Unlocking the agency of the governed: contestation and norm dynamics

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Abstract

International Relations (IR) research on the translation and appropriation of international norms emphasises both the role of local agency and the fundamental malleability of norms. However, these perspectives cannot unlock the full agency of the governed as they limit agents' effects on norms to incremental changes at the margins. We suggest to transcend the distinction between the local and the global by taking practices of contestation as constitutive for normative agency. In such a perspective, we can differentiate types of contestatory practices and analyse how they affect the normativity of norms.

Introduction

Not too long ago, constructivist norm research in International Relations (IR) came under attack: Critiques claimed that scholars were ignoring social structures of norm creation and norm diffusion processes. Focusing on norm agents and their strategies, they were accused of basically replicating the atomistic utility maximising model of rational-choice theories, treating social structures as givens that would only change in response to the costs actors had to bear.[1] As a reaction, IR norm research was at pains in delving deeper into social structures by focusing on the socio-generative nature of discourses and practices. Meanwhile, the call is out for *agentic* constructivism that highlights the strategic action of agents but also their creativity in making, changing and practicing norms.[2]

This turn to agentic constructivism has particularly been fuelled by anthropological and postcolonial theories which advertise a broader understanding of the normativity of norms based on local agency. From a point of view inspired by anthropological research, norms only generate normativity, i.e. an intersubjectively shared sense of obligation, in local contexts if local actors or intermediaries localise or translate them. Scholars study the malleability of norms by identifying their local dynamics and by tracing their changes from global to local contexts.[3] Bringing postcolonial perspectives to IR, some argue that the focus on a (linear) diffusion of global, or rather Western norms simply helps reify the epistemic dominance of the West vis-a-vis Non-Western perspectives and realities.[4] In this perspective, a focus on local

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[1] Checkel, 'Why Comply?': 561.
[2] For example, Sikkink, 'Beyond the Justice Cascade'.
[3] Acharya, 'How Ideas Spread'; Merry, *Human Rights and Gender Violence*; Zwingel, *Translating International Women's Rights*; see Berger in this issue.
[4] Großklaus, 'Appropriation and the Dualism of Human Rights'.

agency helps highlight the (suppressed) agency of Non-Western locales with regard to international norms and question their presumed universal normativity.

Both perspectives share an emancipatory project that crystallises in the empowerment of the governed by highlighting their agency with regard to norms and normativity. Under the programmatic heading of 'shedding light on the agency of the governed', many contributions in this Special Issue emphasise the dynamic nature of normativity and the manifold vernacularisations of norms on the ground. 'The governed', in this context, refers to norm-addressees, thus 'those who are expected, obliged, or compelled to adapt' to externally shaped norms.[5]

Ironically, however, these approaches also share the risk of simply replicating the shortcomings of the earlier (liberal) constructivist approaches that they so vehemently reject. The former were criticised for treating international norms as stable and of neglecting local agency in the production of normativity. By contrast, the translation and localisation literature now tends to overemphasise the local and misses how localisation and translation are interlinked with international norm dynamics. As in the famous tune of Mack the Knife, the more light is shed on one spot, the darker everything else appears. Thus, while norm diffusion research ignored local discourses and practices as part of the production of normativity, current norm translation research does not consider the effects of these discourses and practices for normativity. Empirical studies often portray translation and appropriation as local adaptation or rejection of global norms but not as a potential transformation of these norms. This results in a rather limited concept of agency and of normativity. Moreover, it also

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[5] See Draude and Risse in this issue. This includes, according to the other contributions to this Special Issue, – but is not limited to – a broad array of actors ranging from regional organisations, to national governments, to non-state actors. Accordingly, the *locus* of their practices of contestation can vary from local settings to fora at international organisations.

undermines the emancipatory rationale these approaches share. The top-down understanding of norm dynamics still prevalent in empirical studies tends to reify the power constellations that these approaches started out to criticise and overcome.

In our contribution to this Special Issue, we highlight the limitations of a call to 'shed light on the agency of the governed'. Discussing prominent works from norm translation and appropriation research in the second section, we illustrate how translation and localisation studies have often failed to tap into the full potential of the agency of the governed by limiting agency to local adaptation or rejection of global norm scripts. In consequence, in the third section we suggest to link up work on norm translation and appropriation with research on norm contestation. With its focus on bottom-up practices of contestation, it can overcome the top-down and North-South tendency of current translation studies. However, contestation approaches also face the challenge to explicate their understanding of *how* normativity is produced through contestation, as we argue in the fourth section. Distinguishing between different forms of contestation is a necessary step in that direction and might provide the missing link to allow for a more nuanced analysis of agency and the normativity of norms.

Norm Translation and Localisation in IR

Norm research is a well-established field in IR, a development which was not clearly foreseeable 25 years ago. In the 1990s, constructivist norm researchers struggled to persuade other IR scholars that norms play any role in international politics at all.[6] Today, Martha Finnemore's and Kathryn Sikkink's seminal piece on norm dynamics is

[6] For early works on norms and norm emergence in IR, see Kratochwil and Ruggie, 'International Organization'; Nadelmann, 'Global Prohibition Regimes'; Price, 'A Genealogy of the Chemical Weapons Taboo'; Klotz, *Norms in International Relations*; Finnemore, *National Interests in International Society* .

both among the top ten lists of the most read and most cited articles of 'International Organization'.[7]

A first generation of research on norms and norm diffusion has lately come under pressure. Many criticised the focus of the early research on norms as static 'things' that diffuse across new contexts, which are strategically promoted by norm entrepreneurs, but only 'received' in a local context. A version that rather seemed to echo an individualist ontology.[8] For some, the norm research program is even flawed on a more fundamental level: It leaves out the story of colonial and post-colonial power constellations in the production of liberal norms and presents norm diffusion as an overly power-free process. In addition, some argue, norm diffusion research seems to assume that diffusion always has a North-South direction and does not engage with postcolonial agency.[9]

Current research in IR has strongly emphasised that we must, first, overcome an overly linear understanding of diffusion and, second, study reactions to norm diffusion in more detail.[10] This new agenda has also to be understood in the context of debates in anthropology, history and cultural studies, which questioned perspectives where local particularities where often portrayed as some kind of national essence or as shaped by 'traditional' practices,[11] which filter external norm promotion activities.[12] The changeability and the porousness of culture, if in a local or a transnational context, as

[7] Finnemore and Sikkink, 'International Norm Dynamics and Political Change'; see IO website, http://journals.cambridge.org/action/displayJournal?jid=INO, (accessed: 20 July, 2017).

[8] Checkel, 'Why Comply?': 561.

[9] Engelkamp, Glaab and Renner, 'Office Hours'; Epstein, 'Stop Telling Us How to Behave'; Zwingel, 'How Do Norms Travel?': 116; see forum in International Theory, Epstein, 'The Postcolonial Perspective'.

[10] Acharya, 'How Ideas Spread'; Epstein, 'Stop Telling Us How to Behave'; Zwingel, 'How Do Norms Travel?'.

