# INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

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knowledge is required for decisions. The more complex the issue, the less effective senior authorities will be in objecting to or intervening in operations and the more organizational preferences will be felt. The time frame for decision making can also affect bureaucratic effect. When decision-making cycles are short, so is time for adjusting prearranged plans.

These traits all suggest that military organizations will have a high salience in choices on the use of force in war. Militaries are key players in such situations because they generally have monopoly control over expertise in the use of force, military operations are complex and not easily understood by nonspecialists, and the time periods for altering prearranged plans are limited. Civilians may have authority to make final choices, but often contrary to their wishes and efforts, military propensity can prevail in the midst of war due to the organizational salience of the armed forces.

In sum, organizational culture is important because it shapes organizational identity, priorities, perception, and capabilities in ways unexpected by noncultural approaches. Those means compatible with the dominant war-fighting culture will be developed and advocated by the military; those that are not will suffer benign neglect. Even as the cultural tendencies of militaries can remain fairly consistent, their heightened organizational salience in war may lead to change in national policy on the use of force. With regard to World War II, this view predicts that, ceteris paribus, a state will favor adherence to norms proscribing a particular form of combat if that form is antithetical to the war-fighting culture of its military bureaucracy. States will prefer violations regarding means that are compatible with organizational cultures. * * *

### NORMS AND ORGANIZATIONAL CULTURE IN WORLD WAR II

To assess the relative explanatory power of the two approaches, I rely on two methods. The first is a macrocorrelation of each approach's ability to predict outcomes across a number of cases. The second is an in-depth analysis of some of the history to illustrate the validity of the causal mechanisms.

The cases I examine relate to submarines, strategic bombing, and CW in World War II. These are a good focus because they were the three main types of combat that states had considered for limitation in the interwar period. These three also make sense for assessing the propositions because they allow for variation in both the "independent" (norms and culture) and the "dependent" (state preferences on the use of force) variables, and they "control" other factors, such as the personalities,

the causes of conflict, the stakes at risk, and the general international setting. Within the three categories, I investigate a total of eight cases. In submarine warfare, I examine Britain, Germany, and the United States. In strategic bombing, I focus on Britain and Germany. And in CW, the analysis considers Britain, Germany, and the Soviet Union. I selected countries because they were either the central possessors or potential users of a particular means of warfare or because their behavior was anomalous. For example, why did the Soviet Union not use CW in June 1941 when it was facing a devastating German invasion and imminent defeat, had the weapons in its inventory, and had adopted a "scorched earth" strategy? I excluded cases that might at first glance seem relevant because they did not allow a comparable assessment of the norms and culture propositions or because I could not verify that norms or culture were not epiphenomenal to strategic realist concerns (discussed below). For example, I excluded both U.S. strategic bombing (including the dropping of the atom bomb) and CW use against Japan because Japan could not retaliate against the United States with comparable means, thus removing a key balance-of-forces condition that is present in the other cases. While the list of cases examined does not comprise the entire universe of possible cases, it is a representative one.

### Macrocorrelation

A first way to assess the two alternative propositions is through a small-*n* comparison of their predictions versus the outcomes across the cases. This requires specification of the content of their predictions.

### *Measuring Norms*

A norm account requires a sense of the relative robustness, based on the specificity, durability, and concordance, of the prohibitions in the three types of warfare. I offer no precise formula on how to aggregate the three into an overall measure of robustness. Like all coding, this exercise is partly interpretive, but it improves on many studies that offer no way to evaluate norm strength at all or do so tautologically. Any evaluation of robustness must measure it independently from the norm's effects. Here, the evidence for robustness comes from the period prior to 1939 and describes primarily international-level phenomena. In contrast, the dependent variable (discussed below) is national preferences on adherence to norms limiting the use of force after 1939. The prohibitions on submarine warfare, strategic bombing, and CW each deserve brief description.

