The Strength of Weak Review:
National Courts, Interpretive Canons, and Human Rights Treaties

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Supplementary Information

1. Data collection and Coding

This Section consists of three parts. Part I provides a general introduction to the data collection effort. Part II lists all 50 issues included in our data collection effort. Part III provides detailed information on how we collected information relevant to and coded the two variables we use in this paper.

Part I: General Information on the Data Collection

Although the question of how domestic legal systems deal with international law has long been of interest to international lawyers, our data set is the first of its kind. Existing initiatives that purport to assemble information on how domestic legal systems deal with international law are less systematic and/or more limited in scope. Specifically, existing datasets by Hathaway (2008) and the Comparative Constitutions Project have assembled information on the domestic status of international law based on the constitution alone. Yet, many relevant aspects of a domestic legal system's relationship to international law are not covered in the text of the constitution but are rather found in ordinary legislation, case law, practice, and executive orders. In addition to quantitative coding of constitutions, there exist qualitative surveys that provide a more in-depth assessment on international law in the domestic legal order. However, such surveys usually cover a limited number of countries[1] or specific issues,[2] and thus provide merely a snapshot of state practice at a single point in time. Our dataset fills these gaps by covering a large number of countries from 1815 to 2013 and collecting information not only from the constitution, but also court decisions, legislation and secondary sources.

In collecting our data, a first step was to identify and define the substantive issues that define a state's relationship with international law. We identified these issues based on the existing literature and our own expertise as international legal scholars. In total, we identified 50 issues, covering both how countries commit to international law and its status in the domestic legal system, and covering a range of different sources of international law, such as treaties, customary international law, and executive agreements. Part II of this Appendix lists all the survey questions we identified.

The second step in our analysis was to research and answer the survey questions for each country. For each country, we compiled a written memorandum that provides a narrative answer to each of the 50 survey questions and, where applicable, documents how this answer has changed over time. The memoranda document the sources used, thus indicating whether the basis for a given answer is found in the constitution, ordinary legislation, court decisions, executive interpretations or secondary sources.

For the text of constitutions, we relied primarily on the historical repository of constitutions assembled by the Comparative Constitutions Project. Secondary sources, such as books, chapters and articles describing the applicable rules and identifying relevant primary sources, were located through searches of library collections and electronic databases including

[1] Shelton 2011.

[2] Council of Europe 2001; Hollis et al. 2005; Sloss 2009.

WorldCat, the Index to Foreign Legal Periodicals, HeinOnline's databases of international law journals and yearbooks, as well as prior surveys of the legal literature. National court cases and legislation were located via secondary sources and through searches of reporting services such as the International Law Reports and the Oxford Reports on International Law in Domestic Courts, the World Legal Information Institute network, official websites maintained by national courts and governments, commercial electronic databases such as Westlaw and LexisNexis, and national law reports, official journals and compilations of laws held in U.S. libraries. In some instances, they were obtained by communicating directly with the relevant institutions or by consulting with local lawyers or legal scholars.

A substantial number of these memos (about 50 percent) were prepared by the principal investigators themselves. The others were prepared by law students or foreign lawyers. We had American J.D. students work on what we believed to be the more straightforward countries (those with common law systems, English as the official language, and few historical changes). In a handful of cases, the American J.D. students worked on other countries if they possessed particular foreign language skills. All American J.D. students were trained beforehand on the specific issues we were looking for. Specifically, prior to starting, they were assigned readings on the sources of international law and the relationship between international law and national legal systems, a bibliography of existing surveys of state practice from which they could draw information about individual countries, and a research guide prepared specifically for this purpose that directed students to relevant print and online sources that could be used to locate foreign constitutions, laws, court cases, and secondary sources such as legal treatises and journals. The researchers frequently resorted to the assistance of research librarians to locate sources and/or order them from other institutions.

Each memo typically went through multiple drafts, and two of the principal investigators provided comments on each version of each memo. In some cases, if the issues turned out to be more complicated than the students could handle, the principal investigators completed the memo themselves. We also relied on foreign lawyers, primarily foreign L.L.M. students, to write a memo for their own countries. When we relied on foreign L.L.M. students, these students had all completed a law degree in the country about which they wrote the memo, and several of them were admitted to its bar. Nevertheless, we provided these students with the training materials described above, and usually went through multiple drafts, whereby two principal investigators provided comments, and asked the students to make revisions.

In a few cases, for countries that were especially complex or for which sources were difficult to access, we relied on foreign law professors who wrote the memo on a consultancy basis. For example, a law professor from Brazil documented the many historical changes in the Brazilian legal system; and a law professor from Iran wrote the memo for Iran (a system where the relevant actors are different than in most Western systems).

For most countries, the Constitution was the starting point for the memorandum.[3] Some of the survey questions could be answered by looking at the constitution alone, since they ask about the constitution explicitly. An example is the following survey item:

> "Does the constitution expressly refer to international human rights treaties (e.g., the International Covenant on Civil and Political Rights or the European Convention on Human Rights)? If so, which one(s) and are they formally incorporated into domestic law?"

For other survey questions, the constitution often, but not always, provides an answer. An example is the following question: "Do ratified treaties automatically become part of domestic law without implementing legislation?" Most constitutions today deal with this directly; but not all do, and historically, fewer countries did so. Finally, for some items, the constitution did not usually provide the answer to the survey question. An example is the following survey item: "Is there a rule or presumption that domestic statutes (and/or other law) should be interpreted in conformity with obligations under ratified treaties?" The answer to this question typically requires an examination of judicial practice or consultation of the secondary literature in that country. In addition, even in instances where the constitution does address a particular issue, it frequently does so in general terms and the details of the relevant rule must be derived from an examination of legislation, judicial practice or secondary literature in order to answer a question accurately.

In a small number of cases, even after available sources were exhausted, there was some ambiguity about the right answer to a survey question. We asked all memo writers to document such ambiguities and why there are multiple interpretations of what the right answer is. Where multiple interpretations existed, we relied on the most authoritative source of that system to make a judgment call. All judgment calls were made by the authors. The final step in the analysis was to hand-code the country memoranda into a set of numerical variables. All coding was conducted by the authors. Because the memos deal with a standard set of questions, the coding was fairly straightforward.

[3] We thank the Comparative Constitutions Project for providing us access to their historical repository of constitutions to perform our historical country research.

Part II: Questions Included in the Broader Data Collection Effort

The following questions were included in the broader data collection effort. The questions used to code the variables used in this paper are written in boldface. To be clear, the data collected on the questions not written in boldface were not used at all in the analysis for this paper.

1) *Who has the power to initiate treaties, i.e., to negotiate and sign them?*
2) *Who has the power to ratify treaties, i.e., to formally express the state's consent to be bound by the treaty?*
3) *Is ratification of treaties subject to a legislative vote, and if so, by which chamber of the legislature?*
4) *Which type of treaties require a legislative vote?*
5) *Do all treaties require legislative approval?*
6) *Do treaties dealing with friendship, mutual assistance, cooperation and neutrality require legislative approval?*
7) *Do treaties dealing with human rights require legislative approval?*
8) *Do treaties dealing with borders and the territory of the nation require legislative approval?*
9) *Do treaties dealing with international finance and loans require legislative approval?*
10) *Do treaties dealing with joining international and regional organizations require legislative approval?*
11) *Do military treaties and peace treaties require legislative approval?*
12) *Do treaties dealing with trade and commerce (including treaties of a commercial nature) require legislative approval?*
13) *Do treaties that require the modification of domestic laws require legislative approval?*
14) *Do treaties that provide for ratification (that is, provide that consent to be bound will be expressed through ratification) need legislative approval?*
15) *Do treaties that require domestic spending/ affect the state's finances require legislative approval?*
16) *Do treaties that individually impact/ affect citizens require legislative approval?*
17) *Do extradition treaties require legislative approval?*
18) *Do treaties that deal with international arbitration and/ or regulate the judiciary require legislative approval?*
19) *Are there any other types of treaties, not captured by any of the categories above that require legislative approval*
20) *Is there an exception for times of emergency, urgent and/or secret treaties?*
21) *May the executive conclude binding international agreements that are not considered "treaties" for constitutional purposes and do not require legislative approval?*
22) *If treaties require legislative approval, is this vote binding on the executive?*
23) *If treaties require legislative approval, does the vote require a supermajority?*
24) *If some treaties require legislative approval by super-majorities, which type of treaties require supermajority vote?*

