

Do international human rights treaties improve respect for human rights? T*

FINAL VERSION

Eric Neumayer

London School of Economics and Political Science, Houghton Street, London WC2A 2AE,
UK and Center for the Study of Civil War, International Peace Research Institute Oslo,
Norway. Phone: +44-207-9557598. Fax: +44-207-9557412. Email: He.neumayer@lse.ac.uk
Website: <http://personal.lse.ac.uk/neumayer>

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After the non-binding Universal Declaration of Human Rights, many global and regional human rights treaties have been concluded. Critics argue that these are unlikely to have made any actual difference in reality. Others contend that international regimes can improve respect for human rights in state parties, particularly in more democratic countries or countries with a strong civil society devoted to human rights and with transnational links. Our findings suggest that rarely does treaty ratification have unconditional effects on human rights. Instead, improvement in human rights is typically more likely the more democratic the country or the more international non-governmental organizations its citizens participate in. Conversely, in very autocratic regimes with weak civil society, ratification can be expected to have no effect and is sometimes even associated with more rights violation.

‘[T]he institutions of international human rights law deserve our energetic support only to the extent they contribute meaningfully to protection of rights, or at least promise eventually to do so.’ (Cassel 2001, 121).

Do international human rights treaties make a difference in reality? Does their ratification lead to improved respect for human rights in the country ratifying the treaty’s provisions? This is the question examined in this paper. It starts with a brief overview of what theory would lead us to expect regarding the effectiveness of international human rights treaties (or human rights regimes more generally). We start with theories that would lead us to expect little, moving on to theories that generate more optimistic predictions toward the potentially beneficial effects of international human rights regimes. Next, we review the existing empirical studies on this subject. The description of our research design is followed by a presentation and discussion of results and a conclusion. In short, we find that a beneficial effect of ratification of human rights treaties is typically conditional on the extent of democracy and the strength of civil society groups as measured by participation in non-governmental organizations (NGOs) with international linkages. In the absence of democracy and a strong civil society, treaty ratification has no effect and is possibly even associated with more human rights violations.

THEORETICAL EXPECTATIONS

A *(neo-)realist* international relations perspective regards countries as unitary actors with given preferences maximizing their own utility without regard to the welfare of other actors. Things happen if powerful countries want them to happen (Krasner 1993). In principle, this perspective should bode well for human rights. The United States as arguably the most powerful country in the world has a relatively good domestic human rights record despite

emerging problems in the wake of 9/11 together with some commitment to pursue human rights improvements in its foreign policy. For example, its Foreign Assistance Act promises that no financial assistance will be given to states engaging ‘in a consistent pattern of gross violations of internationally recognized human rights’ (US Code Title 21, § 2151n). The same is true to a larger or smaller extent for practically all developed countries and for the European Community (European Commission 2001). However, powerful countries are rarely consistent in their application of human rights standards to their foreign policy and they are rarely willing to grant human rights questions priority (Krasner 1993; Donnelly 1998; Goldsmith and Posner 2005). Powerful countries rarely employ sanctions – political, economic, military or otherwise – to coerce other countries into improving their human rights record. Indeed, for the most part, countries take relatively little interest in the extent of human rights violations in other countries, unless one of their own citizens is affected. This is because contrary to, say, the extent of trade openness, a country and its citizens are hardly affected if the human rights of citizens from other countries are violated in other countries. Human rights violating countries often avoid subjecting foreign citizens, particularly from powerful Western countries, to the same extent of human rights violation as their own domestic citizens, exactly in order to keep the foreign country disinterested.

A further consequence is that the international human rights regimes are comparatively weak compared to, say, the regimes of finance or trade. No competitive market forces drive countries toward compliance, nor are there strong monitoring and enforcement mechanisms. Monitoring, compliance and enforcement provisions are either non-existent, or voluntary, or weak or deficient (Bayefsky 2001). Without powerful countries taking a strong interest in the effectiveness of international human rights regimes, there is little cost for parties with a poor human rights record to ratify the treaty as a symbolic gesture of good will, but to maintain its

poor record in actual reality (Goldsmith and Posner 2005). A (neo-)realist perspective would therefore not expect that international human rights regimes make much difference in reality.

Hathaway (2002a, pp. 2002-2020) has provided an interesting new theory on the dual role of human rights treaties that would even suggest that treaty ratification can be associated with worse performance. She is no representative of (neo-)realism, but her theory is most relevant if the fundamental assumptions of realism hold true, particularly the lack of interest by powerful countries in combination with the comparatively weak monitoring and enforcement mechanisms. Noting that treaty ratification plays an 'expressive role' as well, communicating to the outside world that the country is committed to human rights, she argues that treaty ratification can deflect internal or external pressure for real change. In combination with the poor monitoring and enforcement mechanisms of international human rights treaties, countries with poor performance can not only get away with continued human rights violations, but may at times even step up violations in the belief that the nominal gesture of treaty ratification will shield them somewhat from pressure. In this view, human rights treaty ratification can even lead to worse human rights records.

Compared to (neo-)realism, an *institutionalist* perspective stresses more the beneficial effects of international regimes, helping countries to reap the mutual, often long-term benefits of co-operation. Regimes in this perspective offer a way out of the prisoner's dilemma in order to achieve the Pareto optimum, which is unavailable if countries always seize their short-term selfish own interest. It is unclear, however, whether an institutionalist perspective would lead one to expect much more of international human rights regimes than a neo-realist perspective. This is because, as mentioned already, it is somewhat questionable whether there are substantial *mutual* benefits from greater respect for human rights across countries (Krasner 1993). Given that a country's citizens often reside in many foreign countries, a country with high human rights standards might be concerned about the fate of its own

citizens abroad and therefore benefit from an effective international human rights regime. The same is true for people from the same ethnic or religious group, residing in foreign countries (Goldsmith and Posner 2005). However, countries with low standards are not likely to share such benefits. Given they do not respect the human rights of their citizens living in their own country, why would they benefit from knowing that the human rights of their citizens are respected abroad? As Moravcsik (2000, 217) has put it: 'Unlike international institutions governing trade, monetary, environmental or security policy, international human rights institutions are not designed primarily to regulate policy externalities arising from societal interactions across borders, but to hold governments accountable for purely internal activities.' Furthermore, even if international human rights treaties could be interpreted as co-operation mechanisms to overcome the prisoner's dilemma to the mutual benefit of all parties, it is questionable whether deep co-operation is likely to be achieved. Economists have argued that enforcement mechanisms such as sanctions to deter non-compliance have to be self-enforcing in the sense that recourse to an external enforcement agency is not feasible and have to be renegotiation-proof. A sanction will only be credible if the threatening group of countries is better off actually executing the sanction than refraining from execution and renegotiating a new agreement with the free-riding country. Treaties that are not renegotiation-proof cannot deter free-riding because potential free riders will anticipate that they could strike another deal after free-riding and could therefore get away without being punished. Applying game theory to analyze the consequences of the requirements of self-enforceability and renegotiation-proofness on multilateral co-operation, economists have come to pessimistic conclusions (see Neumayer (2001) for details): a self-enforcing and renegotiation-proof international treaty will *either* consist of only a small subset of countries *or* if many countries are parties to the treaty then the gains from cooperation relative to the non-cooperative equilibrium are very small. In other words, cooperation is either narrow

(instead of wide) or shallow (instead of deep). International relations theorists Downs, Rocke and Barsoom (1996) provide very similar arguments. An institutionalist perspective would therefore not generate optimistic expectations regarding the effects of international human rights regimes.

From a *regime theory* perspective, which can be understood as a refinement of institutionalism, international treaties create binding obligations on the ratifying parties, which countries aspire to honor. Parties to international treaties generally aspire to comply in the spirit of *pacta sunt servanda* (agreements are to be kept and honored) where ‘compliance is the normal organizational presumption’ (Chayes and Chayes 1993, 179). Otherwise, states would not engage in the often painstakingly long negotiations to hammer out all the details of such treaties. The regime’s norms are particularly likely to change regime parties’ behavior if they are widely regarded as the result of a fair and legitimate process and if they concur with widely shared substantive notions of justice since this bolsters peer pressure to comply with the norms – see Franck (1995) who suggests that international human rights treaties generally fare well on this account. However, treaty norms are often understood to represent long-term desirable goals. Not surprisingly then, norms are set above a level that many participating countries can or want to comply with immediately or within the foreseeable future. Furthermore, Mitchell (1996, 25) and Chayes and Chayes (1993, 176) point out that full compliance is neither a necessary nor a sufficient condition for the effectiveness of an international regime. Instead, what matters is that overall compliance is at an acceptable level. These high standards often perform the function of setting targets to which parties are supposed to move towards over time and compliance problems are not so much the consequence of deliberate non-compliance, but due to lacking compliance capacity (Chayes and Chayes 1993; 1995). As Levy, Keohane and Haas (1993, 404) observe, high regime standards serve many functions, such as generating political concern in low-standard

countries and setting normative goals for them, communicating the intensity of preferences among regime members and legitimating technical aid or outright transfer payments to improve the capacity to comply with the norms that might otherwise be denounced as bribes or blackmail. In this ‘managerial model’ of international regimes, the fact that sanctions against human rights offenders are rarely used is not a problem since it is not sanctions, but assistance for tackling insufficient compliance capacity that matters. Non-compliance is not an enforcement, but a management problem.

