

# Do Human Rights Treaty Obligations Matter for Ratification?

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Why do some human rights treaties receive rapid and near universal commitment from states while others take decades for the majority of states to ratify? We analyze new data that code every provision of ten global human rights treaties for the strength and precision of the obligations they contain. We classify obligations that are strong, precise, and that require domestic action as “demanding.” We hypothesize that treaties containing more of these demanding obligations would be seen as more costly to ratify because they imply potentially greater policy adaptation or compliance costs. Event history analyses are consistent with that hypothesis. The addition of 15 demanding treaty obligations decreases the likelihood of ratification by over 20 percent, similar to the effect of moving from democracy to autocracy. This effect is consistent when controlling for various treaty, state, and global level factors that may also influence a state’s decision to ratify.

## Introduction

The assumption that states weigh the costs and benefits of treaty ratification has been foundational to a rich vein of international relations scholarship on treaty commitment.<sup>1</sup> With respect to the costs side of that calculus, both theory and analysis have focused almost exclusively on the general human rights performance of states. The worse the human rights record of a particular state, the greater the presumptive costs it will face following ratification (either from adapting its policies or being penalized for non-compliance). Little research attention has focused on the demands that a treaty would place on a state. Treaties clearly vary in the extent and difficulty of the obligations they create for ratifying states. But scholarship so far has largely ignored that variation, assuming either that it did not exist or that it did not matter.<sup>2</sup> We add to scholarship on treaty commitment by assessing not just where states stand in terms of their human rights performance but also what particular treaties would demand of them.

We argue that treaties differ significantly in the scope of obligations they contain, that such variation can be observed and measured, and that it matters for ratification. Our analysis thus addresses a larger debate regarding treaty commitment. At the heart of the debate is the effect that the likely costs of joining a treaty regime have on states' ratification behavior. For instance, with reference to the International Criminal Court, Simmons and Danner argue that for states transitioning toward democracy, the likely costs of ratification

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<sup>1</sup> Downs, Rocke, and Barsoom 1996; Goodliffe and Hawkins 2006; Hathaway 2003; Hathaway 2007; Simmons 2009.

<sup>2</sup> One partial exception is Dancy and Sikkink 2011 who classify human rights treaties into three broad categories (physical integrity rights treaties with individual criminal accountability, physical integrity rights treaties without individual criminal accountability, and all others). Our approach differs in that it recognizes that human rights treaties vary in terms of how demanding the obligations they contain are and takes into account the level of "demandingness" of each treaty.

of the Rome Statute can enhance the credibility of the commitment, and thus make ratification more likely.<sup>3</sup> Chapman and Chaudoin, in contrast, contend that the prospect of ICC prosecutions makes non-democracies with a history of political violence less likely to ratify.<sup>4</sup> Our study offers broader answers to questions raised by that larger debate.

Our findings are also relevant to longstanding questions regarding the hypothesized tradeoff between how costly a treaty is to ratify and how many states decide to participate in it. In their seminal article, Downs, Rocke, and Barsoom ask, “Is this trade-off real?”<sup>5</sup> Treaty drafters have claimed that it is. For example, in negotiating the text of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the United Kingdom argued that CEDAW “should be of sufficient flexibility to cater to different social and economic conditions . . . from country to country.” Barbados and Norway noted that “a lower standard will have to be set by the Convention before a significant number of States will feel able to sign it.”<sup>6</sup> In contrast, Gilligan has argued that if treaties allow states to set policies at different levels, the “broader-deeper” trade-off does not exist.<sup>7</sup> This study offers empirical evidence that the “broader-deeper” tradeoff is real in human rights treaties, even taking into account the main flexibility mechanism, reservations.

The next section offers a theoretical account of human rights treaty commitment, incorporating our demandingness variable, and spells out our main propositions. We

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<sup>3</sup> Simmons and Danner 2010.

<sup>4</sup> Chapman and Chaudoin 2013.

<sup>5</sup> Downs, Rocke, and Barsoom 1996, 399.

<sup>6</sup> Commission on the Status of Women 1976.

<sup>7</sup> It is worth noting that all of the examples mentioned by Gilligan to illustrate his argument are in the economic or environmental realms – not human rights. Gilligan 2004.

include an explanation and justification of our main conceptual innovation, the “demandingness” of treaty obligations. Subsequent sections describe the data and assess the propositions in light of the data. In an analysis of ten core global human rights treaties, we find that the more demanding a treaty is, the less likely states are to ratify it in any given period, a finding that is robust across a range of model specifications. A short conclusion highlights key findings and their implications for current understandings of treaty commitment and suggests possible lines of further research.

### **Theory: Human Rights Treaty Commitment**

In line with established research, we assume that governments weigh the expected benefits and likely costs of joining a human rights treaty.<sup>8</sup> We expect states to ratify human rights treaties when the benefits outweigh the costs. Though existing research theorizes that the source of ratification costs is in states’ domestic contexts, we argue that ratification costs can also originate within the treaty itself based on the demandingness of the obligations stipulated by the treaty.

This study thus integrates insights from theories that have remained largely separate: legalization and treaty commitment. The legalization project is about institutional design, offering a framework for placing interstate agreements along a continuum. The legalization continuum is composed of three dimensions: precision, obligation, and delegation.<sup>9</sup> Our definition of “demanding” obligations incorporates two of

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<sup>8</sup> Cole 2005; Cole 2009; Downs, Rocke, and Barsoom 1996; Goodliffe and Hawkins 2006; Hathaway 2003; Hathaway 2007; Sandholtz 2015; von Stein 2016. However, not every theoretical perspective shares this expectation (see discussion below).

<sup>9</sup> Abbott et al. 2000; Goldstein et al. 2000; Stone 1994.

those dimensions and adds a third, thus constructing a tool for classifying individual treaty provisions as “demanding.” Whereas the legalization project leads up to the moment of treaty design, we assess the effects of treaty design on ratification behavior. We also move beyond the legalization project by showing that even at the highly legalized end of the spectrum – formal treaties – there is substantial and consequential variation in legalized obligations. Existing scholarship on treaty commitment also provides a foundation for our analysis. We accept and build on the main findings of that literature, which focus almost entirely on state-level factors that affect ratification choices (e.g. regime type and domestic respect for rights).<sup>10</sup> We innovate by conceptualizing and creating a treaty-level variable that – we hypothesize – also affects ratification decisions: the degree to which the text of a treaty creates more demanding obligations for states.

### *Benefits of Human Rights Treaty Ratification*

A primary finding of international relations research is that the benefits of human rights treaty ratification vary across different types of domestic regimes.<sup>11</sup> For strong democracies, the benefits of ratifying a human rights treaty are in part symbolic or expressive: joining affirms the country’s core human rights norms and values as well as its commitment to promoting rights internationally.<sup>12</sup> Strong democracies may also foresee benefits from raising the level of rights fulfillment in repressive countries because large-scale abuses can contribute to civil conflict, regional instability, humanitarian crises, and migrant and refugee pressures. Transitional democracies – those with new democratic

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<sup>10</sup> Hafner-Burton, Mansfield, and Pevehouse 2013.

<sup>11</sup> Simmons 2009; von Stein 2016.

