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INTERNATIONAL NONREGIMES: A RESEARCH AGENDA

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Abstract

Today there are no treaties on small arms control, tactical nuclear weapons, deforestation, information privacy and other global issues. The absence of intergovernmental institutions in various policy arenas is a phenomenon with considerable policy as well as theoretical implications. Yet, scholarship on multilateralism largely ignores instances where institutions do not emerge. Investigating such ‘negative’ cases can improve understanding of collective action in world politics, and help build more complete explanations of why some problems trigger international policy responses while others do not. We develop the concept of nonregimes, discuss theoretical and methodological reasons why their study is valuable, outline a methodological approach to pursue the research agenda, and highlight *a priori* theoretical considerations. Six illustrative cases from the areas of arms control, environmental management and international political economy are described.

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INTRODUCTION

(R. Dimitrov)

Why are regulatory regimes absent from some areas of world politics? The proliferation of policy agreements among states is a distinct historical development in international relations (IR) over the last fifty years. Today numerous treaties contribute to global and regional governance in security maintenance, trade, environmental management, and human rights. At the same time, it is important to recognize that international deliberations are also rife with intractable conflict and some fail to produce multilateral regimes. Today there are no policy agreements on many important issues such as small arms control, global deforestation, tax evasion, or economic competition policy.

The absence of international regimes in certain issue areas provides a valuable opportunity to improve understanding of collective action in world politics. Much of IR scholarship focuses on the creation and effectiveness of institutional frameworks. Given this concerted and consistent disciplinary focus, we find astonishing the lack of academic attention to instances where no arrangements for multilateral governance exist. Students of international organization focus their attention on existing institutions, and have largely ignored ‘negative’ cases where institutions do not emerge. While there are studies on absence of governance resulting from ineffective institutions and non-compliance, IR scholarship ignores instances where states do not create any institutions in the first place.

This article offers a research agenda to extend and strengthen regime theory through analysis of nonregimes. We define a nonregime as *a specific issue area characterized by the absence of a multilateral social institution for ordering actors’ interactions*. Substantive theoretical explanations remain outside the scope of the project and we remain theoretically agnostic at this early stage of what promises to be a long-term academic pursuit. The focus here is not on answers but on promising new questions and how to pursue them. We introduce a novel concept in IR, pose a theoretically consequential question that opens a new space of intellectual endeavor, and develop a systematic mode of inquiry into it.

The first section discusses theoretical and methodological reasons to study nonregimes (NR). We then tackle conceptual matters, formulate a working definition of nonregimes, and develop a model of (non)regime formation that we use to derive a typology of nonregimes. The third section offers concrete examples of nonregimes, using six illustrative cases from the realms of arms control, political economy and environmental management. Next, we consider methodological issues in analyzing NR, including research design and case selection. The final section highlights theoretical considerations to guide research, and discusses whether and how arguments developed on the basis of studying regimes can be applied in nonregime studies.

WHY STUDY NONREGIMES

(R. Dimitrov)

There are compelling theoretical and methodological reasons to study nonregimes. Our view is that the absence of a policy regime in an issue area is an outcome of theoretical interest, just like the opposite phenomenon of regime formation.

Failures to reach policy agreements are outcomes of sociopolitical processes involving public discourse, national-level decisionmaking, multilateral consultations and occasionally formal negotiations. Eventually, nonregimes are results of collective political decisions. Such decisions are sometimes explicit, when international deliberations fail to produce an agreement. Prolonged negotiations on deforestation since 1990, for instance, have repeatedly failed to rally political support for a global legally binding convention. Other times collective decisions not to create an institution are implicit, as in the case of coral reefs management where no formal negotiations have taken place.¹ Such negative cases are theoretically informative and yet conspicuously missing from the relevant literature.

Cooperation and the absence of cooperation are two sides of the same coin. As one of the doyens of IR theory noted nearly two decades ago, “Cooperation is in a dialectical relationship with discord, and they must be understood together. Thus to understand cooperation, one must also understand the frequent absence of, or failure of, cooperation, so incessantly stressed by realist writers” (Keohane 1988, 381). Yet, most research on the emergence of international institutions covers only successful cases of treaty formation (Andresen et al. 2000; Goldstein et al. 2000; Haas 1992; Koremenos, Lipson, and Snidal 2001; Young 1994). As Underdal reminds us, “there is a real possibility that *the entire field of regime analysis is biased in favor of positive findings*” (Underdal 2002 emphasis in the original). One methodological consequence of omitting nonregimes from a broader analysis of regimes is the loss of control cases (Cook and Campbell 1979). This leads to the well-known problem of biased inference (e.g., King, Keohane, and Verba 1994; Sprinz and Wolinsky-Nahmias 2004), and raises serious questions about the validity of existing regime theories.

