Who commits to regional human rights treaties?
Reputational benefits, sovereignty costs, and regional dynamics

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Abstract: Over the past 50 years, regional international organizations have adopted several treaties on human rights. By ratifying them, member states can signal their commitment to the norms codified in the respective documents. Yet ratification patterns vary greatly across both states and treaties. Extant studies of commitment to human rights focus on the impacts of reputational benefits and sovereignty costs. These arguments, however, are largely based on studies of ratification behavior in Europe and the UN system. We extend this logic to treaties created in the Organization of American States (OAS) and the African Union (OAU/AU). Between them, the two organizations have adopted 15 human rights agreements, giving their member states ample choices about (non)ratification. We apply event-history analysis to newly collected data on treaty commitment. This reveals variation in line with regional differences in how treaties are elaborated. Benefits from commitment expected by democratic and democratizing states play an important role in the member-state driven process in the OAS, but this is not the case in the OAU/AU. In the expert-driven context of the OAU/AU, in contrast, concerns about sovereignty costs related to treaty design and the relative power of member states are more pronounced.

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Introduction

Regional international organizations (RIOs) have become an important cornerstone in the global regime to foster human rights, in addition to the United Nations (UN) human rights treaty system (Shaw, 2007; Sikkink, 2014; Börzel & van Hüllen, 2015).[1] Many contributions focus on the adoption and content of human rights treaties (Moravcsik, 2000; Yen, 2011; Tallberg et al., 2020; Davies, 2021; Stapel, 2022). Other scholars analyze the instruments that RIOs have at their disposal to induce compliance with human rights standards (Alter et al., 2013; Hillebrecht, 2014; Hellquist, 2015; Brett, 2018). Another branch of research explores the varying effects these agreements have in affected states (Simmons, 2009; Goodman & Jinks, 2013; Coe, 2019a; Langlois, 2021).

So far, relatively few scholars have studied the conditions under which states commit to regional human rights treaties (but see Reichel et al., 2020 for the European context). Most literature on commitment to international human rights addresses the UN system (Simmons, 2009; Davies, 2014; Comstock, 2021). This narrow focus on *global* human rights is unfortunate, given that many RIOs define human rights standards for member states to implement domestically. Additionally, it does not do justice to how states from the Global South have contributed to contemporary global human rights (Morsink, 1999; Sikkink, 2014; Maluwa, 2020). Hence, we address the research question: *under what conditions do member states (not) commit to regional human rights norms?*

Our basic assumption is that states use the act of ratifying regional human rights treaties to signal their commitment to fundamental norms. Ratification behavior is driven by considerations regarding reputational benefits and sovereignty costs. Potential benefits in the sense of locking in democratic reforms and gaining reputation increase the likelihood of commitment. This includes a neighborhood dynamic: when a sufficient number of their regional peers have ratified a treaty, additional states are more likely to commit to regional standards. At the same time, member states refrain from ratifying when treaties impose sovereignty costs in the form of coercive instruments, such as independent regional courts. Less powerful states and those with a common-law legal tradition can also be expected to be more mindful of sovereignty costs (Hathaway, 2007; Simmons, 2009; Hafner-Burton et al., 2015; 2019; Mulesky et al., 2020).

[1] RIOs are institutionalized forms of cooperation which takes place on the basis of geographical proximity between three or more states (Goltermann et al., 2012: 4, Panke et al., 2020: 1).

However, the role of these factors can vary in different regional contexts. RIOs follow two distinct approaches in the development of human rights treaties: the policy-making process is either led by member states or by RIO bureaucrats and experts. Neighborhood dynamics, state power, and legal tradition can be assumed to play similar roles for commitment in both contexts. Yet we expect benefits linked to regime type and episodes of democratization to be more relevant in the state-led context, when members can translate domestic demands into regional agreements and expect reputational benefits from taking credit for their efforts. In case of expert-led human rights agreements, by contrast, concerns about sovereignty costs feature more prominently, because member states face uncertainty and have less control over the negotiations.

To compare across regional contexts, we analyze two prominent RIOs mostly involving member states from the Global South. First, the Organization of American States (OAS) set the pace in the endeavor to promote and protect human rights. It developed and implemented regional agreements early on, including a functioning Inter-American Court of Human Rights. The OAS represents a member-driven process. Second, the Organization of African Unity (OAU) – since 2002, African Union (AU) – was late in developing regional human rights agreements and follows an expert-driven logic of treaty development. We do not include the third continental RIO that addresses human rights issues, the Council of Europe (CoE). Theoretical accounts about commitment largely build on insights from the CoE and UN systems, in which member states initiate and conduct treaty negotiations. Since the OAS resembles the CoE approach, we use this case to test theoretical expectations from the literature. The OAU/AU in turn provides a case in which the basic assumption of intergovernmental negotiation of treaties does not apply to the same extent. Hence, this case selection serves to crosscheck the conventional wisdom derived from European and global trends, and to examine how the regional processes of treaty development affect the commitment by member states. Moreover, we address empirical blind spots in the study of human rights commitment.

Empirically, our analysis builds on a novel data set that tracks the timing of treaty ratifications by the two organizations' 89 member states from 1969 until 2019. We show that commitment by member states varies between RIOs and individual treaties. While some treaties and protocols find almost unanimous support, others are ratified by considerably fewer states. In some cases, the ratification process is swift, leading to the treaty entering into force almost immediately. In other

cases, this process takes more than a decade. To explain this variation, we use event history analysis. The results confirm that different factors influence the member states' decisions to commit to human rights. Generally, states are more likely to ratify human rights treaties when their neighbors do so as well. Other effects vary across regions. The benefits from commitment expected by democratic and democratizing states play an important role in the member-state driven process in the OAS. In the expert-driven context of the OAU/AU, in contrast, concerns about sovereignty costs related to treaty design and the relative power of member states are more pronounced. Including the regional perspective thus improves our understanding of treaty ratification.

We proceed in four steps. First, we present the patterns of ratification in the OAS and OAU/AU. In the theory section, we introduce regional policy-making, reputational benefits, and sovereignty costs as factors that influence the decisions of member states to commit to human rights standards. Building on the human rights commitment literature, we develop several theoretical expectations about how ratification patterns are driven by reputational benefits and concerns about sovereignty costs. We further argue that insights from the regionalism literature can help us better understand how regional policy-making processes influence commitment of member states at the ratification stage. These theoretical expectations are tested using event history analysis, followed by a discussion of the main findings and alternative interpretations. We conclude by outlining the implications of our results and avenues for future research.

