Interactions between International Norms

The Case of the Civilian Protection and Antiterrorism Norms

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How do international norms become more or less powerful? The rich international relations (IR) literature on norms has emphasized the means by which both structural factors and agents contribute to altering norm strength. However, this literature has tended to emphasize the role of the so-called norms entrepreneurs who seek to empower new norms.[1] It rarely addresses actors who wish to limit the effects of norms by altering their interpretation.

This study uses a recent framework that concentrates on actors' undertakings under "normative pressure."[2] It shows that when such pressures increase, rarely do actors simply challenge norms. Furthermore, they usually do not withstand the normative pressure (and do not react in any way to the promotion of that norm), as mainstream IR literature often implies. We posit that, in most cases, actors attempt to reshape the understanding of the norm and its prescriptions by narrowing or broadening them to fit their material interests. The study shows that such strategies have important practical and often unintended implications for actors due to the interactions among norms. That is, by narrowing or broadening a norm and its prescriptions, such actors may (pur-

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posefully or not) alter the content and strength of other related norms with which the original norm may overlap.

The article begins by expanding on the main theoretical arguments, summarized above. It then illustrates them by focusing on the evolution of two related norms: antiterrorism and civilian protection. The article demonstrates how throughout history, actors have tried to reshape the interpretation of these norms to fit their interests. Although the study discusses the evolution of the two norms over a long period of time, it primarily emphasizes the post-2001 actions of the United States, arguably the most influential international actor. Doing so allows us to explain some fairly unexpected changes in the United States' approaches to its campaigns in Iraq and Afghanistan over the past decade. Based on examples from the evolution of the two norms over the past century, we draw a series of generalizable conclusions regarding norm interaction.

International Norms

For a long time, the IR literature did not take into account the impact of norms in the international realm. Realism, the dominant theoretical approach to the field, explained IR as the result of great powers promoting their material interests, regardless of the perceived appropriateness of actions. With the English School and Regime Theory in the 1980s and especially with Constructivism in the 1990s, norms and their effects became an important area of research.

In the early-to-mid 1990s, the initial Constructivist literature primarily sought to show that norms affected actors' behavior and, implicitly, outcomes.[3] A second "wave" of Constructivist literature that emerged in the late 1990s began addressing more refined questions such as *when* and *how* norms affect outcomes. To answer these questions, this wave of literature examined the "evolution" of norms, emphasizing how they emerge, become more powerful, and eventually reach the international actors who shape outcomes.[4]

Moreover, this newer literature on norms reacted to critiques that Constructivism was too structural and lost sight of the importance of agency by emphasizing the role of "norms entrepreneurs" who promoted the norms.[5] Much of this work sought to explain the characteristics of such entrepreneurs, their strategies, and the channels through which they worked to influence decision makers. To some degree, this type of analysis was revolutionary for IR because it shifted attention from the powerful actors who had been the subject of theoretical approaches, especially Realism, and paid greater attention to the

actions of less powerful, theretofore unobserved actors such as small states, nongovernmental organizations, or even specific individuals.

Yet, by dwelling primarily on norms entrepreneurs promoting initially weak norms, this second wave tended to neglect other norm dynamics, such as those involving actors' attempts to transform norms that were already strong. Further, much second-wave work assumed that the norms being empowered were "good" ones and left out important aspects of how *all* actors, whether seeking to empower or erode norms, were engaged in "strategic social construction."[6]

The most recent (third) wave of the norms literature has begun addressing some of these problems. It has increasingly emphasized the dynamic character of norms showing how all sorts of actors—governmental and nongovernmental alike—promote both "good" and "bad" norms to advance their material and normative interests.[7] This third-wave literature has convincingly shown that such actors are just as likely to be involved in norm contestation as they are to be promoting norms.[8]

This study contributes to this third body of literature and aims to fill some of the gaps of previous work by addressing how actors desire to shape norms not only by empowering them but also by altering their meaning in order to promote their material interests. We draw upon a recent theoretical framework that has been used to explain the measures that actors take when they are under "normative pressure" to alter the rules of intergovernmental organizations.[9] That framework is built on the argument that actors respond both to changes in the strength of norms and to shifts in perceptions that the status quo has departed from norm prescriptions. The interaction between these two factors (norm strength and departure from norm prescriptions) shapes the "normative pressure" that actors may face. Actors react to such pressures and not simply to changes in norm strength. More important for the purposes of this study, the framework classifies the possible reactions that actors may have to such normative pressures: yielding, withstanding, challenging, narrowing, and broadening. These strategies are illustrated in figure 1 and further explained below.
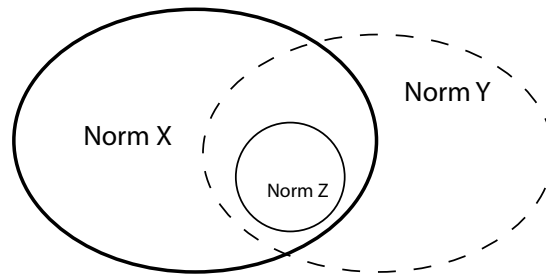
1. "Yielding" to pressure involves accepting Norm X exactly as it is being promoted by others.
2. "Withstanding" pressure involves not accepting Norm X (and not arguing against it).
3. "Challenging norm" involves arguing against Norm X.
4. "Narrowing norm" involves not accepting Norm X in its entirety but accepting Norm Z (a "subnorm" of X).
5. "Broadening norm" involves simultaneously accepting both Norm X and Norm Y (that may have both common and different prescriptions).

Figure 1. Actors' possible reactions to normative pressures based on norm X. (Adapted from Alexandru Grigorescu, *Democratic Intergovernmental Organizations? Normative Pressures and Decision-Making Rules* [New York: Cambridge University Press, 2015], 32.)

Of course, by challenging, narrowing, or broadening norms, actors primarily seek to alter the prescriptions for specific actions (that can be understood as all the discrete "points" within the forms representing the norms X, Y, and Z in figure 1). It is through such prescriptions that norms affect outcomes. The norms are therefore important because they justify taking or not taking certain actions that support or run counter to their material interests. Above we offer some examples of such strategies.