<sup>12</sup> Simmons 2009.

institutions but recent experience with civil war or repressive regimes – foresee a different set of benefits from human rights treaty membership. For these states, joining a treaty can enhance the credibility of their commitment to democracy, rights, and the rule of law.<sup>13</sup>

Authoritarian governments may ratify human rights treaties, not because they plan to change their ways but because they might hope for some reputational gains. Adhering to a treaty might relieve some of the pressure to ratify from states with rights-promoting foreign policies, international NGOs, and domestic civil society organizations. Perhaps such reputational gains disappear once it becomes clear that the repressive regime has no intention of changing its behavior.<sup>14</sup> Authoritarian governments either fail to foresee that a human rights treaty might have real domestic and international legal and political effects or assume that those consequences could be prevented or suppressed.<sup>15</sup>

The benefits of human rights treaty ratification may not, however, depend on regime type, as international sociologists argue. International human rights norms are part of world society institutions that define modern statehood and shape its structures;<sup>16</sup> therefore, subscribing to the global human rights regime may be seen as an inherent component of modern statehood,<sup>17</sup> whereby countries ritualistically commit to human rights treaties as evidence of their legitimacy as nation-states.<sup>18</sup> Conversely, the failure to ratify entails perceived costs, in the form of reduced international approval or legitimacy. Goodman and Jinks ascribe the global diffusion of human rights norms to processes by

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<sup>13</sup> Hafner-Burton, Mansfield, and Pevehouse 2013; Moravcsik 2000; Simmons 2009.

<sup>14</sup> Nielsen and Simmons 2015.

<sup>15</sup> Conrad and Ritter 2019; Simmons 2009.

<sup>16</sup> Boli-Bennett and Meyer 1978, 805; Wotipka and Ramirez 2007.

<sup>17</sup> Meyer and Boli 1987; Meyer et al. 1997.

<sup>18</sup> Cole 2009, 572.

which state actors are acculturated, or socialized, into human rights discourse, which external pressure or coercion cannot explain.<sup>19</sup>

### *Costs of Human Rights Treaty Ratification*

Human rights treaties also create costs, and we argue that more demanding treaties generate greater potential costs by making it easier for other actors to identify and penalize non-compliance. In other words, the text of a treaty affects the likely costs of living by its terms. By focusing almost exclusively on state-level attributes, existing research on treaty commitment has so far tended to assume implicitly that human rights treaties do not vary in terms of the burdens of obligation they create or that those differences do not matter. However, we argue that treaties vary dramatically in the quantity of obligations they impose as well as in how demanding those obligations are.

From some theoretical perspectives, the substantive content of human rights treaty obligations is essentially irrelevant. For international law realists, states ratify human rights treaties for political or symbolic reasons. Posner suggests that “ratification of a human rights treaty may seem like a costless propaganda exercise” for non-democracies or rights violating democracies.<sup>20</sup> World society theory sees state adhesion to human rights treaties as the product of world cultural scripts that states follow in order to be, and to be seen as, full members of world society – not as the result of estimating the costs and benefits of specific treaty provisions.<sup>21</sup> Other theories attribute human rights treaty ratification to the socialization that takes place in international organizations and through

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<sup>19</sup> Goodman and Jinks 2013.

<sup>20</sup> Posner 2014, 65.

<sup>21</sup> Cole 2005; Wotipka and Ramirez 2007; Wotipka and Tsutsui 2008.

transnational networks.<sup>22</sup> In all of these perspectives, the extent of the formal obligations that human rights treaties create do not factor into states' ratification decisions. Even in most utility-based theories, the substantive content of treaty obligations is not directly relevant. Existing theories postulate that states weigh the costs and benefits of treaty ratification, but for no category of states is the actual content of the treaty a factor in that calculus.

Because the concept at the core of our argument and our analysis – *demanding treaty obligations* – is new, we first define the concept and explain its usefulness. We propose that treaty provisions create obligations of varying demandingness. A more demanding obligation is one that is likely to require of states more difficult or costly actions in order to comply with it. When obligations are perceived by states to imply greater policy adaptation, increased official accountability, or implementation of other domestic actions, they are more demanding.

Our approach to operationalizing demanding obligations builds on some of the insights of the legalization project but moves beyond it in key ways. In Abbott et al.'s formulation, *obligation* is one of three dimensions that define a continuum of legalization, the other two being *precision* and *delegation*. Norms that exhibit a greater degree of obligation, precision, and delegation are more *legalized*.<sup>23</sup> For this study we make obligations the center of attention. We move the concept of obligation beyond the “soft” vs. “hard” distinction in the legalization project and suggest that even at high levels of legalization (formal treaties), obligations vary in terms of the burden they place on states.

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<sup>22</sup> Goodman and Jinks 2013.

<sup>23</sup> Abbott et al. 2000; Goldstein et al. 2000.

We bring together three dimensions that allow us to identify demanding obligations. These are treaty design variables that capture what makes a treaty provision more costly to implement and therefore more demanding. A demanding treaty obligation is one that is precise, strongly worded, and requires domestic action on the part of the state. We define a treaty as more demanding when it includes a larger number of demanding obligations.<sup>24</sup>

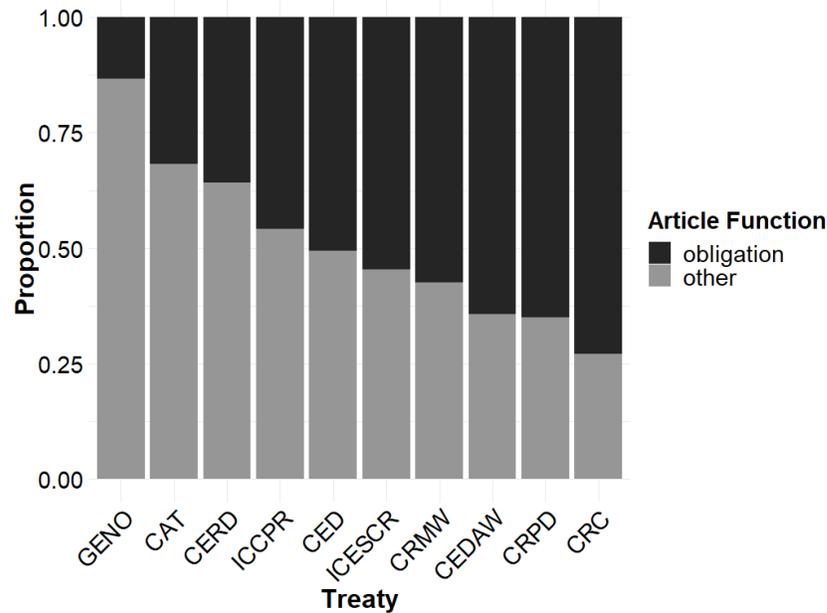
The first distinction is whether a treaty provision creates an *obligation* or duty for states, that is, whether it identifies actions that a state should or should not take. For example, Article 28(1)(a) of the Convention on the Rights of the Child establishes an obligation: “States Parties ... shall, in particular: (a) Make primary education compulsory and available free to all.”<sup>25</sup> Not every treaty provision creates an obligation. In some treaties, a majority of provisions serve other functions (defining treaty terms, outlining treaty mechanics, establishing a treaty body). Figure 1 depicts the proportion of treaty provisions that create obligations in the ten treaties included in our analysis.

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<sup>24</sup> If it is possible to measure the level of demandingness and demonstrate its effect on treaty commitment for human rights treaties, it should be possible to do so in other treaty domains (security, economics, environment) where the costliness of treaty obligations should be easier to observe and quantify. For security, economic, and environmental treaties, the costs of specific obligations should be more readily measurable, in terms (for example) of particular weapons systems, military bases, trade gains and losses in specific industries or even products, and reductions in particular pollutants.

<sup>25</sup> *Convention on the Rights of the Child* (1989), Art. 28(1)(a).

