NORMS AND RIGHTS:
A NON-RECURSIVE MODEL OF HUMAN RIGHTS PROTECTION

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Abstract

Drawing on theories from international relations, international law, and comparative politics, this paper tests the relationship between international human rights norms and human rights protection. Using a cross-national time series data set for 169 countries over the period 1976-2000, the paper explores the temporal and spatial patterns in the growth in the international human rights regime and the protection of human rights, and then models their mutual relationship using non-recursive estimation techniques, while controlling for the influences of democracy, wealth, international interdependence, warfare, population size, and regional differences. The results of the analysis show three things. First, the norms-rights relationship between the International Covenant of Civil and Political Rights and the protection of civil and political rights is statistically significant and stronger than for the rights-norms relationship. Second, democracy, wealth, and international interdependence help explain both treaty ratification and greater protection of human rights. Third, the norms rights relationship is less strong for Latin America, Africa, Asia and the Pacific. Overall, the findings suggest that formal participation in the international regime of human rights complements patterns of development, democratisation, and global interdependence, all of which are related to a greater protection of human rights.
Introduction

The turn of the new century offers an opportunity for reflection and critical assessment of both the achievements and setbacks in the global human rights project. The post-World War II era has seen the establishment and subsequent growth in the international law of human rights, the turn away from authoritarianism with the global spread of democratic forms of rule, and an increasing number of international interventions carried out on behalf of human rights. The international law of human rights includes major international and regional treaties, institutions, and organisations. By the year 2000, between 95 and 191 countries have become signatories to the main international legal instruments, which many have argued comprise an international ‘regime’ for the promotion and protection of human rights (Henkin 1979; Donnelly 1989; Hathaway 2002). This regime has grown both in breadth and depth as new categories of human rights have been given express legal protection, while an increasing number of countries have formally committed themselves to the human rights norms and values originally found in the 1948 UN Declaration. Similar such regimes have been established in Europe, the Americas, and Africa.

Alongside this evolution in the international law of human rights, the world has seen a dramatic turn away from authoritarian forms of rule to nascent forms of democracy. Since the Portuguese transition to democracy in 1974, the global spread and pace of democratisation has meant that over 60% of the world is now at least nominally democratic (Diamond 1999). Global comparative studies on the tangible benefits of democratic rule demonstrate a decrease in international violent conflict (see Russet and O’Neal 2001), lower levels of violation in personal integrity rights (Poe and Tate 1994, Poe, Tate, and Keith 1999; Zanger 2000), and levels of economic development and performance that are no worse than those found under authoritarian regimes (Ersson and Lane 1996; Przeworski, Alvarez, Cheibub, and Limongi 2000).

In addition to the development of human rights law and processes of democratisation, the world has witnessed an increasing number of foreign interventions carried out ostensibly on behalf of human rights or humanitarian grounds such as those in East Timor and Kosovo. Moreover, the tradition of human rights tribunals first established
in Nuremberg has been renewed with tribunals for Rwanda and the former Yugoslavia. Variants of such tribunals have appeared at the domestic level with the formation of numerous truth and reconciliation commissions (TRCs) in Latin America, Africa, and Eastern Europe whose remit has been to collect information on past crimes against humanity and to offer some form of reconciliation to deeply torn societies (De Brito 1997; Roniger and Sznajder 1999; Hayner 1994, 2002). This proliferation of tribunals has culminated in the establishment of the International Criminal Court (ICC), a process that has been described as the international ‘institutionalisation of criminal liability’ (Falk 2000: 4).

Scholars and commentators have thus argued by the turn of this Century the world has entered the ‘age of rights’ (Bobbio 1996), experienced a ‘juridical revolution’ (Ignatieff 2001); a process of international ‘legalization’ (Abbott et al. 2000) and ‘judicialization’ (Stone Sweet 1999) in which rights have established the normative framework for ‘human conduct in the world of states’ (Jackson 2000). Taken together, this development of international and regional human rights systems, coupled with democratisation and ethically oriented foreign relations suggests that nation states formally participating in the international legal mechanisms for human rights protection are increasingly embedded into larger institutional structures that seek to constrain and limit state behaviour in order to protect the sanctity of individuals and certain collectivities.¹ Even those states that have not signed or ratified the various human rights instruments find themselves under increased international pressure from intergovernmental and non-governmental organizations to join these regimes and to change their practices to make them conform to the normative global expectations that adhere to human rights values (see, e.g. Risse, Ropp, and Sikkink 1999; Welch 2001).

These developments may lead to the sanguine conclusion that human rights have finally triumphed and now provide the normative framework for the future of global

¹ By certain collectivities, I refer to the various ways in which minority rights have become increasingly protected, for example, by the 1957 International Labour Organisation Convention No. 107 on the Protection of Indigenous and other Tribal and semi-Tribal Populations in Independent Countries, the 1989 ILO Convention No. 169 on Indigenous and Tribal peoples, and the 1992 UN Declaration on the Rights of Minorities (Philips 1997: viii-xiii). Such protection means that certain groups in society (typically non-dominant and numerically small) have special protections against majority incursions in areas such as education, health, employment, language, and religion.
politics, echoing earlier claims about the ‘end of ideology’ (Bell 1960) and the ‘end of history’ (Fukuyama 1992). In contrast to such a rosy assessment, others suggest that the rights agenda is certainly on the table but that it has ‘yet to realize the rudiments of its full political potential’ (Foweraker and Landman 1997: 243), and that we have witnessed the ‘precarious triumph of human rights’ (Reiff 1999). It is a triumph since even the most optimistic observers in 1948 could not have imagined the subsequent growth and influence of human rights discourse and doctrine. But it is precarious since these same achievements can easily be reversed, where politics and power have shaped the different ways in which such gains have been achieved. Moreover, the world is still a place in which ‘there are more countries … where fundamental rights and civil liberties are regularly violated than countries where they are effectively protected’ (Robertson and Merrills 1996: 2).

In 1990, Amnesty International noted that out of 179 UN member states, 104 states had committed acts of torture against their citizens, while in their 2002 report, 111 out of 194 member states continue such practices (Amnesty International 1990; Amnesty International 2002). These numbers indicate only a one percent drop in the number of states practicing torture (58 percent in 1990 and 57 percent in 2002) over the last decade of the 20th Century. Additional data on human rights protection shows that in 1985, 35% of all countries score ‘6’ or higher on the Freedom House scale for civil liberties (range of 1 to 7), 12-13% score a ‘4’ or higher on the ‘political terror scale’ (range of 1 to 5) for both Amnesty and State Department coding sources (Poe and Tate 1994; Poe, Tate, and Keith 1999), and 22% score a ‘4’ or higher on a scale of torture (range 1 to 5) (Hathaway 2002). These scores on the various scales are all at the high end, which depicts a consistent and regular violation of the rights measured by each. By 1993, the percentage of countries with such scores increased dramatically to 42% with a score of ‘6’ or higher on the Freedom House scale for civil liberties, 31% with a score of ‘4’ or higher on the political terror scale, and 39% with a score of ‘4’ or higher on a scale of torture.

