institutional mechanisms for interpreting and making decisions on norms. These are reflected in decision-making procedures of international institutions such as veto powers and majority rules (formal) or negotiation practices and agenda-setting norms (informal) (Egel and Ward 2022, 754; Fehl and Freistein 2021, 259–60; Pouliot 2016, 40–42). These hierarchies may align with the type of formal institutionalization of liberal orders—but they may also diverge. When states contest international norms, they have to cope with institutional procedures and their hierarchies, which privilege some and disadvantage others.

Focusing on (in)formal hierarchies, thus provides insights into when and how the radicalization of contestation in liberal orders can be halted or even reversed. Actors who cannot find accessible and credible institutional channels to voice their objections to a norm or its application are likely to become frustrated and turn to validity contestation. Such validity contestation, justified in terms of unfairness and hypocrisy, also spreads more easily among a growing number of states (Zimmermann et al. 2023, 26). When frustration with core liberal norms and their application diffuses, it is more likely to affect the liberal (sub)order as a whole by triggering attempts at "illiberal reordering". When institutional hierarchies do not allow challengers access, they are likely to turn away from these institutions (Daase and Deitelhoff 2019, 19–20; Egel and Ward 2022, 759–60). Liberal institutions, by definition, should at least offer some entry points for internal change. Living up to the liberal promise of "equality before the law as well as inclusive, equal, and fair participation" (Goddard et al. 2024) is the critical factor for contestation dynamics in the LIO. When institutional procedures provide for "equal opportunity of participation for all those affected" (Zürn 2018, 72), it is more likely that contestation can be tamed within the institutional frameworks.

Case Selection and Method

In this article, we compare two cases of norms that are central to their respective liberal orders, both of which can generally be characterized as strongly institutionalized, but which have witnessed different contestation trajectories. We use the cases to illustrate our argument, which, however, is still in need of further testing.

Since the adoption of the Rome Statute in 1998, the duty to prosecute has been the norm at the core of the international criminal accountability regime. The international prohibition of torture, for its part, is at the heart of international human rights. Both norms are strongly institutionalized with a high degree of obligation, precision, and delegation. While both norms have faced many challenges, only contestation of the duty to prosecute has become radicalized and has diffused—at least among the core group of the African ICC members (Arcudi 2019; Deitelhoff 2020). In the torture case, by contrast, the US contestation did not catch on with a larger group of norm addressees, and contestation eventually ceased (Keating 2014, 16; Zimmermann et al. 2023, 57).

Variation in the formal institutionalization of these liberal orders cannot fully explain the different contestation outcomes, as the editors of this special forum would expect. Therefore, the two cases provide useful illustrations of how formal and informal hierarchies contribute to increasing validity contestation of norms that potentially incite order-challenging contestation. We compare the more hierarchical settings of the duty to prosecute in the ICC and its links to the UNSC (and its veto powers), which fueled contestation by African states and the African Union, with the less hierarchical setting of the treaty bodies that apply the prohibition of torture. This provides additional insights into the factors that shape the dynamics of norm contestation in liberal orders.

In both illustrative case studies, we employ a process-tracing approach to identify how hierarchies influence norm contestation dynamics and their effects on the liberal suborders in question. We begin our case studies with a brief history of the liberal suborders and define the core claims of the norms we are studying at the time of their formal adoption. Against this background, we specify how we distinguish between applicatory and validity contestation in each case study and briefly introduce the key institutional settings. The analysis is based on extensive qualitative content analysis of debates in IOs, newspapers, and diplomatic records (Zimmermann et al. 2023, 42–45, 157–58). We draw on secondary literature to triangulate our findings and to identify how hierarchies played out in institutional proce-

[4] They assess the degree of institutionalization following the legalization framework (Abbott et al. 2000).

[5] Similarly, liberal institutions might respond with more inclusion, which can also undermine the LIO (Goddard et al. 2024).

dures and influence norm contestation trends in liberal orders.