25) *If treaties require legislative approval, are there alternative procedures the executive can use to conclude treaties or international agreements that would normally require a legislative vote without such a vote?*
26) *Is ratification of treaties subject to contemporary review of conformity with the Constitution?*
27) *Who has the power to withdraw from treaties? Is this power subject to a legislative vote or other requirements?*
28) *Are the answers to the questions above different for specific categories of treaties, e.g., human rights treaties?*
29) *Does the constitution expressly authorize the State to join international organizations and/or delegate powers to them? If so, which one(s)?*
30) *Do ratified treaties automatically become part of domestic law without implementing legislation?*
31) If treaties automatically become part of domestic law, is the domestic legal effect of treaties limited by doctrines under which certain treaties lack such effect (e.g., non-self-executing treaties)?
32) If treaties automatically become part of domestic law, what is the relationship of treaties to ordinary statutes (superior, equal, inferior)?
33) *If treaties automatically become part of domestic law, what is the relationship of treaties to constitutional provisions (superior, equal, inferior)?*
34) Is there a rule or presumption that domestic statutes (and/or other law) should be interpreted in conformity with obligations under ratified treaties?
35) *Does the constitution expressly refer to international human rights treaties (e.g., the International Covenant on Civil and Political Rights or the European Convention on Human Rights)? If so, which one(s) and are they formally incorporated into domestic law?*
36) *Other than human rights treaties, are the answers on the status of treaties different for specific categories of treaties?*
37) In the case of a federal state, may the federal government enter into treaties that relate to matters within the jurisdiction of subnational governments?
38) May the federal government adopt legislation to implement a treaty that would not normally be within its constitutional legislative jurisdiction?
39) *Is there a requirement that the federal government consult and/or obtain the approval of subnational governments before entering into treaties?*
40) *What is the relationship of treaties to subnational legislation (superior, equal, inferior)?*
41) *Do subnational governments have the authority to enter into binding international agreements?*
42) *Are the answers to the questions above different for specific categories of treaties, e.g., human rights treaties?*
43) *Do CIL rules automatically become part of domestic law without implementing legislation?*
44) *If the answer to CIL is yes, what is the relationship of CIL to ordinary statutes (superior, equal, inferior)?*

45) *If the answer to CIL is yes, what is the relationship of CIL to constitutional provisions (superior, equal, inferior)?*
46) *Is there a rule or presumption that domestic statutes (and/or other law) should be interpreted in conformity with CIL?*
47) *Does the constitution expressly refer to international human rights instruments other than treaties (e.g., the Universal Declaration of Human Rights or the American Declaration of the Rights and Duties of Man)? If so, which one(s) and are they formally incorporated into domestic law?*
48) Other than as may relate to the instruments mentioned in the previous questions, are certain categories of CIL treated differently? If so, which ones?
49) *In the case of a federal state, what is the relationship of CIL to subnational legislation (superior, equal, inferior)?*
50) *Are these answers different for specific categories of CIL rules, e.g., human rights obligations?*

Part III: Specifics on the Variables Used in This Paper

In this part, we describe (1) how we answered the questions used to construct the variables used in this paper; and (2) how we used these answers to construct the DIRECT EFFECT and CANON OF INTERPRETATION variables.

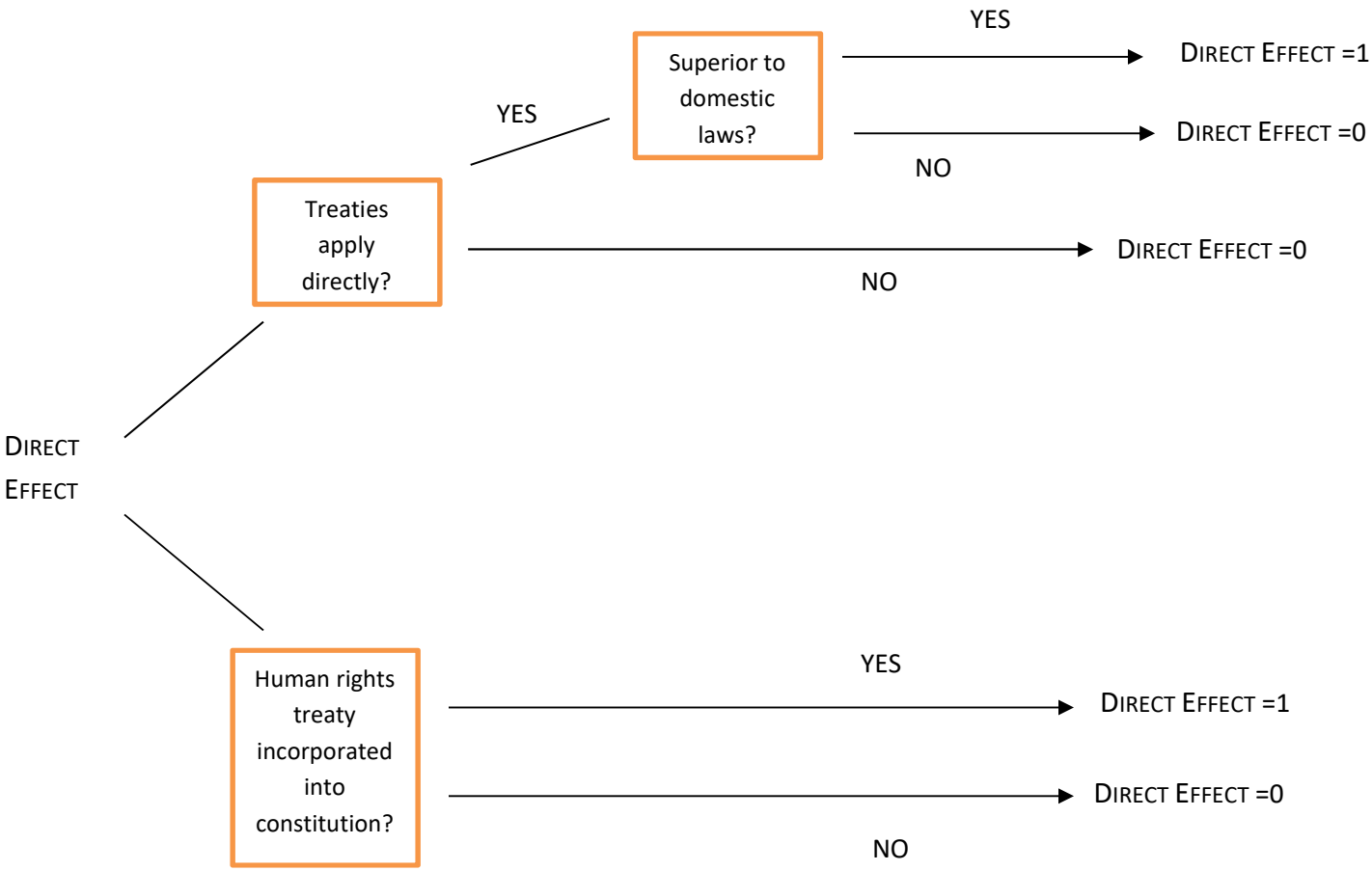
The questions relevant to this paper are the following:

1) *Does the constitution expressly refer to international human rights treaties (e.g., the International Covenant on Civil and Political Rights or the European Convention on Human Rights)? If so, which one(s) and are they formally incorporated into domestic law?*
2) *Do ratified treaties automatically become part of domestic law without implementing legislation?*
3) *If treaties automatically become part of domestic law, what is the relationship of treaties to ordinary statutes (superior, equal, inferior)?*
4) *Is there a rule or presumption that domestic statutes (and/or other law) should be interpreted in conformity with obligations under ratified treaties?*

From the answers to these questions, we constructed two binary indicators on a country-year basis. We combined the answers to questions 1 through 3 into a single binary indicator DIRECT EFFECT that takes the value 1 if countries apply treaties directly *and* designate them as having higher status than domestic legislation *or* if they have incorporated an international human rights agreement directly into their constitution. Chart 1 below depicts this graphically.

