

Shifting International Security Norms

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The Evolution and Legitimacy of International Security Institutions, M. Patrick Cottrell (New York: Cambridge University Press, 2016), 280 pp., \$99.99 cloth.

Arms and Influence: U.S. Technology Innovations and the Evolution of International Security Norms, Jeffrey S. Lantis (Stanford: Stanford University Press, 2016), 280 pp., \$29.95 paper, \$90 cloth.

The world is going through a crisis of the international liberal order, exemplified by a host of recent shocks: the invasion and annexation of Crimea by Russia; the transnational dimensions of conflicts such as in Syria; the United Kingdom's decision to exit the European Union; the attempted coup d'état in Turkey and its reversal toward autocracy; and the election and rise of non-universalist and illiberal governments as well as politicians who operate under the populist rubric in countries that are viewed as beacons of democracy and stability. These shocks have catalyzed two outcomes. First, the prevailing global norms that serve as the custodians of peace and security have been the subject of revived debate. Second, and relatedly, these shocks have prompted deep reflection on the role of institutions such as the European Union and the North Atlantic Treaty Organization (NATO), as well as the roles of the supposedly democratic members within those institutions.

These trends raise some pressing questions: Will the prevailing norms and institutions withstand such shocks? Will the norms be diminished, or will they ultimately be reaffirmed (and perhaps even strengthened)? Two recent books—*The Evolution and Legitimacy of International Security Institutions*, by M. Patrick

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Cottrell, and *Arms and Influence: U.S. Technology Innovations and the Evolution of International Security Norms*, by Jeffrey S. Lantis—offer context and insight into questions of change and transformation in world politics, particularly in the realm of security. Cottrell and Lantis both explore the complexity of norm making and change, as well as the definitive role that such processes have in the international life of states. Their work complements my own previous writing in which I put forward a model called *circuitous norm building*, by which norm formation comprises not distinct stages but rather a more fluid formulation.¹ Norm building and change are not necessarily successive and do not develop in a linear progression. Moreover, circuitous norm building implies not only nonlinearity but also a winding course of events and influences by multiple actors. Other scholars in the literature—the second and third waves of constructivists—have explored the contestation and nonlinearity of norm adoption and evolution in different ways and with different empirical cases. Cottrell and Lantis recognize, in company with this literature, that the processes of norm making, diffusion, and transformation are contested, complex, and multilayered.

The common thread between these two timely and empirically rich books is their rigorous investigation of change in world politics through the prism of international security norms. International security represents a hard test case for change because it is an area where states tend to be most reluctant and the most impervious to the influence of other actors. Cottrell and Lantis show that even in the areas previously thought to be relatively immutable according to realist traditions in the study of international relations, change has occurred, sometimes signifying moral and ethical progress, sometimes not. In this essay, I draw on these books to advance two arguments that may provide some perspective to those who fear that global security norms and institutions are under threat. First, I argue that some security norms are contested, but that this contestation is not new. And though at least some of this contestation is a result of technological innovation—new technology always outpaces the formation of global norms—technology can actually reinforce those norms just as easily as it can undermine them. Second, contestation is a natural part of the process by which norms (or the institutions that uphold them) are reformed or replaced. Moreover, new norms and institutions that control or prohibit weapons under a commonly agreed-upon framework can actually induce states to reconstitute their own security interests. After developing these points, I will illustrate them using the 1968 Nuclear Non-Proliferation Treaty (NPT), a case that both Lantis and Cottrell take up.

But before undertaking these two arguments, it is important to understand the foundations upon which the current normative architecture has been built.

THE UN CHARTER AS THE FOUNDATION

Following World War II the United Nations Charter, with fifty original signatories, inaugurated a new set of normative rules. This document contains the most fundamental and universally accepted international security norms: Under Article 2(4), states are prohibited from utilizing military force and, instead, according to Chapter VI, they must settle their disputes peacefully and use a number of tools, including negotiation, mediation, good offices, arbitration, and adjudication, short of the recourse to force.

Jus in bello (also known as international humanitarian law, or IHL) and *jus ad bellum* are both universal mandates that epitomize the essential architectures for peace according to international law. IHL is codified by widely adhered-to international treaties, especially the Geneva Conventions. Together, the UN Charter and IHL provide the regulation-prohibition mosaic for global peace and security. Prior to the creation of such frameworks, there were no universally agreed-upon sets of norms for these issue areas.