Figure 1: Treaty clauses according to their function



For those provisions that establish obligations, we coded for three characteristics. First, obligations can be *precise* or imprecise. This dimension closely corresponds with the same concept as used by Abbott et al. and by Koremenos.<sup>26</sup> Precise obligations require or prohibit specific, identifiable actions on the part of the state or other actors. Precision means that non-compliant behavior can be identified, whereas imprecise, broad, or ambiguous obligations create greater uncertainty as to what constitutes a violation. We argue that more general or imprecise legal rules will be less costly for states to comply with because they make it easier for states to argue that their behavior is consistent with the rule. More precise rules will have the opposite effect: the more precise the obligation, the easier it is for other actors to determine whether or not the state is meeting it. Here is an example of a precise obligation:

<sup>26</sup> Abbott et al. 2000; Koremenos 2016. Our definition of precision aligns with the definition of precision used by Koremenos: “an agreement’s degree of *precision* or *ambiguity* refers to the exactness or vagueness of its prescribed, proscribed, and authorized behaviors” (chapter 6).

“Any person in custody pursuant to paragraph I of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.”<sup>27</sup>

The following is an example of an imprecise obligation:

“Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”<sup>28</sup>

A potential objection to this logic might be that precision captures the scope of obligations, meaning that they may be so specific that they narrow the state’s obligations. More generally stated obligations might require more of states because they are more broadly defined. We would disagree. An obligation that is broad in scope implies lower compliance costs simply because it is difficult for actors to determine that it is being violated. A duty to provide for a “healthful environment” is imprecise because it does not generate clear expectations as to what a state must do and therefore it does not facilitate clear judgments as to when a state falls short. Of course, in a substantive sense, fully providing for a “healthful environment” would be costly in terms of the investments that would be required. But such an obligation would not be costly in the sense of establishing legal accountability, which is what matters here. We argue that the cumulation of precise (even narrow) obligations amounts to a more demanding treaty on the whole.

The second dimension taps into whether an obligation is *strong* or weak. Weak

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<sup>27</sup> *Convention Against Torture* (1984), Art. 6(3).

<sup>28</sup> *Ibid*, Art. 2(1).

obligations express a goal or aspiration; strong obligations stipulate what a state must or must not do. A strong obligation requires states to enact laws, achieve objectives, or carry out actions. The distinction between “shall” or “shall not” and “undertake to” is a key distinction that dramatically alters the likely costs to a state. Some treaty terms indicate a weak obligation because they allow states broad leeway in deciding how much they are obligated to do: “when circumstances so warrant,” “take all feasible measures,” “whenever appropriate,” “whenever desirable.” These phrases create weak obligations because they allow states to determine when a particular action is “appropriate” or when circumstances “warrant.” This language does little more than announce that states should do *something*. It is much less clear when a state is in violation of a weak obligation because the state is only obligated to attempt or make an effort to achieve an objective. An example of a strong obligation is the following:

“States Parties *shall accord* to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they *shall give* women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals” (emphasis added).<sup>29</sup>

As a weak obligation, we would cite:

“States Parties *undertake* to ensure the child such protection and care as is necessary for his or her well-being, *taking into account* the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or

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<sup>29</sup> *Convention on the Elimination of All Forms of Discrimination against Women*, Art. 15(2).

her...” (emphasis added).<sup>30</sup>

The third dimension captures whether a provision obligates states to take *domestic action*, which means that an executive, administrative, legislative, or judicial body must carry out the identified obligation. Not all obligations created by a treaty require domestic action; some provisions obligate states vis-a-vis each other or an international organization.<sup>31</sup> An example of an obligation requiring domestic action is:

“Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.”<sup>32</sup>

As an obligation that does not require domestic action, we would cite:

“States Parties undertake to submit to the Secretary General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect.”<sup>33</sup>

We suggest that obligations to implement domestic measures tend to imply more direct and significant adjustment and compliance costs on states than do obligations to the international community in general. Research on human rights treaties finds that the primary means by which they affect rights are domestic, by enabling domestic groups, organizations, and institutions to pressure governments through political mobilization or

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<sup>30</sup> *Convention on the Rights of the Child* (1989), Art. 3(2).

<sup>31</sup> Though, in our dataset, 91% of the obligations require domestic action.

<sup>32</sup> *Convention Against Torture* (1984), Art. 4(1).

<sup>33</sup> *Convention on the Elimination of All Forms of Discrimination against Women*, Art. 18(1).

judicial action.<sup>34</sup> Of course, there can be international costs associated with violating human rights treaties, but the three mechanisms associated with enforcement of international economic, security, or environmental agreements – reciprocity, reputation, and retaliation – are simply not at work or are not to the same extent – when it comes to human rights treaties.<sup>35</sup> This is why much of the literature on human rights law turns to domestic institutions and actors to explain how human rights agreements are enforced.<sup>36</sup>

Related to this point, one might argue that another design feature of international HRTs relevant to their demandingness is whether or not states accept the jurisdiction of a treaty body, court, or committee to receive submissions from other states or from individuals, to interpret the treaty, or to initiate inquiries. In the human rights treaties analyzed here, such acceptance is always subject to an optional clause or protocol. This is why the third dimension in the legalization framework – delegation – does not figure into our concept of demanding obligations. Delegation to third-party enforcement mechanisms does not vary across our ten treaties – it is always optional. Four of the treaties in our sample provide for voluntary acceptance of the jurisdiction of a treaty body: Convention against Torture (CAT), Convention on Enforced Disappearance (CED), the Covenant on Civil and Political Rights (ICCPR), and the Convention on the Rights of Migrant Workers (CRMW). Unlike any other human rights treaty obligation, the provisions related to individual complaints entail some sort of oversight mechanism. One might interpret this as a better measure of treaty demandingness because it requires that states give up their sovereignty – to some degree – to an international body. But because the international

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<sup>34</sup> Simmons 2009.

<sup>35</sup> Geisinger and Stein 2008; Guzman 2008.

<sup>36</sup> Conrad and Ritter 2019; Hathaway 2003; Simmons 2009.

monitoring mechanisms are optional, they represent an additional decision as to whether a state is willing to accept the jurisdiction of the committee to receive individual complaints. The ratification decision, studied here, is separable.

One might also argue that each dimension should be analyzed separately. We contend that strength, precision, and required domestic action contribute to demandingness.<sup>37</sup> If obligations are precisely worded but weak, states still have the flexibility to interpret their actions as compliant. For example, states can precisely craft the right to universal education by specifying that all children should be enrolled in primary school. However, if states are only obligated to take appropriate measures to accomplish this goal, they can always blame their failure on circumstances outside of their control. Relatedly, if obligations are forcefully worded but imprecise, states nonetheless have the flexibility to interpret the obligation favorably. In any case, we test each dimension separately and find that both strength and precision are individually associated with lower likelihood of ratification and are statistically significant (see Appendix B).

Based on our data, 54 percent of the provisions in the ten treaties impose an obligation. Of these, 76 percent are precise, 53 percent are strong, and 91 percent require domestic action on the part of the state. We produce a measure that combines the three dimensions. *Demanding obligations* are those that are precise, strong, and require domestic action. We then create an additive demanding obligation index, which is the total number of demanding obligations a treaty contains. Treaties containing a larger number of

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<sup>37</sup> Given that obligations requiring domestic action account for 91% of obligations – and the exclusion of such a requirement would not alter the measure – the question about combining dimensions into one measure will center on whether precision and strength should be jointly included. See Appendix B for further discussion.

demanding obligations are considered to be more *demanding treaties*. According to this operationalization, the migrant workers convention (CRMW) is the most demanding, as it has 107 clauses that contain precise and strong obligations requiring domestic action. The least demanding treaty by this definition is the Convention on the Elimination of Racial Discrimination (CERD), which contains only two such clauses.

We argue that treaties containing more demanding obligations will be seen by states as more costly to ratify because they increase the likelihood that non-compliance will be detected, publicized, criticized, and subject to political or judicial action. Treaties comprised of mostly imprecise and weak obligations as opposed to precise and strongly crafted obligations will result in lower compliance costs. Strong obligations require action; weak obligations merely establish an aspiration or require states to take “appropriate” – as each state defines them – steps. Precision thus acts as a flexibility mechanism. When negotiating states disagree regarding the normative obligations to codify in international agreements, they can reduce the precision of the language in order to introduce flexibility. Imprecision allows each state to interpret the obligation according to its own preferred understanding.<sup>38</sup> More precise obligations reduce flexibility by making clearer which types of behavior comply and which do not.