Regime theory would lead to expectations concerning the effect of international human rights treaties that are optimistic, but only rather cautiously so. This is because such treaties do not fit as well into the theory as international treaties in other areas. As Chayes and Chayes (1993, 197) themselves point out, international human rights treaties are ‘an extreme case of time lag between undertaking and performance’. Furthermore, contrary to the general presumption that non-compliance is not intentional, it is admitted that with respect to international human rights treaties, countries sometimes become state parties without any intention of compliance, perhaps in order ‘to appease a domestic or international constituency’ (Chayes and Chayes 1993, 187). In such cases, pressure exerted by NGOs can be important (Chayes and Chayes 1995, ch. 11), which provides a link to the theory of transnational human rights advocacy networks discussed below. Lastly, international human rights treaties do not offer much in terms of assistance for tackling insufficient compliance capacity. One possible reason could be that state parties might not consider non-compliance with human rights treaty norms as caused by insufficient compliance capacity. After all, one could argue that no capacity problems hinder any state from refraining to engage in human rights violations. However, such a view does not take into account that human rights violations are often undertaken by lower-tier governmental officials (police, military and other security forces) whose behavior is not necessarily fully under the control of the central

government. Educating and training these officials in human rights issues and changing their incentive structures as well as investigating and prosecuting continued rights violations might well be constrained by limited capacity.

Contrary to the theories looked at so far, which almost exclusively only deal with states as unitary actors and state-to-state behavior in the international arena, the next three theories place much emphasis on the interaction between states and domestic groups. The *transnational legal process model* addresses the process through which state actors internalize norms codified in international treaties (Koh 1996, 1998). Such internalization is regarded as the final phase of a three-step process of interaction, interpretation and, finally, internalization. Some transnational actors such as diplomats, non-governmental organizations (NGOs) and individual ‘transnational norm entrepreneurs’ who form a kind of ‘epistemic human rights community’ initiate an interaction (or series of interactions), which might lead to the negotiation of an international human rights treaty. The final treaty text to be concluded represents the common interpretation of norms, agreed upon by state parties after a series of interactions at various drafting stages. Regular follow-on meetings provide opportunities for further interactions and interpretations, which gradually leads non-complying state parties to be persuaded of the validity of the norms and therefore to accept and internalize them. The broader the group of actors involved at the various stages of interactions, the more likely internalization is to follow. This calls for the inclusion of intergovernmental organizations, NGOs, private individuals, perhaps even business groups. Of course, as Koh (1998, 1399) admits, the process does not always work well and sometimes fails spectacularly in certain countries, but norm violation by a few does not prevent norm obedience by most states. A change in preferences is of course in conflict with (neo-)realist theories built around the assumption of a given set of preferences, but constructivist approaches allow for preference change, noting that ‘the international system can change what states *want*’ and can change

‘state action, not by constraining states with a given set of preferences from acting, but by changing their preferences’ (Finnemore 1996: 5f.). Related is Goodman and Jinks’ (2004) view on how actors become socialized and acculturated into following treaty norms. From their perspective, it is not so much persuasion – a form of rational acceptance – that matters, but that regular interactions lead to cognitive and social pressures for state actors to conform with treaty norms. Such often implicit pressures exist in the form of social-psychological benefits of conformity such as the ‘cognitive comfort’ of satisfying social expectations and of being accepted and valued as an insider group member and in the form of the related costs of non-conformity such as dissonance and shunning. The result is conformity with treaty norms rather than their acceptance and internalization.

The transnational legal process model and related theories might be able to explain norm internalization or norm conformance if states do not incur great costs in complying with treaty norms. What if, however, there are strong incentives to maintain human rights violations? Will those who undertake human rights violations in order to maintain their grip on power be persuaded by the validity of human rights norms or be socially acculturated into human rights protection? This seems highly unlikely. The remaining two theories therefore address the issue of how domestic groups, perhaps in interaction with transnational actors, can use international human rights treaties to pressure state actors into compliance. The *liberal* international relations perspective abandons the realist concept of states as unitary actors, arguing instead that states are made up of a large number of actors with different interests, which is why domestic politics matters (Moravcsik 1997). International human rights regimes can be effective if domestic groups, be they non-governmental organizations, protest movements, political parties or any other group, can use the regime to pressure their domestic government into better respect for human rights (Helfer and Slaughter 1997). Obviously, there is more leeway for such pressure where the domestic political regime allows

opposition and the exertion of peaceful political pressure on the government. Bringing lawsuits against human rights offenders to domestic courts can also be important (Hathaway 2002a). In consequence, a liberal perspective would lead us to expect that international human rights regimes are particularly effective in political democracies and where the rule of law prevails. Such countries will find it more difficult to exploit the ‘expressive role’ of international human rights treaties without undertaking any actual change (Hathaway 2002a). Of course, in as much as the theory argues with recourse to rule of law rather than political democracy, there is the danger of tautology since human rights are partly about access to legal process and the right to lawful treatment.

The *theory of transnational human rights advocacy networks* predicts that international human rights regimes can improve actual performance where such networks are strong (Risse, Ropp and Sikkink 1999; Schmitz and Sikkink 2002; Hafner-Burton and Tsutsui 2005). Networks consist of international human rights NGOs such as amnesty international or Human Rights Watch together with domestic NGOs and other civil society groups, parties or the media committed to human rights. Improvement in human rights is regarded as a process going through a ‘spiral model’ taking five steps, namely, from unconstrained repression to rule-consistent behavior via a period of denial, tactical concessions and prescriptive status. Movement through the stages is not inevitable and can take a very short or very long period of time, depending on the country in question and the pressure it is under at each stage. In the beginning, domestic political opposition is too weak to constrain human rights violations and the country manages to escape the attention of transnational advocacy networks. However, after some time and often triggered by events of particularly gross human rights violations, the network starts putting the regime under pressure via disseminating information, shaming the offending regime and mobilizing international public opinion against it, as well as persuading strong states to target the country with open criticism as well as diplomatic, aid,

trade and other policy measures. The offending government reacts with denial, denouncing the universality of the human rights invoked and rejecting criticism as interference with its sovereignty. At this critical stage, it is important that the pressure on the offending country is maintained and international human rights regimes help in justifying the universal applicability of human rights. Few governments are willing to accept a positioning of their country as a rogue state. Under sustained pressure, they engage in tactical concessions in the hope of diffusing the criticism, often in the form of releasing some political prisoners, lifting some of the worst restrictions of civil liberties and withdrawing some of the worst violations of human rights. A further possible concession could be the ratification of human rights treaties. The regime often under-estimates that these concessions help mobilizing and strengthening domestic groups, which, under the protection and with the help of transnational networks, push for further improvements in human rights. The domestic groups ally with the transnational networks to exert pressure on the government “from below” and “from above”. Pressure by powerful countries can be helpful if applied consistently and with a long-term commitment. Having undertaken tactical concessions, governments can no longer deny the validity of human rights in principle. They slowly lose control over the process they have initiated. Their leaders’ rhetorical embrace of human rights is used by domestic and foreign groups against them in their call for the actual realization of human rights. A process of ‘controlled liberalization’ takes place during which the old regime is often split between a reformist and reactionary faction. Crushing the domestic opposition is often no longer an option unless the country is powerful enough to weather the adverse consequences for the government (e.g. the Tiananmen Square massacre in China). The reformist faction therefore often gains the upper hand with the consequence that further reforms become more likely. If the mounting pressure is sufficiently strong, then human rights improvements stop being ad hoc and at the total discretion of the regime and start becoming institutionalized via legal or

even constitutional changes. At this stage, human rights acquire prescriptive status and governments stop dismissing human rights complaints as interference in internal affairs. In the final phase, governmental behavior becomes consistent with the human rights norms either because the government has sufficiently reformed or has stepped down and is being succeeded by a former opposition group, which is committed to human rights consistent behavior. Human rights violations can still happen at this stage, but they are no longer officially pursued by governmental officials and its perpetrators are likely to become the subject of state prosecution.