A first obvious reaction to pressures is simply to yield to them and accept the changes promoted by norms entrepreneurs. For example, the 1965 reform of the United Nations Security Council (UNSC) that led to the increase in the organ's membership from 11 to 15 can be seen as the result of the UN's permanent five (P5) members yielding to the strong fair-participation normative pressures. These pressures had been boosted by the increase in the number of UN members and, implicitly, the greater number of states vying for nonpermanent seats in the UNSC. Although some of the P5 members initially opposed the reform of 1965, in the end, they all "yielded" to normative pressures and supported it.[10]

Of course, actors very often withstand normative pressures (without reacting to them even verbally) and continue to take actions counter to the norm's prescriptions. For instance (to offer yet another example of the effect of norms on rules of intergovernmental organizations), although throughout the history of the UN, many small states have promoted fair-voting norms to con-

vince great powers to do away with the veto in the UNSC—or at least to accept rules limiting its use—the P5 has not given in on such demands. Indeed, with a few exceptions, it has not even responded to them.[11]

Third, actors under pressure may use a challenging strategy that implies a *rejection* of the appropriateness of the norm or of the ability to apply it in that particular instance. It often involves invoking an alternative norm that clashes with the one being promoted. For example, the sovereignty norm has often been invoked to challenge human rights norms or transparency norms that were promoted for international arms-verifications agreements.[12] Alternatively, actors may not challenge the norm itself but its application. For example, the United States and a number of other developed countries have argued that even though the norms underlying economic and social rights are important, it is virtually impossible to apply them internationally due to problems of "justiciability."[13] The difference between the strategy of withstanding and challenging a norm or its prescriptions is that although the former implies that those opposing the application of a norm simply ignore the normative pressure, the latter involves a verbal reaction emphasizing that the norm is not "as appropriate" as the norm entrepreneurs claim it is (primarily because it clashes with other norms) or that it cannot really be applied to the case at hand.

However, in most instances, those who oppose actions based on certain norms will seek more refined strategies than those mentioned above for defusing normative pressures (and emphasized by much of the norms literature). Specifically, we posit that most often they will either narrow or broaden the understanding of the norm or of its application. The narrowing strategy entails accepting only *some* interpretations of the norm. Broadening implies supporting other norms *in addition* to the one originally promoted by others.

There are many examples of such narrowing and broadening strategies. For instance, narrowing strategies have been used by those who suggest that, as a "group right," the right to development is not a true *human* (individual) right and therefore does not carry the moral strength of more traditional rights.[14] Conversely, actors promoting group rights, such as the right to development, are adding to the types of actors viewed as holding rights and therefore engaging in a broadening strategy.

Very often, narrowing strategies invoke practical problems involving complete acceptance of the proposed actions. For example, throughout the history of both the League of Nations and the UN, normative pressures based on the fair-participation norm intended to increase the size of the Council and UNSC, respectively, were answered by great powers with arguments that such

increases would make these organs less efficient. In virtually all cases of Council and UNSC reform, great powers accepted smaller ("narrower") changes than those originally proposed.

An example of actors using the strategy of altering the normative environment through "broadening" is the one through which states connected the issues of democracy and development in the 1993 Vienna Declaration of Program and Action at the World Conference on Human Rights. The conference was intended to reflect the agreement being forged in the human rights realm now that the ideological battles of the Cold War had ended. The declaration reaffirmed the right to development yet stipulated that lack of development cannot be used to justify the violation of other human rights. It also emphasized the idea of the "indivisibility of rights," pointing out how democracy (promoted by developed countries) and development (promoted by evolving ones) complement each other.[15]

The strategies of broadening and narrowing are important beyond the simple purpose of establishing a typology for reactions to normative pressures. Each type of strategy leads to a different likely outcome. Specifically, when actors using the withstanding or challenging strategy are successful, we do not expect changes to the status quo. When they are successful using the narrowing strategy, the outcome will likely be a more modest change to the status quo than the norm promoters initially called for. Lastly, when the broadening strategy is successful, we expect that other changes to the status quo—in addition to the ones demanded by the norm promoters—will take place.

The following sections discuss the evolution of two norms: antiterrorism and civilian protection. We show that, like norms X and Y in figure 1, antiterrorism and civilian protection have both overlapping prescriptions and different ones. Because the common prescriptions of both of these norms were accepted by virtually all actors (and it was difficult to argue against them using challenging strategies), the most common approaches were ones of narrowing or broadening. The sections discuss broadly the role of multiple actors, but they tend to dwell primarily on the actions and reactions of the United States—the world's most powerful country and, implicitly, the one was most likely to shape the two norms, especially over the past few decades.

The Civilian Protection and
Antiterrorism Norms prior to World War II

Civilian protection developed primarily as a reciprocal norm between European militaries in the Middle Ages, rooted in the widely respected virtues of military honor, chivalry, and fair play. Although the idea that some are innocent in war is perhaps as old as war itself, only with the emergence of the modern nation-state and natural law philosophy was the collectivization of guilt morally challenged. Emphasizing individual moral culpability and the rights of man, Emer de Vattel wrote, "As they do not resist the enemy by force or violence, they give the enemy no right to use it towards them."[16] By the nineteenth century, just war tradition had receded, and "customary law" emerged among "civilized" nations. In response to the growing violence of the US Civil War and in recognition of its effects on civilians, the first step toward codification of civilian protection occurred with the 1863 Lieber Code, which sought to distinguish between combatants and noncombatants.[17] The Hague Conventions of 1899 and 1907 built on the Lieber Code by asserting the standard of common practice between "civilized" states with commonly held moral views.

The Martens Clause, in the preamble of the 1899 Hague Convention, which provided the foundation for the laws of armed conflict, serves as an early example of how material state interests figure into the construction of norms. At issue was how to treat resistant occupied populations, with a division between smaller, less powerful states that wanted them protected as "lawful combatants" and larger, more powerful states that wanted the freedom to kill them. With no single interpretation resulting from these early efforts, just war codes figured centrally in the development of the idea of "civilization" as a qualifier consulted to determine who deserved protection and who did not.[18] Barbarism was defined as fighting without such civilized codes, and wars of colonization were taken as exceptional wars waged against societies that neither respected nor abided such codes. Yet, overall, up to World War II the norm of civilian protection referred almost entirely to the protection of civilians of one country from the military of another country. The most important difference between states' views on this norm was whether it should be applied to all states or narrowed to apply only to "civilized" ones.

