

BOOK SYMPOSIUM

Meditating deformalization: remarks on ‘Of experts, helpers, and enthusiasts’

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Abstract

Moving away from studying actors to studying practices opens a fascinating vista of global governance. Kratochwil provokes inquiry into the practical work actual people do in international relations. He helps to move beyond binaries by offering a pragmatic approach to global governance in a fragmented institutional environment. Yet, his criticism of best practices for their problems of applicability and perverse side-effects misses the existence of different kinds of best practices. Some of them have been highly successful, such as the ‘Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia’. One should not underestimate the potential of practices in both advancing scientific knowledge and ‘real-world’ change.

Key words: Action; best practices; binaries; deformalization; practitioners; praxis

To note that world politics is made by people seems trivial. Yet, if one peers to the International Relations (IR) theory literature, it becomes quickly obvious that scholars prefer to explain world political dynamics by some abstract hidden forces, whether it is interests, ideas, or norms. An epistemology prevails that subsumes the making of world politics under these hidden and often causal forces, leaving aside questions of praxis, and the practical situations in which those often denounced as ‘the’ practitioners find themselves. An impressive over-intellectualization of world politics and a detachment from the everyday language of politics is the consequence along with the disappearance of the actual people acting within particular contexts.

At a first glimpse, Kratochwil’s meditations are no different.¹ Scholastic language prevails, an impressive arsenal of books of millennia of philosophers and thinkers is mobilized, and upon starting to read one finds oneself in the midst of a storm of ideas, grand philosophers, and academic debates. Yet, one also finds little everyday stories and anecdotes, references to movies, literature, and other cultural artifacts. The book is anything else than the (easily digestible) microwave dinner commonly served by today’s successful academic volumes – that tend to outline a (simple) new theory of the international and then proceed to present ‘case studies’ or ‘data’ that

¹Kratochwil 2014.

confirm it. Kratochwil instead serves a grand cuisine dinner, for which one, however, requires a strong stomach to digest the intellectual feast. Yet, a western-style dinner might not be the appropriate metaphor here. Kratochwil does not argue in a linear fashion. Instead he invites us to ‘meditate’ with him and to think in relational terms – jumping back and forth from historical episodes, to grand ideas, to picking on someone’s smaller argument, back to a major political problem, on to a contemporary policy choice. A style of reasoning characterized by movement, translations, comparisons, and indeed circularity drives the book.

With adopting the concept of meditation to describe his style of reasoning, Kratochwil not necessarily moves us to the realm of yoga practice or the detached nihilism of Buddhist philosophy.² He rather dwells on a historical lineage of thinkers, from Descartes, to, more contemporarily, Pierre Bourdieu that have offered meditations in order to rethink core assertions of (philosophical) knowledge production and scientific disciplines. Meditations are not meant to solve or treat issues once and for all. They want to provoke, to challenge, and to trigger further thinking. Provoking inquiry, not providing certainty and comfort, is the goal of Kratochwil’s meditations. As he sets out in his first meditation, this style of reasoning liberates us as scholars from the epistemological fixations on theoretical generalization and universal methods and enables us to address problems of praxis and of politics instead.³

Kratochwil’s style of reasoning is meant as a liberating move, to bring back people, and to bring back activity and practical reason as the core focus of scholarly analysis. Kratochwil’s musings hence feed into the recent turns in the IR literature that argue for a focus on everyday activities, routines, practices, practical knowledge, or performances. In many ways Kratochwil’s earlier works have been at the forefront of that turn – often denoted as the ‘practice turn’. For some decades he has been arguing for the importance of praxis, practical knowledge, and (speech) acts as core categories through which to understand world politics. The meditations continue this work, perhaps in a more radical manner.

Beyond binaries, toward practices

Meditation 4, titled ‘Of experts, helpers, and enthusiasts’ sets out to ponder about the deformalization of international relations and the rise of non-traditional forms of lawmaking. Contemporary international relations are permeated by instruments such as ‘declarations’, ‘commitments’, ‘codes of conduct’, ‘memoranda of understanding’, ‘compacts’, or ‘best practices’ that seemingly escape traditional legal categories and often have been described as ‘soft law’. Kratochwil invites us, first of all, to reconsider the binary that we have, by now, become comfortable to describe that development, the distinction between (traditional) ‘hard’ and (new) ‘soft’ law. His first task in the meditation is to dissect this binary.

‘Soft law’, since it has been discovered in the 1980s, has evolved into, as Dupuy has put it, ‘a trouble maker because it is either not yet or not only law’.⁴

²Yet, see Peltonen 2021.

³Kratochwil 2014, 39–49.

⁴Dupuy 1991, 420.