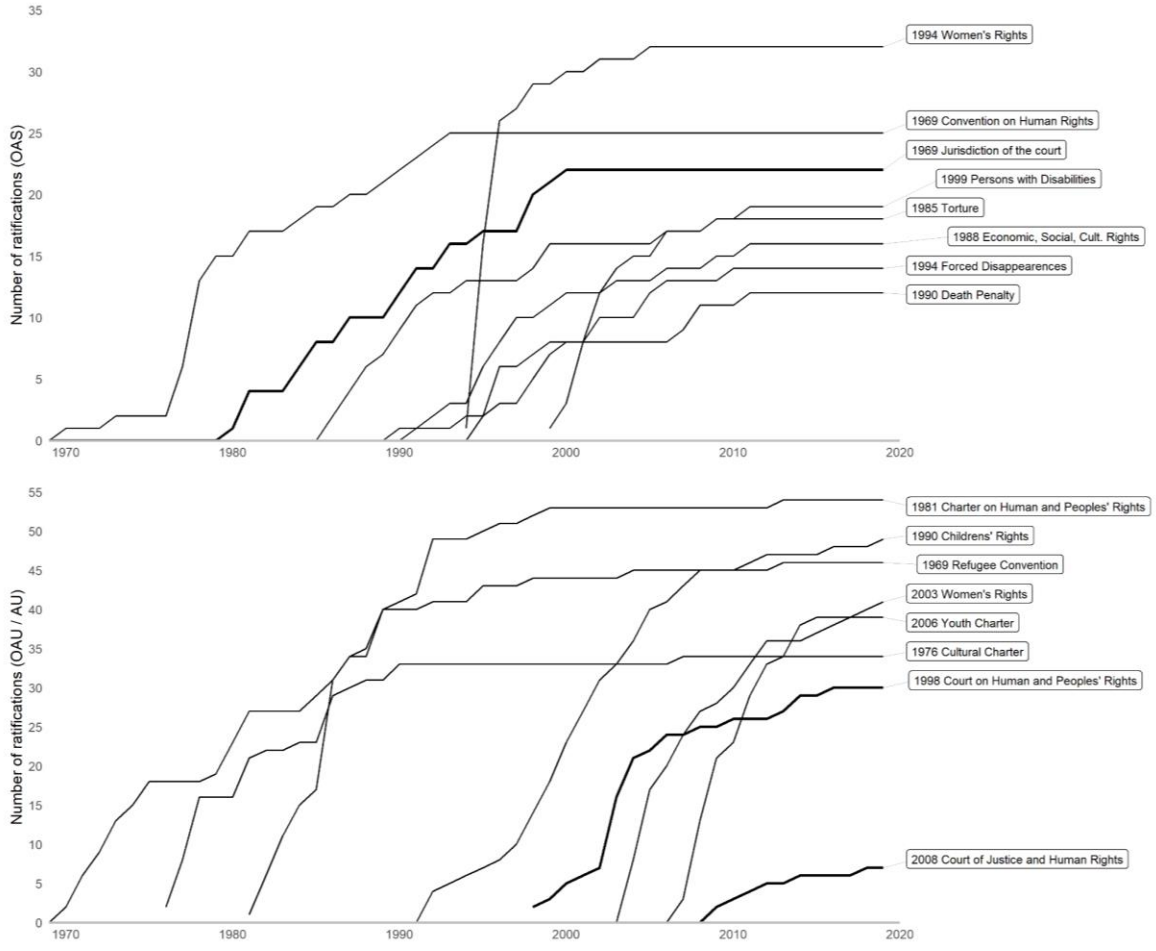
Human rights and regional international organizations

Human rights protection has been a prominent issue area covered by RIOs early on, in addition to economic and security cooperation (Börzel & van Hüllen, 2015; Panke et al., 2020). The OAS adopted the very first human rights document in 1948, a few months *before* the Universal Declaration of Human Rights (Sikkink, 2014; Engstrom & Hillebrecht, 2018). By contrast, the OAU/AU was quite late in joining other international bodies in their efforts to promote and protect human rights and adopted the African Charter on Human and Peoples' Rights in 1981 (Shaw, 2007; Murray, 2009; Viljoen, 2012; Uwazuruike, 2020). Over time, regional human rights mechanisms have become broader in scope and more precise in language through additional and optional protocols. Since the 1960s, RIOs have adopted documents focusing on specific human rights issues

(such as torture and forced disappearance), discriminated and marginalized groups (such as women and children), and the elaboration of instruments like regional courts (see Stapel, 2022).

Member states of the OAS and OAU/AU have varied in their commitment to regional human rights treaties over the past decades. We take the act of ratification as a signal of their commitment – notwithstanding the fact that a state may commit to a treaty through various paths, including signature, accession, and succession (Comstock, 2021). Patterns of ratification can be described in terms of the number and/or speed of commitment. By both measures, we find significant variation between individual treaties and across states.

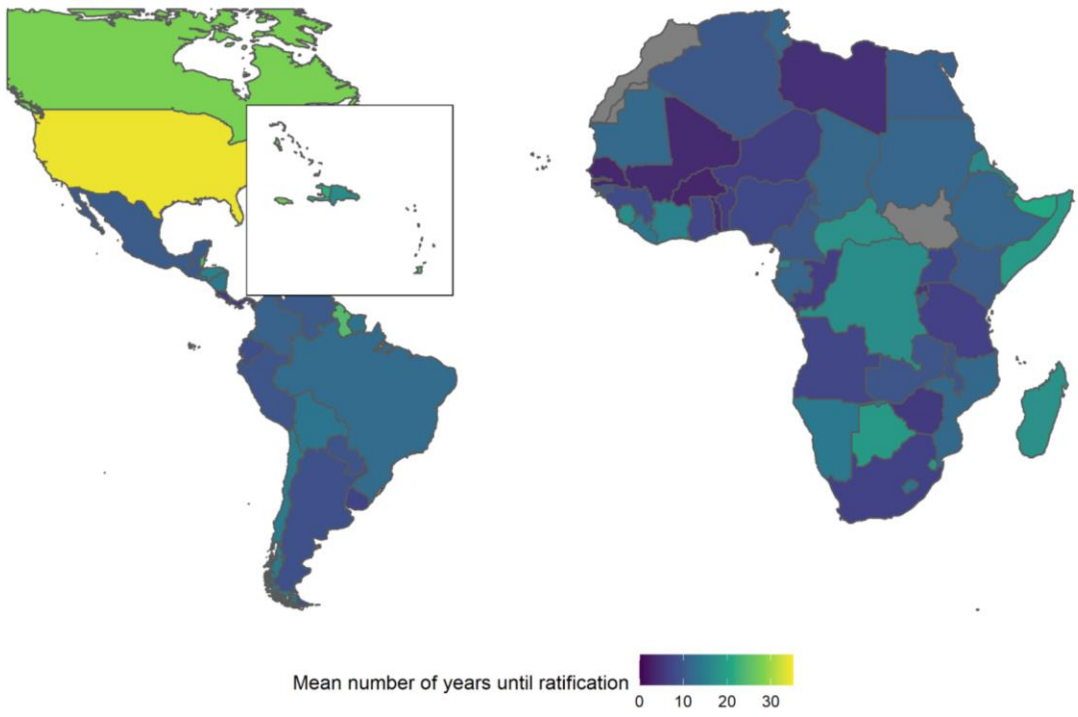
Figure 1: Ratification of human rights agreements in the OAS and OAU/AU



Note: Bold lines indicate treaty provisions that establish or reform the regional human rights court's jurisdiction.

First, not all treaties are ratified to the same extent. Some are broadly accepted by member states. The OAS and OAU/AU treaties promoting and protecting the rights of women, for instance, found unequivocal support. It only took a few months in the case of the OAS and less than two years in the AU until both treaties entered into force, the quickest of all human rights documents in both RIOs. This stands in contrast to three treaties and clauses that set up instruments for regional enforcement of human rights. These provisions concern the Inter-American Court of Human Rights (whose jurisdiction is established with a sub-clause to the 1969 Convention) and the African Court of Peoples' and Human Rights (set up in 1998; reformed in 2008). Many member states, especially in the latter case, appear to have opted out of these provisions by avoiding ratification of the respective instruments (see Figure 1).

