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Power, Mechanisms, and Denunciations: Understanding Compliance with Human Rights in International Relations

Elise Rousseau

Despite the mixed results of naming and shaming campaigns, it is still the most widely used tool at the international level to induce compliance with human rights norms. One of the rhetorical tactics adopted by transnational advocacy networks (TANs) in such circumstances is to expose the discrepancy between the target's words and deeds. By doing this, they denounce a gap between public *commitment* to international norms and actual *compliance* with them. Commitment and compliance are the two ends of the spectrum investigated by the literature under review. In this context, commitment is understood as an act whereby an agent agrees to abide by international norms (e.g., the ratification of a treaty), while compliance is described as following rules.

The authors aim to solve a puzzle put forward by quantitative studies showing that abuses could still occur after treaty ratifications (Hathaway, 2002; Hafner-Burton and Tsutsui, 2007) and that international denunciations are rarely correlated with an applied policy change (Hafner-Burton 2008; Franklin 2008). These observations questioned the traditional constructivist view describing the positive influence of international norms on domestic practices (Klotz, 1995; Finnemore and Sikkink, 1998) and the role of TANs in influencing state behaviour (Keck and Sikkink, 1998; see Tang, 2009). In particular, they challenged the 'spiral model' theorized by Risse *et al.* (1999; see Solomon, 2006); a five-step process showing how a norm-violating state may be socialized into adopting international human rights norms. The five stages may be summarized as follows. First, TANs bring international attention to violations. Second, the target denies being involved and builds a counter-

discourse based on other norms (e.g., sovereignty). Third, continuing pressure prompts the norm-violating state to make ‘tactical concessions.’ Fourth, the target does not continue to question the validity of the norms and ratifies international treaties. Fifth, the socialization is achieved when the target has altered its behaviour as a result of continuing pressure. The model was tested against many cases that tended either to confirm (e.g., Muñoz, 2009) or to challenge (e.g., Schapper, 2010) its validity.

By highlighting the compliance gap, quantitative studies have uncovered an analytical discrepancy between phases 3 and 5 of the spiral model. Accordingly, starting from the observation that commitment does not equal compliance, the four volumes investigate the mechanisms and conditions that are likely to foster the implementation of accepted norms. This essay is organized into three sections. First, I synthesize the arguments of each book. Then, in the second and third sections, I critically review two major themes of the volumes: the mechanisms that induce compliance and the reactions to international denunciations.

Compliance with Human Rights in International Relations

Emilie Hafner-Burton innovates by explicitly opting for a pragmatic approach to human rights promotion. In the first section of *Making Human Rights a Reality*, she reviews six contexts favouring violations of human rights and various rationales that perpetrators invoke to justify their actions. According to her, transgressors perform a ‘calculus of abuse’ by which they weigh the costs and benefits of transgressions before deciding on a course of action. In the second section, she presents the current international human rights legal system and shows the weaknesses outlined by statistical research and practitioners of the field. She also examines the reforms that have been implemented and concludes that they will not have much impact unless they are complemented by other strategies.

The third section is precisely dedicated to delineating a ‘stewardship strategy’ built around a group of states that already promote human rights abroad for self-interested reasons. By stating this, Hafner-Burton opposes the constructivist claim that foreign policy may be driven by altruistic aims (Brysk, 2009). She begins by reviewing punishments and rewards implemented by stewards in order to influence the calculus of abuse. She contends that, for these actions to be effective, stewards should persuade local communities and governments of their legitimacy. Accordingly, she explores ways through which the power of stewards may be localized by working with local NGOs and national human rights institutions. The costs of cultivating local support, delivering rewards and dispensing punishments are extremely high for the steward. This is why, according to her, stewards should resort to ‘triage’ in order to allocate their resources to places where they can make the most difference. Pragmatically, Hafner-Burton argues that the universality of human rights norms is what undermines their efficiency: ‘universality is an aspiration, not a strategy’ (p. 193).

Thomas Risse, Stephen Ropp, and Kathryn Sikkink published *The Persistent Power of Human Rights* in which they offer an updated version of the spiral model they elaborated in 1999. Like Hafner-Burton, they begin with the observation that a commitment to human rights does not always mean compliance with them. Contrary to Hafner-Burton, Risse *et al.* agree with the constructivist view that norms transcend purely national interests in prescribing behavioural rules (p. 13). The edited volume is divided into four parts. The first section reviews studies inspired by the spiral model and the second section is dedicated to conceptual clarifications. Then, the contributing authors use mixed methods to investigate the commitment-compliance gap among state (section III) and non-state (section IV) actors.

