

Elisabeth Johansson-Nogués, Martijn Vlaskamp and Esther Barbé, “The EU foreign policy and norm contestation in an eroding Western and intra-EU liberal order” Elisabeth Johansson–Nogués et al. (eds.) *European Union Contested Foreign Policy in a New Global Context*. Heidelberg: Springer, 2020.

## CHAPTER 1

# EU foreign policy and norm contestation in an eroding Western and intra-EU liberal order

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**Abstract:** *The idea of the European Union being increasingly contested, whether globally or at home, is a frequently reiterated notion. It is believed that such challenges to the European integration stem from a number of diverse but interlinked global and intra-EU crises that, combined, amount to the current 'perfect storm' affecting the EU and its foreign, security and defence policy. We will explore here how the EU is being put to the test in terms of the norms and fundamental values which guides its foreign policy. It is an important issue within the broader debates of the European crises, as such norm contestation may have a deeper structural and longer-term effect on the EU's external action and its 'resilience' as an international actor. We employ insights from the norm contestation literature to scrutinize a number of the most important current challenges articulated against EU foreign policy norms in recent years, whether at the global, 'glocal' or intra-EU level.*

The idea that the European Union is being increasingly contested, whether globally or at home, is a notion frequently expressed by high-level EU representatives as well as in contemporary academia. For example, the President of the European Council, Donald Tusk, stated in a letter to European leaders that to his mind “[t]he challenges currently facing the European Union are more dangerous than ever before in the time since the signature of the Treaty of Rome” (European Council, 2017). The perception that the EU is being contested by a diverse set of actors and factors, and hence in peril, is also expressed in the opening paragraph of the

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European Union Global Strategy (EUGS, 2016) which holds that “we live in times of existential crisis, within and beyond the European Union. Our Union is under threat. Our European project, which has brought unprecedented peace, prosperity and democracy, is being questioned”. Academic analyses, for their part, indicate that such challenges to European integration stem from a number of diverse but interlinked global and intra-EU crises that, combined, amount to the current 'perfect storm' affecting the EU and its foreign, security and defence policy (Müller, 2016; Dinan, Nugent and Paterson, 2017; Johansson-Nogués, 2018; Youngs, 2018; Barbé and Morillas, 2019; Rosamond, 2019).

At the global level, contestation over the EU’s foreign policy inserts itself into the dynamics of a Western-led liberal world order that is steadily eroding (Ikenberry, 2013; Buzan and Lawson, 2015, Acharya, 2017). A growing number of greater and smaller states are vying for more leeway to act out their own communitarian principles on and approaches to sovereignty, security and economic development. Emerging powers have been at the forefront of the quest to modify or undo the constraints of the multilateral order in the last decade. More recently, the United States – the very architect of the current global order – has seemingly joined the ranks of challengers by withdrawing from multilateral agreements or from financial commitments. This, some observers say, can directly be attributed to US President Donald Trump’s pursuit of an ‘America-first’ policy, while others see the current contestation as the culmination of longer-standing US ambivalence over multilateralism (Newman, Thakur and Tirman, 2006). As a consequence, the EU finds itself ever more alone, even within the Global North, as the self-proclaimed protector of a rules-based order and global governance institutions, as well as the contested defender of cosmopolitan ideals (Manners, 2008; Sjurson, 2015). In the view of High Representative for Foreign Affairs and Security Policy/Vice-President of the European Commission (HRVP) Federica Mogherini

[t]he fundamental rules of international relations are being systematically questioned, and this is bad news. Too many leaders only speak the language of power politics and confrontation. International law and multilateral agreements are perceived more and more as an obstacle for the powerful than a guarantee for all (EEAS, 2019).

We argue here that neither the dynamics, nor most of the currently contested global issues (e.g. sovereignty, human rights, climate change, humanitarian intervention, natural resource

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management) are new, but rather part of longer-term processes of contestation. The novelty of the current situation is that the actors contesting the international order are new, either acting alone or joining ranks with longstanding contesters. The influx of actors, and the greater plurality of contesters of status quo, have infused new urgency into the debates and contributed to the polarization of positions in recent years.

At the European level, a similar battle over norms, values and institutions, with potential consequences for the EU’s foreign policy, has been unleashed. The most vocal critics of the EU as an international actor have been anti-globalization movements, developmental non-governmental organizations (NGOs), or populist political parties at either extreme of the left-right political spectrum (Costa, 2019). The euro-zone and the refugee crises have seemingly contributed to further politicization and eroded shared beliefs and solidarity among EU member states. The victory of ‘Leave’ in the United Kingdom’s 2016 referendum on EU membership demonstrated that the concept of an ‘ever closer Union’ was not irreversible and further emboldened critics. Populist parties have expanded their power in almost all EU member states and are, at the time of writing, governing in a number of them (e.g. Hungary, Italy and Poland). In other countries, populist parties are the largest opposition parties in parliament (e.g. Germany, the Netherlands and Sweden). As a result of the current contestation, it has been argued that mainstream politicians increasingly display “fear of their own populations”, which in turn prevents Europe from playing “the role of defending those values that Europe prizes” (Waeber, 2018: 84). The politicization has multiple loci, as it cuts across different political levels (domestic, European, global), and at times foments new intergovernmental, transnational or public-private normative alliances. The perception is that at the heart of the contention are “differing conceptions of community” (Bornschieer, 2010: 419–420). There are those who are in favor of universal values and/or strong, pro-active EU actions in the international arena (e.g. open trade system, development cooperation, humanitarian law, transnational justice), while yet others seek increased devolution of power and foreign policy initiative from EU institutions back to national capitals. Observers have deemed this tension to be about pro- and anti-European integration or, differently stated, an “integration–demarcation” cleavage in the EU (Grande and Kriesi, 2015: 191). Scholars also point to that even those EU policies which hitherto have enjoyed broad intra-EU “permissive consensus” (Marks and Hooghe, 2004), such as the foreign, security and defence policy, are now becoming objects of politicization or ‘constraining dissensus’ (*ibid.*; Angelucci, and Isernia, 2019; Barbé and Morillas, 2019; Hegeman, and