Against this backdrop, the legal architectures that regulate or prohibit armaments have come to complement the global norms enshrined in IHL and the laws on the use of force. Nuclear weapons, for example, are regulated under the regime fashioned by the NPT, which effectively generated a hierarchy of nuclear “haves” and “have nots.” Similarly, chemical and biological weapons are outlawed under prohibition regimes. From this foundation, we can now examine the current contestation.

NORM CHANGE AND CONTESTATION

Lantis’s *Arms and Influence* examines the fascinating interplay between technology and global norms through a collection of rich case studies, predominantly from an American perspective. This is appropriate, since, as a military power and technological leader, the United States has spearheaded many global security norms. The author focuses on what he views as one of the most understudied areas of international relations: technological innovations as a catalyst for international norm change. Lantis looks at breakthrough technological innovations that have shaken military doctrines to the core: nuclear weapons and the spread of

nuclear technology, armed unmanned aerial vehicles (UAVs), and advanced reconnaissance satellites. The most exciting case study in Lantis's treatise is the one that unites the advances in satellite reconnaissance technology with humanitarian intervention by monitoring human rights violations to foster the rising norm of the responsibility to protect. This case connects the well-enshrined norms of sovereignty and territorial integrity with the emerging concept of human security. With great detail and riveting evidence, Lantis demonstrates that despite all initiatives at the United Nations, the endorsement by heads of state, and global civil society engagement to monitor the worst atrocities during conflict using remote sensing technologies, the emerging norm of humanitarian intervention remains highly contested.

Against a backdrop of ample findings from the case studies, Lantis's model for change in international politics consists of redefinitions that involve domestic political debates and constructive norm substitution in international institutions. For instance, the use of armed UAVs, colloquially known as drones, put to the test long-standing customary norms of self-defense, non-assassination of foreign leaders (or adversaries in general), and the foundational norm of sovereignty. The use of armed drones, introduced as part of the so-called "war on terrorism" during the tenure of U.S. President George W. Bush and increased by President Barack Obama, has given rise to fierce debates on the lawfulness of such "targeted killings." These practices are troubling enough when conducted by state forces within their own sovereign territory (for example, Russia's targeted killings in Chechnya; Sri Lanka's targeting of the Tamil Tigers; or Israel's targeting of Hamas), but even more problematic when conducted across international boundaries, especially absent a formal state of war (such as U.S. attacks in Pakistan, Somalia, and Yemen).

The resulting normative effects are stark and quite disrupting for peace. Lantis's findings indicate movement toward the legitimization of the practice of preemptive action through targeted killings. However, I advance that there is in fact no broad endorsement of the norm of preemption. Under international law, states may rarely use military force in a preemptive way; and, despite some recent high-profile examples, this law is widely followed. In fact, there was serious consternation within the United Nations among NATO members about how preemption had been misused to justify the invasion of Iraq in 2003. Similarly, the use of armed drones for targeted killings in other countries has little support or approval internationally, despite the practices of several states. UN meetings about such

issues demonstrate widespread, if often veiled, condemnation. Such preemptive acts destabilize the international order and are viewed by small and midsize countries as simply a means for powerful countries to pursue their own national interests. This widespread criticism shows that rules on the use of force are quite resilient even if the United States seems intent on reinterpreting them to serve its own interests. When states engage in targeted killings, they are disrupting not only the customary global norm against the assassination of foreign adversaries but especially and most prominently they are violating the foundational norm against the use of force. Though, as discussed above, the use of new technologies such as drones can test long-standing norms, and though this contestation can pose a threat to international peace, it is also part of a larger process of norm building and replacement, as we will see below.

Lantis's case studies describe states privileging the revaluation of international norms in accordance with their interests and the primacy of their national security. However, Lantis recognizes that states prefer to remake, substitute, and re-justify norms in international organizations rather than to violate them outright. *Pacta sunt servanda*—literally meaning “agreements must be kept”—is a fundamental principle of international law. Through the processes of contestation, states endeavor to convince others to support their new utilitarian-based behavior. In other words, states go to great lengths to make others believe that they are acting in accordance with international law. For instance, after President Putin of Russia annexed Crimea he initiated a convoluted process to justify the invasion with a forged referendum and historical explanations put forward to legitimize his wrongdoing vis-à-vis the other members of the United Nations.

Lantis attempts to explain such behavior by considering to what extent breakthrough technological innovations shift fundamental global norms. He views hegemonic stability as central: On the one hand, the United States is the chief creator and enforcer of peace and security norms; on the other hand, the United States also attempts to manipulate and change long-standing international norms when novel moments brought about by technological advancements fit new interests. Given that, as noted, international law and the formation of new global norms always lag behind the breakneck progression of technology, and that the formation of new norms only follows major technological breakthroughs, the analysis of the interplay between technology and norms is essential and timely as such interplay has often resulted in major implications for the global normative order (p. 9).

