

# Chapter 7

## Conclusion: Why a New Theory of Contestation?

**Abstract** This chapter summarises the book's objective to develop the theory of contestation by highlighting the interrelation between contestation as a norm-generative practice and contestedness as a meta-organising principle of global governance. It highlights the central claim that by understanding contestation as a critical discursive practice that is constitutive for normative change, a constructive contribution is made to the legitimacy 'deficit' debate. That is, it facilitates ways to allocate and establish regular contestation in selected sectors of governance, based on this innovative approach to theorising legitimate and just governance in the global realm under conditions of ongoing globalisation and inter-nationality.

**Keywords** Contestation · Contestedness · Legitimacy deficit · Legitimacy gap · Inter-nationality · Meta-organising principle

This book developed the theory of contestation in order to generate an enhanced conceptual understanding of the legitimacy gap in global governance, and, relatedly, identify potential ways of addressing the gap in practice. The theory entails four main features. They include (1) a typology of norms, (2) distinct modes of contestation, (3) stages of norm implementation and (4) segments on the cycle of norm validation. It was motivated by two observations: First, references to 'contestation' have become abundant in work on international relations throughout the social sciences, philosophy and law, yet the meaning of the concept appears to become less specific the more it was used. Second, the issue of contested legitimacy despite widely shared formal validity of fundamental norms as well as the accompanying rules of procedure and regulations on the ground, has become a pressing problem, especially, when cross-border issues of global governance in the global realm are at stake. However, it is these cross-border issues such as security governance, climate governance, oceans governance, water governance among others that form a central aspect of today's international relations. And while the global commons has been regulated with reference to human kind as its constituent

power, the absence of interactive ways of handling the norms that preserve that heritage has meant that it is now increasingly under duress. The theory of contestation is presented as an interactive inter-national way of addressing that problem of global governance.

To that end, the *theory of contestation* suggests working with the concept of legitimacy ‘gap’ as opposed to the legitimacy ‘deficit’ which has been more commonly used in global governance theories. This distinction has been made in order to unbind the concept of legitimacy from the inevitable reference to state-bound concepts of legitimacy such as, for example, principal-agent theory, or theories of global justice (compare for many Rawls 2002; Pogge 2009). To develop the theory of contestation as a bifocal approach I have derived thinking tools from public philosophy that reflects normative claims and understands contestation as a norm-generative practice, derive from public philosophy thinking tools. Based on these, a series of critical investigations into international relations theories have been conducted in order to address the legitimacy gap.

Conceptually speaking, this gap was localised on the intermediary level in between widely shared fundamental norms with broad moral and ethical reach on the one hand, and often highly contested standardised procedures with clear instruction for compliance, on the other. The need for a ‘theory’ that takes up the concept of contestation emerged from the increasingly wide application of the concept, which was paralleled by a growing lack of specification of the concept’s substance; hence the concern that it’s cutting edge might get lost as a result. To revive that erstwhile critical potential and make it available to systematic critical and empirical research in international relations the *theory of contestation* undertook three related methodological steps: *Step one* identified three ‘thinking tools’ that were derived from public philosophy so as to substantiate the core elements of a theory of contestation from the larger context of normative theories (compare [Chaps. 2–4](#)). *Step two* used these thinking tools to undertake critical investigations into International Relations theories in order to identify research assumptions as to the application of ‘contestation’ research in international relations (compare [Chap. 5](#)). And *step three* explored how these research assumptions could be best applied with a view to mapping global governance sectors in order to derive organising principles (i.e. *type 2* norms) at the intermediary level. By doing so it was intended to fill the gap between widely accepted fundamental norms (*type 1*) at the meta-level, on the one hand, and highly contested micro-norms (*type 3*) at the micro-level, on the other (compare [Chap. 6](#)).

This final chapter summarises the value-added of the theory of contestation. The thinking tools have been applied to conduct critical investigations into international relations theories, and especially, the relevant contributions to norm research as offered by conventional and critical constructivism, regime theories and global governance. The resulting theory of contestation reflects the leading principles of public philosophy insofar as it critically applies basic normative philosophical concepts in practice. Based on this interdisciplinary background and the bifocal approach it becomes possible to study international relations as a field

where inter-national relations are understood as inter-cultural relations. Thus it sets new standards of legitimate and fair governance in the global realm under conditions of globalisation and pluralism. From that background, the theory of contestation was presented as a bottom-up alternative to norm research that places norms within a community ontology. Accordingly, it was argued that while the concept of community has been studied widely, having become under-estimated by those who stick to the structuring power of anarchy on the one hand, and over-estimated by those who emphasise the structuring power of communities of practice, on the other the norm-generative quality of inter-national relations remained underexplored. To uncover this norm-generative quality the *theory of contestation* is intended as the first port of call, for scholars interested in applying insights from public philosophy in real world international relations. It therefore has been dubbed something akin to a manual on ‘contestation.’ In concluding, the book’s main points are summarised below. To that end, the following first turns to the selection of thinking tools and the respective research assumptions, and then focuses on organising principles as ground rules of global governance, which are to be derived through access to regular contestation by the involved stakeholders.