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Scheneckener, 2019). It is perhaps at the intra-EU level that the present volume detects most novelties in the dynamics of contestation, in the form of new actors, new ‘glocal’ alliances among intra-EU and extra-EU actors, and even politicization of hitherto apparently deeply internalized foreign policy norms.

The current 'perfect storm' of crises and contestation affecting the European Union has received due attention in the scholarly literature. This edited volume, however, explores a much narrower and specific set of contestatory practices, which have yet to receive systematic scrutiny. We are interested in how the EU is being put to the test in terms of the norms and fundamental values which guides its foreign policy. It is an important issue within the broader debates of the European crises, as such norm contestation may have a deeper structural and longer-term effects on the EU's external action and its ‘resilience’ as an international actor. *European Union contested: foreign policy in a new global context*, based on exploratory research work, provides a comprehensive overview of a number of the most important current challenges articulated against EU foreign policy norms, whether at the global, glocal or intra-EU level. Our analysis, in part, draws inspiration from the norm contestation literature. In this volume we define norms as socio-political expressions of inter-subjective standards of appropriate behavior (Finnemore and Sikkink, 1998).<sup>4</sup> Norm contestation, in turn, is a social practice whereby actors discursively express disapproval of such norms with the aim to establish the latter's nascent or continued legitimacy (Tully 2002). We are particularly attentive to this link between contested norms and legitimacy. Inherent to the norm contestation process is this the idea that as standards of appropriate behavior in determined political, social and cultural settings are being challenged, reinterpreted and transformed, the validity of norms is weakened or strengthened (Wiener 2008 and 2014; Sandholtz and Stiles 2009; Badescu and Weiss 2010; Krook and True 2012; Deitelhoff and Zimmermann, 2013).

The specific dual objective of the current volume is to map out new and old profiles of norm contestation of the EU's foreign policy, and to test the ability of the EU to withstand challenges to the norms and fundamental values that guide its behavior in a shifting global and intra-EU context. First, the mapping exercise consists of exploring empirical cases, and reveals different types of contestation. In order to test for the EU's foreign policy's ability to withstand these

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<sup>4</sup> However, we leave it up to each of the contributors to pursue their own ontological and epistemological take on norms.

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contestations (i.e. its resilience), we look at the specific modes of contestation and how they affect the legitimacy of the foreign policy norm. Some of the norm contestations relate to norms the EU promotes or defends externally (e.g. abolition of the death penalty, climate change or sustainable peace). Other cases of contestation reflect on how various new or longstanding EU foreign policy norms have drawn polemics internally (e.g. free trade, transnational justice, development cooperation). Second, the testing exercise involves unpacking and systematizing the modes of norm contestation in discourse and practice – i.e. deliberation, arbitration, contention and justification – and point to the scope conditions (soft/hard) that lead to differentiated outcomes. The findings will be applied towards determining the strengthened or weakened legitimacy of the EU’s foreign policy norms. We will return to this in the corresponding section below.

The case selection for *European Union contested: foreign policy in a new global context* was made based on the perceived relative importance to the EU of the foreign policy norm or fundamental value in question, in combination with the existence of a contestation of said norms and values at the global, glocal or intra-EU level. We look at a varied range of norms, from norms with ‘universal’ reach (e.g. human rights or good governance) to ‘localized’ norms (e.g. actor-specific norms, whether in the EU or ICC). The cases cover emerging norms as well as norms ‘beyond the tipping point’ and even deeply internalized norms (e.g. EU free trade). Finally, in our research endeavor we include cases of norm contestation spanning relatively longer time periods, as well as of relatively newer occurrence, to control for the effects of spurious politicization of topics.

The book encompasses three parts and is structured in the following manner. The first part explores contestation by state and non-state actors of foreign policy norms defended by the EU at the global level. In Chapter 2, Robert Kissack analyzes the debates at the United Nations about the abolition of the death penalty, which for a long time has been one of the most visible policy objectives promoted by the EU. Climate is another key area for the EU at the global stage; in Chapter 3 Franziska Petri and Katja Biedenkopf revisit the polemics surrounding the common but differentiated responsibility for climate mitigation measures in the 2015 Paris Agreement. In Chapter 4, Lluç López i Vidal looks at one of the most controversial global debates in the past decades, concerning the issue of Responsibility to Protect (R2P). R2P and humanitarian intervention are issues which have enjoyed strong backing from the EU and its member states, while China’s reservations against R2P have grown over time. Ever since the emergence of the

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Common Security and Defense Policy, the EU has also shown a decided interest in related areas of international peace and security, such as conflict prevention and peacebuilding (Barbé and Johansson-Nogués, 2001 and 2010; Juncos and Gross, 2010; Natorski, 2011). In Chapter 5, Lara Klosssek discusses the differentiated understandings between India and the EU of peacebuilding and local ownership in post-conflict reconstruction.