In submarine warfare, it was not so much the weapon itself that was stigmatized but its employment against civilian ships and personnel. What was considered illegitimate was the destruction of merchant and passenger ships without attention to the safety of those on board – a practice that came to be known as unrestricted submarine warfare.[17]

The norm against such unrestricted warfare is notable as relatively robust in its durability, specificity, and concordance. The rules regulating submarine warfare stood out as relatively durable. Modern international limitations on attacks at sea date back at least to the Hague Peace Conference of 1899. When Germany used unrestricted submarine warfare extensively in World War I, it provoked a significant adverse reaction culminating in the U.S. entrance into the conflict. Over the course of the interwar years, prohibitions on submarines were repeatedly discussed in the context of international conferences and generally approved. Most important, even as other international agreements crumbled in the wake of rising international tension in the late 1930s, countries took pains to reaffirm the illegality of underwater boat attacks on merchant ships. They gathered in 1936 to approve the London Protocol on Submarine Warfare, while the broader London Naval Conference dissolved in disagreement. Significantly, when the London Protocol was anonymously violated (by Italy) in 1937 during the Spanish civil war, countries took action to punish any further violations, and the unrestricted attacks stopped.[18]

Despite the fact that prominent historians have called the rules explicit and legally binding, the protocol did present some problems in specificity.[19] For example, the definition of what constituted a "merchant ship" was not entirely clear. Whether the arming of a vessel, even if for defensive purposes, made it an actual combatant was hotly disputed, Britain was intent on retaining the right to arm its merchants and denied that such armaments altered their civilian status.[20] Nonetheless, even defensive armaments comprised a threat to submarines that were highly vulnerable on the surface while conducting the required search and seizure procedures. The rules about providing for the safety of passengers and

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[17] For solid, concise, secondary accounts of the development of the submarine rules, see Burns 1971; and Manson 1993.

[18] See Toynbee 1938, 339–49; and Frank 1990.

[19] See Samuel F. Bemis, "Submarine Warfare in the Strategy of American Defense and Diplomacy, 1915–1945," Study prepared for the U.S. Navy, 15 December 1961, Yale University Library, Box 1603A, 15–16; and Morison 1951, 8.

[20] Burns 1971, 58.

crews when sinking merchant vessels were likewise vague. Because underwater boats had small crews, they could often not afford to leave men to sail the ship into port. Furthermore, they could not generally take the noncombatant's crew and passengers aboard because of the lack of space. These people could be put in their emergency boats, but countries differed on whether this was safe.

Finally, in terms of concordance, the regime received widespread support. Prior to the war, the submarine rules had been accepted and reaffirmed by a total of forty-eight states. Among them were Britain, Germany, Japan, the Soviet Union, and the United States, all central combatants during World War II. Overall, in terms of durability, specificity, and concordance, the submarine rules represented the most robust institution of the three examined in this study.

The second norm constrained strategic bombing. Statesmen made considerable efforts during the interwar years to reduce the quantity of military aircraft and/or to find ways to regulate conflict by agreeing on rules and restrictions. The main distinction they hoped to enforce was between bombing civilians and combatants. Persons participating directly in the war effort were generally seen as legitimate targets of air power. All others were to be considered illegitimate victims, on whom only the inhumane and criminal would drop bombs.[21]

Concordance was low, however. There was little consensus among nations on the rules. No firm agreement on aerial bombing was apparent in the discourse of international negotiations or accepted in treaty language during the interwar years. At the start of World War II, Britain and Germany did agree verbally to an appeal for restraint by U.S. President Roosevelt, but this last-minute accord raised, at a minimum, questions of commitment.[22]

Because concordance was low, resulting in the absence of a finalized agreement, specificity is difficult to evaluate. Generally, however, the participants seemed to use the 1923 Hague Commission of Jurists' product as a benchmark. Even though they were the most detailed of the interwar years, these rules, too, were troubled by disagreement. The main point of contention was what exactly constituted a military objective. Were civilian factories producing parts for airplanes a legitimate target? Was it acceptable to bomb troop barracks surrounded by hospitals and schools? Each state seemed to have a different way of

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[21] Spaight 1947, 43.
[22] On this agreement, see ibid. 259–60.

differentiating civilian from combatant, safe zone from battle area, legitimate from illegitimate bombing.[23] In the absence of clear rules, we can only conclude that specificity was indeed low.