The second variable we coded captures the degree to which courts can interpret domestic legislation in line with ratified treaties. CANON OF INTERPRETATION is coded as 1 if the answer to question 4 is yes. It is possible for both variables to be coded as either 1 or 0 in a given country-year.

Chart 1: Coding of DIRECT EFFECT



The sources consulted to answer the four questions that are the basis for our analysis vary. The first question asks specifically about the constitution, and is thus based on coding the constitution alone, while the fourth question asks about judicial practice and is usually based on an examination of judicial practice and/ or the secondary literature. For the other two questions, whether the answer is found in the constitution depends on the country. Each of these questions raise distinct substantive issues. Because the approach is different for each question, we discuss each of them in turn. For each question, we provide examples from country memos for a range of different countries. We believe that these examples illustrate the kinds of sources consulted to answer the questions as well as the various judgement calls involved in answering them.

Question 1: ***Does the constitution expressly refer to international human rights treaties (e.g., the International Covenant on Civil and Political Rights or the European Convention on Human Rights)? If so, which one(s) and are they formally incorporated into domestic law?***

Because this question asks specifically about the constitution, it is answered by looking at the constitution alone. We used the Comparative Constitution Project's timeline on constitutions to identify constitutional changes, and coded when the constitutional treatment of human rights treaties changed.

For example, the country report for **Colombia** answers this question as follows:

> *"**Yes.** Art. 93(1) provides that "[i]nternational treaties and agreements ratified by Congress that recognize human rights and that prohibit their limitation in states of emergency have priority domestically." Based on this provision, human rights treaties have a higher hierarchical status than ordinary laws. Indeed, unlike other treaties, they appear to have constitutional rank, although there is some controversy regarding whether they can alone form the basis of constitutional review of a contrary law.[4] Some authors even allege that this provision gives them supraconstitutional rank.[5] However, this requires ignoring Art. 4, cited above, and does not appear to be a widely accepted view.[6]*
>
> *In addition, Art. 93(2) provides that "[t]he rights and duties mentioned in this Charter shall be interpreted in accordance with international treaties on human rights ratified by Colombia."*
>
> *Finally, some specific international human rights are incorporated by provisions of the Constitution: Art. 44 (rights of children), Art. 96 (treaties on nationality of indigenous peoples), Art. 53 (labor agreements), Art. 214 (international humanitarian law and human rights treaties during states of exception).*

[4] Monroy Cabra 2008, at 131-36.

[5] Bonilla 1997.

[6] Monroy Cabra 2008, at 131-32.

<u>History:</u> There were no such provisions before 1991."

As another example, the country memo on **<u>Turkey</u>** states:

> *"**Yes.** In the past decade, Turkey has amended its constitution to better incorporate international human rights, especially those protected by the ECHR. In 2004, Article 90 was amended to add the following provision: "In case of conflict between international agreements regarding basic rights and freedoms approved pursuant to the procedure and domestic laws, due to different provisions on the same issue, the provisions of international agreements shall prevail."*
>
> *Therefore, currently human rights treaties are placed normatively above regular legislation, but below the Constitution.[7] This was reinforced by a decision of the Turkish Council of State (the highest administrative court) from 2006. In this decision, the Council of State invalidated a more recent national law since it contradicted the European Convention on Human Rights.[8] Later decisions of the Council of State from 2008[9] and the Constitutional Court from 2011[10] followed the same reasoning.*
>
> *In 2010, an amendment to Article 148 of the 1982 Constitution further provided that anyone who claims that any of his or her fundamental rights and freedoms guaranteed under the Constitution or falling under the European Convention of Human Rights have been violated by the public authorities, can apply to the Constitutional Court.*
>
> *Finally, Art. 15(1) provides: "In times of war, mobilization, martial law, or state of emergency, the exercise of fundamental rights and freedoms can be partially or entirely suspended, or measures may be taken, to the extent required by the exigencies of the situation, which derogate the guarantees embodied in the Constitution, provided that obligations under international law are not violated." This provision was in the original 1982 constitution.*
>
> *<u>History:</u> Previous constitutions did not make special provision for human rights treaties."*

<u>Question 2: *Do ratified treaties automatically become part of domestic law without implementing legislation?*</u>

This question is sometimes answered based on the constitution alone, but in other cases, requires an examination of judicial practice, legislation, and/or secondary sources. An

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[7] Ansay and Wallace 2005, at 7.

[8] Stay Connected Turkcell Wherever You Go Case, Turkcell Communication Services Inc v Ministry of Industry and Trade, Decision on interim relief, Decision No E 2006/4503, ILDC 964 (TR 2006), 24th August 2006, Council of State

[9] Compulsory Religious Education Case, Istanbul Governor's Office (on the application of Kenanoğlu (Mustafa Berkay)) v Kenanoğlu (Ali), Appeal judgment, Case No E 2007/679, Decision No K 2008/1461, ILDC 963 (TR 2008), 29th February 2008, Council of State

[10] Fatih Family Court and ors, Constitutional Court judgment, E 2009/85, K 2011/49, ILDC 1910 (TR 2011), 10th March 2011, Constitutional Court

example of a country where the constitution provides the answer to this question is **Burkina Faso**. For Burkina Faso, the country memo reads as follows:

> *"**Yes.** Article 151 of the Constitution provides that: "Treaties and agreements regularly ratified shall have, upon their publication, an authority superior to that of laws, under condition, for each agreement or treaty, of its application by the other party." Thus, Burkina Faso follows a monist approach.*[11]
>
> *History: The 1977 constitution had an identical provision (Art. 108), as did the 1970 constitution (Art. 108) and the 1960 constitution (Art. 58). It appears to have been accepted as a statement of the status of treaties within the domestic legal order at all times."*

As another example, consider **Zimbabwe**, the memo for which reads:

> ***"No.** The relevant Article 111B of the Constitution. This Article was not in the 1980 constitution. It was first adopted by amendment in 1987, and amended again in 1993.*
>
> *Under Article 111B(1) of the Constitution, a convention, treaty or agreement "shall not form part of the law of Zimbabwe unless it has been incorporated into the law by or under an Act of Parliament." Notably, the exception allowing the President to enter into some agreements without Parliamentary approval under Article 111B(3) expressly excludes agreements whose application or operation would require "any modification of the law of Zimbabwe."*
>
> *History: The 1980 constitution did not include Art. 111B, but it was understood that under British constitutional principles, treaties were not part of domestic law unless incorporated. During the 1980s and 1990s, the Supreme Court made several decisions based on the African Charter that were perceived to be activist in nature, and as a response Art. 111B was amended extensively in 1993 as described in I.A.3, above.*[12]
>
> *[All prior versions of Article 111B similarly provided that treaties did not form part of the law of Zimbabwe unless incorporated by an Act of Parliament.]*
>
> *[Note: the Zimbabwe memo does not include the situation since the 2013 constitutional reform, but covers the period 1980-2012]"*

In other cases, the Constitution is supplemented by implementing legislation on international law. An example is **Russia**, but the practice of legislating the status of international law is also followed in many other eastern European countries. The country memo for Russia reads as follows:

> ***"Yes.** Shifting away from Soviet practice, the 1993 Constitution established that international treaties are an integral part of the Russian legal system. (Article 15(4)). The*

[11] Soma 2008, at 328-29.

[12] See Maluwa (1999).

Federal Law of 15 July 1995 "On International Treaties of the Russian Federation" ("the 1995 Law"), expounds on the 1993 Constitution, providing that treaties operate on the Russian Federation directly (Article 5(3)). The highest courts of the Russian Federation have affirmed this position on multiple occasions, reiterating the direct application of ratified treaties. Supreme Court Decision No. 5 (2004). Supreme Court Decree No. 5 (2003), Supreme Arbitrazh Court Decree No. 8 (1999).

In a continuation of Soviet practice, all treaties of the Russian Federation must be officially published before becoming legally binding. This requirement has been affirmed by 1995 Law, as well as decrees by the Supreme Court of the Russian Federation and the Supreme Arbitrazh Court. 1995 Law (Article 5(3)), Supreme Court Decree No. 5 (2003), Supreme Arbitrazh Court Decree No. 8 (1999). In the words of one commentator, "So far as the courts are concerned, a treaty not officially published does not exist.[13]"

[Note; the historical section of Russia is provided in a separate memo for the U.S.S.R]."

