



***Committed to Rights: UN Human Rights Treaties and Legal Paths for Commitment and Compliance* by Audrey L. Comstock**

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International law recognizes several ways in which states can become party to a treaty, but most studies on commitment to UN human rights treaties treat them uniformly as “ratification.” Audrey Comstock argues that this approach obscures meaningful differences between paths of commitment in terms of the types of states that use them and their implications for state behavior, and proceeds to investigate separately the effects of signing, ratification, accession, and succession on compliance. While the positive correlations between certain commitment paths and human rights improvements that Comstock finds are reassuring, theoretical and methodological issues place the proffered explanations on shaky ground.

The first examined pathway is signature. While Comstock’s assertion that “signature presence demonstrates the promise of respect for and commitment to human rights” whereas its “absence demonstrates a rejection of the international human rights regime and human rights themselves” (64) needs more differentiation, it is true that signature has legal consequences that non-signature does not, especially the obligation to refrain from defeating a treaty’s object and purpose prior to entry into force. Comstock suggests two mechanisms through which signature may have effects. First, signing can generate rights consciousness and trigger “legal mobilization” in support of promoting the relevant set of rights at home. Second, “advocate executives” may be able to use commitment through signature to overcome opposition in so-called legislative approval states, where ratification requires the consent of parliament (as opposed to executive approval states without such a requirement).

Comstock predicts that legislative approval states will experience rights improvements after signing, whereas executive approval states will not. Her case studies do little to support these expectations: In the Nigerian case, the reported “first act of mobilizing rights using CRPD signature” (86) appears to have occurred five years

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after the treaty had been ratified and so does not illuminate any effects of signing only, and in the US case, it is questionable whether civil rights improvements in the late 1960s can be attributed to signing the CERD (91–92), rather than the ongoing civil rights movement. Examining ICCPR commitment statistically, Comstock finds positive human rights effects of signing but negative effects of ratification for legislative approval states, and the exact reverse for executive approval states, so both types experience comparable consequences of commitment, but at different stages.

Comstock's argument regarding the distinction between ratification and accession misrepresents the nature of the two. Her analysis is based on the assertion that ratification is available only to states that participate in the negotiation of a treaty, while accession is the mode of commitment for states that do not negotiate a treaty's text and only join after its entry into force (130). In the case of the core UN human rights treaties, this assumption is demonstrably false: All nine make signature, ratification and accession available to all states, or to all UN members, at any time. Empirically, in the examined case of the ICCPR, several negotiating states acceded, rather than ratified (e.g. France, India, Greece), some acceded prior to entry into force (e.g. Barbados, Kenya, Lebanon), and many states signed and ratified afterwards without having negotiated the ICCPR (e.g., Andorra, Bahamas, Botswana). "Look[ing] to treaty commitment types to offer measures of negotiation participation" (146) simply does not work here. It remains unclear why Comstock did not code such participation directly from the *travaux préparatoires*.

The link between negotiating status and commitment type is theoretically central for Comstock: "States negotiating treaties take seriously the terms of obligations they and fellow negotiating states agreed upon[,] retain an interest in reserving and defending the treaty they shaped" (142), and are expected to be better compliers. Clearly, however, the group of negotiating states is heterogeneous and includes many states that have then and subsequently violated the very rights they set out to protect. Also, there is no accounting for temporal effects. Should participation in drafting or roll-call votes in the 1950s and 1960s continue to have consequences even decades later, e.g., for Pakistan, which signed the ICCPR in 2008 and ratified it in 2010? Statistically, ratification and accession yield positive coefficients for early UN members (joining before 1964) and for late members (joining after 1964) alike, but for the former, it is ratification that is statistically significant, while for the latter, it is accession. Notably, contradicting expectations, late members that ratified and early members that acceded (both of which should not have occurred, according to Comstock) had better mean human rights protection scores than early members that prepared and ratified the ICCPR (139).

Concerning succession, Comstock argues that newly independent states use it to legitimize the new entity and reestablish international relationships. She finds that "states committing via succession [to the ICCPR] have significant improvements in human rights practices following commitment, trends that do not consistently hold for other state types" (151). The analysis, however, is biased. First, testing expectations solely in the case of ICCPR succession creates selection bias as only a few European states opted to succeed, while many formerly colonized or occupied new states did not consider themselves as "successors" to begin with. The legitimization logic, though, presumably applies to all new states, so a more convincing analysis

would have compared new states that succeeded with new states that ratified (e.g. the Baltic states) or acceded (e.g. Azerbaijan). Second, attributing effects solely to ICCPR succession omits the (likely stronger) impact of the European Convention on Human Rights and the prospect of EU membership.

The book is a mixed bag of good ideas and problematic execution. It opens the door to novel research on the effects of different commitment pathways, but gets stuck in the doorframe when trying to walk through. The theoretical explanations lack nuance and correlations are too often unpersuasively presented as suggestive of causation. The study's major lacuna is its neglect to address the prior issue of why states select one commitment pathway rather than another one. In the context of the UN human rights treaties, that selection is not predetermined, but a matter of state choice that should have been explored first.

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