The absence of research on negative cases has long been recognized as a major gap that hampers theory development (Hasenclever, Mayer, and Rittberger 1997; Keohane 1988; Sprinz 2001). Yet, the discipline has not responded to the challenge to throw light on why, when and how institutions for collective action do not come into being. If IR scholarship continues to ignore nonregimes, we could not properly evaluate causal arguments in the mainstream literature. For these reasons, comprehensive theories of global governance must encompass both positive and negative outcomes in political processes of institutional creation.

CONCEPTUALIZING NONREGIMES

(R. Dimitrov)

How would we know a nonregime if we saw one? A reasonable step in formulating a nonregime definition is to invert the regime definition. Regimes are “social institutions consisting of agreed-upon principles, norms, rules, procedures and programs that govern the interactions of actors in specific issue areas” (Levy et al. 1995, 274). This definition closely follows Krasner’s classical and famously vague formulation, and it can

¹ The absence of initiatives toward creating a regime could make cases all the more interesting. If we frame the collective action problematic in terms of preferences and ask when and why actors *want* to cooperate, then cases where no actor desires cooperation are theoretically informative. Such cases reflect social consensus among actors who agree that there is no perceived need to coordinate policy or that the prospects for success are so minimal that states are unwilling to attempt coordination.

be operationalized in a large number of diverse ways.² The empirical phenomena it covers range from formal rules to patterns of convergent behavior, and further to ideational structures consisting of shared understandings, intersubjective meanings and reciprocal expectations. The pros and cons of these formal, behavioral and cognitive definitions, respectively, are extensively reviewed elsewhere (Hasenclever et al. 1997; Levy et al. 1995).

A universal disciplinary agreement on a narrower definition is unlikely because of profound underlying disagreements over epistemological and ontological issues (ibid. 21). Here we inherit the existing indeterminacy without seeking to resolve long-standing conceptual debates. At the same time, however, we do not wish to be trapped in them and prevented from actual empirical studies. The particular conceptualization of (non)regime is less important than our general argument about the importance of cases where things we expect do not happen. Whether we conceptualize regimes as interstate regulatory frameworks, nonstate governance mechanisms, or patterns of behavior conditioned by shared understandings, the point remains that non-occurrences are relevant and important for academic analysis.

To escape the conceptual tangles, we favor a two-step approach: 1) adopt a broad definition that leaves room for research of various intellectual orientations; and then 2) operationalize it by narrowing it down according to our research interests, while allowing others to operationalize it according to their own. This represents a reasonable compromise between intellectual breadth and practicality: it opens wide the central concept and allows each researcher to choose what precisely to study.³ The choice depends entirely on the scholar's interests. Hence (non)regime studies could investigate (the absence of) either intergovernmental organizations, formal or informal policy agreements by state or nonstate actors, or ideational structures underlying social interactions.⁴

We define a nonregime as *a specific issue area characterized by the absence of a multilateral social institution for ordering actors' interactions*. This broad definition encompasses various phenomena and must be narrowed down before it can be applied in any research project. It can be operationalized in a number of ways, from the absence of international treaties to the absence of shared ideas regularizing social behavior. Nonregimes can be interstate or nonstate (depending on the actors who have not made institutional arrangements), formal or informal (absent informal agreements). Students of nonstate governance, for instance, could study private nonregimes defined as policy

² Stephen Krasner defined regimes as “sets of principles, norms, rules, and decision-making procedures” (1983, 2). Many have noted that this concept is “wooly,” imprecise to the point of being meaningless, and covers dissimilar subjects (Strange 1983; de Senarclens 1993; Milner 1993).

³ We agree with Levy, Young and Zurn (1995) that all-inclusive definitions can be used “so long as individual analysts are careful to state clearly the universe [of cases] they are referring to” (p. 273).

⁴ Our own interests are in formal interstate regimes: policy agreements among governments that involve specific commitments to policy targets and timetables, and have entered into force according to the terms of the constitutive text. Such definition is consistent with Robert Keohane's: “institutions with explicit rules, agreed upon by governments, that pertain to particular sets of issues in international relations” (1989, 4). Why study legally binding agreements? Scholars have cogently argued that governance is based not on formal rules but on collectively held norms and expectations. At the same time, there is a consensus in the study of world politics that legal agreements affect state behavior. International treaties may not be the only levers for regulating behavior but as long as we attribute any significance to them, the study of their formation remains an important realm of research.