Creating Your Own Enemy: African Contestation of the Duty to Prosecute

After the Nuremberg and Tokyo War Crimes Trials, the ambitious framework for an international criminal law regime soon faltered under the rising tensions of the Cold War. It was not until the 1990s that efforts to globally institutionalize criminal accountability norms were reinvigorated by the ad hoc tribunals for the former Yugoslavia and Rwanda. They were part of a broader "shift in the legitimacy of the norm of criminal accountability for human rights violations and increase in prosecutions on behalf of that norm" (Sikkink 2011, 5). This process culminated in the adoption (1998) and entry into force (2002) of the Rome Statute for the ICC. This flagship project of the LIO implements the liberal principle of rule of law. It was realized without the support of many of the major powers and relied heavily on African states during the negotiations and for its rapid entry into force (Bower 2017; Nimigan 2021). The Rome Statue codified and specified the *duty to prosecute* and institutionalized it in the ICC (Deitelhoff 2009, 38). In a nutshell, this norm obliges states to prosecute the most serious international crimes and the ICC to step in when states are unable or unwilling to do so. Actors contest the validity of the duty to prosecute, if they exempt certain groups from the norm, prioritize other norms, such as sovereignty or peace, over prosecution, or if they reject the duty to prosecute and/or the ICC altogether, for instance, because they perceive it as colonialist or imperialist. Applicatory contestation would challenge the impartiality of the ICC, double standards, specific applications, or the implementation of the duty to prosecute in the ICC's activities (Zimmermann et al. 2023, 155–56).

The contestation of the duty to prosecute is shaped by the specific institutional setup of the ICC and its relationship to the UN Security Council (UNSC). While the duty to prosecute the most serious atrocities—genocide, war crimes, crimes against humanity, and (since 2018) the crime of aggression—resides primarily at the national level (complementarity principle), it is passed to the ICC when national jurisdictions are unable or unwilling to prosecute. Investigations can be opened by the ICC following a referral by a state party, a referral by the UNSC, or—*proprio motu*—on the initiative of the prosecutor (Schabas 2017, 141–63). Under the Rome Statute, the Assembly of States Parties (ASP) is the primary institution that provides space to debate norm implementation and development. The court is also linked to the UNSC, which is the only institution that can suspend ICC investigations for 12 months (the suspension can also be renewed) in the event of a threat to international peace as defined by Chapter VII of the UN Charter (Schabas 2017, 163–68). While the Rome Statute vests the ICC with a great deal of authority when it comes to implementing the duty to prosecute, it is not free of potential political influence from the UNSC (some states within which are not ICC members) due to its decision-making powers on referral and suspension. This is a potential gateway for charges of hypocrisy and double standards. The criminal accountability regime is thus not only a strongly institutionalized liberal order,[6] but also rather hierarchical, which should generate perceptions of unfair treatment and frustration among challengers more easily.

The first ICC cases came via an unintended route from African ICC members. "Self-referrals" (based on Article 14, Rome Statute, allowing states to refer situations in *other* state parties) by the governments of Uganda, the Democratic Republic of Congo (DRC), and the Central African Republic (CAR) asked the ICC prosecutor to investigate crimes allegedly committed within their own borders during past or ongoing conflicts (see Ba 2020, 15–17; Bower 2017, 139–42). Self-referrals have been criticized for targeting former opponents of the incumbent governments. During this initial period of ICC activity, the court operated in a fairly cooperative environment (Boehme 2022, 54) and faced only very few contestations from African states (Arcudi 2019, 186).[7] This changed when the ICC opened investigations on situations in Sudan and Kenya, pitting several African states and the African Union (AU) against the court.

Between Norm Modification and Institutional Resistance

African contestation of the ICC and the duty to prosecute began when, in 2005, the UNSC referred the situation in Darfur, Sudan to the ICC to investigate allegations of war crimes and crimes against humanity against the Sudanese military and militias such as the Janjaweed (UNSC 2005). Initially, the referral sparked criticism, mainly from Sudan, which is not a party to the Rome Statute and only falls under the jurisdiction of the ICC as a result of the referral. Sudan denounced the referral as a politicized decision and the ICC as an instrument of power politics. At the time, very few other African states joined Sudan in its contestation of the ICC (Zimmermann et al. 2023, 162–63). It was only after the ICC's chief prosecutor requested arrest warrants for members of the Sudanese government—including the first arrest warrant for a sitting head of state, then president Omar al-Bashir, in 2008—that contestation spread to other African countries and the AU. Also in 2008, the chief prosecutor decided to use his *proprio motu* powers to investigate the postelection violence in Kenya in 2007/8. Allegations of electoral fraud led to violent ethnic clashes that left at least 1,200 dead, thousands injured, and more than 300,000 displaced. The ICC investigation targeted six Kenyan officials, including Uhuru Kenyatta and William Ruto, who became president and deputy president, respectively, in the 2013 elections, and summoned them to appear before the ICC (Bower 2019, 93–94). The ICC investigations of the situations in Sudan and Kenya and the cases against sitting heads of states and members of government became the main sticking points between African states and the ICC.