In a second part of the book, we move to a level of analysis which is affected by both global and intra-EU contestatory dynamics at once, i.e. the global level. In Chapter 6, Martijn C. Vlaskamp explains the norm of transparency for global natural resource governance, which is defended by the EU, but contested by resource-rich countries, China and the US extractive industry; how this global norm contestation prompts or influences intra-EU contesters; and how it is used as a way to motivate or justify actions. In Chapter 7, Gemma Collantes-Celador and Oriol Costa look at the EU’s fragmented defense of the International Criminal Court (ICC) in terms of a range of norms related to international justice, such as war crimes, crimes against humanity, genocide and others. While the EU has most frequently joined ranks with the global supporters of the ICC as the place to persecute international crimes, intra-EU contestation has also surged, with individual member states aligning with extra-EU actors on key issues such as the definitions of crimes, ICC jurisdiction and ‘triggers’ for investigations, as well as the ‘admissibility’ of cases in light of domestic criminal investigations. Chapter 8, authored by Esther Barbé and Diego Badell, scrutinizes the global and intra-EU contestation surrounding the emergent norm in international humanitarian law in terms of Lethal Autonomous Weapons Systems. Here the EU helped forge a middle ground amongst global norm contesters in the form of ambiguously-worded ‘sufficient’ human control over such weapons systems. Simultaneously, contestations ensued within the EU, where contestatory practices ranged from those EU actors who advocated for a ban in the spirit of the Union’s Treaty obligation to promote peace (Article 3, TEU) and those who perceived the matter to be about safeguarding national prerogatives in an expanding area of commercial importance to EU military industries (e.g. artificial intelligence, robotics).

The third and final part of this edited volume examines norm contestation within the EU, where protagonists span EU institutions, member states and intra-EU non-state actors. Chapter 9, by Leif Johan Eliasson and Patricia Garcia-Duran, deal with the unexpected intra-EU norm contestation that was produced in the context of the 2013-2016 Transatlantic Trade and Investment Partnership negotiations. While the EU is a global champion of an open trade regime

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for most goods and services, EU civil society actors took the Union to task over a range of issues related to free trade, such as regulatory convergence, investment protection, and transparency. Chapter 10 returns to the issue of peacebuilding, but this time from an intra-EU standpoint. Marta Iñiguez de Heredia discusses the controversies which have arisen with the 2016 Capacity Building for Security and Development (CBSD) initiative as a consequence of the shifting logic of standards of appropriateness between security and development in the EU’s foreign policy. The CBSD initiative, which allows the European Union to grant non-lethal military support to third countries, has been interpreted by one set of EU actors as fully in line with the Treaty of the European Union, while other EU actors beg to differ. Finally, Milan van Berlo and Michal Naturski in Chapter 11 explore the ever-polarized European Parliament, where mainstream parties are being challenged by left-wing and right-wing populist parties on the longstanding norm of consensus as an organizing principle of EU foreign policy.

### **Contestation of the EU’s foreign policy norms and values**

The authors of this volume identify a set of differentiated understandings of norms at the core of the current internal and global contestation of the EU as an international actor and its foreign policy. To assist the analyses of the case studies, we the editors asked the contributors to reflect on their different norm contestation debates with reference to the norm classification scheme proposed by Wiener (2014). To guide empirical research on norms, she distinguishes among three different types of norms according to their degree of specification, generalization and moral reach. The first type – fundamental norms (or type-1 norms) – are broad, all-encompassing, taken-for-granted norms that enjoy wide social and moral recognition (e.g. human rights, the rule of law, democracy, sovereignty). Such norms are usually deemed to be the pillars of global governance, and expressed in the form of international law, principles or practices incorporated into international regimes, treaties or international organizations. The second type – organizing principles (or type-2 norms) – provide greater specification and regulation of the different fundamental norms they are connected to (e.g. refraining from the threat or use of force against the territorial integrity of a state, as per UN Charter, can be classified as a type-2 norm to the type-1 norm of ‘sovereignty’). Finally, the standardized procedures, or type-3 norms, refer to norms with low moral content, while filled with detailed,

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even technical, prescriptions for how governments, organizations or individuals should implement fundamental norms at the micro-level of the international society (e.g. host government consent to international interventions in the domestic sphere). According to Wiener’s (2016) classification scheme, the type-1 through type-3 norms are connected through a hierarchical structure she labels ‘normative grid’.<sup>5</sup>