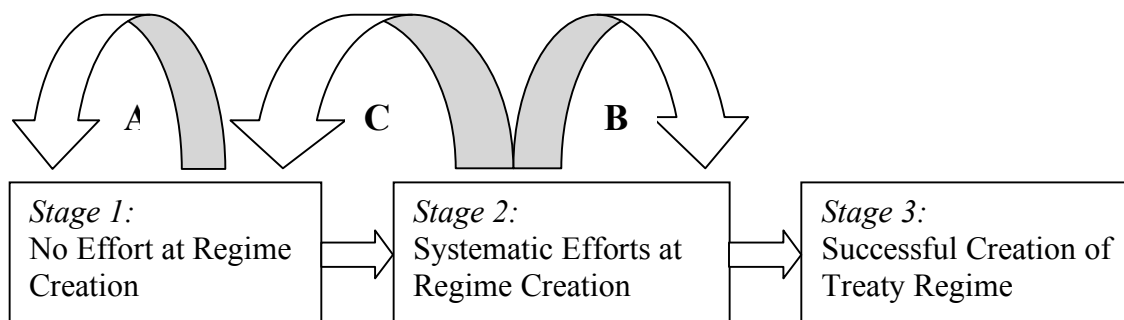
arenas characterized by the absence of nonstate policy initiatives. Alternatively, the absence of a convention on tax evasion is a formal interstate nonregime.

Our own focus is on formal interstate nonregimes, defined as *public policy arenas characterized by the absence of multilateral agreements for policy coordination*.⁵ A “public policy arena” is a space for potential policy activity that is occupied by institutionalized policy in at least three countries. In the presence of such national policies, the absence of an international agreement constitutes a nonregime, whether states have attempted and failed to create one (as in forest management), or have not even initiated formal negotiations (on coral reefs protection, for instance). Since a nonregime is a case of regime absence, ineffective regimes do not qualify as nonregimes because they do not meet the basic requirement for absence of a regime. We regard ineffective regimes as regimes nonetheless.

Stages of (Non)Regime Evolution (D. Sprinz)

Every existing regime was a nonregime at some point in time: before states introduced the treaties on ozone depletion, there was no treaty on ozone depletion. The establishment of international treaty regimes can be conceptualized, in stylized form, as running through three distinctive stages (Figure x).

Figure x: Stages of Regime Evolution



In the first stage, no serious effort is undertaken to create a regime. Mere suggestions by one party that such a creation would be desirable, e.g. in a press release, does not constitute serious efforts at establishing a regime. Some cases remain at this stage. The problems of Arctic haze and coral reefs degradation, for instance, have not triggered negotiations on policy coordination regarding these issues. This first stage is left behind once systematic efforts among actors to create a regime are undertaken, e.g. by embarking on international (pre)negotiations. Efforts at this second stage may

⁵ We choose to focus on regulatory interstate (non)regimes *without* denying the importance of other types that are an equally valid subject matter. Scholars interested in nonstate governance could still benefit from our central claim regarding the value of negative cases, and explore areas where nonstate governance mechanisms do not emerge.

succeed or not. If stage 3 is reached, we arrive at the standard case of the regime initiation literature, the “success” cases of a regime formation. Nonregimes are cases that never make it to stage 2 (type A), are persistently stalled at stage 2 (type B), or even revert from stage 2 to stage 1 (type C).⁶ While nonregimes as well as successful regime creation may pass through the same stages, it is the persistence (on a decadal basis) at stage 1 or 2 that creates *observable* cases that pose a theoretical puzzle.

Relevant and irrelevant nonregimes
(D. Sprinz and G. DiGiusto)

What is the empirical domain of nonregimes? There are a large number of cases where no regimes have been created. States do not cooperate, for instance, on managing street litter or noise pollution; and the European Union does not have a regime for common cultural policy or long-term wealth management for the elderly. In many fragmented industries, there is little cross-national standardization, especially if such industries are shielded from outside competition, such as educational policies in the international context or even the width of railway tracks on a continental level.

