Locking in democracy? Transitions, returning autocratic elites, and human rights treaty commitment

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Abstract:

Under what conditions are new democracies more committed to human rights? Existing explanations focus on the logic of the democratic lock-in as elites in new democracies commit their countries to international human rights treaties and organizations to safeguard against future nondemocratic threats. However, this proposition receives mixed empirical support within the literature, and suffers of endogeneity as it treats all democratization episodes as equivalent. Building on insights from the democratization literature, this paper develops a novel theoretical framework that provides a more direct explanation on the conditions under which political elites in new democracies are more likely to commit to human rights treaties. Using a new measure of returning autocratic elites and an instrumental variable design, the results show that democratic cabinets with a higher share of former autocratic elites are less committed to the international human rights regime. These results have implications for democratic consolidation and human rights compliance.

Introduction

Under what conditions are new democracies more committed to human rights? Human rights commitment[1] is conceptualized as the extent to which countries have signed and ratified United Nations' international human rights treaties as a way to signal their widespread acceptance and universal legitimacy.[2] Existing literature emphasizes democratization as one of the key explanations of this phenomenon, with a particular focus on the logic of the democratic lock-in (Elsig, Milewicz, and Stürchler 2011; Goodliffe and Hawkins 2006; Hafner-Burton, Mansfield, and Pevehouse 2015; Hafner-Burton, LeVeck, and Victor 2017; Hafner-Burton and Tsutsui 2007; Hathaway 2007; Lupu 2016; Mansfield and Pevehouse 2006; Moravcsik 2000; Pevehouse 2002; Simmons 2009; Simmons and Danner 2010; Von Stein 2016; Zhou 2014). Specifically, Moravcsik (2000) proposes that elites in new democracies are more likely to commit to human rights treaties and join international organizations with strong human rights provisions to lock-in the newly won democratic freedoms and rights against future illiberal threats.

Subsequent cross-national research finds mixed evidence for this "democratic lock-in" thesis (Hathaway 2007; Simmons 2009; Hafner-Burton, Helfer, and Fariss 2011; Goodliffe and Hawkins 2006; Lupu 2016; Zhou 2014; Hafner-Burton, Mansfield, and Pevehouse 2015; Elsig, Milewicz, and Stürchler 2011; Mansfield and Pevehouse 2006). On the one hand,

[1] This will be referred interchangeably as the international human rights regime, embeddedness within the human rights regime or commitment to human rights.

[2] The conceptualization of human rights commitment differs from that of human rights practice as the former (i.e. commitment) refers only to ratification of international human rights treaties (see Fariss 2018) while the latter (i.e. practice) refers to the actual implementation and compliance with the provisions of the treaties (see Fariss 2014; 2018).

democratizing countries are more likely to ratify not only human rights treaties,[3] but also multilateral treaties along a wide range of policy domains (Elsig, Milewicz, and Stürchler 2011). On the other hand, there are studies that find a null effect of democratization on the ratification of the Convention against Torture (CAT) (Hathaway 2007; Goodliffe and Hawkins 2006) or the likelihood of joining international organizations that promote, advance or enforce human rights (Hafner-Burton, Mansfield, and Pevehouse 2015). This paper proposes that the mixed findings in this literature are driven by a misguided theoretical assumption about democratization. In turn, this leads to endogeneity bias in the findings due to measurement error and reverse causality.

The main assumption of this literature is that new democracies are a *blank slate* in which all societal actors are committed to democracy and want to lock-in the newly won democratic freedoms through human rights treaty commitments (Moravcsik 2010; Zhou 2014; Hafner-Burton, Mansfield and Pevehouse 2015). However, existing work in the comparative study of democratization highlights that new democracies are rarely a blank slate (Albertus and Menaldo 2018; Riedl et al. 2020). More often than not, politics in new democracies is a continuation of autocratic politics by new (democratic) rules of power-sharing (Riedl et al. 2020) in which former autocratic elites aim to maintain political influence and protect their interests (Albertus and Menaldo 2018).

This misguided theoretical assumption leads to a situation where all democratization episodes are being treated as equivalent by the democratic lock-in literature. More specifically,

[3] This includes treaties such as the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), or the Convention for the Rights of Children (CRC) (Simmons 2009; Zhou 2014)

democratization is operationalized using varying time-windows around positive changes on the Polity IV scale, essentially treating transitions from an autocracy to an anocracy and transitions from anocracy to democracy[4] as equivalent (Hathaway 2007; Mansfield and Pevehouse 2006; Hafner-Burton, Mansfield, and Pevehouse 2015; Elsig, Milewicz, and Stürchler 2011). Existing evidence shows that the two processes develop differently, and also have divergent outcomes (Gleditsch and Ward 1997; Knutsen and Nygård 2015). By treating all democratization episodes alike, we cannot distinguish whether the democratic lock-in process is driven by meaningful democratization or by political liberalization (short of democracy) of non-democracies. This issue is further exacerbated by the fact that Polity IV measures institutional changes (during periods of political liberalization or democratization) that are very similar to the rights codified within treaties such as ICCPR, CAT or ICESCR. This potentially introduces reverse causality in existing findings as observed political liberalization or democratization can be a consequence of states' impending ratification of various human rights treaties. Put simply, if states are more likely to join human rights treaties whose provisions they are complying with or plan to comply with anyway (Hathaway 2007), then existing studies are capturing the reverse relationship where commitment to human rights produces domestic political changes (Pevehouse 2002). Then, we need to conceptually and empirically separate the main explanatory factor behind the democratic lock-in thesis (i.e. political elites) from the main outcome of interest (i.e. human rights treaty commitment).

[4] More specifically, the transition from an autocracy to an anocracy is considered to be equivalent to a transition from anocracy to democracy on the Polity IV scale: countries below -6 are autocracies, those between -5 and 5 are anocracies, while democracies are all countries that score above 5 (Marshall, Jaggers, and Gurr 2010).

Against this background, the paper revisits the relationship between democratization and human rights treaty commitment by focusing on the actors whose actions are most consequential for human rights commitment: cabinet elites (McKibben and Western 2020). More specifically, the paper provides novel theoretical explanations on the role that returning autocratic elites play in shaping new democracies' human rights commitment (Albertus and Menaldo 2018; Riedl et al. 2020; Loxton and Power 2021; Huntington 1993; Collier 1999; Diamond 1999). The theoretical framework begins by challenging the assumption that democratization is a *blank slate* under which all political elites are committed to democracy and make decisions that put their country on a democratic path (Moravcsik, 2000; Pevehouse, 2002). Since politics in new democracies is often a continuation of autocratic politics by other means (Riedl et al. 2020), former autocratic elites want to maintain political influence and protect their interests under democracy (Albertus and Menaldo 2018). They achieve this by returning to cabinet positions in democracy, positions from which they can reduce their countries' commitment to human rights. They to prevent institutional changes that would empower activists to seek retribution for elites' past actions under autocracy (Subotic 2013; Nalepa 2022) and to avoid punishment within the provisions of the treaties (Lutz and Sikkink 2001). Holding key cabinet positions - with control over the ratification process (e.g. head of the executive, Foreign Affairs and Minister of Justice) - allow them to achieve these goals. The logic of the argument is illustrated in the paper using a short, stylized case study of Brazil's commitment to human rights treaties after its transition to democracy.

The theoretical propositions are also tested in a timeseries cross-sectional research design (between 1967 and 2010) using a newly generated measure of autocratic influence in cabinets of new democracies using elite information from WhoGov (Nyrup and Bramwell 2020) and a latent measure of countries' embeddedness in the human rights regime from Fariss (2018). The autocratic influence of elites in a democratic cabinet is operationalized by

measuring the proportion of cabinet positions that are occupied by individuals that have also held a cabinet position in an autocratic government (Geddes, Wright, and Frantz 2014). The paper uses a latent measure of embeddedness into the human rights regime as it allows us to account for the changing standards of accountability of human rights over time, captures over time propensity for ratification of new treaties more accurately, and reduces the potential of measurement error (Fariss 2018). The results indicate that democratic transitions do not affect countries' commitment to human rights treaties, thereby challenging the democratic lock-in thesis. Once we unpack the extent to which former autocratic elites hold political power in new democracies, the results show that new democracies with a larger share of former autocratic elites in their cabinet are less committed to human rights. This effect seems to be driven by former autocratic elites holding the portfolio for justice in a democratic cabinet. To address potential endogeneity due to reverse causality, the paper uses transitions through civil resistance (Pinckney 2020) as an instrument for the share of autocratic elites in democratic cabinets. The result of this analysis supports the main argument on the negative effect of autocratic elites in cabinet on human rights commitment, while it offers no support for the strategic positions argument. Additional robustness checks on the exclusion criteria for the instrument, alternative explanations and tests for unobserved confounders increase confidence in the main finding of the paper.