NORM CHANGE AND RECONSTITUTED SECURITY

Cottrell, in his elegant and cogently argued book, considers both treaties and international organizations as institutions that serve as pillars for international security cooperation, focusing on the cornerstone institutions that have the “most widely referenced embodiments of norms” (p. 179). He investigates global institutions founded on legally binding treaties that regulate or prohibit behavior. In consonance with my argument here, these institutions are examined due to their centrality in defining and shaping stability and predictability in core security areas. Based on the premise that international cooperation requires vigilance and flexibility, Cottrell argues that when institutions become brittle and frail, or fail altogether, they often undergo replacement through negotiation or renegotiation. His analysis is focused on how legitimacy is sustained or lost. As he shows, the loss of legitimacy does not always lead to the complete dissolution of a given institution.

Cottrell undertakes an analysis of the possible replacement of institutions that are no longer legitimate or resilient to new influences and ideas. A legitimate institution, he contends, is not one that coerces, but one that maintains its soft power to induce action. For him, the attractiveness of belonging to a legitimate group of nations—one that is perceived as doing the right thing and is unified by a set of values and shared norms—is what explains institutional endurance. When studying why change occurs, legitimacy provides the context for his examination of the interplay between the sources of power (social and material) and how these influence state and nonstate actors, such as the United Nations and nongovernmental organizations, in their work of altering the global order. Cottrell draws on rationalism, liberalism, and constructivism to accurately portray the mosaic of action inside security institutions: multifaceted interactions between principled beliefs and core national security interests, and between the material capabilities and the ideational goals that motivate states along with the other actors that drive change.

In other words, for a deeper understanding of change in international relations, and of the power of institutions, it is not enough to focus solely on structural rationalist designs or on how certain powerful actors perpetuate existing international organizations. Instead, change is the result of a multifaceted and ever-evolving relationship between legitimacy and security needs. Disenfranchisement and exclusion may also be paramount factors that result in change. As Cottrell

notes in one of his case studies, for instance, even though the League of Nations represented a milestone and an innovative way to forge institutionalized global peace and security, many states felt different levels of marginalization—from smaller states lacking a powerful voice to the defeated Axis powers feeling sidelined and humiliated. All of this led to the League's ultimate operational failure and need for replacement. Today more than ever, nearly one hundred years after the League's founding, state and nonstate actors alike demand that their voices are heard and their security needs be met.

The custodian of peace and security that replaced the League—the United Nations—effectively forged a hierarchy among the member states. If international society had previously been defined by horizontal relations, and international law represented a set of global norms that were more about coordination than subordination, the Security Council changed that. It has created a reality in which a select few veto-wielding powers are the guardians of global peace, while the rest are largely sidelined. Even though this new hierarchy seems to have been more effective and creative than the League, it has also resulted in dissatisfaction. Many rising powers feel that the constant deadlock in the Council and resulting lack of true global representation is inadequate to tackle the challenges the world faces today.

By studying how the United Nations replaced the League of Nations, Cottrell illuminates a vital debate: whether the post-World War II global rules-based order, founded in large part in the United Nations Charter, will endure the tests of power shifts currently underway. Though Cottrell does not provide a definitive answer to this question, he views security institutions as a particularly fruitful canvas on which to study change due to three factors. First, they are not well understood in the international relations literature, which has focused largely on security itself and not on institutions as the unit of analysis. Second, there are rare historical instances of collective cooperation that gave rise to modified, and supposedly enhanced, institutions. In these cases, the author asks, who are the main drivers of such collective action—states or transnational nonstate activists? Cottrell and Lantis recognize that the answer is not clear, but surely change in the security realm is not impenetrable to forces beyond the state. Third, security has broadened and deepened to include new issues and actors. It is evolving dramatically, and institutions are at the core of the battles for legitimacy.

In the context of the legal architectures that regulate or prohibit armaments, the 1997 Ottawa Treaty prohibiting landmines is celebrated as a remarkable case of

international cooperation given that—despite the opposition of major powers—it delegitimized a weapon that was in widespread use and was viewed as militarily useful. Cottrell assesses the process by which the treaty replaced the previously existing Protocol on landmines under the 1980 Convention on Certain Conventional Weapons (CCW). This marked a transition from regulation to total prohibition of an entire class of conventional weapons. The CCW Protocol on landmines was viewed by many—particularly Norway and Canada, the “medium-sized” powers that spearheaded the change, as well as a strong coalition of nongovernmental organizations—as ineffective at meeting the basic protections of civilian populations during and in the aftermath of conflict. The number of landmine victims was very high, and this became more publicly known in the aftermath of the cold war. There was no regime in place to provide care for the victims or to demine the vast tracts of land in several countries that had been mined extensively. The Ottawa Treaty, based upon the premise of total prohibition, built a legal framework to address these needs. This case demonstrates that issue areas thought to be immutable can sometimes yield to normative development, and this development can in turn reshape state interests.

