

# Deflective Cooperation: Social Pressure and Forum Management in Cold War Conventional Arms Control

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**Abstract** Why do states create weak international institutions? Frustrated with proliferating but disappointing international environmental institutions, scholars increasingly bemoan agreements which, rather than solving problems, appear to exist “for show.” This article offers an explanation of this phenomenon. I theorize a dynamic of deflective cooperation to explain the creation of compromise *face-saving institutions*. I argue that when international social pressure to create an institution clashes with enduring disagreements among states about the merits of creating it, states may adopt cooperative arrangements that are ill-designed to produce their purported practical effects. Rather than negotiation failures or empty gestures, I contend that face-saving institutions represent interstate efforts to manage intractable disagreement through suboptimal institutionalized cooperation. I formulate this argument inductively through a new multi-archival study of conventional weapons regulation during the Cold War, which resulted in the oft-maligned 1980 UN Convention on Certain Conventional Weapons. A careful reconsideration of the negotiation process extends and nuances existing IR theorizing and retrieves its historical significance as a critical juncture and complex product of contesting diplomatic practices.

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Why do states build weak international institutions? Frustrated with proliferating but suboptimal environmental institutions, scholars have proposed that instead of rationally building functional institutions to solve collective action problems,<sup>1</sup> states may choose to construct “empty” or “decoy” ones to hide negotiation failures and “legitimize collective inaction.”<sup>2</sup> Cooperative arrangements in areas such as human rights or development have also been dubbed “sham standards” that crystallize

1. Keohane 1984; Koremenos, Lipson, and Snidal 2001.

2. Dimitrov 2019.

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“organized hypocrisy.”<sup>3</sup> Separately, due to the prominent contestation and transgression of the international liberal order seen in the last two decades, the classic constructivist account of norms has been criticized for overestimating the extent of actual agreement underlying international institutions and law.<sup>4</sup>

Building on these critiques, I theorize a dynamic of *deflective cooperation* to explain the creation of compromises I label *face-saving institutions*. I argue that when international social pressure to create an institution clashes with enduring disagreements among states about the merits of creating it, states may knowingly adopt cooperative arrangements that are ill-designed to produce their purported practical effects. Rather than negotiation failures or empty gestures, I contend that face-saving institutions represent interstate efforts to manage intractable disagreements through suboptimal institutionalized cooperation.

I formulate this argument by studying the Cold War–era regulation of conventional weapons through the 1980 UN Convention on Certain Conventional Weapons (CCW).<sup>5</sup> It is often maligned as insufficient, ineffective, and unenforceable; arms control scholars commonly ignore it,<sup>6</sup> while scholars of norms in international relations view it as the frustrating treaty from which the revolutionary 1990s Ottawa land mine ban process eventually emerged.<sup>7</sup>

The CCW was the first international treaty since the 1920s to govern conventional weapons in international conflict.<sup>8</sup> It regulates the use of anti-personnel land mines, booby traps, and other devices (Protocol II) to reduce harm to civilians and, to a lesser extent, between combatants. It also prohibits using incendiary weapons (Protocol III) on civilians, and bans weapons “whose primary goal is to injure by fragments which are undetectable by X-rays” (Protocol I). It lacks verification and enforcement mechanisms.

Despite its binding nature and quick entry into force in 1983, the CCW is generally considered to have failed in its goal of curbing the use of such weapons.

Why did states create this convention? A careful reconsideration of the CCW’s negotiation retrieves its historical significance and offers important theoretical payoffs. The CCW marked an underappreciated turning point in Cold War–era international arms control. Until the multilateral campaign to ban certain conventional weapons started in the UN in 1968, post–World War II arms control had been captured by the superpowers bilaterally and multilaterally.<sup>9</sup> In contrast, this initiative was led by a coalition of non-aligned states (including Sweden, Mexico, Austria, and Yugoslavia) in opposition to the military interest and negotiating practices of

3. See Drezner 2007 and Krasner 1999, respectively.

4. Adler-Nissen and Zarakol 2021; Kinsella and Mantilla 2020; Wiener 2018.

5. Convention on the Prohibition and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed Excessively Injurious or to Have Indiscriminate Effects, and Protocols I-III (10 October 1980).

6. Coe and Vaynman 2020; Kreps 2016.

7. Carvin 2017; Cottrell 2009; Price 1998; Rosert 2019.

8. Mathews 2001. It was later expanded to cover internal conflicts.

9. Noguee 1963, 1965; Popp, Horovitz, and Wenger 2018; Potter and Bidgood 2018; Ungerer 2007.

the superpowers. After the CCW's creation in 1980, the regulation of conventional weapons did not return to bilateral or minilateral forums but remained within the universal remit of the CCW's Review Conference. How did the non-aligned coalition succeed in wresting the regulation of conventional weapons away from the superpowers?

The diplomatic process behind the CCW and the final outcome generate further puzzles. Consider the auspicious conditions under which the non-aligned coalition operated. Institutionally, by the late 1960s non-aligned (Third World plus some socialist) states held a decisive numerical advantage in universal diplomatic forums conducted under sovereign equality one-state-one-vote rules, whether in the UN General Assembly (UNGA) or multilateral lawmaking processes. Politically, in the early 1970s the Third World enjoyed heightened international moral standing as decolonization unfolded, while recent violence (for example, in Vietnam and Czechoslovakia) made the United States and the USSR vulnerable to both public criticism and mutually inflicted Cold War propagandizing.

Despite an unfavorable diplomatic climate and a history of institutionalized arms control capture, neither superpower (nor their allies) openly sabotaged or disengaged from the CCW process; instead they labored hard for over ten years to establish palatable agreements with the non-aligned coalition, forgoing coercion, hard bargaining, and side-payments. Why? Finally, given that the procedural and normative odds of success were stacked against them, how did the superpowers manage to shape the CCW treaty outcome closer to their liking?

Based on a multi-archival reconstruction of its negotiating process, I recast the CCW as a face-saving institution, a product of deflective cooperation. I theorize non-aligned states' late-1960s push to ban certain conventional weapons through universal-membership forums as an effort to inflict overwhelming international social pressure on ban skeptics, including the US and the USSR. I demonstrate that, for reputational reasons,<sup>10</sup> major powers were loath to openly derail or quash the non-aligned project. Instead, they opted to patiently *manage* the multilateral process, simulating constructive engagement in negotiations while deploying shrewd backstage moves to defuse the social pressure and deflect the process toward weak agreements.

Theoretically, this article delineates a logic of *deflective cooperation* to explain the emergence of compromise institutions, nuancing rationalist and constructivist theorizing. Although I develop this argument on the basis of one case, evidence suggests that its dynamics and practices illuminate the creation of other multilateral instruments and institutions negotiated during and after the Cold War. Contrasting not only with established theoretical expectations but also with more recent arguments about powerful states' use of formal or informal *rules* to recapture multilateralism in the postcolonial era,<sup>11</sup> my theorization of skeptical states' reliance on diplomatic

10. Erickson 2015, 23; Kelley 2017, 34.

11. Graham and Serdaru 2020; Stone 2011; Viola 2020.

*practices* is innovative, extending a research program which so far has tightly focused on contemporary developments.<sup>12</sup>

Empirically, I offer an original history of the CCW's negotiations based on systematic research in the archives of the UK, the US, France, Mexico, and the International Committee of the Red Cross (ICRC). This new history revises existing accounts to unveil the elaborate backstage diplomatic politicking that transpired between the non-aligned coalition leaders and the simultaneously competing-and-collaborating superpowers during a critical period of postwar international organization. Ultimately, my historical reconstruction resituates the CCW as a critical juncture in international weapons regulation, revealing how the superpowers lost control over conventional arms debates but then regained it, informally, after much effort.

The article is organized as follows. The first section outlines recent challenges to dominant perspectives on international institutions and norms in the international relations literature. The second section delineates the key concepts on which I build my theoretical framework. I specify what I mean by deflective cooperation and face-saving institutions, and develop the practices of social pressure and forum management that form my explanation. Next I present the detailed CCW case, offering evidence of motivations, practices, and effects. The concluding section reflects on the broader explanatory potential of the framework, the consequences of deflective cooperation for multilateralism, and future research avenues.