This paper brings several theoretical and empirical contributions to our understanding of the democratic lock-in thesis (Simmons 2009; Moravcsik 2000; Lupu 2016). Firstly, the paper shows that democratization in and of itself is not enough to increase countries' commitment to human rights treaties. The theoretical explanations and the empirical results highlight the importance of cabinet elites in shaping commitment to human rights in new democracies. These qualify the previous literature on the democratic lock-in by showing that not all political elites in a democracy are equally committed to human rights (and democracy).

Secondly, the paper combines a newly generated measure of autocratic influence in democratic cabinets with a latent measure of countries' embeddedness in the human rights regime to generate valid inferences to provide a more direct test of the underlying mechanism that explain the democratic lock-in thesis. The empirical approach moves beyond the institutional focus of how democratization shapes countries' commitment to human rights (Simmons 2009). Finally, this paper also mitigates concerns of endogeneity that plague most observational studies in international politics. By using a measure of democratization that captures qualitatively the underlying change in the rules that determine which interests are represented in politics and subsequent transitions to democracy (Geddes, Wright, and Frantz 2014), this study avoids conflating changes in political rights (just short of democracy) with meaningful transitions to democracy, thereby avoiding endogeneity due to measurement error. Moreover, the use of an instrumental variable that passes all standards checks of validity and meets the exclusion criteria, reduces the possibility that these findings are driven by endogeneity due to reverse causality.

The democratic lock-in thesis

The international human rights regime that sets the principles, norms, rules and decision-making procedures around human rights (Krasner 1983) has been one of the pillars of the international order following the signing of the Universal Declaration of Human Rights in 1948. The international treaties codifying human rights were designed to increase states' participation as a mean to signal their widespread acceptance and universal legitimacy. One dominant set of explanations emerging from the burgeoning literature on commitment to human rights treaties focuses on the importance of a country's regime type (democracy vs autocracy). Regime type is considered to be an expression of a country's real preferences about human rights as domestic regimes aggregate the preferences of societal actors (Moravcsik 1997). This assumption of domestic regime type as an aggregator of a country's preferences

about human rights drove existing theoretical explanations on countries' commitment to human rights treaties. Several scholars argue that stable, established democracies tend to be more likely to ratify human rights treaties because ratification is costless for them since they are already complying with the provisions of the treaty (Simmons 2009; Hathaway 2007; Goodliffe and Hawkins 2006; Hafner-Burton, Mansfield, and Pevehouse 2015). Put simply, democracies' ideal point of human rights is very close to one codified within international human rights treaties (Lupu 2016).

Another prominent set of explanations within the logic of domestic regimes as preference aggregators focuses on the incentives of new democracies to ratify human rights regimes. Moravcsik's (2000) influential study on the formation of the European Court of Human Rights shows that new and unstable democracies were more likely (than established democracies) to commit to and to want stronger enforcement mechanisms from the new transnational court of human rights. This emerged out of the domestic self-interests of governments in new democracies as elites in these regimes wanted to lock-in the newly gained democratic freedoms and consolidate democracy vis-à-vis nondemocratic threats. The commitment to human rights treaties and organizations reinforces the pro-democratic preferences of the government at that point in time against potential, future *illiberal* political alternatives (Moravcsik, 2000: 220).

The logic of the democratic lock-in was tested in numerous empirical studies using global samples of countries, examining ratification of various human rights treaties and accession to international organizations with strong human rights provisions (Hathaway 2007; Simmons 2009; Goodliffe and Hawkins 2006; Lupu 2016; Zhou 2014; Hafner-Burton, Mansfield, and Pevehouse 2015; Elsig, Milewicz, and Stürchler 2011; Mansfield and Pevehouse 2006). The theoretical logic of the democratic lock-in is very prevalent in this literature, but the empirical evidence is somewhat mixed. One set of findings indicates that

democratizing countries are more likely to ratify most human rights treaties, such as the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), or the Convention for the Rights of Children (CRC) (Simmons 2009; Zhou 2014). Similarly, new democracies are more likely to ratify multilateral treaties along a wide range of policy domains (Elsig, Milewicz, and Stürchler 2011). Another set of findings raise some doubts about the democratic lock-in thesis as they find that new democracies are not more likely to ratify the Convention against Torture or its optional protocols (Hathaway 2007; Goodliffe and Hawkins 2006) or join international organizations that promote, advance or enforce human rights (Hafner-Burton, Mansfield, and Pevehouse 2015). This paper proposes that this set of mixed findings on the democratic lock-in is driven by a misguided theoretical assumption about democratization, which in turn leads to endogeneity due to measurement error and reverse causality.

Firstly, the literature on the democratic lock in treats all democratization episodes as equivalent. Moravcsik's (2000) original explanation of the democratic lock-in focuses on the incentives that elites in new democracies have to secure democracy against future illiberal attempts through commitment to human rights treaties and international organizations. Treating all democratization episodes as equivalent is problematic because not all autocratic elites are replaced after democratization, and not all elites in new democracies are new or equally committed to making democracy the only game in town (Linz and Stepan 1996). This assumption of democracy as a *blank slate* of affairs does not hold up to empirical scrutiny. Comparative research on democratization shows that autocratic actors (i.e., elites and political parties) remain involved in politics at the highest levels after the transition, often with the purpose of retarding democracy and protecting their interests (Grzymala-Busse 2020; Albertus and Menaldo 2018; Loxton and Power 2021; Albertus 2019; Albertus and Deming 2021). Thus,

it is questionable to assume that all new democracies and their elites are seeking to lock-in democracy, since not all autocratic elites have been replaced or removed from political power.

It is plausible that this misguided theoretical assumption leads to a situation where previous findings from the literature are driven by endogeneity due to measurement error and reverse causality. Bias due to measurement error is present in existing studies because democratization is operationalized using regime transitions on the Polity IV scale from autocracy to anocracy and from anocracy to democracy. This operationalization of democratization largely ignores the theoretical foundations of the democratic lock-in thesis (i.e. political elites), while also conflating meaningful democratization with institutionalization of autocracies (Levitsky and Way 2010; Hafner-Burton, Mansfield, and Pevehouse 2015; Hathaway 2007; Elsig, Milewicz, and Stürchler 2011; Mansfield and Pevehouse 2006). Existing evidence indicates that these processes are quite different from one another (Knutsen and Nygård 2015) as there are multiple pathways that can explain changes in democracy scores (Gleditsch and Ward 1997). Put simply, we do not know whether the democratic lock-in is more likely in new democracies or whether this is simply driven by institutional changes happening in non-democracies. This issue is exacerbated by the fact that Polity IV measures institutional changes (during periods of political liberalization or democratization) that are very similar to the rights codified within treaties such as ICCPR, CAT or ICESCR. Existing work highlights that it is difficult to separate definitions of democracy and human rights treaty obligations as they cover similar civil and political rights (Hill Jr 2016; Von Stein 2016). Finally, the measurement error can also lead to endogeneity due to reverse causality as observed political liberalization or democratization can be a consequence of states' anticipation of ratification of human rights treaties. If states join human rights treaties whose provisions they are already complying with or plan to comply with (Hathaway 2007), then the causal

arrow would be reversed as commitment to human rights treaties would drive political liberalization and democratization (Pevehouse 2002).

This paper attempts to circumvent these issues by conceptually (and then empirically) separating the main actors driving the democratic lock-in – cabinet elites - from the outcome of interest – human rights treaty commitment. Below I provide a unified theoretical explanation of how returning autocratic elites in democratic cabinets influence commitment to human rights treaties in new democracies.

Democratic lock-in under returning autocratic elites

The theoretical explanation starts from the idea that human rights commitment is a reflection of the aggregated policy preferences of a country's government against future domestic political alternatives (Moravcsik 2000). By focusing on the members of democratic cabinets, we can examine which new democracies are more likely to commit to human rights treaties. More specifically, the most important dimension in this case is the extent to which the positions in the cabinet are occupied by former autocratic elites. The autocratic past of cabinet members in new democracies is important because the political incentives and preferences of former autocratic elites are quite different, and generally more anti-democratic compared to those of new elites (Power 2010; Albertus and Deming 2021).

The role of autocratic elites in new democracies has been one of the building blocks of the comparative literature on democratization and democratic consolidation (Huntington 1993; Diamond 1999; Higley and Burton 2006). Autocratic elites have strong incentives to prevent democratization as this can lead to a loss in status and access to exclusive material benefits (Acemoglu and Robinson 2006; Ansell and Samuels 2010), but sometimes the tides for democratization are too strong for elites to oppose (Gleditsch, Olar, and Radean 2023). Thus, if elites cannot stop democratization, they adapt by trying to game the rules of political representation in their favor with the aim of continuing to have influence over politics (Slater

and Wong 2013; Albertus and Menaldo 2018; Ang and Nalepa 2019). Autocratic elites enact rules and design institutions that protect their interests and allow them to return to the highest level of politics with relative ease (Albertus and Menaldo 2018). Returning elites do not only protect their interests, but also those of their former allies and supporters as they fear that a loss in status or punishment of their peers might attract a similar faith for them. Thus, human rights treaty commitment threatens former autocratic elites in new democracies since it can reduce their influence over politics by bringing about institutional changes and creating mechanisms that can be used to hold them accountable, reduce their influence over politics or access to state resources.