There are also countries where courts alone determined the status of treaties in the domestic legal order. The answer to this question in the country memo for **Belgium**, for example, reads as follows:

***"Yes**. The constitution is silent on the status of international law in the domestic legal order. Yet, the Cour de cassation in 1971, in an important decision (Le Ski) held that treaties apply directly in the domestic legal system. Since then, Belgium has been a monist system and treaties automatically become part of domestic law without further implementation.*
History: Prior to the Le Ski ruling on May 27, 1971, Belgium was a dualist system and international law required domestic implementation prior to it being effective.[14]"

Another example is the **Netherlands**, where the 1983 Constitution establishes the superiority of international law, but where the monist regime originates in a 1919 Supreme Court Decision. The country memo for the Netherlands reads as follows:

***"Yes.** Article 93 of the 1983 Constitution notes that "treaty provisions and decisions by international organizations that, by their nature, are binding upon all persons shall have direct effect after they have been announced." Commentators commonly agree that this provision reflects a clear choice for a monistic system of international law, whereby treaty obligations work directly in the domestic legal order without a need for implementing legislation.[15]*

There exists some academic debate over whether the special status for treaties that "by their nature are binding upon all persons" (een ieder verbindend) excludes direct applicability of treaties that do not bind all persons (note that "binding upon all" means

[13] Butler 2009, at 446.

[14] Van Hoecke and Els 2001, at 36

[15] Vlemnix and Boekhorst 2000, at 456. See also Van der Schyff 2010, at 27.

that these treaties apply to all citizens rather than to the government only). While there would be a textual basis for such an interpretation, courts routinely ignore this phrase and also directly apply treaties that do not appear to be binding upon all. At the same time, there have also been a number of cases where courts did deny direct effect to treaties. Because courts have the discretion to invoke this doctrine, it is probably fair to say that there does exist an exception.

In addition, treaties that are binding upon all need to be announced before they work directly. The relevant procedures for the announcement requirements are stipulated in ordinary law.

History: The constitutional provisions dealing with treaties in the domestic legal order were first enshrined in the 1953 constitution. The monistic regime itself is older however, and has its origins in a 1919 Supreme Court decision Grenstractaat Aken (HR 25 mei 1906, W1906, 8383; HR 3 Maart 1919 NJ 1919, p. 371). In this case, the Supreme Court established that courts can apply treaties directly (het "jurisprudentiele monisme"). Prior to 1919, courts would not directly apply treaties unless they had been converted into domestic law. Thus, the monistic regime dates from 1919."

There are also some cases where the answer is less straightforward. One example is **Brazil**, where treaties need to be implemented, but this is done by executive degree rather than legislation. In fact, this feature of the Brazilian system has produced lively debate among Brazilian scholars over whether Brazil is a monist or a dualist country. We treat Brazil as monist for our purposes, since the promulgation by executive degree seems mostly a formality (like the publication requirements in other countries). The country memo for Brazil states the following:

"***Yes**. Treaties become part of domestic law through promulgation by executive decree; they do not require implementing legislation.*

The Constitution is not clear on the treatment to be given to international law in relation to regular Brazilian law. Due to the gap in the Constitution and the dualistic tradition of Brazilian legal system, the Supreme Federal Court (Supremo Tribunal Federal) requires that, after the ratification of an international treaty, the treaty is internally promulgated by an executive decree. The executive decree is emanated by the President, countersigned by the Minister of Foreign Affairs and accompanied by the text of the treaty.

There is no requirement that the treaty is transformed into legislation, only its promulgation by executive decree (published in the Official Gazette, along with the full content of the ratified treaty). Only after the executive decree has been promulgated will the treaty take effect in domestic law. The literature suggests that this rule derives from

art. 84, paragraph IV.[16] Although it is not mentioned by the Federal Constitution, the executive decree that internalizes the international treaty has the same status as ordinary legislation, which means that it can be repealed by subsequent federal ordinary statute.[17] The executive decree that gives entry into force to the international treaty within the Brazilian legal system (as well as the international treaty itself) can also, eventually, be subject to constitutional control by the Judiciary Branch.[18] Minority doctrine believes, however, that, due to the principle of immediate applicability of the defining standards of fundamental rights and guarantees (Constitution, art. 5, first paragraph), human rights treaties, once ratified, apply directly without need for implementation through executive degree.[19]

History: This has always been the case.

Under the Empire, the treaties were promulgated through Carta de Lei (that is, an act of the Executive Branch/Emperor). The subsequent republican constitutions gave the Executive Branch the power to conclude treaties with the National Congress' referendum (always the Chamber of Deputies and Senate). Practice and literature, since 1891, have argued that treaties are promulgated by an executive decree, without there being a need for implementing legislation."

Question 3*: If treaties automatically become part of domestic law, what is the relationship of treaties to ordinary statutes (superior, equal, inferior)?*

Usually, when the constitution mentions the status of international treaties in the domestic legal order, it also provides its status vis-à-vis ordinary statutes. This is the case in the aforementioned example of **Burkina Faso.** The Country memo on Burkina Faso simply states the following:

*"**Superior.** Article 151 clearly provides that treaties are superior to domestic statutes.*

History: This has not changed."

The same is the case for **Russia**, the memo for which reads as follows:

***Superior**, but only interstate treaties requiring legislative approval enjoy elevated status. All other treaties are inferior to ordinary statutes.*

[16] Brazilian Federal Constitution, 1988, art. 84 ("The President of the Republic has the exclusive powers to: IV - approve, promulgate and order publication of laws, as well as issue decrees and regulations for their faithful execution.")

[17] Supreme Federal Court, Extraordinary Appeal 80.004 (1977) ("Although the Geneva Convention (...) has applicability in the Brazilian domestic law, it does not override the laws of the country, elapsing from that the constitutionality and consequent validity of Decree-Law no. 427/69").

[18] Brazilian Federal Constitution, 1988, art. 102, III, b.

[19] Piovesan 2000, at 159.

The 1993 Constitution's treaty supremacy clause reads, "If an international treaty of the Russian Federation stipulates other rules than those stipulated by the law, the rules of the international treaty shall apply." (Article 15(4)). It should be noted that Article 15 is included in the first chapter of the Constitution, which contains the most basic and fundamental provisions of the constitution. The constitutional norms of Chapter I enjoy special status and cannot be changed by parliament; they can only be amended through a complicated special procedure.

The 1995 Law reiterates the constitutional position while failing to establish whether an international treaty must correspond to certain conditions to have priority over federal law.[20] In two decisions shortly after the passage of the 1995 Law, the Supreme Court of the Russian Federation clarified the status of treaties, recognizing that only treaties ratified by legislative approval have priority over federal laws.[21]

Intergovernmental and interdepartmental treaties approved by means other than federal legislative ratification rank lower than federal laws because they are adopted without legislative approval.[22] In a later decree, the Supreme Court explained the place of unratified treaties as follows: "If consent to a treaty was not given by way of the ratification in the form of a federal law, the treaty rules concerned have priority only with respect to subordinate normative-legal acts issued by the agency of state power that concluded said treaty."[23]

Some commentators have taken the position that the current treatment of intergovernmental and interdepartmental treaties as inferior to federal law is contrary to the treaty supremacy clause of the 1993 Constitution and is therefore unconstitutional.[24] Others have rebutted this view, asserting that the Constitutional Conference intended to include the limiting word "ratified" in Article 15(4) and that the provision should be interpreted as such. Regardless of the theoretical debate, there is great reluctance to extend supremacy over federal law to unratified treaties.[25]"

In other cases, the courts make a determination on this. For example, the country memo on **Belgium** states the following:

***"Superior.** In case of conflict with ordinary statutes, treaties are superior to ordinary statutes.[26] This was set down in ruling by the Cour de cassation in the Le Ski case in 1971.[27] The Court held that in case of conflict between a domestic law and a rule of*

[20] 1995 Law (Article 5(2). *See also* Tikhomirov 2011, at Section 2.

[21] Supreme Court Decision No. 5 (1995), Supreme Court Decision No. 8 (1995).