## Institutionalized Cooperation Reconsidered

For decades, scholars of international relations have tended to explain interstate cooperation through institutions as either the rational outcome of states acting together to find functional solutions to collective action problems,<sup>13</sup> or as the result of states' efforts to govern world politics through intersubjectively held norms.<sup>14</sup>

While these are productive ways to theorize international institution building, as evidenced by the rationalist and constructivist research programs they have spurred, some of their core postulates have faced important criticism, suggesting a need for reconsideration. Against the functionalist view, scholars have argued that states may in fact choose to build "empty" or "decoy" institutions to hide negotiating failures or to *prevent* solutions to collective action problems.<sup>15</sup> Some have gone as far as to characterize the global climate regime as "bullshit" governance.<sup>16</sup> Beyond the environment, rationalist (and realist) scholarship on the international regimes of human rights or humanitarian law contends that the underperformance of institutions and laws in those areas reveals that they are "covenants without swords" or "sham standards."<sup>17</sup>

12. Pouliot 2016.

13. Keohane 1984; Koremenos, Lipson, and Snidal 2001.

14. Finnemore and Sikkink 1998.

15. Dimitrov 2019.

16. Stevenson 2021.

17. Valentino, Huth, and Croco 2006 and Drezner 2007, respectively.

Against standard constructivist arguments resting on the logic of appropriateness, scholars now increasingly underscore the dynamics of contestation and stigmatization to refute the idea that international institutions and laws embody shared norms organizing international society “for the common good,”<sup>18</sup> rather than partial (Western or liberal, for example) views and rules directly or indirectly imposed by some on others.<sup>19</sup>

New scholarship is revising conventional narratives of postwar international order. Four insights from this work are worth highlighting: a challenge to the liberal credentials of postwar institutions and rules, noting, for example, the frequently illiberal behavior of the US, Britain, and France;<sup>20</sup> the productive character of Cold War politicization as an engine of international cooperation and rulemaking, not merely discord;<sup>21</sup> the influence of decolonization in injecting multilateralism with political contention and normative dynamism;<sup>22</sup> and the nontrivial importance of law and legal diplomacy in the management of interstate relations.<sup>23</sup> These dynamics shaped the making of some of postwar international society’s core organizing rules and regimes. Importantly, rather than celebrating the resulting institutions as unabashed triumphs for either postcolonial states or stalwart major powers, this scholarship redefines negotiated outcomes as complex compromises featuring degrees of (dis)agreement and (dis)advantage for all state groupings involved. And while in some surprising cases the established Western powers seem to have emerged as “losers” from negotiations, scholars have identified a range of means used by major states to accommodate or compensate for postcolonial pressures for change.<sup>24</sup> These richer accounts of postwar universal multilateralism join well-developed understandings of institution building at the regional and minilateral levels.<sup>25</sup> Overall, the compound finding that emerges from this revisionist work is that the postwar order is a complex organizational ecosystem made up of co-constructed and contested global rules and institutions across domains.<sup>26</sup>

## Definitions and Argument

I build on these insights to theorize a more precise pathway to the creation of face-saving institutions. I start from the premise that international institution building is never either strictly functionalist or normative<sup>27</sup> but rather some complex

18. Cronin 2003.

19. Adler-Nissen 2014; Adler-Nissen and Zarakol 2021; Epstein 2017.

20. Klose 2013; Porter 2020; Viola 2020.

21. Mantilla 2018.

22. Burke 2010; Jensen 2016; von Bernstorff and Dann 2019.

23. Poznansky 2019; Towns and Rumelili 2017.

24. Fioretos 2020; Mantilla 2020a.

25. Acharya and Johnston 2007; Kahler 1992.

26. Acharya 2018; Nexon and Cooley 2020, 34–41; Tourinho 2021.

27. Pouliot 2011; Reus-Smit 2004; Voeten 2021.

combination of the two.<sup>28</sup> As Pouliot and Thérien note, global governance is a “struggle over universal values,”<sup>29</sup> featuring social conflict riven with political and ideological disagreement between states (or groups of states) regarding the wisdom and usefulness of governing the globe through norms, rules, and institutions.

I adopt a practice approach for theoretical and empirical reasons. Theoretically, I find practice theorists’ understanding of diplomacy as a “social entanglement”<sup>30</sup> concerned not just with functional results but also with impression management and “saving face”<sup>31</sup> vital for understanding the operation of social pressure and deflection that I document through primary evidence.<sup>32</sup> Empirically, as shown later, the “test of strength” between the two main state coalitions during the CCW negotiations was waged through diplomatic *practices*.

The importance of practices in multilateralism is recognized across theoretical camps.<sup>33</sup> Practices are “socially organized and meaningful patterns of activities” that recur over time.<sup>34</sup> A “practice tracing”<sup>35</sup> approach (a variant of process tracing that explicitly focuses on identifying and theorizing practices) allows me both to show how “local” diplomatic moves causally lead to outcomes and to produce portable analytical insights.

To explain how some actors prevail over others, practice approaches rely on diplomatic *competence*<sup>36</sup> rather than material power capabilities,<sup>37</sup> bargaining tactics,<sup>38</sup> or deliberative or moral persuasion.<sup>39</sup> *Competence* refers to a diplomat’s ability to master the “rules of the game” (such as a negotiation environment) in superior ways, for example, to get their way by outflanking opponents.<sup>40</sup>

### *Deflective Cooperation and Face-Saving Institutions*

Deflection is “something you do or say in order to avoid something such as criticism, blame, or a question being directed at you”<sup>41</sup> as well as “the action of turning, or state of being turned, away from a straight line or regular path.”<sup>42</sup> I combine these two meanings to delineate a dynamic of *deflective cooperation* in international institution building.

28. Hakimi 2017a, 2017b.

29. Pouliot and Thérien 2018.

30. Adler-Nissen 2015, 295.

31. Adler-Nissen 2012.

32. *Ibid.*; Nair 2019.

33. Adler and Pouliot 2011; Keohane and Nye 2001, 48; Voeten 2011, 275.

34. Pouliot 2015, 241.

35. Pouliot 2015, 237.

36. Pouliot 2016, 71.

37. Krasner 1991.

38. McKibben 2015.

39. Deitelhoff 2009; Finnemore and Sikkink 1998.

40. Pouliot 2016, 81.

41. *Cambridge Dictionary* (online).

42. *Oxford English Dictionary* (online).

The logic is as follows. Proponents of a new cooperative initiative may work together to place it on the agenda of an international institution or platform. Over time they may build strong interstate support, creating international social pressure for the initiative's consideration and acceptance. In the process, however, they may encounter skeptics who find their project undesirable or inconvenient. Given certain institutional and political conditions, skeptics may hesitate to boycott the project for fear of social reputational costs. But rather than risking open rejection or sabotage, skeptics can opt to redirect—deflect—the project away from onerous commitments toward nice-sounding yet weak ones: *face-saving institutions*. Such deceptive participation in creating institutions they do not want accomplishes important socio-strategic goals for them: it defuses the social pressure, helps them save face, and protects their interests, at least in the short term.

Examples of face-saving institutions arguably abound, from the 1974 UNGA Declaration on the Establishment of a New International Economic Order,<sup>43</sup> the regulation of warfare via the Hague Conventions of 1899 and 1907 and of civilian targeting and internal armed conflict through international humanitarian law,<sup>44</sup> the UN Conference on Trade and Development,<sup>45</sup> and the WTO's Doha Declaration on the TRIPs Agreement and Public Health,<sup>46</sup> to the UN's Sustainable Development Goals<sup>47</sup> and climate agreements such as the 2009 Copenhagen Accord<sup>48</sup> and (perhaps) the 2015 Paris Agreement.<sup>49</sup> Despite their diplomatic importance and sometimes legally binding nature, these agreements' design failed to match their ambition.

I use the CCW case to build this argument. I argue that the CCW was a face-saving institution that resulted from contested negotiations between two groups of states: a majority pro-regulation coalition of non-aligned states wishing to ban certain conventional weapons through a multilateral treaty, and a smaller group of powerful skeptics averse to any restrictions on conventional weapons—especially complete bans.

I view these two state groupings as deploying two generic types of diplomatic practices while negotiating: practices of *social pressure* and practices of *forum management*. The non-aligned pro-regulation coalition pushed forward the project of banning certain conventional weapons through universalist multilateral forums, seeking to put international social pressure on the powerful skeptical states which, calculating the military costs of the proposed bans, fiercely opposed institution making. Unable to terminate the multilateral process unilaterally, yet unwilling to carry the reputational cost (international and domestic) of boycotting it, the skeptics sought instead to *manage* negotiations through deflective cooperation.

43. Fioretos 2020.

44. MacDonald 2020; Mantilla 2020a, 2020b.

45. Toye 2014.

46. Morin and Gold 2010.

47. Thérien and Pouliot 2020.

48. Dimitrov 2019.

49. Allan et al. 2021; Keohane and Oppenheimer 2016.

Specifically, under the pretense of working constructively toward gradual agreement on “workable” or “realistic” rules, the skeptics used diplomatic practices to shape negotiations in their favor, slowing down substantive debates, manipulating procedures, sowing dissensus on controversial rules, or narrowing the participation of less-resourced states in the opposing coalition, all duplicitous actions geared toward diverting attention from costly bans toward less strict regulation. Although the skeptics never succeeded in formally capturing the negotiations, I demonstrate that through competent diplomatic practice they informally prevailed over their more numerous opponents.

### *Practices of Social Pressure*

Social pressure is attempted, nonmaterial influence by some (source) actors on other (target) actors, designed or tending to force the target’s hand (conduct) to accord with a social expectation.<sup>50</sup> Its microfoundation is opprobrium (shame).

The central practice of social pressure I theorize here is the *pursuit of multilateral regulation through initiatives (such as resolutions or proposals) capable of garnering near-universal support within one-state-one-vote negotiating forums* such as the UNGA or universal, issue-specific lawmaking conferences. Given the social reputational cost of publicly standing in isolation within universalist diplomatic processes, this diplomatic practice can make it especially difficult for skeptical states—even materially powerful ones—to outright reject resoundingly popular aspirations without risking odium among international or domestic audiences.<sup>51</sup>

To the contemporary reader the proposal and adoption of nonbinding resolutions within the UNGA may perhaps seem anodyne, yet in historical perspective, especially in the period between 1955 and the early 1980s, several UNGA resolutions either instantiated or threatened to foment important normative change. Watershed resolutions of this type include the Universal Declaration of Human Rights (1948), the Declaration on the Granting of Independence to Colonial Countries and Peoples (1960), the Declaration on Principles of International Law Concerning Friendly Relations Between States in Accordance with the Charter of the United Nations (1970), and the aforementioned Declaration on the Establishment of a New International Economic Order (1974).