For example, Augusto Pinochet's arrest for torture in the United Kingdom, based on an arrest warrant issued by a Spanish Court under the provisions of the CAT (Lutz and Sikkink 2001), may have served as a cautionary tale for other former autocratic elites of the potential dangers of creating the mechanisms for punishment by committing to human rights treaties. Similarly, Tunisia's Law No. 2013 – which established a truth commission that investigated serious human rights violations between 1956 and 2013 as specified by international agreements that Tunisia had ratified (Article 8)[5] – was struck down and modified by legislation enacted by the government of Béji Caid Essebsi, who was a former cabinet member of Ben Ali's autocratic regime (Goldstein 2019). The new legislation ensured amnesty for corruption of former elites by striking down the ability of the truth commission to investigate elites past economic crimes.

[5] The full text of the law can be found on the website of the International Humanitarian Law Database available at: https://ihl-databases.icrc.org/en/national-practice/organic-law-no-2013-53-establishing-and-organising-transitional-justice-2013 (accessed 11.09.2024).

The incentives of former autocratic elites to reduce their country's commitment to human rights is straightforward: they anticipate the potential for punishment under a stronger commitment to human rights as international treaties include punitive transitional justice mechanisms (e.g. trials, prosecutions, lustrations, etc.) for actions under autocracy (Olsen, Payne, and Reiter 2010). The potential for punishment is exacerbated by the institutional changes inherent to democratization and consolidation (Dahl 1973; Linz and Stepan 1996) which empowers activists and victims with the mechanisms to hold autocratic elites accountable (Lutz and Sikkink 2001). Transitions to democracy brings about improvements in judicial independence (Larkins 1996), thereby increasing the likelihood of enforcing the provisions of human rights treaty. Democratization opens up the legislative process to opposition members who can put the spotlight on cabinet elites' autocratic past and involvement in human rights violations (Simmons 2009). It can also embolden activists and civil society organizations to use the newly created institutional mechanisms to seek justice for the past (Lutz and Sikkink 2001). Finally, democratization increases the number of veto players that can oppose former elites' actions (Lupu 2016), and improves press freedom and access to information regarding past abuses (Simmons 2009). Thus, former elites' ability to gain and/or maintain political power is reduced. The literature on treaty compliance shows convincing evidence that democracy and its inherent characteristics improve compliance with human rights treaties (Neumayer 2005; Hill Jr and Watson 2019; Hathaway 2001). These changes then threaten former autocrats' position under democracy and create strong incentives for former autocrats in cabinet to reduce human rights treaty commitments.

Cabinet positions give former autocratic elites control over the ratification process and allow them to slow down and reduce commitment to international human rights. While the

ratification process varies between countries,[6] the cabinet is mainly responsible for signing and commencing the ratification of a treaty (McKibben and Western 2020). The rules of ratification of an international treaty are usually directly embedded in the constitution (Simmons 2009), ranging from simply signing an executive order, to requiring a parliamentary super majority, or even a national referendum. The cabinet controls this process as they are the ones negotiating the conditions of accession to the treaty, can raise reservations and derogations, or choose when to initiate the domestic ratification of the treaty. This gives cabinet elites the power to delay and reduce the obligations that ratification would create for the regime (McKibben and Western 2020; Zvobgo, Sandholtz, and Mulesky 2020).

For example, the Vienna Convention of the Law of Treaties gives the head of state, head of government and minister for foreign affairs the power to perform all acts relating to the conclusion of a treaty (article 7, paragraph 2a), therefore allowing them to delay the negotiations or raise objections and reservations. Moreover, the ratification process of human rights treaties requires states to put in place domestic measures and legislation compatible with the treaty provisions[7] so they can meet its obligations. This gives the minister of justice direct

[6] In Table A7 of the Online Appendix I report models that control for whether the legislature is required to approve treaties using the *v2lgtreaty* variable from Varieties of Democracy (Coppedge et al. 2019). The results reported in the paper remain virtually unchanged when accounting for this, while this variable does not exert an effect on human rights treaty commitments.

[7] This is the rationale behind ratification offered by the United Nations' Office of the High Commissioner for Human Rights. Available at: https://indicators.ohchr.org/Stock/Documents/MetadataRatificationTotal_Dashboard.pdf (accessed 11.09.2024).

responsibility over the ratification process, which, in turn, offers former autocrats the possibility of reducing the country's commitment to human rights treaties. For example, Nigeria's Constitution requires the implementation of treaty provisions into national law (Section 12) whereby the Ministry of Justice is directly responsible for the depository of all treaties in which Nigeria has entered (Okeke and Anushiem 2018). Similarly, South Africa's section 231 of the Constitution stipulates that international agreements need to be implemented into national law, a procedure that requires an opinion from the Ministry of Justice.[8] The president is directly responsible for signing the treaty and initiating the ratification process, but the executive document through which this is done needs to be signed by the responsible line-function Cabinet Minister, which in the case of human rights treaties is the Minister of Justice.[9]

In conclusion, several observable implications emerge from the theory. Firstly, building on previous literature in international relations, the *lock-in hypothesis (H1)* indicates that *democratization increases a country's commitment to human rights treaties.* Secondly, based on insights from the comparative literature on democratization, the *returning elites hypothesis (H2)* indicates that *democratization by itself does not increase a country's commitment to human rights treaties. More specifically, new democracies with a higher share of former autocratic elites in cabinet have lower commitments to human rights treaties*. Thirdly, the *strategic cabinet position hypothesis (H3)* indicates that *former autocratic elites occupying*

[8] The official name of the South Africa Minister of Justice is the Department of Justice and Constitutional Development.

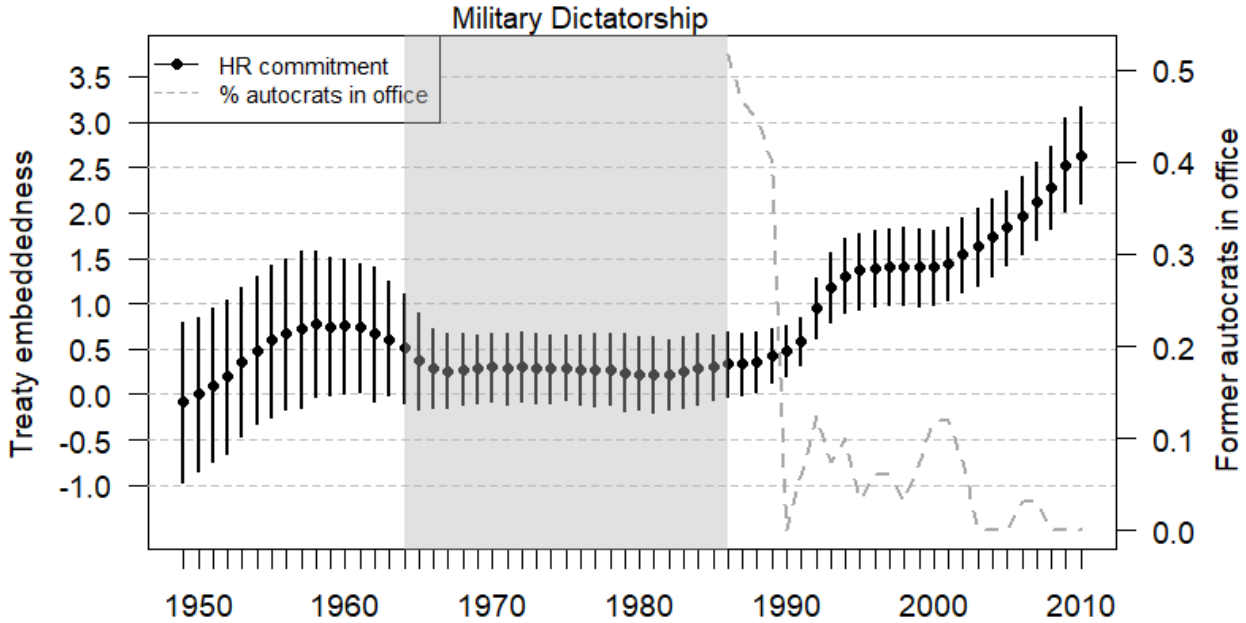
[9] This process is detailed in the Directive for the Conclusion of International Agreements 2019 of South Africa's Department of International Relations & Cooperation. Available at: https://dirco.gov.za/directive-on-the-conclusion-of-international-agreements_2019/# (accessed 11.09.2024).

cabinet positions directly responsible for commitment to human rights treaties (i.e., head of the executive, foreign minister, or justice minister) reduce a new democracy's commitment to human rights treaties.

Illustrative case study – Brazil

The logic of the theoretical argument can be best illustrated using Brazil's commitment to human rights after its democratic transition. Democratization in Brazil started officially on the 15th of January 1985 when the Congress elected Tancredo Neves as President, a politician that had been an important leader of the opposition against the military regime (Mainwaring 1986). Unlike its Latin American counterparts, Brazil's transition to democracy was mostly a top-down process that was possible because military and government elites agreed to a set of reforms that liberalized the political system, but never threatened elites access to state resources

Figure 1. Brazil's human rights treaty commitment and returning autocratic elites to democratic cabinet.