There is thus a significant and persistent gap between rights in principle (i.e. those formally protected by international law) and rights in practice (i.e. those rights actually protected by states and enjoyed by individuals and groups) (Foweraker and
This paper is concerned precisely with this significant and persistent gap between principle and practice in human rights protection. Such a gap suggests that there has thus far been an unfilled expectation that the growth and sophistication in the international regime of human rights will lead to a greater protection of human rights. The fact that rights protection continues to be precarious despite the increasing participation of states in the various systems for their protection raises two fundamental questions for empirical research: (1) what explains the growth of the international law of human rights and (2) what is the nature of the relationship between the international law of human rights and the actual protection of human rights?

To begin addressing these questions, this paper is divided into four parts. First, it examines a certain convergence in the theories of public international law, international relations, and comparative politics around the general topic of regimes, and makes specific reference to the human rights regime. It shows that legal-proceduralism, neo-liberal institutionalism, liberal-republicanism, and new institutionalism have similar concerns over how principles, legal norms, and institutions both facilitate and constrain state behaviour. This convergence in thinking raises expectations for the impact of international institutions on state behaviour in areas such as trade, finance, and environmental protection, while human rights scholars suggest that such expectations may equally apply to the international human rights regime (Keith 1999; Hathaway 2002).

Second, the paper uses the analytical categories and variables drawn from these three areas of theory to specify a preliminary empirical model that depicts the complex relationship between the international law of human rights and the protection of human rights. The model includes treaty and rights variables and identifies independent variables that may modulate the relationship in important and significant ways, including democracy, wealth, interdependence, involvement in international and domestic conflict, population size and regional differentiation. Third, it estimates the model for one international human rights treaty and five separate measures of human rights protection using two-staged least squares regression with instrumental

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2 In the language of international lawyers, this gap exists between the de jure protection and de facto realisation of human rights.
variables. Fourth, it discusses the findings in light of the substantive issues raised in the first part of the paper. The results of the analysis show a statistically significant relationship between norms and rights for three out of the five human rights measures, which is stronger than for the relationship between rights and norms. The norms-rights relationship, however, must be seen as a function of larger processes of democratisation, economic wealth, and global interdependence.

Part I: A Nexus for Empirical Theories

Human rights provide an important nexus for empirical theories of law, politics and international relations. Public international lawyers speak of the problems of compliance and implementation (Chayes and Chayes 1993; Slaughter-Burley 1993; Higgins 1994; Koh 1997; Hathaway 2002). International relations scholars speak of problems of regime creation, effectiveness and enforcement (Keohane 1984; Rittberger 1997; Young 1992; 1999). Comparativists focus on the ways in which differences across domestic systems of governance have an impact on regime participation and rights protection (Moravcsik 1997, 2000; Poe and Tate 1994; Keith 1999; Landman 2002, 2003; Donnelly 1986; 1999), as well as the linkages between international politics, domestic politics and transnational non-state actors (Keck and Sikkink 1998; Risse, Ropp, and Sikkink 1999).

Traditionally, these three families of theory and research have had very little to do with each other (Raustialia and Slaughter 2000). But since the 1980s there appears to have been a convergence of work around the general topic of regimes to examine the degree to which international law, norms, and principles shape state behaviour. The consideration of human rights has increasingly been included in regime analysis, a process that has brought international law and international relations closer together (see Donnelly 1986; Keith 1999; Krasner 1997; 1999; Hathaway 2002; Schmitz and Sikkink 2002). These concerns at the international level have also transcended the study of domestic forms of state-citizen relations, the traditional domain of comparative politics. Certain strands of international relations theory focus on domestic actors, collective domestic preferences, and national institutional arrangements influence international action (Henkin 1979: 60-68; Putnam 1993; Moravcsik 1997; 2000; Slaughter Burley 1993: 227-228). Thus the ‘double
convergence’ of theoretical concerns at the international and domestic levels of analysis around the topic of human rights demonstrates a growing interest in the ways in which the promotion and protection of human dignity can be analysed empirically.

*International Law and International Relations*

International law and international relations have long been concerned with the ways in which states interact with one another, and both fields have traditionally built their theories on the twin assumptions of state sovereignty and non-intervention, most notably embodied in the 1648 Treaty of Westphalia. Both the modern state system and international law have developed dramatically since the end of the Thirty Years War, where international law moved from 'natural' foundations to 'positive' foundations (Slaughter-Burley 1993: 207-220; Koh 1997: 2603-2614) addressing an ever-increasing variety of issue areas. Similarly, international relations theory evolved from a dominance of ethical and normative perspectives on the conduct of states to those that are increasingly empirical and positivist (Boucher 1998; Schmidt 2002). For much of the post-World War II era there has been a natural tension between international law represented by the legal positivists on the one hand and international relations represented by the realists on the other.

Legal positivists focus on the ‘neutral’ function of international law as it is meant to be applied to problem areas devoid of any considerations of the nature of power differences between states or of the international system more generally (e.g. Austin 1975 [1954]; Kelsen 1949). This could be labelled the ‘law without power’ perspective. In contrast, realist theories of international relations, built on the assumption of states as unitary rational actors, play down the importance of international law and relegate it to something that is merely ‘epiphenomenal’. Realists argue that the structure of power between and among states as they maximise their preferences is the key determinant of political outcomes (e.g. Kennan 1951; Morgenthau 1961; Waltz 1979; Schmitz and Sikkink 2000; Donnelly 2000). This could be labelled the ‘power without law’ perspective.³

³ Kennan (1951: 95-99) argues that international law rests on ‘the belief that it should be possible to suppress the chaotic and dangerous aspirations of governments in the international field by the acceptance of some system of legal rules and restraints…[and that such a] legalistic approach to international relations is faulty in its assumptions concerning the possibility of sanctions against offenses and violations…’ In similar fashion, Morgenthau (1958: 73) has an equal disdain for legalistic
These two perspectives represent extreme ends of a broad continuum of scholarship on international law and international relations produced during the 1960-1989 period, which Slaughter-Burley (1993: 207) has deigned the ‘polarity of law and power’. Along the continuum, the Yale and Columbia schools of international law offered alternative perspectives that emphasised the importance of international community and the formality of norms on the one hand, and sovereign autonomy and informality of norms on the other (Kennedy 2000: 117-120). This legal scholarship gave way to new forms of 'legal pragmatism' and 'legal proceduralism' during the 1990s, both of which temper the neutral understanding of law by focusing on the 'interplay between rules and social process in enunciating the law' (Koh 1997: 2618). Legal pragmatists concede that power and ideology not only influence law, but that law itself is a **continuing process** of authoritative decisions (Higgins 1968: 58-59 in Higgins 1994: 2, emphasis mine; see also Slaughter-Burley 1993: 209-214), where any conception of law which ‘banishes power to the outer darkness’ is pure ‘fantasy’ and that ‘[t]he authority which characterizes law exists not in a vacuum, but exactly where it intersects with power’ (Higgins 1994: 4).

