# INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

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In those situations where violations further a state's position, escalation is probable. Likewise, when a relative loss or disadvantage will result from escalation, adherence is more likely.[32]

My microassessment focuses on the \*\*\* British submarine warfare case. [For space reasons a section of German submarine warfare is omitted.] Given space limitations, this case offers maximum analytical leverage. \*\*\* The norm was most robust in submarine warfare, so that norm effects should be most significant in that area. Moreover, the British case at least seems to offer a priori support for the influence of norms: British preferences matched the predictions of the norm hypothesis. A careful study of the decision-making process reveals, however, that this relationship is problematic and that organizational culture was the more influential cause.

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### British Submarine Warfare

Britain preferred restraint in this case, an outcome that the norms, organizational culture, and strategic advantage propositions predict. Examining the decision-making process in this case helps to sort out the relative influence of the three because it increases the number of observations that are theoretically relevant and permits differentiation of causal mechanisms.[33] British calculations on the submarine rules occurred in two key stages: before and after German escalation.

British preferences and actions before the German escalation can be attributed to several causes. The robustness of the submarine norm and Britain's particularly energetic role in promoting it during the interwar period indicate a strong preference for restraint. Strategic realism also predicts restraint because Britain was dependent on trade and defended by a large surface fleet; hence submarine use could only be harmful. From an organizational culture vantage point, the expected effects were the same: the navy orthodoxy saw very limited possibilities for employing the submarine, thus favoring norm adherence.

A second stage, one that allows us to sort out the three propositions, came after Germany had violated the submarine rules in October 1939, when Britain continued to adhere to restraint. A strategic view would expect escalation at this point. Britain no longer had any reason to prefer adherence to the norm because it no longer had to fear that its own

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[32] For a more developed discussion and assessment of this proposition, see Legro 1995.
[33] George and McKeown 1985, 36.

use would induce the more costly German retaliation: Germany already had transgressed the rules. More important, submarines could play an immediate strategic role. Germany was using merchant ships to import iron ore – a critical material for Nazi war industries – from both Sweden and, in the winter, Norway.[34] In October, some proposed that British submarines should be used to intercept this trade. Because of icebound Baltic ports in the winter, the iron ore was sent to Narvik and shipped through Norwegian coastal waters and across the Skagerrak and Kattegat, areas where unrestricted submarine warfare would be effective but where British surface ships were either vulnerable or would violate Norwegian waters.

A norm perspective predicts expectations, thinking, desires, and actions that reflect the prescriptions of the submarine rules or concerns about the effects of transgressing them. According to this perspective, after Germany had escalated, Britain should have done the same, since the norm was one of quid pro quo restraint. If only to reinforce the norm, Britain should have turned toward escalation, yet it did not.

Some evidence suggests norms were influential in Britain's decision-making process, although again, they were not decisive. Specifically, a view that recognizes both the impact of normative prohibitions and strategic concerns captures at least one part of the process. In the early fall of 1939, it became increasingly clear that Germany was violating the rules of submarine warfare. The British Foreign Office noted that, as of 5 October, nine of thirty-one reported incidents related to the submarine rules were violations, amounting to a "formidable list of illegalities." By the end of October, the navy had concluded Germany was making illegal attacks.[35] As Britain considered how to respond, several ideas were forwarded, ranging from a looser interpretation of the London protocol to permitting unrestricted warfare in the Baltic.[36] These proposals, however, were rejected. Not only was the idea of unrestricted warfare turned down but the Lords of the Admiralty would not approve

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[34] See U.K. PRO, ADM 199/892, Memorandum from First Lord, 19 September 1939; and Roskill 1968, 156.

[35] See U.K. PRO, ADM 1/10584, Memorandum from William Malkin, Foreign Office, 24 October 1939 and ADM 199/892, Minute by the Head of the Military Branch, October 1939.