The two major theoretical thrusts of this volume are the exploration of four social mechanisms bridging the commitment-compliance gap and the study of five scope conditions influencing the effectiveness of these mechanisms. The authors argue that compliance may be

caused by the mechanisms of coercion, persuasion, capacity-building, and the use of incentives. They agree with Hafner-Burton that persuasion is a necessary mechanism to ensure long-lasting compliance with human rights and that it should be combined with other mechanisms in order to be more effective. The exploration of the scope conditions allows them to refine the findings of the 1999 volume. For instance, the contributing authors show that stable democracies are less likely to commit abuses but may have a proclivity to resist international criticism (the regime type). They also argue that coercion, persuasion and the use of incentives will not be effective if a government does not hold a full monopoly over the means of violence (the degree of statehood). Likewise, compliance becomes more difficult when the perpetrators are not the people who are committed to human rights norms (centrality of rule implementation) and are not vulnerable to international pressures (material and social vulnerability).

The aim of *Implementation and World Politics* is not to provide a strategy to bridge the compliance gap (as with Hafner-Burton) nor is it to explain how scope conditions may influence international mechanisms (as with Risse *et al.*). Instead, Betts and Orchard's edited volume examines the domestic implementation processes of international norms in order to comprehend how states understand, interpret, and practice these norms. Each chapter focuses on one 'people-centred' norm, i.e. international norms linked to human rights but also to aid, humanitarian issues, intervention, peacekeeping, and displacement. For Betts and Orchard, causal mechanisms influence implementation at the ideational, material, and institutional levels. To assess this influence, contributing authors are invited to use process-tracing and follow a detailed methodology (pp. 18-21).

The volume makes two major theoretical contributions. First, contrary to what is usually found in the literature, the authors study the impact of norms other than those institutionalized in international treaties. Indeed, after a section dedicated to these 'treaty

norms', the second section focuses on 'principled norms', which are standards that are not (yet) formally codified but are nonetheless partially institutionalized (e.g., responsibility to protect). The third section studies 'policy norms', which are the norms shared by actors in international organizations and refer to their beliefs about what constitutes appropriate behaviours (e.g., the aid transparency norm at the World Bank). Second, against the idea that the meaning of norms is decided during the international institutionalization process (Finnemore and Sikkink, 1998), Betts and Orchard argue that their signification only becomes clear during the domestic implementation process. The contributing authors show indeed that international norms are often imprecise and may give rise to varying interpretations (e.g., the meaning of the term 'refugee').

The uneven track records of human rights compliance and the persistent use of international denunciations to shape behaviours led H. Richard Friman to investigate naming and shaming campaigns. The edited volume *The Politics of Leverage in International Relations* unpacks these campaigns and studies how they may be articulated with sanctions. The contributing authors are encouraged to explore the concept of naming and shaming to 'privilege its components, causal mechanisms, and effects in diverse ways' (p. 22). On this basis, in the concluding chapter, the editor presents a framework for analysing 'the politics of leverage', i.e. the use and combinations of policy levers (name, shame, and sanction) by state and non-state actors with the aim of influencing behaviours. The volume is divided into two sections: while the first focuses on naming and shaming related to human rights, the second examines other issue areas (e.g., drug control) and targeted actors (e.g., corporations).

The volume describes naming and shaming as a strategy used by advocacy networks, international organizations, and states in order, for instance, to impact behaviour (chapter 3), call for justice (chapter 5) or give a signal (chapter 9). It is described as a sequential process conditioned by various elements, such as the reputation of the actor making the accusation

(chapter 2), the degree of influence of third-parties (chapter 4), the degree of rhetorical entrapment of the target (chapter 6) or the credibility of the enforcement threat (chapter 7).