Within international relations, there has been a similar set of moves away from extreme realism to include the consideration of how power interacts with law, norms, principles and institutions more generally. Hegemonic stability theory concedes that certain norms over time become important but that ultimately the enforcement of international law depends on the existence, willingness, and capacity of powerful (or hegemonic) states. In this view, ‘[r]egime creation and maintenance are a function of the distribution of power and interests among states’ (Krasner 1997: 140). For example, in comparing regimes on religious practices in the seventeenth century, slavery in the nineteenth century, minority rights in Central Europe in the late nineteenth and early twentieth centuries, and individual rights in the late twentieth century, Krasner (1997: 141) shows that the variance in regime success depends very much on the ‘capabilities and commitment of those states that supported each of these regimes.’ Indeed, he contends that the abolition of slavery would not have been possible without the vigorous monitoring and enforcement of the regime by the major

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approaches to international relations whose 'common denominator … is the substitution for the national interest of an assumed supranational standard of action…’ (see Henkin 1979: 322-323; 330).
European powers, especially Britain (Krasner 1997: 143-144; 152-155). This perspective thus moves slightly away from ‘power without law’ to one of ‘law, but only with dominant power(s) willing to enforce it’.

Neo-liberal institutionalists move further away from hegemonic stability theorists and argue that ‘post-hegemonic’ forms of international cooperation are possible. Such a perspective focuses on how institutions emerge from state interest and then attenuate the power relations between and among states. In After Hegemony, Keohane (1984:8) argues that rational states will cooperate out of self-interest, even though such cooperation will not always prevail. But interests are malleable and the increased interdependence of states creates incentives for cooperation. The mutual advantage and reciprocity that emerge from international co-operation (e.g. lower transaction costs, access to information, expectations of behaviour) explains why states would enter into international agreements. And unlike hegemonic stability theory, stable cooperation 'equilibria' are possible without the presence of a dominant enforcer. This perspective comes very close to legal-proceduralism outlined above since it too focuses on the ways in which mutual benefit and reciprocity provide the conditions under which otherwise self-interested states would cooperate with each other.

This convergence around the relationship between law and power has been further addressed by ‘constructivist’ approaches in international relations, which occupy a partly middle and partly lateral position to realist and legal-positivist perspectives. In contrast to accepting law or power as given, constructivists focus their attention on the ways in which law and power as well as the agents or 'subjects' that articulate them are socially constructed within international affairs. They thus look at the origins, emergence and maintenance of ideas, norms, principles, and laws as constitutive processes rather than some outcome of the strategic interaction of states (Wendt 1999; Fearon and Wendt 2002: 56-58). Accentuating the difference between the intentionality and holism of interstate state relations and behaviour, constructivist approaches embed their arguments in the logic of 'appropriateness' (i.e. what the

4 In another example, Donnelly (1986: 625) argues that the hegemonic authority of the United States supported the creation of the Inter-American regional system for the protection of human rights with its relatively strong monitoring powers.
international context expects of states)\(^5\) rather than the logic of 'consequences' (i.e. the outcomes of state behaviour) (March and Olsen 1998). Such a constructivist perspective dovetails with the legal-procedural and neo-institutional perspectives outlined above. On the one hand, legal-proceduralists are precisely interested in the construction of international law as an iterative political process. On the other hand, Wendt (1999) shows convincingly that the social and political construction of preferences and interests of states \textit{precedes} any strategic interaction in which they may engage. Thus, the construction of international cooperative regimes, law, or institutions must be seen as a function of broader processes of normative transmission and internalization (see also Henkin 1979: 60-62; Falk 2000: 60-66).

Legal proceduralism, neo-liberal institutionalism, and constructivism are all important for the theory of regimes. For Young (1992), ‘[r]egimes are sets of rules, decision-making procedures, and/or programs that give rise to social practices, assign roles to the participants in these practices, and govern their interactions’. In addition, a regime is a ‘collection of rights and rules’ that ‘structure the opportunities of the actors interested in a given activity’, has a significant procedural component for the resolution of situations involving social or collective choices, and has the expectation for compliance among its members (Young 1980: 333-342). Realist and neo-liberal institutionalist theories demonstrate that regimes are created and are effective through the application of cost-benefit analysis by states, while constructivist theories argue that regime effectiveness is achieved through ‘internalized identities and norms of appropriate behaviour’ (Raustiala and Slaughter 2002: 540). Like constructivism, international law differs from realism and neo-liberal institutionalism in its view of regimes. It turns its attention away from cost-benefit functions of regimes and concentrates on their provision of rules. Such rules foster stable expectations for actors and establish efficient baselines and standards, criteria for the justification of action, processes of communication, opportunities for domestic and international ‘intermeshing’ of bureaucracies, and routinized habits of compliance (Slaughter-Burley 1993: 220).

\(^5\) Henkin (1979: 93) goes as far as to say that '[m]uch of law, and the most successful part, is a codification of existing mores, of how people behave and they feel they ought to behave. To that extent law reflects rather than imposes, existing order. To say that nations act pursuant to law only as they would act anyhow may indicate not that law is irrelevant, but rather that it is sound and viable, reflecting the true interests and attitudes of nations, and that it is likely to be maintained.'
But not all regimes are the same as Donnelly (1986) demonstrates. For him, regimes vary according to their level of norms (fully international to entirely national) and their types of decision-making activities (enforcement, implementation, or promotion) (Donnelly 1986: 603-604). The combination of these two dimensions (norms and decision making) creates a typology that ranges from ‘strong declaratory’ regimes to ‘weak promotional’ regimes, where the strength of any one regime is determined by its normative and procedural scope, as well as by its overall acceptance and coherence (Ibid., 604-605). While the notion of acceptance is straightforward, coherence requires a match between the normative and procedural dimensions of the regime (Ibid., 605), or what Keohane (2002: 135) calls a high degree of ‘precision’. This difference in regime type and strength is important, as the discussion of the international human rights regime below will demonstrate. But before bringing together these different aspects of international law and international relations with respect to human rights, it is first necessary to consider the contribution from empirical theories in comparative politics.