[11] Merry, *Human Rights and Gender Violence*.

[12] See Zimmermann, 'Same Same or Different?'.

well as the role of class, race and inequality in the making of such 'culture' where to be the focus of research.[13] Translation approaches therefore emphasise both the malleability of normative contexts and the malleability of norms when they are translated. Normativity thus becomes a dynamic concept that opens up to agency.[14]

Norm Translation

This focus on the localisation or translation of norms in the field of IR grew since the mid-2000s. It aimed at offering a more detailed analysis of how norms, which are put down in international treaties, formulated as 'soft law' by international organisations or promoted as best practices, for example in the peacebuilding area, are discussed, institutionalised and made sense of in domestic contexts around the world – with most research focusing on translation in the so-called 'Global South'. A primary goal of the translation and localisation literature was therefore to empirically shed light on the agency of the governed,[15] and by this, to empower these local agents.[16]

Early work was done by Amitav Acharya who introduced the notion of *localisation* to IR. Inspired by historical research in South East Asia, he analysed how international norms are reinterpreted, crafted and pruned by local elites in the context of ASEAN with the aim to boost their domestic legitimacy.[17] According to Acharya, localisation is the 'active construction (through discourse, framing, grafting, and cultural selection) of foreign ideas by local actors, which results in the former developing significant congruence with local beliefs and practices'.[18]

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[13] Merry, *Human Rights and Gender Violence*, 224.
[14] See Berger in this issue.
[15] Draude and Risse in this issue.
[16] See Engelkamp, Glaab and Renner, 'Office Hours'; Epstein, 'Stop Telling Us How to Behave'.
[17] Acharya, 'How Ideas Spread'; Acharya, *Whose Ideas Matter?*.
[18] Acharya, 'How Ideas Spread': 245.

This notion of localisation was particularly influential in research on regionalism, where a lively debate followed on how regional organisations modify and translate global or external norms.[19] Simultaneously, a broader research field on the translation of norms to new contexts developed, pointing to the many ways norms and their meanings change once they enter new contexts – also beyond the global-local direction. Thus, scholars point to the various roles of civil society groups intervening at different points of global-local translation processes,[20] and also try to conceptualise different outcomes of interactive translation processes.[21] This latter research branch is also influenced by research at the interface of Anthropology and IR, which has, for a long time, discussed and studied the translation, appropriation or vernacularisation of norms.[22]

We will discuss two works based on this approach in more detail to emphasise the general added value of norm translation research, but also to highlight its shortcomings. We will focus on 'Human Rights and Gender Violence: Translating International Law into Local Justice' by Sally Merry,[23] a work based at the intersection of Anthropology and Political Science, and a newly published book on norm translation by Susanne Zwingel: 'Translating International Women's Rights. The CEDAW Convention in Context'.[24] Both develop a general approach to study norm translation,

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[19] Capie, 'Localization as Resistance'; Capie, 'The Responsibility to Protect Norm in Southeast Asia'; Dembinski and Schott, 'Regional Security Arrangements as a Filter for Norm Diffusion'; Jetschke and Rüland, 'Decoupling Rhetoric and Practice'; Williams, 'The "Responsibility to Protect" Norm Localisation, and African International Society'; Aharoni, 'Internal Variation in Norm Localization'; Vaughn and Dunne, 'Leading from the Front'.

[20] Boesenecker and Vinjamuri, 'Lost in Translation?'; Zwingel, 'How Do Norms Travel?'.

[21] Zimmermann, 'Same Same or Different?'.

[22] Levitt and Merry, 'Vernacularization on the Ground'; Merry, *Human Rights and Gender Violence*; for latest research in IR on legal translation see Brake and Katzenstein, 'Lost in Translation?'.

[23] Merry, *Human Rights and Gender Violence*.

[24] Zwingel, *Translating International Women's Rights*; see also Zwingel in this issue.

analysing specifically the translation of CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women). Both also display similar shortcomings: We argue that they do not show the full potential of the 'agency of the governed': (1) They oscillate between strong general claims as to the malleability of norms and a concrete conceptualisation that allows only for translations on the margins of the respective norm. And (2) they do not study the 'feedback effects' of translation processes. By this, they offer a very limited concept of agency and of normativity.

Sally Merry's book 'Human Rights and Gender Violence' is already a classic in the field. It is based on a multi-sited ethnography of the translation of women's rights, from the transitional negotiations around CEDAW to local practices by activists. Her main argument is that a mere 'transfer' of norms (into laws and policies) will not change domestic practices: 'In order for human rights ideas to be effective [...] they need to be translated into local terms and situated within local contexts of power and meaning. They need, in other words, to be remade in the vernacular'.[25] Thus, norms gain their intersubjectively shared sense of obligation by their vernacularisation. Vernacularisation is brought about by activists. They move between different context and create the interface between the international production of norms and their local appropriation, according to Merry.[26]

Merry's work is especially insightful when it traces the link of such international norms and their local versions: For Merry, norm translation implies that norms change and are vernacularised, but that their 'core' (equity and individual rights in the case of women's rights) remains intact. This is necessary to still create meaningful change of

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[25] Merry, *Human Rights and Gender Violence*, 1.
[26] Ibid., 3.

existing power relation in a given context, as she argues.[27] Thus, in this version, translation cannot mean a fundamental questioning of global normative claims and radical norm change: 'to translate human rights into the vernacular is not to change their fundamental meanings'.[28]

With this move, Merry creates an ideal of global governance where internationally produced norms (which, as she admits, are in need for more democratic and more just production processes[29]), are given local meaning, while keeping the core of the international norm intact. Norms are adapted by local activists to local circumstances and practices to get activated, i.e. to become normative. This process is usually understood to be dialogue-oriented.

A similar approach can be found in Susanne Zwingel's work. In her latest book 'Translating International Women's Rights: The CEDAW Convention in Context', she also stresses the malleability of norms during norm translation processes. In contrast to Merry's work, she also gives special attention to the activists' hard work to keep up a specific interpretation of CEDAW norms at an international level. Thus, the 'core' of the norm is not once produced, but needs constant attention to defend it against attacks and contestation.

For the translation into local contexts she uses the image of an 'international thread' woven into 'the local normative fabric'.[30] While this allows for more malleability of norms than a classic norm diffusion approach, similarly to Merry, she argues that translation is not a completely open process. 'Norms change all the time

[27] Ibid., 5.
[28] Ibid., 220.
[29] Ibid., 4, 224.
[30] Zwingel, *Translating International Women's Rights*, 23.

when being translated, but they do so incrementally'.[31] While not talking about a norm core, this seems to imply that no complete transformation of global norms takes place in norm translation processes.