Terrorism as a political concept begins much later than civilian protection, tracing its roots to the French Revolution, when summary executions and other coercive actions were taken by the state, on behalf of "the people," in

defense of the newly established revolutionary order.[19] Paradoxically, then, the rights of man—the same liberal philosophical concept that buttressed civilian protection by introducing individual guilt and innocence in war—produced what Dan Edelstein calls the "terror of natural right."[20]

Even as late as the early twentieth century, terrorism was not yet closely associated with the killing of civilians. Rather, it referred to a disturbing pattern of widespread assassinations and antistate bombings. Separatist groups were often responsible, and they frequently enjoyed the support of foreign states. Serbia, for example, sought to weaken its neighbors by supporting the Black Hand, whose goals included freeing Slavic populations from Austro-Hungarian rule.[21] In response to "political crimes" against state actors, the interwar era saw the first international efforts to create an antiterror norm, and "terrorism" became associated with the actions of nonstate actors though not yet with the state actors who supported them.[22]

The first formal attempt to codify the international antiterror norm took place in the mid-1930s through the League of Nations' Committee for the International Repression of Terrorism. Despite three years of discussion, the antiterror norm failed to launch. Few incentives existed for states to cooperate on the issue since most of them desired to protect their own ability to support foreign insurgencies and therefore were not willing to accept any international treaties.[23] Consequently, virtually all states desired narrow interpretations of the norm and its application. Moreover, the threat of terrorism as the practice of violence outside conventional war paled in comparison to the looming World War II.

The Civilian Protection and
Antiterrorism Norms in the Aftermath of World War II

The late nineteenth century is often hailed as the heyday of the civilian protection norm, but the period of the great wars marks a distinct departure. Industrialized warfare introduced previously unimaginable numbers of combatant casualties in World War I. Despite the hopes of those who believed that the development of airpower would make war less costly, more humane, and more decisive, the norm was exceedingly weak, reaching a low point during World War II.[24] The strategies of both the Axis and Allied powers intentionally and directly targeted civilian populations. The carnage reached terrifying proportions as populations were slaughtered from the air in London, Tokyo, and Dresden, as well as the millions on the ground in the Holocaust in Poland,

Germany, and elsewhere. The war culminated in the use of the most indiscriminate of all weapons to date—the atomic bomb—although Henry Stimson's 1947 utilitarian narrative supporting its use has been increasingly challenged.[25] John Horne explains the breakdown in the norm as an outcome of the prevailing thought of the times, whereby total-war mobilization efforts encouraged thinking about civilians in collective terms—as populations (rather than as individual human beings) and their innocence or guilt.[26]

The civilian protection norm's greatest legal achievements began with the Geneva Conventions of 1949, largely in response to international normative pressures resulting from the great atrocities of World War II. The treaty contained only the seeds of civilian protection, minimally specified as duties incumbent on occupying powers. Although the sheer *scale* of strategic bombing conducted against civilian populations in World War II would not recur, the changing character of war continued to produce massive civilian casualties attributable to both sides.

In the aftermath of World War II, the issue of terrorism paled in comparison to interstate wars. Nevertheless, there were some attempts to create a consensus about the illegitimacy of terrorism—attempts that proved difficult to achieve, especially once the UN General Assembly became the center of such debates. The differences in perspectives played out primarily along Western versus non-Western lines. Ultimately, at issue in defining what constituted "terror" was what groups could claim as the legitimate use of violence in a changing international order. Notably, powerful Western states emphasized a broad norm against terror, focusing not on harm done to civilians but on the intended outcome of the violence, such as disrupting, overthrowing, or seceding from established governments. Only later did attention turn to the prohibition of specific actions such as political assassinations or hijacking.[27] Little interaction took place between the civilian protection norm and the antiterror norm at this point; terrorism as an illegitimate form of violence was not yet linked to the killing of civilians since they had not yet become the primary targets. Moreover, states were heavily involved in the politics behind the terrorist acts. Differentiating between state and nonstate terrorist actors on this basis was thus not politically relevant, given the weak state of the civilian protection norm. World War II and the growing realization of the horrors of the Holocaust had demonstrated in starkest terms that the severest threat to civilians was states themselves, not nonstate groups.

The Civilian Protection and
Antiterrorism Norms during the Cold War

As the process of decolonization began to unfold, both sides in wars of national liberation targeted civilians as a matter of strategy: bombings, assassinations, and massacres of colonial settlers took place in Africa and the Middle East, and considerable violence against civilians has been attributed to colonial state actors who sought to maintain the status quo. Yet, during the first half of the Cold War, few changes occurred in the international civilian protection regime.

As expected, the push for change came from developments in the United States. Indeed, because media depictions of civilian suffering in Vietnam had attracted much American domestic criticism (and thus raised normative pressures for changes), the Additional Protocols of 1977—the legal specification and codification of the civilian protection norm—finally made it onto the international agenda.[28] The atrocities at the time stood in stark relief to the rhetoric of the halfhearted "hearts and minds" counterinsurgency plan touted by US administrations in the 1960s and 1970s. The protocols were designed to strengthen the civilian protection norm by moving from general just war principles of discrimination, precaution, and proportionality to the codification and specification of practical constraints on harming civilians. The overarching political context for the 1977 Additional Protocols was the ongoing liberation movements (and the resistance to that struggle by incumbents). Although buttressed by strengthening human rights norms, the protocols had become politically controversial in response to attempts to account for the changing character of war—from interstate to intrastate "wars amongst the people."[29] The interaction between the civilian protection and antiterrorism norms was especially evident in struggles over the legitimacy of certain forms of nonstate violence in the service of the principle of self-determination, which had been included in the Universal Declaration of Human Rights.

The violence perpetrated in wars for national liberation and the civil wars that often followed did not, for many years, result in attempts to strengthen international cooperation in favor of the antiterror norm because such actions, undertaken by states and nonstate actors alike, did not register as terror in international forums.[30] The ascendancy of the norm of self-determination led to a weakening of the antiterror norm and even the one of civilian protection.