What are the implications of this theory for the likely effect of human rights treaty ratification on human rights performance? Risse, Ropp and Sikkink (1999, 29) explicitly regard ratification as a manifestation of the phase of prescriptive status. If this is the case, then a positive association between ratification and improvements in human rights is likely, not least because the process of rights improvement is already well under way. It also means that ratification is more a manifestation of human rights improvement rather than a cause of it. However, as already mentioned, ratification can also form part of the tactical concessions. If so, then ratification can be more causally instrumental in bringing about human rights improvement if the increased attention, monitoring and reporting together with the formal acceptance of the validity of human rights by the government allow the transnational networks in alliance with domestic groups to step up the pressure on human rights violating countries. Risse (2002, 45) concludes from qualitative studies of human rights change in eleven countries that in all cases ratification of international human rights treaties preceded respect for human rights.

Table 1 provides a summary of theoretical expectations on whether international human rights treaties improve respect for human rights. Neither (neo-)realist nor institutionalist perspectives would lead one to expect much of international human rights treaties. Indeed,

such treaties might even lead to a worsening of human rights performance. Regime theory leads to more optimistic conclusions, but only rather cautiously so as explained above. The transnational legal process model provides an optimistic outlook as do the remaining two theories. However, in the liberal theory the effect of treaty ratification is likely to be contingent on the extent to which the domestic political regime is democratic, whereas in the theory of transnational human rights advocacy networks the effect is contingent on the existence of a vibrant human rights civil society with strong international links.

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REVIEW OF EXISTING STUDIES

To my knowledge, there are only three studies, which have tried to quantitatively assess whether ratification of human rights treaties makes a difference in reality. Keith (1999) analyzes whether ratification of the International Covenant on Civil and Political Rights (ICCPR) has had an effect on civil and political rights as measured by Freedom House and on personal integrity rights, using the same source as this paper's analysis (see description below). In a first bivariate test of differences of means, she finds that state parties often have a better human rights record than non-state parties. Second, applying tests of differences of means for each state party comparing the two years prior to ratification with periods of various length after ratification, she finds no statistically significant differences. Third, in multivariate ordinary least squares (OLS) analysis with control variables including the lagged dependent variable, she also fails to find any statistically significant influence of ICCPR ratification on either measure of human rights.

Hathaway's (2002a) study is much more comprehensive than that of Keith (1999) looking at a wide range of human rights treaties (see also Hathaway 2003). To start with, she uses a magnitude score of genocide/politicide as a measure of group integrity rights violation taken from the US State Failure Task Force Project and the civil liberty index from Freedom

House. In addition, she codes her own measures of torture and fair trial from data contained in the US Department of State's Country Reports on Human Rights. She measures women's political rights by the percentage of men in each country's legislature. This is less convincing than the other measures since the relevant treaty only requires that women shall be eligible for election, but does not prescribe a certain share of women in parliament. She looks at ratification of the Genocide Convention, the ICCPR, the Torture Convention, the Convention on the Political Rights of Women, which are all open to universal membership, as well as a number of regional human rights treaties. As a first test, she compares the average human rights score of countries, which have ratified the treaty, with those that have not. Like Keith (1999), she finds that ratifying countries typically have a better record than non-ratifying ones, with the exception of some regional treaties. Second, she groups countries according to the interval of the human rights measure, in which they fall, and plots the average ratification rate for each interval. Third, she performs a multivariate ordered probit analysis with additional control variables including the lagged dependent variable and a linear time trend. In this analysis, she takes the number of years passed since ratification rather than a ratification dummy as her variable of main interest. As justification, she argues that 'the effect of treaties may be cumulative and long-term' and that 'operationalizing the treaty variable this way has the effect of magnifying changes in country practices over time, whether positive or negative' (Hathaway 2002a, 1990f.). In the second and third type of tests, Hathaway (2002a) finds no evidence that ratification of international human rights treaties is systematically associated with better human rights performance. Indeed, in some cases she finds that ratification is associated with worse performance. She finds some evidence as well, however, that, depending on the definition of what constitutes a full democracy, human rights treaty ratification in fully democratic countries can be associated with a better human rights record.

Hafner-Burton and Tsutsui (2005) do not address regional human rights treaties, but in addition to the ICCPR, the Torture Convention and the Convention on the Elimination of Discrimination Against Women they also look at three further universal treaties, namely the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of Racial Discrimination and the Convention on the Rights of the Child. Given that personal integrity rights form their dependent variable, the selection of treaties appears inappropriate since only the Torture Convention and the ICCPR contain provisions that are directly related to such rights. Using ordered probit analysis with a lagged dependent variable and other control variables, they find that the number of years since ratification of the ICCPR and the Torture Convention is associated with a worse human rights record.¹ The effect seems to lose statistical significance if year-specific time dummies are included that account for a global trend in human rights performance over time. One of the interesting findings of this study is that, besides democracy and per capita income, the number of international NGOs that citizens from a country participate in is associated with a better human rights record. This is interpreted to the effect that linkage to international civil society induces countries to improve their respect for human rights.

RESEARCH DESIGN

THE DEPENDENT VARIABLES

Human rights performance is not easily measurable. We will distinguish between civil rights and personal integrity rights (for various reasons we do not include group integrity rights, that is, freedom from the calculated physical destruction of a communal group in whole or in part).² Civil rights typically refer to such rights as the freedom of speech, the freedom of assembly and association and the freedom of religious expression. Personal integrity rights typically refer to such rights as freedom from unlawful and political imprisonment, freedom

from torture, freedom from unlawful physical or other harm, freedom from cruel and inhumane treatment and the right to a fair trial. Personal integrity rights violations are more difficult to justify and are less subject to the relativist challenge. There is little justification for political imprisonment, torture and murder, which amounts to political terrorism. Civil rights violations do not carry quite the same status.³

As our measure of personal integrity rights, we use data from the two Purdue Political Terror Scales (PTS). One of the two PTS is based upon a codification of country information from Amnesty International's annual human rights reports to a scale from 1 (best) to 5 (worst). Analogously, the other scale is based upon information from the U.S. Department of State's Country Reports on Human Rights Practices. Codification is as follows:

1. Countries ... under a secure rule of law, people are not imprisoned for their views, and torture is rare or exceptional... Political murders are extraordinarily rare.
2. There is a limited amount of imprisonment for non-violent political activity. However, few are affected, torture and beatings are exceptional... Political murder is rare.
3. There is extensive political imprisonment, or a recent history of such imprisonment. Execution or other political murders and brutality may be common. Unlimited detention, with or without trial, for political views is accepted...
4. The practices of Level 3 are expanded to larger numbers. Murders, disappearances, and torture are a common part of life... In spite of its generality, on this level violence affects primarily those who interest themselves in politics or ideas.
5. The violence of Level 4 has been extended to the whole population... The leaders of these societies place no limits on the means or thoroughness with which they pursue personal or ideological goals.

We use the measure based on amnesty international reports below for our main estimations and the State Department measure in sensitivity analysis. The State Department reports have been frequently charged with biased reporting in favor of allies of the United States, for which Poe, Carey and Vazquez (2001) find some evidence, even though the bias is estimated to have only a small effect and there is convergence in the reports over time. Another advantage is that amnesty international bases its reports on trial attendance, whereas State Department officials do not follow this practice (ibid.). One apparent disadvantage of the amnesty international reports is that they tend, particularly in the early years, to cover fewer countries neglecting the ones with few, if any, human rights problems. Of course, these are also the countries for which international human rights treaty ratification almost by definition cannot have much impact. We will deal with the non-random sample selection with the help of a Heckman (1979) selection model in sensitivity analysis. Data are taken from Gibney (2004) who provides data from 1980 onwards.⁴

To measure civil rights, we employ the civil liberties index published by Freedom House (2004), which is available from 1972 onwards. Contrary to Keith (1999) and in accordance with Hathaway (2002a) we do not add the political rights measure to the civil liberties index since these political rights are almost synonymous with political democracy, which is not directly required by any of the human rights treaties looked at. The civil liberties index is based on surveys among experts assessing the extent to which a country effectively respects civil liberties, subsumed under the headings freedom of expression and belief, associational and organizational rights, rule of law and personal autonomy and individual rights. The index is measured on a 1 (best) to 7 (worst) scale. Note that Freedom House's civil liberties index has some overlap with personal integrity rights as the following criterion forms part of the rule of law subcomponent of the index: 'Is there protection from police terror, unjustified imprisonment, exile, or torture, whether by groups that support or oppose the system?'