***Note**: The shaded area in the graph represents the period of the military dictatorship in Brazil. The lines around the points estimates gives us the 95% confidence intervals of the draws from the posterior distribution of a latent measurement of human rights treaty commitment from Fariss (2018) (more details about this can be found in the research design section below).*

and power (Hagopian and Mainwaring 1987; Power 1996; 2016). Both civilian and military elites thrived under democracy as they spread in various state institutions, from the local, to federal and national level (Power 1996). After the transition, the head of executive was Jose Sarney[10], the foremost civilian supporter of the military regime between 1964 and 1985. The post-transition cabinet was filled with former members of the military regime, while the military also held veto power over key policy decisions. Moreover, the Congress was mostly devoid of any power as it had limited prerogatives and was unable to set the public agenda since most power was concentrated in the executive. As Figure 1 below shows, in the first four years of democracy (1986-1990), the average rate of former autocrats in cabinet was 43%, a rate that dropped precipitously after the 1990 elections**.**

Figure 1 also illustrates that Brazil's over time commitment to human rights increased markedly after its transition to democracy in 1985. Prior to its democratic transition, Brazil had only ratified the Convention against Genocide (in 1953), the Convention against Racial Discrimination (in 1968) and the Convention on the Elimination of Discrimination against Women (1984). The biggest progress in human rights commitment came at the beginning of the 1990s once the cabinet was mostly free of former autocrats as Brazil ratified several human rights treaties[11] and substantially increased its commitment to international human rights. The

[10] He took over the position won by Tancredo Neves, who died before formally assuming the role of President. Sarney was his appointed Vice-President.

[11] These include the Interamerican Convention to Prevent and Punish Torture (1989), the Convention on the Rights of Children (1990), the International Covenant on Economic, Social, and Cultural Rights, the International Covenant on Civil and Political Rights, and the American Convention on Human Rights (1992), and the Convention against Torture and Other Cruel and Degrading Treatment or Punishment (1993).

acceleration in the ratification process was started and led by the former Ministers of Foreign Affairs Francisco Rezek and Celso Lafer, both largely unconnected to the previous military regime (Pinheiro 1998). In 1993, Brazil's commitment to human rights was further galvanized under the Minister of Justice Mauricio Correa, who held several meetings (between July and October 1993) with about thirty civil society organizations and human rights groups to define a national agenda for human rights (Pinheiro 1998). These were an extension of several rounds of meetings between human rights NGOs and the Foreign Ministry that took place in May 1993 in preparation for Brazil's participation at the World Conference in Vienna. The rounds of meetings in the Ministry of Justice were aimed at improving existing legislation and refining existing mechanisms so that they were more in line with the obligations assumed by the Brazilian government under the newly ratified human rights treaties. This focused on issues such as prisoner rights, protection of victims of violence, civil jurisdiction for military police, scholarship for pupils and children, and legislation specifying human rights crimes (Pinheiro 1998). In September 1993, Foreign Minister Celso Amorim opened his United Nations Assembly speech with an emphasis on the steps the government had taken to increase cooperation with civil society organizations in the observance of human rights. Moreover, Brazil's initial report relating to its obligations under ICPR (in 1993) was undertaken in collaboration with civil society organizations.

The stylized case study above illustrates how human rights treaty commitment increases sharply once the cabinet is (mostly) free of former autocratic elites as newly democratic elites have much stronger incentives to lock-in democracy. However, accurately observing the primary motivations and actual actions taken by cabinet elites can be difficult as we would need access to sources unavailable to outsiders (Nielsen and Simmons 2015). Often, cabinet decision making is a black box (Levy 2009) that requires a theory-driven, comparative approach that can identify covariation of decision-making inputs and outputs (Snyder 1984).

While the developments in Brazil match the logic of the theoretical argument, we still require a comparative empirical approach that allows use to establish covariation between the outcome and the explanation while accounting for any potential confounding factors. The empirical analysis below allows us to do that.

Research Design

The observable implications of the theory are tested in a timeseries cross-sectional research design using regime data from Geddes et al. (2014), a latent measure of countries' human rights treaty embeddedness from Fariss (2018) and a newly generated measure of returning autocratic elites to democratic cabinets using information on cabinet elites from WhoGov (Nyrup and Bramwell 2020). The *lock in hypothesis (H1)* is tested in a sample of 149 countries (democracies and autocracies) between 1954 and 2010, while the other hypotheses (H2 and H3) are tested in a sample of 71 new democracies between 1967 and 2010.[12] H1 is tested using a complete sample of all countries (autocracies and democracies) between 1954 and 2010 with the unit of analysis at the country-year level. In turn, H2 and H3 are tested in a sample that includes only new democracies (i.e. any country that democratized between 1967 and 2010) with the unit of analysis at the post-transition country-year level.[13]

Dependent variable

A country's commitment to human rights treaties is operationalized using a latent measure from Fariss (2018) which captures the level of embeddedness of a country within the human rights regime and the propensity to ratify new treaties as they open for ratification. This

[12] The difference in the sample sizes comes from the data coverage. More specifically, the WhoGov data coverage starts only in 1967.

[13] The sample includes only democratic country-years as coded by Geddes et al. (2014) and each new democracy is observed only after the transition year.

variable has been chosen as it captures over time propensity for ratification of new human rights treaties more accurately, accounts for reservations, understandings and declarations accompanying ratification, and reduces the potential for measurement error[14] (Fariss 2018). More simply, this variable allows researchers to account for the uncertainty around the measurement as it does not assume equal weighting between all treaties, incorporates information about the temporal dynamics of treaty ratification within the value of the latent measurement[15], and differentiates between types of ratification (Sikkink and Dancy 2012). This is a continuous variable ranging between -5.9 and 4.4, with higher values indicating more embeddedness into the human rights regime (i.e. stronger human rights commitment), and it covers the period from 1946 to 2010.

Independent variable

Several independent variables are used to test the observable implications of the theory. Firstly, the *lock-in hypothesis (H1)* is tested using democratic transitions data from Geddes et

[14] For more information on the advantages of using this measure over other alternative measures see pages 247 to 251 in Fariss (2018).

[15] This is achieved by making three separate local independence assumptions when generating the latent measure: (1) between indicators (i.e. treaties) within the same country-year, (2) across indicators countries within years, and (3) across years within countries. The latter assumption is relaxed by incorporating the temporal information into prior beliefs about the latent treaty variable (see Fariss 2018: 247-251). Put simply, this minimizes the temporal dependence in the latent measure of human rights treaty as each observed value of the latent measure accounts for previous patterns of ratification. Thus, the variable is slow-moving and most acts as a stock variable in which human rights commitment accumulates over time as states almost never unratify these treaties.

al. (2014). A democratic transition is an event which leads to a change in the formal and/or informal rules for choosing a leader such that the leader can gain office only through direct, reasonably fair elections in which the population was eligible to vote and which did not restrict any candidates' ability to run for office.[16] This operationalization follows previous approaches from the literature to capture democratization events as a change in the regime type within a 5-year period (Mansfield and Pevehouse 2006). More simply, this variable takes a value of 1 for each of the first five years after transition[17], and 0 otherwise. This variable captures more directly the theoretical underpinnings of the lock-in thesis as it avoids conflating political liberalization or institutionalization of autocracies with meaningful democratization. It captures procedural changes in the political organization of a state, therefore reducing the potential for endogeneity bias due to measurement error[18] (Crabtree and Fariss 2015). The *lock-in*

[16] For more information on the categorization of regime types and transitions, see Geddes et al. (2014, 2018) codebook.

[17] The Online Appendix (see Table A2.2) shows that alternative lengths of the time period around democratization (1 to 4 years) does not change the results.

[18] Table A2.1 in the Online Appendix reports results using the original operationalization of democratization by Manisfield and Pevehouse (2006) such that the democratization variable takes a value of 1 if there is a transition from an autocracy (below -6 on the Polity IV scale) to an anocracy (between -6 and 6 on the Polity IV scale) or from an anocracy to a democracy (above 6) from time *t-5* to time *t*. This analysis further distinguishes between liberalization (transition from autocracy to anocracy) and democratic transition (transition from anocracy to democracy). These results challenge previous findings as these variables either exert a negative (at 90% level) or null effect on commitment to human rights treaties, highlighting potential measurement error as a driver of previous findings.

hypothesis (H1) is tested in the full sample of autocratic and democratic regimes between 1954 and 2010 at the country-year level. Existing arguments point to democratizing regimes being more likely to commit to the human rights regime compared to both autocracies and democracies (Cole 2015; Simmons 2009; Moravcsik 2000; Mansfield and Pevehouse 2006).