In both studies, moreover, norm translation is not merely an empirical process that we can study to learn more about the diverse forms of vernacularisation. It is also necessary to create the very sense of obligation of norms in new contexts: 'The power of the local', Zwingel argues, 'suggests that a norm coming from elsewhere needs to be actively negotiated – rather than implemented – in order to make it *legitimate*. Accordingly, CEDAW is more accurately understood as a door opener for inclusive domestic debates than as an indisputable international measuring stick'.[32] This links up with the normative vision, Zwingel offers in the conclusion of her book: 'the incompleteness of impact translation' should not be interpreted 'as a deficiency but rather as a requirement for a meaningful process of appropriation of global norms'.[33]

As a result, however, the agency of the governed is very limited. Local agents can adapt global norms to their local contexts but without this having any transformative effects on the global norms themselves (see figure 1). The malleability and de-centeredness of norms – key themes of the translation perspective – come in a rather weak version: Norms are translated by actors in new local contexts yet the 'original' international norm remains intact, and space for change only exists 'at the margins'. By this, the translation perspective remains surprisingly top-down oriented.

[Figure 1 about here]

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[31] Ibid., 31.
[32] Ibid., 23 (our emphasis).
[33] Ibid., 223.

Appropriation as Subversion

A second approach to study reactions to global norms can be found in IR research
inspired by cultural studies and postcolonial theories. Its interest lies less with domestic
practices 'activating' global norms. Instead, it focuses on the question how actors use
norm appropriation as a creative strategy of resistance against international rule.[34] This
lens of analysis differs from one on localisation activities in the sense of adjusting
norms to local norms and interests (perhaps leading to norm displacement in the
future[35]).

For Matthias Großklaus, for example, who also studies reactions to CEDAW,
norm appropriation is the 'intentional reinterpretation of ideas across cultural, spatial
and temporal contexts aimed at definitional power'.[36] It can create the opportunity for
unfolding creative potential that 'goes beyond a reproductive relation between original
and copy'. The potentially transformative outcome of the norm, thus, the change of
domestic practices in the direction of more women's rights, is of less importance to
Großklaus. For him, appropriation has the potential to be a practice of resistance for
domestic actors, be it governments or non-governmental groups.[37]

This understanding of appropriation is inspired by a reading of hybrid
encounters in the post-colonial tradition of Homi Bhabha. Bhabha describes the
interaction spaces between 'cultural' contexts, in his case, mostly the interaction in
colonial and post-colonial India. His main argument is that something like 'complete'

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[34] Of course, uses of the term "appropriation" differ widely. Some of the uses are more in line
with the norm translation and localization research described above. See Lorentzen in this
issue. This section deals with a specific reading of appropriation as resistance.
[35] Acharya, 'How Ideas Spread': 253.
[36] Großklaus, 'Appropriation and the Dualism of Human Rights': 1254.
[37] Großklaus, 'Appropriation and the Dualism of Human Rights': 1255; see Pereira,
'Appropriating 'Gender' and 'Empowerment''.

colonial rule is not possible, but spaces for appropriation always remain: 'It reveals the ambivalence at the source of traditional discourses on authority and enables a form of subversion, founded on that uncertainty (…)'.[38]

While less inspired by postcolonial or post-structural research, such a focus on appropriation as resistance can also be found in more 'conventional' norms research. Acharya, for example, introduced the concept of norm subsidiarity, 'whereby local actors develop new rules, offer new understandings of global rules or reaffirm global rules in the regional context'[39] in order to remain independent from '*dominance, neglect, violation, or abuse by more powerful central actors*'.[40] This second notion can also be found in further research on regional organisations: Here, localisation often functions as a tool to ward off external interference.[41]

Instead of taking international norms as something normatively desirable that needs to be adapted to local context to gain legitimacy, in this IR approach to appropriation, international norms are an indication of 'rule'. And appropriation is a strategy to resist rule and asymmetric power relations, when only very limited space for resistance exists. This understanding of appropriation is very actor-centred and strategic, and is supposed to overcome a mere conceptualisation of agency as 'norm taking', as used in a first generation of norm diffusion research. By this, however, this approach remains top-down oriented and hardly has a concept of normativity. IR researchers ascribe this agency to a surprisingly wide group of actors (including governments in the Global South) and leaves out that even in the case of asymmetric

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[38] Bhabha, *The Location of Culture*, 83.
[39] Acharya, 'Norm Subsidiarity and Regional Orders': 96.
[40] Ibid., 97 (emphasis in original).
[41] Capie, 'Localization as Resistance'; Jetschke and Rüland, 'Decoupling Rhetoric and Practice'; Williams, 'The "Responsibility to Protect" Norm Localisation, and African International Society'; Rüland, 'The Limits of Democratizing Interest Representation': 237.

power constellations, appropriations might have effects in a broader normative context. Quite similar to the translation approach, agency is rather limited in this approach: Appropriation thus understood means that actors are able to generate space for resistance against international rule but they are not – by this – transforming it (see figure 2).[42] One might argue that such limited agency, as described in IR translation and appropriation-as-resistance approaches, is simply the empirical reality. Yet, we would argue that effects of appropriation have so far just not been explored more thoroughly. That domestic contestation and translation processes can feed back into international norm change is shown, for example, in the case of generic drugs and specifically generics for AIDS drugs. Here a wave of translations started by states like Brazil brought about changes in the interpretation of intellectual property norms, which now allow the local production or importation of these drugs from a third party under a wider set of circumstances.[43]

[Figure 2 about here]

Summing up, translation and appropriation approaches in International Relations stress the fundamental malleability of global norms and the agency of the governed, but they hardly live up to that claim in their studies. Instead, the perspective remains top-down oriented, resulting in a model of studying only reaction of actors from the Global South to 'international' norms. And it is one on internationally produced norms which bring about limited contestation and inspire domestic appropriations at the 'periphery';

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[42] Which they actually are in the postcolonial reading of appropriation.

[43] Chorev, 'Changing Global Norms through Reactive Diffusion'; see also Special Section "Principles from the Periphery" in Global Governance 20 (3) and Zimmermann, 'Beyond Diffusion'.

the cores of the global norms usually remain untouched. In line with this, both approaches also have a rather limited understanding of normativity. While translation perspectives confine it to the local level, appropriation studies hardly have a concept of normativity at all since they study practices of appropriation merely as weapons to resist international rule but not as normative. Thus, both approaches de-link contestation and global norm dynamics, leaving one to wonder how practices of translation and appropriation and global norm dynamics interact.

As we argue in the following section, the contestation perspective in norms research could help solve this problem. It leaves a top-down orientation behind but focuses on the very practices of contestation which generate normativity. Yet, this perspective also faces particular challenges as to when and how normativity comes about through contestation.

Contestation of Norms

The vision of translation and appropriation differs from an approach to study norm change which focuses on contestation. Research in this field developed as a counterpoint to research on global governance. While research on global governance in the 1990s and 2000s stressed the potential of cooperation and consensus in international politics and the possibility of joint creation of public goods,[44] research on contestation, in contrast, aimed at destabilising this paradigm. It stressed the contentious aspects of politics, in which also fundamental disagreement over norms exists. Of course, such an approach comes in different nuances of 'contestability'. Yet all its variants stress the

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[44] For example, Held, 'Democratic Accountability and Political Effectiveness from a Cosmopolitan Perspective'; Nanz and Steffek, 'Global Governance, Participation and the Public Sphere'; Zürn, 'Democratic Governance Beyond the Nation-State'.

temporal instability. This branch stresses both that bottom-up contestation can lead to international norm change, and ascribes some normative potential to such contestation.[45] So far, however, contestation research remains vague on both these points, as we will demonstrate in the following paragraphs.