Norms on strategic bombing were also as fragile as any studied here.[24] Linked to the prohibition against attacking undefended cities was an agreement at the 1899 Hague conference that dropping weapons from balloons or "other new weapons of a similar nature" was not allowable. Additionally, while the representatives did not elect to include specific language related to the airplane at the 1907 Hague conference, they did reaffirm the prohibition against attacking undefended cities and dwellings.[25] Nonetheless, in World War I some states did bomb cities. By the beginning of World War II, Franklin Roosevelt's last-minute appeal was the only vestige of states' explicit external commitment to restrict bombing. To the extent that the 1923 Hague rules comprised a de facto prohibition, they were not respected very well in the conflicts in China and Spain during the 1930s. Overall, the norms of air warfare were less developed than those relating to either submarine warfare or CW.

The third major target of diplomatic efforts to limit the use of force in this period was CW. While prohibitions against the use of poison agents had existed for centuries, the interwar norm on gas use showed mixed durability. On the one hand, constraints on chemical use had been a part of international law from the turn of the century. On the other, states had violated the constraints egregiously during World War I. Limitations on the use or manufacture of gas were discussed in a number of conferences during the 1920s and 1930s. The issue of limits on CW was first broached at the Paris Peace Conference in 1919 that prohibited Germany from using, manufacturing, or importing poisonous gases or the raw materials and equipment to produce them. CW received considerable attention at the 1921–22 Washington Conference on the Limitation of Armaments, but a provision that prohibited the use of poison gases in war was proposed but never ratified. The 1925 Geneva Conference for the Supervision of the International Trade in Arms and Ammunition and in Implements of War provided another forum in which CW was discussed. After proposals to prohibit the export of poisonous gases and related materials were rejected, diplomats decided to act again on the CW

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[23] See Moore 1924, 194–202; and Spaight 1947, 43–47.

[24] Parks 1992 argues that the rules were largely illegitimate.

[25] On the development of bombing prohibitions, see Parks 1992; Royse 1928; and De Saussure 1971.

provisions of the Washington treaty.[26] This agreement became known as the Geneva Protocol. It was the only agreement on CW concluded during the interwar period and had a somewhat stormy record of adherence in those years. For example, Italy violated the agreement in 1935 in its war with Ethiopia. The League of Nations responded weakly with limited economic sanctions that were not enforced and were largely ineffectual.[27] In 1938, when Japan used chemical weapons in China, the League of Nations and most other polities simply ignored the event.[28]

Concordance with the norm was moderate. The problem was that neither Japan nor the United States publicly ratified the 1925 protocol before the start of war in 1939. Furthermore, Britain and France agreed to respect the norm only in conflicts with other parties that had ratified the agreement and whose allies also adhered to the agreement. This provision might have had significant ramifications in World War II. For example, since Japan engaged in CW in China and was an ally of Germany, Britain's pledge of restraint would no longer have been guaranteed.

The Geneva Protocol was simple and fairly precise, however. Signatory nations would not use CW first if the other side was a signatory and also showed restraint. It allowed only a few minor gray areas. For example, high explosives released small amounts of chemicals; was this a violation? The use of nonlethal gas (such as tear gas) was another unresolved area. Some countries, such as the United States, wanted the freedom to employ nonlethal gases to control their own populaces.[29] Overall, the anti-CW norm was more robust than that attached to strategic bombing but less than that limiting submarine warfare. Table 11.1 summarizes these relationships along with their predicted effects.

### Measuring Organizational Cultures

Organizational culture is gauged according to the ideas and beliefs about how to wage war that characterized a particular military bureaucracy. Specifically, the issue of interest is whether the favored way of war incorporated the specific means prohibited (violation oriented) or designated it either as nonorganic or as peripheral (adherence oriented). A measure of each culture is developed by reviewing available internal correspondence, planning documents, regulations, exercises, and memoirs

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[26] For studies of the development of the prohibition, see Moon 1993; and Price forthcoming.
[27] See Fair 1985, 45; SIPRI 1971b, 180.
[28] SIPRI 1971b, 189–90.
[29] Ibid., 102–4.