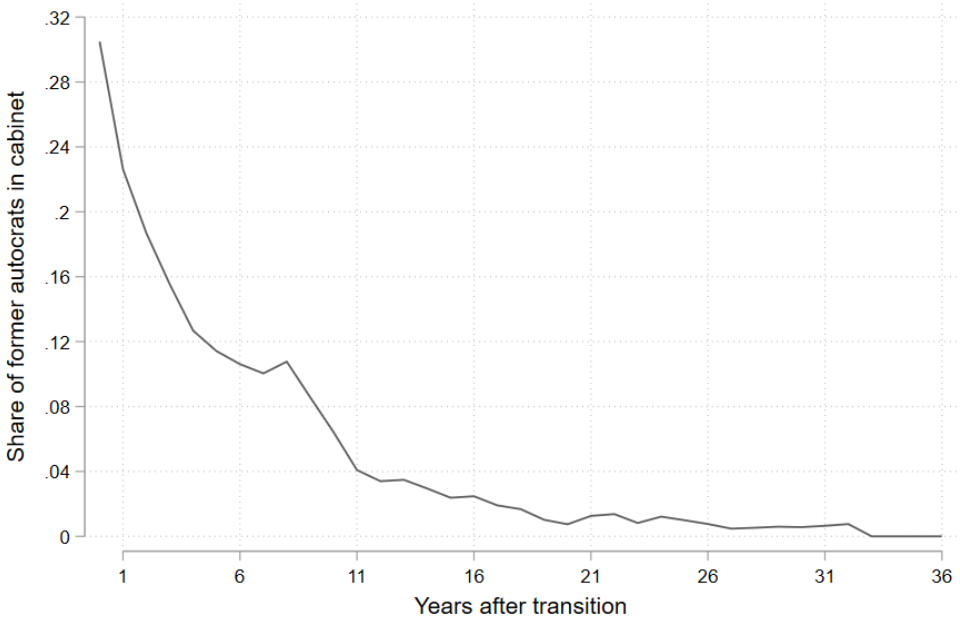
The *returning elites (H2)* and *strategic cabinet position (H3) hypotheses* are tested using a newly generated measure of returning autocratic elites in democratic cabinets. The paper leverages data on cabinet member and ministers from WhoGov (Nyrup and Bramwell 2020) to generate novel measures of returning autocrats in democratic cabinets between 1967 and 2010. The dataset contains information on cabinet members in 177 countries based on the Chiefs of State and Cabinet Members of Foreign Governments directory compiled by the CIA, which was originally compiled to be used by US Government officials. The high degree of confidence in the data accurately capturing cabinet members comes from the fact that it was compiled by CIA-affiliated personnel with country insight. It contains a list of names and positions for each country-year (observed in July of each year) that allows us to see who and when they were part of the cabinet, and what position they held.

The new measure is generated using the following procedure. Firstly, the individual elite-level data from WhoGov is matched with the Geddes et al. (2014) regime level data. This allows me to capture elites that occupied a cabinet position in autocratic and democratic country-years. Secondly, I tag all individuals that have occupied cabinet positions in an autocratic cabinet[19] prior to occupying a position in a democratic cabinet. Thirdly, I count the total number of individuals that are in a democratic cabinet (in a country-year) that have *also*

[19] This prevents me from capturing individuals that first entered a democratic cabinet and then became members in an autocratic cabinet (because the country experienced a democratic breakdown).

previously been in an autocratic cabinet (i.e. returning autocratic elites).[20] Finally, for each post-transition democratic country-year (starting with the first post-transition country-year), I

Figure 2. Share of cabinet occupied by former autocratic elites after transition, 1967 – 2010.



[20] WhoGov elites are observed in July of each year, with the exception of 1970 when January is observed instead. For transition years, I consider elites to have been in an autocratic cabinet if the transition happened after July of the observation year for all years, except 1970 (where I use January as the cut-off). If the transition is followed by a democratic spell, then I consider all elites observed during the transition year as having occupied a seat in a democratic cabinet if the transition happened before July. All provisional regime years are eliminated as these elites could neither be convincingly coded as fully democratic or autocratic. The transition dates were taken from the updated version of the Geddes et al. (2014) data from Chin, Carter, and Wright (2021). For countries that have split into several other countries (e.g. Czechoslovakia, Yugoslavia, etc.), I use the cabinet composition of main country to track whether any of those elites returned in the democratic cabinet of the new, independent, democratic country.

divide the total number of returning autocratic elites by the total number of individuals in cabinet to obtain the share of cabinet with former autocrats. This variable ranges between 0 and 1, giving us the proportion of active democratic cabinet members that have also been part of an autocratic cabinet. The average share of cabinet positions held by former autocrats in new democracies is about 9.2 percent. This variable allows me to test the *returning elites hypothesis (H2)*.

Figure 2 above shows that returning autocratic elites is a very sticky issue in new democracies as this proportion is highest right after the transitions (around 31%), and they completely disappear from cabinet about 30 years after the transition. Using the same procedure as above, I generate three separate binary variables taking a value of 1 if the head of the executive (president or prime-minister position), foreign minister and justice minister positions are occupied by a former autocrat in a country-year. These are used to test the *strategic cabinet position (H3)* hypothesis. Over 27.5% of all post-transition democratic country-years have a former autocrat as the head of the executive, while the foreign minister and justice minister positions are occupied by former autocrats in only 12.4% and 6.6% of all post-transition democratic country-years.

Control variables

Several control variables are included to account for alternative explanations that might drive the relationship between returning autocratic elites and commitment to human rights treaties. Firstly, the model accounts for the level of democracy using the liberal democracy index from the Varieties of Democracy (V-Dem) (Coppedge et al. 2019) as institutional changes inherent to democratization and consolidation might explain elites' ability to return to cabinet position, but could also impact a country's propensity to ratify human rights treaties. Next, the model includes a spatial lag of the proportion of democracy within each country's

region[21] as democratization may have a spillover effect and impact other countries' prospects for democratization and commitment to human rights (Simmons 2009).

Two binary variables capturing the independence of the superior court and treaty superiority in national law are included in the model. The independence of the superior court in a country is captured using the V-Dem data as an independent superior court would be better suited to enforce the treaties' position (Zvobgo et al. 2020), therefore threatening the position of former elites. Similarly, the domestic legal status of a treaty (i.e., treaty superiority) is an important control as this is usually codified in the constitution, a legal document that is at risk of manipulation by autocratic elites looking to protect their status under democracy (Albertus and Menaldo 2018). The data on the contents of a constitution comes from the Comparative Constitutions project by Elkins et al. (2009).

The model includes among its control variables a natural log of the number of international governmental organizations (IGOs) a country is part of as membership in these organizations can socialize elites into supporting human rights (Greenhill 2010) and membership has human rights conditionalities (Mansfield and Pevehouse 2006). The data on IGO membership comes from the Correlates of War project (Pevehouse et al., 2019). Additionally, the model includes controls for the level of economic development and population size (in 1000s and logged) from the World Bank. The set of control variables also includes measures of occurrence of conflict from the Uppsala Conflict Database (Gleditsch et al., 2002) and a latent measurement of human rights practices from Fariss (2014). The inclusion of these variables is straightforward: countries experiencing a conflict may want to reduce or suspend their human rights obligations as a means to ensure they can use all the coercive tools

[21] These are broadly defined as the Americas, Eastern Europe and Central Asia, East Asia, MENA, Oceania, Sub-Saharan Africa, South Asia and Western Europe.

at their disposition to quell the opposition (Hafner-Burton, Helfer, and Fariss 2011), while human rights violators may not be particularly inclined to ratify human rights treaties that tie their hands.[22] Finally, a variable measuring regime duration[23] is included as the independent effect of autocratic elites on human rights treaty commitment might be driven solely by their presence in the cabinet in the beginning of the democratic regime, when institutional mechanisms are not fully developed. All control variables are lagged by one year to avoid any simultaneity bias.

Empirical analysis

Two different modeling strategies are used to estimate the effect of democratization and the return of autocratic elites on commitment to human rights treaties. Firstly, I use linear regression models with the latent measure of countries' embeddedness into the human rights regime and a procedure that allows me to account for the uncertainty around the latent measure. This method deals directly with the possibility that the observed relationship between the explanation and outcome is driven by endogeneity due to measurement error.[24] Secondly, I use

[22] Although, this relationship is not clearly established in the literature as some scholars argue that human rights violators are more likely to ratify human rights treaties as a cheap way to signal commitment, without substantial change in their practices (Hathaway 2001; Hafner-Burton and Tsutsui 2007).

[23] For new democracies this is calculated as years since the transition.

[24] Table A1 in the Online Appendix shows that the results remain nearly identical when we estimate linear regression models that use the latent measurement, but which do not include the uncertainty measure. This is important as it allows us to estimate the instrumental variable models and additional robustness tests using standard packages in statistical software (Stata and R) without being concerned that the reported results are driven by measurement error.

an instrumental variable approach to rule out the possibility that the relationship is driven by endogeneity due to reverse causality. Elites might be in a better position to return to office in a new democracy that has not committed to human rights treaties and has not developed the institutional mechanisms of ratification to deal with its autocratic past (Olsen, Payne, and Reiter 2010). Both approaches are detailed in the next sub-sections.

