

Does International Law Change State Behavior?

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Abstract

Human rights treaties are the main legal instrument used by the United Nations to advance human rights. While many treaties are ratified by the world, rights violations still happen, especially for women. The purpose of this study is to discover if states obey and follow international human rights law on women's rights and protect the rights defined in the Convention on the Elimination of All Forms of Discrimination Against Women. This analysis employed a case study methodology that compares four states: Sweden, Latvia, Libya, and the United Arab Emirates and their women's rights practices. The United Nations Universal Periodic Review process, the ratification of Optional Protocols, and treaty reservations are analyzed to reveal if international law influences state behavior. I found that international law is not a major variable that affects the behavior of a state. Rather, the culture and sovereignty of a state determine if states follow international law requirements. This scholarship is critical because it illuminated that the international community and global governance lack legitimacy and authority over individual states. This calls into question the ability of international law to protect and promote human rights as well as hold states accountable for violating human rights laws.

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List of Abbreviations

| | |
|--------|--|
| ASEAN | Association of Southeast Asian Nations |
| CAT | Convention Against Torture |
| CEDAW | Convention on the Elimination of All Forms of Discrimination Against Women |
| CoE | Council of Europe |
| CRC | Convention on the Rights of the Child |
| GNC | General National Congress |
| ICCPR | International Covenant on Civil and Political Rights |
| ICESCR | International Covenant on Economic, Social, and Cultural Rights |
| MENA | Middle East and North Africa |
| UAE | United Arab Emirates |
| UN | United Nations |
| UNHRC | United Nations Human Rights Council |
| UPR | Universal Periodic Review |

Chapter 1: Human Rights in International Law

1.1 Introduction

The international community promotes various areas of human rights through international treaties. Much of the treaties crafted by the United Nations (UN) receive overwhelming support from member states. Core human rights treaties like the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Elimination of All Forms of Racial Discrimination (CERD) have global support in the form of treaty ratifications (United Nations Office of the High Commissioner for Human Rights 2018). The ICCPR has 172 ratifications, the ICESCR has 169 ratifications, the CRC has 196 ratifications, the CEDAW has 189 ratifications, and the CERD has 179 ratifications (United Nations Office of the High Commissioner for Human Rights 2018). In spite of the popularity of these treaties, countless human rights violations still happen across the world. Cultural relativism, state sovereignty, treaty reservations, and the gap between ratification and actual compliance with treaty laws have impeded the spread and protection of human rights. The influence of international law and global governance and treaties are vital variables in international human rights law. This project focuses on the protection of women's rights and explores one question: does international law change state behavior? This research will reveal if the forces of international law and global governance is working and can solve transnational conflicts.

1.2 Literature Review: Sovereignty Contradicts International Law

The UN member states create human rights treaties that protect different areas of human rights such as civil and political rights, women's rights, and children's rights. The treaties are legally binding meaning that states that ratified the treaties must follow the treaty provisions (Murphy 2012). Some treaties have Optional Protocols which are attached to the core treaties. Optional Protocols add new enforcement procedures and human rights laws (Cole 2009). States choose whether or not they want to support a human rights treaty. There are three actions a state can take. First, states can take no action where they reject the content of the treaty and are not legally bound to it (Murphy 2012). Second, states can sign treaties which illustrates the support of states for the principles of the treaty, but the states are not legally bound by it (Murphy 2012). Lastly, states can ratify the treaty where they will be fully bound to the provisions of the treaty (Murphy 2012).

State ratification of human rights treaties can be misleading. States that ratify human rights treaties do not always follow the laws of the treaties. It is possible that a state can ratify a particular human rights treaty and continue to not protect the rights in the treaty in its domestic political practice. The gap between treaty ratifications and human rights rhetoric and actual human rights compliance has attracted many scholars.

Scholars suggested that international law has been mostly unable to change the behavior of states through treaties. States ratify human rights treaties because it is in their self interest to do so. Murphy (2012) posits that states may ratify treaties for legitimacy and global acceptance, because of fear of reciprocity from other states, and to create and sustain a positive reputation in the international system. Wotipka and Tsutsui (2008) reveal that social norms in international

treaty making are critical to explaining state ratification behavior. They conclude that states ratify treaties to gain legitimacy in the international society, obscure their poor human rights records, and comply with international law norms. In these cases, states are primarily concerned with their reputation and how they are perceived on the world stage. The big takeaway from the study is that “Among the arguments concerned with the influence of global human rights norms, we find robust support for the normative pressure and imitation arguments” (Wotipka and Tsutsui 2008, 748). In fact, “It appears that ratification by other countries within a region impacts subsequent ratification by others in that same region.” (Wotipka and Tsutsui 2008, 747). In other words, states ratify treaties if other states in its region have done so as well.

Also, it is possible that states are more influenced by their domestic politics. Wang’s (2016) investigation looked into the domestic realm of state ratification. Wang notes that states will ratify human rights treaties to signal a future policy plan to its domestic audience. This is done to appease domestic constituents who may be pushing for more human rights at the domestic level. In this sense, states are more swayed by internal political forces rather than international law.