The findings of case studies of the contributors can be summarized as that most contestation occurs around the type-2 norm level. However, and despite the fact that the authors find Wiener’s normative grid to be a useful heuristic and methodological tool for exploring norm contestation, the chapters’ empirical findings also point to dynamics that do not easily fit into the grid’s conceptually neat packaging. Authors in the volume draw attention to the fact that contestation is rarely bounded at the type-2 level. Contestatory practices frequently spill over and become overt or covert contestations of their respective fundamental norms or standardized procedures, or of adjacent type-1, type-2 or type-3 norms. Barbé and Badell (this volume) and Eliasson and Garcia-Duran (this volume) describe how contestation over the organizing principles of human control of lethal automated weapons systems and of free trade, respectively, mostly stemmed from certain intra-EU actors’ fear over elements related to the standardized procedures. Van Berlo and Natorski (this volume) also put forward the thesis that norm contestation between populists and mainstream parties in the European Parliament can be located primarily at the level of the organizing principle (consensus-style decision making). However, they argue that the implicit, but ultimate, goal of the populist contestation is to challenge the fundamental norm of further, or sustained, European integration. In yet further cases collected in this volume, the contestation appears to straddle various levels of the normative grid at once because the actors disagree on the actual locus of contestation. Klossek (this volume), for example, finds asymmetry in how India and the EU perceive the concept of local ownership of peace processes. For the EU, local ownership is a type-3 norm linked to peacebuilding as an organizing principle. India, highly skeptical of the Western liberal peacebuilding approach, places local ownership alongside peacebuilding, and the ensuing contestation where India is concerned is located between these two type-2 norms. In her chapter, Iñiguez de Heredia (this volume) argues that the character of the intra-EU contestation over whether to grant financial assistance to support military capacity in third states, makes it

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<sup>5</sup> In the vertical dimension of the grid, Wiener (2016) also furthermore explores and theorizes on the norms’ moral reach (wide, medium, narrow) and degree of contestation (high, medium, low).

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difficult to classify the contestation according to the normative grid. Her case is equally a debate about the shifting logic of the organizing principle (security-development nexus) as over the fundamental values of the EU’s foreign, security and defense policy: sustainable peace and sustainable development. Finally, in a set of cases examined in this book, contestation spills outside of the hierarchically-organized normative grid. For example, Kissack (this volume) shows in his chapter on the death penalty that both supporters and opponents coincide on the abolition of the death penalty as an organizing principle. However, the contestation is about the question of which fundamental norm the death penalty relates to, whether right to life – as defended by the EU – or sovereignty. Similarly, in the case of the China’s contestation of Responsibility to Protect, as discussed by López i Vidal (this volume), tensions are clear between the Chinese preference to see R2P as an organizing principle linked to the fundamental norm sovereignty, while EU links it to fundamental norm of civilian protection or immunity.

The cumulative findings of the volume show that in any given norm contestation scenario there are debates over the boundaries of norms (where a type-1 norm ends and a type-2 begins), their significance (internal hierarchy) and their relative placement (within the normative grid and/or straddling various grids). Norm contestation, in our understanding as cross-cutting different levels of the normative grid or spilling over between various normative grids, is in part a natural effect of the embeddedness of norms in a co-constituted structure of “meanings-in-use” (Milliken, 1999, p. 231). Norms, even if seemingly fixed and stable in their meaning, are dependent on the interpretation of meanings given to them by the agent and their spatial-temporal context (Krook and True, 2009; Dietelhoff and Zimmermann, 2013). Since intersubjective meanings-in-use and understanding of norms are naturally varied in a culturally-diverse and fluid context, such as the current international system, contestation cannot to be expected to be symmetric nor neatly and easily fitted into one of the boxes in the normative grid. This disagreement of which normative grid is referred to, or what norm-type level is being contested, has major implications for norms and their legitimacy, not only for the contesters’ mismatched expectations but also for norm performative practices in and beyond the political community, as we will come back to below.

### **Modes of contestation of the EU’s foreign policy norms and values**

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Wiener (2014 and 2017) distinguishes between four different modes of contestation: arbitration, deliberation, justification and contention. Arbitration is the legal mode of contestation where contestation centers around raising issues related to court-related processes and to formal legal codes. Deliberation refers to a political mode of contestation, involving “addressing rules and regulations with regard to transnational regimes according to semi-formal soft institutional codes” (*ibid.* p.2). Justification is the moral mode of contestation which involves questioning principles of justice. Finally, contention is the societal practice of contestation which allows actors to critically revisit societal rules, regulations or procedures by engaging with multiple codes in non-formal environments. We find these categorizations heuristically useful as they represent the four main modes of argumentation in International Relations (legal, political, moral and social contestation). However, Wiener’s (2014 and 2017) original definitions tie these categories to different institutionalized scenarios, such as courts (arbitration), international organizations and regimes (deliberation), social protest (contention) and epistemic communities (justification). We have here opted to de-couple the mode of contestation from a specific institutionalized setting, as our empirical data support the idea that the modes, in different combinations, might be simultaneously present in one and the same global, glocal and/or intra-EU contestation scenario. It is our understanding that whether the contestation takes place in a courtroom, inside the meeting rooms of an international organization or as expressed by social protest in the street, the argumentation from the participants may run the gamut of legal to political, moral and social without much distinction. Another reason for our decoupling of mode and institutionalized settings is that the contestatory practices scrutinized in this edited volume may spread across multiple competent forums, depending on the norm type or complexity, as well as the temporal duration of norm contestation. A norm contestation may, in other words, begin in several forums at once (e.g. regime or epistemic community) and/or spread to other relevant contestation theatres over time as pertinent to norm contents (e.g. legal or social; see Kissack; Collantes Celador and Costa; Barbé and Badell, this volume).

