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Does Electoral Proximity Influence Commitment to International Human Rights Law?

Nolan Ragland

Abstract:

The core international human rights treaties from the United Nations have been signed and ratified by varying groups of states, and much of previous research has been dominated by a desire to explain ratification of international human rights law (IHRL) through the democratic lock-in effect and states' economic and political ties to one another. In this paper, I seek to understand when states are ratifying IHRL, testing whether the presence of elections influences commitment to three of the nine core international human rights treaties: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), the International Convention for the Protection of All Persons from Enforced Disappearances (CPED), and the Convention on the Rights of Persons with Disabilities (CRPD). I find that elections do not influence the likelihood of states ratifying IHRL but that democracy is somewhat influential to explaining ratification and signature for the more recent treaties in CPED and CRPD. This work calls into question our understanding of the relationship between democracy and IHRL in the 21st century and contributes to the study of electoral proximity and international cooperation.

Introduction

In determining international cooperation on human rights concerns, international human rights law (IHRL) literature has paid much attention to the relationship between ratification of international human rights law and domestic factors in a country (Dai 2006). In this process, democracy is often utilized as a key variable by scholars to explain commitment to IHRL. It is widely recognized that democratizing states ratify international human rights legislation in attempts to “lock-in” democratic norms within a state (Moravcsik). In fact, democratizing states are more likely to join human rights organizations or treaties that have higher costs on state sovereignty to help ensure a long-term regime change (Hafner-Burton et al 2015). Additionally, democratizing states can join intergovernmental organizations with foreign policy goals of gaining credibility and demonstrating their commitment to democratic reform (Pevehouse). Accordingly, states in the process of democratization thus are seizing opportunities to bind themselves to international agreements or organizations that increase the likelihood of democracy and liberal values surviving past their administration. While democratizing states are likely to ratify universal IHRL to lock-in their regime change, the most autocratic states are also likely to ratify IHRL because of the lack of a domestic linkage in the state that would lead to the autocratic states upholding the agreements; similarly, autocratic states with competing democratic interests in a state are likely to ratify IHRL in order to appeal to the competing parties and somewhat satisfy their concerns apart from their actual repressive practices (Hafner-Burton et al 2008).

In addition to measures of democracy being used as methods of understanding when states commit to IHRL, the presence of democratic processes influence the likelihood of compliance due to the presence of domestic constituency mechanism wherein states have more

incentive to follow-up on any international commitments they make when legislatures consent to the international commitments (Dai 2005). Additionally, as states interact, interpret, and internalize international law, the transnational legal process can occur in some states with domestic acceptance and legitimization of international law (Koh). Furthermore, even when domestic executives in a state wish to abrogate on certain international commitments, the legal commitments made by a prior legislature and executive can still constrain their actions to an extent (Leeds et al). Therefore, democratic institutions and commitment to the rule of law can help explain why some states actually comply with the commitments they make to international human rights treaties. Thus, ratification cannot be explained as a result of democratizing states as many states ratify IHRL for a whole host of reasons, but the democratic “lock-in” effect does help scholars understand when governments may be more likely to both fully commit to international human rights law and stay in compliance with it in efforts to ensure international norms surrounding democracy and human rights stay secure past their administration.

Despite the focus on ratification of universal international human rights law in the literature and the democratic explanations for compliance and commitment in the domestic constituency mechanism and the democratic “lock-in” effect respectively, little research has been conducted on when states ratify IHRL, especially in relation with these dominating theories in the field. Across other fields of international cooperation like international environmental law, trade policy, and security policy, research has been conducted on the influence of elections in a country determining when the government ratifies a treaty or changes foreign policy. For example, in environmental law, researchers have found that governments in developed countries are less likely to ratify environmental treaties in the run-up to an election while governments in developing countries are more likely to ratify said treaties when an election is imminent (Cazals

and Saquet). Meanwhile, in security policy, studies demonstrate that leaders are likely to reduce the number of troops deployed in the lead-up to an election (Doeser) (Marinov et al). Finally, in trade policy, among post-communist states, liberalization in trade has been found to be more likely following elections (Frye and Mansfield). As far as I am aware, the use of electoral timing and proximity has not been conducted for international human rights law, which I will now focus on in this paper.