[36] See the following U.K. PRO documents: ADM 199/878, 008070/39, Minute by Deputy Chief of the Naval Staff, 25 October 1939; ADM 199/892, Minute by Head of Military Branch, October 1939; and ADM 199/892, Minute by Director of Plans, 3 November 1939.

even loosening Britain's strict interpretation of the protocol's search and seizure rules. Britain was concerned that the goodwill it was attempting to build among neutral countries would be dissipated should submarines be employed. The Lords sensibly feared that some accident would result that would alienate important countries such as Norway and Sweden.[37] Britain wanted to avoid antagonizing neutral countries especially with regard to one issue, the control of German exports. Britain had already instituted a "contraband" system to limit Third Reich imports and now wanted to do the same to Germany's outgoing trade. To accomplish this, however, Britain would need the support of the neutral countries and therefore had to keep their interests in mind. The British plan was to forgo tit-for-tat replies to Germany's breaches of the London Protocol and instead allow the illegalities to accumulate; it would then respond by controlling German exports.[38]

While these incidents indicate the influence of both the prohibitions and the strategic concerns, events that followed cast doubt on whether they were at the heart of British restraint. In December 1939, Britain did implement export controls but in response to Germany's "illegal" mining activity, not its submarine violations. Furthermore, while Britain put plans (Operation Wilfred) into motion in early April 1940 that violated Norwegian waters with underwater mines, it maintained its restraints on submarines.[39] Thus even though Germany conducted unrestricted warfare and neutral country reaction became less of a concern, Britain did not turn to escalation. Although the rules allowed Britain to escalate under the circumstances, restraint obtained for five months beyond German escalation while iron ore shipments continued and even during the first days of the Nazi invasion of Norway in April 1940. Why?

Organizational culture offers an answer to this curious restraint. The British navy was dominated by a battleship creed that considered the big surface ship as the pivotal element in the large clashes of fleets that were expected to decide the war at sea. Navy leadership saw the submarine as a strictly ancillary tool. It gave little attention to and sometimes even disparaged commerce warfare, especially the unrestricted type. Despite the devastating success of German submarines in World War I, the Royal

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[37] See U.K. PRO, ADM 199/892, Minute by Head of Military Branch, and ADM 199/892, Minute by Director of Plans, the latter of which was approved by the First Lord, First Sea Lord, Deputy Chief of the Naval Staff.

[38] See U.K. PRO, ADM 199/878, Minute by Deputy Chief of the Naval Staff, and ADM 199/892, Minute by Head of Military Branch.

[39] Roskill 1954, 102 and 156–58.

Navy's postwar assessment committee reaffirmed that the "battleship retains her old predominant position."[40] As one captain noted in his diary, the committee "had merely made statements, assertions: had not examined the war to find out what the influence of the big ship was, or whether she was still in the position she used to be {in}. The thing i.e. the future of the battleship must be approached in a far more scientific manner."[41] The navy's exercises in the interwar years, which were meant to be objective measures of competence, gave submarines little chance to prove their worth. Since the dominant creed assumed that submarines were relatively ineffective, the navy structured its exercises accordingly and rejected results that suggested otherwise. At the end of a 1939 exercise, a submarine officer accurately reported to a hall of one thousand sailors that torpedoes had hit 22 percent of their targets. Instead of the normal questions, Admiral Forbes, the commander of the Home Fleet, stood up, declared that the officer was clearly wrong and that 3 percent was the correct figure, and the session ended.[42] The navy's battleship cult also affected its evaluation of the threat of enemy submarines. Ignoring readily available evidence, many believed that the danger from German U-boats had been mastered: Britain did not conduct a single exercise in protection of a slow convoy against the submarine between 1919 and 1939.[43]

In short, it was the battleship orthodoxy that drove decisions on whether to violate the norm on submarine warfare. The deputy chief of the naval staff commented in October 1939 that "if it could be shown that it was essential for us to take full advantage of the latitude allowed by the Submarine Protocol in order to achieve some war aim, then I would say that we should have to do so but, at the present moment, I do not think this is the case."[44] In fact, had the submarine regulations been loosened, the underwater boats could have been used effectively for considerable strategic advantage both off the coast of Norway and in the sea channel between Germany and Sweden and Norway.[45] Even when the gray uniforms

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[40] See U.K. PRO, ADM 1/8586, "Final Report of the Post-War Questions Committee," 27 March 1920, as cited in Roskill 1968, 115, Also see Terraine 1989, 117–18.

[41] Diary entry of Captain (later Sir Admiral) Herbert Richmond for 10 November 1919, as cited in Roskill 1968, 115–16.

[42] See Simpson 1972, 48–49, 57–58, and 74–76; Hezlet 1967, 119; Mars 1971, 33; and Roskill 1976, 230 and 430–31.

[43] See Henry 1976, 381–82; Roskill 1976, 336–37 and 477; and Roskill 1954, 45,355, and 536.

[44] U.K. PRO, ADM 199/878, Minute 08070/39 by Deputy Chief of the Naval Staff, 25 October 1939.