A Review of Compliance Mechanisms

A trend that is common to all reviewed volumes is the use of mechanism-based explanations to bridge the analytical gap between commitments to human rights and practical compliance with them. Mechanisms are ‘frequently occurring and easily recognizable causal patterns that are triggered under generally unknown conditions or with indeterminate consequences’ (Elster, 1998, p. 45). This type of explanation is used in various scientific fields (including chemistry, economy, or sociology) and provides an approach to causality other than the observation of covariation between two variables. Each volume analyses a range of compliance mechanisms that explain how actors who are committed to following human rights but are still perpetrating abuses may be compelled to change their behaviour. These causal patterns are triggered by particular conditions and, if concurrent, may interact with one another in the same process. Risse *et al.*’s classification is comprehensive, and I will use it here as a standard to review the compliance mechanisms proposed by all authors. I will then raise a few issues regarding the treatment of these mechanisms.

First, the authors mention coercion as a mechanism for inducing compliance. When coercion occurs, it means that the abuser is cornered and does not have any choice other than to abide by the norm. Both Risse *et al.* and Hafner-Burton identify the use of military force (e.g., responsibility to protect) and legal enforcement (e.g., sanctions) as means of coercion at the international level. In the case of legal enforcement, Risse *et al.* indicate that coercion only occurs if the sanctions are not based on an agreed-upon prior agreement. For instance, ‘a Security Council referral to the [International Criminal Court] of a case like Sudan, which has not ratified the Rome Statute, can be seen as coercion’ (p. 13).

Second, when the threat of punishment or the hope of rewards is the cause of compliance, the mechanism at play is the use of incentives. All of the authors consider that influencing the ‘calculus of abuse’ is a powerful tool to move violators from commitment to compliance. In this framework, the perpetrator follows the logic of consequences to decide on a course of action (March and Olsen, 1998). For instance, when tracing the implementation process of the refugee norm in South Africa and Botswana, Betts shows that incentives on political elites shape the domestic interpretation of the norm.

Third, the authors argue that persuasion is the only mechanism ensuring long-lasting compliance with human rights. However, they say that it must be combined with other mechanisms in order to be effective. For instance, in line with her previous statistical findings (2008), Hafner-Burton contends that international denunciation alone is not sufficient to change an actor’s abusive behaviour. However, she does not reject persuasion and insists that a stewardship strategy based on coercion only will ultimately fail unless stewards ‘build legitimacy and help persuade perpetrators that respecting human dignity is appropriate and not just cost effective’ (p. 5). While not discussing persuasion as much as the other authors, Betts and Orchard nonetheless outline the critical impact of ideas and how they are framed on the domestic implementation processes of international norms.

Finally, capacity building may lead to compliance when governments do not have the ability to enforce international norms on their territory. Betts and Orchard suggest that norm implementation may be constrained at the domestic level by material structures such as economic weakness, institutional ineffectiveness, or the inability to fight corruption (p. 16). Likewise, contributors to Risse *et al.*’s edited volume show that democratic states with areas of limited statehood might be willing to comply but may lack the capacity to do so (chapter 4). In such circumstances, a change may be brought by capacity building, described as the

‘process of social interaction aiming toward education, training and the building up of administrative capacities to implement and enforce human rights law’ (Risse *et al.*, p. 15).

Potential Problems in the Treatment of Compliance and Persuasion

All of the authors agree that various compliance mechanisms may be at play when it comes to bridging the commitment-compliance gap. As mentioned above, most of them find that persuasion is necessary to ensure long-lasting change, but that this mechanism must be combined with others in order to be truly effective. What is surprising, considering the importance granted to the phenomenon, is that the contours of persuasion and its relationship with other mechanisms remain unclear.

However, before examining to what extent the treatment of persuasion may be perceived as problematic, we should interrogate the purpose persuasion and the other mechanisms are supposed to serve: compliance with human rights. The volumes begin with the observation that, despite the growing number of commitments to human rights, non-compliance often prevails. By stating this, the authors seem to assume that compliance is a dichotomous variable. For instance, even though they acknowledge that implementation may vary among countries, Betts and Orchard contend that compliance refers to ‘an absolute property: either the state complies or it does not’ (p. 6). While this claim is helpful in picturing a clear end to the processes under study, it also erases the issue of partial compliance.

In the present volumes, partial compliance seems to be an intermediary step in the process leading to full compliance with international norms. However, as Hawkins and Jacoby (2010, p. 36) show, partial compliance may sometimes appear ‘to be a relatively stable end point’ to the spectrum. For example, Risse *et al.* argue that the use of incentives causes compliance when specific conditions are met, but they also may have a ‘crowding-out effect’

on other mechanisms and lead to non-compliance in other cases (chapter 6). While this is possible, it is also likely that the use of incentives generates partial compliance. For instance, if steward states have diverging priorities regarding the international norms that they promote, the target of international pressures may be confronted with mixed incentives and choose to partially comply with the norms as a way out (Hawkins and Jacoby, 2010).