## 7.1 Thinking Tools and Research Assumptions

The book introduced three thinking tools from public philosophy, namely the normativity premise, the diversity premise and the concept of cultural cosmopolitanism. The theory of contestation centres on the interplay between the contestation (as a discursive practice) and contestedness (as the normative ‘ground rule’ for just and legitimate governance) in the global realm. Both were derived from applying these thinking tools towards a critical investigation into International Relations theories. Subsequently, it was first argued that the legitimacy deficit in global governance should be conceptualised as a legitimacy gap. This was demonstrated by identifying the legitimacy gap as the space where norms are most likely to be contested in the process of norm implementation. Building on this insight it was, secondly, argued that allocating the gap makes it possible to address the stage of norm compliance where normativity is most likely to be contested, i.e. at the intermediary level where norm clashes become predictable. For it is here where not only normative acceptance and personal interests often clash on a vertical axis, but where also inter-national diversity is most likely to play out on a horizontal axis. Accordingly, it is here, where the legitimacy needs to be constituted through stakeholder interaction. It was suggested that at that stage norms should therefore be regularly negotiated by involved stakeholders. Thus conflictive political contestation could be pre-empted by access to regular contestation by all involved stakeholders. The latter stand to be established as an institutionalised or, under specific circumstances such as, for example, the European Union, also based on quasi-constitutionalised procedures.

Over the past six chapters, the book engaged in critical investigations into International Relations. In doing so, it followed the tradition of placing International Relations theories within the broader context of the Social Sciences and Public Philosophy. Picking up the long-standing question which triggered the norm research programme and kept it alive for three decades, of how norms ‘work’ (Kratochwil 1984), it was argued that in order to answer that question, International Relations theories required a more refined understanding of cultural practices as norm-generative. And, by drawing on public philosophy, it was held that norms research in International Relations theories stands to benefit from extending their understanding of political cosmopolitanism towards one of ‘cultural cosmopolitanism.’

## 7.2 Organising Principles and Regular Contestation

To demonstrate how the theoretical argument might be used in subsequent empirical research it was illustrated with reference to selected sectors of governance, that the intermediary level between fundamental norms (i.e. *type 1* norms) and standardised procedures (i.e. *type 3* norms) left a legitimacy gap as the terrain where the institutionalisation of access to regular contestation would offer a viable alternative towards establishing just and legitimate governance in the global realm while preserving a pluralist setting of global politics. By focusing on the constitutive power of practices as norm-generative, and by taking into account the premises of normativity and diversity, *the theory of contestation* offers a contribution to International Relations theories insofar as it addressed the legitimacy gap in order to fill it (as opposed to bridging it!). As such, the theory of contestation offers an important conceptual tool to grasp conflict situations that are likely to occur in the fields of international organisations, regime theory and transnational law. In addition, the bifocal perspective on the legitimacy gap allows for the conceptualisation of regular contestation as a practice that is constitutive for just and legitimate governance based on the principle of contestedness. To that end, it provided an explorative application of the theory with regard to identifying organising principles in three sectors of governance by deriving them reconstructively. Based on the explorative cases of climate governance, security governance and fisheries governance, it derived the organising principles of common but differentiated responsibility, the responsibility to protect, equity, and the precautionary principles, respectively, as principles that have been developed through ongoing contestations at the intermediary level. Thus, it was argued, the legitimacy gap between the fundamental norms, which had been established at the constituting stage, on the one hand, and the standardised procedures and regulations, which had been highly contested at the implementing stage on the other,

were negotiated in a series of contestations at the referring stage. The resulting claim of the theory of contestation is to reflexively approach these insights with reference to the meta-organising principle of contestedness and to allocate institutionally warranted access to contestation.

### 7.3 Conclusion

Generally, and with regard to further international relations theories, the *theory of contestation* carries a turn towards normative theorising in international relations. For it raises a question about who has access to contestation under specific conditions. Given that contestation is not merely a habitual reaction to norms and rules, which are taken for granted but stems from critical reflection *about* norms, the concept is more encompassing than the concepts of bargaining and arguing, which it has effectively come to replace. It involves identifying normative principles and in order to identify these, a question about the social group that establishes the rules of access to critical dialogue about the rules that govern the group needs to be raised. While contestation is the task of the involved lawyers in a legal case, access to contestation is not given, but must be established by 'the rules of the game' in social or political environments with reference to certain regulations or principles. As an interactive process, contestation is conducive towards establishing the terms of legitimacy in the interaction between norm-setters and designated norm-followers. Therefore as a critical practice in international relations contestation means questioning the very principles of governance. As such, the concept is promising with a view to counter legitimacy problems of governance in the global realm. To tease out this potential, this book proceeded with critical investigations into international relations in order to scrutinise the use of the concept of contestation in International Relations theories. The research was motivated by the observation of the declining conceptual 'teeth' of contestation. To counter that development it worked with the reminder from democratic theory that as long access to contestation is not warranted everyone affected by a norm, the legitimacy problem persists. The theory of contestation responds to this problem by mapping the complex field of contestation in inter-national relations, and by arguing that the practice of contestation itself has the capacity to establish warranted access to regular contestation.