[45] See Roskill 1954, 334–35; King 1958, 55–56; and Hezlet 1967, 125 and 138–40.

of the Wehrmacht were spotted on merchant ships, Britain allowed German shipping to continue in the Kattegat during the early stages of the Reich's invasion of Norway in April 1940. As it had twenty submarines in the waters through which the invasion fleet sailed, Britain's restraint in this instance has been called a significant "missed opportunity."[46]

## How Norms Matter

To argue that norms do not account as well as organizational culture for the differential use of prohibited warfare in World War II is not to say such prohibitions were meaningless. The record clearly suggests that the norms did indeed "matter" in at least one fundamental sense and a number of less consequential ways related to the way that states thought, communicated, and acted with regard to the use of force.

### *Constituting Heinous Warfare*

The most fundamental effect of norms was to define which means of warfare would even be considered for restraint.[47] Rather than inventory their armories and war plans in search of finding heinous forms of fighting, countries considered for restraint those forms that already were stigmatized by extant norms. This stigmatization was not a simple product of the technological inhumanity of a particular form of combat. States hardly blinked over the use of equally inhumane forms of warfare such as high-explosive artillery shells or flamethrowers. And was it really less moral to bomb London than to besiege Leningrad? Yet bombing was stigmatized while besieging a defended city was not. No objective measure of inhumanity set submarines, strategic bombing, and chemical weapons apart. Only recognized norms dictated the boundaries of acceptable use. At times, these took the form of a moral consideration: whether it was "right" to use such a weapon. For example, when Britain considered the use of CW, one assistant chief of the army general staff argued that "such a departure from our principles and traditions would have the most deplorable effects not only on our own people but even on the fighting services. Some of us would begin to wonder whether it really mattered which side won."[48] More often, the special attention given to these three prohibitions had to do with the material consequences of

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[46] Simpson 1972, 89.
[47] This thesis is developed in greater depth in Price forthcoming.
[48] U.K. PRO, WO 193/732, Minute from Assistant Chief of the Imperial General Staff (C) to Chief of the Imperial General Staff, 16 June 1940.

violations as seen above. In either case, the effect of the international norms suggests they may be a critical facilitating force in the limitation of otherwise taken-for-granted behavior. To find whether this is in fact the case would entail a broader investigation that would include cases where mutual restraint in using militarily significant weapons obtained but where no legacy of international norms existed. That such cases do not readily come to mind suggests the relevance of norms.

### Restricting Preparations

In some cases, norms also affected the way states prepared for war. For example, popular anti-CW sentiment in Britain during the 1920s and 1930s combined with Britain's acceptance of the Geneva Protocol seemed to add slightly to constraints on developing gas warfare. Terms were changed to avoid any reference to offensive CW; training materials were not written or distributed and exercises not conducted to avoid a perception that Britain was preparing for a chemical war. Even the open development of civil defense measures against gas was deferred in 1929 as being ill-timed in light of Britain's ratification that year of the Geneva Protocol.[49] The Foreign Office adamantly opposed proposals to use gas on India's northwest frontier against Afghan tribesmen in the mid-1920s. It found the turnaround in policy to be too quick. Austen Chamberlain, the Foreign Secretary, argued that since Britain had vilified Germany for gas use in World War I, it had to wait until its "charges against Germany were less present in the minds of the public" before advocating gas use.[50] Yet one must be careful not to overstate the influence of the antigas norm. Although Britain's offensive gas program was pushed underground, it was not stopped. After the Geneva Protocol was signed, the work previously done in the Offensive Munitions Department was simply conducted under the heading of "chemical weapons against which defense is required." A variety of research and weapons development for offensive warfare evolved under the guise of this semantic cover.[51] By the late 1930s, any constraining impact that public opinion had exerted

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[49] See U.K. PRO, WO 188/390, "Lecture to Staff College, Camberly," 10 April 1931, and WO 188/446, "Preparation of Training Manuals on Chemical Warfare," 30 September 1930; Harris and Paxman 1982, 46–47; SIPRI 1971a, 269 and 300; Haber 1986, 300; and Spiers 1986, 47–49.

[50] The quotation is from U.K. PRO, CAB 2/4, Minute of 215 and 217 Meetings of the Committee on Imperial Defense, 22 July and 11 November 1926, as cited in Spiers 1986, 48.