In response to the ICC investigations, African states and the AU challenged the duty to prosecute on several levels. At first, contestation was limited to the states directly affected and mainly addressed the application of the duty to prosecute through the ICC. Calls for norm modification and clarification were presented via existing institutional mechanisms within the UN and the ICC: in light of the arrest warrant against al-Bashir, the AU Peace and Security Council (PSC) appealed to the UNSC to suspend the ICC investigation in accordance with Article 16 of the Rome Statute because the investigation was undermining peace efforts in Darfur (AU Peace and Security Council 2008). While the Rome Statute recognizes the tension between peace processes and criminal accountability, such arguments can also

[6] In contrast to the human rights regime (see below), this order is less strongly institutionalized at the domestic level with strong regional variations (Berlin 2020, 86–87; see also above n1).

[7] At the time, much contestation came from the United States, also a long-standing critic of the ICC (see e.g., Bower 2017, 175–81).

call into question the validity of the duty to prosecute if it categorically prioritizes peace, thereby undermining the authority of the ICC. In any case, the UNSC did not respond to the AU's call—after an initial silence, it merely took note of it in Resolution 1828 (UNSC 2008). In the Kenyan case, too, Kenya and the AU called for the UNSC to postpone the investigation because it would impede peace. In this case, the UNSC opened an informal dialogue with the Kenyan delegation. Yet, the request was still not granted (Arcudi 2019, 192). In response, Kenya and the AU proposed at the ASP to the ICC that Article 16 of the Rome Statute be amended to give the UN General Assembly the authority to issue deferral requests in the absence of UNSC action. The proposal failed to garner a majority (Arcudi 2019, 189; Jalloh, Akande, and Du Plessis 2011, 26–27). When African states and the AU perceived the hierarchical relationship with the UNSC as insurmountable, they tried to bypass it by turning to the UN General Assembly, but to no avail.[8]

Sudan, Kenya, and the AU also contested the duty to prosecute on the basis of the principle of complementarity. Early on, Sudan insisted that atrocities should be tried domestically (Sudan in UNGA 2007, 21). Kenya also suggested that its domestic courts were better equipped to deal with the allegations (Bower 2019, 94). At a more technical level, Kenya and other African states questioned the need for Kenyatta and Ruto to attend the proceedings in The Hague, arguing that their presence in Kenya was necessary to safeguard the peace process (e.g., Kenya in Daily Nation 2016). This was one of the few contestations to which the ICC responded by not insisting on the permanent presence of the accused in The Hague during the proceedings (Bower 2019, 97).

In sum, the African contestation of the application of the duty to prosecute by the ICC and its calls for norm modifications and clarifications were met "with little appreciable interest from other ICC members" (Bower 2019, 97; see also Dembinski and Peters 2019, 163). This led to a radicalization and diffusion of contestation.

Withdrawals, Noncooperation, and Counter-Institutionalization

The reaction of the UNSC and the ICC to the African contestation triggered more radical challenges to the duty to prosecute, which spread and threatened this liberal suborder as a whole. From the perspective of the African states, the unresponsiveness of international institutions to their criticism reflected their marginalized position in the formal and informal hierarchies of the international order. As Kurt Mills (2012, 425) put it: "African leaders just wanted some sort of acknowledgement of their concerns and their standing as global leaders." This frustration was reinforced by the alleged selectivity of the ICC. At the ASP, South Africa stated:

> There are perceptions of inequality and unfairness in the practice of the ICC that do not only emanate from the Court's relationship with the Security Council, but also by the perceived focus of the ICC on African states, notwithstanding clear evidence of violations by others (South Africa 2016).

