Lecture #16
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# Introduction

# Processes by which agreements might make a difference

## Interdependent cooperation

### Reciprocal action that fosters movement away from status quo ante and which stabilizes action over time

## Rule following behavior

### Simply creating a rule can foster changes in behavior because of “rule of law” effects

#### Domestic actors constrain government decision-makers choices

### Bureaucratic habits of compliance

### Reducing stress of decision-making

## Coercion

### Explicit delineation of coercion is rare in agreements and actual use is even rarer

### Economic and, less often, military sanctions often discussed and can be effective

### Even if would be effective if applied, often there are strong incentives not to apply

### NGOs and MNCs and even individuals as consumers may apply even when states don’t

### States sometimes have incentives to respond (trade and arms control cases) but other times don’t (human rights or environment issues)

## Managing capacity problems

### Financial aid and technical assistance can help if incapacity is a problem, deterrence and coercion unlikely to work effectively

### Giving extended timelines to compliance can help

## Positive incentives

### Assistance induces more information in system than coercion – and information in itself may be valuable – may want to know what’s going on even if can’t really effect it

### Assistance runs risk of moral hazard problems

## Use of information

### Just publicizing noncompliance can work – see performance reviews above. "Mobilizing latent enforcers and rewarders" process.

### How much shaming works depends on state involved and context of issue

### NGOs often use shaming far more than states do – single issue nature of NGOs means they have to make fewer tradeoffs and so are more likely to sanction in general

## Norms and their influence - slow but perhaps deep change over time

### Creation of norms as in Human Rights cases

### Normative aspects of other arenas - as an alternative explanation - non-use of nuclear weapons

### Reference to pre-existing norms, as in Transparency International case

# Human rights: Nature of problem

## General description of problem: a range of behaviors that some states view as morally wrong, regardless of the fact that, if other states violate them, there are no direct and material consequences for the state claiming that they are wrong.

## Capacities:

### Civil and political rights: "negative" or "thou shalt not" to governments. Compliance NOT a function of capacity – all states can comply.

#### Life and liberty, no slavery

#### No arbitrary arrest, presumed innocent, cruel and unusual punishment,

#### Right to assembly, freedom of expression, and participation in government with equal suffrage

#### Freedom of movement within states and freedom to leave own state

### Economic, cultural, social and labor rights: distributive justice; "positive" or "thou must" to governments; costly to provide.. Compliance IS a function of capacity – all states cannot necessarily comply.

#### Marry and form family

#### Education, work, and leisure

#### Social security

#### Standard of living adequate for health and well-being of self and family including food, clothing, housing and medical care.

## Consequences and Incentives

### Incentives to violate rules may be quite high in some cases, because ability of government to stay in power depends on doing so. Strong incentives to torture to provide order in chaotic situation (violation of civil/political rts.)

### Incentives may exist to provide Economic/Social rights just because it's the right thing to do; because electoral incentives to keep in power (by providing to your populace); and reputational: incentive to be perceived in a positive light by the international community. (Note: this incentive is contingent upon how other actors respond)

### Incentives to respond to violations are low

## Information and Knowledge

### Civil and political rights -- NOT transparent -- difficult to find out what governments are doing

### Economic and social rights -- relatively transparent

## Norms: "mala in se" growing over time, in part due to institutions but in part due to independent, pre-institutional forces.

### Civil and political rights have much stronger norms protecting them than do economic, cultural, and social rights or labor rights. Not okay to jail or kill people, but okay to pay them low wages or leave them homeless and uneducated.

### Conflict over norms: norm of sovereignty in conflict with norms of protecting human rights

### Not necessarily normative agreement about what human rights are.

### Normative relates to identify issues: increasingly states believe that protecting HR is what is expected of them as "civilized" states

# Neumayer article

## Process by which HR treaties lead to change in behavior. Possible options:

### UNLikely contenders for how international human rights treaties influence behavior:

### Could be that strong/hegemonic states enforce them on weak states: BUT, "powerful countries are rarely consistent in their application of human rights standards to their foreign policy, and they are rarely willing to grant human rights questions priority" (2).