Figure 2: Average number of years until treaty ratification



Note: For newly established countries, years are counted from independence. For new member states, years are counted since entering the organization. We exclude Morocco and South Sudan to avoid bias due to their short tenure in the AU. If a country has not ratified at all, each year until 2019 is counted.

Second, patterns of ratification vary between states as illustrated in Figure 2. On the one hand, they differ with regard to the number of ratified documents. On average, members of the OAS and OAU/AU have each ratified six and five documents (out of eight), respectively. A few states (almost) always commit, including the African states Benin, Republic of the Congo, Libya, and the Latin American countries Argentina, Costa Rica, Ecuador and Uruguay. Others (almost) never commit. In Africa, this list includes Eritrea, Madagascar, Somalia, and South Sudan. Examples from the Americas comprise the Bahamas, Canada, Guyana, St Lucia, and the United States. In between, the majority of member states selectively commit to some treaties but not to others. This group contains a variety of states, including well-governed democracies (Botswana, Trinidad and Tobago), stable authoritarian regimes (Egypt, Nicaragua), and failing or failed states (Democratic Republic of Congo, Haiti).

On the other hand, member states differ in how quickly they ratify regional treaties. Figure 2 plots the average number of years until ratification across all treaties. Thus, only countries that are relatively quick to ratify each of the treaties in their respective organization can achieve the best scores, which are marked by the darkest shades of the map. The results suggest a degree of sub-regional clustering. Several groups of neighboring countries stand out due to their impressive record of ratifications (e.g., Mali, Senegal, Burkina Faso in West Africa) or lack thereof (e.g., several Caribbean island states).

To summarize, commitment to regional human rights agreements deserves more scholarly attention. These treaties are politically relevant and, at times, controversial among member states. Yet scholars of international politics and international law have so far neglected the regional level, focusing instead on the UN system. Closing this research gap provides an opportunity to explore if theoretical expectations travel across world regions.

Theory: Who commits to regional human rights agreements?

According to conventional wisdom, member states consider the potential benefits they can reap from ratifying while being sensitive to the potential sovereignty costs. Committing to human rights treaties depends on governments' reputational concerns (Hafner-Burton & Tsutsui, 2005; Guzman, 2008; von Stein, 2016). Because human rights are among the most legitimate standards in the world, ratifying related regional agreements brings about benefits in the sense of increased government

reputation in the domestic arena. For governments in the Global South, another motivation might be to strengthen the "regional brand" in the eyes of major powers, donors, and investors (Coe, 2019b). Yet there is more to treaty ratification than reaping reputational benefits through sheer "cheap talk." If no costs were associated with ratification, one would expect universal ratification of human rights treaties – but we observe many opt-outs in practice (Zvogbo et al., 2020). Even more, the growing importance of democratic accountability and the influence of international advocacy coalitions mean that the potential benefits from pseudo-commitment are dubious (Keck & Sikkink, 1998; Simmons, 2009; Hyde, 2011).

Moreover, this standard account does not incorporate important patterns of variation in member state commitments to *regional* human rights agreements, as we find them in the OAS and OAU/AU. Existing analyses of commitment tend to be silent on regional variation. Often, regions are taken into account as mere control variables without serious theoretical consideration and reflection. Critics even argue that these studies implicitly take a Eurocentric worldview, presenting arguments derived from European experiences as universal patterns (Acharya, 2016; Söderbaum, 2016). Drawing on scholarship in the field of comparative regionalism, we develop an explanation that acknowledges the variety of actors, institutions, and processes in the making of regional agreements. By taking regional policy-making seriously, we contextualize and formulate divergent expectations about ratification behavior in both RIOs.

Regional policy-making and commitment

Many contributions on norm commitment start from the observation that agreements have initially gone through a first phase of negotiating among member states. In the formal setting of treaty negotiation, state delegates repeatedly interact and advocate for positions as instructed by foreign ministries or heads of state and government. Importantly, they seek to shape the negotiation outcomes in light of domestic developments and preferences. At the same time, delegates learn about each other's preferences, adjust positions, and forge compromises. They also get a sense of the content of norms and legal implications of human rights treaties (Roth, 2018; Comstock, 2022). Once agreements are concluded, member states are expected to ratify them based on the insights about benefits and costs gained in the process. Yet this standard account does not necessarily hold true for all organizations. The actors involved and the processes of policy-making vary between

RIOs. As Legler and Tieku (2010: 483) put it, "practices are very much idiosyncratic, embedded in and conditioned by particular regional problems and actor sets". When member states are not involved in treaty negotiations, this task is assigned to RIO bureaucracies or external actors, such as legal experts and consultants. To take into account how actors and institutions are involved in policy-making, we distinguish between member state- and expert-driven logics of treaty development. The differences in treaty development then influence how states weigh potential benefits and costs of commitment. Hence, the distinction between different forms of regional policy-making helps to explain variation in commitment across RIO contexts.

In the OAS, efforts for the protection of human rights were primarily *driven by member states*. New initiatives have often involved member states that had just emerged from autocratic regimes and military dictatorships (Welch, 1981; Forsythe, 1991). Their motivation for a new human rights treaty can be seen as value-oriented – promoting principled ideas in their foreign policy – or gain benefits from commitment. This goes hand in hand with a "liberal tradition of constitution-making in Latin America" that increased states' willingness to codify human rights obligations (Engstrom & Hillebrecht, 2018: 1113). Considering the issues facing member states, the OAS has been at the forefront of norms against torture and forced disappearances, or in later decades efforts to protect the rights of indigenous peoples. While non-state and outside actors, for instance non-governmental organizations (NGOs), contribute to agenda-setting and issue framing and sometimes also provide input to treaty development, the process of creating new human rights standards and instruments to induce compliance is primarily centered around member states and usually takes place in institutional bodies that they control, such as the OAS Permanent Council and its Committee on Juridical and Political Affairs (CJPA).[2] In short, the process of human rights treaty development privileges member states.

The development of the 1994 Convention prohibiting forced disappearances of persons illustrates this. Member states dominated the process, while experts and outside actors mainly contributed to agenda setting and framing. The Latin American Federation of Associations of Relatives of Detainees-Disappeared (FEDEFAM) played a key role in bringing the issue to the attention of the OAS member states (Brody & González, 1997). However, FEDEFAM and other NGOs were then

[2] This is not to deny that the Inter-American Commission and Court of Human Rights have been important proponents of further legalization. Nonetheless, scholars of the OAS point to member states as primary actors.

excluded from treaty development. This task was delegated to the CJPA. Several OAS member states, including Argentina, Canada, Chile, Mexico and Uruguay, strongly influenced the treaty's content and even blocked NGO participation. In the end, "NGOs argued that their total exclusion from the drafting process at the Permanent Council was a key factor in the text's weakness" (Brody & González, 1997: 375). At later stages, a coalition of NGOs provided feedback on the draft treaty and were in frequent contact with the CJPA. Member states, however, retained control over the process.