Some even expressed a general rejection of the ICC (Sudan in UNGA 2014, 22), the most radical form of validity contestation. African states argued that the purpose of international prosecution would be to "hunt" Africans, which would constitute renewed imperial or colonial rule: Ethiopia, for instance, argued that the ICC had been "transformed [. . .] into a political instrument targeting Africa and Africans" (quoted in The Independent on Saturday 2013; see also Vilmer 2016, 1321–22). While this was a rational strategy for Sudan and Kenya to escape the ICC's jurisdiction, the argument is less persuasive when it comes to the spread of fundamental challenges more widely. A "sense of betrayal" (Deitelhoff 2020, 722) was felt by many African states that organized their response through the AU. The deteriorating relationship with the ICC is reflected in declining cooperation, calls for mass withdrawals, and counter-institutionalization, which combined could amount to an attempt at illiberal reordering if implemented.

In the face of intensifying disputes, the African member states were less willing to cooperate with the ICC (Bower 2017, 136–37). Only in the situations in the CAR and Mali did the court enjoy full cooperation (Hillebrecht and Straus 2017, 176). In 2009, the AU Assembly (2009, para. 11) decided that its member states should not cooperate with the ICC regarding the arrest warrant against al-Bashir. In fact, al-Bashir traveled abroad more than 75 times after his indictment (Boehme 2022, 92). Few African states criticized the failed attempts and only Botswana and Malawi officially threatened to arrest him (Boehme 2022, 85–87). Such cases of noncooperation were usually not met with much criticism from African states (Zimmermann et al. 2023, 176).

The relationship between the ICC and its African member states hit rock bottom when the AU passed a resolution calling on its members to withdraw from the ICC (AU Assembly 2016). For states facing a looming investigation by the ICC, withdrawal is a rational strategy. But this interest-based perspective cannot explain the broader support by states on the African continent. Following this call for mass withdrawal, Burundi, The Gambia, and South Africa signaled their intention to leave the ICC. Earlier, the Kenyan parliament had voted to withdraw from the ICC, but never followed up on this (Bower 2019, 98). So far, Burundi is the only African country to have actually left the ICC (in 2017).[9] The Burundian delegate to the ASP argued that the court infringed on the independence and sovereignty of member states "with so much potential harm to the Republic of Burundi" (Burundi 2016). The Gambia and South Africa, on the other hand, have retracted their withdrawal notifications due to domestic political and legal developments (Ba 2020, 152–54; Boehme 2022, 144–48). As with noncooperation, there has been virtually no criticism of the (notifications of) withdrawals among African states (Zimmermann et al. 2023, 175–76). Although several African states have subsequently jointly declared that they will remain in the ICC, support from among this crucial group of ICC members has never reached the levels of the pre-2008 period (Boehme 2022, 69).

In parallel with these membership politics, the AU has also been considering its own institutional response to the ICC. The 2014 Malabo Protocol adopted provisions amending the Protocol on the Statute of the African Court of Justice and Human and Peoples' Rights to establish a chamber for international criminal law intended to complement the ICC (Nimigan 2019). However, there are concerns as to whether such "an African alternative to the ICC" (Vilmer 2016, 1340) would actually complement the ICC because it protects sitting heads of state from jurisdiction, thus only partially implementing the Rome Statute's basic provisions

[8] More recently, the ICC ruled that that Jordan had a legal obligation to arrest al-Bashir during his visit in March 2017. The AU approached the UN General Assembly again to request an advisory opinion from the International Court of Justice to clarify the norms regarding the immunity of sitting heads of state and the obligations of states parties (Mudukuti 2020). It has not (yet) been successful.

[9] Facing a looming investigation, The Philippines also withdrew from the ICC in 2019. To date, no other country has withdrawn from the Rome Statute.

(Bower 2019, 97; Vilmer 2016, 1340). This would have challenged one of the central claims of the duty to prosecute and the notion of individual criminal accountability at the heart of this liberal suborder. The Malabo Protocol has not entered into force because none of the signatories has so far ratified it, raising doubts whether it will ever be established (Ba 2023, 7–8). A regional criminal court does not necessarily contradict the ICC and may even help to implement the provisions of this liberal suborder. However, it remains to be seen whether it will ever become operational and how its relationship with the ICC would evolve.