#### Related to problem structure: "for the most part, countries take relatively little interest in the extent of human rights violations in other countries, unless one of their own citizens is affected. This is because contrary to, say, the extent of trade openness, a country and its citizens are hardly affected if the human rights of citizens from other countries are violated in other countries." Basically, this is saying its both low levels of concern and a normative problem, not a collaboration problem. More on problem structure: "countries with low standards are not likely to share such benefits. Given they do not respect the human rights of their citizens living in their own country, why would they benefit from knowing that the human rights of their citizens are respected abroad? As Moravcsik (2000, 217) has put it, “Unlike international institutions governing trade, monetary, environmental or security policy, international human rights institutions are not designed primarily to regulate policy externalities arising from societal interactions across borders, but to hold governments accountable for purely internal activities.”"

### Could be that all states enforce, BUT states don't have incentives to enforce

### Could be that international institutions provide assistance for compliance, BUT "international human rights treaties do not offer much in terms of assistance for tackling insufficient compliance capacity. One possible reason could be that state parties might not consider noncompliance with human rights treaty norms as caused by insufficient compliance capacity. After all, one could argue that no capacity problems hinder any state from refraining to engage in human rights violations" (5).

### Could be that states conform because of social pressures to conformity and that it feels more "comfortable" to meet social expectations BUT this seems unlikely for countries that have strong incentives to violate human rights (6).

## Conditions of influence: HR treaties make a difference for democratic countries with a strong civil society but not for other countries. Thus, have two different kinds of member countries and influence depends on which kind of member is involved.

## LIKELY contenders for how international human rights treaties actually DO influence behavior:

### Could be that depends on democracy: responsiveness to criticism is only likely if domestic government allows critical domestic groups to exist and operate. So, therefore, governments unlikely to change behavior if don't have active "civil society".

### Could be that depends on strong human rights civil society component and domestic and international actors (civil society defined as NGOs, political parties, protest movements) use international institutions to pressure domestic governments.

## Findings:

### "On one hand, in the absence of civil society and/or in pure autocracies, human rights treaty ratification often makes no difference and can even make things worse."

### They "found only few cases in which treaty ratification has unconditional beneficial effects on human rights. In most cases, for treaty ratification to work, there must be conditions for domestic groups, parties, and individuals and for civil society to persuade, convince, and perhaps pressure governments into translating the formal promise of better human rights protection into actual reality. Hafner-Burton and Tsutsui (forthcoming) are right in suggesting a positive role of civil society strength on human rights, but it is the interaction with treaty ratification that often matters."

# Migration

## History of migration as an international issue: “problem”?

### 1990s: issue of migration and development

### Has become an issue of migration and terrorism threats, what Lahav and Lavenex call “securitization of migration”

### Multiple “framings” of migration issue

#### All human rights as delineated in treaties apply to ALL people, regardless of nationality, so this complicates matters with respect to refugees BUT states retain right to control entry into their territory

#### Tension between two major types of rights: rights of state and rights of individual

#### Rights of states to control their borders and to define citizenship

#### Rights of refugees: 1951 Refugee Convention

##### Political refugees

##### Economic refugees

#### Rights of migrants: 1990 Convention on the Rights of Migrant Workers

#### Source of terrorist threat

#### Cultural homogenization

### International institutions in realm of migration are “weak” (Lahav and Lavenex, 2012, 747): “substance without architecture” quote – relates to Young’s notion that these are generative regimes.

#### Is this recognition that changing migration policies involves deep-seated normative change that will take time?

#### Or, alternatively, is this simply lack of concern over the problem?

## Concept of “regime complex”

### Generally, there is NOT the institutional infrastructure with respect to migration that there is in other realms

### There does appear to be a regime complex, however. A regime complex is, essentially, a network of actors and institutions that, collectively, govern an issue area

#### “a multilayered system of governance arrangements that combines fragmented multilateral elements with a growing web of (trans-)regional and bilateral cooperation frameworks” (Lahav and Lavenex, 2012, 758).

#### Regime complex: governance of an issue emerges from efforts at multiple levels:

##### International level

##### Transnational level

##### Bilateral level

##### Non-state (private and local) – e.g., statements of US governors recently regarding blocking of Syrian refugees

#### Specific treaties on refugees and migrant workers and protocol on trafficking in persons

#### More general treaties on human rights, that have implications for immigrants

#### European conventions on human rights and collective policies on immigration

#### Development institutions that have important implications for immigration as well

#### Global Forum on International Migration

#### High Level Dialogue on International Migration and Develoment

#### Numerous NGOs

# Conclusions

## How do we evaluate the effects of a treaty on behavior?

## How do we account for differences in problem structure?

## How do we account for differences in regime design and features?

## This is a lot to cover in a short time but provides a background for thinking about how to do the analysis of this course.