**Comparative Politics**

The field of comparative politics has long been concerned with how and why the relationship between citizens and the state varies across different national political contexts. The substantive focus of the field has included patterns of stability and instability in advanced industrial democracies; the emergence, maintenance, and performance of liberal democracy; the origins and consequences of violent and non-violent social mobilization; the emergence, duration and performance of authoritarian regimes; patterns of democratic transition and consolidation; processes of regionalization and globalization; and the political economy of development (see Almond and Powell 1966; Macridis and Brown 1990; Rustow and Erickson 1991; Chilcote 1994; Apter 1996; Mair 1996; Landman 2000, 2003). Theories in comparative politics reflect similar concerns to those found in international relations: rational actors, ideas, norms, institutions, and structures. Like international relations, rationalist, culturalist, and structuralist theories in comparative politics help account for and understand political outcomes and patterns that are observed across different political contexts. These theories have similar tensions that are the product of both their base assumptions and their analytical scope of human behaviour. Rationalist
perspectives concentrate on the actions and behaviour of individuals who make reasoned and intentional choices based upon sets of preferences, or interests. Those who adhere to the rationalist perspective are ‘concerned with the collective processes and outcomes that follow from intentionality, or the social consequences of individually rational action’ (Lichbach 1997: 246; see also Munck 2001). Like realism in international relations, rationalism in comparative politics concentrates on ‘means-ends’ calculations and how they affect political outcomes. But realism engages in ‘methodological nationalism’ (Zürn 2002: 248) while rationalism as it is deployed in comparative politics engages in ‘methodological individualism’ (Przeworski 1985).

In contrast to the rationalist perspective, culturalist perspectives in comparative politics seek an understanding of political phenomena by focusing on the broader holistic and shared aspects of collectivities. Single individual interests and actions are not understood in isolation, but are placed in the context of the shared understandings, inter-subjective relationships, and mutual orientations that make human communities possible (Lichbach 1997: 246-247). These shared meanings and understandings form broader cultures and communities grouped together and analysed as whole units. They are held together by social rules that are emblematic of the identities of both the individuals and the groups themselves (ibid.: 247). Identifying the boundaries of these cultural units and separate identities remains problematic for systematic comparative research; however, scholars have tried to examine the world views, rituals, and symbols that provide ‘systems of meaning and the structure and intensity of political identity’ across different geographical regions of the world (Ross 1997: 43-44). Culturalist approaches are akin to their constructivist counterparts in international relations, where the social construction and meaning of ideas and norms forms the basis for analysis.

Structuralists focus on the holistic aspects of politics, but unlike culturalists, their attention is drawn to interdependent relationships among individuals, collectivities, institutions, and organizations. They are interested in the social, political, and economic networks that form between and among individuals. Structures that have become reified over time constrain or facilitate political activity such that individual actors are not completely free agents capable of determining particular political outcomes (Lichbach 1997: 247-248). Rather, individuals are embedded in relational
structures that shape human identities, interests, and interaction. Relational structures have evolved through large historical processes such as capitalist development, market rationality, nation state building, political and scientific revolutions, and technological progress (Katznelson 1997: 83), all of which provide possibilities and limits for human action.

Like the polarity of law and power in the fields of international law and international relations, rationalist and structuralist accounts of politics have created a polarity between ‘structureless agents’ on the one hand (extreme rational choice) and ‘agentless structures’ on the other (extreme structuralists). This polarity between agents and structures (see Hay 1995; 2002) has converged (or has sought to be resolved) around the idea of ‘new-institutionalism’ (March and Olsen 1984), which not only seeks to examine the constrained rationality of actors as they confront the persistence of institutional forms, but also brings in culturalist concerns over symbolic action, norms, and ideas (March and Olsen 1984:739, 744). Like the claim that ‘international law matters’ from public international lawyers, proponents of new institutionalism equally make the claim that ‘institutions matter’ (Steinmo, Thelen, and Longstreth 1992), and there is no surprise that proponents of new institutionalism at the domestic level have turned their attention to the international level (compare March and Olsen 1984 to March and Olsen 1998).

Cross-over: two-level games and liberal-republicanism
Examining these developments in international law, international relations and comparative politics shows that the traditional polarities in international and comparative research have been partly transcended and have produced similar convergences around the idea of constrained action. Legal-proceduralism, neo-liberal institutionalism, and new-institutionalism are all concerned with the ways in which law, power, ideas, norms, and institutions intersect to both facilitate and limit choices that are available to individuals and states. The insights from these seemingly disparate perspectives contribute to our understanding of the ways in which states make agreements and how such agreements affect their behaviour. Legal-proceduralism shows how norms emerge through express consent of states, the absence of opposition to such norms, or the failure of attempts to oppose them. Obligations to abide by these norms arise through a perception that there is a
reciprocal advantage in cautioning self-restraint (Higgins 1994: 16). Thus, both the emergence of norms and adherence to them can be seen as a process that involves the power of states to engage in activity that yields mutual benefit. Equally, for proponents of neo-liberal institutionalism, individual and mutual state advantage can be achieved through the formation of agreements. New-institutionalists see such interactions between formal institutions and individual actions at the domestic level.

Robert Putnam’s (1993) work on ‘two-level’ games brings these convergent views in international and comparative research together. He observes that ‘[t]he most portentous development in the fields of comparative politics and international relations in recent years is the dawning recognition among practitioners in each field of the need to take into account entanglements between the two’ (Putnam 1993: 459). Thus, any engagement of a state in international relations reflects the domestic array of social and political forces, including key actors and institutions (Ibid., 435). The politics of such a two-level game is neatly summarised as follows:

At the national level, domestic groups pursue their interests by pressuring the government to adopt favourable policies, and the politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimising the adverse consequences of foreign developments (Ibid., 436).

While there may be different ‘rational’ strategies available at either level of the game, Putnam (1993: 473) argues that ‘there are powerful incentives for consistency between the two games.’ What is absent from the formulation of the two-level game is any consideration of the type of government that is in place, although it appears that Putnam implies some form of representative government and most of his empirical examples are of advanced industrial democracies.⁶ Indeed, liberal democratic states are simply more open to and reflective of competing claims from domestic groups than authoritarian states. Nevertheless, as the elite-centred work on democratic transitions demonstrates (e.g. Przeworski 1991; Colomer 2000), authoritarian regimes are susceptible to competing demands within the authoritarian coalition as well as

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⁶ In drawing on the two-level game, Ripsman (2002) shows that different degrees of executive autonomy in Britain, France, and the United States affect the ways in which they conducted foreign policy in the immediate post-war period.
from groups in civil society, however repressed it may be. Thus, it is possible to think in broader terms on how the games played at the domestic level (whatever type of government is in place) will be important for the types of interaction in which states will engage at the international level.