In the case of the duty to prosecute, norm contestation became radicalized and also diffused after the African challengers became increasingly frustrated with the formal and informal hierarchies in this liberal suborder and its institutions. The diffusion of norm contestation among a key group of ICC members, their open threats to leave the ICC, and their attempts to build alternative institutions that could potentially undermine the international duty to prosecute show how validity contestation can lead to challenges to the international criminal accountability regime as a whole. With reform processes underway at the ICC in response to this challenge, and with increasing attention being paid to situations outside the African continent, it will be important to see how African states in particular respond and whether we see further attempts at "illiberal reordering." More research is needed to explore whether this current shift in the ICC's contestation management can tame challenges to the duty to prosecute.

The Enemy Within: US Contestation of the Prohibition of Torture

The right to be free from torture is one of the core norms of the most important global and regional human rights declarations and treaties (Nowak, Birk, and Monina 2019, 2). Following the adoption of the Universal Declaration of Human Rights (UDHR) and accelerated by the UN Convention against Torture (CAT) it has diffused rapidly and is now widely institutionalized at the national, regional, and global levels. Along with other physical integrity rights, it is at the heart of the individual liberties enshrined in the human rights framework developed after World War II. The norm is an absolute and nonderogable right. It is also fairly precise, with CAT defining torture and setting out detailed provisions for states parties to implement the norm. In short, the norm that torture is prohibited at all times and in all places is a central norm of the human rights regime and the LIO in general. The most radical contestation of this norm would be an outright rejection of the prohibition of torture. Statements which prioritize other norms (such as the sovereignty or safety of the state) or question the universality, absoluteness, or nonderogability of the prohibition of torture also constitute validity contestation. An example of validity contestation would be arguing for exceptions to the prohibition of torture in a state of war or emergency. When states question whether practices amount to torture, challenge institutional implementation, or contest a norm due to a lack of impartiality and double standards, we speak of applicatory contestation. An example of applicatory contestation would be when a state denies that it is in violation of the prohibition or argues that certain practices do not amount to torture (Zimmermann et al. 2023, 42).

The human rights regime is based on a strong consensus on the liberal principle of individual freedoms. Notwithstanding some differences to the criminal accountability regime with regard to the nature and level of enforcement,[10] it is also strongly institutionalized, but less hierarchical. Various international bodies are mandated to monitor the torture prohibition, including regional human rights courts, the UN human rights treaty bodies, and the UN Human Rights Council. The CmAT is the treaty body established by CAT. Its self-reporting system, which is mandatory for every state party (173 as of 2023), is an almost universal monitoring mechanism. Each state party regularly submits reports on compliance and implementation. At CmAT, the implementation of the prohibition of torture is assessed for all state parties on an equal basis. Reports are assessed in a "constructive dialogue" between the expert committee and the state delegation (Creamer and Simmons 2019, 1052). The committee's "Concluding Observations and Recommendations" are not legally binding. State reporting to the treaty body (similar to the peer review at the UN Human Rights Council) is less selective and dialogue-oriented than other country-specific actions, which makes for a less hierarchical institutional setting.

The United States has always had an ambivalent relationship with international law (García Iommi and Maass 2022). This is reflected in the numerous lengthy ratification processes in the US Senate. For example, the International Covenant on Civil and Political Rights (ICCPR), signed in 1977, was not ratified until 1992. A notable exception is CAT, which was quickly ratified by the United States in 1988 (Keating 2014, 39). Indeed, since World War II, the United States had "worked to make the prohibition on torture and cruel and degrading treatment more precise and enforceable" (Schmidt and Sikkink 2019, 107). However, its ambivalent attitude is evident in the way it has implemented both CAT and the ICCPR. It has not ratified the complaints procedures under either treaty and has made reservations regarding the definition of torture. For CAT, the "understanding" of the United States regarding Article 1 has been interpreted as a significant narrowing of the definition of torture, focusing mainly on the intensity of pain and suffering and less on the purpose of the practice in question, as envisaged by CAT (Nowak, Birk, and Monina 2019, 40–41). Despite its support for the adoption of CAT, the United States has been reluctant to fully implement it at home, which would also shape future contestation.