To escape the need to consider an infinite amount of such cases, we propose a criterion for inclusion. The absence of a regime is genuinely puzzling only in policy arenas where theories create expectations that states will create regimes. The regime literature anticipates the creation of regimes in issue areas characterized by high levels of interdependence, market failures, negative externalities from domestic policies, high transaction costs, information asymmetries and veils of uncertainty, and, more generally, the possibility of mutual gains from interstate cooperation (cf. Hasenclever, Mayer, and Rittberger 1997; Keohane 1984; cf. Krasner’s 1983a; Krasner 1983b; Young 1989).

Hence, a nonregime is theoretically relevant if at least one conducive condition for regime creation is present. Such conditions reflect the diversity of existing theoretical perspectives of IR and include: social discourse portrays a regime as desirable; a regime has the potential to improve the welfare of participants, reduce transaction costs or serve other state interests, including domestic political gains; or the world hegemon seeks its creation. In issue areas where conducive conditions are present yet no regime is forthcoming, the result is an obvious empirical anomaly that deserves attention.

In this context, we embrace Mahoney and Goertz’s “possibility principle” which holds that

only cases where the outcome of interest is possible should be included in the set of negative cases; cases where the outcome is impossible should be relegated to a set of uninformative and hence irrelevant observations (Mahoney and Goertz 2004).

For example, the possibility of a treaty on sustainable forest management that creates benefits to regime members would suffice for inclusion into the study of nonregimes on theoretical grounds as well as those of the possibility principle. Such criteria help us to

⁶ Cases under types B and C will have made a “successful” transition from stage 1 to 2 – as do successful regime cases. From the transition itself we are unlikely to be able to infer whether we witness a regime or a nonregime of types B or C.

exclude irrelevant cases such as a potential regime which links cultural policies to the choice of voltage for electricity.

We concentrate on the simultaneous investigation of non-regimes (of various types) with cases of successful regime initiation. Yet successful regime initiation does not imply that it is effective. Is a regime at stage 3 with no effect substantively different from, for example, a type B case? An enlarged research agenda would combine the various types of non-regimes with regimes initiated, with the latter being differentiated by their degree of regime effectiveness (Helm and Sprinz 2000; Miles et al. 2002). This enlarged research agenda would then simultaneously shed more light on why some “regimes” never emerge, why others have no effect, and why a third group is quite effective.

ILLUSTRATIVE CASES

Competition policy (G. DiGiusto)

Although well established in both United States and European Union law, competition policy is often described as the “missing pillar” of the international economic order. With the advent of globalization and the consequent increase in transnational business activity, the volume and rapidity of international transactions, multinational mergers and acquisitions, and illicit transnational business activities place increasing burdens on the resources and enforcement capacities of domestic competition authorities. Moreover, multinational firms subject to disparate rules and regulations in multiple jurisdictions face higher transaction costs. Given these realities, an interstate regime seems potentially beneficial for governance of this policy area. Although ad hoc cooperation has occurred on specific competition issues, none has reached the level of a full-fledged regime. In terms of our model, competition policy remains at Stage 2 of regime development.

Governments have proclaimed the need for cooperation on competition policy enforcement on many instances over the last eighty years. In 1927, the League of Nations issued the Oualid Report discussing the deleterious effects of restrictive business practices on transnational commerce. The architects of the post-World War II Havana Charter sought to promulgate an international mechanism for enforcing multilateral competition rules (Stage 2). When U.S. Congress rejected the Havana Charter, however, competition policy fell by the wayside while the stopgap trade regime created by the General Agreement on Tariffs and Trade did not include antitrust provisions (Waller 1997, 7). Intergovernmental efforts to create a competition policy regime thus reverted back to Stage 1.

Beginning in the early 1990s, the EU and U.S. again placed competition policy on the international agenda, returning the issue to Stage 2 of regime creation. The United Nations Conference on Trade and Development (UNCTAD), the Organization for Economic Cooperation and Development (OECD), and the WTO created working groups to make recommendations on international competition enforcement. Notably, the 1996 Singapore Ministerial Declaration and the 2001 Doha Ministerial Declaration listed competition policy as a crucial focus for upcoming negotiations. Despite the recognition of its importance, competition policy has been sidelined in both these rounds and put off

until future negotiations, even as the potential gains from more extensive multilateral cooperation increase steadily.

The most recent development has been the creation of the International Competition Network (ICN), a transgovernmental discussion forum comprising 76 national and supranational competition authorities with a consultative role for businesses. The ICN's most notable success to date is the publication of recommended best practices for merger notification procedures, an effort to streamline the process of submitting proposed corporate mergers to review in multiple jurisdictions and thus reduce the cost and burden on firms. Although the ICN recommendations are not binding on members, the transgovernmental nature of its operations has thus far generated the most successful multilateral cooperation on competition policy. In this respect, merger control has shown signs of moving from Stage 2 to Stage 3. No analogous progress has yet emerged on other aspects of competition policy such as control of monopolies and anti-cartel enforcement.