Clifford Bob is, by far, the most 'radical' in his assessment of a possibility of stabilisation of international norms. In his book 'The Global Right and the Clash of World Politics', he studies how different movements with reverse positions interact in world politics.[46] His main aim is to demonstrate that not only 'progressive' advocacy networks are influencing international politics and international norm creation, but that the global right is using similar forms of organisation and tactics. He illustrates this by a study of the disputes on gay rights and on global gun control.

For him, international politics and the struggle around international norms is a battlefield of different values. Thus, 'transnational politics is ideologically diverse and conflictive'[47] and based on 'irreconcilable values'.[48] These irreconcilable values translate in a similar strategy of actors which engage in contentious battles over norms, their creation, their interpretation and application. These battles are won by the more powerful group at a specific moment. Lasting consensus as well as any kind of persuasion and arguing process is impossible.[49] Every success will also only be short-lived. In most cases, effective governance outcomes linked to a global norm (which one

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[45] See Wiener in this issue, for example.
[46] Bob, *The Global Right Wing and the Clash of World Politics*.
[47] Ibid., 5.
[48] Ibid., 7.
[49] Cf., for example, the following quote: "The ferocity of differences suggests too that conflict, rather than persuasion and cooperation, should take pride of place in studies of global governance." ibid., 15.

group might have successfully pushed through) will be undermined by the opposing group: 'Win or lose, the combatants fight on'.[50]

This is indeed a rather sobering picture of global politics, and one that the majority of scholars of norm change and contestation would not subscribe to. Moreover, in this version, contestation just erodes the existing norms and has no potential to create normativity. But certain themes, which can be found in this approach to global norm change, are also widespread in other research on this topic.

A first important claim is that disputes do not only arise about adapting the 'margins' of internationally produced norms but also appear in a more fundamental version. This is also reflected in the work of Sandholtz and Stiles: They study norm change in a range of cases. Norm change arises, they argue, based on 'disputes, which in turn generate arguments, which then reshape both rules and conduct'.[51] Such disputes can lead to fundamental change of the rules in their case studies, for example, in the case of slavery or humanitarian intervention. Likewise to Bob, this is a ceaseless process with little stabilisation in-between.[52]

A second important theme in the contestation literature, which can also be found in Bob's work, is the image of contestation arising in bottom-up processes. The world views and preferences leading to the contestation of norms do not arise in international interaction but are rather the product of (domestic) socialisation. This theme can also be found in the work on contestation by Antje Wiener, most importantly in her books 'A

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[50] Ibid., 6.
[51] Sandholtz and Stiles, *International Norms and Cycles of Change*, 3.
[52] Yet, in contrast to the sober look by Bob, Sandholtz and Stiles still argue that these disputes tend to evolve in the direction of a more liberal world. Sandholtz and Stiles, *International Norms and Cycles of Change*, 3.

Theory of Contestation'[53] and 'The Invisible Constitution of Politics'.[54] Wiener studies how global norms are interpreted and how normative meanings change over time. These interpretations are guided by actors' (domestically produced) normative socialisation.[55] Similarly to Bob and Sandholtz/Stiles, these different interpretations will bring about ceaseless disputes about norms – norms are always in a state of latent contestation.[56]

Such contestation is seen less as a destructive force (as in the work by Bob), but as having 'productive potential'. In Wiener's view, only contestation can bring about norm legitimacy. It is by challenging norms that actors begin to engage in discussion on the basic claims a norm makes to eventually embrace them as their own.[57] Yet for her, this potential only emerges with the institutionalisation of contestation in transnational 'interfaces' in order to process conflicting meanings and to create norm legitimacy – otherwise contestation can lead to more fundamental conflict.[58] It would prevent a dominance of the more powerful group, as it is so often the case in non-institutionalised dynamics of contestation. Moreover, the creation of interfaces for contestation would more generally help to democratise global governance by granting equal access to the production of international norms.

In such a view, the local level is but one among many others on which a norm can be subject to contestation and this can have effects on the international norms themselves. However, similarly to the translation and appropriation perspectives, works in this approach struggle with the question of what the limits to contestation are. When

[53] Wiener, *A Theory of Contestation*.
[54] Wiener, *The Invisible Constitution of Politics*.
[55] Wiener, *A Theory of Contestation*, 6–7.
[56] Ibid., 33, 41, 68.
[57] Deitelhoff, 'Scheitert die Norm der Schutzverantwortung?'; Wiener, *The Invisible Constitution of Politics*.
[58] Wiener, *A Theory of Contestation*, 39; for a discussion see Wolff and Zimmermann, 'Between Banyans and Battle Scenes'.

does contestation no longer generate or re-activate normativity but simply erodes the norm by replacing it with something else, as in the framework presented by Bob? As we will highlight in the next section, this question is partly misleading as contestation is always generating normativity albeit not always for the original norm in question.

Practices of Contestation and the Agency of the Governed

IR translation and appropriation research upholds a static distinction and top-down relation between the local and the global level. This can be overcome by a focus on practices of contestation. In line with Antje Wiener, we define contestation broadly as social practices 'which discursively express disapproval of norms'.[59] A focus on the practice of contestation transcends the dichotomy between the local and the global.[60] We understand 'agency and agents as emergent from, and being continually reproduced by, practices',[61] which prevents conceiving the agency of the governed through presupposed spatial relations or other predeterminations.[62] Agency is not confined to certain localities or regional ascriptions but it is always in a process of becoming through practice.[63] In short, practices of contestation themselves constitute the agency of the governed and bring about normativity.

We argue that the normativity-generating potential of contestation differs based on the type of discourse. We suggest that discourses on norms come in two principle forms: they either contest the validity or the application of norms.[64] Norm validity

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[59] Wiener, *A Theory of Contestation*, 1; see Wiener in this issue.
[60] Cf. Bueger and Gadinger, 'The Play of International Practice': 456.
[61] Adler and Pouliot, 'International Practices': 20.
[62] Cf. Doty, 'Aporia': 383–4.
[63] Ibid., 385.
[64] Deitelhoff and Zimmermann, *Things We Lost in the Fire*. With a slightly different angle, Jennifer Welsh distinguishes between substantive and procedural contestation arguments. Jennifer M. Welsh, 'Implementing the 'Responsibility to Protect'', 130–5. Similarly, practice

discourses tackle the question of which norms a group of actors wants to uphold independently from a specific context.[65] Hence, validity contestation directly concerns the validity of a norm as such by questioning whether the normative claims involved are righteous – which comes close to the type of contestation Bob speaks about. Think of the case of generic drug again, where certain groups might question that international intellectual property rights should exist at all and that generic drugs should be governed by them.