Adopted either by overwhelming majorities or by acclamation (without a vote), these influential UN resolutions were intensely disputed by Western states, precisely because they threatened important political and legal consequences, galvanizing actions that could eventually (de)legitimize a broader behavior or phenomenon, including an extensive governance form like colonialism.

The key point is that states’ public reaction to resolutions garnering universal or near-universal support, particularly when made visible through a public vote, historically implied a form of meaningful political position-taking invoking social

50. Mantilla 2020a, 19.

51. Mantilla 2018.

reputational pressures. This explains why after the mid-1950s powerful Western states began to systematically *abstain from* rather than oppose such resolutions in the UNGA.<sup>52</sup> Perceived reputational effects may also explain a growing trend from the 1970s toward consensus-based decision making, which as I show through the CCW case, was deliberately endorsed by major powers to neutralize their voting disadvantages in universal multilateralism.

Are all states susceptible to social reputational costs in multilateral negotiations? State identity, and diplomats' perceived need to maintain coherence between the identity, image, status, and actions of "their" state, provide initial guidance on the likelihood of state vulnerability to social pressure.<sup>53</sup> I cannot pursue a general framework here. Instead, I focus on explaining a concrete puzzle arising from the CCW case: Why did powerful skeptics like the US (and its Western-NATO allies) or the USSR act in ways that demonstrated vulnerability to social pressure?

Building on earlier work, I argue that an international political condition, *social competition*, facilitates the potential effect of social pressure on powerful states. When powerful states compete for social or normative leadership, a public threat of (near-)universal opprobrium may compel them to acquiesce due to perceived reputational costs vis-à-vis their competitors.<sup>54</sup> The Cold War is now amply understood as a contest for political (not just military) superiority, including normative leadership, between the Soviet-led East and the American-led West, both of which vied for the allegiance of the decolonized Third World in multilateral forums. Social competition helps explain why powerful states (and close allies) worried about the sociopolitical consequences of their diplomatic conduct, despite their materially favorable position.

Social pressure forms part of a broader set of practices of social influence, with which it may cofunction.<sup>55</sup> It may, for instance, work alongside *rhetorical action*, that is, the strategic use of argument to confront and entrap a target, given a previously accepted standard of legitimacy.<sup>56</sup> Yet social pressure remains distinct from rhetorical action; it operates via social-positioning effects within institutional forums, not via entrapment. Indeed, in the 1970s states *had not yet accepted* the claim that conventional weapons were "inhuman" or that they should be controlled through universal negotiations. The CCW negotiations were an effort to *legitimate* those claims, not to "enforce" them, which explains why shame-based rhetoric generally went unused by proponents.<sup>57</sup> Instead, skeptics felt the social pressure through the anticipation of reputational costs *from obstructing or boycotting* an initiative generally perceived as humanitarian at a time when the promotion of "humanity" had become politically entangled with status and leadership aspirations.<sup>58</sup>

52. Kay 1970.

53. Risse, Ropp, and Sikink 2013.

54. Mantilla 2020b, 448.

55. Johnston 2008.

56. Schimmelfennig 2001.

57. Rosert 2019, 95.

58. Mantilla 2020b, 447–51.

Importantly, domestic politics may compound international social pressure.<sup>59</sup> For instance, when the views of domestic publics broadly align with those of the pressuring supermajority, or when domestic veto players (legislatures or courts, for example) are expected to support ongoing international initiatives, states' executive branches may feel domestic pressure to spurn multilateral regulatory processes.

### *Practices of Forum Management*

Fearing international (and domestic) opprobrium from openly boycotting the CCW negotiations, key powers relied on diplomatic practices of *forum management*. I trace a number of such practices in the backstage and frontstage of the CCW process, allowing both superpowers and their allies—who shared, to varying degrees, the superpowers' aversion to regulation—to save face by giving the impression of constructive participation in institution building while in fact laboring to undercut robust rulemaking.<sup>60</sup>

One initial forum-management practice was proposals to shift venues or regimes by insisting that negotiations should be taken elsewhere, ostensibly for reasons of functionality or appropriateness, but with the (private) goal of smothering them.<sup>61</sup> In the CCW case, skeptical powers attempted both forum and regime shifting several times and mostly failed.

Social pressure also may provoke subtler forum-management practices common in multilateral diplomacy. One such practice may be labeled *issue splitting*, that is, pushing to break up larger “packages” of issues into separate, smaller issues, through the argument that each issue calls for separate consideration, allowing the use of varying procedural rules and pace.<sup>62</sup> In the CCW case, skeptics performed issue splitting competently, disentangling the negotiation of weapons bans from the broader revision of humanitarian law (which was taking place simultaneously) to more easily foster deflection.

Another common set of forum-management practices involves *procedural manipulation*. States may, for instance, subtly downgrade purported treaty negotiations into “talking shops,” insisting that although interstate debate can continue, decisions should be delayed. This move can neutralize the pro-regulation coalition's ability to resort to a (threat of) a vote to press for tentative rules that stimulate negotiation progress. It can also slacken political momentum, evading the social pressure by skirting around periods of heightened tension or salience.

Crucially, such delays give skeptics time to strengthen their hand and find opportunities to deflect the pressure: they can sow dissensus on onerous proposals while they foster agreement on more palatable alternatives. Debating without deciding

59. Erickson 2015.

60. For a theory of diplomatic containment as a sincere response to crisis-inducing pressure, see Haugevik and Neumann 2021.

61. Coleman 2011; Helfer 2009; Sell 2010.

62. This is the converse of issue linkage.

also enhances the influence of well-placed actors, such as rapporteurs tasked with drafting reports, to strategically select and frame (convenient) emerging areas of (dis)agreement.<sup>63</sup> In various ways, delaying facilitates deflection.

A more insidious form of procedural manipulation involves subtly shaping negotiations to reduce the participation of numerically superior opponents. This may involve (a) calling for the creation of (sometimes dubbed “expert”) working groups formally meant to help resolve controversial issues while simultaneously fostering narrower (convenient) participation, or (b) convening side-conferences in distant locations or clashing with other meetings. Such procedural maneuvers disproportionately harm less-resourced states with fewer delegates or experts at their disposal. For example, during the CCW negotiations side-conferences of government experts on weapons were organized in out-of-the-way Swiss cities, reducing the likelihood of attendance by Third World delegates.

A final procedural forum-management practice deployed during the CCW process, which became increasingly common during the 1970s,<sup>64</sup> was insisting that negotiations be concluded by consensus and not by a vote, what one might call *consensus feigning*. This was a reactive, face-saving procedural tactic: just as ban proponents exploited the sovereign equality (one-state-one-vote) principle within universal multilateralism to forward their goals, skeptics insisted on consensus decision making as the only way to craft “realistic” (credible) arms control agreements.

Agreement by consensus may of course promote robust international agreement. However, in the CCW case and potentially in others, skeptics deployed it insincerely to neutralize (super)majoritarian voting on weapon bans affecting skeptics’ military interests. In private, they neither desired nor seriously entertained credible rules, but sought to avoid them. Curiously, skeptics actually *failed* to enshrine consensus as the formal decision-making mechanism, yet through persistent frontstage and backstage diplomacy, they successfully instantiated the informal use of consensus via “gentlemen’s agreement.”

Forum-management practices are not limited to procedure. Skeptics commonly present a substantive case to counter the views of the pro-regulation coalition. Analytically, the critical question is whether they do so in pursuit of genuine agreement on robust rules or only to muddy their counterparts’ case and defuse the pressure. In the CCW process, the major powers’ tactic was to insist on the inconclusiveness of scientific studies on the disproportionate or “superfluous” nature of the harms caused by conventional weapons. These arguments—proffered on the authoritativeness of scientific studies carried out by the skeptics’ *own* national experts—planted doubts regarding the ban proponents’ key claims, and shifted the substance of negotiations from predominantly legal and humanitarian terrain toward medical and military science, where the skeptics reigned. I label this practice *scientific doubt-planting*.

63. Pushing for rules of nonattribution during debates can also defuse social pressure by concealing speakers’ identity.

64. Marín-Bosch 1987; Peterson 1990.

### *Hierarchy and Practice*

Although my argument is primarily linked to the competent deployment of diplomatic practices, I view negotiations as nested within international hierarchies. Most scholars would agree that while being at the top of a hierarchy is no guarantee of success, it definitely helps.

First, even under conditions of competition-fueled social pressure, actors at the top of the international hierarchy can find ways to protect their interests and privileges, leveraging resources available to them *qua* major powers. As Colgan and Miller note, “When a dominant state perceives a strong threat from its rival linked to a specific issue domain, it is more likely to compete. When a dominant state perceives a strong threat from subordinate states ... it is more likely to cooperate with its rival dominant state(s).”<sup>65</sup> This logic is borne out in the CCW case: although the superpowers were in social competition with one another, when facing the common threat of unpalatable conventional-weapons bans they managed to collaborate to respond to their challengers.

Importantly, however, for practice theorists superior social standing is not taken to “flow” automatically from material asymmetry; it becomes “enacted” only when it is deployed (and socially recognized) through practice.<sup>66</sup> The CCW case demonstrates this dynamic neatly: although the entire negotiation process ran under the 1970s Cold War military hierarchy, with the US and the USSR at the top, the leaders of the non-aligned coalition heeded their standing only *until the last phase of negotiations*, once both superpowers (and their allies) had outflanked them diplomatically by establishing that without their acquiescence no treaty agreement could survive negotiations.