Drawing on the insights of the two-level game and combining them with variants of democratic peace theory, Moravcsik (1997, 2000) develops a theory of ‘liberal republicanism’, which makes explicit reference to democratic forms of rule and how such domestic systems will have an influence on countries’ propensity for making international agreements. He argues that making international agreements can ‘lock in’ and consolidate democratic institutions, thereby enhancing their credibility and stability in the long run against possible threats from non-democratic forces. In echoing realist language, he argue that states will make such agreements when the benefits of reducing future uncertainty outweigh the costs of membership in an international regime (Moravcsik 2000: 220). He claims that this argument only really applies to newly established democracies since they face more immediate uncertainty which regime membership tempers, but other scholars suggest that regime membership, particularly for human rights, is a function of democracy in general (see Zacher 1992: 94; Vincent 1986).

The International Human Rights Regime
This ‘double convergence’ in international and comparative research combined with concerns over the interaction of domestic and international politics provides a rich theoretical basis that helps explain the growth and effectiveness of the international human rights regime. The growth of the international human rights regime demonstrates that human rights have now become enshrined in bodies of international law represented most forcefully by the existence of international treaties to which states become a party and, at least in formal terms, agree to abide by the obligations found within them. From the International Covenant on Civil and Political Rights (1966) through to the Rome Statute on the establishment of the International Criminal Court (2002), increasing types of human rights have found expression in international law and an increasing number of states have signed and ratified the treaties. Table 1 summarises these instruments, lists the date when they became open for signature, and shows the number of states parties to the instruments as of 2000. It is clear from the
table that the regime has become increasingly specialised beyond the main International Bill of Human Rights (i.e. the Universal Declaration and the two International Covenants) to include the rights of women and children, as well as prohibition of specific acts such as torture and racial discrimination. It is also clear that overall formal participation of states ranges from 22% to 98%.

Table 1. The international human rights regime: instruments, dates, and membership

<table>
<thead>
<tr>
<th>Name</th>
<th>Date when open for signature</th>
<th>States parties 2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Covenant on Civil and Political Rights (ICCPR)</td>
<td>1966</td>
<td>146 (75.6)</td>
</tr>
<tr>
<td>International Covenant on Economic, Social, and Cultural Rights (ICESCR)</td>
<td>1966</td>
<td>142 (73.6)</td>
</tr>
<tr>
<td>Optional Protocol to the International Covenant on Civil and Political Rights (OPT1)</td>
<td>1976</td>
<td>95 (49.2)</td>
</tr>
<tr>
<td>Second Optional Protocol to the International Covenant on Civil and Political Rights (OPT2)</td>
<td>1989</td>
<td>44 (22.8)</td>
</tr>
<tr>
<td>International Convention on the Elimination of all Forms of Racial Discrimination (CERD)</td>
<td>1966</td>
<td>156 (80.8)</td>
</tr>
<tr>
<td>Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)</td>
<td>1979</td>
<td>164 (85.0)</td>
</tr>
<tr>
<td>Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT)</td>
<td>1984</td>
<td>122 (63.2)</td>
</tr>
<tr>
<td>Convention on the Rights of the Child (CRC)</td>
<td>1989</td>
<td>190 (98.4)</td>
</tr>
</tbody>
</table>


Unlike other international regimes in areas such as environmental protection and trade which involve the regulation of the interaction between states, human rights is a special area since the international regime seeks to uphold state obligations and state responsibility towards individuals and groups (Higgins 1994: 95; Moravcsik 2000: 217). Its growth appears counter-intuitive if one adopts a purely realist perspective, which is captured effectively by the following question:

Why would any government, democratic or dictatorial, favour establishing an effective, independent international authority, the sole purpose of which is to constrain its domestic sovereignty in such an

The inability for a purely interest-based theory of state action to explain the proliferation of human rights norms suggests that neo-liberal institutionalism and legal-proceduralism offer a more satisfactory account by focusing on the historically iterative process of norm proliferation and the construction of state behaviour. The fact that states have signed and ratified human rights treaties of the years has led to certain optimism among international lawyers that increased state participation in the international human rights regime ought to make a difference for human rights protection. But analysis of regime effectiveness is incomplete if one merely focuses on either the international law of human rights or on domestic political arrangements and institutions. Legal-proceduralism, neo-liberal institutionalism, and new-institutionalism help build a fuller picture of the ways in which both domestic and international factors are important in considering the relationship between the international human rights regime and human rights protection.

The preceding examination of the double convergence in theories from international law, international relations, and comparative politics is summarised in Figure 1. The top of the figure charts the transformation in international legal and international relations scholarship, while the bottom of the figure charts the ways in which rational, structural, and cultural approaches in comparative politics have converged on the ‘rediscovery’ of institutions. The two halves of the figure converge within the shaded elliptical area, which represents the study of regimes, including the liberal-republican perspective. Finally, the human rights regime lies at the centre of the figure as the important nexus for these theories. From these theories and the figure, it is now possible develop a preliminary empirical model from which it is possible to derive a series of hypothesised relationships and testable propositions about the growth and effectiveness of the international human rights regime.
Part II: Building an Empirical Model

If the norms contained within the international human rights regime are important, as legal-proceduralists, neo-liberal institutionalists, and liberal-republicans argue, then there ought to be a positive relationship between the international law of human rights (rights in principle) and the protection of human rights (rights in practice). Such an expectation is often supported by Henkin's (1979: 47) claim that 'it is probably the case that almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time (emphasis in the original). In response to this claim, Chayes and Chayes (1993: 176-177) argue that no such empirical attempt has been made, that 'it would not be easy to devise a statistical protocol that would generate such evidence', and that 'general compliance with international agreements cannot be empirically verified.' In contrast, Koh (1997: 2599-2600) shows that initial empirical work on international trade, international adjudication, US policy on human rights, and international environmental protection 'seems largely to have confirmed this hedged but optimistic description'. In addition, a
recent study on the IMF demonstrates that countries comply with exchange rate demands of the regime (Simmons 2000).

Outside these issue areas, two recent studies in the field of human rights test the relationship between treaty ratification and human rights protection across a variety of human rights measures and indicators. Keith (1999) examines the relationship between ratification of the International Covenant on Civil and Political Rights (ICCPR) and the protection of personal integrity rights, while Hathaway (2002) tests the relationship between a broader range of treaties and rights protection, including torture, genocide, and women's rights. Both studies achieve mixed results where simple bi-variate analysis (correlation and difference in means tests) shows a positive association between treaty ratification and rights protection, which tends to drop away in their multivariate analyses. They both use data sets that are pooled over time and across space, which gives them a large number of observations, but masks the growth of the regime, its time-dependent effects on rights protection, possible feedback effects, and the importance of complementary social and political developments. Replicating these analyses for selected years across the period 1976-2000 shows that by 1993, ratification of the ICCPR has a positive relationship with the protection of personal integrity rights, even with the presence of important control variables (Landman 2001).