*European Union contested: foreign policy in a new global context* will rather focus on the intensity of the mode(s) of contestation (arbitration, deliberation, contention and justification) to flesh out the specific scope conditions for when the modes of contestation may have a bearing on the legitimacy of the norms and fundamental values that guide EU foreign policy. The

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chapters in this volume explore the intensity of contestation as a continuum ranging from soft to hard contestation. Our findings point to that contestation, whether through deliberation, contention or justification, can be considered in terms of intensity as ranging between ‘soft’, such as discourses and practices which question the interpretations of different normative meanings-in-use (cf. Zürn, Binder and Ecker-Ehrhardt, 2012; Wiener 2014), to “harder” forms of contestation related to norm compliance (norm antipreneurship or veto-players, cf. Bloomfield and Scott, 2017).

The authors in this book see different patterns in the global, glocal and intra-EU mode of contestation. On the global level, a recurring theme among the chapters is that the mode of norm contestation spans the four different modalities (arbitration, deliberation, justification and contention). Legal and political tactics of international actors, as well as nationally-derived moral and societal arguments, frequently flow together in ‘thick’ norm contestation contexts, as shown by Kissack (this volume) in his chapter on the death penalty. He also finds that international debates over the death penalty tend towards the “hard” end of contestation. Some of the findings also point to the fact that modes can operate to a large extent sequentially and across forums, which was the case of the debates on the death penalty as well as China and India’s respective contestations (Kissack; López i Vidal; Klossek, this volume). In the case of China’s view on R2P, the contestation became increasingly harder over time. In contrast, in the case of India’s contestation on the norms of peacebuilding and local ownership, the process has grown softer over time. Klossek (this volume) argues that in essence the Indian contestation of one of the norms defended by EU today amounts to a ‘silent contestation’. In their chapter, Petri and Biedenkopf (this volume) finds that the predominant mode of contestation in the context of the 2015 Paris climate negotiations was deliberation, but that positions of developing countries during the negotiation rounds in different sub-areas ranged between soft and hard.

At the glocal level, the chapters in this volume find that the mode of norm contestation most frequently employed were deliberation and justification. Vlaskamp (this volume), shows that the hard(er) contestation by external actors on the global scale through the justificatory mode of contestation can contribute to soft contestation on the EU level. Domestic EU actors may use external processes as a motivation to push for internal changes. Collantes Celador and Costa (this volume) find that both deliberative and justificatory modes of contestation have been present in the case of the ICC. In their chapter they also point out that the location appears to

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be a determining factor for whether contestation takes on a soft or hard format. They show that France and the United Kingdom often do not voice very strong opposition to the EU’s common positions internally. However, when they are wearing their P5-hat at the UN, their contestation ‘hardens’ as they want to allocate much more power to the UNSC to decide certain determined issues. Barbé and Badell (this volume) argue that the contestation over human control of autonomous weapons was both deliberative and justificatory. The emergent norms faced stages of harder contestation, in the forms of threat of deadlock, but most of the contestation throughout the process, they find, falls towards the softer end of the spectrum.

At the EU-level, norm contestation spans the three modes of contention, deliberation and justification. Eliasson and Garcia-Duran (this volume), for example, discuss how some civil society organizations opted for soft deliberations and participated in advisory groups to the European Commission, while at the same time using harder forms of contention by campaigning against TTIP to create public pressure. The same civil society organizations also used justificatory modes of contestation in its harder forms, as they argued that the provisions of TTIP were a threat to organizing principles of food quality in the EU. Iñiguez-Heredia (this volume) highlights how the contestation in terms of the Capacity Building for Security and Development initiative, through which the EU may grant non-lethal military support to third countries, has come in the form of deliberation and contention. Contesting actors have used deliberative practices as well as social arguments to resist the transformation of the security-development nexus and laxer regulations surrounding the use of EU development aid. She notes that soft contestation at the level of the organizing principle has simultaneously implied a hard contestation on the fundamental norms of promoting sustainable development, peace and the rule of law. Finally, van Berlo and Natorski (this volume) identify justification and contention as the main modes of contestation by populist parties in the European Parliament. They point out that European populist parties employed a mix of softer and harder forms of contestation whether through vociferous rhetoric in parliamentary debates on the crises in Ukraine and Syria or by not participating in joint motions on these conflicts.

We posit here that the intensity of the mode of contestation in our case studies, rather than the mode per se, is important for determining the effect of contestation on norm legitimacy. We have seen that the soft/hard distinction allows us to highlight important differences in contestation. First, contestation towards the softer end of the spectrum is indicative of the everyday reality of multiple dissonant meanings-in-use in culturally-diverse and fluid normative