International actors – rights-promoting states, transnational NGOs, and institutional mechanisms like Universal Periodic Review – can bring pressure to bear on states that violate human rights treaty commitments. But research suggests that domestic accountability processes, including political mobilization and litigation, are more effective

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<sup>38</sup> Koremenos 2016.

at inducing governments to comply with human rights treaty obligations.<sup>39</sup> Domestic actors keen on improving respect for human rights will be better able to rely on, for either judicial or political action, treaty law that establishes strong and precise obligations. Treaties containing stronger and more precise obligations should be seen as more costly to ratify because they make it easier for other actors, international and domestic, to denounce non-compliance and take measures designed to impose costs on the violating state: shaming, reducing aid or investment, engaging in political action, or filing lawsuits. Obligations that require domestic action create points of leverage for domestic actors, either in the arena of politics or in the courts. This logic leads to the following proposition.

*H1: States will be slower to ratify treaties with a larger number of demanding obligations.*

The likely costliness of a treaty to a country also depends on that state's existing level of respect for the rights covered in that treaty. For example, an established democracy would likely, at the time of ratification, already be largely in compliance with the human rights obligations contained in a treaty. It would logically expect minimal criticism, condemnation, or penalties for rights violations, at least relative to non-democracies.<sup>40</sup> An autocratic government, in contrast, would anticipate greater costs of non-compliance. In other words, the effect of treaty demandingness on ratification may be different for democracies than for autocracies, given the difference in anticipated downstream costs of

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<sup>39</sup> Hill and Jones 2014; Simmons 2009.

<sup>40</sup> Chapman and Chaudoin 2013.

non-compliance. We therefore hypothesize an interaction effect between treaty demandingness and regime type.

*H2: Treaty demandingness will have a more negative effect on ratification for autocracies than for democracies.*

A potential question could be whether countries negotiate the text of the treaty, anticipating what the domestic ratifying body will find acceptable. In principle, a state's representative will sign the treaty if she believes that it can be subsequently ratified.<sup>41</sup> Our findings are important whether or not this direct linkage between signature and ratification is valid. If it is valid (that is, if signature prefigures ratification), then cross-treaty variation in the extent of obligations should have no effect on ratification behavior: however demanding the obligations are, signature already indicates a readiness to ratify. If, on the contrary, signature and ratification are not tightly linked, then cross-treaty variation in the extent of obligations can plausibly lead to cross-treaty differences in ratification behavior. Either way, our findings are informative: more demanding treaties are slower to be ratified. Moreover, for many states and many treaties, signature and ratification are – as an empirical matter – substantially or wholly decoupled.

States likely attempt to anticipate international ratification outcomes when negotiating treaty content. Indeed, the example from the CEDAW negotiations (in the introduction) illustrates how states can anticipate the effect of treaty design on ratification.

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<sup>41</sup> Of course, these are all anticipatory calculations. The logic does not imply that all signed treaties will be ratified, and many are not. One of the most notorious examples is the Treaty of Versailles and its Covenant of the League of Nations, which President Woodrow Wilson signed but the U.S. did not ratify.

But anticipated ratification rates can only affect treaty design if the treaty negotiators believe what we seek to demonstrate: that the substance of treaty obligations affects ratification.

### *Reservations*

Reservations are statements that purport to modify a state's obligations under a ratified treaty. Reservations are permissible unless a treaty expressly prohibits them and as long as the reservation is not "incompatible with the object and purpose of the treaty."<sup>42</sup> States can enter reservations at any time, including before or after ratification or accession, but the vast majority of reservations are registered at the time of ratification. Because states can adjust their treaty obligations through reservations, the question may arise as to whether the capacity to enter reservations washes out differences in how demanding treaties are. That is, countries might simply enter more reservations on more demanding treaties. Reservations might, then, cancel the effect of treaty demandingness on ratification. We argue that they do not, for several reasons.

First, reservations to human rights treaties are rare. States do not make widespread use of reservations to dilute their obligations. We have reservations data on the ten human rights treaties at the provision level. Each provision that creates an obligation in each treaty represents for each ratifying country an opportunity to reserve. We therefore tallied the total number of such opportunities to reserve (that is, each observation is a treaty-obligation-state). For instance, the CAT has 29 provisions that create obligations. Through 2015 (the last year in our data), 154 countries had ratified the CAT. Thus, for the

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<sup>42</sup> *Vienna Convention on the Law of Treaties* (1969), Art. 19.

Convention against Torture, there are a total of  $29 \times 154 = 4,466$  opportunities to reserve.

Out of those 4,466 opportunities, states reserved in only 28, for a rate of 0.63 percent.

Table 1 shows the reservation rates for all ten treaties and for the ten treaties taken together.

*Table 1: Reservation rates through 2015*

| Treaty | Country-provisions | Reservations | Reservation rate, % |
|--------|--------------------|--------------|---------------------|
| CAT    | 4,466              | 28           | 0.63%               |
| CEDAW  | 8,510              | 239          | 2.81%               |
| CERD   | 2,992              | 40           | 1.30%               |
| CED    | 2,193              | 2            | 0.09%               |
| CRC    | 18,947             | 251          | 1.30%               |
| CRMW   | 6,768              | 40           | 0.59%               |
| CRPD   | 13,801             | 30           | 0.22%               |
| GENO   | 725                | 35           | 4.80%               |
| CCPR   | 10,398             | 251          | 2.40%               |
| CESCR  | 4,321              | 37           | 0.86%               |
| Total  | 73,121             | 953          | 1.30%               |

Second, what matters is that states have the *option* of reserving, not whether or not they actually reserve. All ten of the treaties in our analysis permit reservations, which means that the capacity to reserve does not vary across treaties. The capacity to reserve, in other words, is a constant across treaties, across states, and across time. If, in contrast, treaties varied in terms of demanding obligations *and* the capacity to reserve, we could explore the possibility that two treaties at similar levels of demandingness, one permitting reservations and the other not, might have different ratification rates. But that variation does not exist.

Third, it is plausible that more demanding obligations attract more reservations. But that is an issue of variation at the provision level, not at the treaty level. States generally

reserve on specific provisions. When states do reserve on whole treaties, the reservation does not concern treaty obligations *per se* but broader political issues, for example, the state's constitutional law or its treaty relationship with Israel. Decisions on whether or not to enter a substantive reservation (that is, on treaty obligations) call for a different level of analysis than do decisions about ratification. [REDACTED] test the proposition that more demanding treaty provisions will attract more reservations. In an analysis of human rights treaties, they find that states are more likely to enter reservations on demanding provisions.

Fourth, the fact that states have the capacity to enter reservations in all ten of the treaties enhances the strength and importance of our findings. If anything, the ability to enter reservations makes it more difficult to support our first hypothesis (that states will be less likely to ratify more demanding treaties). The capacity to reserve could be seen as diluting, if not eliminating, the effect of variation in demandingness: states will simply reserve on the provisions they find most challenging, in effect reducing variation in demandingness. From the perspective of a state, a more demanding treaty could be made less demanding through reservations. For ratification with reservations, then, there should be no difference between more demanding and less demanding treaties. However, for non-ratification and for ratification without reservations, we expect to find differences in the likelihood of ratification between more demanding and less demanding treaties.

We therefore offer a set of hypotheses with respect to reservations and ratification. For each possible ratification outcome (non-ratification, ratification with reservations, and ratification without reservations), we generate expectations with respect to the comparison between more demanding and less demanding treaties.