These extant studies testing compliance suggest that this is fruitful and necessary area of research to enrich our understanding of global human rights protection. Indeed, it seems paramount for political science theories and methods to provide meaningful explanations as to why countries ratify human rights treaties in the first place and whether such ratification makes a difference for human rights protection. Drawing on the achievements of these extant studies and the theories outlined above, it is possible to construct an empirical model that helps explain both the growth and effectiveness of the international human rights regime. Figure 2 depicts the simple bi-variate relationship between treaty ratification and human rights protection.

\[ \text{International human rights law} \xrightarrow{(+)} \text{Human rights protection} \]
The figure captures the simple relationship as expected from legal-proceduralism, noe-institutionalism, and new-institutionalism, but fails to take into account a series of other important factors. Since norms exhibit trends and human rights protection can accumulate over time, it is necessary to add three different time-series feedback processes to the model. First, there are feedback processes between previous ratifications of human rights treaties and current ratifications, both of which operate within the same state as well as among states. These are known as ‘social’ or ‘bandwagon’ effects. Second, there are feedback processes between previous and current years of human rights protection, capturing the time-dependent performance of a country with respect to human rights protection (Poe and Tate 1994; Poe, Tate, and Keith 1999; Keith 1999). Third, there are feedback processes between human rights protection and treaty participation itself, such that human rights protection in one year may have an effect on a country's propensity to ratify in subsequent years (Hathaway 2002: 2001). This third feedback process thus suggests that ratification and protection are not necessarily mutually exclusive processes. Figure 3 depicts the simple relationship with these additional feedback processes, showing that the first two processes are expected to have positive relationships, while the third process remains opaque. If a state improves its human rights practices before ratification, the relationship should be positive, while if it improves its practices after ratification, the relationship should be negative.

7 In her study of IMF compliance, Simmons (2000: 833) adds a regional norm variable, which captures contiguous participation in IMF article VIII of countries from the same region.
These relationships are complicated further by a series of important additional independent variables that reflect the issues and concerns outlined in the various theories in Part I of this paper as well as findings from extant studies in international relations and comparative politics. First, studies within the neo-liberal institutional and liberal republican traditions have repeatedly shown the benefits of democratic rule both for the ratification of treaties and the protection of human rights. In testing the liberal-republican model, Moravcsik (1997; 2000) shows that democratic states have a greater propensity to ratify the European Convention on Human Rights, a finding that is upheld at the global level (Landman 2002a). Empirical studies show that democracies are less likely to violate personal integrity rights (Poe and Tate 1994; Poe, Tate, and Keith 1999; Keith 1999; Hathaway 2002) and even within the first year of a democratic transition, such rights violations decrease significantly (Zanger 2000).

Second, extant studies in comparative politics have repeatedly shown the importance of wealth for the emergence and maintenance of democracy, as well as the protection of personal integrity rights. From Lipset’s (1959) seminal study on the ‘economic correlates of democracy’ to Przeworski et al's (2000) cross-national time-series comparative study, overall levels of wealth are positively related to the level of democracy (see Landman 2003, Chapter 4). These findings are also upheld by studies

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8 Young (1992: 163) notes that in any analysis of regime effectiveness and compliance, ‘multivariate relationships will constitute the norm rather than the exception’.

Fourth, international relations research on the 'Kantian tripod' demonstrates the overall importance of international interdependence of countries in reducing their propensity of international conflict (e.g. Russett, O'Neal, and Davis 1998; Russett and O'Neal 2001). These findings are consistent with the work on the growth of 'world culture', which maps the global evolution and proliferation of international governmental (IGOs) and non-governmental organizations (INGOs) (Boli and Thomas 1999). The degree of 'embeddedness' of countries in global networks of IGOs and INGOs, it is argued, increases their exposure to value transfers and demonstration effects that ought to have a positive impact on regime participation and compliance. Indeed, in The Power of Human Rights, eleven comparative case studies on the protection of political and civil rights demonstrate that the existence of international human rights norms coupled with increased activity from domestic and international NGOs makes a positive contribution to state compliance (Risse, Ropp, and Sikkink 1999). Thus, democracy, wealth, and membership in IGOs and INGOs are seen to be crucial independent variables that mediate the relationship between norms and rights.

Finally, three further control variables need to be specified for the model. Again, the extant studies argue that any explanation of personal integrity rights protection must take into account the degree of a country's involvement in international and national conflict. One of the key findings of this research, not surprisingly, is that involvement in civil war poses the largest threat to the protection of personal integrity rights (Poe and Tate 1994: 866). But involvement in international and domestic conflict may also have an impact on regime participation. On the one hand, states in conflict may need external allies and see treaty ratification as an important way in which to garner support. On the other hand, states in conflict may be so preoccupied with the immediate nature of the conflict that they simply have no interest in treaty negotiations. The final two variables control for the size of the population and for the geographical differentiation across Latin America, Africa, Asia, and the Pacific.

Figure 4 depicts the fully specified model with expected signs for all the relationships, including those for the feedback loops and control variables. The model clearly shows
that the simple bi-variate relationship between treaty ratification and rights protection must take into account past state behaviour with respect to treaties and rights, levels of democracy, wealth, international interdependence, involvement in conflict, size of the population, and regional differentiation.

Figure 4. The fully specified model for human rights protection

**Part III: Estimating the Model**

Estimation of this model requires the construction of a global data set with regime variables, rights variables, and control variables. While the full methodological discussion and operationalisation of these variables is beyond the scope of this paper, it is possible to list the ways in which the variables have been created and discuss how the model can be estimated. The data set that has been constructed is for all the countries in the world from 1976 to 2000. It has ratification variables for the main international human rights treaties and the regional systems of Europe, the Americas, and Africa. Following the UNDP, Keith (1999) and Hathaway (2002), the ratification variables award a country for signing (coded 1) and ratifying (coded 2) the treaties. For this paper, only the ratification of the International Covenant on Civil and Political Rights is used. This choice is based on a similar logic found in The Power of
Human Rights, in which the authors concentrate on that set of rights on which there is greatest global consensus. The choice also has a methodological basis since there currently exist several measures of the protection of various types of civil and political rights. These measures are not without their problems and controversies but as a first cut, they provide a reasonable baseline for testing the hypothesised relationships between treaty ratification and rights protection. The human rights variables include the Freedom House indices for political and civil rights (www.freedomhouse.org), the five-point scale for personal integrity rights (Poe and Tate 1994), and the five-point scale for torture (Hathaway 2002). Comparable indicators for the protection of economic, social, and cultural rights have not yet been made available on a global basis, but work is progressing on violations approaches to the measurement of such rights (shr.aaas.org), while others have advocated using aggregate development indicators as proxy measures for these rights (Green 2001). In similar fashion to the personal integrity rights measure of human rights, David Cingranelli has coded the US State Department and Amnesty International country reports for certain categories of worker's rights, but the data have not yet been available (see Cingranelli and Tsai 2002).