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contexts. The contestation aims not to find a single, inter-subjectively held ‘gold’ standard of appropriateness equally applicable to all, but more to regulate the varied meanings-in-use. The very nature of norms is that their boundaries are flexible and ill-defined, and many different meanings-in-use can usually co-exist over time without friction. Contestation towards the softer end of the spectrum comes about when an actor objects to the boundaries of a norm being pushed in a way that is perceived to be in contravention of the broad spirit of the norm. Soft contestation is thus more a meanings-in-use contestation, strictly speaking, than a norm contestation. Several chapters in this book find that soft contestation occurs in cases where norms do not impose debilitating restrictions on norm-takers, and hence most contesters feel no urgency in overturning or modifying the fundamental norm or its attendant type-2 or type-3 norms. Moreover, our findings in terms of soft contestation also suggest that contesters usually stay within the limits set by the specific context, in terms of power asymmetries (see below), institutional designs, and shared fundamental values. Instead of acting like a bull at the gate, most soft norm contesters take these factors into account and opt therefore for slow, but continuous, contestation to avoid overly intensive confrontations. If we turn our attention to contestation towards the harder end of the spectrum, we argue that harder forms of contestation are indicative of when meanings-in-use are not easily reconcilable as they might become logical opposites and practices can come to be interpreted as in breach of the spirit of the norm. Harder contestation thus frequently leads to alternative norms being proposed, deliberative forums shifted to reframe the debate, or the emergence of discourses and practices to prevent the effective implementation of the norm. Harder forms of contestation are thus much more properly termed norm contestation. The authors in the current volume which find harder norm contestation in their case studies note that such contestation arises in cases where the norm is perceived by the contesting actor to be restrictive (e.g. climate change, ICC, consensus-style decision making) or too intrusive into a domestic context (e.g. regulation of death penalty or R2P), or creates fear that the implications of a current norm could lead to loss of control of related type-1, type-2 or type-3 norms (e.g. free trade or security/development). Hard contestation also appears more likely to drive shifts in contestation scenarios, as the contesters try to find a forum in which contestation might win most followers or where power constellations are more favorable to the contesters’ norm interpretation.

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### **Outcomes of the EU’s contested foreign policy norms and values**

The contributors of the present volume reflect on a wide-ranging set of topics related to norm contestation of EU foreign policy. While all chapters in this volume describe how the EU’s foreign policy is challenged on multiple levels in terms of its normative content, we do not find evidence to support the claim that this equates to a significant or short-term decline in the legitimacy of the EU foreign policy norms, as we will elaborate on in continuation.

First, power asymmetry is palpable and present in virtually all the ten case studies presented in this volume. Norm contestation in the literature is frequently depicted as a politically and normatively desirable act of direct engagement between culturally-diverse stakeholders to determine the validity of norm. Wiener (2014, p. 46), for example, holds that contestation is a profoundly cosmopolitan, democratic and plural practice as it entails “the freedom to engage with others in dialogue about the norms, principles and rules of governance within a political order”. Contestation understood in this way reflects the central assumption of a broader scholarship that, in principle, the norms, rules and principles inherent to governance ought to be contestable at any time by those governed by them (Dahl 1971; Habermas 1991; Tully 2002). However, this presumes an equality of voice opportunity and access to norm contestation forums which most of our contributors do not encounter in their individual case studies. Rather, the cases in *European Union contested: foreign policy in a global context* describe how actors who are structurally more powerful in the system, like the EU, have the ability to discursively produce the ‘standards’ of a norm or the luxury to simply ignore the dissonant perspectives that inform norm contestation practices from smaller actors. An insight shared across postcolonial, critical, feminist and/or post-structural literature is that the structurally-powerful possess a certain ability to determine the normativity that ultimately enhances or reduces the legitimacy of a norm (e.g. Foucault, 1994; Cox, 1999; Epstein, 2012). Examples of this is the EU’s capacity to ‘lead from behind’ in areas where it has contributed to setting the parameters for debates, such as in the contexts of the death penalty, climate change or lethal autonomous weapons (Kissack; Petri and Biedenkopf; Barbé and Badell, this volume). The EU’s structural power is naturally enhanced when there is intra-EU political will to close ranks in defense of the norms and fundamental values which underpin the EU’s foreign policy. For example, in the case of the contestation of transparency in the United States, in Vlaskamp’s (this volume) chapter, member

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states stepped up to the plate and took a more prominent role to protect this norm. Collantes-Celador and Costa (this volume) argue that the EU became firmer in its defense of the ICC when fundamental norms were at stake, while it was more divided when organizing principles or standardized procedures were. Examples from cases of intra-EU contestation between different EU institutions and European activists or political parties also reproduce power asymmetries. Eliasson and Garcia-Duran (this volume) found that the European Commission was able to reduce opposition to the TTIP by reframing the rhetoric related to free trade. In the case of the mainstream political parties in the European Parliament, they have been able to neutralize contesting voices of populists without ceding much normative terrain (van Berlo and Natorski, this volume). Populist contestations of EU foreign and security policy therefore appear to potentially have a greater media impact than actual political (or moral) influence in the European Parliament. As a consequence of the EU’s – or certain EU actors’ – structurally more influential position, only a few chapters in the volume actually detect significant challenges against the legitimacy of the EU’s foreign norms and fundamental values whether at the global, glocal or intra-EU levels. However, some contributors to the volume do note that there is an inherent medium- to longer-term risk of the legitimacy of the EU’s foreign policy norms being undermined if it takes its structural influence for granted. This is especially true on occasions when norm contestation is voiced by other structurally important actors. The EU’s failure to register China’s reservations about Responsibility to Protect (López i Vidal, this volume), India’s differentiated meanings-in-use on peacebuilding and local ownership (Klossek, this volume) or the US’ common front between political leaders and economic actors on transparency (Vlaskamp, this volume), raises serious questions of the legitimacy and the global reach of such EU foreign policy norms over time.