[51] Harris and Paxman 1982, 42 and 47.

on CW preparations dissipated, as the threat of war with Germany rose.[52]

Rules also inhibited wartime preparations in the United States. Although U.S. Navy culture had ignored commerce warfare in the interwar years, once war with Japan seemed imminent some navy officials began to acknowledge the possible benefits of using submarines against shipping. When the naval leadership considered the matter, however, it advised against changing the rules because doing so would be "contrary to international law and U.S. policy" and instead recommended maintaining a traditional posture until circumstances rendered modification advisable.[53] The Japanese Pearl Harbor attack soon provided such circumstances.

### Influencing Third-Party Reactions
Most apparent, international principles affected the expectations of states regarding the reactions of other parties. The rules of warfare set guidelines for what was considered acceptable behavior. States believed that violating such guidelines could cost them the support of other countries or even their own populace. Germany, as mentioned above, fretted that its unrestricted submarine warfare would antagonize Britain or the United States at a time when it wanted accommodation with the former and nonintervention from the latter. Likewise, Britain pondered how its unrestricted bombing or use of chemical weapons would affect the support it desperately needed from the United States.

However, as seen in the case of German submarine warfare, these expected costs led states to alter the manner of policy implementation but not necessarily the direction of decisions. So Britain, when worried that its unrestricted campaign would alienate neutral countries, devised schemes to blame escalation on the enemy in order to mitigate political damage while going ahead with the bombing.[54]

### Gaining Advantage
Norms also figured in state calculations of gaining advantage over the enemy. Britain concluded that its own restraint, in the face of German transgressions, would bring it favor with third parties. It planned to

[52] Harris 1980, 60–61.
[53] See U.S. National Archives, RG80, General Board Study No. 425, Amendment of Rules for Maritime Commerce, Box 133, Department of the Navy, 15 May 1941; and Samuel F. Bemis study, Yale University Library, Box 1603 A.
[54] Terraine 1985, 143.

accumulate this "normative capital" and then cash it in at a later point. For example, in the summer of 1939 the commander of the submarine force, Rear Admiral B. C. Watson, wanted to announce danger zones around British overseas possessions where submarines could defend against invasion by attacking convoys without restrictions. The admiralty denied the proposal. It feared that if Britain initiated action, it could not then blame the Germans for violating restrictions on submarine attacks or respond with "other measures besides a strict tit-for-tat" that would be even more advantageous.[55] As discussed above, Britain's plan to control German exports was also typical of this thinking.

### Signaling Intentions

Norms proved influential in terms of signaling intentions. In this sense they help to define a critical dimension of the concept "threat" that has played so large a role in the international relations literature.[56] Violating prohibitions was an indicator of the nature of one's ambitions. Germany, for example, sought accommodation with Britain after its invasion of Poland in the fall of 1939. Even though it believed that its use of unrestricted submarine warfare was to its military advantage, Germany favored restraint because it acknowledged that violating the submarine rules would indicate to Britain that it aimed for total war; accommodation would then be impossible. Had these norms not developed during the interwar period, the stigma of violation would not have been so great. Norms worked in the same manner in the summer of 1940, Then, Germany refrained from bombing British cities immediately after defeating France. One reason for this restraint was Hitler's interest in striking a deal with Britain; unrestricted bombing would have scuttled such a possibility. Here again the norm was important as a recognized threshold of violence with social significance not applicable to conventional forms of combat.

[Original article includes section addressing possible objections to how I measure norms, the role of strategic pressures, and the impact of national culture and regime type.]

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[55] See U.K. PRO, ADM 1/10360, Rear Admiral (Submarines) to Secretary of the Admiralty, "Remarks on the Use of Submarines in Defence of Territory," 3 August 1939, and ADM 1/10360, Minute 07295/39 by Head of the Military Branch, 21 August 1939.

[56] For example, see Walt 1987, 25–26.

<div align="center">CONCLUSION</div>

The contemporary surge in research on international norms inevitably draws our attention to the past – particularly the interwar years. Traditionally the two decades leading to World War II have comprised a paradigmatic case showing that international norms are ineffective in critical situations and that practical efforts based on norm effectiveness are utopian. To be sure, neither the Kellogg-Briand Pact nor the League of Nations effectively prohibited war. But even in this difficult period for international institutions, not all prohibitions were ineffectual. Oddly enough, in a total war, states struggling for survival altered or transcended the expected use of particular forms of military power, in part because of intentionally constructed international prohibitions on those types of warfare.