Linear regression models

As discussed previously, the latent measurement and its uncertainty estimate for a country's commitment to the human rights regime from Fariss (2018) is superior to previous measures of countries' ratification of human rights treaties because it relaxes the temporal independence assumption within units by incorporating this information in the latent construct. Moreover, measurement error is because the latent measure accounts for reservations, declarations and exceptions raised by states during the ratification process. This captures more accurately the underlying propensity of countries to ratify human rights treaties in a country-year as it minimizes the possibility that the observed relationship is driven by noise in the data due to measurement error. I follow the approach suggested by Schnakenberg & Fariss (2014) to incorporate the uncertainty around the latent measurement in the linear regression model. This approach duplicates the dataset 1,000 times and assigns a random draw from the posterior distribution of the latent variable to each country-year observation for the outcome, with 1,000 linear regression models being estimated and results across multiple sets of data being combined to create one set of coefficient and standard error estimates. Table 1 below summarizes the models that test the three hypotheses.

However, the use of the latent variable of human rights treaty embeddedness is still superior to existing measures of treaty ratification as shown by Fariss (2018) and discussed above.

Table 1. Democratization, autocratic elites, and human rights treaty commitment.

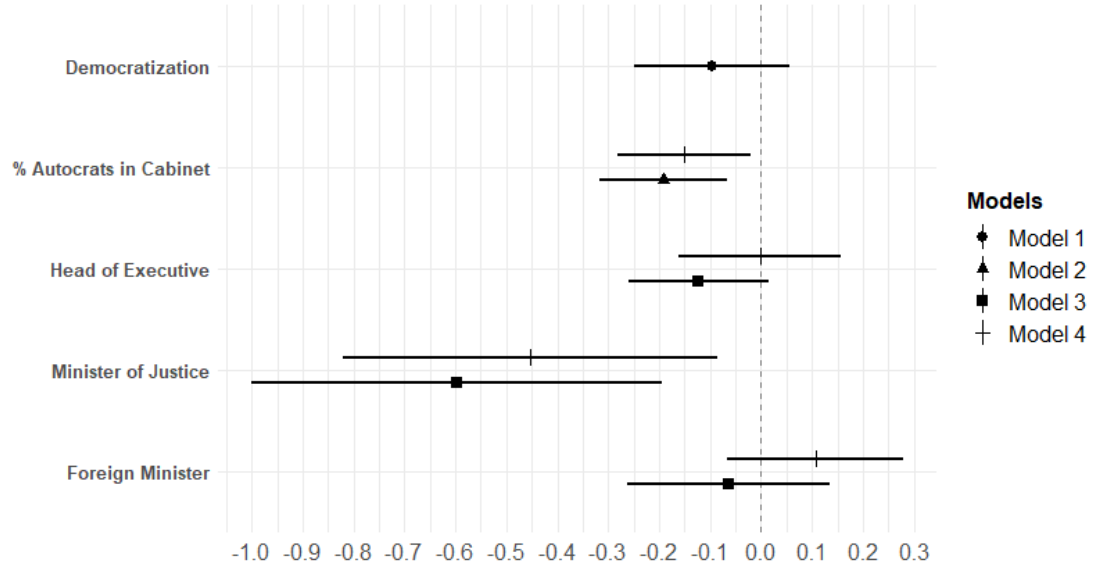
VARIABLES	(Model 1) Latent HR commitment	(Model 2) Latent HR commitment	(Model 3) Latent HR commitment	(Model 4) Latent HR commitment
Democratization	-0.097	--	--	--
	[0.078]	--	--	--
Share of former autocrats in cabinet	--	-1.200***	--	-0.947**
	--	[0.399]	--	[0.416]
Position occupied by former autocrat at t-1:				
Head of the executive (PM or President)	--	--	-0.123*	-0.002
	--	--	[0.070]	[0.081]
Minister of Justice	--	--	-0.597**	-0.453***
	--	--	[0.206]	[0.187]
Foreign Minister	--	--	-0.064	0.107
	--	--	[0.102]	[0.088]
Liberal democracy t-1	0.417*	0.194	0.148	0.174
	[0.237]	[0.270]	[0.260]	[0.261]
Average democracy in the region	0.348***	0.197*	0.181*	0.188*
	[0.100]	[0.104]	[0.105]	[0.105]
High court independence t-1	-0.064***	-0.055**	-0.066**	-0.055**
	[0.025]	[0.027]	[0.027]	[0.027]
Treaty equal or superior	0.200***	0.163***	0.196***	0.173***
	[0.062]	[0.057]	[0.062]	[0.059]
No. of IGOs membership t-1	1.518***	1.675***	1.669***	1.668***
	[0.121]	[0.141]	[0.138]	[0.138]
GDP/capita ln t-1	-0.655***	-0.752***	-0.736***	-0.745***
	[0.092]	[0.112]	[0.107]	[0.108]
Population size ln (in 1000s) t-1	-0.516***	-0.566***	-0.553***	-0.562***
	[0.063]	[0.072]	[0.069]	[0.069]
Armed conflict t-1	0.106	0.094	0.095	0.084
	[0.076]	[0.079]	[0.079]	[0.080]
Human Rights Score t-1	-0.063	-0.053	-0.040	-0.050
	[0.074]	[0.075]	[0.071]	[0.071]
Regime duration in years	0.015***	0.012***	0.013***	0.012***
	[0.003]	[0.003]	[0.002]	[0.003]
Constant	1.584***	2.227***	2.012***	2.173***
	[0.547]	[0.701]	[0.655]	[0.677]
Sample	All countries	New Democracies	New Democracies	New Democracies
No of countries	149	71	71	71
Time period	1954 – 2010	1967 – 2010	1967 – 2010	1967 - 2010
Observations	6,844	1,258	1,258	1,258

Standard errors in brackets: *** p<0.01, ** p<0.05, * p<0.1

Model 1 tests the *lock-in hypothesis (H1)* as it estimates the effect of democratization on a country's propensity to commitment to human rights treaties. Models 2 to 4 test the *returning elites (H2)* and *strategic cabinet positions (H3) hypotheses* by estimating the effect

of returning autocratic elites on commitment to human rights treaties. Model 1 shows that democratization does not exert a statistically significant effect on a country's propensity to commit to human rights treaties, thereby challenging previous arguments and findings on the effect of democratization on human rights treaties ratification. As argued above, previous findings on the positive effect of democratization on human rights treaties ratification could be driven by endogeneity due to measurement error.[25] This null finding could also be explained by the fact that all democratization events are treated as equivalent under the assumption that all elites in a new democracy have a strong preference towards human rights, an assumption that has been challenged by the comparative literature on democratization (Huntington 1993; Slater and Wong 2013; Albertus and Menaldo 2018; Riedl et al. 2020).

Figure 3. Substantive effects of the democratic lock-in.



[25] This null effect is not driven by the operationalization of democratization. Section A2 in the Online Appendix reports additional models in which democratization is operationalized using other time windows around the transition event and the original democratization measure from Mansfield & Pevehouse (2006) using Polity IV. Democratization exerts a null effect or negative effect in all these models.

Figure 3 above summarizes the substantive effects of changes in the explanatory variables as standardized coefficients for the variable measuring the share of former autocrats in cabinet and as average marginal effects for the binary, independent variables (i.e. democratization and strategic positions variables).[26] The results reported in Figure 3 highlight the validity of the argument that democratization cannot be considered a blank slate, and that returning autocratic elites explain more accurately commitment to human rights treaties in new democracies. Firstly, a one standard deviation change (13 percentage points) in the share of autocrats in democratic cabinets reduces new democracies' human rights treaty commitment by 0.19 (Model 2), respectively 0.15 (Model 4) points on the absolute value of the dependent variable.[27] Substantively, this decrease is equivalent to the difference in human rights treaty commitment between the countries in Latin America and MENA.[28] This is the equivalent of 9 percentage points (Model 2) and 11 percentage points drop (Model 4) relative to the average level of human rights commitment in new democracies.[29] These results support the underlying argument behind the *returning elites (H2) hypothesis.* Finally, the *strategic cabinet position (H3) hypothesis* also seems to receive partial support as new democracies' propensity to ratify human rights treaties is reduced when a former autocrat holds the position of minister of justice. More specifically, a former autocrat as a minister of justice reduces a new democracy's human rights treaty commitment by 0.59 (Model 2), respectively 0.45 (Model 4) points on the absolute

[26] These changes provide the counterfactuals for our hypotheses.

[27] The dependent variable ranges between -5.9 and 4.4.

[28] See Figures A5.1 and A5.2 in the Online Appendix for a visual summary of the levels of human rights treaty commitment by region and over time. Table A9 summarizes their human rights commitment and which region they belong to as coded by the V-Dem project (Coppedge et al. 2019).