Democracy is measured using the Polity IV combined indicator for democracy, which subtracts the ten-point autocracy score from the ten-point democracy score (Jaggers and Gurr 1995). Wealth is measured using per capita gross domestic product. International interdependence has separate variables for the number of international governmental organizations (IGOs) and international non-governmental organizations (INGOs) with registered offices in each country collated by the Union of International Associations (see also Russett and O’Neal 2001). The international and national conflict variables are drawn from the ‘correlates of war’ project (see Poe and Tate 1994). Population figures were obtained from the World Bank world development indicators database. Finally, there are separate dummy variables for Latin America, Africa, Asia, and the Pacific.

Table 2 is bi-variate correlation matrix of first order relationships between the treaty, rights, and other variables. Consistent with Keith (1999), the table shows that ratification of the International Covenant on Civil and Political Rights is significantly correlated with the greater human rights protection across all the human rights measures except Hathaway's (2002) measure of torture. Ratification of the treaty is

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9 In similar fashion to the personal integrity rights measure of human rights, David Cingranelli has coded the US State Department and Amnesty International country reports for certain categories of worker's rights, but the data have not yet been available (see Cingranelli and Tsai 2002).

10 The signs are negative since all the measures give higher scores to countries for violating rights.
also significantly correlated with higher levels of democracy and wealth, as well as larger membership figures for IGOs and NGOs. The table also shows that democracy, wealth, and IGO and NGO membership are significantly correlated with all five measures of human rights. These correlations provide preliminary support for the expectations of the model. But without multivariate and non-recursive estimation of the model, support remains suggestive at best.
|                         | ICCPR (1966) | ICCPR growth¹ | Amnesty PIR | State Dept. PIR | House PIR ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| ||||| |||
It is not surprising that the democracy, wealth, and the interdependence measures correlate with both treaty ratification and rights protection. The data suggest that there is perhaps a global ‘club’ of states and a complementary set of social and political processes that have are associated both with treaty ratification and rights protection. Such relationships may be thought of in instrumental terms for estimating the model, since it appears that both treaty ratification and rights protection are a function of democracy, wealth, and interdependence. One method of capturing these complementary developments is to use two-staged least squares regression (2SLS), which provides a way to resolve systems of two equations. To estimate the full model, two systems of two equations have been specified. One system is for the norms-rights relationship (Equations 1.1-1.3) and one is for the rights-norms relationship (Equations 2.1-2.3), while both systems give special emphasis to the importance of democracy, wealth, and interdependence.

For the norms-rights relationship, Equation 1.1 shows that human rights protection is a function of past rights protection, ratification of the ICCPR, civil war, international war, population size, and regional differentiation. Equation 1.2 shows that ratification of the ICCPR is a function of democracy, wealth, the two interdependence measures, and past ratification action (no signature, signature, or ratification). Equation 1.3 resolves the system through substituting Equation 1.2 into Equation 1.1. For the rights-norms relationship, Equation 2.1 shows that ratification of the ICCPR is a function of past ratification action (no signature, signature, or ratification), human rights protection, civil war, international war, population size, and regional differentiation. Equation 2.2 shows that human rights protection is a function of democracy, wealth, the two interdependence measures, and past human rights protection. As in the solution for the norms-rights system of equations, Equation 2.3 resolves the rights-norms system through substituting Equation 2.2 into Equation 2.1.
To estimate parameters for the norms-rights relationship, 2SLS regresses the ICCPR ratification variable on the independent variables in Equation 1.2 and saves the regression fit values as a new variable. It then uses this new 'instrumented' form of the ICCPR ratification in a new regression of rights protection on the independent variables specified in Equation 1.1. Since the analysis uses a pooled cross-section time-series data set, the 2SLS parameters were estimated using the \texttt{xtivreg} procedure in STATA 7.0. The procedure takes into account the panel and time structure of the data set (i.e. countries and years), while also carrying out the instrumental stage of the regression common to 2SLS estimation. The final parameter estimates are for Equation 1.3. The exact same procedure was used to estimate the parameters in Equation 2.3, while the results for both estimations across the different human rights measures are shown in Tables 3 and 4.

Tables 3 and 4 report unstandardised co-efficients for the variables with z-scores in parentheses. Parameter estimates are not reported for those variables used in the first
stage of the 2SLS since they are captured by the 'instrumented' variables denoted in Equations 1.2 and 2.2. Table 3 shows that ICCPR ratification is significantly related to lower levels of human rights violation across the Amnesty measure of personal integrity rights and the two Freedom House measures of civil and political rights, after controlling for past human rights practices, conflict, population and regional differences. Civil war and population size are significantly related to higher levels of human rights violation, while by and large the norms-rights relationship is less strong in Latin America, Africa, Asia, and the Pacific. Table 4 shows that only the Freedom House civil and political rights measures are significantly related to ICCPR ratification, while very few of the other control variables achieve levels of significance.

Comparing the results from the two tables suggests that the norms rights relationship is slightly stronger than the rights-norms relationship; however, there are three reasons to be cautious. First, the results for the Amnesty measure of personal integrity rights in Table 3 are significant at a 10% level of confidence, and the same is true for the Freedom House measure of political rights in Table 4. Second, the Freedom House measures of civil and political rights also contain institutional elements that make them correlate with democracy measures. Table 2 shows that both Freedom House measures are correlated with the Polity IV measure of democracy, while the political rights measure is highly correlated \((r = .85)\). The 2SLS parameters were thus estimated with and without the Polity IV measure of democracy in the first stage of the estimation. Tables 3 and 4 report those estimations without Polity IV. Third, the 2SLS procedure captures a model specification that assumes that the possible mutual relationship between norms and rights is highly influenced by levels of democracy, wealth, and interdependence. Thus, the results should not be seen as having established a firm direct link between norms and rights, even though the norms-rights direction of the relationship appears stronger.
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G2SLS random effects regression coefficients reported with z-scores in parentheses; *\(p < .10\), **\(p < .05\), ***\(p < .001\)

\(a\)Instruments: Democracy (Polity IV), Wealth (Natural log of per capita GDP, IGO Membership, Natural log of NGO membership, ICCPR ratification\(_{t-1}\)

\(b\)Since Freedom House and Polity IV are highly correlated (\(r > .80\)), Polity IV was dropped as an instrument for CCPR in the equations for Freedom House Civil and Political Rights Measures. Initial parameter estimates using Polity IV were inflated.
Table 4. Two Stage Least Squares estimation of ICCPR ratification with instrumental variables (Rights ⇒ Norms)