*H3(a): Non-ratification should be more likely for more demanding treaties than for less-demanding ones.*

*H3(b): We should observe no difference between the more- and less-demanding treaties for ratification with reservation (as reservations reduce the difference in demandingness).*

*H3(c): Ratification without reservation should be more likely for less demanding treaties than for more demanding ones.*

If we are right that treaty demandingness affects ratification even while taking into account reservations, the analysis should support all three hypotheses.

## **Data**

We test our predictions using an original dataset that measures human rights treaty obligations at the provision level (paragraphs within articles). The Human Rights Treaty Obligations dataset includes the coding of obligations contained in ten global human rights treaties. Each treaty was coded independently by two coders following detailed instructions; any differences in coding were resolved by the principal investigator. Each treaty was coded at the level of individual provisions. Each provision was coded as to whether it created an obligation (or served some other function). To identify treaty obligations, the relevant unit of the treaty text is sometimes the article (for example, CAT Art. 11). More often, an article contains two or more numbered paragraphs, some of which also include sub-paragraphs. We coded the lowest-level unit available in each instance.

Each provision that defines an obligation was further coded as to whether that obligation is precise (0 = no, 1 = yes), strong (0, 1), and requires domestic action (0, 1). The ten core global human rights treaties listed in Table 2 are included in the dataset.

*Table 2: International human rights treaties used in this analysis*

| Treaty Abbreviation | Treaty Name   | Date Treaty Opened for Signature |
|---------------------|---|----------------------------------|
| GENO                | Convention on the Prevention and Punishment of the Crime of Genocide  | December 9, 1948                 |
| CERD                | International Convention on the Elimination of All Forms of Racial Discrimination                             | March 7, 1966                    |
| ICCPR               | International Covenant on Civil and Political Rights  | December 19, 1966                |
| ICESCR              | International Covenant on Economic, Social and Cultural Rights  | December 19, 1966                |
| CEDAW               | Convention on the Elimination of All Forms of Discrimination against Women                                    | December 18, 1979                |
| CAT                 | Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment                       | December 10, 1984                |
| CRC                 | Convention on the Rights of the Child   | November 20, 1989                |
| CRMW                | International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families | December 18, 1990                |
| CRPD                | Convention on the Rights of Persons with Disabilities   | December 13, 2006                |
| CED                 | Convention for the Protection of All Persons from Enforced Disappearance                                      | December 20, 2006                |

*Dependent Variable: Human Rights Treaty Ratification*

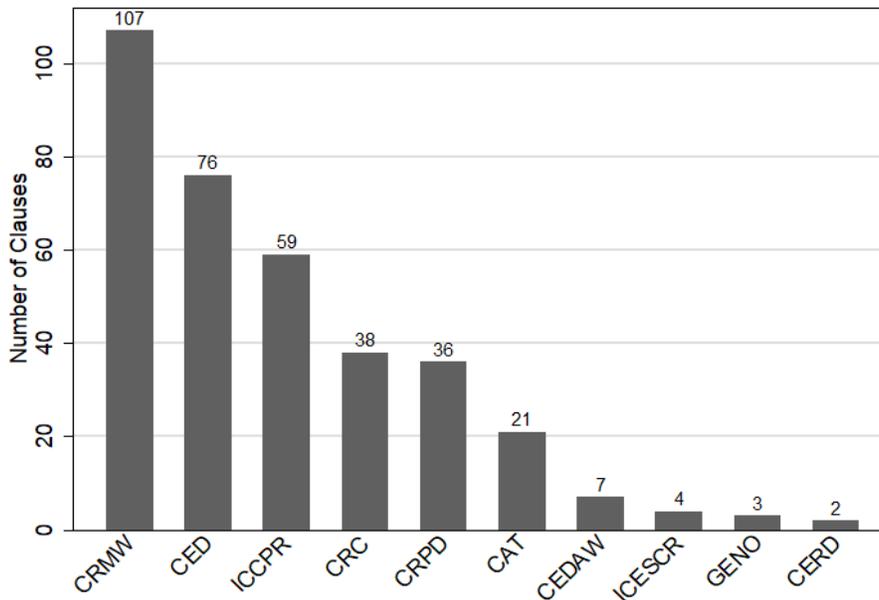
Treaties vary considerably in the extent and speed of ratification. In the data analysis, the outcome variable is ratification of a given treaty, coded for each country as a binary variable taking the value of “1” in the year in which ratification or accession occurred. Observations enter the risk-set from the year a treaty was opened for signature or the year in which a country became independent, whichever is later. Observations for a

given country leave the risk set after that country ratifies.

### *Primary Independent Variable*

The primary independent variable, used to test our main hypothesis, is a count of the number of demanding obligations (as defined above) contained in each of the ten treaties. Figure 2 ranks the treaties according to the demanding obligations index.<sup>43</sup>

*Figure 2: Number of demanding obligations per treaty*



### *Covariates*

We include in the analysis a number of additional variables that have been shown to affect human rights treaty ratification in previous research and briefly summarize the theoretical rationales supported by that prior work.

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<sup>43</sup> While Figure 2 plots the ranking of treaties by demanding obligations, readers may want a better sense of the skewness of our key independent variable. We measure the skewness of the distribution at 0.83, which means that the distribution leans moderately to the right. For comparison, a normal distribution has a skewness of zero.

*Socialization.* The greater the proportion of states that have already ratified (either regionally or globally), the greater the incentive may be for additional states to follow suit. *Global ratification rate* represents the proportion of states in the world that have already ratified a given treaty as of a given year. We also include variables capturing the number of IGOs to which a state belongs (natural log) and the number of INGOs with branches or members in a state (natural log). IGOs and INGOs are often seen as mechanisms of international socialization.<sup>44</sup>

*Democracy and democratization.* Because human rights are already incorporated into domestic law and largely respected in practice, strong democracies will generally perceive lower costs of ratification. Autocracies would perceive few benefits and greater potential costs from ratification. For transitional democracies – those with new democratic institutions but recent experience with civil war, or repressive or authoritarian regimes – the adjustment and compliance costs associated with joining a treaty can enhance the credibility of these states' commitment to democracy, rights, and the rule of law.<sup>45</sup> We include a binary transitioning democracy variable measuring whether or not a country became a democracy within the previous two years.

*Respect for basic rights.* The costliness of human rights treaty ratification depends in part on the distance between a country's current practices and the standards set by a human rights treaty. To control for this, we include a measure of respect for basic physical integrity rights as an approximation of a country's level of fulfillment of human rights in general.<sup>46</sup> While several treaties from our sample (e.g. Genocide Convention, ICCPR, CAT,

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<sup>44</sup> Cole 2005; Sandholtz and Gray 2003; Wotipka and Tsutsui 2008.

<sup>45</sup> Hafner-Burton, Mansfield, and Pevehouse 2013; Moravcsik 2000; Simmons 2009.

<sup>46</sup> Fariss 2014.

and CED) obligate states to respect physical integrity rights specifically, we hold that physical integrity is a useful measure of state practice even with respect to other treaties. Fariss demonstrates the positive empirical association between physical integrity rights and ratification of most of the human rights treaties used in our sample, including CEDAW, CERD, ICESCR, and the CRC.<sup>47</sup> We therefore take respect for physical integrity rights as a reasonable proxy for respect for the broader range of human rights.