### **Organized Hypocrisy Reconsidered**

Although my arguments about deflective cooperation and face-saving institutions echo those made about “empty” institutions,<sup>67</sup> they differ from them in at least two important ways. First, I place the emphasis on understanding the *creation* of face-saving institutions rather than on establishing negotiated outcomes’ posterior functional failings. Although concern with institutional ineffectiveness is obviously warranted,<sup>68</sup> I view it as analytically separate from ascertaining why and how such institutions emerge.

Second, in conceptualizing face-saving institutions as compromises, I forgo the claim that they are “empty” agreements that “legitimize collective inaction.” Following subtler approaches to multilateralism and international law that theorize institutionalized conflict and disagreement between states as *associative* means to

65. Colgan and Miller 2019, 313.

66. Pouliot 2016, 79.

67. Dimitrov 2019.

68. On institutional pathologies, see Barnett and Finnemore 1999.

manage international relations peacefully,<sup>69</sup> I view face-saving institutions as simultaneously agreements and disagreements, functionally suboptimal yet politically pragmatic. Those spearheading change may value them as a foundation for not-fully-realized *aspirations* because “even tenuous and low-level agreement ... may have utility if it keeps everyone involved as conversations move forward.”<sup>70</sup> Those opposing regulatory innovation (but politically unable to quash it in a multilateral context) may accept face-saving compromises as digestible and savvy means to control change. Mutual concession making illustrates the give and take that underlies deflective cooperation, distinguishing it from arguments regarding states’ collective efforts to craft “sham” institutions.

Importantly, concessions are made by all sides, including the materially powerful. *Contra* realism, face-saving institutions result not from powerful states’ ability to dominate negotiations but from their social inability to do so, which compels compromise. And while powerful states may ultimately outflank their counterparts diplomatically via shrewd forum management, their investment in such strenuous diplomatic work reflects the power of the social environment as much as it does material capability.<sup>71</sup>

Taken together, my arguments on deflective cooperation and face-saving institutions entail a reinterpretation of “organized hypocrisy.”<sup>72</sup> That concept is strongly associated with realism thanks to Krasner’s treatment, which, though sophisticated, boiled down to a simple claim: norms and institutions exist in world politics but, because of the primacy of state (self-)interest, they are often breached.

Krasner’s account of organized hypocrisy, however, appears incomplete and misleading. It is incomplete because it focuses on explaining the paradox of *norm (or institutional) resilience and violation*, without explaining how norms and institutions *themselves* emerge as compromises. This article provides one such argument.

Second, in foregrounding norm violation or institutional failure as the (frequent) outcome of interest, Krasner obscures the sociopolitical importance that states place on *institution-building* processes themselves. Multilateral processes, not just outcomes, matter. Further, the fact that even an institution’s opponents bother to deploy exhausting and expensive diplomacy to ameliorate adverse outcomes suggests that they take nascent institutions as potentially consequential, not negligible.

More broadly, Krasner’s argument overlooks the complex temporal dynamism that characterizes institutional ordering in world politics, namely institutions’ “often unforeseen transformative and generative potential,”<sup>73</sup> including via posterior processes and entrepreneurship. Certainly, weak negotiated instruments may stunt stronger regulatory action in the short term. Yet face-saving institutions are rarely definitive, and rather than legitimizing inaction, they can create space for focused

69. Hakimi 2017a.

70. Finnemore and Jurkovich 2020, 764.

71. Finnemore 2009, 68.

72. Krasner 1999; see also Steinberg 2002.

73. Finnemore 2009, 72.

controversy over their very weaknesses, eventually reigniting pressures toward reform or drastic change.<sup>74</sup> The contentious politics underpinning face-saving institutions may partially explain their proneness to contestation, which can spark further innovation.

## Case Selection, Methodology, and Sources

The CCW is a recognized case of a weak institution ill-designed to produce its purported effects. It also represents an intrinsically important case study, given its status as a critical juncture in international arms control.

I build theory by tracing the political practices behind the CCW's puzzling negotiation process and outcome, but the concepts, logics, and practices I formulate are transposable to other cases under specified scope conditions. Since the logic of deflection need not completely dominate negotiations, other institutions may involve more mixed (only partially face-saving) outcomes.

I draw on three principal sources: archives, published primary materials, and interviews. I used the archives of four states (UK, US, France, and Mexico) and the ICRC.<sup>75</sup> I gathered all materials available there regarding the regulation of conventional weapons (for the period 1968 to 1980) and organized them to understand the political process behind the eventual CCW. These included thousands of governmental and ICRC preparatory documents from before, during, and after negotiations, including memoranda, meeting transcripts, letters, telegrams, conference instructions, and postconference reports. Published primary materials included the relevant *travaux préparatoires* (mostly dating from 1971 to 1978) and contemporaneous articles authored by negotiation protagonists. Interviews were conducted with key diplomats, including Hans Blix (Sweden) and Sergio González Gálvez (Mexico.)

## The Process of Regulating Conventional Weapons

### *Putting the Pressure On*

After languishing in UN minilateral forums for two decades,<sup>76</sup> conventional weapons re-emerged as an issue of broad concern in the late 1960s. First at the UN Conference on Human Rights in 1968, and shortly afterward at the twenty-third annual meeting of the UNGA, a coalition of Third World and small Western European states (Afghanistan, Denmark, Finland, India, Indonesia, Iraq, Jamaica, Jordan, Morocco, Norway, Philippines, Sweden, Uganda, United Arab Republic, Yugoslavia, and

74. Morse and Keohane 2014; Petrova 2019; Sandholtz and Stiles 2009.

75. For full references and longer versions of the archival sources quoted in the article, see the online supplement.

76. Dunworth 2020, 50; Ungerer 2007, 398.

Zambia) co-sponsored resolutions on the issue of “Respect for Human Rights in Armed Conflict,” requesting that the UN Secretary General (UNSG) consider “the prohibition and limitation of the use of certain methods or means of warfare” as a component of the revision of the 1949 Geneva Conventions.<sup>77</sup> Widespread atrocities in national-liberation conflicts in Africa and Asia had sparked intense domestic and international outcry regarding the horrific effects of weapons such as napalm, land mines, and cluster bombs.

Major powers across Cold War lines rejected the idea. Given then-ongoing US–USSR negotiation of nuclear arms limitations, both superpowers and their military allies saw retaining conventional weapons as essential for their security. The US, moreover, had been using napalm extensively in proxy conflicts in Southeast Asia since the mid-1960s, particularly in Vietnam, and had no intention of stopping.

To the skeptics’ irritation, however, over time these UN resolutions fostered formal multilateral debate on potential prohibitions. Western and socialist states alike found themselves in a bind: they were unwilling to ban conventional weapons but also wished to avoid looking anti-humanitarian in public. At the time, the Soviets endorsed disarmament as a better (larger) goal than specific weapons bans.<sup>78</sup> Western powers instead critiqued discussion of weapons prohibitions as technically premature and inappropriate for the UNGA. American officials cautioned against the UN’s politicization, concretely its tendency to “create political controversy out of proportion to [its] capacity” to solve problems.<sup>79</sup> UK and French officials felt much the same.<sup>80</sup>

Despite their distaste, however, no major Western state nor the USSR opposed or even abstained from these early UNGA resolutions. The US State Department supported them, reportedly owing to its “strong policy interest in humane treatment for all persons involved in armed conflict.”<sup>81</sup> More candidly, the British Foreign and Commonwealth Office admitted it simply could not object to a humanitarian resolution endorsing general principles on weapons, *so long as* they remained principles. Yet British delegates knew UNGA diplomacy would “lead to pressure for more far-reaching action,” creating “further complication.”<sup>82</sup> American Department of Defense analysts lamented the first UNSG’s report’s “speculation on issues not germane to human rights,” including weapons, which “because of Soviet maneuvering ... poses an insidious threat which should not be ignored and could be embarrassing if prompt United States response is not made.”<sup>83</sup>

77. Kinsella 2017.

78. The National Archives of the United Kingdom, Public Record Office, Kew Gardens, London (hereafter UKTNA) 1.

79. US National Archives, College Park, Maryland (hereafter USNACP) 1.

80. Archives diplomatiques de la Courneuve, France (hereafter FRA) 1; UK-TNA-2.

81. USNACP-2.

82. UKTNA-3.

83. USNACP-3.

*Managing the Pressure*

US delegates attending UNGA debates were instructed to refrain from publicly opposing these initiatives and to “express general interest ... and then divert further consideration of weapons ... into subjects for additional study by other groups, but under other title than human rights.”<sup>84</sup> Recognizing the UNGA’s inconvenience as a venue, the US and UK began deploying various forum-management practices in 1971. Teams of delegates from both countries first met in April 1971 to begin coordinating views ahead of the start of the *travaux préparatoires* for the process of updating of humanitarian law, within which weapons issues were initially nested.

Although Americans and Brits assessed the military utility of *specific* weapons differently—for example, the UK did not attach importance to napalm, while the US found it essential—neither country wanted a ban.<sup>85</sup> On areas where they differed, the UK followed the US line: “The question of napalm tends to arouse strong emotions and there is likely to be considerable support for the proposed [UNSG] report on this weapon. The Delegation may support this proposal *if there is a general wish that it be adopted and assuming the Americans agree to go along with it.*”<sup>86</sup> Other Western-NATO states varied in their dislike of conventional-weapons restrictions, but generally followed the Anglo-American lead.