Critical, feminist and postcolonial theories also alert us to the fact that influential actors are in a position to preserve their normative legitimacy through coopting weaker actors (‘corporatism’) (Foucault, 1994; Cox, 1999). The EU can opt for either accommodation of the concerns of contesters to preserve a norm or entrench itself in the status quo (Ikenberry, 2011; Barbé et al., 2016). In a number of chapters in this volume, the EU has chosen the former approach, which strengthened the EU’s foreign policy norm’s legitimacy. For example, Petri and Biedenkopf (this volume) find that the EU’s compromise-oriented strategy “to build further common ground on reaching a new climate consensus on the road to the Paris climate deal [...] has positively affected the EU’s perceived legitimacy in the global effort to combat climate change”. In the

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case of the TTIP, the Commission decided to accommodate the rhetoric by civil society actors. This has caused Eliasson and Garcia-Duran (this volume) to conclude that the result of the norm contestation was “more internal legitimacy of EU trade policy (seen as closer to citizens), without hampering the ability to pursue the norm of open trade system through the principle of bilateral agreements”. In other words, in some cases contestation even strengthened the legitimacy of the norm, as the EU was able to address some of the concerns of the contesters.

In sum, the norms that guide the EU’s foreign policy seem to be more resilient to external and internal norm contestations than is sometimes expected from alarmist reports on the dire straits of European integration in the age of an eroding Western and intra-EU liberal order. However, we are aware of the fact that norm contestation processes and their link to legitimacy ideally should be analyzed in longer time frames. We grant that most of our case studies are examples of norm contestation which have taken place in the past five to ten years. Even in the cases of longer standing contestation reported on in the volume such as, for example, the abolition of capital punishment or the debates surrounding R2P (Kissack; López i Vidal, this volume), we also observe that norm contestation processes to effect changed standards of appropriateness and related practices usually are inconclusive and take time. More research analyzing norm contestation is therefore needed.

## **BIBLIOGRAPHY**

Acharya, A. (2017). After Liberal Hegemony: The Advent of a Multiplex World Order. *Ethics & International Affairs*, 31(3), 271-285.

Angelucci, D. and Isernia, P. (2019). “Politicization and security policy: Parties, voters and the European Common Security and Defense Policy”, *European Union Politics*, June 2 online first.

Badescu, C. G., & Weiss, T. G. (2010). Misrepresenting R2P and advancing norms: an alternative spiral?. *International Studies Perspectives*, 11(4), 354-374.

Barbé, E., Costa, O., and Kissack, R. (Eds.). (2016). *EU Policy Responses to a Shifting Multilateral System*. Basingstoke: Palgrave Macmillan.

Elisabeth Johansson-Nogués, Martijn Vlaskamp and Esther Barbé, "The EU foreign policy and norm contestation in an eroding Western and intra-EU liberal order" Elisabeth Johansson–Nogués et al. (eds.) *European Union Contested Foreign Policy in a New Global Context*. Heidelberg: Springer, 2020.

Barbé, E. and Johansson-Nogués, E. (2001). EU and conflict prevention. Working Papers OBS, (8).

Barbé, Esther and Elisabeth Johansson-Nogués (2019). "Assuming Responsibility in the Changing Dynamics of Security? The European Security Strategy and the EU as a Security Actor beyond its Borders," in Didier Bigo et al. (eds.) *Europe's 21st Century Challenge: Delivering Liberty and Security*. (Farnham, UK: Ashgate): 65-80.

Barbé, E., and Morillas, P. (2019). The EU global strategy: the dynamics of a more politicized and politically integrated foreign policy. *Cambridge Review of International Affairs*, 1-18.

Bloomfield, A. and S. Scott (eds) (2017). *Norm Antipreneurs and the Politics of Resistance to Global Normative Change* (Oxon: Routledge).

Bornschieer, S. (2010). The new cultural divide and the two-dimensional political space in Western Europe. *West European Politics*, 33(3), 419-444.

Buzan, B., & Lawson, G. (2015). *The global transformation: history, modernity and the making of international relations* (Vol. 135). (Cambridge: CUP).

Costa, O. (2018). The politicization of EU external relations, *Journal of European Public Policy*, on-line first.

Cox, R. W. (1999). Civil society at the turn of the millenium: prospects for an alternative world order. *Review of international studies*, 25(1), 3-28.

Dahl, R. A. (1971). *Poliarchy: Participation and opposition*. New Haven: Yale University Press.

Deitelhoff, N. and L. Zimmermann (2013). Things we lost in the fire: How different types of contestation affect the validity of international norms. (PRIF Working Papers, 18). Frankfurt am Main: Hessische Stiftung Friedens- und Konfliktforschung.

Dinan, Desmond Neill Nugent, William E. Paterson (2017). *The European Union in Crisis* (Basingstoke,: Palgrave Macmillan).

Elisabeth Johansson-Nogués, Martijn Vlaskamp and Esther Barbé, "The EU foreign policy and norm contestation in an eroding Western and intra-EU liberal order" Elisabeth Johansson–Nogués et al. (eds.) *European Union Contested Foreign Policy in a New Global Context*. Heidelberg: Springer, 2020.