*Domestic legal institutions.* A country's domestic legal institutions will affect how international treaty commitments are incorporated or implemented. The logic is that the more treaty obligations are directly applicable in domestic courts, the greater the potential compliance costs. *Judicial independence* varies considerably across states of all types of legal systems. The more independent judges are, the less control a government has over their decision-making and the more difficult it is for a government to predict how the courts will interpret and apply a given treaty.<sup>48</sup> In addition, the status of treaties in domestic law can affect how courts might apply them. If treaties are *directly incorporated* into domestic law upon approval, the treaty may more quickly become applicable in the domestic legal system. Finally, the *status of treaties* in the domestic legal hierarchy may also shape their domestic legal effects. If treaties are equal or superior to domestic statute, they can be applied to greater effect in domestic courts.<sup>49</sup>

*Rewards/coercion thesis.* We control for a country's dependence on international assistance, investment, and trade. Countries that are economically dependent on foreign aid, foreign direct investment, or international trade may believe that they will receive

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<sup>47</sup> Fariss 2018. However, Fariss does not test for the effects of ratifying the CRMW.

<sup>48</sup> Sandholtz 2012.

<sup>49</sup> Ibid.

more assistance and investment upon ratification.<sup>50</sup> This is the basic “rewards thesis.” Alternatively, they may fear economic sanctions, aid sanctions, or disinvestment if they do not signal their affinity for human rights norms to the international community (economic coercion).<sup>51</sup>

*Timing.* It is possible that ratifying a recent human rights treaty (CRPD, for example) does not mean the same thing as ratifying one of the early treaties (e.g. ICCPR). Treaties that come into being later in time build on the body of human rights treaties already in existence. Put differently, as more treaties are added to the human rights regime, rights become increasingly part of the social and political landscape. We check for the effect of time by including time polynomials in some models (Table A3 Models 3-5, Table A5 Model 7) and by including period dummies in others (Table A3, Models 1-2). Moreover, the later treaties contain rights that were already included in one of the covenants (ICCPR and ICESCR). In fact, the two covenants establish rights that subsequent treaties generally reinforce (like the CAT) or apply to specific categories of persons (like the CRC). States that have ratified one or both of the covenants have, in effect, already accepted many of the rights included in later treaties. We therefore check for the effect of dummy variables indicating prior ratification of the ICCPR and the ICESCR (Table A2, Models 1-3).

## **Analysis**

In this section, we report results of multivariate event history analyses conducted in STATA that allow us to account for treaty-level factors, plus a variety of state and global-

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<sup>50</sup> Nielsen and Simmons 2015.

<sup>51</sup> Spence 2014.

level variables. We employ a novel modeling strategy to test the proposition that states are less likely to ratify more demanding human rights treaties. While our key independent variable – treaty demandingness – is measured at the treaty level, our dependent variable – state ratification – is measured at the country-year level. We pool all countries and treaties into one Cox proportional hazard model such that the unit of analysis is the treaty-country-year. Pooling observations allows us to control for both treaty-level and state-level factors when estimating the relationship between treaty demandingness and ratification. Because error terms for a given country and a particular treaty (a treaty-country pair) are likely to be correlated, we employ robust standard errors clustered by treaty-country.

Once a country ratifies a treaty, the treaty-country pair drops out of the risk-set. In this sense, data on treaty ratification are structured in an analogous way to epidemiological data on death. As Simmons explains, the values are “all 0s and a single switch to 1 at the point of each country’s commitment.”<sup>52</sup> For this type of data structure, event history analysis is appropriate to estimate the probability of an event. In addition, event history models allow the underlying probability of the event to change over time.

The Cox model analyzes how different factors affect the probability over time that a government will decide to ratify. The Cox model estimates the “hazard rate” for treaty ratification, which is defined as the likelihood of ratifying between times  $t$  and  $t + 1$ . The influence of each variable is represented as a hazard ratio, which has a multiplicative relationship with the likelihood of the outcome (ratification). For instance, a hazard ratio of 1.25 indicates a 25 percent increase in the likelihood of ratification. When the hazard ratio is greater than one, a country is more likely to ratify in a given year. Hazard ratios less than

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<sup>52</sup> Simmons 2009, 80.

one indicate a negative relationship between the independent variable and the likelihood of ratification. As a robustness check, we also analyze the data using logistic regression. To preview, the results are consistent across both specifications (see Appendix A for the full results).

Table 3: Estimates of the determinants of human rights treaty ratification

|  | (1)                 | (2)                 |
|--|---------------------|---------------------|
| Demanding obligations  | 0.983***<br>(0.001) | 0.985***<br>(0.001) |
| Democracy  | 1.286***<br>(0.098) | 1.421***<br>(0.130) |
| Demanding obligations x Democracy  |                     | 0.996**<br>(0.002)  |
| Democratic transition  | 2.018***<br>(0.205) | 1.990***<br>(0.204) |
| Basic rights respected   | 0.943**<br>(0.025)  | 0.943**<br>(0.025)  |
| Global ratification rate   | 1.012***<br>(0.002) | 1.012***<br>(0.002) |
| IGO memberships (ln)   | 1.511***<br>(0.089) | 1.512***<br>(0.089) |
| GDP/capita (ln)  | 1.004<br>(0.033)    | 1.005<br>(0.033)    |
| Observations   | 23,502              | 23,502              |
| Country-treaty clusters  | 1,849               | 1,849               |
| Number of ratifications  | 1,349               | 1,349               |
| Log pseudo-likelihood  | -8801               | -8798               |
| Wald chi square  | 346.5               | 355.2               |
| Hazard ratios (unstandardized) with robust standard errors in parentheses clustered by country-treaty.<br>Efron approximation used for tied failures.<br>*** p<0.01, ** p<0.05 |                     |                     |

For our primary explanatory variable – the number of demanding obligations a treaty contains – the results are clear and consistent with hypothesis 1. The more demanding a treaty is, the less likely states are to ratify it in any given period. This association is negative (the hazard ratio is less than one) and statistically significant across a wide range of models. An addition of one demanding treaty obligation decreases the probability of ratifying in each year by 1.7% (the hazard ratio is 0.983; see Model 1, Table 3). This effect may seem small, but it is based on a small incremental increase in treaty demandingness. A one standard deviation increase in demanding obligations

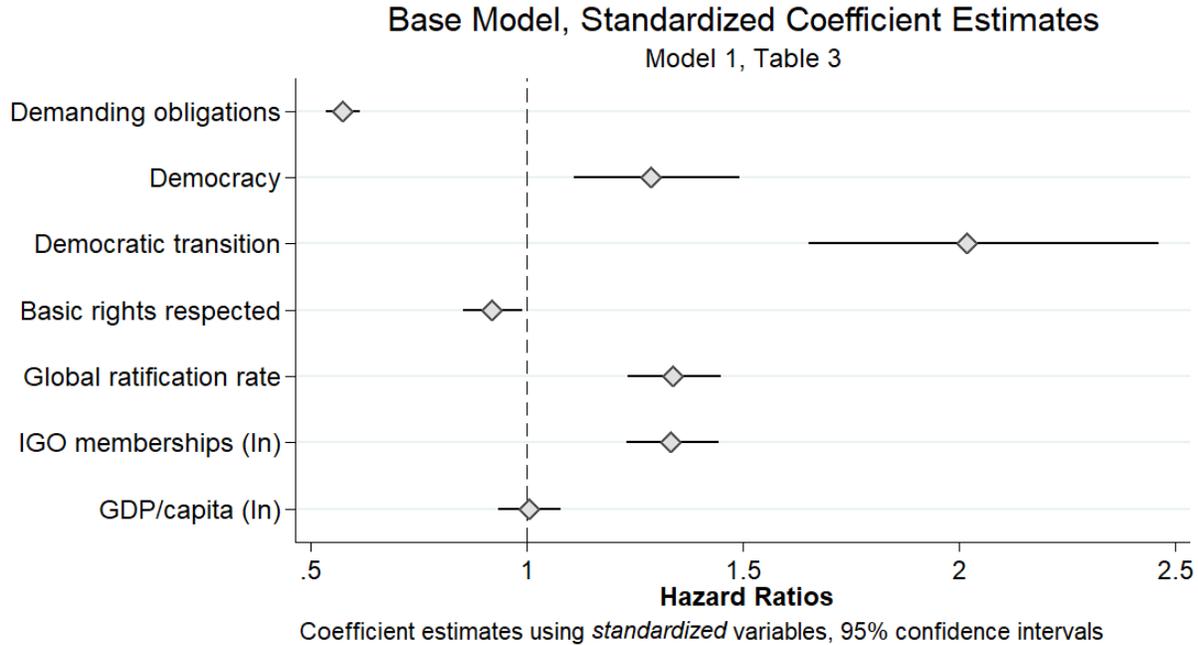
(approximately 35 demanding obligations) decreases the probability of ratification in any year by 42.6% (the hazard ratio is 0.574).