In this paper, I estimate the effects of the presence of elections on ratification and signature of IHRL. Despite the lack of focus on government signature of IHRL in the literature, I test for the effects of elections on not only ratification but also signature due to constraints on the executive to be able to ratify treaties prior to an election without the consent of the legislature (Henisz). As an executive is able to sign IHRL without legislative consent, signature is included in the dependent variables to probe the initial validity of my theory. My core argument is that the presence of elections in a country in any given year increases the likelihood of a country signing or ratifying any international human rights treaty, increased by the level of democracy in a country. This paper analyzes that central claim in a survival probit regression model to add to the greater conversation surrounding elections, democracy, human rights, and international law.

This paper contributes to the understanding of the relationship between democracy and commitment to international human rights law. Additionally, to the knowledge of this researcher, while electoral proximity has been used before to analyze international cooperation in the fields of environmental treaties, trade liberalization, and security policy, the use of elections to explain commitment for IHRL is new to the field of human rights. Although the process of democratization has been utilized to explain commitment to IHRL, democracy itself has not been used in combination with the presence of elections to help explain commitment to IHRL as this

paper does. While the ratification of international human rights treaties by states may not directly improve the human rights practices of that state, they can contribute to the establishment of human rights norms in the civil societies of those states (Hafner-Burton and Tsutsui) (Grugle and Peruzzotti). On a large scale, international human rights law (IHRL) matters because it can have an effect on states' human rights practices due to the role of international norms in affecting shaping the actions of states (Finnemore and Sikkink). Consequently, it is important to understand what causes both state commitment to and compliance with IHRL. Ultimately, this paper furthers the conversation about how democracy and IHRL interrelate with elections being used as a key, novel variable.

Theory

I argue that elections in a given year increase the likelihood of a state signing or ratifying an international human rights treaty. Although some other types of foreign policies like international trade policies and environmental law in developed countries have been shown to be influenced following an election, I expect commitment to IHRL to be positively impacted by the lead-up to an election in order to win support from domestic pressures that would favor adhering to the international human rights regime (Cazals and Sauquet) (Frye and Mansfield).

Hypothesis 1: In an election year, states are more likely to sign or ratify international human rights law.

Additionally, I expect elections' influence on ratification or signature to be influenced by the extent to which any given government has free and fair elections and thereby are accountable to their citizens. That is, countries with more free and fair elections would be more likely to ratify or sign IHRL in the year of an election in order to increase domestic support. My argument rests on the expectation that the public supports signature and ratification of IHRL or that at

least, governments believe that the public supports signature and ratification of IHRL and thus choose to enact those policies in order to build support (Dai 2005) (Koh).

Hypothesis 2: In an election year, states are more likely to sign or ratify international human rights law when the state is a stronger democracy.

Furthermore I theorize that elections will have a greater impact on likelihood for signature of IHRL as signature is easier for states to commit to and does not require the consent of the legislature in the way that ratification often does (Henisz). The measurement of states' signature of IHRL is relatively unique in the literature, so I expect signatures to behave similarly to ratification, just with less institutional barriers towards reaching the decision. Despite the expectation for ease with signatures, I still do expect that elections will have an impact on likelihood for ratification, just not to the extent that they would for signature.

To summarize my theory: I predict that the presence of elections in any given year will increase the likelihood of states signing and ratifying international human rights treaties. The presence of elections would be aided by the strength of a system of free and fair elections in any given country in terms of likelihood of signature or ratification. Finally, elections will have more of an effect on signature compared to ratification. Thus, the most influential observations would be elections explaining signature of IHRL with strong electoral systems while the least influential observations would be elections explaining ratification of IHRL with weak electoral systems.

Research Design

In this paper, I analyze the effects of elections and level of electoral democracy on signature and ratification of international human rights law, measuring the effects of the presence of elections and level of democracy on three major international human rights treaties.