Yet the expansion of human rights protection in the OAS was neither linear nor uncontroversial. It occurred in waves, at times also because specialized bodies sought to expand their mandates. Compliance has often been lacking, making Latin America a region "where electoral democracy has made significant advances, but where widespread human rights abuses persist" (Engstrom & Hillebrecht, 2018: 1113). The significant gaps in ratification and implementation are usually attributed to government concerns about sovereignty. While the Court has contributed to improving human rights on the ground, its strength might raise member states' caution when it comes to ratification. To summarize, the OAS fits the standard narrative of international human rights commitment: intergovernmental decisions drive the adoption of new human rights treaties, and choices about ratification reflect the trade-off between benefits and sovereignty costs.

The African system of human rights, by contrast, fundamentally differs from the standard narrative and follows an *expert-driven* logic. The regime has been shaped by OAU/AU bureaucrats, outside actors, and non-governmental experts. A range of experts and consultants, hired by the OAU Secretariat or later AU Commission in Addis Ababa or its Office of the Legal Counsel and often funded by international donors, are tasked with developing treaty language to address a particular human rights issue that has been put on the agenda. External actors and experts can have different reasons to advocate for human rights and pursue different objectives. The common denominator is that they are closely involved in treaty development.

For instance, African lawyers had been lobbying governments to create a regional human rights instrument in the 1960s, but it took international pressure for OAU leaders to instruct the Secretariat to commission a study on the adoption of such a treaty. Experts prepared first drafts during several meetings in 1979 (Welch, 1981). In later years, the impetus for addressing specific aspects came

from international organizations, such as the ILO and the UN, which was subsequently taken up by the OAU Secretariat and AU Commission. Simultaneously, NGOs enjoy official observer status and can participate in meetings of the OAU/AU. This practice started on a small scale in the 1980s (Murray, 2009: 21). Since then, "NGOs have been instrumental in standard setting, the establishment and functioning of special mechanisms, as well as the adoption of resolutions" (Viljoen, 2019: 320; also see Jalloh et al., 2019). By contrast, the member states rather intervene at later stages of the process and expect their input to be acknowledged, yet they are generally less involved in treaty development until shortly before signing the document.

In sum, OAU/AU documents on human rights tend to be drafted by international bureaucrats and/or (externally funded) expert consultants, at times following prompts from outside actors. It seems questionable whether African governments expect significant benefits from ratifying human rights treaties that they did not negotiate themselves according to their preferences and domestic developments in the first place. Ratifying UN treaties, which often precede their OAU/AU counterparts by many years and where states are involved more prominently in the drafting process, may already satisfy demands and expectations from domestic and international audiences. In brief, expert-driven processes suggest less member state buy-in from the start. In this context, committing to regional agreements does not add the tangible benefits for member states from protecting human rights. Following such expert-driven processes, governments are rather inclined to ratify agreements as they succumb to pressure for conformity and social camouflage. This often results in mere cheap talk. Nevertheless, the potential sovereignty costs associated with a treaty may still hamper their willingness to ratify.

Processes of developing and negotiating regional human rights regimes differ from each other, which has implications for expected ratification behavior. In the context of member state-driven processes in the OAS, reputational benefits from commitment can be more directly linked to domestic characteristics, as member states translate their domestic developments to the regional arena. When experts and outsiders steer the agenda, as in the OAU/AU, member states feature less prominently, and potential benefits related to domestic challenges and developments will thus less likely affect commitment decisions. Irrespective of the process, however, all states consider the potential costs from commitment. In the remainder of this section, we outline the benefits and costs of commitment in detail and discuss how they apply in different contexts of regional policy-making.

The benefits of commitment

The literature suggests that regime type and changes in regime type matter for states' inclination to commit to human rights. Democracy is a good predictor of states' affinity to the values that human rights exemplify (Simmons, 2009; Hafner-Burton et al., 2015; von Stein, 2016).[3] Moreover, treaty ratification is a means for governments in newly democratized and democratizing states to lock in and signal their commitment to human rights to domestic audiences as well as outsiders (Moravcsik, 2000). However, these rationales for commitment do not play out equally in all regional contexts. They should be more apparent when member states are involved in the process of treaty negotiations, allowing them to shape the outcomes according to their constituents' interests and priorities. Governments will thus be more willing to commit to these agreements, not least because they expect reputational benefits from taking credit for their efforts. By contrast, the ratification of agreements in expert-driven contexts will be less affected by the potential benefits related to regime type and/or democratization: treaty contents may be less specifically tailored to demands from constituents, and states with little involvement in the process cannot expect the same reputational rewards.

Additionally, commitment to regional human rights treaties may also be affected by subregional neighborhood dynamics. Spatial clusters of ratifying countries often result from socialization effects (Risse & Sikkink, 1999; Greenhill, 2010; Comstock, 2022). States may take cues from their neighbors due to "pressure for conformity, desire to enhance international legitimation, and the desire of state leaders to enhance their self-esteem" (Finnemore & Sikkink, 1998: 895) or it may be strategic behavior to lower the audience costs from non-conformance, i.e., "social camouflage" (Simmons, 2009: 88-90). As agreements gain support in the subregional neighborhood, the potential benefits from commitment increase for the remaining states, making them more likely to catch up with their peers and ratify (compared to agreements with less support). We expect states to consider their reputation relative to their neighbors in both types of regional policy-making process, since the logic of conformity with one's peer group is universal.

[3] At the same time, some scholars acknowledge that autocratic regimes equally ratify to signal their (insincere) commitment to human rights (Hathaway, 2007).

The costs of commitment

Moreover, states take into account the potential costs before committing to human rights. On the one hand, states incur sovereignty costs depending on how treaties are designed. Several studies have introduced measures of how demanding treaty provisions are for member states (Hafner-Burton et al., 2015; 2019; Thompson et al., 2019; Mulesky et al., 2020).[4] Ultimately, the logic behind these approaches is that treaty provisions can be added up. It is, however, not fully convincing that this assumption holds for regional human rights treaties. A brief agreement stipulating equal rights for women in all aspects of society could be seen as more demanding than a long treaty listing many aspirations in the realm of cultural and social rights. Thus, we focus on one simple measure: does the agreement introduce an enforcement mechanism or not? Both the African and the Inter-American system of human rights involve a regional court. Conditional on member states accepting their jurisdiction, these regional bodies issue legally binding orders and judgments. All else being equal, the prospect of coercive enforcement should make states cautious about commitment, as it increases sovereignty costs (Hawkins & Jacoby, 2008). This effect should be particularly pronounced in the OAU/AU, where the process of treaty negotiation is driven by experts. With (at best) limited first-hand information gained during the drafting process, member states face uncertainty about the nuances of treaty content and, thus, the long-term effects of commitment. They may worry that regional bureaucrats and outside experts prioritize individual rights at the expense of state sovereignty. This uncertainty and lack of control over the drafting process suggest that costs of commitment matter greatly in the expert-driven context.