Western states first attempted regime shifting by pushing to extricate international humanitarian law (IHL) revisions (including weapons debates) from the UNGA. In public, they justified this by arguing that the ICRC, as IHL’s long-standing legitimate guardian, was best placed to steer its revamping. Their private reason was simpler: avoiding the UN.<sup>87</sup>

A subsequent attempt at regime shifting entailed moving weapons-specific debates from IHL forums to the Conference of the Committee on Disarmament, where negotiations could be conducted among a small group of states “in the absence of the sort of polemics which tend to hinder the United Nations,”<sup>88</sup> but more importantly, with the ability to smother inconvenient proposals via consensus decision making.

Of these, only the first shift occurred—from the UNGA to the ICRC—and not at Western skeptics’ behest. States generally recognized the ICRC’s authority over IHL matters, and the organization had been laboring to reposition itself as leader of the revision process.

As leaders of the Western-NATO Group, American and British delegates swiftly began working to get the ICRC to drop weapons from its agenda. Their chances of success were good: given the ICRC’s earlier (1950s) negative experience with the regulation of aerial bombardment—which floundered in Western hands because

84. USNACP-3.

85. UKTNA-3.

86. UKTNA-3. My italics.

87. USNACP-4.

88. UKTNA-4, UKTNA-5; USNACP-5.

the proposed rules restricted the use of nuclear weapons—by 1970 the ICRC had come to see weapons as a topic for another forum (the Conference of the Committee on Disarmament), and weapons bans as unrealistic.<sup>89</sup> In particular, the ICRC feared that by adding thorny weapons debates to the already gargantuan IHL revision plans, it risked coming up empty-handed. As I show later, ICRC skepticism toward weapons debates—in witting or unwitting collaboration with Western powers—proved essential for deflating the social pressure and facilitating deflection.

Unfortunately for both Soviet-bloc and Western skeptical states, the diplomatic shift toward bans accelerated in the early 1970s, particularly through Swedish leadership. Following the nuclear disarmament campaigns of the 1960s,<sup>90</sup> Sweden became leader of the non-aligned coalition seeking to ban conventional weapons, alongside Mexico, Yugoslavia, and Austria. Led by a seasoned diplomat (Hans Blix), Sweden spearheaded the sponsorship of conventional-weapons-related resolutions and reports within the UNGA and its Third Committee. Through its think tank, the Stockholm International Peace Research Institute, Sweden also began sponsoring early scientific research on the inhumane effects of conventional weapons, which served as the initial scientific justification for calls for bans on napalm, land mines, cluster bombs, small-caliber rifles, and high-velocity bullets.

While the ICRC avoided making conventional weapons a focus of debate in the *travaux préparatoires* of 1971–72, the non-aligned coalition flagged its urgency and forced its discussion at both Red Cross-sponsored events and the UNGA between 1971 and 1974. The UNGA annual sessions became a particular site of social pressure. In late 1971, for instance, the Swedes invited the ICRC to include special attention to weapons in the context of IHL revisions through a UNGA resolution, and asked that the UNSG prepare a report on napalm and other incendiary weapons. In response, the British (as Western leaders) produced a resolution that deliberately omitted weapons. The outcome was telling: the non-aligned resolution garnered (in British words) support from an “overwhelming majority,”<sup>91</sup> and the UK delegates withdrew their text. Privately, British delegates admitted they could not afford isolation on weapons debates, for socio-strategic reasons: it would both bring embarrassment and weaken their prospect of being perceived as acting in good faith in subsequent debates.<sup>92</sup>

Diplomatic events in 1971 sounded the alarm among Western skeptics, spurring closer US–UK coordination as well as Anglo-American liaising with France and other NATO allies. To Western frustration, however, preparatory meetings only continued to build the pressure. In 1972, at the next ICRC meeting, the Swedish-led non-aligned coalition (now including Algeria, Austria, Egypt, Finland, Jordan, Kuwait, Libya, Mali, Mexico, Norway, Saudi Arabia, Switzerland, Syria, and Yugoslavia)

89. Archives of the International Committee of the Red Cross, Geneva (ICRC-A) 1; UKTNA-5.

90. Myrdal 1976.

91. UKTNA-6. The vote was 88-1-5, with the UK, the US, France, Canada, and Colombia abstaining.

92. UKTNA-7.

insisted on a series of specific bans. British delegates noted that Blix “laid great stress on his view that the [new humanitarian law] would be virtually useless” without specific weapons prohibitions.<sup>93</sup> When the meeting closed, British delegates recognized that Blix had “achieved a wider measure of support and sympathy for his proposals.”<sup>94</sup>

Western backstage coordination on forum management continued. One idea, which in time bore fruit, was to insulate weapons from IHL revisions by slicing them off for separate debate—what I call issue splitting. Crucially, the possibility that Western states might initiate debate within the Conference of the Committee on Disarmament to short-circuit the existing UNGA process was explicitly considered but quickly dropped. American reasoning here is revealing: for the Pentagon this move “was only feasible ... if we were really serious about it and prepared to ban these weapons ourselves.”<sup>95</sup> But they were not. Resigned, British officials admitted that it was “fairly clear that we shall not be able to resist the efforts of Dr. Blix and others to bring about some discussion of conventional weapons in the near future,” not least because “[British domestic] public opinion was building on it ... and any obstruction is likely to be misunderstood.”<sup>96</sup>

The 1972 UNGA annual meeting repeated the showdown between the Swedish-led non-aligned coalition and its Western opponents. Again both groups set forth procedural resolutions on the ongoing IHL revisions process, with only the non-aligned resolution mentioning weapons. The outcome reinforced the balance of opinion: the British-sponsored resolution drew so little support that UK delegates decided against pressing for a vote which “would undoubtedly have led to our losing heavily ... a course in which we saw no advantage.”<sup>97</sup> The Swedish-led resolution was adopted overwhelmingly (81-3-22), with major Western powers abstaining.<sup>98</sup> Annoyed, British delegates recognized the strong pressure: “We wish Blix would convince himself that the Swedes have succeeded in bringing the subject of particular weapons sufficiently much to the fore that there is now no danger in its being forgotten by the international community.”<sup>99</sup>

### *Procedural Manipulation*

By 1973 weapons debates were firmly ensconced within the IHL revisions process. The importance of *actively* manipulating procedure became evident to skeptics, who began working to shape the procedural and substantive contours of the ICRC-led, Swiss-sponsored revision of humanitarian law.

93. UKTNA-8.

94. UKTNA-9.

95. UKTNA-10.

96. UKTNA-11.

97. UKTNA-12.

98. UKTNA-13.

99. UKTNA-14.

British delegates first inquired with the Swiss about the upcoming conference's decision-making methods and received confirmation that voting would happen. Their initial concerns were assuaged once Switzerland endorsed a supermajority voting rule (two-thirds of those states voting and present), which became the official procedure in the forthcoming diplomatic conference on the revision of humanitarian law (CDDH, for its French name).

Given the West's recognized minority position (that is, its inability to reach a "blocking third"), supermajoritarianism still failed to protect the skeptics' interests. Two final events prior to the CDDH (the twenty-second International Conference of the Red Cross in Tehran and the 1973 UNGA) offered the non-aligned opportunities to quicken the negotiations' pace toward bans via strongly worded resolutions. Aware of this risk, the Western Group deployed issue splitting once again. According to an American telegram, "All [Western] delegations ... are agreed that anticipated proposals to restrict or prohibit use of specific weapons must be kept separate from [the] [Additional] Protocols [to the Geneva Conventions] ... at the [CDDH], and that any consideration of such proposals at the diplomatic level should be preceded by careful consideration and development by experts."<sup>100</sup> The US endorsed a *via media*: substantive debate on weapons might be allowed to continue but should occur *alongside* the CDDH, in the form of separate conferences of government weapons experts which would then report to the CDDH, without mandating action.<sup>101</sup> The ICRC supported this view.<sup>102</sup>

In what arguably became the non-aligned coalition's critical misstep, the Swedes accepted the argument that disagreement on weapons should not affect the Protocols' negotiations,<sup>103</sup> agreeing to the American proposal of convening side-conferences. The skeptics' aim was to keep the "real talk" on weapons outside of the CDDH, a universally attended codification conference. This compromise at Tehran became a crucial enabling condition for the skeptics' forum management: it sliced off the issue of weapons as a self-contained matter and opened the door to different procedural rules.