Of the nine core international human rights treaties, I utilize the three international human rights treaties enacted since the end of the Cold War to test my theory: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), the International Convention for the Protection of All Persons from Enforced Disappearances (CPED), and the Convention on the Rights of Persons with Disabilities (CRPD). Since these treaties were adopted following the fall of the Soviet Union, they were not subject to Cold War-era politics surrounding human rights treaties and thereby serve as more useful case studies for the effects of elections on ratification of IHRL (Wotipka and Tsutsui). I collected data from the UN Office of the High Commissioner for Human Rights' (OHCHR) dashboard. For each treaty, a probit regression survival model was conducted from the year of the adoption of the treaty in the United Nations General Assembly until 2020 using both the year of signature and year of ratification for each country in each treaty. Discrete variables were created for whether a country had signed or ratified a treaty in each given year. Once a country signed or ratified a treaty, it was removed from the sample each respectively. I analyzed all countries for these three treaties with the following number of state signatures and ratifications respectively: 38 signatures and 27 ratifications for ICMW, 91 signatures and 48 ratifications for CPED, and 144 signatures and 137 ratifications for CRPD. Thus, results from the ICMW were analyzed from 1990 to 2020 while results from CPED and CRPD were analyzed from 2006 to 2020.

I utilized the presence of elections and level of democracy as independent variables to explain signature and ratification of IHRL. I accessed the National Elections Across Democracies and Autocracies (NELDA) database to find all elections that have taken place across countries from 1990-2020. Like the IHRL treaties, I created a discrete variable for whether an election occurred in any given year for each country. In robustness checks, I also

separated the analysis as to whether an election was for an executive or legislature to see if the type of election had an impact on whether a signature or ratification for a treaty in any year would occur. Further, in my robustness checks, I changed the unit of analysis from elections on the year level to the three months prior to an election to ensure ratifications and signatures occur before elections in a given year in my analysis. I measured level of democracy using V-Dem's electoral democracy continuous measure from 0 to 1, focusing on how free and fair elections are in addition to the independence and freedoms for the media and civil society. I used the electoral democracy index specifically in order to demonstrate the relationship between how open electoral systems are and the presence of elections in general on ratification and signature of IHRL. Given the dichotomous nature of the independent variable, I estimated a probit regression with a time polynomial of years, years squared, and years cubed until the year in which the state signed or ratified each agreement respectively. Therefore, I established a dataset where the unit of analysis was country-year and the sample extended from the time each treaty was open (1990 for ICMW and 2006 for CPED and CRPD) until 2020. I clustered all of the results and standard errors by country.

I included several additional independent variables as confounders to help address the relationship between democracy and elections with signature and ratification of international human rights treaties. I incorporated GDP per capita as measured by the World Bank in the model to assess the effects of economic development on ratification and signature of IHRL. I included Henisz's Political Constraints Index, which is a continuous variable from 0 to 1 from 1990 to 2017, as it measures the difficulties of policy change for the executive in each country in order to account for the difficulties of an executive in each country being able to sign or ratify a human rights treaty (Henisz). This variable is important to understand to what extent the

executive is independent to make the decisions of signature or even ratification in the lead-up to each election. I used Goeman’s Archigos dataset to make a discrete variable for whether a new leader had been instituted in a state in any given year to account for the effects of a new regime in any given year in desires to ratify or sign IHRL (Goeman et al). Finally, I created a variable using V-Dem’s database to measure the move in electoral democracy from every five years to the present year to help control for the effects of democratic “lock-in” as discussed earlier in the paper.

Analysis

In the first set of models in Table 1, I analyzed the effects of the presence of elections in a given year and electoral democracy on the signature of international human rights law, theorizing that signature would be more likely to be singlehandedly influenced by an election due to the ability for the executive to sign without legislative consent.

