



Accademia di studi storici Aldo Moro

CONVEGNO INTERNAZIONALE

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The Invisible Constitution of Politics

Contested Norms and International Encounters

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The Governance of Societies in the 21st Century
Thinking Back to Aldo Moro
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Introduction

Research Question

- **How is it possible,**
 - **that**
 - **notwithstanding repeated *international* encounters, norms remain contested;**
 - **that**
 - **shared recognition is not the rule as social constructivists would have predicted?**

Visibility-Legitimacy Correlation

Table 1: Three Dimensions of Norm Implementation

Dimensions	Formal Validity	Social Recognition	Cultural Validation	Assumptions/Logics
visible ▲ ▼ invisible				
Democratic Legitimacy				less ◀

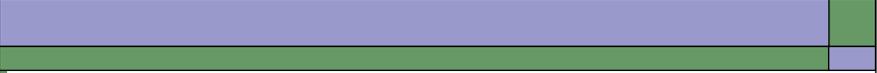
Source: see Wiener 2008, Ch 9, Table 9.2



Argument: Constitution of Politics

- 
- **Organisational practices**
 - Regulate politics in treaties
 - agreements, constitutions

 - **Cultural practices**
 - are constitutive for politics,
 - need to be understood and accounted for.



A Contextualised Approach



Constitutionalism

- **Types:** ancient, modern, contemporary
- **Sets of Practices:** organisational and cultural

Types of Constitutionalism

Table 2.1 *Types of constitutionalism*

Modern	Contemporary
<i>Civilised nations</i>	<i>Beyond the state</i>
Examples: UN, Article 38(1) ICJ EU, Article 17 TEC*	Examples: UN, EU, WTO
<i>Nation-state</i>	<i>One-state (many nations)</i>
Example: Westphalian Peace	Examples: Canada, USA, Mexico

*Treaty Establishing the European Community.

Norms in International Relations

- **Types of Norms**
 - Fundamental norms
 - organising principles
 - standardised procedures
- **Conditions for Contestation**
 - Contingency
 - Out-of-context implementation
 - Crisis
- **Dimensions of Interpretation**
 - Formal validity
 - Social recognition
 - Cultural validation

Types of Norms

[Wiener 2008, 100]

Type of Norms	Substance	Generalisation / Specification	Contestation
Fundamental Norms	<i>Sovereignty</i> <i>Citizenship</i> <i>Democracy</i> <i>Human Rights</i> <i>The Rule of Law</i> <i>Fundamental Freedoms</i> <i>Non-intervention</i>	High / Low	High
Organising Principles	<i>Proportionality</i> <i>Accountability</i> <i>Responsibility</i> <i>Transparency</i> <i>Gender- Mainstreaming</i> <i>International Election Monitoring</i>	Medium	Medium
Standardised Procedures	<i>Electoral Rules</i> <i>Etc.</i>	Low / High	Low

The Logic of Appropriateness

Table 3.1 *The logic of appropriateness*

Basic assumption	Norms are considered as stable and studied as social facts.
Observation	Formal validity is unproblematic; social recognition, once established, is taken as equally stable.
Proposition	The social recognition of norms structures behaviour; actors follow the <i>logic of appropriateness</i> .

- Norms are recognised as appropriate within specific and limited social environments.

The Logic of Arguing

Table 3.2 *The logic of arguing*

Basic assumption	Norms are stable; yet types of norms are contested.
Observation	Internationally the social recognition of norms is established through arguing. Once established, it is stable and structures behaviour. Norm-setting follows the logic of arguing; norm-following occurs according to the logic of appropriateness.
Proposition	The hierarchy of norm types is contested; it therefore requires assessment based on the <i>principle of communicative action</i> .

- Appropriate norms are established through deliberation in international negotiation settings.

The Principle of Contestedness

Table 3.3 *The principle of contestedness*

Basic assumption	The dual quality of norms implies that they are both stable and flexible.
Observation	While norm validity is in principle contested, norm recognition does structure behaviour. In turn, as a social practice, behaviour has an effect on type and meaning of a norm.
Proposition	The role of norms in politics is based on the <i>principle of contestedness</i> .

- The legitimacy of norms depends on contestation.

Case Study

- **Method**
 - Elite interviews in three arenas
 - Reconstructing meaning-in-use
- **Evaluation**
 - Interpretation in political arenas?
 - Legitimacy in international relations?

Four Political Arenas: London, Berlin, Brussels

Meaning-in-use: Londoners

Table 8.1 *Meaning-in-use: London*

Norm	Core opposition	Derived opposition 1	Derived opposition 2	Derived opposition 3
Citizenship	<i>Inside</i>	Travel	Civil rights	
Democracy and the rule of law	<i>Society</i>	Fairness	Value-export	Stability
Human rights and fundamental freedoms	<i>Contract</i>	Single framework	Citizen participation	Accountability
Attitude question	Accountability			

Source: Tables 6.3, 6.5, 7.3, 7.5, 7.7.

Meaning-in-use: Berliners

Table 8.2 *Meaning-in-use: Berlin*

Norm	Core opposition	Derived opposition 1	Derived opposition 2	Derived opposition 3
Citizenship	<i>Outside</i>	Security	External borders	
Democracy and the rule of law	<i>Community</i>	Compliance	Participation (of candidates)	Finality
Human rights and fundamental freedoms	<i>Covenant</i>	Finality	Identity	
Attitude question	Responsibility			

Source: Tables 6.3, 6.5, 7.3, 7.5, 7.7.