TABLE 11.1. *Assessing Norm Robustness*

|  | Submarine warfare | Chemical warfare | Strategic bombing |
|---|---|---|---|
| Specificity | Medium | Very high | Low |
| Durability | High | Low | Low |
| Concordance | Very high | Medium | Low |
| Overall relative assessment | High | Medium | Low |
| Prediction | Most likely adherence | Mixed adherence/ violation | Most likely violation |

of individual members. These multiple sources provide a composite picture of the hierarchy of legitimate beliefs within an organization. This is a holistic exercise that depends on the qualitative interpretation of the specific content of each culture. While this makes a priori generalizations difficult, it does allow for the coding of a culture as violation or adherence oriented. Cultural explanations are often accused of being post hoc and tautological: a certain cultural belief can always be found after the fact that "explains" a given action. In this case, however, the sources I have used to measure culture describe bureaucratic thinking and date from the earlier interwar years, while the outcomes to be explained involve national preferences during the later war. Thus the organizational culture hypothesis can be falsified. For example, U.S. Navy culture was oriented toward adhering to prohibitions on unrestricted submarine warfare throughout the interwar period. Yet on the first day of war the United States switched to favoring such warfare. This case tends to disconfirm the organizational culture hypothesis.

Although it is not possible here to document the entire logic of each military's organizational culture and its relationship to the use of stigmatized force, the brief summaries below can give a snapshot of each culture and which prediction – violation of or adherence to the respective norm – follows from it.[30]

In submarine warfare, the German navy, unlike many, viewed the submarine as a valued combat tool, and because the ethos of its underwater force was based on its World War I unrestricted trade offensive, its plans, operations, and advice were biased in favor of violation. In contrast, the British navy, long dominated by a belief in the supremacy of the

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[30] For a more detailed analysis of these cultures, see Legro 1995.

battleship, considered submarines a strictly ancillary means of combat. Even when Britain had strategic incentives to turn to submarine raiding, it did not. During the interwar period, the Royal Navy's main expected adversary was Japan, a nation vulnerable to a submarine campaign, yet the navy never considered an anticommerce submarine strategy. British naval culture favored adherence to the rules. Finally, the U.S. Navy, like the Royal Navy, was "battleship-bound" in its thinking during the interwar period. It gave little consideration to an unrestricted commerce campaign against Japan, its main expected opponent, despite Japan's vulnerability to such a strategy. This cultural orientation predicts U.S. adherence to the rules.

In contrast to the navy's orientation in submarine warfare, the German army's culture led it to favor adherence to the CW norm. Army thought highlighted the efficacy of the mobile offensive, and CW – perceived as a static defensive weapon – was seen as ill-suited to the dominant mindset. The British military was also inclined toward adherence but for different reasons. The Royal Army was a tradition-governed antitechnology force that was generally hostile to CW, particularly given its institutional experience in World War I. CW was more compatible with the Royal Air Force's strategic bombing thinking, but the army was in charge of CW development. The air force developed its own biases toward firebombing and high explosives (even though gas was considered a complement, not a competitor, to those munitions). Finally, the Soviet Union's Red Army was dominated by a faith in the offensive, an orientation that was encouraged by its civil war experience and ensuing debates about the proper political-military orientation for the country. It subsequently paid less attention to means such as CW, which was perceived as primarily useful in defense. This orientation favored adherence to the CW rules.

In strategic bombing, Britain's Royal Air Force developed around a "faith" in the effectiveness of strategic bombing, particularly against civilians and their morale. Personnel, plans, weapons acquisition, and intelligence all were affected by this ideology. This culture favored a violation of the rules, even as geopolitical factors and popular concern cautioned against such action. Although it toyed with strategic bombing, the German air force moved away from such concepts as the war years approached. The Luftwaffe, influenced by Germany's continental tradition of warfare and a variety of circumstantial factors, was more focused on contributing to the ground and sea campaigns than achieving victory by targeting enemy morale in an unrestricted bombing offensive. This culture was more inclined toward adherence to the rules on strategic bombing.