If contestation questions the fit between a norm and a situation, not its validity, we speak of 'applicatory contestation'. This seems to be the type of contestation and incremental norm change often referred to in norm translation research or norm contestation research by Antje Wiener. Norm application discourses deal with the question whether (1) a given norm is appropriate for a given situation.[66] In addition, application discourses negotiate (2) which actions the norm requires in the specific situation. As Chayes and Chayes argue: 'Treaty drafters do not foresee many of the possible applications, let alone their contextual settings'.[67] This leads to recurring contestation about the right interpretation and application of a norm.[68] Over time and in varying local contexts, such application discourses often lead to evolving interpretations of a norm, in line with new technological inventions or general normative change in societies[69] – for example by their specification or the widening of their scope.[70] Coming

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theoretical work has recently differentiated thick and thin forms of contestation. Adler-Nissen and Pouliot, 'Power in Practice': 895.

[65] Günther, *The Sense of Appropriateness*, 6–7; see also Habermas, *Between Facts and Norms*.

[66] Günther, *The Sense of Appropriateness*, 70.

[67] Chayes and Chayes, 'On Compliance': 188–9.

[68] See Sandholtz and Stiles, *International Norms and Cycles of Change*, 4; Venzke, *How Interpretation Makes International Law*.

[69] Günther, *The Sense of Appropriateness*, 57.

[70] Peterson, 'Creativity in Application Discourses': 221.

back to the struggle over generic drugs: Most contestors argued for a broader exemption in situations of domestic health and security crisis. Thus, they did not question that intellectual property rights are valid norms in the area of health, but rather questioned the precise application in specific situations.[71]

Application discourses are productive on several dimensions: they change norms, though incrementally, and they strengthen norms at the same time, as they generate norm legitimacy. In application discourses, disputes arise about whether a specific interpretation is correct or how a new situation should come under the purview of the norm. In addition, they deal with the question which behaviour is judged as conformity or deviance and create an intersubjective sense of what constitutes a norm violation.[72] Applicatory contestation generates normativity by ascribing meaning to norms and thereby revitalising their validity by and for its addressees.[73] Thus, practices of interpretation are the '*locus* for the generation of meaning and normativity' in international law.[74] The interpretation and contestation process itself creates normativity.

Still, the application of norms is neither linear and static nor predictable; it always holds the potential for normative change. In such an understanding, norm interpretation and application processes are not only about the right interpretation of a norm, but creative processes which can be socio-generative. Different actors make claims, contest and negotiate what the *correct* interpretation of a norm is. Although usually only amounting to incremental changes, such processes always include a

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[71] Wolf and Scholz, 'Health before Patents'.

[72] For a discussion of sociological approaches to deviance in IR and International law see Adler-Nissen, 'Stigma Management in International Relations'; Hirsch, *Invitation to the Sociology of International Law*, Chapter 5.

[73] See Barnes, 'The 'War on Terror' and the Battle for the Definition of Torture': 103.

[74] Venzke, *How Interpretation Makes International Law*, 6 (emphasis in original).

feedback effect on the norm itself. Applicatory contestation can lead to a specifying when and how a certain norm is to be applied and clarify what behaviour conforms to the norm and what behaviour is in deviance with the norm. By generating meaning and normativity of the norm, it might either broaden or narrow the scope of the norm and change it over time. This is well illustrated by current debates about the responsibility to protect. Hardly any validity contestation can be observed anymore, but in regional translation processes as well as in contestation over norm application, incremental norm change takes place.[75]

Whilst applicatory contestation and the construction of deviance form part and parcel of normative practice, validity contestation links differently to normativity. Its normativity-generating effects usually reach beyond the norm in question. Through validity contestation, the normative core is questioned.[76] When deviance is accompanied by a validity discourse it can infringe on the validity of the norm in question and bring about a weakening or replacement of a norm if it spreads among norm addressees. The rejection of deviance in validity contestation can constitute 'an anticipation of the morality to come'.[77] Disputes triggered by 'deviations from the current order also voice previously unthinkable possibilities' and generate normativity, albeit for alternative normative claims.[78]

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[75] Badescu and Weiss, 'Misrepresenting R2P and Advancing Norms'; Acharya, 'The R2P and Norm Diffusion'; Deitelhoff, 'Scheitert die Norm der Schutzverantwortung?'.

[76] Beyond an outright rejection of a certain norm, justificatory contestation can open up in different situations following from a dialectical relationship with applicatory contestation. They can, and maybe should, arise if applicatory contestation has reshaped the norm over time and its normativity is in need for a renewed justification of its validity. Peterson, 'Creativity in Application Discourses': 228.

[77] Durkheim, *The Rules of the Sociological Method*, 102.

[78] Duvall, and Chowdhury, 'Practices of Theory', 348.

However, validity contestation might also have reverse effects: It might be legitimacy-generating for the 'original' norm if the contestation elicits a wave of strong reactions which reject this contestation.[79] This discursive bolstering of the norm, which would have not taken place without former contestation, is also normativity-generating.

In sum, validity contestation, while also generating normativity, does so often for alternative norms not for the original norm in question. In either case – be it the revitalising of a given norm or the creation of alternative norms – contestation forces actors to engage with each other in discourse and to position themselves vis-a-vis the norm and the claims it makes on them.[80] Without suggesting an overly positive reading of practices of contestation normatively speaking, this processes forces opponents in interaction with each other and into a review of their stance towards the norm.[81] This is well illustrated by the case of International Criminal Court: Several African states reconsidered their initially positive stance towards the ICC (institutionalizing a norm of individual criminal accountability) and increasingly uttered fundamental validity contestation of the court. This brought many other norm addresses into a debate about the validity of the norm contributing to a – however contested – process of intersubjective meaning-making: the creation of (at least nascent) normativity.[82] Actors came to review their position and take a stance with regard the norm.

This is how normativity comes about: In both types of discourse, be it on the application or the validity of norms, actors negotiate which norms they want to uphold and what these norms mean. This view is both lacking from a norm translation and a

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[79] Also as in-group creation in Simmel and Rammstedt, *Soziologie*, 684.

[80] Deitelhoff, 'Scheitert die Norm der Schutzverantwortung?'.

[81] On such basic group creation functions, see Georg Simmel's conflict theory in Stark, 'Die Konflikttheorie von Georg Simmel', 85; Dubiel, 'Integration durch Konflikt?'.

[82] Arcudi, *Der Internationale Strafgerichtshof auf der Anklagebank*.

norm contestation perspective, and it can add to a better understanding of the 'agency of the governed'. With a focus on contestatory practices, agency cannot be limited to marginal changes or adaptations of pre-given norms to local contexts but comprises the ability to contest both the application and the 'core' of norms, questioning their very validity. This kind of agency necessarily transcends the top-down distinction between the local and the global level. Actors generate normativity either for the norm applied to a situation or by raising alternative normative possibilities (see figure 3).