Unfortunately, Freedom House does not publish subcomponent data so that it is not possible to isolate the personal integrity rights from the civil liberties aspect. One should keep in mind, however, that there are fourteen other criteria closely related to civil liberties. The Freedom House measure is therefore predominantly a measure of civil rights, not of personal integrity rights.

THE METHODOLOGY

We estimate variants of the following model:

$$y_{it} = \alpha + \beta x'_{it} + \gamma_t + (a_i + u_{it})$$

Time is indicated by t , countries by i , y is a measure of human rights violation, α is a constant, x' contains the explanatory variables, β is the corresponding vector of coefficients to be estimated. The γ variables are year-specific dummy variables. Their inclusion lets each year have its own intercept to allow for aggregate changes in human rights that affect all countries equally. Its main function is to ensure that the explanatory variables and our measures of human rights treaty ratification in particular do not merely spuriously pick up global trends in human rights performance. Year dummies are more flexible than the linear time trend used by Hathaway (2002a). The end period of our analysis is generally 2001. We employ standard errors that are robust toward arbitrary heteroskedasticity and autocorrelation.

The a_i represent individual country effects capturing cultural and other (approximately) time-invariant factors. Their inclusion ensures that unobserved country heterogeneity is accounted for. Again, the objective is to ensure that the explanatory variables do not pick up an effect that is spurious rather than substantive. For example, both Keith (1999) and Hathaway (2002a) find some evidence that the mean human rights performance of ratifying countries is above the mean performance of non-ratifying countries. However, countries with

a better human rights record might also be more likely to ratify international human rights treaties. What matters is whether there is any change in human rights performance in countries after ratification. The fixed-effects estimator is based on the time variation within each cross-sectional unit only and thus provides a test of change over time.

Given the fact that the dependent variables are not continuously cardinal, but ordered ordinal variables, one would ideally want to use an ordered logit or probit model, notwithstanding the fact that the vast majority of existing studies on the determinants of human rights violation do not use an ordered probit or logit estimator (e.g., Poe, Tate and Keith 1999; Cingranelli and Richards 1999; Zanger 2000; Keith 2001). Unfortunately, the price to be paid for using ordered probit or logit is that country fixed-effects cannot be included then. The reason is that the statistic for computing a fixed-effects ordered logit or probit model is extremely complex and there does not currently exist a routine in STATA or, to my knowledge at least, any other standard econometrics package to estimate such a model. Hathaway (2002a) tried to approximate a fixed-effects model by adding “by hand” country fixed effects to the ordered probit estimator in STATA. Unfortunately, this leads to biased coefficients and standard errors (Stata 2003). To account for both statistical problems, I first use a linear fixed-effects estimator, in effect OLS with country dummies, but second also a standard ordered probit estimator without fixed effects.

A potential statistical problem is measurement error in the dependent variable. If it is merely random then the only consequence is to raise standard errors and lower the precision of estimations. More problematic is measurement error that is *systematically related* to the treaty ratification variables. Goodman and Jinks (2003) argue that countries that have ratified a human rights treaty might be under increased scrutiny providing greater access to information than non-ratifying countries. If this is the case then the reported human rights record can deteriorate after ratification even though the actual human rights performance has

not changed. On the other hand, Hathaway (2002a, 2000) infers from her readings of US State Department reports that countries seem to receive lighter treatment in the year of and immediately following ratification, which would point in the opposite direction. In either case, the coefficient of the ratification variable and to some extent the coefficients of other variables as well will be biased. We will deal with this problem in sensitivity analysis by dropping observations in the year of and two years immediately following ratification.

Yet another statistical problem is that, as already pointed out above, there is sample selection bias in the sense that the human rights measures are not reported for all countries for all years and that the missing values are likely to be non-randomly distributed. This is a problem mainly for the personal integrity rights measures, whereas the civil rights measure of Freedom House covers almost all countries. We deal with this problem in sensitivity analysis by applying a Heckman (1979) sample selection model.

THE EXPLANATORY VARIABLES

Our main variables of interest are dummy variables of whether a country has ratified or acceded to a specific human rights treaty in a given year or not. Note that this is independent of whether the treaty has already been in force in that year. Formally, countries are only bound to a treaty once the treaty has been ratified by the minimum number of countries specified for the agreement to come into force. However, we expect rational forward-looking governments to anticipate that a treaty will enter into force and therefore to engage in any behavioral changes they might contemplate already from the time of their own country's ratification. The variable starts with the year the treaty became open for ratification. For regional treaties, the variable is set to missing for countries outside the region since they cannot become a state party. We prefer ratification dummy variables to a specification that measures the number of years after ratification since the latter imposes the assumption that

any effect of ratification is linearly increasing over time, which appears restrictive and may not hold true. We look at the following universal treaties:

- International Covenant on Civil and Political Rights (ICCPR): opened for signature and ratification 15 December 1966 after almost two decades of negotiations, entry into force 23 March 1976, 154 state parties as of 24 November 2004. This ‘most ambitious human rights treaty’ (Goldsmith 2000, 329) covers both personal integrity rights and civil rights.
- The First Optional Protocol to the ICCPR: opening date and entry into force as ICCPR, 104 state parties as of 24 November 2004. Ratification of this optional protocol implies that state parties succumb to additional monitoring provisions. In particular, state parties recognize the authority of the Human Rights Committee established by the ICCPR to receive and consider complaints from individuals of signatory states concerning human rights abuse. The Human Rights Committee does not have any enforcement power, however, and relies on State Parties’ willingness to comply with its recommendations.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT): opened for signature and ratification 10 December 1984, entry into force 26 June 1987, 139 state parties as of 24 November 2004. Being more detailed and specified in its requirements than the ICCPR, it bans torture under all circumstances. State parties can prosecute foreign offenders even if the offence took place outside its jurisdiction if the victim is a national of the state or if it holds the offender under its jurisdiction and does not extradite the suspect (Art. 5), which Hawkins (2004) hails as a major breakthrough for universal jurisdiction in cases of gross human rights violations.
- Art. 21 and 22 of the Convention against Torture: Whilst not representing an optional protocol, parties can opt in to provisions similar to the ones of the First Optional Protocol to the ICCPR by accepting obligations under these two articles. Art. 21 allows other state

parties, Art. 22 individuals to communicate alleged human rights violations to the Committee against Torture. Similar to the Optional Protocol to the ICCPR, the Committee does not have any enforcement power. Since the provisions are relatively similar, varying mainly in who can bring a matter to the attention of the Committee, the relevant dummy variable is coded as one whenever a country has declared its willingness to accept *either* Art. 21 *or* Art. 22.

In addition, we also look at regional human rights treaties in Europe, the Western Hemisphere and Africa (no comparable treaties exist in the Arab world or in Asia)⁵:

- European Convention for the Protection of Human Rights and Fundamental Freedoms: opened for signature and ratification 4 November 1950, entry into force 3 September 1953, 45 state parties as of 23 March 2005. Covers both personal integrity and civil rights. It contains mechanisms allowing individuals and state parties to bring complaints against (other) state parties to a human rights commission and establishes the European Court of Human Rights. Generally considered a role model and the most successful and influential international human rights regime (Forsythe 2000; Rehman 2003).
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment: opened for signature and ratification 26 November 1987, entry into force 1 February 1989, 45 state parties as of 23 March 2005. Establishes a committee that can visit state parties with minimal advance notification to examine compliance with the convention.
- American Convention on Human Rights: opened for signature and ratification 22 November 1969, entry into force 18 July 1978, 25 state parties as of end 2003. Covers both personal integrity and civil rights. Similar to the European Convention, it contains a mechanism allowing individuals (as well as state parties) to file a complaint against any state party (complaint by other state party presupposes general acceptance of the state party against

whom the complaint is directed to accept such a mechanism). Also establishes the Inter-American Court of Human Rights. Compared to its European counterpart, the American human rights regime is considered weaker (Forsythe 2000; Rehman 2003).

- Inter-American Convention to Prevent and Punish Torture: opened for signature and ratification 9 December 1986, entry into force 28 February 1987, 16 state parties as of end 2003.

- African Charter on Human and Peoples' Rights: opened for signature and ratification 27 June 1981, entry into force 21 October 1986, 51 state parties. Covers both personal integrity and civil rights. Many rights are subject to 'claw-back' provisions giving State Parties the possibility to restrict the enjoyment of rights by domestic law (Rehman 2003). Establishes an advisory African Human Rights Commission. An African Court on Human and Peoples' Rights was enacted in 1998 and entered into force 25 January 2004. Generally considered to be the weakest of the three regional human rights regimes (Forsythe 2000; Rehman 2003).