To facilitate comparisons across variables measured by different scales, we standardize the coefficients depicted in Figure 3 (from Model 1, Table 3).<sup>53</sup> The influence of treaty demandingness is substantively comparable to the influence of several other factors, such as socialization influences from other country ratifications, the number of IGO memberships, and democratic governance. To put this into perspective, this effect is larger than a one standard deviation increase in basic respect for human rights (8.1%), which actually reduces the likelihood of treaty ratification. A one standard deviation increase in the proportion of states that have already ratified a given treaty in a given year increases the likelihood of treaty ratification by 33.7%. A one standard deviation increase in the natural log of IGO membership increases the likelihood of treaty ratification by 33.3%. Democracies are 28.6% more likely to ratify a treaty in a given year compared to autocracies, and transitioning democracies are twice as likely to ratify as non-transitioning democracies. A country's GDP per capita is not statistically significantly related to treaty ratification at the 5% error level.

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<sup>53</sup> All hazard ratios reported in the tables are unstandardized. All hazard ratios reported in Figure 3 are standardized.

Figure 3: Base model with standardized coefficient estimates, Model 1 Table 3

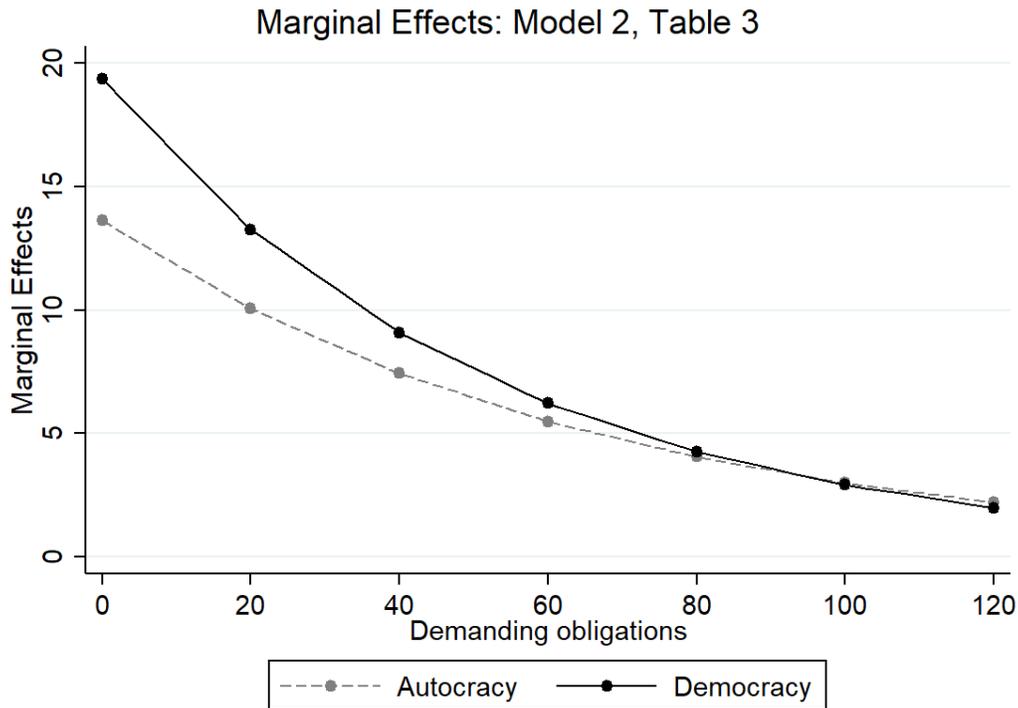


Another way to interpret the substantive effect of treaty demandingness on ratification is to compare the magnitude of the relationship between treaty demandingness and ratification with democracy. Previous research on treaty ratification empirically demonstrates that democratic governance has facilitated international human rights treaty ratification.<sup>54</sup> How many additional demanding obligations must a treaty have for the effect to be similar to moving from democracy to autocracy? The answer is about 15 demanding obligations (Table A4, Appendix A). Going from a weak treaty (CERD with two demanding obligations) to a more demanding treaty (somewhere in between CEDAW with 7 and CAT with 21), the effect on ratification is similar to going from democracy to autocracy. The probability of ratification decreases by 22.7% for an additional 15 demanding obligations, and autocracies are 22.2% less likely to ratify than democracies.

<sup>54</sup> Simmons 2009.

Under hypothesis 2, we expected treaty demandingness to have different effects for democracies as compared to autocracies. The analysis demonstrates that the interaction between regime type and treaty demandingness is statistically significant and negative (Model 2, Table 3). One way to interpret this relationship is by visualizing how much the probability of ratification decreases for democracies and autocracies as treaties increase in their demandingness. Figure 4 plots the marginal effects of treaty demandingness on ratification, holding all other variables at their means. The difference between democracies and autocracies is only evident at lower levels of demanding obligations. At lower levels, democracies are more likely to ratify than are autocracies, but the regime types converge around 80 demanding obligations. We do not need to know the regime type to predict the likelihood of ratification for the most demanding treaties: the probability is lowest when states are faced with the most demanding treaty, regardless of regime type. As treaties become more demanding, the probability drops more quickly for democracies, suggesting that democracies and autocracies weigh demandingness equally at high levels but not low levels.

Figure 4: Marginal effects of demanding obligations by regime type, Model 2 Table 3



To test our argument that ratification behavior is not shaped by reservation behavior, we repeated our main analyses using ordered logistic regression with similarly structured panel data. In these models, the outcome is an ordinal variable with three values: non-ratification (0), ratification with reservations (1), and ratification without reservation (2). The results are as we predicted: the higher the number of demanding treaty obligations, the less likely is the next “higher” outcome (Table 4). That is, a greater number of demanding obligations reduces the likelihood of ratification with reservation as compared to non-ratification, and reduces the likelihood of ratification without reservation as compared to ratification with.