### *Negotiations Begin*

Nervousness reigned among Western skeptics ahead of the CDDH's opening in February 1974. A flurry of controversial votes quickly demonstrated that newly decolonized states were resolute in using their coalitional power to achieve their legal goals, especially the legitimization of national liberation.<sup>104</sup>

Weapons, too, immediately drew non-aligned attention. Partially backtracking on the Tehran compromise, the Swedish-led non-aligned coalition proposed creating a

100. USNACP-6.

101. USNACP-7.

102. ICRC-A-1.

103. USNACP-8, USNACP-9.

104. Mantilla 2020a.

dedicated (“Ad Hoc”) Committee on Weapons within the CDDH, with full negotiating powers. This triggered immediate pushback from East, the West, and the ICRC, all worried for different reasons about the consequences of taking rash votes on weapons prohibitions. Pressed to compromise, the Swedes relented and agreed to terms of reference for the Ad Hoc Committee which in writing *appeared* to provide for meaningful debate during the CDDH, but in practice (unknown to Blix)<sup>105</sup> reduced it to a talking shop, subsidiary to discussions in the separate conference of government experts.<sup>106</sup>

Western skeptics remained aware of the social pressure, with the British admitting that “we should be prepared to go along with further expert discussion of the weapons issues, *should a majority of states wish it.*”<sup>107</sup> However, by shrewdly restructuring weapons debates, they began to outmaneuver their counterparts. British instructions in 1974 reveal that the Western Group’s strategy was not to institute but to prevent robust rules on conventional weapons, while saving face by entertaining the debate:

We think it unlikely that useful measures of arms control will be achieved [at the CDDH] ... At the same time, we do not want to impair our reputation as a Government willing to consider seriously proposals of a humanitarian nature for controlling the use of weapons ... Our aims ... will therefore be to ensure that the Conference does not engage in substantive consideration of specific proposals, and that the programme agreed for future work is a sensible one.<sup>108</sup>

Here “sensible” meant slow moving and substantively harmless, two goals they sought to achieve by de facto preventing the Ad Hoc Committee from drafting any rules. Meanwhile, by proposing to hold separate, small, “technical,” voting-disabled meetings of experts, skeptics began to follow the logic of deflection by shifting debate away from blanket prohibitions and toward potential restrictions on the *use* of conventional weapons.

Face-saving motives became manifest in private Western discussion of the mandate given to the ICRC side-conference of government experts on weapons, to take place in the fall of 1974. Initial ICRC plans appeared to encourage states to reach substantive agreements, with a view to formulating concrete rules in 1975.<sup>109</sup> But this provoked pushback from skeptics, who wanted to limit any progress toward decisions. They agreed that any conference debates should result in non-committal summary reports. The ICRC embraced a conference mandate consisting only of discussion and analysis.<sup>110</sup>

105. Author’s interview.

106. UKTNA-15.

107. UKTNA-16. My italics.

108. UKTNA-17.

109. ICRC-A-2.

110. UKTNA-18, UKTNA-19.

Face-saving and deflection were also evident in British cables admitting that this softened mandate was acceptable only “in the interest of avoiding something worse,” recognizing that there would be “pressure to move faster.”<sup>111</sup> The UK’s grudging decision to fund the weapons side-conference confirms this interpretation: “To refuse to contribute would ... seem churlish, would weaken our position at the Experts’ Conference and might be taken as evidence of a hardening attitude ... when, tactically, we wish to appear forthcoming.”<sup>112</sup>

Up to this point skepticism from the ICRC and opponent states had contributed to undermining the non-aligned cause by muting or downgrading weapons debates within the CDDH context. By 1974 their convening practices were helping reduce Third World participation in negotiations. Both the ICRC and Western skeptics understood that side-conferences of government “experts” (particularly medical and military) would limit attendance by less-resourced countries with lower technical capacity.<sup>113</sup> This exclusionary effect was then deepened by the ICRC’s decision to host the side-conferences outside Geneva, in the out-of-the-way cities of Lucerne and Lugano, which lowered the probability that Third World countries (and national liberation movements) might send a member of their already-stretched Geneva-based diplomatic staff in representation.<sup>114</sup> While ICRC records suggest that the reason behind its choice of host cities was initially financial, British documents reveal a more insidious rationale:

The real case for not holding the Conference in Geneva cannot be stated openly, but has considerable support within the [Western] Group: it is that it would be much easier for Blix to muster a great deal of support, probably from the ill-informed, in a place like Geneva than in an outpost like Lucerne or Lugano. The Red Cross will reflect further on this question but I should say that as things stand now they will press for Lugano as a first choice and Lucerne as a second.<sup>115</sup>

Coordinated or not, such practical collusion between the ICRC and recalcitrant major powers adds support to analyses of the ICRC as an occasionally conservative gate-keeper,<sup>116</sup> not just a progressive norm entrepreneur.

Although these Western forum-management practices had already started defanging the non-aligned coalition’s designs, finishing that task still took years of face-saving and deflection work led by the UK and the US, eventually alongside the Soviet bloc. Discussions within the CDDH’s Ad Hoc Committee were successfully kept nonsubstantive and noncommittal, an outcome that required patient and extensive preparation, coordination, and diplomatic engagement.

111. UKTNA-19.

112. UKTNA-20.

113. ICRC-A-3, ICRC-A-4.

114. ICRC-A-3; UKTNA-21.

115. UKTNA-22.

116. Carpenter 2011; Stroup and Wong 2017.

Sweden and Mexico kept the social pressure alive throughout the CDDH's duration (1974 to 1977). By 1974 the British admitted that "the movement towards an eventual agreement ... is unlikely to be stopped, however remote [it] may seem at the moment."<sup>117</sup> They reasoned that it was best to remain involved, "lie low ... and only speak if it is necessary to avoid a move in the wrong direction,"<sup>118</sup> while paving the way for the introduction of arguments and materials to contradict the prohibitionist case. Crucially, they began remarking on a similar sentiment within the Soviet bloc: "In [the British] view, the [Lucerne] Conference and its aftermath will probably present [NATO] with some embarrassing problems: the only consolation is that the Warsaw Pact seems likely to be equally embarrassed."<sup>119</sup>

### *Scientific Doubt-Planting*

Weapons debates within the CDDH's Ad Hoc Committee and at two experts' conferences (1974 and 1976) largely favored the skeptics. At the former, non-aligned delegates again stressed the need to move toward humanitarian prohibitions and restrictions on weapons use based on scientific evidence from the Stockholm International Peace Research Institute. Very few delegates, however, could back their demands with the technical expertise their opponents demanded. The British, American, and French delegations privately derided the Ad Hoc Committee debates as "desultory" and "not very illuminating ... While humanitarian ideals of an imprecise nature were widely canvassed, it was obvious that the majority of the delegations were unfamiliar with the concepts involved."<sup>120</sup> The Americans noted that Swedish prominence in debates was not matched by other non-aligned delegations: "The Swedish initiative on weapons did not seem to build up as much momentum as might have been expected. Ignorance and the lack of any position were probably the causes of the silence of others ... Often after the statement of the Swedish Delegation and words of support from Mexico, there was only desultory discussion or none at all."<sup>121</sup> Overall, non-aligned voices lacked the technical capacity to address the technical wrenches thrown at them by their opponents concerning weapons' military value, accuracy, and medical effects, or the practicability of prohibitions.

Meanwhile, in 1975, the Anglo-American-led Western Group began to produce their own national studies to defend the use of conventional weapons as not inherently inhumane. They were careful not to fully deploy their emerging findings at the CDDH, however. A British conference report noted that "delegates from the [Western Group] ... emphasised that it was not for the [Ad Hoc] Committee to

117. UKTNA-23.

118. UKTNA-23.

119. UKTNA-24.

120. UKTNA-25.

121. George H. Aldrich, "Classified Report of the United States Delegation to the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Geneva, Switzerland, February 20–March 29, 1974," on file with author.

reach any conclusive views, particularly since the evidence presently available was incomplete ... [We] stressed the importance of leaving firm conclusions until after the informed discussions of the [Lugano] ICRC expert conference."<sup>122</sup>

A slim showing of non-aligned expertise within the Ad Hoc Committee reinforced the opponents' contrarian arguments, but it was at the experts' conferences that doubt-planting succeeded most clearly. Averaging around forty-five delegations total (versus 125 at the CDDH), Third World attendance in Lucerne and Lugano reached around thirty states, and with few technically able spokespersons, non-aligned entrepreneurship became increasingly muted. Reporting on the perceived "success" of Lucerne, British delegates singled out weak Third World participation "in numbers and quality of delegates" as the principal cause.<sup>123</sup> On the basis of their respective studies, debates between Sweden and their Western opponents reached a "high technical level," but "countries such as Zaire, Egypt, Algeria and Mexico strove to keep abreast ... They had little to contribute except to the legal and humanitarian side of the debate."<sup>124</sup>

In contrast, the Western Group celebrated its ability to argue its substantive (anti-prohibitionist) case well. Their objections had succeeded in muddying debates on small-caliber, high-velocity weapons (which "became locked in technicalities"), on new weapons (a "perfunctory" discussion), and on cluster bombs (which "revealed that the prohibitionists had not made their case)."<sup>125</sup> Only restrictions on incendiary weapons, especially napalm, elicited some measure of emerging agreement on possible restrictions, albeit only on their use against civilian population centers and not between combatants as prohibitionists also wished.