Yet by considering the question, which norms matter? the drawbacks of focusing exclusively on international norms are also apparent. In World War II, the robustness of such norms did not directly relate to their impact on the thinking and actions of actors or to systemic outcomes. But contrary to the realist answer, neither relative capabilities nor the situations of states was the primary catalyst. Instead, it was the organizational cultures of militaries that more significantly structured how states understood their situations, what types of capabilities they saw as important, and, ultimately, how desirable it was to violate the norm or maintain mutual restraint. Furthermore, these cultures had a marked autonomous effect relative to both norms and to the balance of power – that is, the way militaries and nations thought about fighting was not reducible either to international norms or to strategic opportunities.

Of course, the response to the prohibitions during World War II was not a monocausal organizational culture story. As seen in the cases above, concerns about international prescriptions and strategic advantage both had roles to play. Although I have assessed these variables as competing hypotheses here, a synthetic model might, for example, develop an explanation of norm influence that takes into account both the robustness of international prescriptions and the impact of national-level social understandings such as political or organizational culture.

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# The Territorial Integrity Norm: International Boundaries and the Use of Force

## Mark W. Zacher

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In the late twentieth century many international relations scholars and observers have commented on the declining importance of interstate territorial boundaries for a variety of national and transnational activities.[1] Concurrently, something very significant has been happening in international relations that raises questions concerning judgments of the decreasing importance of boundaries: the growing respect for the proscription that force should not be used to alter interstate boundaries – what is referred to here as the territorial integrity norm.[2] The development of a norm concerning respect for states' territoriality is particularly important because scholars have established that territorial disputes have been the major cause of enduring interstate rivalries, the frequency of war, and the intensity of war.[3] After reviewing studies on interstate wars, John Vasquez wrote that "Of all the issues over which wars could logically be fought, territorial issues seem to be the ones most often associated with wars. Few interstate wars are fought without any territorial issue being involved in one way or another."[4]

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[1] See Ohmae 1990 and 1995; Rosecrance 1986 and 1996; Ruggie 1993; Rosenau 1990; Elkins 1994; and Hirst and Thompson 1996.

[2] A norm is generally defined as "a standard of appropriate behavior for actors of a given identity" (Finnemore and Sikkink 1999, 251) and an international regulatory norm is strong when it is respected and viewed as legally binding by the great majority of states.

[3] See Holsti 1991; Goertz and Diehl 1992; Vasquez 1993, 123–52; Huth 1996; Hensel 1999; and Vasquez and Henehan 2001.

[4] Vasquez 1993, 151.

In this article I trace the dramatic change in attitudes and practices of states in the Westphalian international order concerning the use of force to alter interstate boundaries. \*\*\* In the first section I briefly outline the attitudes and practices of states regarding territorial boundaries from the seventeenth century until World War II. In the second section I focus on the remarkable changes in beliefs and practices from World War II until the present. In the third section I explore the roots of the territorial integrity norm. States' motivations for accepting the territorial integrity norm have been both instrumental and ideational, and the importance of different motivations has varied among groups of states. \*\*\*

### INTERNATIONAL BOUNDARIES FROM THE SEVENTEENTH TO THE EARLY TWENTIETH CENTURY

Political life has not always disclosed a clearly defined system of international boundaries. The medieval world did not have international boundaries as we understand them today;[5] authority over territorial spaces was overlapping and shifting. The political change from the medieval to the modern world involved the construction of the delimited territorial state with exclusive authority over its domain. Even at that, precisely surveyed national borders only came into clear view in the eighteenth century.[6] In the words of Hedley Bull, the practice of establishing international boundaries emerged in the eighteenth century as "a basic rule of co-existence."[7]

The birth of the modern interstate system is often dated at the 1648 Peace of Westphalia, although key features of the system emerged gradually and fluctuated in strength before and after 1648. Initially, the legitimacy of interstate borders was defined in dynastic terms: state territory was the exclusive property of ruling families, and they had an absolute right to rule their territories. But this international order did not reflect any absolute right to *particular* territory that could *legitimately* change hands by inheritance, marriage, war, compensation, and purchase.[8] In these early centuries of the Westphalian order territory was the main factor that determined the security and wealth of states, and thus the protection and acquisition of territory were prime motivations of foreign policy. Most wars, in fact, concerned the acquisition of territory,

[5] Clark 1961, chap. 10.
[6] Clark 1972, 144.
[7] Bull 1977, 34–37.
[8] Holsti 1991.