In addition to taking into account the middle-ground concept of partial compliance, there is another important reason why we should question the treatment of compliance in the volumes. To some extent, when exploring the commitment-compliance gap, the authors tend to favour the study of compliance over commitment. Their first observation is that non-compliance is still a reality in some contexts despite the growing number of commitments to follow international norms. However, according to Cardenas (2010), it is not so clear that commitment and compliance are two distinct phenomena. She argues that compliance is a multidimensional variable encompassing both violations and commitments. Indeed, and as implied in the volumes, non-compliance does not only mean the perpetration of abuses, it also requires a public commitment not to violate human rights norms. However, while some authors discuss the complexity of the international human rights legal system (e.g., Hafner-Burton) and others outline the ambiguity of international norms (e.g., Betts and Orchard), none of them conceptualize what commitment actually means and how it relates to compliance and norm implementation.

Furthermore, if, for the authors, commitment refers to word giving and compliance to acting in accordance with this pledge, then the imbalance towards the study of compliance may entail a tendency for privileging the analysis of behaviour over the study of discourse. An expression of this trend could be found in the authors' approach to persuasion. On the one hand, a vagueness remains around the conceptual complex of persuasion, learning, and socialization and its operationalization. For instance, while all of the authors concur that

persuasion leads to compliance (against this stance, see Zarakol, 2014), some of them seem to imply that compliance is a sub-category of socialization (Risse *et al.*) and others use socialization and learning to define persuasion (Hafner-Burton, p.63). At the operational level, the authors approach the mechanism of persuasion either through the study of frames or the examination of shame as a policy lever. A turn to critical discourse analysis (Banta, 2012) could be a starting point for a sustained engagement with the components of persuasion in human rights studies and IR to advance our understanding of discourse-based mechanisms.

On the other hand, interactions between persuasion and other mechanisms are not extensively investigated, contrary to interactions with the use of (mostly material) incentives. For instance, a chapter in Friman's volume introduces 'shaming and taming' as a mechanism through which weak actors may 'first *shame* [powerful norm-violating states] by exposing the gap between their words and deeds and then (subsequently) *tame* them by imposing, or credibly threatening to impose, concrete material/political costs' (p. 106). Similarly, contributing authors to Risse *et al.*'s volume describe five crowding-out effects that material inducements may have on norm internalization. These works represent a major step towards the theorization of mechanism interactions, but the use of incentives as an analytical thread might entail the risk of understanding rule-following as ultimately resting on a utilitarian logic.

Responses to International Denunciations

In the previous sections, I presented the volumes under review and discussed the author's treatment of compliance and persuasion. I suggested that compliance could be approached as a graded, multidimensional variable and that the study of persuasion could benefit from further conceptual clarification and operationalization. Taking a more complex approach to compliance and persuasion is also crucial to understand the type of response used

by norm violators since, as noted by Cardenas (2010, p. 130), their reaction ‘will depend partly on the argument with which they are confronted’. It is a common tenet of the constructivist literature that external pressures are necessary to ensure compliance as long as the target has not internalized the norm. In 1999, Risse *et al.* briefly envisioned that these pressures could be resisted, but these reactions were presented as weak and as losing credibility over time (p. 262). The volumes under review challenge this vision by stating that targeted actors may respond to international opprobrium. This reaction is described as a counter-frame (as in Risse *et al.* and Hafner-Burton) or as norm contestation (as in Betts and Orchard). In this section, I review the responses to international denunciations put forward in the volumes. To do so, I draw on scholars who employ Goffman’s stigma theory, and I argue that the introduction of stigma, coupled with a graded approach to compliance, helps to trace the boundaries between in-group and out-group reactions.

Figure 1 about here

The sociological concept of stigma has recently been conceptualized in IR to show that norm-internalization does not always equate to compliance (Zarakol, 2014) and to explore the strategies implemented by targeted states (Adler-Nissen, 2014). In his edited volume, Friman mentions an interesting distinction between shame and stigma when contending that shaming only focuses on the reprehensive action, while stigmatization entails the condemnation of the agent. I argue that this distinction should receive more attention than it currently does as it helps to differentiate between two scenarios of normative change.