*Predictions Versus Outcomes*

A macrocomparison of expected effects versus actual outcomes during World War II yields a first look at the influence of norms and organizational culture. For this analysis, "outcome" refers to the preferences of states, not their actions. We can thus distinguish between conscious violation of a norm with those situations where states may have responded to the other side's violation (an allowable action) of where they crossed boundaries by accident. In practice, preferences and action correspond closely. I measured preferences by reviewing the internal discussions of the wartime leadership regarding its desired outcomes. Such decision-making bodies were often small groups that debated and reached a consensus on desired ends.

Table 11.2 summarizes the relative predictive fit of the norm and organizational culture approaches. Predictions from an organizational culture perspective matched the outcome significantly more consistently than predictions from a norm perspective (7 versus 3.5 of 8). In those cases where normative prohibitions are most robust, for instance, we should expect adherence or at least the slowest shift toward the opposite preference. Where norms are thinly developed, a preference for violation should be more likely. As Table 11.2 indicates, however, the relationship between norm robustness and preferences on the use of force seems weak. For example, in submarine warfare, where the institution of restraint was most robust, nations first favored escalation. Yet in CW, where the institution was less developed, nations preferred restraint throughout the conflict.

Table 11.2 displays a relatively consistent link between military culture and state preferences regarding the use of force. When culture favored violation, prohibitions against use generally were disregarded. And when culture was inclined toward adherence, states tended to prefer adherence to international norms. In both absolute and relative terms, organizational culture correlates strongly with the variation in adherence to the limitations on the use of force.

## Microassessment of Causal Mechanisms

A closer look at the details of World War II is a necessary complement to the macrocomparison in three ways. First, it provides a better sense of the content and use of analytical constructs such as norms and organizational culture. Second, as sophisticated methodologists are quick to point out, correlation by itself does not tell us what caused the

TABLE 11.2. *A Macrocorrelation: Two Approaches and the Pattern of Norm Adherence*

| Case | Predictions[a] | | Outcome (N = 8) |
| --- | --- | --- | --- |
| | **Norm** | **Organizational culture** | |
| Britain | | | |
| Chemical warfare | Mixed $(1/2)$[b] | Adherence $(1)$ | Adherence |
| Strategic bombing | Violation $(1)$ | Violation $(1)$ | Violation |
| Submarine warfare | Adherence $(1)$ | Adherence $(1)$ | Adherence[c] |
| Germany | | | |
| Chemical warfare | Mixed $1/2$ | Adherence $(1)$ | Adherence |
| Strategic bombing | Violation $(0)$ | Adherence $(1)$ | Adherence[c] |
| Submarine warfare | Adherence $(0)$ | Violation $(1)$ | Violation |
| Soviet Union | | | |
| Chemical warfare | Mixed $(1/2)$ | Adherence $(1)$ | Adherence |
| United States | | | |
| Submarine warfare | Adherence $(0)$ | Adherence $(0)$ | Violation |
| Correlational fit | 3.5/8 | 7/8 | |

[a] The match between prediction and outcome is in parentheses. It was scored as follows: 0 = no match; 1 = match; 1/2 = half a match (see below).

[b] The mixed pattern represents a middle position on the norm robustness continuum. It predicts that chemical warfare would have shown a varying pattern of preferences for mutual adherence and violation. Since this view also predicts a partial or varying preference for restraint and is indeterminate as to the dominant preference, I have scored it in favor of the norm proposition as half a match.

[c] Though the state eventually violated the norm, it did so only after the other side's first use, as allowed by norms in all three categories, and thus was coded as adherence.

apparent association. Microanalysis allows for better checking of the causal mechanisms posited by each approach.[31] Finally, such analysis is useful for checking to make sure that the presumed relationships are not spurious owing to some other influence. One clear possibility is political-military advantage. A "strategic realist" view would argue that especially in war, states choose means according to their expected contribution to strategic goals; states will prefer violating norms when they expect to reap relative military or political benefits from doing so.

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[31] George and McKeown 1985.

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.