Another element of the security landscape that illustrates the changes we are seeing in security institutions is one that I have explored elsewhere in my writing: the control and regulation of conventional arms procurement.² This case complements the stories told by Cottrell and Lantis in several ways. On April 2, 2013, the General Assembly agreed to create the first legally binding humanitarian arms trade treaty by an overwhelming majority. The treaty entered into force on December 24, 2014, and now has 130 signatories and almost 100 high contracting parties. It is the first of its kind to regulate the conventional arms trade, setting standards to restrict the flow of arms to human rights violators and to conflict zones. This case demonstrates the rise of a new institution in a contentious area of security despite the United States’ initial reluctance and absence of material incentive. The novelty of the treaty is that it sets criteria for transfers by articulating prohibitions on transferring arms vis-à-vis existing obligations, such as arms embargos and human rights law commitments (prohibition of torture, genocide, etc.). As such, it connects arms transfer obligations to a duty to refrain from the commissioning of crimes against humanity and grave breaches of the Geneva Conventions.

In an article published in *International Affairs* in 2015, I introduced the concept of humanitarian security regimes (HSRs), that is, regimes that aim to impede

lethal technology and ban categories of weapons through disarmament treaties while embracing a humanitarian perspective that puts an emphasis on preventing civilian casualties and ensuring the rights of victims and survivors of armed violence.³ Though they are certainly designed to prohibit and restrict behavior, the main goals of HSRs are to reduce human suffering, to prohibit harm, and to protect victims. The concept of humanitarian security regimes aligns with Cottrell's and Lantis's theses. While they seek to further understand change in peace and security institutions, they are not driven by security and self-interest alone but also by altruistic imperatives aiming to prohibit and restrict behavior, impede lethal technology, and ban categories of weapons through treaties. Moreover, they embrace humanitarian perspectives that seek to prevent civilian casualties, preclude harmful behavior, and protect the rights of victims and survivors of armed violence.

Like Cottrell, I have explored how these regimes appear in the security arena, usually in opposition to the aspirations of the most powerful states. Most of the security regimes literature has taken a functional approach to analyzing cooperation; it often lacks a humanitarian hypothesis and does not explore the emergence of new regimes. As Cottrell demonstrates, humanitarian security regimes cannot be explained by functional hypotheses because they are not about reducing uncertainty or purely facilitating cooperation. In the process of humanitarian security regime making, national interest is restructured to incorporate new normative understandings, which then become part of the new definition of national security. The study of HSRs complements the arguments made by Cottrell and Lantis in two important ways. First, security areas that were previously considered to be the exclusive domain of states have now become the focus of nonstate actors as well. Second, states have embraced changes to domains close to their national security and have done so due to humanitarian concerns. In other words, states have been compelled to reevaluate their national interests motivated by a clear humanitarian impetus.

THE CASE OF THE NPT

The Non-Proliferation Treaty elucidates how norms and institutions are generated, challenged, and then either reinforced, reformed, or replaced altogether. The NPT is one of the most widely adhered to agreements maintaining global security, with almost universal buy in. Moreover, it is resilient despite having

undergone several crises. Like the Security Council, the NPT also introduced hierarchical relations: some states lawfully possess nuclear weapons under the treaty, whereas other states are prohibited from doing so. The latter group may nonetheless enjoy the benefits from peaceful nuclear use to meet energy needs, conferring greater legitimacy on the treaty as a whole.

Cottrell and Lantis provide rich accounts of the rise of nuclear technology, the actors and communities involved in promoting and opposing it, and the cold war crises that marked turning points for its evolution. Lantis's American-centered perspective complements Cottrell's nuclear narrative quite powerfully. In these narratives there is a constant interplay of gain and loss of legitimacy based upon the four normative principle-based standards enshrined in the nuclear discourses: (1) the spread of nuclear weapons is destabilizing and must be controlled; (2) peaceful nuclear energy is valuable and can be regulated; (3) the use of nuclear weapons is immoral; and (4) until circumstances dictate otherwise, nuclear weapons have a deterrent value (Cottrell, p. 168).