Data are taken from <http://www.unhchr.ch> for the universal treaties and from <http://conventions.coe.int>, <http://www.oas.org> and <http://africaninstitute.org> for the regional treaties. It is clear that the fit between the coverage of these treaties and our dependent variables is not perfect. For example, the Torture Convention refers to torture only, but our measure of personal integrity rights covers other aspects such as political murder and disappearances. On the one hand, this mis-fit is a disadvantage as it amounts to a kind of measurement error in the dependent variable, which renders the estimated coefficients less precise. On the other hand, the broader coverage of our dependent variables can also be of advantage considering strategic behavior on the part of governments who might substitute one form of human rights abuse with another one such that the overall performance does not actually improve. Goodman and Jinks (2003, 174) provide the example of Latin America in

the late 1970s and early 1980s where torture, political imprisonment and unfair trials receded, but were replaced with making unwanted people ‘disappear’ without a trace.

Our choice of other explanatory variables is inspired by major prior studies analyzing the determinants of human rights performance, which have not addressed human rights treaty ratification, however. In particular, we draw on Zanger (2000) and Poe, Tate and Keith (1999). Variables include a measure of the extent of external and internal armed conflict (Gleditsch et al. 2002), the Polity measure of political democracy (Marshall, Jaggers and Gurr 2003), per capita income as a measure of economic development, population size (both in logged form with data from World Bank 2003) and the number of international NGOs with domestic participation, which we will interpret as a measure of civil society strength (taken from Wiik (2002) who uses the Yearbook of International Organizations as source⁶). These variables also overlap to a large extent with the ones used by Keith (1999), Hathaway (2002a) and Hafner-Burton and Tsutsui (2005), but note that we normalize the international NGO participation variable by domestic population size to account for size differences across countries. Ideally, one would like to include only NGOs that have a human rights mission. Unfortunately, no comprehensive data for a large number of countries and years are available. Fortunately, however, Tsutsui and Wotipka (2004, 612) in their analysis of data from 1978, 1988 and 1998 for 77 countries find that general international NGO participation is associated with participation in international human rights NGOs and ‘is a key factor in drawing citizens into human rights activism’. We therefore feel justified in using general NGO participation as a proxy variable for participation in human rights NGOs, but note that our estimates are likely to suffer from measurement error. This is exacerbated by the fact that we can only measure the number of NGOs, having to ignore issues of size, membership, organization, staffing, funding etc. for lack of data. Despite measurement error, this is an important variable as both the transnational legal process model and the theory of

transnational human rights advocacy networks emphasize the important role of NGOs as do Chayes and Chayes (1995, ch. 11). Originally, in order to test the theoretical expectations more directly, we additionally include an interaction effect between democracy and ratification and between civil society strength and ratification. This provides a direct test of liberal theory and the theory of transnational human rights advocacy networks, which argue that the effect of ratification is contingent on the type of political regime and the strength of transnational links of domestic civil society, respectively.

Another potential control variable, albeit a highly contestable one, is the lagged dependent variable. Some argue for its inclusion partly on statistical grounds as it typically mitigates to a very large extent any problems with auto-correlation in the data. Theoretically, the lagged dependent variable should be included if human rights performance in one year truly impacts upon human rights performance in the next year. This could be justified if, for example, there is reason to presume that a history of applying torture makes governmental officials accustomed or habituated to the application of torture. In such cases, even if torture were to become formally prohibited by the ruling political authorities this might not effect a change in actual behavior by lower-tier governmental officials or might effect a change only with substantial delay. Against the inclusion of a lagged dependent variable speaks that it typically explains away an enormous amount of variation in the dependent variable, which makes it very difficult for the other variables to assume statistical significance as well as sometimes leaving coefficients with the wrong, i.e. theoretically unexpected, sign (Achen 2000). In line with the existing studies, we will include a lagged dependent variable in our models to be estimated. Note that this can lead to some so-called Nickell (1981) bias in the estimations, which for large N becomes smaller as T increases, however. Dropping the lagged dependent variable from the models leads to generally similar results on our other explanatory variables, which suggests that our main conclusions are not much affected by the

Nickell bias. Also note that the fixed-effects results for the regional human rights treaties can be inconsistent since N , the number of countries in the sample, is sometimes small, whereas the fixed effects estimator is consistent for fixed T under the assumption that N is very large.

RESULTS

In the following tables, we start with fixed-effects regression, followed by ordered probit regression without fixed effects, as explained above. We first look at universal human rights treaties, followed by regional ones. We start with the effect of Torture Convention ratification on personal integrity rights, for which results are reported in table 2. We find that the ratification variable, democracy and its interaction term are statistically significant in fixed-effects estimation (column I). The interaction term with civil society strength is also significant, but the individual civil society component is not. Where interaction terms are statistically significant, one cannot interpret the coefficients on the individual components in the conventional way. Instead, the coefficient on, for example, the ratification variable in a model with a significant interaction term between ratification and civil society strength as well as ratification and democracy, measures the effect of ratification on human rights violations when the civil society and the democracy variables take on a value of zero. In other words, it measures the effect of ratification in countries that are pure autocracies and have no civil society (note that the democracy measure was re-coded such that a score of zero represents pure autocracy, while twenty represents perfect democracy). Keeping these rules of interpretation in mind, the results suggest that ratification in pure autocracies with no civil society is associated with a worsening of human rights. However, ratification has a more and more beneficial effect on human rights the more democratic the country is and the stronger is its civil society. This follows from the fact that both interaction terms are statistically significant with negative coefficient signs. Democracy is associated with less human rights

violation whether or not the country has ratified. This follows from the individual democracy component being statistically significant with a negative coefficient sign. Civil society strength only lowers human rights violations in countries that have ratified. This follows from the significant interaction term together with the insignificant individual civil society component. The control variables generally test in accordance with expectations. Internal and external armed conflict as well as the lagged dependent variable are positively associated with rights violation, whereas the opposite is the case for per capita income. Population size does not matter. Ordered probit results are generally consistent, but the external conflict variable and the interaction term between ratification and civil society become insignificant, whereas population size becomes significant with the expected positive sign (column II). When we repeat the estimations, but looking at acceptance of either Art. 21 or 22 of the Torture Convention, we find that the results are very much consistent with those for the Torture Convention itself (columns III and IV).

For the ICCPR, we find in fixed-effects estimation that ratification of the treaty is associated with worse personal integrity rights in pure autocracies (column V). Ratification becomes more beneficial the more democratic a country is. Civil society strength has no impact. Internal conflict is associated with greater rights violation, whereas the opposite is the case for higher income and, perhaps surprisingly, population size. The latter result is reversed in ordered probit analysis (column VI). Otherwise results are consistent and there is now additionally some weak evidence for an interaction effect between ratification and civil society suggesting that ratification becomes more beneficial the stronger is civil society. A possible reason for the sign reversal of population size is that this variable changes only slowly over time in many countries, which means that it is highly correlated with country fixed effects. Such variables often switch signs depending on whether or not country fixed effects are included in the estimations.

Looking at the Optional Protocol to the ICCPR suggests that the results are very similar to the ones for the ICCPR itself. In fixed-effects analysis, the main difference is that democracies are associated with fewer human rights violations whether or not they have ratified the Optional Protocol (column VII). In ordered probit analysis, the individual ratification component and its interaction with democracy marginally lose statistical significance (column VIII).

< Insert Table 2 about here >

In table 3, we look at civil rights. In fixed-effects estimation, ratification of the ICCPR has no impact on civil rights, neither unconditionally nor conditionally. Democracy and per capita income are associated with less rights violation, whereas the opposite is the case for civil war (column I). In ordered probit estimation, we find conditional ratification effects similar to the ones we found for personal integrity rights (column II). Specifically, ratification in pure autocracies with no civil society is associated with more rights violation. Ratification becomes more beneficial the more democratic the country and the stronger its civil society, which has a beneficial effect on human rights also in non-ratifying countries. Looking at the Optional Protocol to the ICCPR, we find in fixed-effects estimation major differences to the corresponding results for the ICCPR itself (column III). To start with, ratification of the Optional Protocol has a beneficial effect on human rights. However, this effect tapers off the more democratic the country becomes. In other words, contrary to the pattern observed so far, this result would suggest that ratification is particularly beneficial in less democratic regimes! Note, however, that it is predominantly countries with a high democracy score that have ratified not only the ICCPR, but also its Optional Protocol. Also, comparing the size of the coefficient of the individual democracy component with the one of the interaction term suggests that an increase in democracy always has a net beneficial effect on human rights. We also find that greater civil society strength is associated with fewer rights violation,

whether or not the country has ratified the Optional Protocol. In ordered probit analysis, civil society strength also has a beneficial effect on human rights in non-ratifying countries, but the effect becomes stronger still in countries that have ratified the Optional Protocol due to the significant interaction term (column IV). The conditional effect of ratification in interaction with democracy does not uphold in ordered probit estimation.