Other ratification costs are country-specific. The more influence a country possesses, the better its ability to pursue material interests (Hey, 2003; Panke, 2010). Powerful states may ratify more easily because of two mechanisms. Ex ante, they are better able to influence the negotiation phase, leading to agreements that align with their interest. Ex post, external criticism in case of non-compliance is less threatening for a state with more diplomatic weight. In the OAS regional context, we expect

[4] To measure the burden IOs put on member-state sovereignty, Hafner-Burton and colleagues (2015, 2019) map whether treaties include certain provisions deemed to entail high costs, following the legalization framework (Abbott et al., 2000). Studying investment treaties, Thompson and colleagues (2019) assess how documents affect the "state regulatory space" by counting how many out of a predefined list of clauses they include. Most recently, Mulesky and colleagues (2020) have constructed a multi-dimensional measure that captures both the scope (number of issues) and the degree of legalization (precision and obligation) for several UN human rights documents. However, it is not obvious how to deal with trade-offs between scope and legalization, and the assumption that all substantial clauses should be weighted equally also raises questions (e.g., see Thompson et al., 2019: 9-10).

both of these dynamics to matter. In case of expert-driven treaty design in the OAU/AU, the influence for member states during negotiations is more limited. Nevertheless, strong member states are more likely to ratify human rights documents because they are better suited to withstand external criticism and threats compared to their less powerful peers.

Finally, legal tradition equally influences decisions about commitment. States with a civil law tradition prefer more detailed contractual arrangements whereas the British common law tradition is prone to broad framework agreements that leave the details open for interpretation (Duina, 2006). The common law tradition raises the potential costs of commitment. On the one hand, the adjustment costs are higher because externally determined and politically negotiated legal rules "are the philosophical and cultural antithesis of judge-made, socially adaptive, locally appropriate *precedent*" (Simmons, 2009: 74, original emphasis). On the other hand, governments in common law countries face higher ex ante uncertainty because ratifying a treaty may result in the judiciary interpreting it in unforeseen ways. In comparison to civil law systems, judges have a broader scope to interpret new treaties and assess their compatibility with local precedents, resulting in unintended consequences for governments. These commitments are also less reversible than under civil law because governments will hardly be able to withdraw once new treaties have made their way into the jurisprudence (Simmons, 2009). All in all, a country that follows a common law tradition will be less likely to ratify regional human rights treaties. This effect should be similar in both member state-driven and expert-driven regional contexts because the concerned countries refrain from committing to regional human rights standards.

Data and methods

Both cases selected for this analysis are international organizations whose membership is defined by geography: AU members share a continent; the OAS considers itself a hemispheric organization covering South, Central, and North America as well as the Caribbean. Both RIOs have similar political mandates as forums for peaceful political dialogue. Moreover, they have a long history of debating human rights. While the two RIOs differ in other aspects, they seem sufficiently similar to allow for comparisons. Many documents on human rights were passed in the form of treaties and protocols, resolutions of the General Assembly, or political declarations. We focus on documents that fulfill three criteria:

- contain rules and standards related to human rights
- ratification by member states necessary to accept their legal obligation
- adopted prior to 2010 (giving us ten years to observe ratification behavior)

This leaves 15 treaties for the two organizations. However, the 1969 OAS Convention on Human Rights contains a separate clause on the authority of the Inter-American Court of Human Rights. Member states must explicitly ratify this clause if they opt to accept its authority. We thus track ratifications for 16 items – eight for the AU, eight for the OAS – that are listed in Table 1.

Table 1: List of regional human rights treaties and clauses

Type	**Sign year**	**EIF year**	**Name of the document (or clause)**
African Union (until 2000: Organization of African Unity)			
Substance	1969	1974	Convention Governing the Specific Aspects of Refugee Problems in Africa
Substance	1976	1990	Cultural Charter for Africa
Substance	1981	1986	African Charter on Human and Peoples' Rights
Substance	1990	1999	African Charter on the Rights and Welfare of the Child
Mechanism	1998	2004	African Court on Human and Peoples' Rights
Substance	2003	2005	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
Substance	2006	2009	African Youth Charter
Mechanism	2008	/	Protocol on the Statute of the African Court of Justice and Human Rights
Organization of American States			
Substance	1969	1978	Convention on Human Rights
Mechanism	1969	1978	Court of Human Rights (Art. 62)
Substance	1985	1987	Convention to Prevent and Punish Torture
Substance	1988	1999	Protocol of San Salvador (Economic, Social, Cultural Rights)
Substance	1990	1991	Protocol to Abolish the Death Penalty
Substance	1994	1995	Convention on the Prevention, Punishment and Eradication of Violence Against Women

Substance	1994	1996	Convention on Forced Disappearance of Persons
Substance	1999	2001	Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities

To operationalize the theoretical expectations, we have added several independent variables. Regime type is included via the Quality of Government (QoG) imputed Freedom House and Polity IV score, which provides the best coverage for the time under investigation. To map episodes of democratization, we created dummy variables that are positive for three years whenever the regime score changes by more than two points (on a scale from 0 to 10).[5] To capture ratification dynamics in the neighborhood, we count how many states in a subregion had ratified the respective treaty in the preceding year. Based on the groups used in the World Development Indicators, we distinguish four subregions in the OAS and five in the OAU/AU.[6] To capture the treaty context, we track whether a treaty imposes relatively high sovereignty costs on member states by creating or further empowering a regional court on human rights (Stapel, 2022). The natural logarithm of GDP in constant 2010 dollars serves to approximate state power, with data coming from the World Development Indicators. Finally, the dummy variable indicating if a country uses common law was constructed based on La Porta et al. (1999). Tables A1 and A2 in the online appendix contain information on data sources and summary statistics.

We conduct event history analysis with ratification as the binary outcome variable. Each country-treaty pair is tracked in a series of annual observations starting with the year in which the treaty became available for ratification. This information was manually coded based on the RIOs' official websites. The resulting dataset comprises roughly 10,000 observations of country-treaty-year combinations. Yet they should not all be included within the same model because OAS and OAU/AU states are not part of a common risk set for any of the agreements in the analysis. A joint model would also obfuscate differences between the two organizations. Adding a dummy variable marking the OAS (or OAU/AU) would make it difficult to interpret all other effects. Nor does it

[5] While the imputed democracy score covers all countries, it lacks data on some country-years in Africa, especially in the period between 1969 and 1971. To make sure this does not distort our results, we have also run models with V-Dem's Electoral Democracy Index (see discussion and Table A6 in the online appendix).

[6] Northern Africa (7 countries), Western Africa (16), Central Africa (9), Eastern Africa (17), Southern Africa (5), North America (2), Central America (8), Caribbean (12), and South America (12).

seem appropriate to study each treaty separately. Analyzing 16 sub-samples would complicate interpretation without adding analytical value since the nuances of treaty-specific outcomes within the same RIO are not what we seek to explain. A further disadvantage is that sovereignty costs could not be included due to being constant per treaty item. Instead, we calculate separate models for the two organizations, pooling the ratifications regarding eight items each for the OAS and the OAU/AU. The theoretically relevant, systematic difference between treaties is captured by the variable on sovereignty costs. This approach shows how country- and treaty-level factors play out in each organization. In interpreting and comparing the results across the two regions, however, one has to keep in mind the heterogeneity that comes with separate models. Several additional tests are discussed below, with the full results reported in the online appendix.