Cottrell provides a host of rationales to explain the original legitimacy and resilience of the treaty. The concept of the "nuclear taboo" adds to its resilience, as does the monitoring and scientific mechanisms imbued by the International Atomic Energy Agency (IAEA). The preservation of the environment, dual-use technological applications, and the inability of nuclear weapons to discriminate civilians from combatants have all increased the legitimacy and resilience of the treaty. As a result, the global norms arising from the NPT have both constitutive and regulatory value. The IAEA plays an important role in maintaining regulation, with states submitting their compliance obligations to be scrutinized by the world. Moreover, the NPT has played a profoundly important role in constituting states' identities: some states are "responsible" and have therefore worked to form Nuclear-Weapon-Free Zones, whereas others are "rogue or pariah" and are in violation of *pacta sunt servanda* (Cottrell, p. 169).

Nonetheless, the NPT regime is highly contested as many states seek to move from regulation to outright prohibition through the Campaign to Abolish Nuclear Weapons. Doing so hinges on the ability of these actors to delegitimize nuclear weapons (Cottrell, pp. 173–77) and change the interest-based calculations of the nuclear powers (as they did during the creation of the Ottawa Treaty). It also hinges on other developments, such as the green energy revolution, which may lead to the end of the dual-use nuclear dilemma. If states do in fact change their calculations in this regard, this would signify important normative outcomes.

First, the new calculus would recognize that the military advantages of nuclear weapons deterrence are outweighed by the catastrophic humanitarian, environmental, and public health consequences of their actual use. Second, the nuclear powers' identities would change, deprioritizing nuclear-based prestige and instead prioritizing the health of their populations and the global environment. Third, states would realize that nuclear weapons do not enhance but actually undermine security due to the risk of accidents and unintended uses by nonstate groups.

CONCLUSION

In general, norms have both regulatory (prescriptive and proscriptive) and constitutive value. In their regulative capacity, norms therefore construct new frameworks for action that guide the behavior of states. They may also prohibit or ban a certain behavior that was previously considered lawful and part of widespread practice. In their constitutive role, norms may introduce new significance to important issues, generate new vocabulary, and change the identities of actors, thus lending more legitimacy to their actions in world affairs (Cottrell, p. 201).

I have advanced two arguments in light of Cottrell's and Lantis's contributions. First, processes of contestation are underway in the observance and maintenance of the foundational norms put forward by the UN Charter and codified by IHL. Technological advances that have lowered the threshold to war permit states to carry out violations of *jus ad bellum* to the peril of international stability. Additionally, the widespread availability and proliferation of conventional and nonconventional arms pose perils to peace. Therefore, the legal architectures that prescribe and proscribe armaments are indispensable for the future of peace and security. All states have an interest in containing and limiting weapons in certain ways: by putting norms in place that bring transparency, by limiting their spread to terrorists and criminals, and by containing proliferation. The exercise of restraint is also valuable for states to enhance their reputations as responsible, law-abiding members of the international community. Though technology will always outpace the formation of global norms, new advances bring new avenues for altering the existing arms regulations and crafting new ones.

Second, security has dramatically changed in practice over the last twenty years as a result of international security norms and institutions. Security has come to include areas that were not the object of protection before. It is no longer solely about states' interests; it is also about the security of the individual, with the

concerns of human rights comingling with traditional security concerns. And thanks to technological advances, the world is watching. Thus, there is more room for the protection of individuals and for upholding the foundational norms of security. The architecture of armaments regulations has evolved since the creation of the United Nations to protect not only the state but also the individual. In other words, states have embraced changes in their military doctrines based on humanitarian imperatives. States may reassess national security if actions and practices become associated with loss of legitimacy and cost to their reputation. The future of peace, and the norms that uphold it, will depend on responsible sovereign states that will work to avoid war in this shifting security environment. No matter the political shifts happening around the globe, for liberal and illiberal states alike, peace and order will depend on a modicum of cooperation and commonly agreed-upon rules. The absence or repudiation of global norms and the adoption of zero-sum perspectives have proved devastating in the past. As the liberal order falters, adapting to new geopolitical realities and working to replace brittle and out-of-date institutions are urgent tasks if we wish to secure peace for the next generation.

NOTES

¹ Denise Garcia, *Small Arms and Security: New Emerging International Norms* (Abingdon: Routledge, 2006).

² Denise Garcia, *Disarmament Diplomacy and Human Security* (Abingdon: Routledge, 2011).

³ Denise Garcia, "Humanitarian Security Regimes," *International Affairs* 91, no. 1 (2015), pp. 55–75.