The groundwork for interaction between the two norms had been laid in the early 1970s, when the development of mass communication technologies

created a stage for what became known as the "theater of terror."[31] One highly covered event in particular marks a watershed for narrowing the antiterror norm: the killings of Israeli athletes by Palestinian militants during the Munich Olympics. In response to this event, the definition of terrorism became shaped more by Western states as acts of violence against civilians (not against government actors), and "terrorist" became increasingly conflated with groups fighting for self-determination. Furthermore, as enhanced media coverage created opportunities for marginalized groups to fashion their own narratives through the spectacle of symbolic violence, the United States, Israel, and other states attempted to counter the narrative by pushing the definition of "terrorist" in the direction of an identity. This effort, however, was met with resistance by states that had won liberation through guerrilla warfare. When the UN secretary-general put the antiterror issue on the agenda in 1972, a significant fault line emerged that mirrored growing tensions within the changing postcolonial order between new and aspiring members of the international community on the one side and entrenched powers on the other.[32]

The understanding of terrorism as an identity (rather than just a tactic) of individuals, groups, and even states continued to grow after the Iran hostage crisis. In the 1980s, the United States abandoned efforts to develop an *international* norm, based on the consensus of a broad international community, and turned to the Group of Seven (G7).[33] Thus, the ever-evolving antiterror norm increasingly reflected Western interpretations. Throughout the 1980s, the United States often used terrorism as a justification for the use of force against states that engaged in or supported violence against civilians, such as the air strikes against Libya in 1986 in retaliation for the La Belle discotheque bombing. In his address to the American people, President Reagan argued that the Libyan leader had ordered a "terrorist attack against Americans to cause maximum and indiscriminate casualties" and that "Colonel Qadhafi had engaged in acts of international terror, acts that put him outside the company of civilized men."[34] By doing so, the United States was broadening the antiterrorism norm to refer not only to nonstate actors but also to state actors supporting terrorist acts. Moreover, in the quotation above, Reagan invoked the centuries-old binary so prevalent in the civilian protection norm: "civilization versus barbarism."

By the late 1970s and 1980s, the term "uncivilized" was invoked in common usage in support of the antiterror norm. Civilian protection and antiterrorism became more entangled as the binaries of civilization versus barbarism were commonly used to delegitimize states and groups during the Cold War.[35]

Because of the added strength of the civilian immunity norm, barbarism became a bridge linking the antiterror and civilian protection norms. The conflation of terror and civilian harm, however, was becoming a knife that could cut both ways. Israel, which in concert with the United States had steadily linked terrorism to the killing of civilians, suffered international condemnation for its brutal invasion of Lebanon and its role in the Sabra and Shatila massacre in 1982.[36]

Importantly, by the late 1980s, for the first time, the antiterror norm also had begun to overshadow the norm of self-determination. The United States, which at that time was deeply involved in the anticommunist insurgencies and counterinsurgencies in Latin America, explicitly linked the politics of civilian protection with those of antiterror. This action occurred not only at the level of rhetoric but also through America's refusal to ratify aspects of the civilian protection norm's legal codification found in the Additional Protocol I. According to the International Committee of the Red Cross, the main contribution of Article 1(4) is that it "provides that armed conflicts in which peoples are fighting against colonial domination, alien occupation or racist regimes are to be considered international conflicts."[37] The Reagan administration rejected this article on the grounds that it legitimized the political goals and identities of terrorists by offering combatant status to what the president saw as terrorists fighting in wars of national liberation:

> I believe that these actions are a significant step in defense of traditional humanitarian law and in opposition to the intense efforts of terrorist organizations and their supporters to promote the legitimacy of their aims and practices. The repudiation of Protocol I is one additional step, at the ideological level so important to terrorist organizations, to deny these groups legitimacy as international actors.[38]

The United States' official position created a strategy of legitimation by emphasizing Western identities as inherent protectors of civilians and thus champions of those parts of the Additional Protocols that strengthen the civilian protection norm. At the same time, the United States exploited the debates surrounding the politicized civilian protection norm to broaden the antiterror norm for the purpose of subsuming guerrilla fighters under the category of terrorism. Because the strengthened civilian protection norm now called on fighters to distinguish themselves from noncombatants, what had previously been considered the nature of guerrilla warfare—a strategy made famous by Mao Tse-tung—whereby the weak draws advantage by melting into the civil-

ian population, was now in the same moral category with directly attacking civilians.[39]

Once the antiterror norm, still relatively weak and narrow, made common cause with the growing normative force of the civilian immunity norm, its potential as a tool in the struggle to shape the international order significantly expanded. The long process of negotiating and ratifying the Additional Protocols provided a key platform since "the shaping of the laws themselves were [*sic*] a means by which civilized nations and civilized men defined and defended their interests and identities."[40]

The Civilian Protection and Antiterrorism Norms in the Immediate Post–Cold War Era

With the end of the Cold War and the apparently closing ideological gap between the superpowers of that era, there was greater agreement on human rights norms. In the 1990s, ever-stronger human rights norms also empowered the "core" of the civilian protection norm. By that time, most states had ratified the Additional Protocols that specified the principles of discrimination, precaution, and proportionality. As always, the civilian protection norm was vulnerable to the contingencies of actual war and, in practice, limited by ideology and technology. Precision-guided munitions allowed for more discriminate use of airpower and represented to some a "new era" in warfare—in the sense that these weapons were thought to allow for urban targeting by lessening "collateral damage." The greater strength of the norm was evident, however, in the US military's frustration with what some saw as ever-increasing expectations generated by the norm and the weapons meant to satisfy it. In the best-known example from the Gulf War, well-publicized attacks against bridges in downtown Baghdad—coupled with a precision attack against the Al Firdos command and control bunker, which killed several hundred individuals using it as a shelter—generated a political reaction that included shutting down the strategic air campaign against Baghdad for 10 days.[41]

President George H. W. Bush's justification for force in the Gulf War, ostensibly based on Iraq's violation of the nonaggression norm, also drew on the "innocence" distinction, a key normative concept in civilian protection: "This brutal dictator will do anything, will use any weapon, will commit any outrage, no matter how many innocents suffer."[42] President Bill Clinton also justified the use of force on the grounds of humanitarian intervention in Kosovo, specifically employing the concept of the innocent civilian: "The mis-

sion of the air strikes is . . . to deter an even bloodier offensive against innocent civilians in Kosovo."[43]

The strengthening civilian protection norm led to the emergence of the first international debates involving the responsibility to protect (R2P). Because R2P added obligations even for states that were not part of a conflict to act to assure civilian protection, it can be seen as a form of broadening the norm. Despite unease brought about by the tension between sovereignty and human rights, the new intervention component of the norm prescriptions appears to have paved the way for the justification of regime change in the ensuing global war on terror (GWOT).

Efforts to gain an international consensus on the antiterror norm were sparked by the end of the Cold War as the United States and Soviet Union began agreeing on a number of global issues. Russia's support for the international norm was a result of its own bloody struggles with Chechen separatists, whom it labeled terrorists for multiple bombings in Moscow.[44] The international agreement led to significant legal reforms that transformed acts such as hostage taking and hijacking, which had been criminalized in earlier decades into an expansive legal regime meant to increase cooperation on international terrorism.[45] As the antiterror norm became more powerful, other states evidently "yielded" to the normative pressures and accepted the aforementioned international agreements.