Information privacy
(G. DiGiusto)

Another puzzling nonregime persists in the international governance of information privacy. As Bessette and Haufler (2001) explain, the United States and the European Union both have considerable economic incentive to coordinate their privacy policies. First among these incentives is the possible competitive advantage from promoting the emerging market for on-line commerce. Differing domestic approaches to data protection, however, create a barrier to transferring information across international boundaries. A regime harmonizing the international transfer of sensitive data and information therefore seems necessary to facilitate this potentially lucrative sector: “[W]ithout such a framework, the commercial market for data might collapse as individuals refused to provide information or governments restricted its transfer abroad. The on-line market may not fulfill its potential if consumers and business users do not have confidence in the medium” (Bessette and Haufler 2001, 73). These incentives only increase with the proliferation of on-line technologies and commerce that depend on the secure communication of information. Therefore, the demand for an information privacy regime is evident.

Both the U.S. and EU governments have explicitly recognized the potential mutual benefits from a unified approach to information privacy and transfer. Throughout the early 1990s, EU and U.S. officials met regularly to develop a common approach to information security issues, making the transitions between Stage 1 and Stage 2 in the regime creation trajectory. Divergent solutions were favored by each side, and repeated rounds of negotiations did not produce an international framework. In 1995, the EU threatened to cut off data transfers between Europe and the United States by 1998 (Bessette and Haufler 2001, 80). This threat did not succeed in bringing the two closer to an agreement. Consumer groups pressured both governments to reject any stopgap measures and instead negotiate a comprehensive international convention on privacy protection (Bessette and Haufler 2001, 82). In 2000, the U.S. and EU agreed upon a series of mutual recognition agreements, representing a compromise solution that

amounts to no more than a “partial” regime. Without a negotiated international framework, high transaction costs and inefficiencies from divergent policies remain.

Bessette and Haufler attribute the failure to establish a regime to the different character of business-government relationships in the EU and U.S. Specifically, whereas the U.S. tends to respect its industries’ preference for decentralized regulation, closer state-business ties in Europe make a more highly coordinated system feasible. With neither side willing to trade off the perceived interests of its fast-growing information industries, negotiations toward a common approach remain deadlocked.

Forest degradation
(R. Dimitrov)

While countries have various national policies regarding their forest resources, no international policy agreement on sustainable forest management has come into being. Deforestation and forest degradation are well-known problems that figure prominently in public discourse. The forest cover of the planet is known to dwindle due to a number of activities including commercial logging and clearing of agricultural land and pastures. Forests perform important ecological functions for water management and biodiversity preservation, and provide livelihoods for local communities in many countries. Their destruction has long been a matter of concern to a variety of actors. Despite consensus among governments regarding the unsustainable rates of forest degradation, negotiations at a number of international fora have consistently failed to produce a binding policy agreement. This is a type B nonregime that advanced from stage 1 to 2 in the late 1980s when a proposal to create a global forest convention was made. The 1990s saw an impressive array of global and regional state initiatives to introduce international policies for sustainable forest management. Deliberations have taken place within four high-profile institutional settings: at the 1992 UN Conference on the Environment and Development (UNCED) in Rio de Janeiro; during four sessions of the Intergovernmental Panel on Forests between 1995 and 1997; during four rounds of the Intergovernmental Forum on Forests between 1997 and 2000; and at the United Nations Forum on Forests since 2000.

In preparing for UNCED, industrialized states attempted to launch negotiations on a global forest convention but did not succeed due to concerted opposition by developing countries. In 1995, states embarked on a two-year process under the Intergovernmental Panel on Forests to discuss policy priorities and options regarding forest management. Major disagreements and an apparent lack of progress prompted governments to continue discussions under a new institutional body, the Intergovernmental Forum on Forests. After altogether eight rounds of negotiations, states failed to agree on the need for a global forest convention, and instead created a non-binding United Nations Forum on Forests that they explicitly deprived of policy making mandate (Dimitrov 2003; Lipschutz 2001).