EEAS (2019). Speech on Rethinking Europe by High Representative/Vice-President Federica Mogherini at the celebrations for Helmut Schmidt's 100th anniversary of birth, Hamburg, UNIQUE ID: 190223\_1, 23 February.

Epstein, Charlotte (2012). Stop Telling Us How to Behave: Socialization or Infantilization?' *International Studies Perspectives*, Vol. 13, No. 2, pp. 135–45.

European Council (2017). "United we stand, divided we fall": letter by President Donald Tusk to the 27 EU heads of state or government on the future of the EU before the Malta summit, Press release 31 January.

EUGS (2016). "Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign And Security Policy", European External Action Service, Brussels.

Finnemore, M., & Sikkink, K. (1998). International norm dynamics and political change. *International Organization*, 52(4), 887-917.

Foucault, Michel (1994) *Dits et écrits. 1954–1988*, 4 vols. (Paris: Gallimard).

Grande, Edgar and Kriesi, Hanspeter (2015). 'The restructuring of political conflict in Europe and the politicization of European integration' in Thomas Risse (ed) *European Public Spheres. Politics is Back*, (Cambridge, United Kingdom: Cambridge University Press), 190–226.

Gross, E., & Juncos, A. E. (Eds.). (2010). EU conflict prevention and crisis management: Roles, institutions, and policies. Routledge.

Habermas, J. (1991). Citizenship and national identity: Some reflections on the future of Europe. *Praxis International*, 12(1), 1–19.

Hegeman, U. and Scheneckener, U. (2019). U., "Politicising European Security: from technocratic to contentious politics?" , *European Security*, Published on line 30 May.

Ikenberry, G. J. (2013). The Liberal International Order and Its Discontents. In *After Liberalism?* (London: Palgrave Macmillan), pp. 91-102

Elisabeth Johansson-Nogués, Martijn Vlaskamp and Esther Barbé, "The EU foreign policy and norm contestation in an eroding Western and intra-EU liberal order" Elisabeth Johansson–Nogués et al. (eds.) *European Union Contested Foreign Policy in a New Global Context*. Heidelberg: Springer, 2020.

Johansson-Nogués, E. (2018). The EU's ontological (in) security: Stabilising the ENP area... and the EU-self?. *Cooperation and Conflict*, 53(4), 528-544.

Krook, M. L., & True, J. (2012). Rethinking the life cycles of international norms: The United Nations and the global promotion of gender equality. *European Journal of international Relations*, 18(1), 103-127.

Laatikainen, K., & Smith, K. (Eds.). (2006). *The European Union at the United Nations: Intersecting Multilateralisms*. Springer.

Marks, G. and Hooghe, L. (2004). Does identity or economic rationality drive public opinion on European integration?, *PS: Political Science and Politics* 37 (3): 415–420.

Manners, I. A. (2008). The normative ethics of the European Union. *International Affairs*, 84(1), 45-60.

Müller, P. (2016). EU foreign policy: no major breakthrough despite multiple crises, *Journal of European Integration*, 38:3, 359–374.

Natorski, M. (2011). The European Union peacebuilding approach: governance and practices of the instrument of stability, vol. 111, PRIF, p. 37.

Newman, E., Thakur, R. y Tirman, J. (eds.) (2006). *Multilateralism under Challenge: Power, International Order and Structural Change*, Tokyo, United Nations University Press,

Panke, D. and Petersohn, U. (2012). Why international norms disappear sometimes. *European Journal of International Relations*, 18(4), 719-742.;

Rosamond, B. (2019). Brexit and the politics of UK growth models. *New political economy*, 24(3), 408-421.

Elisabeth Johansson-Nogués, Martijn Vlaskamp and Esther Barbé, "The EU foreign policy and norm contestation in an eroding Western and intra-EU liberal order" Elisabeth Johansson–Nogués et al. (eds.) *European Union Contested Foreign Policy in a New Global Context*. Heidelberg: Springer, 2020.

Sandholtz, W., & Stiles, K. W. (2008). Explaining international norm change. *International Norms and Cycles of Change*, 1-26.

Sjursen, H. (2015). Normative theory: An untapped resource in the study of European foreign policy. *The Sage handbook of European foreign policy*, 197-214.

Tully, J. (2002). The unfreedom of the moderns in comparison to their ideals of constitutionalism and democracy, *Modern Law Review*, 65(2), pp. 204–228.

Wæver, O. (2018). A Post-Western Europe: Strange Identities in a Less Liberal World Order. *Ethics & International Affairs*, 32(1), 75-88.

Wiener, A. (2008). *The Invisible Constitution of Politics: Contested Norms and International Encounters*. (Cambridge University Press).

Wiener, A. (2014). *Theory of Contestation* (Heidelberg: Springer Verlag).

Wiener, Antje (2016), Contested Norms in Inter-National Encounters: The 'Turbot War' as a Prelude to Fairer Fisheries Governance. *Politics and Governance* 4 (3), pp. 20-36.

Wiener, Antje (2017), A Theory of Contestation—A Concise Summary of Its Argument and Concepts. *Polity* 49(1): 109-125.

Youngs, Richard (2018). *Europe reset. New directions for the EU* (London, United Kingdom: I.B. Tauris).

Zürn, M., Binder, M. and Ecker-Ehrhardt, M. (2012). International authority and its politicization. *International Theory*, 4(1), 69-106.