Contested Meanings of Torture and Emergency Exemptions

The United States' commitment to the international prohibition of torture and the human rights regime more broadly was put to the test in the wake of the attacks of September 11, 2001. The United States framed their response—the infamous "war on terror"—as defending against an enemy of the LIO (Jackson 2005, 40). The Abu Ghraib torture scandal put allegations of torture against the United States in a global spotlight. The notorious enhanced interrogation techniques, developed by psychologists at the CIA, included several stress positions, sleep deprivation, waterboarding, and mock burials (U.S. Senate 2014, 32). Between 2002 and 2008, the CIA held 119 individuals in so-called black sites in Thailand and elsewhere as well as the detention facilities in Guantanamo Bay. Thirty-nine of them were subjected to enhanced interrogation techniques (U.S. Senate 2014, 96).

[10] While the human rights regime might lack hard enforcement mechanisms at the international level, it is strongly institutionalized at the regional level, especially in Europe and Latin America (Lutz and Sikkink 2000; Yildiz 2023), and at the national level, where the prohibition of torture in particular has been implemented across the globe (Goderis and Versteeg 2014; Berlin 2023; see also above n1).

This and other challenges of liberal international norms led to mounting concerns about the crisis of the human rights regime (Dunne 2007) and a legitimacy crisis of international law (Hurd 2007)—epitomized by the potential erosion of the international prohibition of torture (McKeown 2009; Rosert and Schirmbeck 2007).

The official response to allegations of torture by the Bush administration was: "This country doesn't torture, we're not going to torture" (George W. Bush quoted in Washington Post 2006). This was, however, accompanied by a legal and operational sanctioning of "enhanced interrogation techniques," which are now widely viewed as constituting torture (Sanders 2018, 53; Pratt 2022, 106). At the heart of this "legal rationalization" (Sanders 2018, 50) or "institutionalization" (Pratt 2022, 107) of torture were the legal memoranda drafted by lawyers of the Office of Legal Counsel at the U.S. Department of Justice. These "torture memos" addressed CAT and the US implementing laws in detail, arguing that the enhanced interrogation techniques were in line with domestic and international norms against torture and that the so-called war on terror constituted an emergency exemption allowing for greater latitude in applying these norms. Using the language of international law *prima facie* indicates applicatory contestation, consistent with the broader human rights order. Some argue that such legal arguments even lend legitimacy to the norm (Hurd 2017). Yet the US position, while seemingly addressing the question of what constitutes torture, in fact, only disguised a more fundamental challenge, contesting the very validity of the norm (see also Schmidt and Sikkink 2019, 106).

The torture memos limited the applicatory scope of the prohibition of torture in human rights and humanitarian law in four ways. First, they positioned the US president outside the reach of international law due to his commander-in-chief powers (Bybee [2002] 2005, 207). Second, the notion of "enemy combatants," developed in the memos and elsewhere, created a new category of people not protected by international humanitarian law (Venzke 2009). Third, the memos tried to exclude territories that were only under the *de facto* control of the United States (such as Afghanistan or Guantanamo Bay) from the obligations under human rights law (Bradbury 2005, 16). An absolute and nonderogable norm, the validity of the torture prohibition is fundamentally challenged by any emergency exemption to limit its scope, preventing it from extending to everyone, everywhere, and at any time. Finally, the memos went to great length to accommodate the enhanced interrogation techniques under CAT by arguing that they did not meet the definition of torture and did not violate the relevant US laws. This argument rested on the isolation of the "severity of suffering" as the essential benchmark for torture in the CAT definition. By now infamously, the memo argued that torture should only be understood as "serious physical injury so severe that death, organ failure, or permanent damage" would follow (Bybee [2002] 2005, 183).

The US contestation of the torture prohibition challenged both its application and its validity, with a clear trend of escalating contestation from 2002 to 2006 (Zimmermann et al. 2023, 54–55). After 2006, US contestation began to decline, leading to the eventual rescinding of the controversial memos and operational guidelines in question by the Obama administration. This was driven by different international and domestic developments. Internationally, US allies in the LIO never supported the US position and soon began criticizing the enhanced interrogation program, both openly and in diplomatic back channels (Keating 2014, 15; Pratt 2022, 114–15; Schmidt and Sikkink 2019, 109). Because of the absolute and nonderogable nature of the norm and due to firm embeddedness in the broader human rights regime it was particularly difficult to change the shared understanding underlying this norm (see also Percy and Sandholtz 2022, 945).