The collective decision not to create a forest convention is shaped by multiple factors including US opposition, vested corporate interests in forest exploitation, scientific uncertainty regarding transboundary consequences of deforestation, and shared doubts about the added value of coordinating forest policy. Many countries reject the idea of forests as a public good. At UNCED, some countries maintained that forests are not

global commons, in view of scientific uncertainty about the transboundary effects of deforestation (Dimitrov 2003).⁷ Because deforestation is essentially a local problem, they argue, it cannot be the subject of international obligations.

Coral Reefs Management
(R. Dimitrov)

Similarly, an international treaty on coral reefs management does not exist and is not even on the global political agenda. Coral reefs are ecosystems that are particularly rich in biodiversity and are believed to provide habitat to one-fourth of all marine species. They are being degraded by a variety of natural and human-related factors, including marine pollution, coastal development, destructive fishing practices, and climate change. On the demand side of regime formation, scientific communities and environmental activists portray the worldwide degradation of coral reefs as a global issue that requires a policy response. Concerns over the conditions of coral ecosystems have been expressed in various international fora, in the context of the Convention on Biological Diversity, the Framework Convention on Climate Change, the Convention on International Trade of Endangered Species, and the Global Conference on Sustainable Development of Small Island Developing States. Yet, there is no international policy regime to coordinate coral reef management. The main policy development at the international level is the International Coral Reef Initiative (ICRI) that grew out of concerns expressed at a conference of small island states in Barbados in 1993. ICRI is a loose partnership of governments, international development banks, NGOs, scientists and the private sector. Neither an international governance structure nor a policy-making body, it is an informal network of interested parties, an open forum for like-minded political actors to discuss coral reef issues, share information, promote research, and identify policy priorities. The initiative does not have a permanent bureaucratic structure or organization, and does not engage in action: it neither develops, nor funds, nor implements policy (Dimitrov 2002).

Tactical Nuclear Weapons
(A. Kelle)

Unlike the areas of strategic nuclear, biological, and chemical weapons, there is no international regime regulating tactical nuclear weapons (TNW). The distinction between “tactical” and “strategic” nuclear weapons can be traced back to the late 1950s and early 1960s. The most often cited combination of criteria for the characterization of TNW is their range (of below 5,500 km) as well as their inability to reach US – or Soviet/Russian, for that matter – territory (Müller and Schaper 2000, 23-26).

In the aftermath of the attempted coup in Moscow in August 1991 US President George H.W. Bush announced his unilateral policy of reducing TNW on 27 September 1991 (Goldblat 2002, 97-100). Only a week later, Soviet President Gorbachev responded to the US initiative by declaring that all nuclear warheads for land-based tactical missiles as well as nuclear artillery shells would be destroyed. After the disintegration of the

⁷ Everton Vargas, principal negotiator for Brazil, stated: “Forests are not global commons, they are national resources.” The chief U.S. negotiator, Jan MacAlpine, argued “Forests are inherently local, they are not global commons. The net effects [of deforestation] are too disaggregated.”

Soviet Union, Russian President Boris Yeltzin confirmed the Soviet commitment regarding TNW.

The weaknesses of the parallel TNW initiatives of the US and the former Soviet Union are well documented (Handler 2003; Potter 2002). Neither side is legally bound by the unilateral measures, and the initiatives are easily reversible, should political expediency require so. While the choice of policy instrument at the time is understandable – given the perceived urgency of the situation – the lack of subsequent institutionalization or legalisation is not. Secondly, the initiatives lack any transparency or verification measures. Neither side declared its TNW stockpiles at the time the unilateral declarations were made. Likewise, the numbers of weapons to be destroyed or kept in central storage were not disclosed. In addition, in the period since the unilateral declarations were made, both American and Russian policies on TNW continued to be based on calculations of national security and not the promotion or adherence of international norms. This is evidenced by the increased reliance on sub-strategic nuclear weapons in both US and Russian military strategy (Alexander and Millar 2003).

On the demand side, a number of pro-active non-nuclear weapon states have expressed interest in more stringent, verifiable and irreversible TNW controls. Starting with the 1998 Preparatory Committee meeting of the Review Conference of the Nuclear Non-Proliferation Treaty (NPT), calls for the consideration of TNW in the NPT review process became more vocal than ever before (Johnson 1998). This paved the way for the inclusion in the Final Declaration of the 2000 Review Conference of a reference to TNW reductions. In it the Conference agrees that the “further reduction of non-strategic nuclear weapons, based on unilateral initiatives” (Non-Proliferation Treaty 2000) represents a practical step for the implementation of Article VI of the NPT that contains the disarmament pledge of the nuclear weapon states.