[29] The global average human rights treaty commitment score in new democracies is 1.66.

value of the dependent variable. Substantively, this reduction in human rights treaty commitment is equivalent to the difference between countries in Western Europe and Latin America. Relative to the average level of human rights commitment among new democracies, it is equivalent to a decrease of 36 percentage points (Model 2) and of 27 percentage points (Model 4). Finally, countries' commitment to human rights treaties does not seem to be affected by former autocrats occupying the head of the executive or the foreign minister position.

Instrumental variable estimation

The paper argued that the mixed results on the effect of democratization on human rights treaty commitment may be driven by endogeneity due to reverse causality. This happens because autocratic regimes may liberalize or democratize in anticipation of the changes required by the ratification of the treaty (Hathaway 2007). Moreover, endogeneity may also be partly induced by the conceptual and empirical overlap between measures of democratization and human rights treaties (Von Stein 2016; Hill Jr. 2016). While the paper tried to circumvent the latter issue by separating the main actors responsible (i.e. cabinet elites) for ratification from the actual ratification outcomes, this does not reduce the possibility of reverse causality – elites' return to office might be affected by their expectations of the potential effects of human rights treaty ratification and the demands for accountability. I use an instrumental variable estimation strategy to reduce this possibility. This approach estimates the effect of a plausibly exogeneous (to the outcome) variable (i.e. the instrument) on the main explanatory variable (i.e. share of autocrats in democratic cabinet), which in turn exerts an effect on commitment to human rights treaties. This instrument is valid (i.e. meets the exclusion criteria) if (1) the instrument explains variation (i.e. exerts an effect) in the main explanatory variable, and (2) the instrument is uncorrelated with the outcome variable, and it only exerts an effect (on the outcome) through the main explanatory variable.

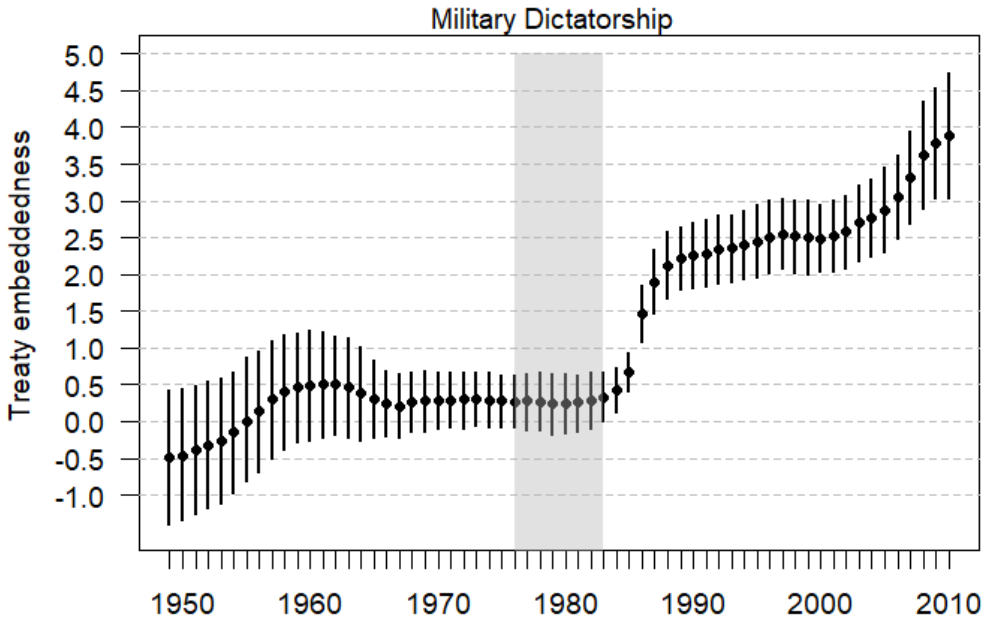
The paper uses transitions through civil resistance from Pinckney (2020) as an instrument for the share of cabinet occupied by former autocratic elites. These transitions are defined as transitions that were "initiated, led and brought to fruition through a peaceful, organized campaign from the bottom up, a campaign of nonviolent resistance" (Pinckney, 2020: 3). The campaigns that led to transitions have a maximalist goal, at least 1,000 observable participants and used primarily nonviolent strategies to resist and challenge the autocratic regime in power (Chenoweth and Stephan 2011). The exclusion criteria for the instrument are valid if two assumptions are plausibly met: (1) new democracies emerging out of civil resistance transitions have a lower share of autocratic elites occupying positions in the cabinet, and (2) civil resistance transitions (or mobilization more generally) do not have a direct effect on a country's commitment to human rights treaties, except through the instrumented variable.

There are strong theoretical reasons that the first assumption is met. The literature on civil resistance shows that democracies emerging out of nonviolence are more likely to survive for a longer period of time compared to other democracies (Bayer, Bethke, and Lambach 2016; Kadivar 2018) and have an overall higher quality of democracy (Bethke and Pinckney 2021). One of the arguments as to why this happens is that citizens participating in nonviolent mobilization develop more pro-democratic attitudes and norms that makes them reject autocratic alternatives, become more involved in politics afterwards, and produce political leaders with more pro-democratic preferences (Bayer, Bethke, and Lambach 2016; Pinckney 2020). Under these conditions, former autocratic elites may find it more difficult to survive, shape the transition in their favor or return to political office since their profile does not match the preferences of the electorate. Nonviolence creates governance costs for leaders and elites such that they can no longer rule (Gleditsch, Olar, and Radean 2023). The elites experience the transition from a position of weakness which prevents them from rigging the democratic rules in their favor (Slater and Wong 2013; Albertus and Menaldo 2018; Albertus 2019). Thus, we

should observe a lower share of democratic cabinet positions occupied by former autocratic elites in democracies formed through nonviolent resistance.[30]

The logic of this can be best illustrated by Argentina's transition to democracy and its experience with accountability for the members of the military junta. Argentina's transition to democracy emerged out of sustained civic mobilization against the military dictatorship. A key role in organizing the mobilization was the organization "Las Madres de Plaza de Mayo" that was formed to find the individuals that disappeared during the dictatorship. Slowly, this organization was joined by trade unions, business associations and other civic groups that

Figure 4. Human rights treaty commitment in Argentina, 1949-2010.



organized sustained protests calling for civilian rule. The decisive moment was a large-scale protest in December 1982 after which the military elites agreed to relinquish power as the costs of governing was too high (Gleditsch, Olar, and Radean 2023). Raul Alfonsin won the 1983 presidential election on a platform that aimed to put the military government on trial for its atrocities, particularly its highest officials (Skaar 2011: 34; 48), an objective that was partly

[30] Table A3.1 in the Online Appendix shows that this expectation holds.

achieved during the 1985 "Juicio de las Juntas" trial (Skaar 2011: 50-51). Despite not having an actual ban on the return of these elites to government, the societal opprobrium and demand for accountability of the military elites thwarted even the slightest inclination of the return to politics by former elites. Put simply, none of the former junta members returned to any cabinet positions under democracy.[31] This also allowed Argentina to increase its human rights treaty commitment quite substantially immediately after transition[32] (see Figure 4 above) as it ratified multiple international human rights treaties such as CEDAW in 1985, the ICCPR and its 1st Optional Protocol, CAT (plus both of its Optional Protocols) and ICESCR in 1986, and the Rome Statute and Genocide Convention in 2001. These ratifications opened up the possibility of private prosecutions of former military elites in Argentina and increased accountability for the crimes of the past (Sikkink and Dancy 2012), particularly since most of the military elites benefited from the amnesty provided by the Full Stop Law of 1986 and Due Obedience Law of 1987.[33]

The second assumption implies that the effect of our instrument on human rights commitment works only through its effect on the share of autocratic elites in a democratic cabinet. This assumption would be violated if there was a direct effect of civil resistance

[31] Figure A6 in the Online Appendix uses displays the various fates of junta members after transition using the elites' fate data from Albertus and Deming (2021).

[32] Argentina had only ratified the Convention against Genocide (1966) and the Convention on Ending Racial Discrimination (CERD) (1968) prior to the transition, both under democratic governments.

[33] These amnesty laws were later struck down in a series of trials with the Supreme Court of Argentina declaring them unconstitutional in 2005 (see more details at https://www.hrw.org/news/2005/06/14/argentina-amnesty-laws-struck-down).

transitions (or mobilization) on a country's commitment to human rights treaties. The violation of this assumption does not seem plausible based on existing research. Firstly, civil resistance campaigns are directed at maximalist, domestic goals (regime or political change, peace negotiations, independence, etc.) and are not directed at making demands for a regime to increase its commitment to international human rights. Often, nonviolent resistance is built on the lowest common goal and a single-issue item which is mostly focused on leadership and democratic change (Bayer, Bethke, and Lambach 2020). Rarely, if ever, have nonviolent resistance movements had commitment to international human rights treaties as their primary objective. Democracies formed through nonviolence are not of higher quality across the board, but rather they have more freedom of expression and association, behaviors that are most likely a legacy effect of nonviolent strategies of resistance (Bethke and Pinckney 2021). Nonviolence is not a silver bullet for improvements across all dimensions of democracy. Moreover, while reparations for past human rights violations may be part of the activists' demands when opposing an autocracy, existing work seems to point out that the causal arrow might work the other way around. Some scholars argue that activists in democracies may be emboldened by the ratification of the human rights treaties to seek retribution for past violations (Simmons 2009) and keep their government accountable in the instance of additional abuses (Neumayer 2005), rather than mobilize in anticipation of ratification. Even if treaty ratification impacts activists' demands, their activity is more likely to rely on institutional, democratic mechanisms created through ratification (Keck and Sikkink 1998; Lutz and Sikkink 2001) rather than mobilization in the streets. Section A3 in the Online Appendix reports several tests that show there is no association between onset of nonviolence or transition through nonviolence and levels of human rights treaty commitment.