Table 1: Probit Regression Model on Signature for Elections and Democracy for All Treaties

	Model 1: <i>CPED</i>	Model 2: <i>CRPD</i>	Model 3: <i>ICMW</i>
	Coefficient (Standard Error)	Coefficient (Standard Error)	Coefficient (Standard Error)
Election	0.118 (0.300)	0.153 (0.253)	0.031 (0.294)
Democracy	1.258* (0.252)	1.089* (0.243)	-0.105 (0.256)
Interaction	-0.223 (0.477)	-0.212 (0.438)	-0.018 (0.508)

*p < 0.05

errors clustered by country

After estimating the first set of models, only electoral democracy was found to be statistically significant in predicting likelihood of signature for CPED and CRPD. Electoral democracy has a positive relationship with likelihood of signing for both CPED and CRPD with effect sizes of 1.258 and 1.089 respectively, suggesting that democracy itself, not elections,

increases likelihood of signature for IHRL in the twenty-first century. Meanwhile, none of the variables were found to be statistically significant for ICMW. Models for survival probit regression models were then estimated on ratification for all three treaties.

Table 2: Probit Regression Model on Ratification for Elections and Democracy for All Treaties

	Model 4: <i>CPED</i>	Model 5: <i>CRPD</i>	Model 6: <i>ICMW</i>
	Coefficient (Standard Error)	Coefficient (Standard Error)	Coefficient (Standard Error)
Election	-0.121 (0.443)	-0.466 (0.268)	0.353 (.3323379)
Democracy	1.292* (0.313)	0.480 (0.214)	0.365 (0.317)
Interaction	-0.034 (0.633)	0.708 (0.422)	-0.405 (0.553)

* $p < 0.05$

errors clustered by country

By and large, the results for election and electoral democracy's impacts on ratification for the three treaties mirrored the results of signature. One key difference was the lack of statistical significance for electoral democracy's impact for ratification of the CRPD, implying there is a key difference in the relationship between electoral democracy and ratification or signature for the treaty. However, the relationship between electoral democracy and ratification of CPED was found to still be statistically significant and similar to the positive relationship between electoral democracy and signature for the treaty with an effect size of 1.292, very similar to the effect size of 1.258 found for signature of CPED. Following these results, confounders for leadership change, political constraints on the executive, democratization, and GDP per Capita were implemented for analysis of both signature and ratification of the three treaties.

Table 3: Probit Regression Model on Signature with Confounders for All Treaties

	Model 7: <i>CPED</i>	Model 8: <i>CRPD</i>	Model 9: <i>ICMW</i>
	Coefficient (Standard Error)	Coefficient (Standard Error)	Coefficient (Standard Error)
Election	0.043 (0.140)	0.101 (0.136)	-0.058 (0.158)
Democracy	0.974 (0.357)	1.298* (0.435)	0.485 (0.398)
New Leader	-0.312 (0.188)	-0.196 (0.221)	-0.181 (0.212)
Political Constraints Index	0.512 (0.429)	0.399 (0.399)	0.031 (0.369)
5 Year Change in Democracy	0.843 (0.916)	-1.126 (0.701)	0.500 (0.505)
GDP per Capita	-7.05e-07 (3.53e-06)	3.02e-06 (5.12e-06)	-7.87e-5* (2.84e-5)

*p < 0.05

errors clustered by country

Table 4: Probit Regression Model on Ratification with Confounders for All Treaties

	Model 10: <i>CPED</i>	Model 11: <i>CRPD</i>	Model 12: <i>ICMW</i>
	Coefficient (Standard Error)	Coefficient (Standard Error)	Coefficient (Standard Error)
Election	-0.075 (0.146)	-0.075 (0.115)	0.353 (0.166)
Democracy	1.763* (0.398)	0.795 (0.321)	0.792 (0.450)
New Leader	-0.099 (0.194)	0.008 (0.157)	-0.389 (0.265)
Political Constraints Index	-0.313 (0.443)	0.368 (0.332)	0.903 (0.332)
5 Year Change in Democracy	0.199 (0.833)	-1.135 (0.744)	0.877 (0.596)
GDP per Capita	-7.58e-06 (3.90e-06)	-5.47e-06 (3.37e-06)	-6.59e-5* (1.94e-5)

*p < 0.05

errors clustered by country

The inclusion of confounders left the results for ICMW nearly without statistical significance except for the relationship between GDP per Capita and signature as well as

ratification of the treaty, but the incredibly weak nature of the relationship and leaves the result with little practical significance. The relationship between electoral democracy and signature of CRPD did achieve statistical significance with a positive relationship as it did without confounders, this time with an effect size of only 1.298, but like the model without confounders, the relationship between electoral democracy and ratification for CRPD was found to have no statistical significance. Conversely, the relationship between electoral democracy and ratification of CPED was found to be statistically significant with a positive relationship that has an effect size of 1.763 while the relationship between electoral democracy and signature of CPED lacked statistical significance.