During the first preparatory meeting for the 2005 NPT Review Conference, held in April 2002, a number of member states returned to the issue of TNW reductions, stressing the importance and urgency of the subject. The so-called “New Agenda Coalition” urged that the “further reduction of non-strategic nuclear weapons should be a priority”. In addition, Germany proposed a set of concrete measures, some of which would not require lengthy negotiations and could be implemented by the NWS without any delay. It is thus safe to conclude that there is a clear regime demand from many non-nuclear weapon states. TNW are seen as part and parcel of the overall nuclear disarmament process.

Small arms control (A. Kelle)

Small arms and light weapons rose in prominence after the end of the cold war. Numerous local violent conflicts dissipated hopes for a peace dividend in the 1990s. The weapons of choice in these conflicts were not nuclear and major conventional weapons that dominated concerns of arms control advocates during the Cold War, but small arms and light weapons (SALW). SALW comprise different categories of arms ranging from pistols and revolvers to assault rifles like the AK-47 to portable anti-tank and anti-aircraft missile systems. These weapons are cheap, easy to acquire, hide, transport and use (even

for children), and are available in large numbers all over the world. Estimates range between 100 million and 1 billion worldwide. SALW were the only weaponry used in 46 out of 49 recorded regional conflicts between 1990 and 2000 (North Atlantic Assembly 2000). According to one estimate, “[i]n conflict zones or in violent urban contexts, more than half a million people die every year, victims of gun violence” (Garcia 2004). And unlike trade in major conventional weapons, the diffusion of SALW involves not only governments or state military organisations as actors, but also arms brokers, private armies and militias, armed rebel groups, criminal organisations and other non-state actors (Klare 1995).

Starting in the mid-1990s the SALW issue gained in international prominence chiefly through two processes. First, an epistemic community formed between arms control and arms trade experts who recognized the changing patterns of the international arms trade, away from major conventional weapons towards SALW (Boutwell, Klare, and Reed 1995; Klare 1995). Secondly, the United Nations increasingly devoted time and resources to the issue. This involved, among other activities, the creation of a Panel of Experts on Small Arms in 1995 and culminated in the 2001 Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects. This conference, however, did not produce a legally binding treaty, only a Program of Action (PoA) to combat the illicit trafficking in SALW (Garcia 2004).

The process of norm definition and diffusion that was achieved by these two processes does not amount to the establishment of an international regime. Firstly, the 2001 Program of Action is exactly that: a program which is a political declaration and not a legally binding treaty. Secondly, the PoA addresses only some of the issues identified by members of the SALW epistemic community, NGOs, and states during the second half of the 1990s: it covers the illicit trade in small arms, not licit trade or the connection between the two. Compared to tactical nuclear weapon controls, the PoA moves the SALW case closer to the regime end of the spectrum. Still, in comparison to other weapons control regimes as for example in the areas of chemical or biological weapons, it is clear that the level of policy coordination with respect to SALW still has a long way to go in order to qualify as an international regime.

METHODS FOR NONREGIMES STUDIES

(D. Sprinz)

How can we study something that is not ‘there’? The task is less troubling than it may seem, in view of specific cases we described. Each such nonregime is an outcomes of sociopolitical processes involving public discourse, national-level decisionmaking, multilateral consultations and occasionally formal negotiations. These processes can be studied in much the same ways political scientists study processes that produced regimes.

One promising approach is to combine the most-similar and the most-different research designs which are well-known to case study researchers in international relations and comparative politics (Bennett 2004; George and Bennett 2005; Przeworski and Teune 1970). This has been done in a project comparing nonregimes among themselves as well as contrasting them with regime cases in the environmental issue area (Dimitrov 2006). A most-similar case design could reveal factors that systematically preclude, e.g.,

advancement to stage 3. Thus, a good theory would specify why countries embark on serious efforts at regime building even if they stall at stage 2 and do not advance to stage 3. A most-different case research design introduces heterogeneity both on the explanatory factors and the dependent variable, i.e., it encompasses cases which successfully go through all stages (1 through 3) and those that remain at stage 1 or 2. Large-N studies are the domain of most different case designs, and developing a dataset of possible cases including both regimes and nonregimes would be desirable for future research.