< Insert Table 3 about here >

In table 4, we analyze the effect of the European Convention for the Protection of Human Rights (ECHR) and the European Convention for the Prevention of Torture. Note that in these regressions the external conflict variable was dropped from the estimations, since none of the European countries experienced an armed external conflict on its territory during the period of study. The conflicts in the former Yugoslavia and in the Caucasus are either coded as internal conflicts or are missing from the sample due to insufficient data on some of the control variables. In fixed-effects estimation, ratification of the European Torture Convention has no unconditional or conditional impact (column I). Democracy is negatively, civil war positively associated with rights violation. In ordered probit estimation, ratification of the Convention in pure autocracies is associated with a worsening of human rights, but the effect of ratification becomes more beneficial the more democratic the country (column II). Per capita income is now statistically significant with the expected negative coefficient sign, whereas the opposite is the case for population size. Results for ratification of the ECHR are rather inconsistent across rights and estimation techniques (columns III to VI). However, generally speaking, ratification of the ECHR often has conditional effects on human rights in both fixed-effects and ordered probit analysis similar to the pattern we have already observed before. Ratification is sometimes associated with more rights violation in countries with no strong civil society or in pure autocracies, but becomes more beneficial as either civil society or democracy strengthens. Results on control variables are typically in line with expectations.

< Insert Table 4 about here >

The American human rights conventions are looked at in table 5. The Inter-American Convention to Prevent and Punish Torture is associated with better personal integrity rights in fixed-effects estimation, an effect which strengthens as civil society becomes stronger (column I). However, surprisingly, the beneficial effect of ratification tapers off as countries become more democratic. Results are very consistent if estimated via ordered probit analysis (column II). The main difference is that population size switches signs. As explained before, the reason is probably that population size as a slowly changing variable is highly correlated with country fixed effects. Ratification of the American Convention on Human Rights (ACHR) has no effect on personal integrity rights in fixed-effects estimation (column III). In ordered probit analysis, ratification is associated with worse human rights the more democratic a country becomes, which resembles the result for the Inter-American Torture Convention, only this time ratification has no statistically significant effect in pure autocracies (column IV). The conditional treaty ratification effects in interaction with democracy appear counter-intuitive and should be addressed in more detail in future research. However, one needs to keep in mind that for the ACHR in particular the average democracy score of ratifying countries is very high (15.7). Also, comparing the size of the coefficient for the individual democracy component and its interaction term suggests that a greater extent of democracy is always associated with a net beneficial impact on personal integrity rights. Strangely, external conflict is associated with less rights violation in ordered probit analysis. This might be down to chance or caused by statistical problems following the inclusion of the lagged dependent variable as this result does not emerge in fixed-effects estimation or when the lagged dependent variable is dropped from the model (the latter result not shown in table). When it comes to civil rights, ratification of the ACHR is the more beneficial the stronger is civil society, but the less beneficial the more democratic a country is. Looking at the

coefficient sizes again shows that a greater extent of democracy has a net beneficial effect on civil rights. These results hold true both in fixed-effects (column V) and in ordered probit analysis (column VI).

< Insert Table 5 about here >

Lastly, results for the African Charter on Human and Peoples' Rights are reported in table 6. In fixed-effects estimation, greater civil society strength is associated with greater personal integrity rights violation, an effect that is mitigated if the country has ratified the Charter (column I). Comparing the size of the coefficients suggests that the mitigating effect is not strong enough to compensate for the fact that greater civil society strength seems associated with more rights violation. If capturing a true effect, this could be interpreted to the effect that governments in African countries perceive a strong civil society as a challenge and contest of their mostly autocratic rule, to which they react with more violations of personal integrity rights. However, the result needs to be treated with some caution as it does not uphold in ordered probit analysis. Such analysis suggests instead that treaty ratification is the more beneficial the more democratic the country (column II). For civil rights, neither fixed-effects nor ordered probit analyses find any statistically significant effect of treaty ratification, neither unconditionally nor conditionally (columns III and IV).

< Insert Table 6 about here >

SENSITIVITY ANALYSIS

In sensitivity analysis, we replaced the personal integrity rights measure based on amnesty international reports with that based on U.S. State Department reports. Results were generally consistent, but civil society strength has much less impact on human rights, both unconditionally and in interaction with treaty ratification, if measured with these data. The reason is not quite clear. Restricting sample sizes to be the same showed that the difference in

result is not simply caused by differences in sample size. Instead, it seems to be the coding itself that matters. We leave closer investigation of this matter to future research. Lagging the independent variables by one year to mitigate potential simultaneity bias did not affect results much and might mis-specify the model if the effects are contemporaneous. In order to deal with sample selection bias in the amnesty international personal integrity rights measure, we employed a Heckman (1979) sample selection model. For such a model it is very useful to have a variable that affects the stage, in which countries are selected into the sample, but not the stage with the actual estimations on the dependent variable. In addition to the control variables (without the country fixed effects, the ratification variables and the interaction terms and, of course, without the lagged dependent variable), we included the year of independence and the colonial status of countries. The idea is that newly independent countries receive greater attention with respect to their human rights record as do former colonies, whereas neither of the two variables should have a direct impact on human rights contingent on the presence of the other control variables. Results from the Heckman model were very consistent with the fixed-effects results suggesting that sample selection bias is not a major problem for our estimations. Lastly, we dropped observations in the year of and the two years immediately following ratification to deal with the potential measurement error discussed in the methodology. However, results were little affected.

The ICCPR contains a very interesting provision, allowing state parties to take measures derogating from their obligations (even though not all obligations can be derogated from). Its Article 4.1 states: ‘In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation...’. In further analysis, we included a dummy variable, which is set to one for times in which state parties have declared a

derogation from their obligations, in the relevant estimations. The non-reported results suggest that when states declare a derogation they mean business: For both personal integrity rights and civil rights, periods of derogation are unconditionally associated with an increase in human rights violations. That countries intent on violating some human rights during specified periods bother to derogate from the ICCPR obligations they are otherwise bound to provides some indirect evidence that human rights treaty ratification matters. However, no evidence for statistically significant interaction terms of derogation with either democracy or civil society strength was found.

DISCUSSION AND CONCLUSION

Do international human rights treaties improve respect for human rights? Our quantitative analysis suggests that the answer is more complex than a simple yes or no. On the one hand, in the absence of civil society and/or in pure autocracies, human rights treaty ratification often makes no difference and can even make things worse. This provides some tentative evidence for Hathaway's (2002a) argument on how such countries can exploit the 'expressive role' of treaty ratification without any change for the better. Like her, we also found that treaty ratification often becomes more beneficial to human rights the more democratic the country is. In addition, we also find evidence that ratification is more beneficial the stronger a country's civil society, that is the more its citizens participate in international NGOs. This provides evidence in favor of liberal theories and the theory of transnational human rights advocacy networks. We found only few cases, in which treaty ratification has unconditionally beneficial effects on human rights. In most cases, for treaty ratification to work there must be conditions for domestic groups, parties and individuals and for civil society to persuade, convince and perhaps pressure governments into translating the formal promise of better human rights protection into actual reality. Hafner-Burton and Tsutsui (2005) are right in

suggesting a positive role of civil society strength on human rights, but it is the interaction with treaty ratification that often matters.

In terms of future research, it would be very interesting to estimate the determinants of ratifying international human rights treaties simultaneously with estimating the effects of ratification on human rights performance. At the moment, the two strands of literature are not linked.⁷ If, however, treaty ratification allows some countries to sustain or even step up their rights violation, then this strategic choice needs to be included in the estimation of the effects of treaty ratification. Conversely, rational expectations would lead governments to take the likely effects of treaty ratification on human rights into account, thus influencing their decision to ratify. Another avenue for future research is an exploration of the role reservations to ratification play and whether they inhibit or promote greater respect for human rights. On the one hand, one could argue that a country, which becomes a state party only subject to reservations, is less committed to the human rights treaty in question. On the other hand, a country that intends to ignore the treaty provisions wholeheartedly might not bother to set up reservations at the time of becoming a state party. From this perspective, state parties who intend to take the treaty seriously also have the greatest incentive to declare a reservation to a particular article they do not want to be bound to. Goldsmith and Posner (2005) argue that reservations are predominantly used by liberal democracies to circumvent any treaty obligation they do not want to comply with. Maybe, but the important point is that liberal democracies intent to comply with the treaty and reservations can thus be a sign of seriousness on the part of a state party.