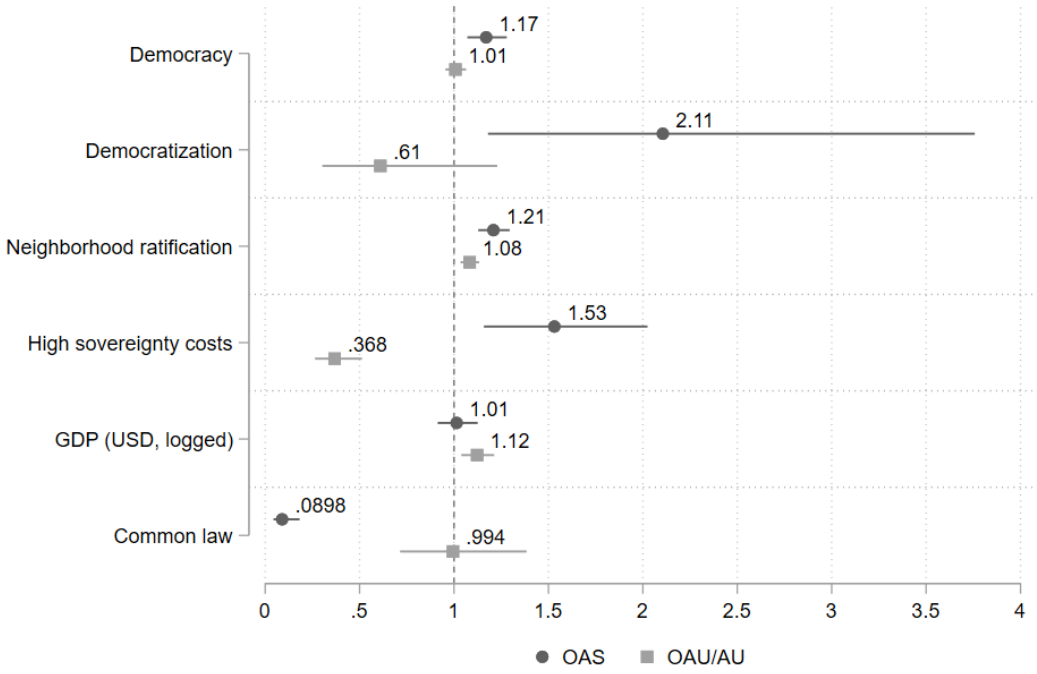
For the main analysis, we rely on Cox proportional hazard models. This technique of event history analysis can include time-constant and time-varying covariates, requires only few assumptions, and allows for robust likelihood estimations (Van den Poel & Larivière, 2004: 202). Note that models differ in the number of observations due to missing data for some explanatory variables. In the following, the direction and strength of covariates are expressed by hazard ratios, which indicate each factor's effect on the probability of ratification within one year. Thus, a hazard ratio of 1.1 means that an increase of one unit of the respective independent variable results in the event becoming ten percent more likely to happen in any given year, all else being equal (Simmons 2009: 81-82). We use standard errors clustered on countries. A correlation analysis reveals that the independent variables are not highly correlated.

Statistical analysis

First, we take a closer look at the OAS human rights regime, which has been dominated by member states in its development (see Figure 3). Levels of democracy seem to drive ratification behavior. A one-unit increase in democracy levels corresponds to 17 percent increase in the likelihood to commit to human rights. Furthermore, democratization episodes also have a positive and strong effect, more than doubling the likelihood of ratification. We again find a significant positive relationship for the third variable related to benefits from commitment: neighborhood effects. Each ratification by a country in the same subregion increases the likelihood of ratification in subsequent years by about 20 percent. Moreover, OAS member states commit more frequently to the separate

clause on the authority of the Court. Contrary to the hypothesized relationship, the sovereignty costs do not hamper their willingness to commit. For the GDP variable, the results show roughly a null effect and confidence interval for the hazard ratio also includes the neutral value 1. Finally, countries with a common law tradition are extremely hesitant to ratify human rights treaties in the OAS.

Figure 3: Results of the event history analysis



In the OAU/AU, by contrast, internal and external experts have driven the human rights agenda. Commitment to human rights treaties is rather decoupled from regime type and regime changes. The confidence intervals for levels of democracy and democratization include the neutral value, and the point estimates for democratization episodes point in the counterintuitive direction. OAU/AU member states are more likely to ratify a document once it has gained support by countries in the same subregion, but this neighborhood effect is not as pronounced as in the OAS. Regarding the costs of commitment, we find that African states are less enthusiastic about the provisions establishing a regional court. High sovereignty costs reduce the odds of ratification by more than 60 percentage points. A doubling of GDP (as a proxy for state power) corresponds to a 12 percent increase of ratification odds. All else being equal, more powerful states thus seem less

hesitant to ratify OAU/AU human rights treaties. Finally, the legal tradition does not influence the ratification behavior.

In an addition to this main model, we included three time-varying control variables that may affect the timing of ratifications in an extended model. The results from both extended models (one for each organization) are presented in Table 2. Most importantly, including these three additional variables does not change the broader results from the main model – with the sole exception of the treaty-specific sovereignty cost factor in the OAS context.

First, we include changes of government regardless of regime type, based on the assumption that *any* kind of new government might seek to reap reputational benefits from ratification. In that case, one should not attribute increased ratification activity to newly democratic regimes. We tested this based on the leadership spells recorded in the Archigos dataset of political leaders (Goemans et al., 2009). When we include this variable, the effects of democratization remain consistent, which further increases our confidence that episodes of democratization contribute to the decision to ratify human rights documents in the OAS but not in the AU.

Second, the global context may shape commitment decisions in RIOs. When a topic takes center stage in the UN, this increases the salience of a particular human rights agreement and thus the potential benefits from ratification (Simmons, 2009). The contents of several regional human rights treaties have been also addressed in the UN, suggesting processes of mutual influence. However, this variable rarely takes the value 1, as only three global, UN-sponsored conferences took place while thematically similar regional human rights documents were open for ratification: Tehran 1968 and Vienna 1993 (both on civil and political rights) plus Beijing 1995 (women's rights). We find that the timing of UN events strongly correlates with regional women's rights treaty ratification but is no longer statistically significant if we exclude the 1994 OAS women's rights treaty from the analysis (see online appendix, Table A3). This ambivalent effect is not surprising because of the rare occasion of relevant UN events in our dataset.[7] In any case, this factor does not affect the overall results for the other covariates.

[7] Moreover, several regional documents were adopted prior to or roughly contemporaneously with their UN counterparts (forced disappearance, children's rights). The complex relationship between UN and regional treaties could be examined in further research.

Table 2: Results of the event history analysis for the main model and extended model

	Main model		**Extended model**	
	OAS	OAU/AU	OAS	OAU/AU
Democracy	1.170*** (0.053)	1.008 (0.028)	1.196*** (0.053)	1.012 (0.028)
Democratization	2.106* (0.622)	0.610 (0.218)	2.064* (0.742)	0.533 (0.193)
Neighborhood	1.209*** (0.042)	1.083*** (0.025)	1.142*** (0.040)	1.092*** (0.026)
High cost	1.531** (0.218)	0.368*** (0.062)	1.265 (0.198)	0.403*** (0.068)
GDP (USD, logged)	1.014 (0.054)	1.122** (0.044)	1.005 (0.044)	1.146** (0.048)
Common law	0.090*** (0.032)	0.994 (0.168)	0.081*** (0.028)	0.991 (0.171)
Change in government			1.319 (0.208)	0.854 (0.132)
UN event			6.111*** (1.839)	0.649 (0.666)
Internal armed conflict			1.219 (0.303)	0.952 (0.262)
No. of countries	34	52	34	51
No. of treaties	8	8	8	8
Time at risk	4615	3986	4273	3638
Ratifications	157	259	157	253
BIC	1462.336	2683.413	1437.252	2620.650

Third, it seems unlikely that states ponder the opportunity to ratify human rights agreements in times of conflict and precarious national security. The reputational benefits are limited and the potential costs from commitment are excessively high (Neumayer, 2013; Hafner-Burton et al., 2015). We test this by including a dummy variable to indicate ongoing domestic conflicts (based on UCDP/PRIO data), which does not affect our main results.