[22] Sloss 2009, at 40; Tikhomirov 2011, at Section 4.

[23] Supreme Court Decree No. 5 (2003).

[24] Butler 2009, at 428.

[25] Butler 2009, at 429.

[26] *See, also*, Court of Appeal, Gruyez and Rolland v. Municipality of Sint-Genesius-Rode, ILDC 51 (2003).

[27] Cass., 27 mai 1971, *Pas.,* 1971, p. 886.

international law having direct effect, the rule established by the treaty must prevail and that the primacy of treaty rules having direct effect results from the very nature of the international law of treaties.[28]

History: Prior to the Le Ski ruling, the view was that if a treaty was of a later date than an existing law, it replaced the latter in case of conflict since the three branches of the legislature had been involved in the approval procedure. On the contrary, if a treaty conflicted with a subsequently enacted law, the latter was to be given precedence.[29]*"*

The memo on **the Netherlands** states the following:

"Superior. *Article 94 of the Constitution of 1983 states that domestic statutes and laws shall not be applied when they conflict with treaties that are by their nature "binding upon all persons" or with the decisions of international organizations.*

Note that in the context of Article 94, the phrase "binding upon all persons" is more meaningful than in the context of Article 93. That is, courts do not typically set aside legislation when such legislation is incompatible with treaties that are not binding upon all persons. Complicated doctrinal rules—and a lot of academic confusion—surround the interpretation of this phrase in the context of Article 94. To illustrate, courts have held that first generation negative liberty rights, such as those enshrined in the International Covenant for Civil and Political Rights and the European Convention on Human Rights and Fundamental Freedoms, are directly binding upon all and can serve as the basis for judicial review, while positive socio-economic rights are not directly binding and cannot serve as the basis for judicial review.[30] *The details of the doctrine are beyond the scope of this report. But in a nutshell, if treaties do not bind all citizens, they cannot be used to set aside ordinary legislation. But when, exactly, a treaty sets aside ordinary legislation is a matter of substantial debate, and there appears to be no clear answer to this question.*

History: Treaties have always had a higher status than ordinary legislation. The judicial mandate to set aside legislation that contradicts treaties has its origins in the Constitution of 1953. Prior to 1953, it was clear that ordinary legislation should be put aside when in conflict with international treaty obligations. What was not clear, however, was whether the judicial branch or the legislative branch should be entrusted with this task. Probably the prevailing view was that this was the task of the legislature, and not the judiciary. In sum, treaties have always had a higher status than ordinary legislation; but prior to 1953 it was not for the courts to strike down legislation in case of a conflict."

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[28] *See also*, 12 Cass., 14 janv. 1976, *Pas.*, 1976, I, p. 538 ; Cass., 13 sept. 1984, *Pas.*, 1985, I, p. 65 ; Cass., 10 mai 1989, *Pas*, 1989, I, p. 948 ; Cass., 14 mars 1991, *Pas.*, 1991, I, p. 654.

[29] Cour de Cassation, November 26, 1925, Pas., 1926, I, at 76.

[30] Vlemnix and Boekhorst 2000, p.467.

Question *4: Is there a rule or presumption that domestic statutes (and/or other law) should be interpreted in conformity with obligations under ratified treaties?*

In some cases, the canon is consitutionalized. Consider the example of **South Africa**, the country memo for which states the following:

> *"**Yes.** Art. 233 of the constitution explicitly establishes the presumption of conformity as a constitutional rule: "When interpreting any legislation, every court must prefer any reasonable interpretation of the legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law."*
>
> *Art. 39(1)(b) further provides that, when interpreting the constitutional Bill of Rights, "a court, tribunal or forum … must consider international law."*
>
> *History: South African constitutions prior to 1997 did not expressly provide for a presumption of conformity. However, such a presumption was followed based on inherited English law principles. See, e.g., Malukele v. Minister of Internal Affairs, [1984] 3 S.A. 949 (S.W.A.) Thus, the answer was also "yes" in all prior periods.*
>
> *As to human rights, Art. 35(1) of the 1993 transitional constitution provided that in interpreting its bill of rights, courts shall "have regard to public international law applicable to the protection of the rights entrenched in this Chapter."*

In the majority of cases, however, answering this question requires an examination of judicial practices and/or secondary literature. As one example, consider the answer from **the Netherlands:**

> ***"Yes.** The Dutch judiciary has always had a doctrine of interpreting statutes in line with the constitution.[31] This doctrine predates the enactment of Article 94 (which mandates the judiciary to set aside legislation that contradicts international treaties.[32]*
>
> *History: this rule has existed ever since the Supreme Court determined that International Law applies directly in 1919."*

As another example, consider the answer to this question from the country memo on **Argentina:**

> *"The Supreme Court has made it clear in Ekmekdjian v. Sofovich (1992) and subsequent decisions that judicial review must pay attention to, and Courts are obliged to act as guardians of, the abidance by treaties and other international instruments validly entered into by Argentina. This trend was recently confirmed by the Supreme Court in Videla (2010) when affirming the nullification of presidential pardons (granted to former members of the military junta), in abidance by international law treaties and standards*

[31] *See for example* HR 21 maart 1986, *NJ* 1986, 585 (*Gezamenlijke ouderlijk macht voor ongehuwden*); HR 27 maart 2005, *NJ* 2005, 285 (*Ouderlijk gezag*).

[32] Vlemnix and Boekhorst 2002, at 465.

and Rodríguez Pereyra (2012), when dealing with compensation for damages suffered during the military regime.

Since the 1994 constitutional revision, which clarified that treaties are superior to legislation and in some cases have constitutional status, [33] the duty to legislate in conformity with the obligations assumed in international treaties is directly imposed by the Constitution (per Sections 27, 31, 75(22), 75(23) and (75(24)). After the 1994 revision, the Supreme Court confirmed in Giroldi (1995) the obligation of the different branches, including the courts when exercising judicial review, to conform legislation (either though interpretation or declaration of unconstitutionality) not only to international treaties but also to decisions by international tribunals created by them.

Indeed, the Argentine Supreme Court has, as of recently, paid deference to the decisions and interpretations of Human Rights treaties provided by the jurisdictional bodies created by those covenants (e.g. Inter-American Human Rights Court).[34] Nevertheless, advisory opinions (e.g. Inter-American Human Rights Commission), however relevant to inform exegetic efforts by courts or decision-making by the political branches of Government, are not mandatory."

There is sometimes some ambiguity on when exactly the canon was adopted. Based on this answer, for example, there is some ambiguity on whether the canon was adopted in 1992 (when the court first made reference to this) or in 1994, when a major constitutional amendment took place that elevated the status of international treaties. In this case, we decided to code the availability of the canon from 1994 onwards, as the 1992 decision was less explicit about the existence of the canon and 1994 also saw a major constitutional reform that elevated the status of international law.

[33] Since the amendment, article 75 (22) reads "To approve or reject treaties entered with other nations and with international organizations, and concordats with the Holy See. Treaties and concordats have higher standing than laws. The following [international instruments], under the conditions under which they are in force, stand on the same level as the Constitution, [but] do not repeal any article in the First Part of this Constitution, and must be understood as complementary of the rights and guarantees recognized therein: The American Declaration of the Rights and Duties of Man; the Universal Declaration of Human Rights; the American Convention on Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights and its Optional Protocol; the [International] Convention on the Prevention and Punishment of Genocide; the International Convention on the Elimination of all Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention Against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment; and the Convention on the Rights of the Child. They may only be denounced, if such is to be the case, by the National Executive Power, after prior approval by two thirds of the totality of the members of each Chamber. Other treaties and conventions on human rights, after being approved by Congress, shall require the vote of two-thirds of the totality of the members of each Chamber in order to enjoy standing on the same level as the Constitution."

[34] In accordance with the Convention itself (Article 62, paras. 1 and 3), the Supreme Court has even decided to ignore a previous ruling by an Argentine court favoring a defendant on the grounds of a statute of limitations (police involved in violation of human rights) to fully abide by a decision by the Inter American Court of Human Rights against Argentina on the same matter, even when such decision meant to ignore the equally recognized of the defendant under the statute of limitations. *See Espósito*, 2004.