Table 2. Human rights treaty commitment and autocratic elites in democracies with instrumental variable.

VARIABLES	(Model 5) Latent commitment	(Model 6) Latent commitment
Share of former autocrats in cabinet	-4.034**	-5.203**
	[1.763]	[2.252]
Position occupied by former autocrat at t-1:		
Head of the executive (PM or President)	--	0.567*
	--	[0.297]
Minister of Justice	--	0.193
	--	[0.359]
Foreign Minister	--	0.888**
First stage F	14.671	19.429
Control variables included	Yes	Yes
No of countries	71	71
Time period	1967 – 2010	1967 – 2010
Observations	1,258	1,258
R-squared	0.351	0.356

Standard errors in brackets: *** p<0.01, ** p<0.05, * p<0.1

Models 5 and 6 from Table 2[34] above report the results when instrumenting for the share of autocratic elites in a democratic cabinet.[35] More specifically, for a one standard deviation increase (i.e. 13 percentage points) in the share of former autocrats in cabinet, there is a corresponding reduction of 0.53 (Model 5) and 0.69 (Model 6) in human rights treaty commitment by new democracies. These differences are equivalent to the difference in levels of human rights treaty commitment between Latin America and MENA regions (for Model 5), and between Latin American and Sub-Saharan Africa (for Model 6). This equates to a decrease

[34] The full regression model can be found in Table A3.3 in the Online Appendix.

[35] Only Models 2 and 4 from Table 1 have been used for the instrumental variable as the instrument seems not to work for the *strategic cabinet position hypothesis*. This is not reported as there is no effect of these variables. This can be replicated using the replication files of the paper.

of 33 percentage points (Model 5) and of 44 percentage points (Model 6) from the average level of commitment to human rights treaties in democracies formed through nonviolence.

To sum up, the effect of the share of autocrats in cabinet in the models from Table 2 are consistent with those from Table 1.[36] The instrument seems to be valid as the first-stage F statistic for the instrument is 14.671 in Model 5 and 19.429 in Model 6, way above the commonly used thresholds of instrument strength in existing literature (Sovey and Green 2011; Meng and Paine 2022; Blair, Di Salvatore, and Smidt 2022). This leads further support to the *returning elites hypothesis (H2)* and reduces the possibility that the observed relation is driven by reverse causality. In contrast, the instrument does not seem to work for the *strategic cabinet position (H3) hypothesis* as there's either no statistical association between former autocratic elites occupying strategic positions or their sign is reversed when instrumenting through transition type. This could be explained by the fact that accession to a particular position might be more context dependent, with former autocratic elites not having as much influence in the process through which they access particular cabinet positions.

Robustness tests

Several additional robustness tests were conducted to ensure the exclusion criteria for the instrument are met, and that alternative explanations and confounders are not driving the results of the main analysis. While I refer the readers to the Online Appendix for a summary of these tests, here I provide a discussion of results of the main analysis when using country

[36] The effect reported in the IV models (Models 5 and 6) represents the Local Average Treatment Effect (LATE) which is the effect of the treatment on the compliers – those units who take up the treatment if "encouraged" by the instrument. In this case, that would be those new democracies who have a low share of former autocratic elites in cabinet because they transitioned through civil resistance (Angrist et al. 1986).

fixed effects to account for unobserved heterogeneity (as requested by one of the reviewers). Precisely, fixed-effects analyses are useful because one can control for time-invariant characteristics that might be unobserved, that correlate with the dependent and independent variable, and which are constant for each unit. However, under specific conditions, this type of analysis may be problematic because fixed-effects will not work well with data for which within-cluster variation is minimal, or which has slow changing variables over time. The reason for this is that a model with fixed-effects cannot use the between-countries differences as leverage when estimating the covariates' effect. When the over time, within-country variation (i.e., the only information the model can leverage) is small, "fixed effects estimates will be imprecise" (Allison 2009: 2) and have large standard errors. This in turn may lead us to wrongly accept the null hypothesis. This is the case for the analysis reported in Table 1 when including country fixed effects (see Table A10 in the Online Appendix). The effect of democratization remains statistically insignificant (similar to Model 1), while the effect of the variables measuring the share of returning autocratic elites or the strategic positions becomes statistically insignificant (contrary to Models 2-4).

This happens because these variables have minimal within-unit variance leading to imprecise estimates that cannot be leveraged by the fixed effects model. For example, the share of autocrats in cabinet ranges between 0 and 1 with a standard deviation of 0.16 in the main sample. However, seven countries in the sample always have 0 in the share of autocrats in democratic cabinet, thereby having no within-unit variation. Similarly, a representative case from the sample (i.e. Romania) - selected based on the median value of the share of autocrats in cabinet – has a within-unit variation (i.e. standard deviation) of only 0.02 which is much lower than the entire sample (which is 0.16). Moreover, 54 out of 71 of the new democracies in the sample have a within unit standard deviation lower than the sample (i.e. 0.16). Similarly, there is very low within unit variation for the strategic positions variables as 33 new

democracies never had a former autocrat as head of the executive, 41 never had a former autocrat as a minister of justice, and 29 never had a former autocrat as foreign minister. Thus, this indicates that a fixed effects model might not have enough leverage to estimate within-country variation for the main analysis. However, the main analysis offers support for the between-country arguments: new democracies that have a lower share of returning autocratic elites are more committed to the international human rights regime.

Conclusion

This paper provided novel theoretical propositions and systematic empirical evidence on the democratic lock-in thesis. This thesis proposes that political elites in new democracies have stronger incentives to commit to human rights treaties and international organizations as a means to defend newly gained democratic rights and freedoms against future illiberal attempts by non-democratic actors (Elsig, Milewicz, and Stürchler 2011; Goodliffe and Hawkins 2006; Hafner-Burton, Mansfield, and Pevehouse 2015; Hathaway 2007; Mansfield and Pevehouse 2006; Moravcsik 2000; Simmons 2009; Zhou 2014). While prominent in the literature explaining countries' commitment to human rights, this proposition has received mixed empirical support with some studies finding no relationship between new democracies and ratification of CAT (Goodliffe and Hawkins 2006; Simmons 2009; Zhou 2014) or with evidence in support that suffers from endogeneity bias (Mansfield and Pevehouse 2006; Hathaway 2007; Elsig, Milewicz, and Stürchler 2011; Zhou 2014; Simmons 2009). This paper proposed that these mixed findings could potentially be explained by endogeneity due to reverse causality and measurement bias stemming from the conflation of political liberalization with democratization.

The theoretical propositions developed in this paper challenge the assumption that all elites in a new democracy strongly prefer locking-in democracy and protecting human rights. Precisely, having a democratic cabinet free of former autocratic elites explains more accurately

increases in human rights commitment in new democracies. The position these former autocrats occupy helps us explain what drives new democracies' commitment to human rights treaties. The observable implications of this argument were tested in a timeseries cross-sectional regression analysis that avoided the pitfalls of previous empirical work on the topic. It used measures that more accurately operationalize the theoretical propositions, that avoid conceptual overlap between the outcome and explanation, and which allows us to account for the uncertainty around measures of human rights commitment. Moreover, the analysis instrumented the share of former autocrats in cabinet using transitions through civil resistance (Pinckney 2020) to improve the causal interpretation of the results. The empirical analysis shows that democratization by itself does not impact a country's commitment to human rights treaties. In new democracies, this commitment seems to be driven by the share of the cabinet that is occupied by former autocrats and the positions they hold within the cabinet.

This paper brings several contributions to the literature on human rights treaty commitment and democratization. Firstly, it qualifies the propositions of the democratic lock-in thesis (Moravcsik 2000) by showing that we cannot treat all new democracies and elites alike as they have very different preferences over the democratic future. Secondly, this paper combines insights from the comparative literature on democratization (Albertus and Menaldo 2018; Loxton and Power 2021) and human rights treaty commitment (Simmons 2009) to provide a novel theory on the preferences and domestic drivers of international politics (Moravcsik 1997). Finally, this paper provides a novel measure of returning autocratic elites to democratic politics, a phenomenon that has been discussed by the comparative literature on democratization (Huntington 1993; Higley and Burton 2006; Albertus and Menaldo 2018), but which has not been previously operationalized in a systematic manner for comparative research.

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