Domestically, several processes in the political sphere and within the intelligence agencies also facilitated the move away from the enhanced interrogation techniques that culminated in Barack Obama's decision to rescind the controversial interrogation methods (Stimmer 2019, 277). While partly driven by "increasing skepticism in the efficacy" of the techniques (Pratt 2022, 111), these processes were also embedded in growing concerns about the human rights implications of enhanced interrogation and the impact on the US reputation—even within the security and intelligence agencies (U.S. Senate 2014, 121, 152). Part of this process was the way CmAT responded to the US challenge, which helped to consolidate the broader pushback against the United States and prevent contestation from spreading.

The CmAT and the End of US Contestation

In 2006, a high-ranking delegation of US officials headed by John Bellinger, a legal advisor for the U.S. State Department arrived in Geneva to present the (delayed) first US report under CAT to the committee and to engage in a dialogue with the independent experts. These meetings (and later the Human Rights Committee) were part of a broader initiative by the United States, which established "an interagency group of experts [. . .] to defend US "detainees policies" at public events" in 2006 (Schmidt and Sikkink 2019, 108). The fact that the United States decided to come to Geneva at this point in time shows a "willingness to engage, at some level, with international human rights norms" (Kelly 2011, 741). While the United States also faced criticism in the UN General Assembly and at the Human Rights Council (Zimmermann et al. 2023, 63–64), the human rights committees were the only international institutions to formally confront the United States with the allegations of torture through their regularized procedures.[11]

In the constructive dialogue with CmAT, the US delegation by and large upheld the position developed in the torture memos. They maintained that their interrogation techniques did not constitute torture as defined by international law, linking their assertion to an argument about the different obligations to prevent torture and ill-treatment under CAT. They also made the case that in armed conflicts, the Geneva Conventions—not CAT—should apply as *lex specialis*, combined with a defense of the enemy combatant concept (see US statements in CmAT 2006b). In combination, these arguments continued to constitute a challenge to the core claims of the prohibition of torture as they lowered the threshold of torture and effectively excluded certain groups of people and sites from the protection of human rights and humanitarian law.

The US position was challenged by the CmAT experts. Its Concluding Observations called to

> rescind any interrogation technique, including methods involving sexual humiliation, "waterboarding", "short shackling" and using dogs to induce fear, that constitutes torture or cruel, inhuman or degrading treatment or punishment, in all places of detention

[11]Attempts to open cases at the International Criminal Court or the European Court of Human Rights have not been successful in directly addressing US conduct (see, for example, Wiener 2018, chapter 6).

> under its de facto effective control, in order to comply with its obligations under the Convention. (CmAT 2006a, para. 24).

Countering the US arguments, CmAT upheld its interpretation of the definition of torture, which does not solely focus on the severity of the suffering or pain inflicted but puts a much stronger emphasis on the purpose of the act, e.g., whether it is employed to extract information or a confession (Lesch 2023, 9–10). During its meetings with the US delegation and in its concluding documents, CmAT also clarified that the prohibition of torture is an absolute and nonderogable norm—including in the fight against terrorism. This important affirmation is also enshrined in CmAT's General Comment no. 2 on Article 2, CAT. Like other General Comments by human rights treaty bodies (Lesch and Reiners 2023), this clarifies the committee's interpretation of the norm and the obligations of states parties, especially with regard to the somewhat ambivalent distinction between torture and ill-treatment, which should both be treated as similarly prohibited under CAT (Lesch 2023, 10). In response to the US and earlier contestations of the definition of torture, it essentially overruled any attempts to place the notion of torture "at the top end of a pyramid of pain and suffering" (Rodley 2008, 356). The US contestation of the prohibition of torture was rejected by CmAT, which was joined by several other state and nonstate actors in its criticism of the US position, reinforcing this core liberal norm.