<table>
<thead>
<tr>
<th>Independent Variables</th>
<th>PIR Amnesty</th>
<th>PIR State Department</th>
<th>Freedom House CR</th>
<th>Freedom House PR</th>
<th>Torture</th>
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<tr>
<td>Constant</td>
<td>.03</td>
<td>.04</td>
<td>.01</td>
<td>.01</td>
<td>.11</td>
</tr>
<tr>
<td>( .74)</td>
<td>(.39)</td>
<td>(.15)</td>
<td>(.15)</td>
<td>(.72)</td>
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<tr>
<td>ICCPR Ratification t-1</td>
<td>.91***</td>
<td>.91***</td>
<td>.91***</td>
<td>.91***</td>
<td>.91***</td>
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<tr>
<td>(90.70)</td>
<td>(90.74)</td>
<td>(95.30)</td>
<td>(96.78)</td>
<td>(62.97)</td>
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<td>- .01</td>
<td>-.02***</td>
<td>-.01*</td>
<td>.003</td>
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<tr>
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<td>(-3.78)</td>
<td>(-2.18)</td>
<td>(-.18)</td>
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<tr>
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<td>(-.27)</td>
<td>(-.40)</td>
<td>(-.76)</td>
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<tr>
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<td>-.02***</td>
<td>-.01*</td>
<td>.003</td>
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<tr>
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<td>(-.12)</td>
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<td>.04</td>
<td>.03</td>
<td>.04</td>
<td>.05</td>
</tr>
<tr>
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<td>(1.26)</td>
<td>(1.20)</td>
<td>(1.25)</td>
<td>(1.08)</td>
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<tr>
<td>Ln Population</td>
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<td>.01***</td>
<td>.01**</td>
<td>.005</td>
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<tr>
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<td>(3.08)</td>
<td>(2.64)</td>
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<td>.01</td>
<td>.01</td>
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<tr>
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<td>(.24)</td>
<td>(.41)</td>
<td>(.17)</td>
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<tr>
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<td>(-.87)</td>
<td>(1.13)</td>
<td>(.28)</td>
<td>(-1.12)</td>
<td></td>
</tr>
<tr>
<td>Asia</td>
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<td>-.09**</td>
<td>-.04</td>
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<td>(-1.89)</td>
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<tr>
<td>Pacific</td>
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<td>-.08**</td>
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<td>(-1.59)</td>
<td>(-2.03)</td>
<td>(-2.11)</td>
<td>(-1.93)</td>
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N  1651  1651  2003  1998  819
R²  .91  .91  .91  .91  .90
Wald Chi²  10169.20***  9816.00***  11519.46***  11778.03***  4893.19***

G2SLS random effects regression co-efficients reported with z-scores in parentheses; *p < .10, **p < .05, ***p < .001

a Instruments: Democracy (Polity IV), Wealth (Natural log of per capita GDP, IGO Membership Natural log of NGO membership, ICCPR ratification t-1
b Since Freedom House and Polity IV are highly correlated (r > .80), Polity IV was dropped as an instrument for both equations using Freedom House Civil and Political Rights Measures as independent variables. Initial parameter estimates using Polity IV were inflated.
Part IV. Conclusions and Implications

This paper has been concerned with the mutual relationship between the norms of human rights contained within the international human rights regime, country participation in that regime, and the degree to which such participation makes a difference for human rights protection. It approached these areas of concern using empirical theories drawn from international law, international relations, and comparative politics. It showed that against certain sceptical corners within each of these three traditions, there has been a convergence of ideas around the notion of constrained agency at the domestic and international level. Such constrained agency suggests that norms, ideas, and institutions limit the degree to which individuals and states can act. This paper is concerned with the norms and institutions relating to human rights protection. Unlike the norms and institutions that constrain agency for inter-state relations around issues such as trade, environmental protection, and finance, human rights seek to constrain the agency of states to violate the rights of their own citizens. Thus, the international human rights regime is a special type of regime that uses the mechanism of inter-state relations to govern the capacity of states to protect individual human dignity, formally codified as a set of rights. Human rights activists and scholars have long argued that the growth and proliferation of the human rights regime out to make a difference for the de facto protection of human rights.

Using the notion of constrained agency, the paper specified and estimated a non-recursive model of the norms-rights relationship that takes into account the international variables of treaty ratification, membership in IGOs and NGOs, conflict, and regional location combined with domestic variables of government type, level of wealth, and population size. The results of analysis suggest that we ought to be cautiously optimistic about the tangible benefits of the human rights norms proliferation. On the one hand, the statistical results of the analysis show that the norms rights relationship appears stronger than the rights-norms relationship, at least for the ratification of the ICCPR and the protection of civil and political rights. A crude reading of these results would suggest that the international law of human rights matters. On the other hand, the positive statistical results for ratification of the ICCPR are obtained in the presence of patterns of democratisation, international inter-dependence, and wealth, while controlling for conflict, regional differentiation, and
population size. Thus, the growth of the international human rights regime and the protection of human rights themselves complement larger social and political processes occurring in the world. Wealthy countries that are democratic and increasingly interdependent are more likely to ratify human rights treaties and more likely to protect civil and political rights. Such a reading suggests that larger social and political processes mediate the direct relationship between norms and rights. Increased levels of democratisation, wealth, and global interdependence in terms of membership in IGOs and NGOs have produced in some sense a club of nations that also participates in the international human rights regime. It may well be then that the international law of human rights merely codifies existing state behaviour, but if the norms–rights relationship is indeed stronger, then the proliferation of human rights norms is important in shaping the ways in which new members of that regime behave.

Further research in this area ought to focus on third things. First, it needs to examine whether the findings obtained here can be extended to other categories of human rights. It is clear that using development indicators as proxy measures for the protection of economic and social rights would uncover similar complementary and inter-related social and political processes, where wealthy, interdependent, and democratic countries would have a greater propensity to ratify treaties and would have higher human development scores. Using violations measures for economic, social, and cultural rights, however, may show a different picture altogether since it is entirely possible for wealthy democracies to have de facto discrimination in their health and educational systems. Second, further research should weight the ratification of international human rights treaties for the presence of reservations to the treaties. For example, many Middle Eastern and Arab countries have ratified CEDAW (see Table 1) with so many reservations that the original intent of the treaty is virtually undermined (see Landman 2004). Third, future research should examine the activities of domestic and international non-state actors who use the language of human rights as a powerful discourse to bring about positive change through lobbying, grass-roots mobilizing, and campaigning within international fora for human rights protection. While this analysis has been conducted for a handful of comparative cases (Foweraker and Landman 1997; Risse, Ropp, and Sikkink 1999), global analysis of non-state actors has not yet been conducted.
References


27. Freedom House, www.freedomhouse.org