International legal scholars have aimed to make sense of the rise and status of soft law through taxonomic thinking underlined by a dichotomy between law and non-law and by attempts to establish various ‘degrees of softness’.⁵ While Kratochwil does not find such exercises soft in the head, he argues that the ‘binary opposition of law/non-law [seems] ill-suited for managing the growing complexity of contemporary international relations’.⁶ Moreover, ‘any elucidation of practice is far more complex than approaching the problem with clear-cut taxonomies *ex ante*’. Instead, we are confronted with ‘complicated appraisals for which no “final answer” seems possible’.

To assist us in such appraisals, Kratochwil argues, one should consider the practical work of actual people instead. These he describes as ‘professional helpers’ – peacekeepers or development professionals, ‘experts’ – lawyers or economists – and ‘enthusiasts’ – activists of various sorts. With these three categories of people, he does not propose a fixed categorical system that we could use as a ‘framework’ of empirical analysis, instead they provide us with ‘caricatures’⁷ of the practical roles that people perform in developing and using contemporary instruments (of softer law).

Echoing the wider literature, Kratochwil locates deformalization in two phenomena, both of which are important to understand the three actor types.⁸ The first is the rise of international problems in numbers, but also in quality, in as far as these escape conventional descriptions and categories, such as when climate change blurs the line between natural and man-made disaster. This development has consequences: the increasing numbers of problems implies the multiplication of norms and a rise of complexity, and the new quality spurs new uncertainties. To cope with the rising number of problems more professional helpers are required; to cope with plurality, complexity, and uncertainty, more experts are required. The second trend is the emergence of NGOs as spokespersons that presents ‘one of the decisive changes in world politics’.⁹ NGOs can be ‘helpers’ in so far as they implement projects of states or international organizations, ‘experts’ in that they provide knowledge, or ‘enthusiasts’ in that they advocate for a broader good.

While the notion of the helper is straightforward, the notions of experts and enthusiasts require further elaboration. Kratochwil associates the enthusiast with ‘social movements, which organize spectacular action in order to raise consciousness and undermine Gramscian hegemony of the “normal”’.¹⁰ They strive for having their voice heard and claim legitimacy on the basis of some greater good. The experts, based in ‘consulting offices and international organizations’, by contrast ‘claim their status on the basis of some special knowledge (often sanctioned by the authority of science)’.

Kratochwil uses the conceptual triad to investigate different combinations and alignments between the three in light of real-world cases such as the sustainable development agenda and the politics of humanitarian interventions. He concludes

⁵D’Aspremont 2008.

⁶Kratochwil 2014, 11.

⁷Kratochwil 2014, 108.

⁸Ibid., 104–07.

⁹Ibid., 105.

¹⁰Ibid., 116.

that the new informal instruments of governance, or the turn from law to policy, are less promising than they appear.

Deformalization beyond International Law

In contrast to International Law, a specific debate on deformalization has come to fruition in IR only recently. International organization studies have relatively recently discovered that organizations have ‘hidden rules’, but have not (yet!) proposed a general theory.¹¹ Perhaps more interestingly, with the move from studying actors to practices, a range of fascinating recent tools of global governance have become objects of study.

In particular, quantitative indicators and numerical indices have caught the attention of scholars. Such indicators provided by international organizations and NGOs are usefully interpreted through the Kratochwilian triad. These are developed to ‘help’ governments to identify gaps in structures or performance, but at the same time intended to regulate by shaming those who do not conform with the apparently universal values that the indicators measure. They are a form of expertise and claim the authority of science, and they are often part of the advocacy work of enthusiasts whether those present corruption as the enemy of humankind, strive for universal happiness, or a better, greener world.

Whether indicators make us less corrupt, happier, and greener, or not, they escape conventional taxonomies of law and politics. Another case in point are ‘best practices’ as recently analyzed by Bernstein and van der Ven – a tool that is also one of the targets of critique of Kratochwil. As they show, best practices have gained significant popularity since the 1980s and 1990s.¹² They offer a pragmatic approach to global governance in a fragmented institutional environment, and ‘at once legitimate different kinds of governance institutions and constitute a mode of governance themselves’. In showing the force and inner working of best practices, Bernstein and van der Veen are critical of the tool, as ‘they also tend to mask underlying power dynamics and limit their prescriptions to actions currently being undertaken while avoiding more radical approaches’. Kratochwil offers a similar critique when he argues that best practices might offer more flexibility and bring us closer to the locality of problems, but in the end face severe problems of applicability. They might even create perverse side effects, such as when professionals prefer in the face of uncertainty to go ‘by the book’, rather than search for an effective solution that might work in a local situation.

My recent analysis of best practices focuses on a manual that forms an instrumental part in the international response to piracy off the coast of Somalia.¹³ This so called ‘Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia (BMP)’ document aims to offer advice to shippers as they navigate through a territory demarcated as the High Risk Area. Particularly, it aims at regulating the interaction between shippers and the navies operating in the region. It is a fascinating document not only because it played

¹¹Stone 2013; Colgan and van der Graaf 2014.

¹²Bernstein and van der Ven 2017.