Meaning-in-use: British Brusselites

Table 8.4 *Meaning-in-use: British Brusselites*

Norm	Core opposition	Derived opposition 1	Derived opposition 2	Derived opposition 3
Citizenship	<i>Outside and inside</i>	Security, travel, border control, obsolete, community formation	External borders, civil rights, border control, obsolete, community formation, fortress, Europe, cooperation	
Democracy and the rule of law	<i>Society and community</i>	Compliance, fairness, finality	Inclusion, value-export	Finality ^a
Human rights and fundamental freedoms	<i>Contract and covenant</i>	Finality, single framework	Participation	
Attitude question	Accountability			

^aFor a single deviation from the general pattern, compare Table 6.9

Meaning-in-use: German Brusselites

Table 8.3 *Meaning-in-use: German Brusselites*

Norm	Core opposition	Derived opposition 1	Derived opposition 2	Derived opposition 3
Citizenship	<i>Outside and inside</i>	Security, travel, community formation, cooperation	External borders, civil rights, border control obsolete, cooperation	
Democracy and the rule of law	<i>Society and community</i>	Compliance, fairness	Inclusion	Finality, stability
Human rights and fundamental freedoms	<i>Contract and covenant</i>	Finality, single framework	Participation	
Attitude question	Accountability and responsibility			

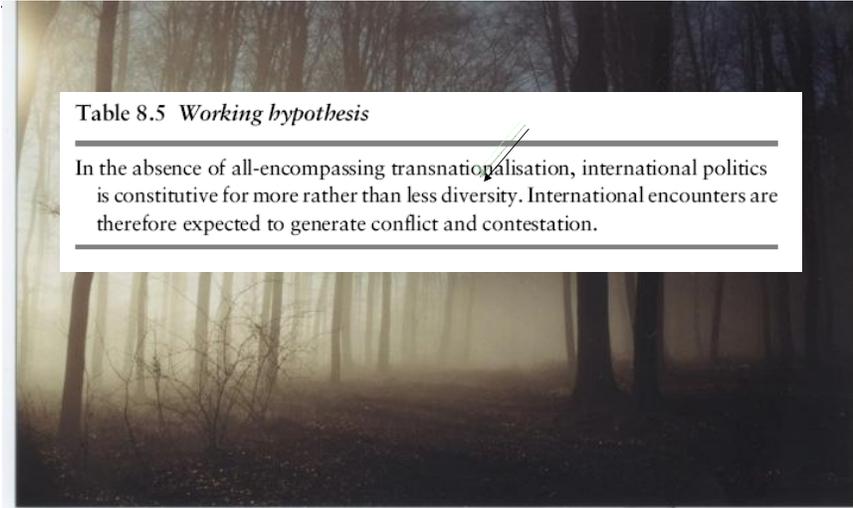
Source: Tables 6.3, 6.5, 7.3, 7.5, 7.7.

Conclusions

Working Hypothesis

Table 8.5 *Working hypothesis*

In the absence of all-encompassing transnationalisation, international politics is constitutive for more rather than less diversity. International encounters are therefore expected to generate conflict and contestation.



Visibility-Legitimacy Correlation (1)

Table 1: Three Dimensions of Norm Implementation

Dimensions	Formal Validity	Social Recognition	Cultural Validation	Assumptions/Logics
visible ▲ ▼ invisible	UN Charter EU Treaties Conventions Agreements			Community Assumption Logic of Consequence
Democratic Legitimacy	less ◀		▶ more	

Source: see Wiener 2008, Ch 9, Table 9.2

Visibility-Legitimacy Correlation (2)

Table 1: Three Dimensions of Norm Implementation

Dimensions	Formal Validity	Social Recognition	Cultural Validation	Assumptions/ Logics
visible ▲ ▼	UN Charta EU Treaties Conventions Agreements			Community Assumption Logic of Consequence
invisible		Learning Socialisation Community based behaviour		Identity Assumption Logic of Appropriateness
Democratic Legitimacy	less ◀		▶ more	

Source: see Wiener 2008, Ch 9, Table 9.2

Visibility-Legitimacy Correlation (3)

Table 1: Three Dimensions of Norm Implementation

Dimensions	Formal Validity	Social Recognition	Cultural Validation	Assumptions/ Logics
visible ▲ ▼	UN Charta EU Treaties Conventions Agreements			Community Assumption Logic of Consequence
invisible		Learning Socialisation Community based behaviour		Identity Assumption Logic of Appropriateness
			Individual Expectations Experience Background knowledge ¹	Diversity Assumption Logic of Contestation
Democratic Legitimacy	less ◀		▶ more	

Source: see Wiener 2008, Ch 9, Table 9.2

Diversity

- **In the absence of**
 - a constitutionally
 - (no shared formal validity)
 - and socially
 - (no social recognition)
 - limited modern context of governance
- the conditions for normative legitimacy need to be defined.

Global Constitutionalism

- **Democratic constitutionalism**
 - “as an activity
 - rather than
 - an end-state”
 - (Tully 2002, 209)