Additional Analyses

Additional robustness checks were then estimated on the data for the interactions between democracy and both executive and legislative elections respectively with time polynomials. Further models with time polynomials were estimated using the effect of the interactions between the presence of a new leader in a given year and an election, political constraints on the executive and elections, democratization and elections, and the presence of a new leader and democratization, clustering for country-year. Additionally, the same models estimated in the analysis section were estimated using election-month for each of the three months leading up to an election as the unit of analysis, but those election-month variables were omitted from the models when estimated due to them either predicting failure perfectly or possessing too few values. All of these results lacked statistical significance for their effects on likelihood of signature and ratification of each of the international human rights treaties analyzed.

Discussion and Conclusion

While the results demonstrate that elections do not matter for the signature or the ratification of CPED, CRPD, and ICMW, further attention could be paid to the effect of elections on other human rights agreements. The issues of the rights of migrant workers, the disabled, and from enforced disappearances may just not be as relevant in the domestic politics of many countries prior to an election, making it less of an influential tool to wield domestically in the run-up to an election. Further agreements like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) or Convention Against Torture (CAT) could be good next steps to investigate the effects of elections on other types of human rights issue treaties. Furthermore, although the use of CPED, CRPD, and ICMW as dependent variables need to be studied more due to the relative lack of use of them in the literature, their results as explained by elections are more limited because of the lack of time they have actively been available for ratification and signature. Analysis of other agreements that states have had a longer opportunity to ratify and sign would be beneficial to test the theory further since more elections and thus opportunities to see the theory in action could be demonstrated. Added to that, some executives could be more likely than others to ratify and sign IHRL in order to boost electoral support prior to an election. Further attention could be paid to differences between left-leaning executives and right-leaning executives in their likelihood of committing to IHRL in the year of an election.

Despite the limitations of the study, the finding of democracy itself influencing the likelihood of ratification and signature for the CRPD and CPED to varying extents contradicts previous ideas of democratization as a process influencing states' motivations to ratify and sign international human rights agreements (Pevehouse) (Hafner-Burton et al 2015). Since the variable for five year change in democratic did not yield any statistical significance in any of the

models, perhaps the democratic “lock-in” effect does not have the same results in recent years as it did during the Cold War. This study suggests that democracy itself could be a predictor of commitment to some of IHRL, questioning previous explanations made about the two. This study also argues against claims made that commitment to IHRL can be predicted by the lack of states’ desires to be bound by it and that there is thus an inverse relationship between democracy and commitment to IHRL (Hathaway) (Von Stein). Since few studies have investigated modern human rights treaties like the CRPD, future scholars should compare the relationship between democracy and ratification of international human rights law across time periods to understand differences from before and after the Cold War.

Therefore, this study contributes to existing literature in its operationalization of the democracy in the form of elections and its finding of democracy as an independent variable influencing ratification and signature of the CRPD and the CPED to varying extents. Also, this study contributes to the understanding of electoral timing to predict international cooperation. As previous studies demonstrated success in elections predicting cooperation on international trade and environmental agreements in addition to less aggressive security policies, the lack of significance for electoral proximity for ratification and signature of international human rights treaties demonstrates a difference between the types of international cooperation (Pervez) (Marinov et al). Perhaps elections have less of an effect on commitment to international human rights treaties as a result of their lack of direct effect on the public when compared to trade, environmental, and security policies. Further studies could investigate the difference between electoral significance for different types of international agreements and foreign policy decisions during the same time period to add to this understanding of certain foreign policy choices being influenced by elections. Ultimately, this paper serves as a beginning step to operationalizing the

relationship between democracy in action and the broader international human rights regime, questioning whether politicians believe voters care about commitment to broader human rights ideals in the post-Cold War era and will act on those beliefs in hopes to secure new votes.

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