[Figure 3 about here]

Conclusion: Contestation All Around

This article discussed the major approaches to deal with the 'agency of the governed' in order to revitalise questions of agency, normative malleability and resistance in the field of IR norms research. We discuss two major approaches: *norm translation* and *appropriation as resistance*. We show that they have similar limitations with regard to the normativity and malleability of norms: By shedding light on the 'agency of the governed' they lose sight of the effects of contestation and translation on the 'global' interpretation and the normativity of a norm. Even more, they reify, to a degree, a top-down, North-South oriented research agenda, which ascribes only very limited agency to actors from the Global South.

We have contrasted such an approach with one focusing on practices of contestation. In such approaches, contestation can come in a more fundamental version and it is shaped by often domestically-shaped repertoires of interpretation of norms. Yet existing research often perceives of fundamental contestation as equivalent to norm erosion or ascribes the creation of normativity to institutionalised contexts of norm contestation.

We argue, in contrast, that a focus on practices of contestation transcends a dichotomy between the local and the global and sheds light on the agency of the governed. We differentiate such practices of contestation by separating two ideal types: applicatory contestation and validity contestation. The former does not contest the validity of a norm per se but its interpretation and its application to a specific situation. This type comes close to the process often analysed in norm translation research. It has important feedback effects on norms, which so far have been ignored in the former branch of research: This type of engagement starts of creative processes in which meaning is ascribed to both norms and situations of norm application. This can revitalise normativity – beyond a specific local context. But even validity contestation, the more fundamental kind of contestation left out from norm translation research, can have normativity-generating effects in a global context. It fosters the formulation and visualisation of alternatives and brings opponents together in discourse.

This power of contestation has so far had little attention in norm research. With such a perspective, a norm research agenda changes: The agency of the governed, in relation to international norms, is then not always limited to peripheral incremental norm change and the effects of translation and contestation can, under certain circumstances, be larger than anticipated. This shift of focus opens an empirical research agenda, asking when practices of contestation have what types of effects.

It also helps overcoming a unidirectional focus of local actors (from the Global South) reacting to global norms, which is still implied in much IR norm translation research. Such an approach does not ignore power asymmetries and international rule. Yet instead of ascribing certain relations (global-local; North-South) specific functions *per se*, it opens up the possibility study how power asymmetries play out in practices of

contestation and how power asymmetries and rule are constituted in disputes over

norms.

List of references

Acharya, Amitav. 'How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism'. *International Organization* 58, no. 2 (2004): 239–275.

———. *Whose Ideas Matter? Agency and Power in Asian Regionalism*. Ithaca/London: Cornell University Press, 2009.

———. 'Norm Subsidiarity and Regional Orders: Sovereignty, Regionalism, and Rule-Making in the Third World'. *International Studies Quarterly* 55, no. 1 (2011): 95–123.

———. 'The R2P and Norm Diffusion: Towards A Framework of Norm Circulation'. *Global Responsibility to Protect* 5, no. 4 (2013): 466–479.

Adler, Emanuel and Vincent Pouliot, eds. *International Practices*. Cambridge: Cambridge University press, 2011.

———. 'International Practices'. *International Theory* 3, no. 1 (2011): 1–36.

Adler-Nissen, Rebecca. 'Stigma Management in International Relations: Transgressive Identities, Norms, and Order in International Society'. *International Organization* 68, no. 1 (2014): 143–176.

Adler-Nissen, Rebecca, and Vincent Pouliot. 'Power in Practice: Negotiating the International Intervention in Libya'. *European Journal of International Relations* 20, no. 4 (2014): 889–911.

Aharoni, Sarai B. 'Internal Variation in Norm Localization: Implementing Security Council Resolution 1325 in Israel'. *Social Politics* 21, no. 1 (2014): 1–25.

Arcudi, Antonio. *Der Internationale Strafgerichtshof auf der Anklagebank.* HSFK-Report Nr. 11/2016. Frankfurt, 2016. https://www.hsfk.de/fileadmin/HSFK/ hsfk_publikationen/report1116.pdf (accessed July 19, 2017).

Badescu, Cristina G., and Thomas G. Weiss. 'Misrepresenting R2P and Advancing Norms: An Alternative Spiral?'. *International Studies Perspectives* 11, no. 4 (2010): 354–374.

Barnes, Jamal. 'The 'War on Terror' and the Battle for the Definition of Torture'. *International Relations* 30, no. 1 (2016): 102–124.

Betts, Alexander and Phil Orchard, eds. *Implementation and World Politics: How International Norms Change Practice*. Oxford: Oxford University Press, 2014.

Bhabha, Homi K. *The Location of Culture*. Reprint. London: Routledge, 1994.

Bob, Clifford. *The Global Right Wing and the Clash of World Politics*. Cambridge: Cambrigde University Press, 2012.

Boesenecker, Aaron P., and Leslie Vinjamuri. 'Lost in Translation? Civil Society, Faith-Based Organizations and the Negotiation of International Norms'. *International Journal of Transitional Justice* 5, no. 3 (2011): 345–365.

Bonacker, Thorsten, ed. *Sozialwissenschaftliche Konflikttheorien: Eine Einführung*. Opladen: Leske + Budrich, 2002.

Brake, Benjamin, and Peter J. Katzenstein. 'Lost in Translation? Nonstate Actors and the Transnational Movement of Procedural Law'. *International Organization* 67, no. 4 (2013): 725–757.

Bueger, Christian, and Frank Gadinger. 'The Play of International Practice'. *International Studies Quarterly* 59, no. 3 (2015): 449–460.

Capie, David. 'Localization as Resistance: The Contested Diffusion of Small Arms Norms in Southeast Asia'. *Security Dialogue* 39, no. 6 (2008): 637–658.

———. 'The Responsibility to Protect Norm in Southeast Asia: Framing, Resistance and the Localization Myth'. *The Pacific Review* 25, no. 1 (2012): 75–93.

Chayes, Abram, and Antonia H. Chayes. 'On Compliance'. *International Organization* 47, no. 2 (1993): 175.

Checkel, Jeffrey T. 'Why Comply? Social Learning and European Identity Change'. *International Organization* 55, no. 3 (2001): 553–588.

Chorev, Nitsan. 'Changing Global Norms through Reactive Diffusion: The Case of Intellectual Property Protection of AIDS Drugs'. *American Sociological Review* 77, no. 5 (2012): 831–853.

Deitelhoff, Nicole. 'Scheitert die Norm der Schutzverantwortung? Der Streit um Normanwendung und Normbegründung der R2P'. *Friedenswarte Sonderheft* 88, 1-2 (2013): 17–39.

Deitelhoff, Nicole, and Lisbeth Zimmermann. *Things We Lost in the Fire: How Different Types of Contestation Affect the Validity of International Norms.* PRIF Working Paper No. 18. Frankfurt, 2013. https://www.hsfk.de/fileadmin/HSFK/ hsfk_downloads/PRIF_WP_18.pdf (accessed July 19, 2017).

Dembinski, Matthias, and Berenike Schott. 'Regional Security Arrangements as a Filter for Norm Diffusion: The African Union, the European Union and the Responsibility to Protect'. *Cambridge Review of International Affairs* 27, no. 2 (2014): 362–380.