The same problem is present for the former British colonies, which typically inherited the principle from English common law. For these countries, it is often difficult to determine when the courts started applying the principle. As a general rule, when there are cases where local courts are applying the canon, we will assume that this principle has been used since independence, since it was inherited from English law (if however, we found no evidence of the courts ever applying the canon, we will assume it is not used).

As an example, consider the country memo from the **Tanzania**, which reads:

> *"**Yes.** In Rufutu v. Director of Public Prosecutions, Misc. Civil Case No. 3 of 1990, the High Court stated:*
>
> *"[I]f there is any ambiguity or uncertainty in our law, then the courts can look at the international instruments as an aid to clear up the ambiguity and uncertainty seeking always to bring it into harmony with the international conventions."*
>
> *In other cases, Tanzanian courts have also used international human rights treaties to interpret provisions of the constitutional bill of rights."*[35]
>
> *History: This principle, inherited from English law, appears to have been applied since independence.*

In this case, we code the country as having had the canon from independence, since i) Tanzania inherited the principle from English law, ii) the 1990 High Court decision appears to state existing practice, and iii) the secondary literature suggests that this doctrine has always been in existence.

As another example, consider **Nigeria**. The Nigeria country memo reads:

> ***"Yes.** Nigerian courts follow the English law presumption that Parliament does not intend to breach the country's international obligations.*[36] *In Abacha v. Fawehinmi, the Supreme Court stated that "it is presumed that the legislature does not intend to breach an international obligation."*[37]
>
> *History: This principle, inherited from English law, has applied in Nigeria since independence."*

Similarly, the country memo for **Singapore** states that:

> ***"Yes.** Courts presume that Parliament intends domestic statutes to be interpreted in conformity with obligations under ratified treaties except in cases where the domestic statute clearly conflicts with international law. This was made clear in Public Prosecutor v Taw Cheng Kong [1998] 2 SLR 410 at 434 ("international comity", per Yong Pung How*

[35] Murungu 2011.

[36] Akinrinade 2011, at 455.

[37] See Mwapi 2011, at 59-62 for further discussion.

C.J.). Secondary sources confirm this interpretation.[38] What is more, Interpretation Act (Cap. 1) says that statutory interpretations can use "any material not forming part of the written law…capable in assisting the ascertainment of the meaning of the provision" (section 9A2)," including "any treaty or other international agreement that is referred to in the written law (section 9(A)(3)(e))."

When we found no evidence that courts ever applied the canon of interpretation, we coded the country as not having the canon. In some cases, however, this was less straightforward. Consider the example of **Thailand**, where there are some suggestions that there is such a canon by the country's Court of Appeal, but not the country's Supreme Court, and overall, there is not enough evidence that such a canon does exist.

> ***"No.** However, the Directive Principles of Fundamental State Policies located in the 2007 constitution, which were non-binding guidance for the state to follow in administering state affairs, suggested that the state should comply with treaties on human rights which Thailand is a party.[39] Unfortunately, the practical effect of this directive is, at best, unclear under that short-lived constitution and the current draft constitution does not include the same provision anymore.*
>
> *In addition, the Court of Appeal once held that a treaty shall be interpreted in good faith as stipulated in Vienna Convention on the Law of Treaties 1969.[40] But the extent to which this decision has any influence on Thai legal system should be limited due to the case being handed down by the Court of Appeal which generally does not create as much weigh as the one by the Supreme Court and there are now so far no cases following the same argumentation by the Supreme Court"*

[38] Tan 1979.

[39] *See* Article 82 of the 2007 Constitution.

[40] See Court of Appeal decision 2965/2538 (1995).

2. Availbility of Judicial Enforcement Mechanisms

The countries shaded in gray in Figure 1 below are those in which the canon of interpretation mechanism was available to domestic courts as of 2012. The countries shaded in gray in Figure 2 below are those in which the direct effect mechanism was available to domestic courts as of 2012.

Figure 1: Canon of Interpretation Mechanism - 2012

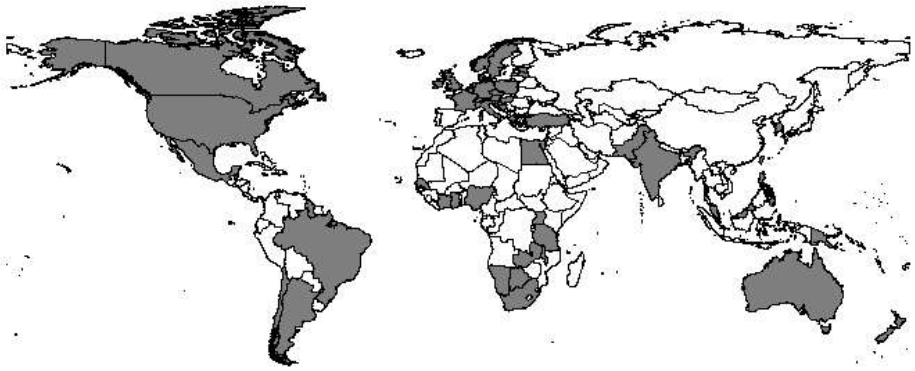
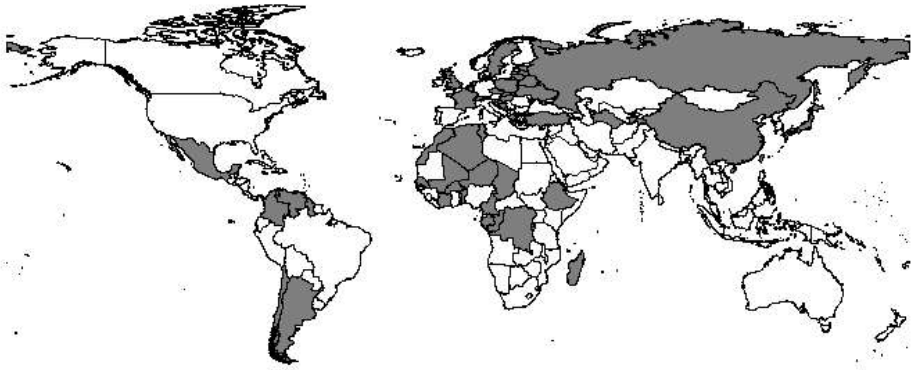


Figure 2: Direct Effect Mechanism - 2012



3. Estimating Treaty Commitment Preferences

This section provides additional information regarding the procedure used to create the TREATY COMMITMENT PREFERENCES measure. The methodology estimates the ideal points of states with respect to universal treaties by using the W-NOMINATE algorithm (Poole and Rosenthal 1997). In this measurement model, the options of committing and not committing to a treaty are represented by estimated points in an n-dimensional policy space. Each state is assumed to decide whether or not to commit to a treaty by, among other factors, considering the distance between these points and its ideal point in this space (i.e., the extent to which the treaty is close to the state's preferred policy). The probability of a particular state ratifying a particular treaty decreases as the distance between the state's ideal point and the treaty increases in the preference space.

We follow Lupu (2013) by using W-NOMINATE to estimate each state's probability of joining the ICCPR on an annual basis.[41] This measurement strategy estimates these probabilities based on states' revealed treaty commitment preferences. We do so by using a data set of membership in approximately 280 universal treaties. This data set includes all of the universal treaties included in the United Nations Treaty Collection (UNTC). The treaties cover a broad range of substantive areas, including arms control, immunity, human rights, transportation, the environment, and communications.[42] The data are coded "1" for country-years that have ratified a treaty and "0" otherwise. It should be noted that the sole purpose of this stage in the research design is to estimate ICCPT commitment probabilities as accurately as possible. As Lupu (2016) shows, including treaties that cover multiple policy areas improves model fit and generates more accurate predictions with respect to the joining of individual treaties. In other words, including treaties in the model that are not human rights treaties allows us to make more accurate predictions regarding ICCPR joining.