Neither CmAT views on the US self-report nor General Comment no. 2 went uncontested by the United States. The US delegation questioned the authority of the treaty bodies to make authoritative interpretations of the treaty or even adopt legally binding statements regarding compliance (CmAT 2006c, para. 3). Similarly, it criticized CmAT for overstepping its mandate in adopting General Comment no. 2, which it claimed was close to an advisory opinion—something not included in CmAT's mandate (Lesch and Reiners 2023, 394). However, it maintained its engagement in the procedural process and did not threaten to withdraw from the institution. The US contestation of the torture prohibition began to decline following the meetings with the human rights treaty bodies and had virtually disappeared by 2008 (Zimmermann et al. 2023, 55–58).

Perhaps more importantly, contestation did not spread among other states. Validity contestation such as in the US case did not find many supporters among other norm addressees (for rare examples of mimicry, see Schmidt and Sikkink 2019, 110–11). In general, the institutional setting of the treaty bodies seems to foster less hierarchical engagement on an equal footing with states parties: "States recognize the expertise of the Committee. They come before them with some trepidation because they know their performance will be reviewed but I don't think they leave feeling that they have been under attack."[12] This ties in with growing evidence that the Committee's constructive dialogue contributes to norm compliance (Creamer and Simmons 2019, 1062). Some even argue that CmAT is in a better position to achieve this than the politicized Human Rights Council (Carraro 2017). In the case of the prohibition of torture, this institutional setting helped to weather storm that could have disrupted "the entire system of human rights norms" (Percy and Sandholtz 2022, 945). While other domestic and international factors also contributed to the end of US contestation of the torture prohibition, the less hierarchical treaty bodies did not lead to a radicalization of contestation and did not invite attempts to mimic or copy contestation, which could have led to a diffusion.

[12]Interview with Matthew Sands (at the time, Association for the Prevention of Torture) during the fifty-seventh session of CmAT in May 2016.

Conclusion

Norm contestation and the crisis of the LIO are deeply intertwined. In this article, we have analyzed African challenges to the duty to prosecute and the ICC as well as US contestation of the international prohibition of torture, both of which are norms at the center of liberal orders. Our case studies contribute to this special forum on the endogenous sources of the crisis of the LIO by showing how formal and informal hierarchies influence norm contestation and the conditions under which it evolves into broader crises of the LIO and its suborders.

In the case of the duty to prosecute, we have traced how the African contestation began with calls for norm modifications and clarifications on the level of norm application, and intensified as the validity of the norm itself was increasingly challenged. It spread among African ICC members as they confronted formal and informal hierarchies in the ICC and UN institutions that remained unresponsive to their criticism. This fundamental challenge to a core norm of the criminal accountability regime by the largest regional group in the ICC has the potential to unsettle the entire order. In the case of the prohibition of torture, we reconstructed how the United States contested both the application and the validity of the norm but then eventually ceased its challenges. This contestation has not spilled over into the liberal suborder of the human rights regime, in part also because of the less hierarchical institutional design of the human rights treaty bodies, where contestation by this powerful actor was rejected and has not been widely emulated.

This article has outlined ways to bring research on norm contestation and the crisis of the LIO into productive conversation with each other. Our argument and findings invite further research in at least three directions. First, future research should compare the role of hierarchies (and their absence) in norm and order contestation across issue areas. For example, we see similar mechanisms at work in the Nuclear Non-Proliferation Treaty (Egel and Ward 2022; see also Tannenwald 2024, in this forum) and the deadlocks in World Trade Organization negotiations in the 2000s (Odell 2009). Second, more research is needed on how IOs respond to challenges and allegations of unfair treatment, hypocrisy, and exclusion. The ICC, for example, has actively tried to "manage" African challenges in recent years (Hillebrecht 2021, 170–71). Other institutions have also tried to overcome hierarchies and opened space for dialogue (Anderl, Daphi, and Deitelhoff 2021; Tallberg et al. 2013). Are these approaches more successful in taming contestation than hierarchical settings and/or sanctioning? Finally, mapping contestation trends and identifying their main drivers is just the first step in analyzing the crisis of the LIO. Contestation does not automatically imply the dissolution or disintegration of liberal orders, and the consequences of the current crisis remain underexplored. Future research should turn to the effects that different types of contestation have on the constitution of the liberal orders, using multidimensional approaches to assess their robustness (Zimmermann et al. 2023, 261–63). Not only the interactions between contestation dynamics and institutional management strategies, but also their effects on liberal orders call for a more systematic combination of insights from research on international norm dynamics with studies of the crisis of the LIO.

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