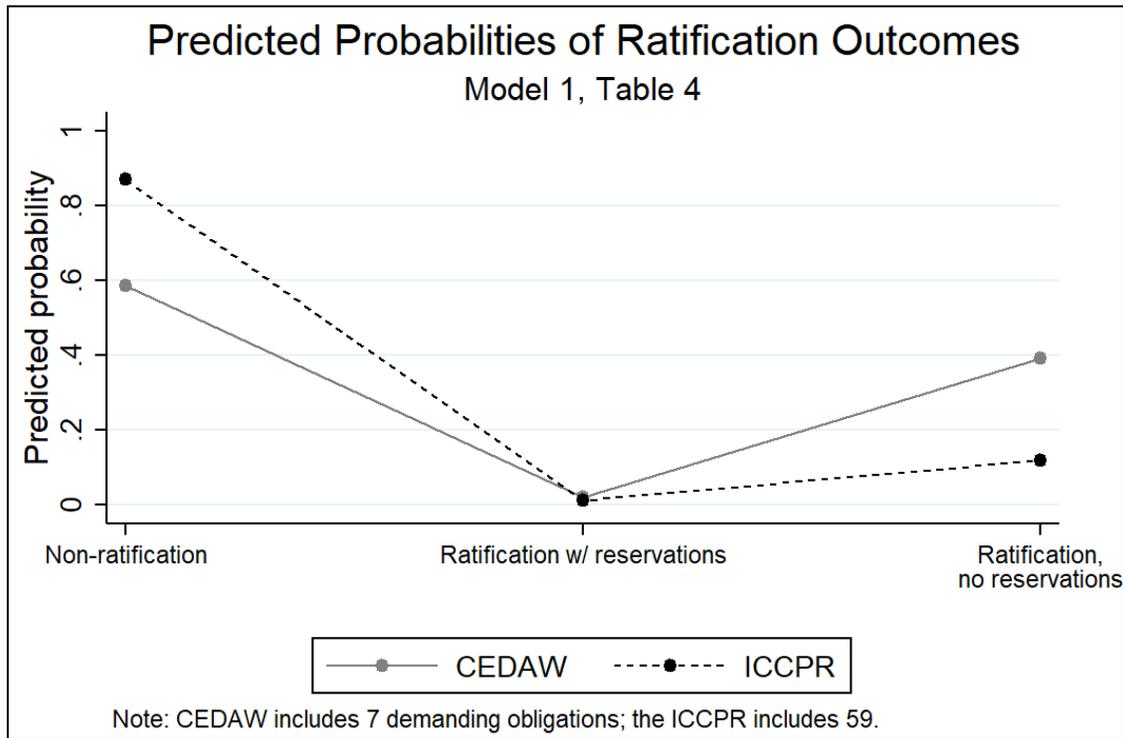
Table 4: Human rights treaty obligations and ratification, ordered logit

|  |                     |
|--|---------------------|
| Demanding obligations  | 0.927***<br>(0.011) |
| Democracy  | 2.753***<br>(0.607) |
| Democratic transition  | 1.214<br>(0.272)    |
| Basic rights respected   | 0.772***<br>(0.058) |
| Global ratification rate   | 1.098***<br>(0.018) |
| IGO memberships (ln)   | 4.011***<br>(0.912) |
| GDP/capita (ln)  | 0.873<br>(0.090)    |
| Observations   | 23,502              |
| Country-treaty clusters  | 1,849               |
| Log pseudo-likelihood  | -5393               |
| Wald chi-square  | 76.37               |
| Prob > chi <sup>2</sup>  | 0                   |
| Odds ratios with robust standard errors in parentheses.<br>Ordered logit models with random effects and robust standard errors clustered by country-treaty.<br>*** p<0.01, ** p<0.05 |                     |

To clarify the results, we generated predicted probabilities for all three outcomes at two levels of demanding obligations, holding all other variables at their means. We generated predicted probabilities when *demanding obligations* = 7 (corresponding to CEDAW) and when *demanding obligations* = 59 (ICCPR). As Figure 5 shows, the results are consistent with hypotheses 3(a), 3(b), and 3(c). The low likelihood of ratification with reservation for both levels of demandingness reflects the rarity of reservations. Although the capacity to reserve is present in all ten treaties, we nevertheless find a significant effect, in the expected direction, of treaty demandingness on ratification. Even given the possibility of reserving, states are less likely to ratify more demanding treaties. In addition

to addressing the issue of reservations, the ordered logit analysis serves as a robustness check. Our findings are confirmed using the alternative model specification.

Figure 5: Predicted probabilities of ratification outcomes including reservations, Table 4



Our findings with regard to regime type are consistent with previous research, which increases our confidence in the models. The more democratic a country is, the more likely it is to ratify an international human rights treaty. In addition, states that have undergone a recent democratic transition are more likely to ratify. Our results are also largely consistent with socialization approaches. As the global ratification rate increases, the likelihood of ratification also increases in all but one of the models in which it is included (full results in Appendix A). We also argued that IGOs are sites of international socialization. Higher rates of membership in IGOs imply more opportunities for elite socialization, which should translate into higher likelihood of ratification. More IGO

memberships were associated with a greater likelihood of ratification. More INGO memberships were also associated with a greater likelihood of ratification.<sup>55</sup>

We also sought to test for the possible effects of timing on ratification, mainly to verify that the inclusion of time variables did not alter our main findings. They did not (see Appendix A for full results). Prior ratification of the ICESCR had a significant negative effect on the likelihood of subsequent ratifications, as did prior ratification of the ICCPR.<sup>56</sup> However, when included in the same model, prior ratification of the ICCPR is positive but not statistically significant (Table A2, Models 1-3).

We argued that domestic legal institutions could also affect how quickly a country ratifies. Independent courts, direct incorporation of treaties in domestic law, and a high status for treaties in the domestic law hierarchy (treaties being equal or superior to statute) could increase the capacity of courts to apply human rights treaties in the domestic legal system, thus increasing the costs of ratification. Of these three variables, only direct incorporation of treaties has an effect on ratification – and it is a positive one (Table A2, Models 4-6). A possible explanation for this result would be that countries that have direct incorporation of treaties are already predisposed or oriented toward international norms.

Finally, we suggested that countries more dependent on international economic flows could be more susceptible to pressure from wealthy western democracies that have tended to support the expansion of international human rights treaty law. Three variables,

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<sup>55</sup> We did not include an INGO variable for most models due to data limitation. The time coverage for IGO membership is greater than INGO membership, so we include IGO membership in most of the models.

<sup>56</sup> Note, we exclude all ICESCR observations from models that control for having already ratified the ICESCR, since prior ratification of the ICESCR cannot be used to model ratification of the ICESCR. We likewise exclude ICCPR observations from models that control for prior ratification of the ICCPR.

FDI, ODA, and trade capture that type of dependence. FDI decreases the likelihood of ratification. Aid and trade-dependent states are less likely to ratify, but the results are not statistically significant at the 5% error level (Table A3, Models 6-8). This finding is consistent with Nielsen and Simmons who were not able to find any empirical evidence that states are economically rewarded for human rights treaty ratification.<sup>57</sup>

As a robustness check, we analyzed the same data using a different model specification, logistic regression with random effects at the country-treaty level. These models estimate the likelihood that a state will ratify a given treaty in a given year. The results were consistent: more demanding treaties are less likely to be ratified (see Tables A5-A6 in Appendix A). These findings remain consistent whether or not time polynomials are included in the regressions.

## **Conclusion**

Our study analyzes variation in treaty demandingness across human rights treaties and its effect on ratification. We anticipate three promising avenues of future research: treaty reservations, general comments, and the interaction between treaty design and state-level attributes. Treaty reservations introduce flexibility for states, potentially reducing the constraining power of treaties. Do more demanding human rights treaty provisions attract more reservations?

Treaty committees created by most of the human rights treaties can increase the precision or the strength of treaty obligations. The treaty committees issue authoritative interpretations of specific treaty provisions (“general comments”) that can clarify

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<sup>57</sup> Nielsen and Simmons 2015.

obligations. For example, General Comment No. 35 for Article 9 of the ICCPR (on liberty and security of person) is 20 pages long. In total, it contains 68 paragraphs elaborating on the specifics of state obligations related to arbitrary detention and notice of reasons for arrest, among others. The original Article 9 of the ICCPR contains only five paragraphs. General comments may alter the demandingness of treaties by increasing their precision.

We have argued that political science research on human rights treaty ratification has virtually ignored the content of human rights treaties. This study aims to advance our theoretical and empirical understanding of human rights treaty commitment by examining more carefully the content of the treaties themselves, in particular with respect to the scale of the obligations that treaties create for states. We find empirical support for our prediction that states would be slower to ratify treaties containing more demanding obligations. We find robust support for this claim even while controlling for a number of other state-, treaty-, and global-level factors. Our analysis suggests that states take seriously the content of international human rights law – in particular, the extent of the obligations contained in human rights treaties – when making decisions about ratification. This finding holds even though states can modify their obligations through reservations.

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