Doty, Roxanne L. 'Aporia: A Critical Exploration of the Agent-Structure Problematique in International Relations Theory'. *European Journal of International Relations* 3, no. 3 (1997): 365–392.

Dubiel, Helmut. 'Integration durch Konflikt?'. In *Soziale Integration*. ed. Jürgen Friedrichs and Wolfgang Jagodzinski, 132–43. Wiesbaden: Westdeutscher Verlag, 1999.

Durkheim, Emile. *The Rules of the Sociological Method*. New York: The Free Press, 1982.

Duvall, Raymond, D., and Chowdhury Arjun. 'Practices of Theory'. In *International Practices*. ed. Emanuel Adler and Vincent Pouliot, 335–54. Cambridge: Cambridge University press, 2011.

Engelkamp, Stephan, Katharina Glaab, and Judith Renner. 'Office Hours: How (Critical) Norm Research Can Regain Its Voice'. *World Political Science Review* 10, no. 1 (2014): 33–61.

Epstein, Charlotte. 'Stop Telling Us How to Behave: Socialization or Infantilization?'. *International Studies Perspectives* 13, no. 2 (2012): 135–145.

———. 'The Postcolonial Perspective: An Introduction'. *International Theory* 6, no. 2 (2014): 294–311.

Finnemore, Martha. *National Interests in International Society*. Ithaca, NY: Cornell University Press, 1996.

Finnemore, Martha, and Kathryn Sikkink. 'International Norm Dynamics and Political Change'. *International Organization* 52, no. 4 (1998): 887–917.

Friedrichs, Jürgen and Wolfgang Jagodzinski, eds. *Soziale Integration*. Wiesbaden: Westdeutscher Verlag, 1999; Sonderheft Kölner Zeitschrift für Soziologie und Sozialpsychologie.

Gertheiss, Svenja, Stefanie Herr, Klaus D. Wolf, and Carmen Wunderlich, eds. *Resistance and Change in World Politics: International Dissidence*. Basingstoke: Palgrave Macmillan, 2017.

Großklaus, Mathias. 'Appropriation and the Dualism of Human Rights: Understanding the Contradictory Impact of Gender Norms in Nigeria'. *Third World Quarterly* 36, no. 6 (2015): 1253–1267.

Günther, Klaus. *The Sense of Appropriateness: Application Discourses in Morality and Law*. Albany: SUNY, 1993.

Habermas, Jürgen. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge, Mass: MIT Press, 1996.

Held, David. 'Democratic Accountability and Political Effectiveness from a Cosmopolitan Perspective'. *Government and Opposition* 39, no. 2 (2004): 364–391.

Hirsch, Moshe. *Invitation to the Sociology of International Law*. Oxford: Oxford University Press, 2015.

Jetschke, Anja, and Jürgen Rüland. 'Decoupling Rhetoric and Practice: The Cultural Limits of ASEAN Cooperation'. *The Pacific Review* 22, no. 2 (2009): 179–203.

Klotz, Audie. *Norms in International Relations: The Struggle Against Apartheid*. Ithaca, NY: Cornell University Press, 1995.

Kratochwil, Friedrich, and John G. Ruggie. 'International Organization: A State of the Art on an Art of the State'. *International Organization* 40, no. 4 (1986): 753–775.

Levitt, Peggy, and Sally E. Merry. 'Vernacularization on the Ground: Local Uses of Global Women's Rights in Peru, China, India and the United States'. *Global Networks* 9, no. 4 (2009): 441–461.

Merry, Sally E. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago: University of Chicago Press, 2006.

Nadelmann, Ethan A. 'Global Prohibition Regimes: The Evolution of Norms in International Society'. *International Organization* 44, no. 4 (1990): 479–526.

Nanz, Patrizia, and Jens Steffek. 'Global Governance, Participation and the Public Sphere'. *Government and Opposition* 39, no. 2 (2004): 314–335.

Pereira, Charmaine. 'Appropriating 'Gender' and 'Empowerment': The Resignification of Feminist Ideas in Nigeria's Neoliberal Reform Programme'. *IDS Bulletin* 39, no. 6 (2008): 42–50.

Peterson, Victor. 'Creativity in Application Discourses'. *Constellations* 22, no. 2 (2015): 218–232.

Price, Richard. 'A Genealogy of the Chemical Weapons Taboo'. *International Organization* 49, no. 1 (1995): 73–103.

Rüland, Jürgen. 'The Limits of Democratizing Interest Representation: ASEAN's Regional Corporatism and Normative Challenges'. *European Journal of International Relations* 20, no. 1 (2014): 237–261.

Sandholtz, Wayne, and Kendall W. Stiles. *International Norms and Cycles of Change*. Oxford: Oxford University Press, 2009.

Sikkink, Kathryn. 'Beyond the Justice Cascade: How Agentic Constructivism Could Help Explain Change in International Politics'; Revised Paper from a Keynote Address, Millennium Annual Conference, October 22, 2011, "Out of the Ivory Tower: Weaving the Theories and Practice of International Relations," London School of Economics to be presented at the Princeton University IR Colloquium, November 21, 2011. https://www.princeton.edu/politics/about/file-repository/public/Agentic-Constructivism-paper-sent-to-the-Princeton-IR-Colloquium.pdf (accessed July 20, 2017).

Simmel, Georg and Otthein Rammstedt, eds. *Soziologie: Untersuchungen über die Formen der Vergesellschaftung*. Frankfurt am Main: Suhrkamp, 1992.

Stark, Carsten. 'Die Konflikttheorie von Georg Simmel'. In *Sozialwissenschaftliche Konflikttheorien: Eine Einführung*. ed. Thorsten Bonacker, 83–98. Opladen: Leske + Budrich, 2002.

Vaughn, Jocelyn, and Tim Dunne. 'Leading from the Front: America, Libya and the Localisation of R2P'. *Cooperation and Conflict* 50, no. 1 (2015): 29–49.

Venzke, Ingo. *How Interpretation Makes International Law: On Semantic Change and Normative Twists*. New York: Oxford University Press, 2014.

Welsh, Jennifer M. 'Implementing the 'Responsibility to Protect': Catalyzing Debate and Building Capacity'. In *Implementation and World Politics: How International Norms Change Practice*. ed. Alexander Betts and Phil Orchard, 124–43. Oxford: Oxford University Press, 2014.

Wiener, Antje. *The Invisible Constitution of Politics: Contested Norms and International Encounters*. Cambridge: Cambrigde University Press, 2008.

———. *A Theory of Contestation*. Heidelberg: Springer, 2014.

Williams, Paul D. 'The "Responsibility to Protect" Norm Localisation, and African International Society'. *Global Responsibility to Protect* 1, no. 3 (2009): 392–416.

Wolf, Klaus D., and Saskia Scholz. 'Health before Patents: Challenging the Primacy of Intellectual Property Rights'. In *Resistance and Change in World Politics: International Dissidence*. ed. Svenja Gertheiss et al., 45–78. Basingstoke: Palgrave Macmillan, 2017.