The Civilian Protection and Antiterrorism Norms between 2001 and 2004

In response to the sheer scale of the terrorist attacks of 11 September 2001 (9/11), war plans began immediately. President George W. Bush engaged in a strategy of legitimation for his GWOT by using the moral and political language that would resonate broadly with Americans, invoking just war once again, buttressed by the discourse of civilization. In his 2001 State of the Union address, he stated, "This is civilization's fight"; "the civilized world is rallying to America's side." Weeks later, in another speech, Bush said, "We wage a war to save civilization itself."[46]

The threat was depicted as global. In itself, this claim was not out of line with what many were thinking. Some viewed al-Qaeda as challenging the very survival of the state-centered system.[47] As the GWOT advanced, the Bush administration simultaneously employed the language of civilian protection and antiterror to legitimize the US identity and deny legitimacy to America's

enemies because "targeting innocent civilians for murder is always and everywhere wrong."[48]

Given the history of the increasing convergence between civilian protection and terrorism, it is not surprising that, in the wake of the attacks of 9/11, the United States invoked the normative power of the civilian protection norm to justify the use of force against groups labeled terrorists. The interaction of the two norms had proven useful for the delegitimation of nonstate actors who threatened the state monopoly on international violence and even for states who sponsored such groups. A new development was that the Bush administration conflated state and terrorist by broadening the antiterror norm to potentially include all actors who violate civilian protection. The rhetoric preceding the invasion of Iraq frequently referenced Saddam Hussein as a threat precisely because "any person that would gas his own people is a threat to the world."[49] Furthermore, Bush employed the antiterror norm when he asserted that Hussein and al-Qaeda were "equally as bad, equally as evil and equally as destructive" such that "you can't distinguish between Al Qaeda and Saddam when you talk about the war on terror."[50]

This was a milestone for the antiterror norm. No longer could small states defend or even turn a blind eye toward terrorism without risking their own delegitimation or even wholesale attack. Rogue states were deemed illegitimate based on their anti-human-rights, "terrorist" ideology: "We make no distinction between terrorists and those who knowingly harbor or provide aid to them."[51] Moreover, in attempting to blur the line between the identities of state and nonstate actors by conflating illegitimate violence against foreign civilians (terrorism) with illegitimate violence within a state (human rights violations), the Bush administration inadvertently strengthened the normative power of both human rights and civilian immunity. Conflating human rights with civilian protection encourages a broadened interpretation of the civilian protection norm. For example, the legal regime of international humanitarian law allows for unintended but foreseeable deaths in the service of military advantage, whereas human rights abide no such contingencies.

Once military action commenced—and particularly once the US military became an occupying force—the United States would soon find that, in rhetorically constructing the conventional campaigns in Iraq and Afghanistan as part of the GWOT (and thus as a war meant to defend the international order of states from those whose very identity was premised on illegitimate violence toward civilians), America shaped its own identity and the legitimacy of its own power regarding the protection of civilians. It broadened both the antiter-

rorism norm and the civilian protection norm to the point where their common core seemed to be more important than their differences.

Evidence from those who helped to shape early policy support this assertion. For instance Douglas Feith, undersecretary of defense for policy in the early years of the administration, made the following statement in his congressional testimony: "[Our] position is dictated by the logic of our stand against terrorism. I argued: The essence of the Convention is the distinction between soldiers and civilians (i.e., between combatants and non-combatants). Terrorists are reprehensible precisely because they negate that distinction by purposefully targeting civilians."[52]

This connection between the two norms would become particularly problematic as a gap emerged between principle and practice. Normative pressures resulted from strengthening the civilian immunity norm due to connections with the increasingly powerful antiterror norm while at the same time failing to live up to its prescriptions. The air strikes in the shock-and-awe campaign employed precise weaponry and careful targeting procedures that limited collateral damage, but cluster munitions were also used in residential areas.[53] Civilian immunity considerations were thus institutionalized in airpower, but how ground troops behaved toward civilians fell to the ethical leadership exhibited (or not) by individual leaders. Although some units were expected to (and did) exercise ethical judgment in distinguishing between combatant and civilian, others describe a free-for-all environment in which, as one Soldier put it, the rules of engagement called for "kill[ing] anything that moves."[54] Others described the mood as vengeful and dark after 9/11, and all agreed that force protection was an absolute, unquestioned priority: "Better to send a bullet than a Soldier" was mentioned as a common slogan of the time.

Despite the words of Bush, who characterized the invasion as "one of the swiftest and most humane military campaigns in history," the reality of the war on the ground was experienced differently by many of those in uniform and the civilians with whom they interacted.[55] In an address to the nation, Bush said, "The people you liberate will witness the honorable and decent spirit of the American military. In this conflict, American and coalition forces face enemies who have no regard for the conventions of war or rules of morality." After condemning Saddam on the grounds of his violations of human rights, Bush added, "I want Americans and all the world to know that coalition forces will make every effort to spare innocent civilians from harm."[56] Yet, an initial damage assessment by Human Rights Watch estimated that the invasion killed thousands of civilians.[57]

The Civilian Protection and Antiterrorism Norms after 2004

The 2004 scandal surrounding the brutal, degrading, and sometimes deadly treatment of detainees at Abu Ghraib struck an important blow to the legitimacy of the US war efforts in Iraq.[58] As if Abu Ghraib were not bad enough, in the same month the United States became embroiled in the single most damaging battle of the war thus far: Fallujah. Initially friendly to US forces, Fallujah eventually became a hotbed of insurgency, fueled by antioccupation resentment. In response to the killing and burning of four American Blackwater contractors and the images of the cheering crowds surrounding the bodies, the US military hurriedly sent in troops. The goal of searching out and killing insurgents resulted in an estimated 700 to 2,000 Iraqi deaths (some claim 700 civilians) and 38 to 100 US Soldiers. The city was destroyed, and many of the people were displaced. Several military personnel interviewed for this study confirmed a "shoot anything that moves" mentality and noted that Fallujah is known for what was a common practice in the early days of Iraq: counting all males of a certain age as insurgents. The military denied that there were many casualties or that rules of engagement were broken, but according to an intelligence report, it was immediately recognized that the perception of civilian casualties had damaged the legitimacy of the American mission by creating what some called "political pressure" (a reflection of the normative pressure that we emphasize in this study) and building on anger already present from Abu Ghraib. The pressure created by perceptions of violating civilian protection in Fallujah was immense, and the report shows that it was decisive in stopping the battle, despite materially "winning."[59]