As further robustness check, we have specified two types of model to account for unobserved heterogeneity. Adding a dummy variable for each country in the analysis serves to focus only on the covariates that vary between country-treaty dyads but not between countries. We have repeated this procedure with treaty dummies, allowing us to probe the robustness of the country-specific covariates. In these eight models (main and extended for each organization, once with country and once with treaty fixed effects), all results remain stable except for the hazard ratio for treaties with high sovereignty costs in the OAS, which is no longer statistically significant (see online appendix, Table A4). Finally, as an alternative strategy to account for unobserved heterogeneity, we have run shared frailty models. Here, it is assumed that the hazard ratios among cases involving the same country are linked (akin to the "shared" frailty of patients treated in the same hospital; see Balan and Putter 2020). We also specified models with shared frailties at the treaty level. The results of all eight shared frailty models confirm our previous findings (see online appendix, Table A5). Again, the sole exception concerns the hazard ratios for high-cost documents establishing regional human rights courts. They lose statistical significance in the four OAS models (and even point in the opposite direction in the treaty-level specifications). Overall, our findings thus remain robust – except for the result on high-cost treaty provisions in the OAS, which had already varied between the main and extended model.

Discussion

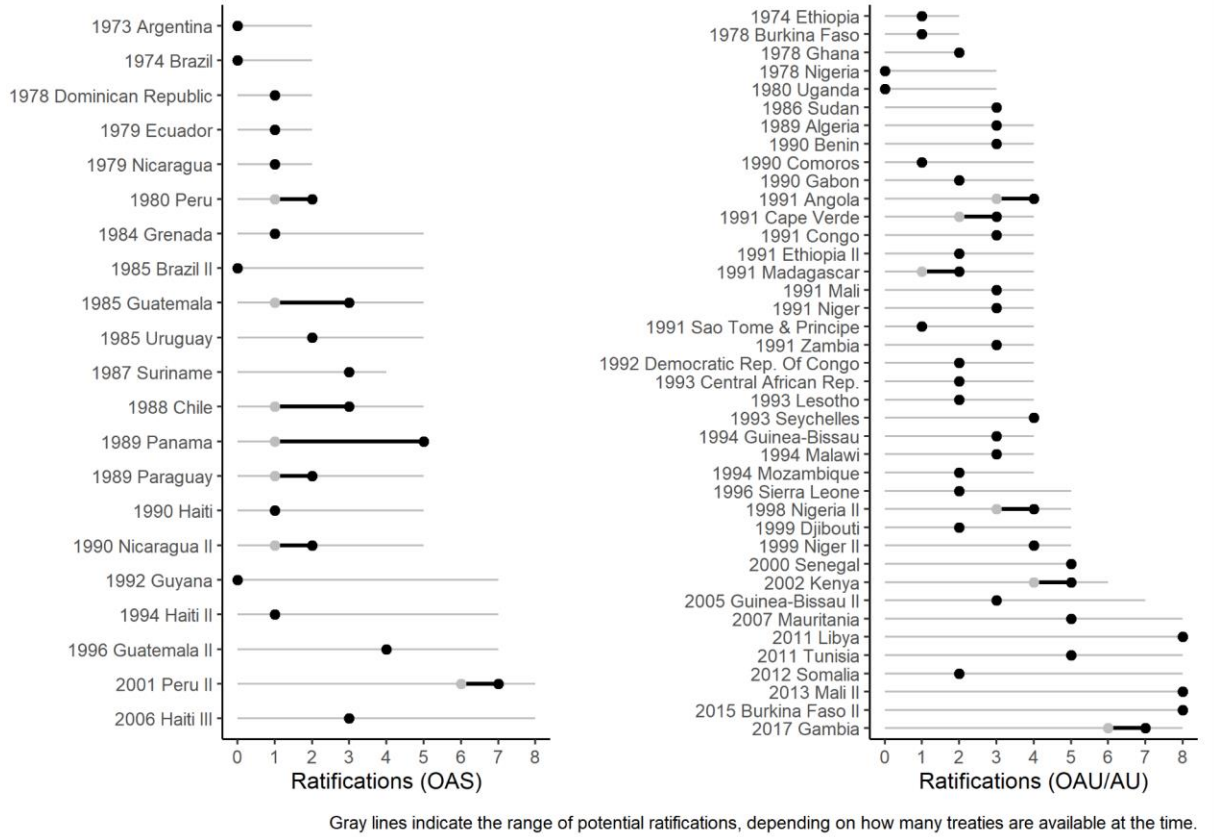
Our findings are consistent with our intuition about how processes of regional policy-making affect commitment. We find divergent results for several factors linked to benefits and costs of commitment. In a context that privileges the member states in the development of human rights documents, the potential reputational benefits carry weight in the decisions of member states about committing to regional standards. Potential benefits matter much less in an expert-driven context. While potential sovereignty costs generally hamper ratification, they are more pronounced in the OAU/AU's expert-driven context, where member states have less control over the negotiation and design of human rights treaties.

An important difference concerns levels of democracy and episodes of democratization. In the OAS, where human rights initiatives are driven by the member states, the potential benefits of locking in achievements of democratic transition shape the choice to ratify. By contrast, these

effects do not hold in the OAU/AU. As member states are less involved in the agenda-setting and drafting process, ratification does not seem relevant as a lock-in mechanism. While these findings are difficult to square with the conventional wisdom on treaty commitment at first, they become clearer through the lens of regional policy-making.

Figure 4 plots the number of treaty ratifications before and after periods of democratization. For the OAS on the left side, seven out of 21 episodes of democratization involved at least one act of ratification. For instance, both Chile and Panama quickly ratified several human rights treaties after democratizing in the late 1980s. Note that both states had potential to catch up since OAS member states usually entered periods of democratization with a relatively poor ratification record. Hence, democratization has been an important driver of human rights commitment in the Western hemisphere. This factor is notably absent from the Caribbean and North America as the two most reluctant subregions.