First, when the sense of belonging to the normal is high and the target accepts that the action is reprehensible, I postulate that the actor produces a discourse of *shame*. The target is a member of the community that has temporarily distanced itself from the expected behaviour

of the members of this group. It is likely that the denunciation was framed around the reprehensible behaviour rather than around the attributes of the agent. As indicated by Friman, an international denunciation in such a context ‘offers opportunities for the targeted actor to rejoin the community’ (p. 4). However, this scenario is less common than situations where the target has to cope with stigmatization.

Second, the target accepts that the attribute(s) and actions are reprehensible. It takes steps to alter those elements of its identity in order to integrate the norms (the y-axis), including enhancing the degree of compliance (the x-axis). Alternatively, the target ‘can also attempt to correct his condition indirectly’ by focusing on other areas (Goffman 1963, p. 10). In compliance research, this would mean complying with norms other than the one pointed out by international denunciations (the degree of compliance increases only partially) with the hope of being included in the community. These strategies of *adjustment* may either succeed if the deviant agent becomes accepted by the international community (Adler-Nissen, 2014, p. 153), but it is also likely to fail: the agent remains stigmatized even if their degree of compliance has drastically increased (Zarakol, 2014, p. 316). When addressing this issue, the books under review have a tendency to focus only on the compliance axis and notice that stigmatization may play an important role in enhancing compliance (e.g., Friman, chapters 8 and 9). However, the question remains open as to whether the former norm-violating state or non-state actor acquires a fully normal status.

Third, when the degree of compliance tends to be low and the sense of belonging is positive, the actor might engage in what Adler-Nissen (2014) identifies as *stigma rejection*, where ‘the stigmatized accept the categories of deviance, but deny being different from the norm abiders’ (p. 154). In other words, the norm-violating actor rejects the idea of standing outside the group because of his or her actions. In such a context, I postulate that a low level of compliance may be sustained by a powerful counter-discourse through which norm-

violating actors rationalize their behaviour. For example, they may mobilize ‘excuses’ and frame their actions as occurring under exceptional circumstances (Hafner-Burton, p. 31) or as responding to a national security threat (Risse *et al.*, chapter 2). In my opinion, explicitly integrating stigma rejection into the study of these reactions would help address a new puzzle challenging the traditional literature on human rights: abuses committed by powerful liberal democratic states. Some authors have started to investigate this phenomenon through the study of the violation of the anti-torture norm by the United States (Hafner-Burton; Risse *et al.*; and Betts and Orchard; see also McKeown, 2009). This phenomenon is somewhat paradoxical as it shows that there are some variations in what is assumed to be the community of ‘normals’, an international society that is often perceived as homogenous in the conventional constructivist literature. The study of this paradox is, however, still at its infancy and would benefit from further investigations.

Finally, when the degree of compliance and the sense of belonging to the normals are low, the target will tend to respond to international denunciations by means of what Adler-Nissen calls *counter-stigmatization* strategies. In this case, stigma reinforces the identity of the norm-violating actor as he or she engages in successful counter-framing actions, which might even imply that ‘the stigmatizer becomes perceived as the transgressor’ (Adler-Nissen, 2014, p. 153). An example of this phenomenon is provided by contributors to Betts and Orchard who report that the government of Sri Lanka succeeded in turning INGOs into scapegoats in the context of the civil war. Indeed, building on ‘Sri Lanka’s identity as a post-colonial state’ (p. 101) and on the poor reputation that INGOs had in the country, the government framed humanitarian aid as a manifestation of foreign intervention in domestic affairs. Advancing sovereignty arguments in response to international denunciation has been described by Risse *et al.* as an example of ‘justification’ (chapter 2). In this respect, the case of China and the Responsibility to Protect norm is particularly enlightening and has been

addressed by contributors to Risse *et al.* (chapter 9) and Betts and Orchard (chapter 8). It is likely that further pushing the study of counter-stigmatisation strategies could help to understand the potential emergence of alternative normative orders, different than the one promoted by liberal democratic states on the international stage.