In response to criticism, the administration narrowed the civilian protection norm as applicable to terrorists only. President Bush explained: "They want to kill innocent life to try to get us to quit." He promised that "U.S. troops will use whatever force is needed to quell uprisings in the Iraqi city of Fallujah . . . [and that] we will deal with those who want to stop the march to freedom."[60] In response to the second incursion months later, Secretary of Defense Donald Rumsfeld responded, "What's going on are some terrorists and regime elements have been attacking our forces, and our forces have been going out and killing them."[61]

By early 2006, Joseph Collins—Bush's own former deputy assistant secretary of defense for stability operations—published an open letter in the *Armed Forces Journal* warning Bush that "if our strategic communications on Iraq don't improve, the strategy for victory will fail and disastrous consequences

will follow.'"[62] A significant change in US behavior is evidenced through the adoption and implementation of Field Manual (FM) 3-24 / Marine Corps Warfighting Publication 3-33.5, *Counterinsurgency*, a revised counterinsurgency doctrine that elevated the purpose of the military to population protection over killing insurgents.[63]

The crisis that ensued after Fallujah in Iraq overshadowed what was happening in Afghanistan, siphoning away resources, attention, and manpower, and thus creating the conditions for worsening civilian casualties over time. Not until after the surge, when the level of violence in Iraq began to cool, was serious attention paid to Afghanistan, and civilian casualties were addressed. The eventual outcome: Afghanistan's short-lived version of counterinsurgency and its emphasis on the protection of civilians served as an attempt not only to reverse the previous strategic failure but also to repair the American image and rebuild the legitimacy of the American use of force by regaining what others have called its "moral highground."[64]

The initial invasion in Afghanistan had produced less controversy than that in Iraq since it had enjoyed a wider base of international support.[65] Although in the initial invasion, President Bush had not explicitly promised to minimize harm to civilians that would result from the use of force, he reinforced the identity of the United States as the protector of all—not just American—innocent civilians. Thus, the Afghanistan war had rested largely on the moral consensus garnered from the attacks on 9/11. The Bush administration had highlighted the illegitimacy of the terrorists' use of force as opposed to that employed by the coalition led by the United States and later the International Security Assistance Force and North Atlantic Treaty Organization. The identity dimension is clear in this statement by President Bush: "The oppressed people of Afghanistan will know the generosity of America and our allies. As we strike military targets, we'll also drop food, medicine, and supplies to the starving and suffering men and women and children of Afghanistan."[66]

During the initial stages of Operation Enduring Freedom, a mix of precision weaponry had been employed, and some interviewees characterized the initial air strikes as precise and careful while acknowledging that—as one person who was present in the early days of Afghanistan put it—"it was [sh--] for civilians."[67] The *New York Times* published an investigative report of 11 bombing sites over a period of 6 months and concluded that the focus on overwhelming force and force protection, along with a reluctance to rely on ground troops for better intelligence, meant that "the American air campaign in Afghanistan, based on a high-tech, out-of-harm's-way strategy, has produced a

pattern of mistakes that have killed hundreds of Afghan civilians."[68] The report also documented that denying civilian casualties was often the first public response, even in the face of contrary evidence. Responding to the *Times* article in a Pentagon briefing, Rumsfeld defended the performance of the military regarding civilian deaths, insisting that the campaign represented historical progress in minimizing civilian casualties.[69]

A prevalent idea held that civilian casualties simply needed to be explained in the appropriate context. For instance, one member of the House Armed Services Committee stated, "I think we have to underscore the fact that the terrorists have intentionally targeted civilian targets. They have intentionally done that, whereas we are making every effort not to hit civilian targets. So there is a black-and-white contrast. We feel so strongly on this principle that we are even assuming additional military risks."[70]

The response from the administration echoed (or perhaps helped to construct) prevailing attitudes of some in the military at the time, who believed that because the enemy manipulated and propagandized civilian casualties, it garnered an unfair, even unjust, advantage. Emphasizing—even acknowledging in some cases—casualties was seen as feeding into the enemy's illegitimate and distorted narrative.[71] Nevertheless, the players were embedded in an identity contest, and the administration's response was to place the moral onus on the enemy, claiming that it was responsible for the civilian casualties that did occur and implicating civilians as cooperators or supporters of the regime: "There's no question but that people who were in close proximity to these isolated ammunition dumps, who very likely were there for a good reason, because they were part of that activity, may very well have been casualties. . . . They were not cooking cookies inside those tunnels."[72] Innocent civilians were the victims of the enemy's unethical ways of war: "Rumsfeld said that while the U.S. has been 'very careful' about avoiding civilian casualties when possible, the Taliban is making it increasingly difficult not to hit civilians. 'They are systematically using mosques and schools and hospitals for command-and-control centers [and] for ammunition storage.'"[73]

Even so, the administration recognized the need to sway the populace although early attempts at hearts and minds were crude and took for granted that the claim that killing was "unintentional" (a key concept in the civilian protection that narrows the understanding of the norm and permits the possibility of collateral damage) would absolve the United States from moral culpability in the eyes of multiple audiences, including the local population. Planes dropped leaflets to reassure Afghans that the bombardment was not aimed at them. One leaflet showed a Western soldier in camouflage and helmet shaking hands with a man in traditional Afghan dress in front of a mountain scene. Other attempts used war planes to broadcast news in Afghan dialects.[74]

In response to the feverish crisis brewing in Iraq, however, Afghanistan became a second priority at best. Nevertheless, three things happened in 2006 to put civilian casualties on the radar as a potential political problem: First, public and intellectual debates about the US use of torture reached a zenith. Second, rising civilian casualties accompanied a resurgent Taliban in Afghanistan. Third, interested parties began to debate the question of civilian protection to confront the increased scope and urgency of the terrorist threat. The Bush administration, responding to the normative trap it had created through its use of both the torture and civilian protection norms, called for "new thinking" on international humanitarian law.