¹³Bueger 2018.

an instrumental role in successfully containing piracy, but also because it is supplemented by (entertaining) educational tools such as a movie and a map. It is another forceful case of a regulatory instrument that escapes hard/soft law and public/private binaries.

The BMP manual was produced in a collaborative exercise between shipping associations, the International Maritime Organization, navies, and a handful of piracy experts. Rather than claiming universal applicability or scientific credibility it consists of condensed experience gathered through actual interaction with pirates, on how to prevent, prepare for, and what to do in the event of a piracy attack. It offers problem solutions limited to a distinct geographical area, described as the High Risk Area, and a certain type of maritime piracy (Somali style). Compliance is not directly enforced, but it is monitored by international navies and shipping associations which report to an international (informal) forum. The best practice manual has also been 'formally endorsed' by states, by the International Maritime Organization, and by the UN Security Council. While this does not make the manual legally binding, over the years it has become embedded in national laws. In several flag state legislations, vessels are obliged to comply with the manual if they intend to carry private armed forces on board. The BMP manual is hence a case of an experience-based best practice that works in assembling actors, regulating shipping behavior, and the industry-naval interaction, and, most importantly, contributes to fixing an international problem quite successfully.

On that basis, I suggest that the BMP is a different kind of best practice than those analyzed by Kratochwil or Bernstein and van der Veen. Contrary to Kratochwil, I am inclined to argue that there might be cases of best practices that actually (may) provide productive and innovative tools of regulation and addressing international problems.¹⁴ Such cases of best practice making which might provide flexible and situation specific problem solutions require more scholarly attention. They should also alert us about the risks of too quickly denouncing a governance tool and judging it by the term that describes it. Perhaps we, as scholars, should not give up on new instruments, such as best practices, too quickly? While we should, at least, hesitate to join too quickly any enthusiasts' choir, it may well be a scholarly obligation to also utilize the opportunities that instruments such as best practices provide to transform how problems of the international are addressed. Indeed, can scholars develop 'better' best practices, or shouldn't we at least try?

Yardsticks and drumsticks

The fourth Meditation, as I hope to have shown, provides inspiration of how to analyze instruments of global governance outside the straightjackets of conventional binaries. It attunes us to the intricacies of practice and how different actors (helpers, experts, enthusiasts, and others) become interwoven in practical situations. Kratochwil's yardstick for his meditations is, however, that meditations enable us to address problems of praxis. In his book he leaves it open what particular situations requiring (his) practical reasoning he has in mind (he alludes to the

¹⁴Of course, as usual, the story is a bit more complicated than that, see Bueger 2018.

problem of inter-disciplinarity in the first meditation). While to some degree what and how to do research is a practical problem, I think there is (and has to be) more to it. If we should not expect that a broad range of professionals (or even judges and politicians) will take Kratochwil's meditations as their guidebook to address practical situations, we should not forget that we – us, as scholars – often find ourselves in the roles of experts and enthusiasts, whether this is in whispering to the ears of princes, in infotainment, in joining activist camp fires, or in marching with the G20 protest clowns. Kratochwil provides us with a warning of what can go wrong against all good intentions.

Practice thought, including Kratochwil's, provides us with tools for thinking and working beyond binaries, but it also opens up the opportunity to engage differently with the world of practice, by understanding practice from within but also by provoking and promoting the inherent potential of a given practice. The praxis/practice drum has begun to beat louder and louder in IR as well as in International Law. Kratochwil forcefully demonstrates what style of reasoning might follow from taking practices seriously. His meditations provide some welcome tranquility. In the end, meditation and medication are only one letter apart.

References

- Bernstein, Steven, and Hamish van der Ven. 2017. "Best Practices in Global Governance." *Review of International Studies* 43 (3): 534–56.
- Bueger, Christian. 2018. "Territory, Authority, Expertise: Global Governance and the Counter-Piracy Assemblage." *European Journal of International Relations* 24 (3): 614–37.
- Colgan, Jeff D., and Thijs van der Graaf. 2014. "Mechanisms of Informal Governance: Evidence from the IEA." *Journal of International Relations and Development* 18 (4): 455–81.
- D'Aspremont, Jean. 2008. "Softness in International Law: A Self-Serving Quest for New Legal Materials." *European Journal of International Law* 19 (5): 1075–93.
- Dupuy, Pierre-Marie. 1991. "Soft Law and the International Law of the Environment." *Michigan Journal of International Law* 12 (2): 420–35.
- Kratochwil, Friedrich. 2014. *The Status of Law in World Society: Meditations on the Role and Rule of Law*. Cambridge: Cambridge University Press.
- Peltonen, Hannes. 2021. "Sense and Sensibility or: Remarks on the 'Bounds of (Non)Sense'." *International Theory* 13 (3): 581–7.
- Stone, Randall W. 2013. "Informal Governance in International Organizations: Introduction to the Special Issue." *The Review of International Organizations* 8 (2): 121–36.