Using these data, we use W-NOMINATE to estimates the locations of states and treaties in a 2-dimensional preference space. The closer a treaty is to a state's ideal point, the more likely the state is to ratify the treaty. The probability that state *i* ratifies treaty *j* is calculated as follows:

$$P(Ratify)_{ij} = \frac{\exp[u_{ijr}]}{\exp[u_{ijr}] + \exp[u_{ijn}]}$$

where u_{ijr} is the deterministic component of the state's utility from ratifying the treaty, and u_{ijn} is the deterministic component of the state's utility from not ratifying the treaty (Poole and Rosenthal 1997). Thus, if two states are estimated to have similar probabilities of ratifying the ICCPR, this means the two states' ideal points are at similar distances from the ICCPR (although the ideal points may be at different locations). The results provide annual estimates of each

[41] This is not an estimate of a general propensity to ratify treaties, but an estimate of the propensity to ratify the ICCPR specifically.

[42] For further details, see Lupu (2016).

country's probability of ratifying the ICCPR. In the tables and text, we refer to this estimated probability of ICCPR ratification as TREATY COMMITMENT PREFERENCES.

4. Data Imputation

This section provides additional information regarding our imputation procedure. We did not impute values for our dependent variables and key independent variables (i.e., treaty ratification, Direct Effect, and Canon of Interpretation, and TREATY COMMITMENT PREFERENCES). In addition, values for CIVIL WAR and INTERNATIONAL WAR were available for all observations. Table 1 indicates the percentage of observation imputed for each variable. We constructed 5 imputed data sets. For each imputed observation, we used the mean of the 5 imputed values.

Table 1: Data Imputation Summary	
Variable	**Percentage of observations imputed**
Political and Civil Rights	0.0%
Freedom of Discussion	0.0%
Treaty Ratification	0.0%
Direct Effect	0.0%
Canon of Interpretation	0.0%
Treaty Commitment Preferences	0.0%
French Legal Origin	0.0%
German Legal Origin	0.0%
Scandinavian Legal Origin	0.0%
UK Legal Origin	0.0%
Polity	6.7%
Civil War	0.0%
International War	0.0%
Regime Durability	6.2%
INGOs	35.3%
Judicial Independence	0.5%
GDP Per Capita	8.2%
Population	6.6%

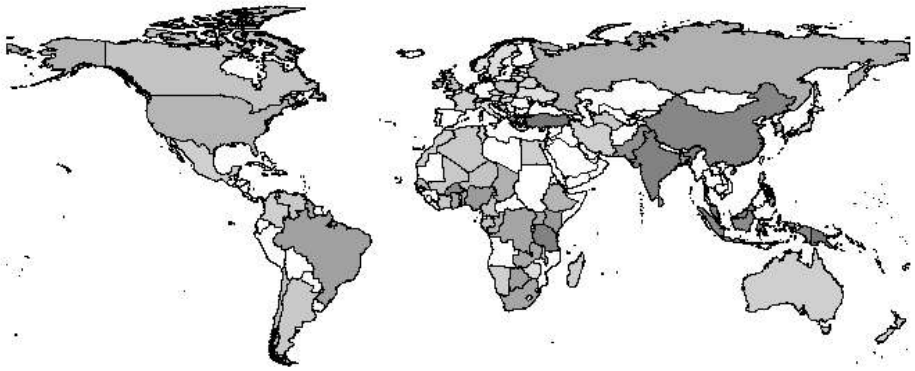
5. Matched Samples

This section provides additional information about the matched samples.

5.1 Maps

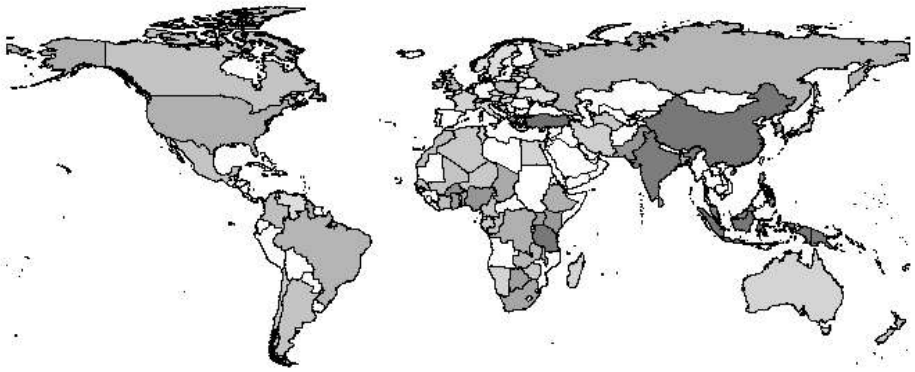
Figures 3-5 show the countries included in the matched samples. The darker the shade of gray in which a country appears, the greater the number of years in which it appears in the matched sample.

Figure 3: Countries Included in Matched Sample - Political and Civil Rights



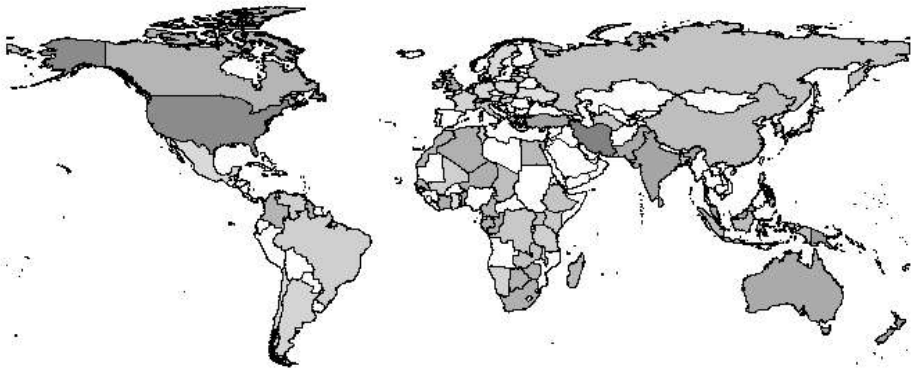
Countries shaded in darker gray appear in the matched sample in a greater number of years

Figure 4: Countries Included in Matched Sample - Discussion



Countries shaded in darker gray appear in the matched sample in a greater number of years

Figure 5: Countries Included in Matched Sample - Women's Political Empowerment



Countries shaded in darker gray appear in the matched sample in a greater number of years

5.2. Summary Statistics

Tables 2, 3, and 4 provide summary statistics for the matched samples.

Table 2: Summary Statistics – Political and Civil Rights

Variable	mean	sd	min	max
Political and Civil Rights	0.578	0.309	0.020	0.984
ICCPR Ratification	0.5	0.5	0	1
Canon of Interpretation	0.622	0.485	0	1
Canon of Interpretation * ICCPR Ratification	0.306	0.461	0	1
Direct Effect	0.308	0.4619	0	1
Direct Effect * ICCPR Ratification	0.164	0.37	0	1
French Legal Origin	0.423	0.494	0	1
Scandinavian Legal Origin	0.060	0.077	0	1
German Legal Origin	0.096	0.295	0	1
Polity	0.906	6.967	-9	10
Judicial Independence	0.445	0.285	-0.038	0.991
Regime Durability	24.963	31.291	0	195
Civil War	0.239	0.427	0	1
International War	0.0450	0.208	0	1
GDP per Capita (logged)	7.212	1.559	4.426	10.907
Population (logged)	16.820	1.651	13.502	20.995
INGOs	758.11	526.89	1	3127
Treaty Commitment Preferences	0.738	0.367	2.29e-08	1
Year	1992	7.089	1982	2007

Table 3: Summary Statistics – Freedom of Discussion				
Variable	**mean**	**sd**	**min**	**max**
Freedom of Discussion	0.6178	0.282	0.034	0.989
ICCPR Ratification	0.5	0.5	0	1
Canon of Interpretation	0.635	0.482	0	1
Canon of Interpretation * ICCPR Ratification	0.328	0.470	0	1
Direct Effect	0.307	0.462	0	1
Direct Effect * ICCPR Ratification	0.152	0.359	0	1
French Legal Origin	0.427	0.495	0	1
Scandinavian Legal Origin	0.009	0.095	0	1
German Legal Origin	0.096	0.294	0	1
Polity	0.986	6.9525	-9	10
Judicial Independence	0.454	0.288	-0.038	0.991
Regime Durability	25.581	32.539	0	198
Civil War	0.257	0.437	0	1
International War	0.0502	0.218	0	1
GDP per Capita (logged)	7.237	1.588	4.523	11.491
Population (logged)	16.873	1.687	13.501	20.995
INGOs	791.70	553.295	1	3017
Treaty Commitment Preferences	0.742	0.369	8.11e-08	1
Year	1992	6.981	1982	2007