Initial resistance to the applicability of the norm eventually gave way to the decision to emphasize civilian protection. Once the administration was ready to acknowledge strategic failure in Afghanistan, it was faced with two choices. John Nagl—a key figure in the writing of FM 3-24 / MCWP 3-33.5, *Counterinsurgency*, and along with Gen David Petraeus, one of its most visible public champions—explained that "you can either conduct the Roman method, where you kill everybody, sow the fields with salt and prevent anybody from living there again. That defeats the insurgency, but it's illegal and immoral and absolutely not a solution we can think about."[75] Rather, he declared that population protection "is the only way to succeed in the modern era, in a CNN era."[76]

That decision makers felt that the military could no longer revert to puni-tive population-centered strategies—considered permissible not so long ago—testifies to the strength of the civilian protection norm. Following the 2006 implementation of FM 3-24 / MCWP 3-33.5 in Iraq, the United States ad-opted restrictive population protection measures in Afghanistan and by 2010 had begun implementing the new counterinsurgency strategy. Among other things, it called for "liv[ing] our values" because "this is what distinguishes us from our enemies." Instead, Soldiers were instructed to "turn our enemies' . . . indiscriminate violence against them. Hang their barbaric actions like mill-stones around their necks."[77] Of course, this directive limited the military's options and overall made its tasks more arduous. Yet, the broader and more powerful civilian protection norm (buttressed by the powerful antiterrorism norm) made it difficult for the United States to do anything other than yield to the enormous normative pressures.

Conclusions

The table below summarizes the preceding narrative. It shows that mul-tiple factors have altered the normative pressures to take actions for reducing civilian casualties and combating terrorism. Such changes in pressures some-times took place slowly, with incremental increases in the strength of norms, as was the case toward the end of the nineteenth century and beginning of the twentieth century (when wars resulted in increasingly large numbers of casual-ties) or at the end of the Cold War (as democratic norms spread across states, empowering the civilian protection norm). Yet, the increases in normative pressures more often took place quickly because of rapid changes in percep-tions that the status quo was departing substantially from norm prescriptions. Such was the case, for example, after World War II, when the staggering num-ber of civilian casualties in bombings and in the Holocaust led to international indignation. It also happened after the 9/11 terrorist attacks.

Table. Evolution of civilian protection and antiterrorism norms

Period	Norm	Factors trig-gering change	Change in norma-tive pressure (NP)	Reaction to change in NP	Result of actors' ac-tions to change NP	Interac-tion be-tween norms
Before WWII	Civilian Protec-tion (CP)	Era of "great wars" (number of civilians killed increases)	*Increase* due both to norm empowerment and to deviation from norm prescription	*Narrow*: does not apply to resistant, occupied populations; also applicable only to "civilized" states	Lieber Code (1863); Hague Conventions (1899–1907)	Very weak
	Antiter-rorism (AT)	Widespread assassinations and antistate bombings	*Slight increase* due to norm empowerment and deviation from norm prescription	*Narrow* only to non-state actors' violent actions against gov-ernments	Failed attempt for treaty in League of Nations (mid-1930s)	Very weak
After-math of WWII	CP	New technolo-gies had allowed targeting behind enemy lines; greater civilian contribution to war effort; Holo-caust	Urgency of war efforts led to reduced sa-lience of norm (and reduced NP); after war, strong deviation from norm prescrip-tion leads to *increase in NP*	*Yielding* to powerful pressures (especially as civilian protection "piggybacks" on pow-erful human rights norms)	Geneva Con-ventions (1949)	Weak
	AT	Nonstate actors' actions paled in comparison to state actions during WWII	*Lower NP* as state (rather than nonstate) actions more relevant immediately after war	Small states *narrow* norm to refer only to actions against civil-ians; powerful states *broaden* norm to also emphasize nonstate actors' actions against government actors	No agreement	Weak
Cold War	CP	Wars of decolo-nization; mass communication technologies spread images (e.g., Vietnam)	*Increased NP* is due to stronger norm (due, in turn, to public see-ing images of civilian casualties)	Norm *broadened* by decolonization to refer to wars with "liberation movements" and guer-rilla fighters, not just with other states; norm *narrowed* by Western states to apply only to "civi-lized" actors; norm *narrowed* by Western states to not refer to those who fight with-out distinguishing themselves by using uniforms	Additional protocols of Geneva Con-ventions (1977)	Moderate
	AT	Mass communi-cation technolo-gies spread images (e.g., Munich Olym-pics)	*Increased NP* due to increased visibility of terrorist actions and realization that status quo is departing from norm prescription	Powerful states *broadened* norm to refer not just to non-state actor violence but also state support for them; powerful states also *narrow* norm to apply primar-ily to "noncivilized" state actors	No global agreement; G7 agreement focused on hostage taking and hijacking	Moderate

Table *(continued)*

|						
1990s	CP	Spread of democracy/stronger human rights norms; number of casualties in civil wars (e.g., Rwanda, Yugoslavia)	*Increase in NP* due to stronger norm (empowered by democratic norms) and greater perceived deviation from norm prescription	*Broadening* of norm by all by emphasizing not only obligations to not kill civilians but also obligations to protect them	R2P first mentioned in 2000	Strong
	AT	End of Cold War leads to agreement between states on multiple issues, including terrorism	*Increase in NP* due to more powerful (more broadly accepted) norm	More states *yield* to pressure (acceptance of AT regime by more countries)	New international conventions on finance, plastic explosives, and terrorist bombings	Strong
2001–4	CP	9/11 attacks on United States	CP norm is strengthened by increasingly powerful AT norm; leads to *stronger NP*	Norm is *broadened* to refer to actions against civilians by nonstate actors (not just states); norm is *broadened* to refer to actions taken by states against their own people (e.g., Iraq)	Weak international support for US war in Iraq	Very strong
	AT	9/11 attacks on United States	*Increase of NP* first due to visibility of deviation from norm prescriptions (after 9/11) and then from empowerment of norm itself	*Broadening* of norm to refer to actions both against civilians (New York) and government (Washington)	Strong international support for US actions in Afghanistan	Very strong
2005–present	CP	High number of civilian casualties in Iraq and Afghanistan wars; visibility of events surrounding Abu Ghraib and Fallujah	*Increase of NP* as US actions were perceived to deviate substantially from norm prescriptions	United States *narrowed* norm to show CP does not apply to terrorists or those aiding terrorists; *narrowed* norm to show killing was "unintentional"; *yielded* to NP seeking to minimize civilian casualties in Iraq and Afghanistan	US adoption of revised counterinsurgency doctrine (FM 3-24 / MCWP 3-33.5, *Counterinsurgency*, 2006)	Very strong
	AT	Attacks in other parts of the world (e.g., United Kingdom, Spain).	*NP remains strong*	More states have *yielded* to normative pressures and have supported international antiterrorism initiatives	Strong AT regime	Very strong

As the normative pressure to "do something" to protect civilians and stop terrorism increased, states sometimes yielded to such pressures and reached agreements codifying the norms—as happened, for example, immediately after World War II through the Geneva Conventions. States also sought to empower international antiterrorist legal instruments in the immediate post–Cold War era through conventions on finance, plastic explosives, and terrorist

bombings.[78] Last, the US adoption of FM 3-24 / MCWP 3-33.5, *Counterinsurgency*, after embarrassing events in the war in Iraq can be understood as an example of yielding to increasingly strong civilian protection norms.