### *Deflection Enacted*

The road was now clearly paved for deflection. Already before the Lucerne meeting, "the consensus of the ... [Western Group] was that if we were to achieve any success we had to show a positive approach."<sup>126</sup> In other words, to get what they wanted, skeptics now felt compelled to make actual proposals. After Lucerne, Western-NATO states understood that they would "lose all credibility if we continue, however efficiently and cogently, merely to destroy the Swedish case. *If on the other hand we can find some such initiative we shall be in stronger position to work to deflect the whole course of the [weapons initiative].*"<sup>127</sup>

Deflection thus surfaced as way to evade reputational costs, appear cooperative, and protect military interests. Sustained pressure at the multilateral level, as I have demonstrated, was essential to this outcome. Fears of domestic public backlash

122. UKTNA-25.

123. UKTNA-26.

124. UKTNA-26.

125. UKTNA-26.

126. UKTNA-27.

127. UKTNA-28. My italics.

against overt weapons obstructionism in Britain, the US, and elsewhere in Western Europe compounded the international pressure.<sup>128</sup>

### *Superpower Collaboration*

But what about the East? In a little-documented case of backstage superpower collaboration, Soviet delegates began reaching out to American delegates in late 1974 to suggest coordination on “a pattern of future tactics” to halt the non-aligned march toward undesired prohibitions.<sup>129</sup> An American delegate told his British colleagues in Geneva that Soviet delegate “Blischenko suggested that towards the end of the [Lucerne] Conference we might orchestrate a series of statements from the [anti-prohibitionist group] which would demonstrably form a majority conclusion,” whose goal “would be to frustrate the [CDDH] from taking up Weaponry again” in 1975.<sup>130</sup>

US-brokered Western collaboration with the Soviets became a fundamental tactic to manage both the IHL negotiations and weapons debates. Archival evidence suggests that the West and the Soviets shared an interest in entertaining public debate merely to save face. According to a British memo from 1975:

It seems to me that [our] basic approaches to this subject are indeed similar. *We are both concerned to give some sort of positive response to international humanitarian pressure; on the other hand, we wish to resist unrealistic prohibitions ... Our objective should be both to reassure them [that we agree on substance] ... and at the same time to try to persuade them to make a more credible effort to share their thinking with the international weapons community; it puts the West in an invidious position if we are left to be the only ones to deploy research-based arguments against the Swedes etc. Yet if we were to give up on this for lack of matching Russian effort, both the Russians and ourselves might well expect to suffer under an increased weight of international opinion.*<sup>131</sup>

Archival evidence thus strongly points to a convergence of interest and perceived social pressure among the superpowers. Although their views and interests did not coincide across all issues, by 1975 the Western Group was actively coordinating internally as well as externally, with the Soviets, on a range of important topics, including weapons.

Deflective cooperation deepened in 1975. From initial debates over blanket prohibitions on several weapons, skeptics successfully maneuvered to shift (and narrow) the focus toward specific issues “ripe for agreement.” Unwilling to ban any weapon they perceived as useful, the skeptics looked for an innocuous one to ban, while seeking to identify acceptable *restrictions on the use* of the most-discussed

128. UKTNA-29, UKTNA-30; USNACP-10.

129. UKTNA-31.

130. UKTNA-31.

131. UKTNA-32. My italics.

weapons: incendiaries and land mines. Western skeptics understood well the importance of feigning a positive response:

Having opted to continue with the dialogue, the moment of confrontation is [approaching] ... *The Swedes and their friends ... have effectively brought to bear on us a measure of international pressure* to make some response to their long-standing proposals for action. As things look now, I do not think that we shall necessarily have to make a very large and significant response ... *If we are not prepared to accept some fairly severe international odium*, we shall need ... to be in a position to take certain minimal steps on actual prohibitions.<sup>132</sup>

Preparing to deflect the process, British (and American) experts drafted agreements to *regulate* land mine use, while the Canadians and the Dutch came up with a skeptic-friendly proposal on incendiaries. But what about “innocuous” bans? Here the skeptics were fortunate. For unclear reasons, Swiss delegates introduced a draft blanket prohibition on a weapon type which reportedly no state possessed: bombs built to explode into particles not susceptible to X-ray identification, hampering medical treatment. Uncontroversial but humanitarian-sounding *qua* a blanket ban, the Western Group seized on this Swiss initiative, which immediately garnered broad support.<sup>133</sup>

The diplomatic struggle lasted five more years, but by 1976 it was clear that the tables had begun to turn in favor of the skeptics. The non-aligned coalition had their own prohibitionist draft agreements, but increasingly found themselves reacting to their opponents’ proposals, which were unambitious but more “realistic.”<sup>134</sup> Diplomatic gains by Western skeptics found further assurance through clear signs that the prohibitionist coalition was cracking. Important Third World states like Algeria, Kuwait, India, and Kenya had begun showing “greater caution” toward generic prohibitions, publicly endorsing compromise proposals by Western delegates.<sup>135</sup>

### *Persistent Deflection*

In early 1977, David Hughes-Morgan, British negotiator for the Ministry of Defence and author of the draft British agreement on land mines and booby traps, candidly reflected on the process so far:

I do not think we have ever gone into print with the real [Ministry of Defence] view on the weaponry exercise but ... *we are by no means enthusiastic about [it]*

132. UKTNA-33.

133. UKTNA-34.

134. UKTNA-35.

135. UKTNA-33, UKTNA-35.

... [as it offers] absolutely no benefit and could possibly be detrimental. *The other side of the equation ... is the apparent political necessity to demonstrate that we are a progressive and humanitarian nation.* We cannot afford to show reactionary and militarist tendencies which would enable other states to point a finger of scorn. This signposts the road which we have been following, generally speaking in the company of our allies ... [Our allies] are as worried as we are over the possible consequences. But no-one would express this view in public for obvious reasons. *Our ideal task is therefore ... to be thoroughly hypocritical and while appearing to assist in the work ... we ought in fact to ensure that it makes no real progress.*<sup>136</sup>

The final battle was set for the closing session of the CDDH in 1977. The West carried forward its deflective cooperation, with the British team setting out to maintain the appearance of “interest in the humanitarian issues involved in the discussion of ‘inhuman’ weapons” while “preventing the development of any consensus in favour of prohibitions or restrictions on the use of particular weapons which would seriously conflict with UK or NATO defence requirements.”<sup>137</sup> Tactically, American delegates coordinated with the Soviets to form a united front against the potential railroading of prohibitionist demands via surprise votes. By the end of the CDDH, skeptics hoped to bring discussions on weaponry to a “constructive” conclusion,<sup>138</sup> meaning a nonbinding resolution they could subsequently ignore.

The cautious confidence of the skeptics was spoiled when the intransigent Mexican delegation surprisingly introduced a new article proposing to create a permanent international weapons review commission, which passed the committee stage thanks to the simple-majority voting rule. Skeptics organized a flurry of behind-the-scenes diplomacy to sink the Mexican initiative. Sensing the negotiating mood, the US-led West together with the Soviets reasoned that the best tactic was to introduce an alternative resolution urging states to continue debating weapons regulation, albeit with language that toed the skeptical line. They produced a compromise text urging the early convening of a follow-up weapons conference to secure agreements and a review mechanism leading to potential further agreements. This last-ditch diplomatic effort paid off, as the Mexico-sponsored article was unable to carry a super-majority in the plenary (the vote was 59-32-10) and was thus defeated.<sup>139</sup>

### *Consensus-Feigning as Recapture*

Seven years of diplomatic struggle within the CDDH concluded in 1977, only to be followed up by UN-sponsored CCW negotiations. Having steered debates in their favor, skeptics across Cold War lines understood clearly that final success lay

136. UKTNA-36.

137. UKTNA-37.

138. UKTNA-37.

139. USNACP-11.

squarely in controlling procedural rules within the follow-up forum. “[It] is fundamental to our position that procedure should be by consensus,” remarked a British legal advisor.<sup>140</sup> Making consensus the formal decision rule became the skeptics’ mantra.

Western states found themselves in a tricky bind: they did not expect functional agreements to emerge, yet they understood that political costs might ensue from fully withdrawing or even partially disengaging from negotiations, a move which might give Warsaw Pact states an upper hand: “[These negotiations] have a potential destabilising effect, in that while western states will be under democratic pressures to agree and adhere to restriction ... the East has the possibility of refusing to become party to conventions it has otherwise supported.” Therefore, British advisors recommended “that our general attitude to weaponry discussions should remain cautious, with our continued participation contingent on consensus procedures, and backed up by careful evaluation of all the relevant military and medical factors.”<sup>141</sup>

In private consultations, the leaders of the opposing coalitions agreed that two UN preparatory conferences would be held in late 1978 and early 1979, with two treaty-making sessions to follow in late 1979 and 1980. Yet, crucially, Western efforts to force consensus on Sweden and Mexico as the formal decision-making rule of the forthcoming process proved fruitless; the non-aligned brokers never formally gave majority voting up. The entire first preparatory conference (in late 1978) resulted in a stalemate about procedure.

As crucial Western brokers, British officials studiously considered dozens of alternatives to supermajoritarian voting, yet none proved acceptable to the non-aligned. Both sides simply perceived too much to be at stake in this decision: for the non-aligned, renouncing the possibility of voting meant not just relinquishing their principal pressure tool in the CCW negotiations, but potentially setting a fatal precedent for future universal multilateral conferences. Similarly, for skeptics, given the CCW negotiations’ status as the first universal weapons process, official acceptance of supermajoritarian voting threatened to disrupt the accepted practice of consensus decision making within the Committee (later Conference) on Disarmament, with potential consequences for any future arms control negotiations.