Table 4: Summary Statistics – Women's Political Empowerment				
Variable	**mean**	**sd**	**min**	**max**
Freedom of Discussion	0.617	0.205	0.171	0.963
CEDAW Ratification	0.5	0.500	0	1
Canon of Interpretation	0.615	0.487	0	1
Canon of Interpretation * CEDAW Ratification	0.311	0.463	0	1
Direct Effect	0.323	0.468	0	1
Direct Effect * CEDAW Ratification	0.164	0.371	0	1
French Legal Origin	0.462	0.499	0	1
Scandinavian Legal Origin	0.008	0.087	0	1
German Legal Origin	0.074	0.261	0	1
Polity	1.585	7.367	-9	10
Judicial Independence	0.519	0.315	-0.079	0.991
Regime Durability	35.881	44.0250	0	198
Civil War	0.264	0.441	0	1
International War	0.0377	0.191	0	1
GDP per Capita (logged)	7.644	1.641	4.683	11.232
Population (logged)	16.601	1.571	13.501	20.820
INGOs	825.95	648.06	1	2985
Treaty Commitment Preferences	0.718	0.374	3.09e-08	1
Year	1989	5.795	1982	2007

6. Balance Statistics

Tables 5, 6, and 7 provide balance statistics for the matched samples. The column "Treatment Group Mean" provides the mean value among the country-years that are members of the applicable treaty. The column "Control Group Mean" provides the mean value among the country-years that are not treaty members. The column "% Improvement in Balance" provides the extent to which balance in the matched sample is improved compared to the full sample. The column "t-test difference p-value" provides the p-value based on a difference of means test comparing the treatment and control group. A p-value below 0.05 would suggest the two groups are significantly different from each other with respect to that variable, i.e., that some imbalance remains in the matched sample.

Table 5: Balance Statistics – Political and Civil Rights

	Treatment Group Mean	Control Group Mean	% Improvement in Balance	t-test Difference p-value
PROPENSITY SCORE	0.64	0.63	95.67	0.41
TREATY COMMITMENT PREFERENCES	0.76	0.75	94.97	0.61
CANON OF INTERPRETATION	0.65	0.65	93.97	0.93
DIRECT EFFECT	0.31	0.30	94.48	0.73
POLITY	1.57	0.77	81.79	0.14
JUDICIAL INDEPENDENCE	0.47	0.44	83.77	0.25
FRENCH LEGAL ORIGIN	0.41	0.42	92.70	0.81
SCANDINAVIAN LEGAL ORIGIN	0.02	0.00	61.77	0.01
GERMAN LEGAL ORIGIN	0.10	0.09	95.77	0.89
REGIME DURABILITY	25.46	24.50	84.33	0.70
CIVIL WAR	0.25	0.24	91.93	0.86
INTERNATIONAL WAR	0.05	0.06	85.23	0.73
GDP PER CAPITA (LOGGED)	7.24	7.27	96.99	0.84
POPULATION (LOGGED)	16.86	16.87	94.67	0.89
INGOS	792.53	760.46	91.78	0.44
YEAR	1992	1992	95.98	0.64
N	327	327		

Table 6: Balance Statistics – Freedom of Discussion

	Treatment Group Mean	Control Group Mean	% Improvement in Balance	t-test Difference p-value
Propensity Score	0.64	0.62	94.67	0.31
Treaty Commitment Preferences	0.78	0.74	87.32	0.20
Canon of Interpretation	0.66	0.63	34.47	0.37
Direct Effect	0.29	0.31	93.19	0.67
Polity	1.63	0.63	77.10	0.07
Judicial Independence	0.48	0.44	75.30	0.08
French Legal Origin	0.38	0.42	68.77	0.30
Scandinavian Legal Origin	0.01	0.00	74.82	0.05
German Legal Origin	0.11	0.10	91.65	0.80
Regime Durability	28.04	25.00	50.81	0.23
Civil War	0.28	0.25	56.15	0.33
International War	0.05	0.06	92.70	0.87
GDP per Capita (logged)	7.28	7.21	90.87	0.54
Population (logged)	16.93	16.92	97.42	0.95
INGOs	816.23	756.90	84.79	0.15
Year	1992	1992	93.86	0.48
N	331	331		

Table 7: Balance Statistics – Women's Political Empowerment

	Treatment Group Mean	Control Group Mean	% Improvement in Balance	t-test Difference p-value
Propensity Score	0.62	0.61	96.96	0.58
Treaty Commitment Preferences	0.74	0.69	86.74	0.13
Canon of Interpretation	0.60	0.61	-108.4	0.79
Direct Effect	0.33	0.34	95.56	0.85
Polity	1.90	1.86	98.34	0.94
Judicial Independence	0.53	0.53	94.76	0.93
French Legal Origin	0.49	0.46	-26.64	0.54
Scandinavian Legal Origin	0.01	0.00	83.06	0.32
German Legal Origin	0.08	0.08	88.99	0.63
Regime Durability	33.68	36.8	69.11	0.41
Civil War	0.31	0.25	31.57	0.12
International War	0.05	0.04	86.24	0.68
GDP per Capita (logged)	7.62	7.66	81.64	0.78
Population (logged)	16.60	16.62	61.30	0.87
INGOs	819.52	834.75	94.81	0.79
Year	1990	1989	96.72	0.56
N	265	265		

7. Regression Results

Table 8 sets forth the full results of our OLS models.

Table 8: OLS Models

	Political and Civil Rights	Freedom of Discussion	Women's Political Empowerment
Treaty Ratification	-0.0178	-0.0210	-0.00333
	(0.0149)	(0.0147)	(0.00423)
Canon of Interpretation	-0.0169	-0.0203	-0.000792
	(0.0169)	(0.0154)	(0.00444)
Canon of Interpretation * Treaty Ratification	0.0335*	0.0374**	0.00839*
	(0.0179)	(0.0173)	(0.00451)
Direct Effect	0.00652	-0.00855	0.000423
	(0.0130)	(0.0125)	(0.00510)
Direct Effect * Treaty Ratification	-0.00673	0.00534	-0.00453
	(0.0123)	(0.0148)	(0.00448)
French Legal Origin	0.00115	0.00345	0.00137
	(0.00769)	(0.00864)	(0.00452)
Scandinavian Legal Origin	-0.0286	-0.0244	-0.00602
	(0.0221)	(0.0178)	(0.00474)
German Legal Origin	-0.00577	0.0111	0.00406
	(0.0104)	(0.0130)	(0.00613)
Polity	0.00677***	0.00758***	0.000861*
	(0.00151)	(0.00158)	(0.000490)
Judicial Independence	-0.0453	-0.0783*	-0.00206
	(0.0303)	(0.0409)	(0.0235)
Regime Durability	-0.000215**	-0.000233**	-0.000102
	(0.000100)	(0.000117)	(8.09e-05)
Civil War	-0.0121*	-0.0184**	-0.0110***
	(0.00659)	(0.00844)	(0.00416)
International War	-0.0209**	-0.00974	-0.0106
	(0.00815)	(0.00750)	(0.00671)
GDP per Capita (logged)	-0.00171	-0.00133	-0.00105
	(0.00256)	(0.00308)	(0.00157)
Population (logged)	-0.00268	-0.00298	0.000806
	(0.00244)	(0.00226)	(0.000766)
INGOs	4.48e-06	7.31e-06	5.89e-06
	(9.32e-06)	(8.01e-06)	(4.43e-06)
Treaty Commitment Preferences	0.0174	0.00665	0.00395
	(0.0120)	(0.0133)	(0.00536)
Year	0.000125	0.000648	-2.87e-05
	(0.000460)	(0.000717)	(0.000365)
$Rights_{t-1}$	0.869***	0.876***	0.965***
	(0.0263)	(0.0278)	(0.0240)
Constant	-0.104	-1.120	0.0747
	(0.935)	(1.418)	(0.727)
Fixed Effects for Year	Yes	Yes	Yes
N	666	658	530
R^2	0.967	0.948	0.981

Robust standard errors in parentheses *** p<0.01, ** p<0.05, * p<0.1

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