Even if we had not found any statistically significant conditional or unconditional effect of treaty ratification, this would not necessarily imply that these treaties are ineffective. It could be that one fails to find such effects due to the manifold statistical problems described above. It could be that it takes a longer period of time for these effects to leave statistically

significant traces in the data. Even if there are no significant direct effects, it could be that there are indirect effects on all countries via, for example, providing a common human rights language, reinforcing the universality of human rights, signaling the consensus of the international community, creating stigma for offenders, providing support to human rights campaigners and the like (Cassel 2001). Heyns and Viljoen (2001, 487) claim that the available qualitative evidence shows that the international human rights treaty system has these indirect effects. Treaties thus engage countries in a human rights process that is extremely difficult to demonstrate quantitatively (Goodman and Jinks 2003). Yet, despite these difficulties we believe to have demonstrated quantitatively and rigorously that ratification of human rights treaties often does improve respect for human rights, conditional on the extent of democracy and the strength of civil society.

NOTES

¹ Footnote 17 of their paper would suggest that the results uphold if dummy variables for ratification status rather than number of years since ratification are used.

² To start with, Hathaway (2002) uses a combined measure of genocide and politicide (calculated destruction of political opposition), whereas the relevant Convention on the Prevention and Punishment of the Crime of Genocide from 1948 refers to genocide only. In principle, the problem can be mended since Harff (2003) provides a detailed list that allows distinction. However, there are very few events of genocide, which means there is very little variation in the data, rendering statistical estimation problematic. Furthermore, genocide is the type of human rights violation for which a significant effect of treaty ratification on actual behavior is least theoretically plausible.

³ The argument that these rights are contingent on a particular form of Western culture and that a certain amount of civil rights violations are somehow “necessary” for the stability of certain countries and the welfare of their people cannot be as readily dismissed as the argument that political imprisonment, torture and murder are “necessary” for the same purpose.

⁴ Data can be extended back in time to 1976 using data provided by Poe, Tate and Keith (1999), but we do not do so for a number of reasons. First, data from the late 1970s cover fewer countries, whereas from 1980 onwards the coverage is higher. Second, the quality of the reports has improved over time and is weakest for the early years. Third, Mark Gibney coded the large majority of cases from 1980 onwards, whereas the 1976 to 1979 data have been exclusively coded by Steven C. Poe and Neal Tate such that using data from 1980 onwards reduces the risk of inter-coder inconsistency. This information is partly based on Poe, Tate and Keith (1999) and partly on personal communication with Steven C. Poe.

⁵ There exists an Arab Human Rights Charter, adopted by the Council of the Arab League in 1994. However, despite ‘serious weakness of its provisions’, it has not been ratified by a single state (An-Na’im 2001, p. 714).

⁶ Data for missing years were interpolated.

⁷ See Simmons (2000), Landman (2002), Hathaway (2002b), Vreeland (2003) and Allred, Goodliffe and Hawkins (2004) for the recent surge in attempts at explaining human rights treaty ratification.

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TABLE 1.

Summary of theoretical expectations on the impact of human rights treaty ratification.

| Theory | Impact on human rights performance |
|--|--|
| (Neo-)realism | Pessimism: No effect and potentially even negative effect. |
| Institutionalism | Pessimism: No effect. |
| Regime theory | Cautious optimism: Possibly long-term positive effects. |
| Transnational legal process | Optimism: Positive effects. |
| Liberalism | Contingent optimism: Positive effect dependent on degree of democracy |
| Transnational human rights advocacy networks | Contingent optimism: Positive effect dependent on strength of human rights civil society with international linkages |

TABLE 2.

Torture Convention, ICCPR and personal integrity rights violation.

| | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
|--------------------------|---------------------|---------------------|-------------------------------------|---------------------|---------------------|---------------------|-------------------------|---------------------|
| | Torture Convention | | Torture Convention Art. 21 or 22 | | ICCPR | | ICCPR Optional Protocol | |
| | FE | Ord. Probit | FE | Ord. Probit | FE | Ord. Probit | FE | Ord. Probit |
| Rights violation (t-1) | 0.295 (11.35)*** | 1.071 (23.85)*** | 0.297 (11.46)*** | 1.066 (23.71)*** | 0.368 (15.58)*** | 1.127 (26.31)*** | 0.365 (15.56)*** | 1.133 (26.53)*** |
| Ratification | 0.198 (2.18)** | 0.247 (2.19)** | 0.440 (2.36)** | 0.537 (2.47)** | 0.260 (3.26)*** | 0.287 (3.09)*** | 0.188 (1.88)* | 0.189 (1.61) |
| Ratification * INGO p.c. | -0.001 (2.82)*** | -0.001 (1.00) | -0.002 (3.68)*** | -0.000 (0.13) | -0.001 (1.23) | -0.001 (1.71)* | 0.000 (0.45) | -0.001 (1.70)* |
| Ratification * Democracy | -0.016 (2.74)*** | -0.015 (1.84)* | -0.029 (2.84)*** | -0.043 (3.12)*** | -0.017 (2.69)*** | -0.024 (3.15)*** | -0.023 (3.37)*** | -0.013 (1.54) |
| INGO p.c. | 0.001 (1.34) | -0.000 (0.39) | 0.001 (1.44) | -0.000 (0.76) | -0.000 (0.07) | 0.000 (0.23) | -0.001 (0.90) | -0.000 (0.00) |
| Democracy | -0.010 (1.85)* | -0.009 (1.62) | -0.013 (2.60)*** | -0.010 (2.18)** | -0.006 (1.02) | 0.001 (0.10) | -0.008 (1.67)* | -0.011 (2.21)** |
| External conflict | 0.097 (1.65)* | 0.064 (0.62) | 0.092 (1.58) | 0.056 (0.54) | 0.025 (0.48) | 0.003 (0.03) | 0.031 (0.58) | -0.001 (0.01) |
| Internal conflict | 0.240 (8.60)*** | 0.369 (10.26)*** | 0.241 (8.56)*** | 0.367 (10.22)*** | 0.231 (9.72)*** | 0.337 (10.59)*** | 0.235 (9.86)*** | 0.330 (10.38)*** |
| GDP p.c. (ln) | -0.518 (5.74)*** | -0.150 (6.02)*** | -0.555 (6.06)*** | -0.140 (5.46)*** | -0.451 (5.67)*** | -0.147 (6.22)*** | -0.460 (5.76)*** | -0.147 (6.17)*** |
| Population (ln) | -0.262 (0.94) | 0.059 (2.14)** | -0.408 (1.45) | 0.068 (2.39)** | -0.506 (2.42)** | 0.055 (2.20)** | -0.459 (2.24)** | 0.063 (2.43)** |
| Observations | 1887 | 1887 | 1887 | 1887 | 2193 | 2193 | 2193 | 2193 |
| (Pseudo) R-squared | 0.74 | 0.37 | 0.75 | 0.37 | 0.73 | 0.38 | 0.73 | 0.38 |

Note: Fixed-effects and ordered probit estimation with robust standard errors. Absolute t- and z-statistics in parentheses. Year-specific time dummies included, but coefficients not reported. *, **, *** significant at 10, 5 and 1 per cent level, respectively.

TABLE 3.

ICCPR and civil rights violation.

| | (1) | (2) | (3) | (4) |
|--------------------------|----------------------|----------------------|-------------------------|----------------------|
| | ICCPR | | ICCPR Optional Protocol | |
| | FE | Ord. Probit | FE | Ord. Probit |
| Rights violation (t-1) | 0.642 (31.43)*** | 1.733 (21.74)*** | 0.636 (30.85)*** | 1.731 (21.67)*** |
| Ratification | 0.047 (0.92) | 0.176 (2.31)** | -0.199 (3.27)*** | 0.038 (0.36) |
| Ratification * INGO p.c. | -0.000 (1.28) | -0.001 (2.37)** | -0.000 (0.14) | -0.001 (2.76)*** |
| Ratification * Democracy | 0.001 (0.35) | -0.011 (1.79)* | 0.009 (2.35)** | -0.003 (0.43) |
| INGO p.c. | -0.000 (0.90) | -0.001 (1.81)* | -0.001 (2.41)** | -0.001 (3.19)*** |
| Democracy | -0.063 (12.55)*** | -0.099 (12.76)*** | -0.064 (13.68)*** | -0.103 (13.93)*** |
| External conflict | -0.036 (1.30) | 0.005 (0.09) | -0.037 (1.33) | 0.004 (0.07) |
| Internal conflict | 0.093 (5.20)*** | 0.174 (5.36)*** | 0.098 (5.46)*** | 0.172 (5.30)*** |
| GDP p.c. (ln) | -0.077 (1.66)* | -0.144 (7.39)*** | -0.089 (1.93)* | -0.146 (7.61)*** |
| Population (ln) | -0.009 (0.10) | -0.046 (2.28)** | 0.023 (0.27) | -0.044 (2.16)** |
| Observations | 3634 | 3634 | 3634 | 3634 |
| R-squared | 0.94 | 0.65 | 0.94 | 0.65 |

Note: Fixed-effects and ordered probit estimation with robust standard errors. Absolute t- and z-statistics in parentheses. Year-specific time dummies included, but coefficients not reported. *, **, *** significant at 10, 5 and 1 per cent level, respectively.