We have a variety of case study and quantitative techniques at hand which ultimately should be combined in a multi-method approach to guard against the danger of findings induced by the choice of a particular method (Sprinz and Wolinsky-Nahmias 2004). For case study research, we suggest the use of structured counterfactual reasoning, in particular the use of the minimal-rewrite rule⁸ (Bennett 2004; Fearon 1991; Sprinz and Wolinsky-Nahmias 2004; Tetlock and Belkin 1996a). While case study researchers emphasize the search for necessary and sufficient conditions (Bennett 2004; Most and Starr 1989), others can deal with gradations thereof (Ragin 1987; Ragin 2000).

Quantitative research methods can also be employed to analyze transitions between stages or persistence over time. Quantitative researchers could regard nonregimes as censored observations of a hazard model. But also cross-sectional time-series might be particularly appropriate for the simultaneous analysis of regimes and nonregimes (Wooldridge 2002). In contrast to qualitative case analysis, quantitative analyses normally assume symmetry in explanation: If a particular value or range of values of a variable is present, it leads to a particular effect and vice versa. The great strength of cross-sectional time-series is that it can evaluate large amounts of data and represent average relationships well – if the model is appropriately specified (Braumoeller and Sartori 2004). For example, fixed effects models of cross-sectional time-series can control for persistent actor or country idiosyncrasies which partially explains their popularity in international relations research.

THEORETICAL CONSIDERATIONS

(R. Dimitrov)

A systematic scholarly pursuit of the research agenda we outlined is likely to yield results of diverse intellectual orientations. While we cannot prejudge the theoretical profile of future investigations and remain theoretically agnostic at this stage, certain *a priori* considerations would be helpful in guiding nonregime studies.

One challenging and consequential question in developing nonregime theory pertains to the symmetry of theoretical explanations. A key question confronting the researcher is: Are existing IR theories transferable to nonregimes? On the one hand, since nonregimes are non-events, they could presumably be explained by the absence of conditions that facilitate events (read, regimes). Such premise would lead us to expect that inverted theories of regime formation would explain nonregimes. For instance, Deborah Davenport (2005) takes a realist approach to forest negotiations and explains the

⁸ Tetlock and Belkin (1996, 18) define the minimal-rewrite rule as “[s]pecify antecedents that require altering as few “well-established” historical facts as possible.”

absence of a global forest convention by the unwillingness of the United States to alter other states preferences.

From this perspective, explanations of nonregimes must also be able to account for instances of successful regime creation. One comparative study offers a parallel interpretation of environmental nonregimes and regimes within a neoliberal institutionalist framework, focusing on the role of transboundary externalities and shared knowledge (Dimitrov 2005). Such a research program should thus be a comprehensive effort to illuminate the entire process of regime creation, encompassing the full range of variation on the intermediate and ultimate outcomes of interest (what we have labeled stages 1 to 3 above).

Alternatively, explanations of nonregimes may not mirror previously developed regime explanations. Respect for the uniqueness of cases arising from historical contingency and social learning makes political scientists increasingly skeptical of the prospect for uncovering empirical patterns. While certain configurations of factors may lead to regime initiation in one case, there may be different configurations of *other* factors that lead to a nonregime.⁹ In positivist language, not different values of the same variables but different variables and their particular configuration of values may account for dissimilar outcomes. Researchers must be prepared to find omitted and neglected variables, factors not included in existing analyses that may help explain this puzzling variation in outcomes.¹⁰

Eventually, nonregime studies may produce novel and original interpretations of regime processes that go beyond existing theories of IR. States sometimes choose to conclude informal rather than formal policy agreements (Lipson 1991) or to engage in tacit bargaining (Downs and Rocke 1990). This state choice could explain the absence of legal regimes. Similarly, the phenomenon of private governance is highly relevant to the incidence of interstate nonregimes. Various actors seek to fill the void left by government inaction. From the setting of international technical standards to environmental self-regulation, private regimes have arisen to provide solutions to numerous transnational governance problems (Cashore, Auld, and Newsom 2004; Gereffi, Garcia-Johnson, and Sasser 2001; Haufler 2001; King, Keohane, and Verba 1994; Mattli and Buthe 2004; Murphy 2004; Ragin 2000; Tetlock and Belkin 1996b, 18). Private solutions may be substitutes for the absence of state action at the international level. Thus the emergence and effectiveness of private regimes and governance may offer an alternative rationale for why interstate nonregimes persist. This and other possibilities deserve to be explored.

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⁹ This logic is embraced in qualitative case analysis (Ragin 2000).

¹⁰ According to King et al. (1994), overlooking relevant independent variables introduces bias into causal analysis, potentially leading to overestimated values of the expected outcome.

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