Wolff, Jonas, and Lisbeth Zimmermann. 'Between Banyans and Battle Scenes: Liberal Norms, Contestation, and the Limits of Critique'. *Review of International Studies* 42, no. 3 (2016): 513–534.

Zimmermann, Lisbeth. 'Same Same or Different? Norm Diffusion Between Resistance, Compliance, and Localization in Post-conflict States'. *International Studies Perspectives* 17, no. 1 (2016): 98–115.

———. 'Beyond Diffusion: Cyclical Translation of International Rule-of-Law Commission Models in Guatemala'. *Journal of International Relations and Development* (2017). doi://10.1057/s41268-017-0096-y.

Zürn, Michael. 'Democratic Governance Beyond the Nation-State: The EU and Other International Institutions'. *European Journal of International Relations* 6, no. 2 (2000): 183–221.

Zwingel, Susanne. 'How Do Norms Travel? Theorizing International Women's Rights in Transnational Perspective'. *International Studies Quarterly* 56, no. 1 (2012): 115–129.

———. *Translating International Women's Rights: The CEDAW Convention in Context*. London: Palgrave Macmillan, 2016.
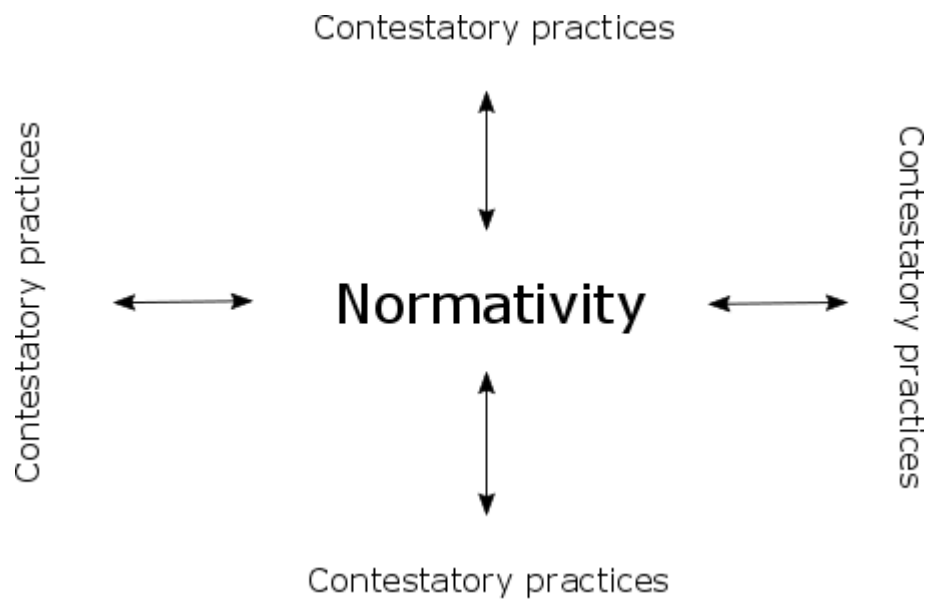
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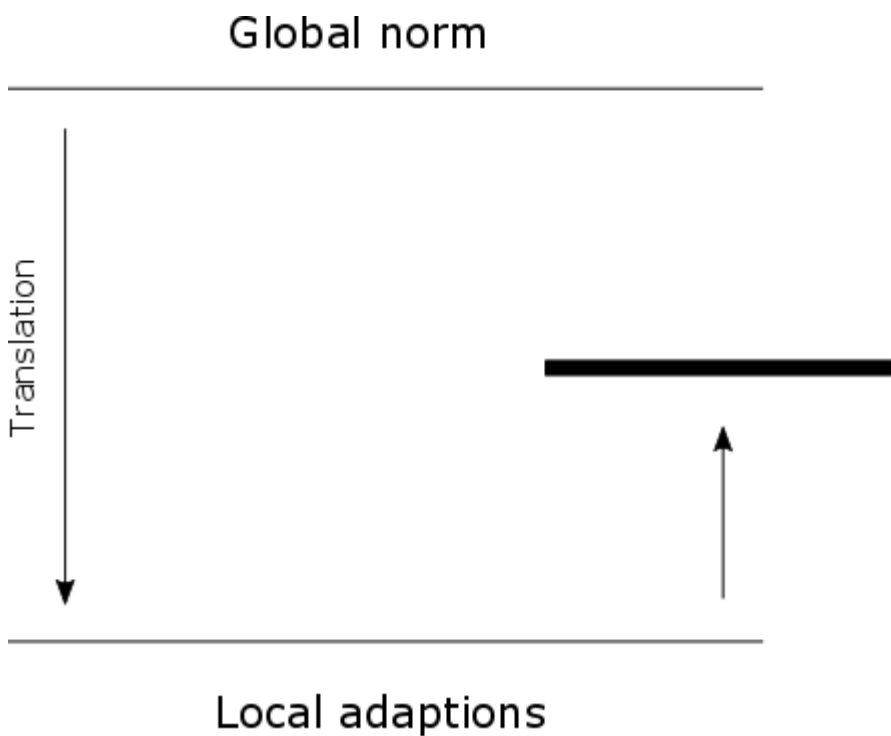
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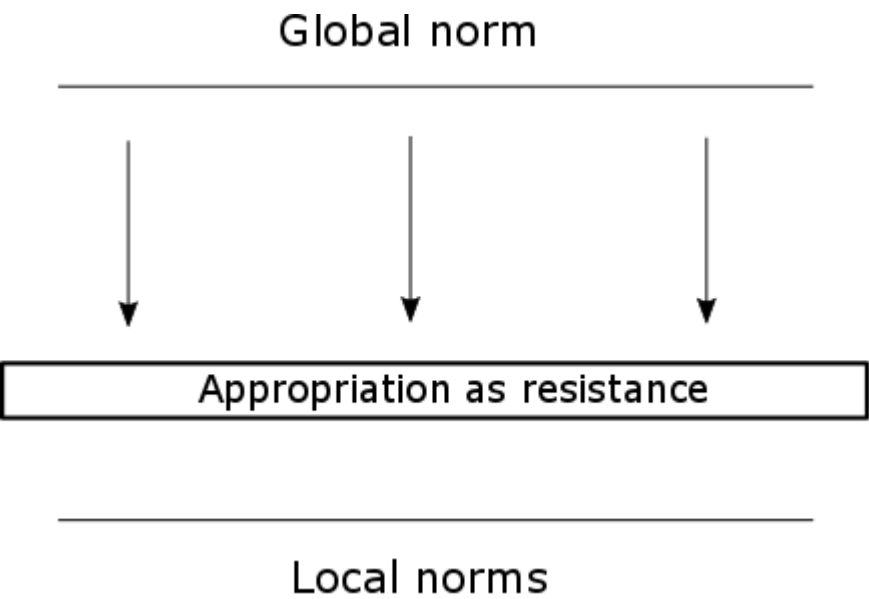
Figure 2: Top-down perspective in appropriation as resistance approaches

Figure 3: Normativity in and through contestatory practices