TABLE 4.

European conventions, personal integrity and civil rights violation.

| | (1) | (2) | (3) | (4) | (5) | (6) |
|--------------------------|-----------------------------|---------------------|----------------------------------|---------------------|----------------------------------|---------------------|
| | European Torture Convention | | European Human Rights Convention | | European Human Rights Convention | |
| | Pers. integrity rights | | Pers. integrity rights | | Civil liberties | |
| | FE | Ord. Probit | FE | Ord. Probit | FE | Ord. Probit |
| Rights violation (t-1) | 0.015 (0.20) | 0.879 (6.70)*** | 0.031 (0.43) | 1.079 (8.07)*** | 0.665 (15.31)*** | 2.377 (13.60)*** |
| Ratification | 0.484 (0.97) | 1.839 (3.09)*** | 0.541 (1.65)* | 1.962 (4.10)*** | 0.217 (0.83) | 1.941 (2.63)*** |
| Ratification * INGO p.c. | -0.002 (1.59) | 0.000 (0.12) | -0.002 (2.34)** | -0.002 (0.95) | -0.001 (1.39) | -0.004 (2.40)** |
| Ratification * Democracy | -0.007 (0.23) | -0.062 (1.73)* | -0.014 (0.73) | -0.085 (2.61)*** | -0.001 (0.08) | -0.068 (1.56) |
| INGO p.c. | 0.001 (0.34) | 0.001 (0.25) | 0.001 (0.46) | 0.003 (1.51) | -0.000 (0.57) | 0.003 (1.43) |
| Democracy | -0.041 (2.17)** | -0.056 (1.98)** | -0.034 (2.51)** | -0.043 (1.82)* | -0.082 (7.01)*** | -0.139 (4.34)*** |
| Internal conflict | 0.410 (4.67)*** | 0.515 (3.87)*** | 0.356 (5.00)*** | 0.418 (3.53)*** | 0.149 (3.63)*** | 0.295 (2.67)*** |
| GDP p.c. (ln) | -0.623 (1.42) | -0.483 (4.61)*** | -0.424 (1.30) | -0.435 (4.29)*** | 0.215 (1.18) | -0.456 (4.54)*** |
| Population (ln) | 0.089 (0.05) | 0.210 (1.80)* | -0.915 (1.26) | 0.258 (2.70)*** | -0.389 (1.00) | 0.112 (1.47) |
| Observations | 304 | 304 | 396 | 396 | 766 | 766 |
| R-squared | 0.80 | 0.43 | 0.80 | 0.44 | 0.97 | 0.77 |

Note: Fixed-effects and ordered probit estimation with robust standard errors. Absolute t- and z-statistics in parentheses. Year-specific time dummies included, but coefficients not reported. *, **, *** significant at 10, 5 and 1 per cent level, respectively.

TABLE 5.

American conventions, personal integrity and civil rights violation.

| | (1) | (2) | (3) | (4) | (5) | (6) |
|--------------------------|-----------------------------|---------------------|----------------------------------|---------------------|----------------------------------|---------------------|
| | American Torture Convention | | American Human Rights Convention | | American Human Rights Convention | |
| | Pers. integrity rights | | Pers. integrity rights | | Civil liberties | |
| | FE | Ord. Probit | FE | Ord. Probit | FE | Ord. Probit |
| Rights violation (t-1) | 0.143 (2.26)** | 0.887 (8.08)*** | 0.334 (5.86)*** | 1.000 (9.86)*** | 0.477 (8.00)*** | 1.248 (8.10)*** |
| Ratification | -0.750 (1.93)* | -1.112 (1.94)* | -0.157 (0.40) | -0.596 (1.37) | 0.048 (0.31) | 0.223 (0.84) |
| Ratification * INGO p.c. | -0.004 (2.20)** | -0.004 (2.16)** | -0.000 (0.14) | -0.001 (0.81) | -0.002 (2.41)** | -0.004 (3.06)*** |
| Ratification * Democracy | 0.056 (2.29)** | 0.106 (2.79)*** | -0.010 (0.44) | 0.076 (2.82)*** | 0.022 (2.03)** | 0.052 (2.85)*** |
| INGO p.c. | 0.001 (0.27) | 0.002 (1.39) | -0.007 (1.55) | 0.002 (1.14) | -0.001 (0.49) | 0.000 (0.08) |
| Democracy | -0.019 (1.40) | -0.010 (0.52) | -0.011 (0.68) | -0.079 (3.58)*** | -0.097 (7.58)*** | -0.184 (7.44)*** |
| External conflict | 0.061 (0.34) | 0.510 (1.88)* | -0.179 (1.35) | -0.596 (2.28)** | -0.048 (0.18) | 0.170 (0.33) |
| Internal conflict | 0.310 (4.77)*** | 0.641 (5.69)*** | 0.276 (4.28)*** | 0.480 (5.55)*** | 0.189 (4.36)*** | 0.278 (4.93)*** |
| GDP p.c. (ln) | -0.950 (2.35)** | -0.625 (4.53)*** | -0.932 (2.66)*** | -0.372 (3.04)*** | -0.316 (1.77)* | -0.303 (3.22)*** |
| Population (ln) | -3.972 (3.40)*** | 0.424 (3.33)*** | -3.447 (3.55)*** | 0.332 (3.03)*** | 1.311 (3.68)*** | 0.015 (0.19) |
| Observations | 362 | 362 | 425 | 425 | 692 | 692 |
| R-squared | 0.78 | 0.40 | 0.76 | 0.41 | 0.88 | 0.57 |

Note: Fixed-effects and ordered probit estimation with robust standard errors. Absolute t- and z-statistics in parentheses. Year-specific time dummies included, but coefficients not reported. *, **, *** significant at 10, 5 and 1 per cent level, respectively.

TABLE 6.

African Charter, personal integrity and civil rights violation.

| | (1) | (2) | (3) | (4) |
|--------------------------|---------------------------|---------------------|---------------------|---------------------|
| | Personal integrity rights | | Civil liberties | |
| | FE | Ord. Probit | FE | Ord. Probit |
| Rights violation (t-1) | 0.310 (7.85)*** | 0.862 (12.72)*** | 0.613 (15.93)*** | 1.710 (12.62)*** |
| Ratification | -0.031 (0.27) | -0.052 (0.38) | -0.067 (0.96) | -0.133 (0.93) |
| Ratification * INGO p.c. | -0.002 (1.93)* | -0.000 (0.07) | -0.000 (0.54) | 0.002 (1.40) |
| Ratification * Democracy | -0.001 (1.09) | -0.005 (2.71)*** | 0.000 (0.15) | -0.002 (1.55) |
| INGO p.c. | 0.005 (2.06)** | -0.002 (0.88) | 0.001 (0.78) | -0.002 (1.76)* |
| Democracy | -0.006 (0.53) | 0.020 (1.30) | -0.065 (7.01)*** | -0.111 (6.62)*** |
| External conflict | 0.190 (1.75)* | 0.197 (0.98) | 0.076 (1.37) | 0.074 (0.62) |
| Internal conflict | 0.251 (7.02)*** | 0.381 (8.15)*** | 0.090 (3.03)*** | 0.198 (3.15)*** |
| GDP p.c. (ln) | -0.524 (4.89)*** | -0.006 (0.11) | -0.243 (3.46)*** | -0.191 (2.97)*** |
| Population (ln) | -1.237 (1.69)* | 0.058 (1.00) | -0.712 (1.40) | -0.080 (1.36) |
| Observations | 762 | 762 | 919 | 919 |
| R-squared | 0.66 | 0.30 | 0.87 | 0.57 |

Note: Fixed-effects and ordered probit estimation with robust standard errors. Absolute t- and z-statistics in parentheses. Year-specific time dummies included, but coefficients not reported. *, **, *** significant at 10, 5 and 1 per cent level, respectively.