Figure 4: Number of treaties ratified before and after episodes of democratization



In the OAU/AU, however, we find twice as many episodes of democratization (40) but just six cases of catch-up ratifications. In many cases, countries had poor prior ratification records but did not improve in the immediate aftermath of democratization. This is exemplified, among others, by Djibouti, Sierra Leone, or Somalia. Moreover, several states had already ratified multiple treaties prior to their democratization episodes. Algeria in 1989 and Sudan in 1986, for instance, had little potential to achieve catch-up ratifications. Presumably, we do not find a positive relationship between democracy and ratification because so many African states committed themselves to human rights even when their democratic credentials were questionable. This illustrates how treaty commitment in Africa is decoupled from (changes in) regime type.[8]

Turning to the considerations about sovereignty costs, we again find differences that relate to the member state- and expert-driven contexts. The hampering effects of sovereignty costs become more pronounced when bureaucrats and experts dominate treaty development. Provisions that establish regional courts – thus imposing high sovereignty costs – are associated with lower chances of ratification in the OAU/AU. This finding is in line with our expectations: Member states in Africa are weary of creating a regional body that could impede on executive decisions. Figure 1 illustrates that the two documents related to the African Court of Human and Peoples' Rights are the least ratified. In the OAS, the clause establishing the Inter-American Court of Human Rights is among the *most* widely ratified human rights instruments, but it took member states a considerable amount of time (see Figure 1). In our main model, we find a seemingly positive effect for this type of clause, while the extended model as well as the robustness checks point towards a null effect. In sum, we find no evidence that sovereignty costs related to the regional court hamper ratification in the OAS.[9]

Likewise, in the expert-driven context of the OAU/AU, more powerful member states seem more willing to bear sovereignty costs attached to ratification**.** When they are criticized for not conforming to regional human rights standards that they have not advocated for and developed themselves, they can withstand the potential negative consequences. Less powerful member states

[8] Since the imputed Freedom House and Polity IV variable has missing data for several African states, we used the Electoral Democracy Index from the V-Dem project as an alternative measure of democracy and episodes of democratization. Using this alternative indicator does not lead to different conclusions (see online appendix, Table A6).

[9] As an additional test, we fit a negative binomial regression with OAS and OAU/AU treaties in the same model. The interaction between OAU/AU membership and high sovereignty costs is positive and statistically significant (see online appendix, Table A7). We thank one of the anonymous reviewers for this suggestion.

are less willing to ratify regional documents, presumably to avoid such risks. By contrast, and contrary to our theoretical expectation, the relative power of member states does not seem to affect their decisions about ratification in the OAS. Perhaps the closer involvement of member states in treaty negotiations also gives less powerful states veto opportunities resulting in sufficient influence over their design. Factors related to sovereignty costs thus seem to play out differently depending on regional context.

Furthermore, we expected to find stable effects for two factors that should be insulated from regional policy-making. On the one hand, this expectation holds for the effect of ratification in the neighborhood. As a treaty gains support among states in a sub-region, the neighbors are more likely to ratify as well. This effect is strong and quite consistent in all specifications. Regardless of regional context, when a treaty receives local support, the holdouts may take this as their cue to get on the bandwagon. They may do so because they are socialized into ratification or they seek to lower the audience costs by social camouflage, because the pressure for conformity increases with additional neighboring states ratifying regional human rights documents.

On the other hand, having a common law tradition should raise the costs of ratification compared to the civil law tradition. Yet we find this only for the OAS but not for the OAU/AU. The uneven effect across regions raises doubts as to which causal relationships the variable captures. Common law tradition coincides with a broader cleavage between North America and the Caribbean on one side and the Latin American members of the OAS on the other. The English-speaking Caribbean states and Canada have long been part of the British Commonwealth appellate system with its own mechanism for human rights review. The Inter-American system, meanwhile, has been unpopular among Caribbean governments, not least because it mainly operates in Spanish.[10] Moreover, most of the common law countries were not members of the OAS in 1969, either because they had not joined the organization or had not gained independence yet. They were thus not involved in the treaty development and the decision to incorporate a regional human rights court. This complicates

[10] Arguably, the Judicial Committee of the UK Privy Council "provides a more effective institutional structure for human rights review than the Inter-American System could fairly claim" (Shaver, 2010: 675). Yet, by the end of the 1990s, Caribbean governments were at odds with the Privy Council's take on the death penalty (Helfer, 2002). Members of the Caribbean Community even established the Caribbean Court of Justice in 2005, which is slowly establishing its authority on regional integration law, including the protection of individual rights in a few cases (Caserta & Madsen, 2016).

the interpretation of our results, yet it also underlines how important it is to take regional context into account.

In sum, our results show one consistent effect for both regions: All else being equal, states are more likely to ratify human rights treaties when their neighbors do so. The other effects vary. In the OAS, where states are deeply involved in the agenda-setting and drafting of regional instruments, the level of democracy and democratization matters for their commitment. This stands in contrast to the OAU/AU, where regime type and regime changes do not translate into ratification. We find mixed evidence on the costs of commitment. In the Americas, differences in legal tradition translate into vastly different ratification behavior. This factor does not seem to matter in the OAU/AU context. Instead, its member states seem to take into account their own power (to deflect criticism) and treaty provisions that create regional enforcement powers.

Conclusion

Regional international organizations have become a cornerstone of the global regime to promote and protect human rights. Treaty ratification is the key mechanism for states to commit to such standards. Yet we find vast differences in the ratification patterns in Africa and the Americas. This paper explores under what conditions member states (do not) commit to regional human rights norms. Overall, regional policy-making processes affect the potential benefits and costs of commitment. In a member state-driven context, states ratify regional human rights documents because they expect reputational benefits in line with democracy levels and following democratization episodes. By contrast, when international bureaucrats and experts dominate treaty development, the potential benefits from commitment fade into the background. At the same time, treaty ratification comes with strings attached. Concerns related to the jurisdiction of regional human rights courts and the ability to withstand external criticism are more pronounced when treaty design was driven by experts and member states only had little say in the process.

Thus, this paper provides first insights about how the regional context and policy-making process influence how member states commit to regional human rights agreements. Overall, the logic of reputational benefits and sovereignty concerns holds up reasonably well, but the regional context matters. Standard accounts of commitment seem to be more applicable to organizations like the OAS, where treaty-making processes are driven by member states. They may be less relevant in

cases like the OAU/AU, where policy-making is dominated by experts and external actors. The same (causal) story does not necessarily fit all cases.[11]

Our findings beg the question if there are additional reasons to assume that reputational benefits and sovereignty concerns play out differently in Africa compared to the Americas (e.g., Coe, 2019a). In other words, (how) can arguments about regional context engage with general theory about the motives of member states? While we suggest that policy-making processes affect the ratification behavior of member states, alternative explanations could be explored in more depth. Perhaps the standard rationalist accounts of treaty commitment draw too heavily on findings from the European context. Legal heritage and the neighborhood effect, for instance, may matter beyond the rationalist argument about commitment and uncertainty. An alternative reading of the evidence could emphasize (sub-)regional patterns of culture and identity.

Our theoretical argument and findings have implications for broader debates on norms and (regional) international organizations. First, to better understand when and why states enter into commitments, it is worthwhile exploring the regional and institutional context and the processes of norm development and negotiation. Standard accounts about benefits and costs likely apply to member state-driven contexts similar to the UN, CoE and the OAS. These cases inform much of the commitment literature. However, the explanatory power of various factors may change when RIOs and regional contexts deviate from the member state-driven logic, instead turning to experts to develop regional human rights instruments. The League of Arab States' first Arab Charter of Human Rights (An-Na'im, 2001) could serve as another case to study this dynamic. Second, by extension, our findings also speak to the literature on norm transposition, incorporation, and compliance: depending on the circumstances and motives for initial commitments, member states may be more or less inclined to continuously follow through (Comstock, 2022). This logic applies to different policy fields and norms, such as democracy promotion, the fight against corruption, and the advancement of other liberal norms (Lohaus, 2019; Tallberg et al., 2020; Stapel, 2022).

[11] Also note that our models do not fully explain the large differences in ratification rates between individual treaties within the same organization. To answer our research questions, treaties were pooled. Explaining the choices (not) to ratify individual documents may require a different modeling strategy and/or additional data on which states were leading the respective negotiations.

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