Conclusion

The volumes I have reviewed here investigate the often-observed gap between the commitment to international norms and practical compliance with them. More specifically, they focus on the issues of human rights and other ‘people-centred’ norms. However, their perspectives on this phenomenon are considerably divergent. While *Making Human Rights a Reality* sketches a pragmatic stewardship strategy based on localization and triage in order to promote human rights abroad, *The Persistent Power of Human Rights* explores the influence of five scope conditions (the regime type, the degree of statehood, the degree of centralized or decentralized rule implementation, material, and social vulnerability) on compliance mechanisms. *Implementation and World Politics* focuses on the factors that shape norm implementation processes at the domestic level. Finally, *The Politics of Leverage in International Relations* studies one of the main manifestations of the mechanism of persuasion, which are naming and shaming campaigns. Since they all contribute to furthering our knowledge of compliance and compliance mechanisms, these volumes are of central importance for students of norms in international relations. Moreover, as they investigate how norm-violating actors respond to international pressures, they provide a base for future work on stigma, counter-stigmatization, and identity in compliance research that could complement current research on norm contestation (Wolff and Zimmermann, 2016), norm regression (McKeown, 2009), and resistance to normative change (Bloomfield, 2016).

Where does this leave the study of compliance and international denunciations? Since denunciations are still the most widely used tool to induce compliance with human rights norms, I argue that a meticulous study of this mechanism is needed. For instance, how does denunciation relate to socialization and persuasion? How would it interact with mechanisms other than the use of incentives? What would be the responses of norm-violating actors faced with competing condemnations? In this essay, I suggested that the introduction of stigma, coupled with a graded multidimensional approach to compliance, could help to apprehend reactions to international denunciations and other emerging issues in international relations. For instance, could a former stigmatised actor reach a fully 'normal' status or would its image always be tainted by his or her former reputation? How could the order promoted by liberal democratic states interact with alternative normative orders? Is the group of steward states as homogenous as implicitly assumed in the volumes? This is a vast field of research that still needs to be explored and answers to these questions would offer possibilities to improve our understanding of the role of international denunciations in shaping behaviour and its impact on compliance.

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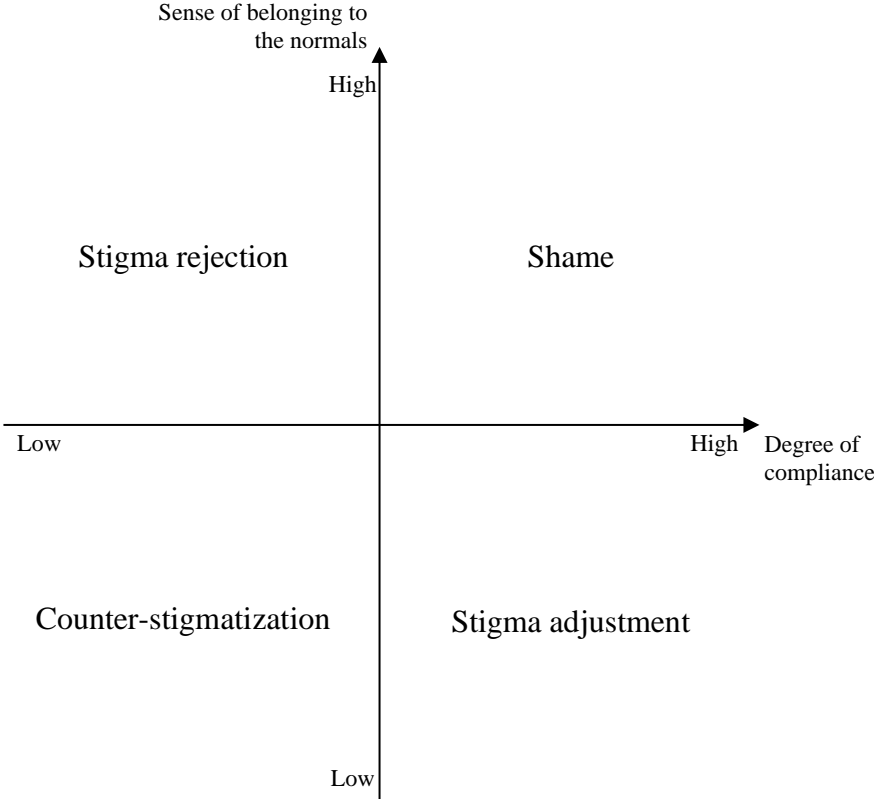


Figure 1 - Responses to international denunciations
(elaborated by the author; inspired by the volumes under review and Adler-Nissen, 2014)