Ultimately, the Western Group resigned itself to an informal approach: leaving the formal two-thirds supermajority voting rule unchanged but adding a gentleman’s agreement that “every effort would be made” to negotiate by consensus, not without noting that “[we should] make it quite clear that we do not consider this a precedent for future arms control negotiations ... because we do not think voting appropriate for arms control negotiations.”<sup>142</sup>

This informal practice (gentleman’s-agreement-based consensus) embodied a compromise approach reflecting a pragmatic “agreement to disagree” on procedure

140. UKTNA-38.

141. UKTNA-39.

142. UKTNA-40.

while continuing to negotiate. Mexican archival evidence reflects this same private understanding: “[We] arrived at the conclusion that it would be difficult to impose our view on decision-making given the risk of non-participation of at least the [Warsaw Pact states]. On the other hand, we cannot concede on the [UN] principle that international legal norms must be adopted by majority, a principle perhaps more important than [the CCW] conference itself.”<sup>143</sup> This clash of positions reveals the importance of official diplomatic practice and procedure, as well as how states manage to strategically “innovate” while working to avoid creating precedents from innovation.

### *Finalizing Deflection*

Although formal agreement on decision making ended in a stalemate, substantive negotiations proceeded. Given the political advantage they had secured over time via the express recognition (of hierarchy in practice) that any CCW agreements needed to be acceptable to “militarily significant states,” the skeptical superpowers had ultimately gained the political upper hand. By the time the UN treaty-making conferences opened in late 1979, non-aligned states were essentially reacting to treaty drafts largely designed by skeptics: those on land mines and booby traps (originally a British design) and on incendiaries like napalm (a Dutch proposal), and the “X-ray” text (a Swiss proposal).

Militarily powerful though they were, however, the skeptics never actually secured a smooth ride: they continued to labor strenuously to prevent radical alteration of their preferred texts, and continued to use forum-management practices, including influencing the appointment of relevant conference officers, or the channeling of discussions away from open plenary meetings toward working groups and “informal contact groups.” As the British report of the first treaty-making conference session reveals: “The ... course of events demonstrated the value of the maneuverings in which we and other members of the Western group engaged in order to ensure that delegates of known competence and reasonable impartiality were in charge of the working groups, without too much regard to the distribution of the more high-sounding officers.”<sup>144</sup>

Forum-management practices thus continued to be essential for skeptics to steer the process toward their preferred outcomes. “High-sounding” offices like presidencies, vice-presidencies, and chairmanships were conceded, seemingly with face-saving intent, to Third World delegations, while less pompous but more decisive ones such as rapporteurships were entrusted to allies.

Even so, leading non-aligned states continued to press for changes to the land mines and incendiaries texts, some of which were applied. Mexican delegates also devised a clever “umbrella” treaty form which compelled skeptic states to adopt at

143. Archivo Histórico Genaro Estrada, Acervo Histórico Diplomático, Secretaría de Relaciones Exteriores, Mexico 1.

144. UKTNA-41.

least two of the three (likely-to-emerge) agreements if they wanted to become CCW ratifiers. Mexico also pushed hard to insert a treaty review mechanism, meant to permit revision seven years after the original negotiations with the support of twenty ratifying states. This mechanism became the still-operative CCW Review Conference (CCWRC). This important change prevented conventional weapons debates from being sent back to the superpower-controlled Conference of the Committee on Disarmament, where ban skeptics reigned.

Unfortunately for the non-aligned, their opponents only accepted these terms under the expectation that they might use (and cement) the precedent of *informal consensus* within the CCWRC, despite the forum's formal stipulation of supermajority decision making. And this practice remains in the CCWRC today, commonly hindering agreement on meaningful treaty revisions and innovation.<sup>145</sup> This is the same procedural blockage that sparked the 1997 Ottawa land mine ban process, and that is currently obstructing interstate debates over rules on lethal autonomous weapons.<sup>146</sup>

### *Deflated Pressure, Effective Deflection*

Although in 1977 the final CDDH votes demonstrated the non-aligned could still carry majorities, by 1979 their relative diplomatic weakness was clear. Despite continuing Swedish and Mexican leadership, between 1977 and 1980 the non-aligned coalition became increasingly loose,<sup>147</sup> and by the time negotiations resumed within the UN they seemed to have settled for shoring up the far-less-ambitious draft agreements under discussion. Meanwhile, East and West had tightened their backstage cooperation, and though cracks remained within the Western Group, the skeptics' front had grown stronger.

This balance of strength became manifest in the finally adopted CCW. On the one hand, the new (binding) treaty introduced humanitarian restrictions on the *use* of important weapons like napalm and land mines to better protect civilians, which was a measure of progress, though watered down from proponents' initial aspirations. On the other hand, the treaty accommodated skeptics' military interests by avoiding meaningful prohibitions supported by verification and enforcement mechanisms. This design made the CCW both valuable and disappointing to its original proponents.

Still, powerful skeptics found themselves compromising until the very end. Renewed post-détente Cold War competition between the US and the Soviets in the late 1970s allowed the non-aligned to extract more concessions from the superpowers. Although the US had consistently rejected the idea of prohibiting the use of incendiaries against civilians living in sparsely populated areas, one week

145. Rosert 2021.

146. Rosert and Sauer 2020.

147. The reasons for this loosening merit further scrutiny. American and British archives show no trace of coercion or side-payments.

before negotiations ended the American head delegate came back with a changed position, having secured concessions from the Pentagon. In turn, this *volte-face* put the Soviets under the spotlight, ultimately compelling them to follow suit.

After over a decade of fretting, Western states celebrated the adopted CCW. The British reported that although their government was “frankly opposed to many of the early proposals for weapons restrictions,” by embracing certain initiatives on which “useful work could be done” they had succeeded in deflecting attention from less desirable initiatives.<sup>148</sup>

## Conclusion

From the law of war, to economic, health, and environmental institutions meant to tackle grave problems of atrocity, inequality, access to medicines, or climate change, scholars continue to point to agreements that seem to exist for show rather than to solve problems. Such institutions are evidently not rare in world politics, yet the reasons for their existence, and the process and conditions under which they arise, remain obscure. This article introduces the dynamic of *deflective cooperation* as one explanation for their emergence. Through diplomatic practice, entrepreneurs can enact international social pressure to move forward multilateral initiatives despite opposition from skeptics. But rather than boycotting this pressured institution making, skeptics may manage negotiations to divert attention away from robust cooperation toward weak compromises: *face-saving institutions*.

Instead of denouncing face-saving institutions as hopeless shams, I theorize the productive ordering politics underpinning their making, which goes beyond the provision of concrete functional outputs. In so doing, I reconceptualize “organized hypocrisy” as a compromise form of institutionalized politics. International cooperation through institutions should be understood as a longitudinal process of collective attempts to govern the globe among actors who advance (and compromise on) their particularistic worldviews and interests. This approach echoes both recent rationalist work investigating multilateralism as “ideological sorting” and constructivist work analyzing norms, institutions, and lawmaking as “world-ordering.”<sup>149</sup>

These processes are dynamic: institutional creation combines elements of predictability and unpredictability. Although face-saving institutions may be ineffective in the short term, they may also instigate contestation and counter-institutionalization,<sup>150</sup> or become activated through the work of sub-state<sup>151</sup> or transnational actors.<sup>152</sup> Moreover, complex institutions may result from more than one logic,

148. UKTNA-42.

149. See Voeten 2021, 176 and Kinsella and Mantilla 2020, respectively.

150. Morse and Keohane 2014; Wiener 2018.

151. Alter 2014; Simmons 2009.

152. Eilstrup-Sangiovanni and Sharman 2022; Hale 2020; Keck and Sikkink 1998.

combining functional and agreed-on normative features alongside face-saving ones. Such cooperative arrangements are simultaneously “associative” and generative of further politics.<sup>153</sup> At the same time, as we have seen with the recent backlash against aspects of the so-called liberal international order,<sup>154</sup> or examples of “norms without the Great Powers,”<sup>155</sup> enduring institutional capture, calcified hierarchies, and perceived hypocrisies may provoke deeper backlash.<sup>156</sup> States, powerful or weak, can and do learn over time, and depending on the inability of the system to reform or deliver, their actions can eventually become system-undermining.

Empirically, the CCW case study rewrites a little-understood moment of postwar arms control historiography, recasting it as a critical juncture featuring the important influence of non-aligned states in weapons debates, alongside a thus-far-ignored instance of Cold War–era superpower collusion. Contrasting this explanation for the CCW against the history of failed arms control initiatives of the same era (such as a radiological weapons convention) confirms the crucial importance of the dynamics theorized here.<sup>157</sup>

Multilateral pressures to create new institutions obviously do not always succeed. Why? A comparative analysis of negative as well as positive cases might further clarify the proposed mechanisms, scope conditions, and practices. Similarly, deflection attempts may not always work. Further research should attend to interesting variation across issue areas and time periods, and to the interplay between international and domestic politics. Likewise, despite my focus here on Western-NATO states and the USSR, face-saving skeptics need not always be materially powerful states; weaker powers may engage in similar tactics, although perhaps under different conditions. Future work could theorize such processes.

Methodologically, this article illustrates why scholars should investigate how “backstage” practices of international cooperation and institutionalization interact with “frontstage” public diplomacy.<sup>158</sup> Until we better understand how global governors navigate these two stages simultaneously and over time through myriad practices, we will continue to have only partial stories about the fascinating complexity of institutionalized cooperation.

## Supplementary Material

Supplementary material for this article is available at <<https://doi.org/10.1017/S0020818322000364>>.

153. Hakimi 2017a.

154. Lake, Martin, and Risse 2021.

155. Bower 2015.

156. Egel and Ward 2022.

157. Kucharski, Bidgood, and Warnke 2018.

158. Carnegie and Carson 2018.

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Cooperation; international law; arms control; conventional weapons; Cold War; constructivism; international institutions; international humanitarian law

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