Yet, in many cases, states and groups of states reacted to the additional normative pressure by either narrowing or broadening the norms to their advantage. When narrowing such norms, they accepted only the understanding of norms and the prescriptions that benefited them. By broadening the norms, they introduced more prescriptions that they felt were advantageous to them.

The main argument of this study is that, in some cases, the broadening of one of the two norms led to the empowerment of the second norm. That is, the norm of civilian protection and the antiterrorism norm, although sufficiently different from each other, have a common core: they both prescribe that nongovernmental actors should not use violence against civilians. Further, to this prescription the antiterror norm prescribes that nongovernmental actors should not use violence against state actors. Similarly, in addition to the common prescription of both norms, the civilian protection norm also prescribes that governments should not use violence against civilians (whether in other states or in one one's own state).

Figure 2, illustrating the relationship between the two norms, is a specific case of figure 1. It explains the possible relations between the norms of civilian protection and antiterrorism. By suggesting that these norms have both common and differing prescriptions, the figure also shows the types of narrowing and broadening strategies (and offers some examples) that actors have used throughout history.
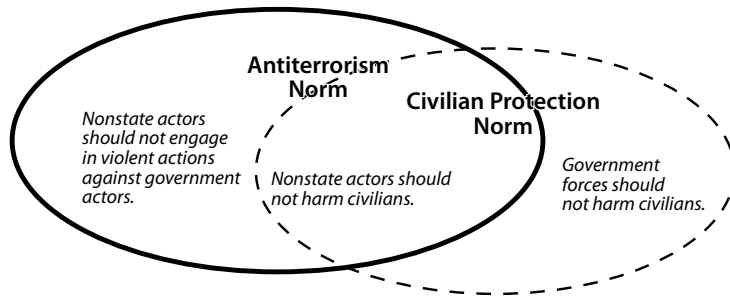
1. Civilian Protection (CP) has been narrowed to refer only (or primarily) to actions taken by state actors (e.g., position of most states before decolonization era): prescriptions deriving only from right side of CP norm in figure 2.

2. CP has been narrowed to refer only (or primarily) to actions taken by nonstate actors (e.g., US initial position in Iraq and Afghanistan): prescriptions deriving only from left side of CP norm in figure 2.

3. CP has been narrowed to apply only (or primarily) to "nonbarbarians" (e.g., most Western states before World War I and during the Cold War): prescriptions deriving only from part of left side of CP norm in figure 2.

4. CP has been narrowed to apply only (or primarily) when one can distinguish between fighters and civilians (e.g., US position during the Cold War): prescriptions deriving from part of the left side of CP norm in figure 2.

5. CP has been broadened to refer to actions of both state and nonstate actors (e.g., current position of most countries): prescriptions deriving from both sides of CP norm in figure 2.

1. Antiterrorism (AT) has been narrowed to refer only (or primarily) to violence used by nongovernmental groups against civilians (e.g., most states after World War II): prescriptions deriving only from right side of AT norm in figure 2.

2. AT has been narrowed to refer only (or primarily) to violence used by nongovernmental groups against state actors (most powerful states before World War II): prescriptions deriving only from left side of AT norm in figure 2.

3. AT has been narrowed to refer only to cases where nonstate actors are not "freedom fighters" (position of many developing countries during decolonization era): prescriptions deriving from part of left side of AT norm in figure 2.

4. AT has been broadened to refer to violence of nongovernmental groups targeting both civilians and state actors (e.g., US position after 9/11): prescriptions deriving from both sides of AT norm in figure 2.

Figure 2. Overlap between the civilian protection and antiterrorism norms and their prescriptions

Figure 2 also suggests that—whether adopting strategies of yielding, narrowing, or broadening as a reaction to normative pressures deriving from one norm—actors, in turn, altered (at least partially) the strength of the other norm. Indeed, the table above shows that, in time, the two norms have interacted with each other more frequently. Most recently, the purposeful broadening of the antiterrorism norm to serve US interests led to an inadvertent empowerment of the civilian protection norm, which, in turn, has constrained America's possible actions and reactions in the GWOT.

What generalizations can we draw from this particular case of norm interaction? First, as expected, this study shows that normative pressures indeed are likely to lead to important changes in the dynamics surrounding norms and in the politics behind their codification in international agreements. Yet, even when under normative pressures, actors rarely accept norms and their prescriptions in the exact way they were originally promoted by norm entrepreneurs. They seek to shape the norm to reflect fewer or more prescriptions, based on their interests. As expected, the interests of great powers are more likely to shape international agreements.

Moreover, most norms do not exist in a vacuum. They can be seen either as broad norms that subsume other narrower ones or as narrow norms that are part of broader ones. In fact, more often, norms have *some* overlap with each other since they prescribe similar or even identical actions (as figures 1 and 2 suggest). Therefore, when applying strategies of broadening, actors may—willfully or not—empower other norms in addition to the one already being promoted. One can see such developments with regard to other recent normative evolutions, besides the ones connecting the civilian protection and antiterrorism norms discussed here. We should expect, for example, that the spread of minority rights norms, whether based on ethnicity, religion, gender, or sexual orientation, has influenced each other's strength—especially over the past few decades as the notion of "group rights" has developed. Similarly, it would be interesting to determine the degree to which the norms underlying the prohibition of using chemical weapons, biological weapons, or land mines has affected each other in the post–Cold War era.

In all of these cases of interactions, norms are likely to influence each other's strength and perceived departure from prescriptions. Such inadvertent empowerment (or erosion) of other norms may have unexpected outcomes that can sometimes lead even powerful states to be caught in "normative traps." The literature has discussed the existence of such traps before, but we suggest that the mechanisms of broadening and even narrowing that we emphasize here merit greater attention because they can offer a wider framework for understanding such developments.[79]

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