Moreover, treaty reservations and cultural relativism have allowed states to not comply with international law standards. Cultural relativism is the idea that norms are relative to the culture in which they are created (Churchill 2006, 48). Jones (2017) and Davies (2014) analyze the ratification behavior of members of the Association of Southeast Asian Nations (ASEAN). Jones finds that “ASEAN states positions are generally in line positions of guarding sovereignty and cultural relativity, specific to each member state” (20). Jones’ study is enlightening because he studies the nature of treaty reservations. He discovers that many of the reservations deal with

claims to state sovereignty and cultural differences. Many of the cultural claims reference incompatibility with Islam. In addition, Davies (2014) studied the relationship between state ratification of human rights treaties and state compliance for ASEAN states. He observed that “despite a growing number of treaty ratifications, compliance with the standards those treaties include remains elusive” (414). Davies also highlights the contradicting nature of ASEAN states reservations. Davies and Jones both find that the reservations oppose the treaties because of culture and sovereignty. Therefore, sovereignty and cultural relativism are two threats to compliance with international law.

Also, ASEAN states are not members to the Optional Protocols and fail to submit their human rights reports on time to the UN Universal Periodic Review. Indeed, Davies reports that “the United Nations recorded an “on-time” submission rate of just 16% for all relevant Treaty Bodies” (423). This report solidifies that treaty ratification is weak at predicting the compliance of human rights treaties and improving domestic human rights practice.

Furthermore, international law fails to change state behavior because of the design of its treaties and state sovereignty. Cole (2009) explains why states ratify some human rights treaties over others. Cole portrays that states are more likely to ratify treaties with weak enforcement mechanisms than treaties with strong enforcement mechanisms. Cole asserts that most human rights treaties have weak measures to address state accountability. Weak enforcement mechanisms are contained within the standard human rights treaties, while the strict mechanisms are in the Optional Protocols to treaties. The Optional Protocols are strict because they implement an individual petition system which gives people the power to challenge their state over a human rights abuse. Treaties are enforced through human rights reports sent to the United

Nations Universal Periodic Review. The reports are reviewed by the United Nations and they suggest what a state has to do to improve its human rights standings according to international law standards. Since the United Nations can only make recommendations that are fully dependent on the state to be implemented, the accountability measures for breaking the rules of a human rights treaty are weak. A state can make no significant changes to its human rights practices and face no severe punishment. The study revealed that the individual petition system was used the most out of the other monitoring systems and that “The state-to-state complaint mechanism has never been invoked, presumably because of the generalized sovereignty costs involved” (581). Cole’s major finding is that the austerity of the enforcement mechanism of a treaty is significant and a predictor of state ratification.

To the contrary, Nielsen and Simmons (2015) state that ratification of human rights treaties is not done entirely out of self interest. They looked for empirical evidence that illustrates if states receive tangible and intangible rewards for ratifying human rights treaties. They define tangible goods as trade deals, increases in foreign aid, and more foreign direct investment. Intangible goods are praise from other governments and organizations, feeling accepted by the international community, avoidance of criticism, and gaining legitimacy. This analysis highlighted that states receive no tangible and intangible goods when they are ratifiers of human rights treaties. Also, the European Union and the United States did not praise or accept states for their ratification of human rights treaties. Nielsen and Simmons write, “Nor is there much evidence that states regularly receive intangible rewards for human rights treaty ratification. Resulting praise from the European Union is weak at best. The US State Department utterly ignores treaty ratification in its public statements” (206). There was also no evidence of praise

from nongovernmental organizations like Amnesty International (Nielsen and Simmons 2015). Furthermore, there were no economic benefits for ratifying treaties. Foreign aid, investment, and trade deals did not increase because of the ratification status of a state. In fact, state officials from Germany and Norway explained that foreign aid was not dependent on the ratification status of a state and even noted that the actual compliance and practice of human rights mattered more (Nielsen and Simmons 2015). Overall, economic benefits and intangible goods do not increase for states that ratified human rights treaties.

The scholarship on state compliance with international law and treaties presents the UN human rights regime as ineffective and that states do not follow the norms of international law. While the previous literature focused primarily on compliance with human rights treaties, the process of international legal norms being passed down from international law institutions to state policies has not been studied to the same extent. This thesis augments the past studies by analyzing state compliance with the UN human rights regime.

1.3 Methodology

This research tests two hypotheses. First, western democracies are more responsive and compliant to international law standards and requirements than non-western regions. This hypothesis addresses the argument of cultural relativism which was observed in the works of Davies (2014) and Jones (2017). Second, states ratified to additional and specific protocols are more responsive and compliant to international law than states that have only adopted general conventions. This hypothesis addresses the impact of the strict enforcement mechanisms highlighted by Cole (2009). Ultimately, this methodology can identify if differences in regions,

culture, and accession to the Optional Protocol to the CEDAW impact state human rights practice.

Table 1: Case Selection

| Freedom Level | Ratified to General Convention | Ratified to Specific Protocol |
|----------------------|---------------------------------------|--------------------------------------|
| High | Sweden and Latvia | Sweden |
| Low | Libya and UAE | Libya |

Four case studies are examined in this analysis. The cases are individual states which include Sweden, Latvia, Libya, and the United Arab Emirates (UAE). Cases were chosen based on their ratification to the CEDAW and its Optional Protocol, as well as geography and culture. Sweden and Latvia will form a Europe case study, while Libya and the UAE form a Middle East and North Africa (MENA) case study. Sweden has ratified the CEDAW and the Optional Protocol, while Latvia only ratified the basic CEDAW. Libya has ratified the CEDAW and its Optional Protocol, whereas the UAE only ratified the CEDAW. Moreover, Europe and MENA were chosen for a regional comparison because of their freedom level, as defined by the Freedom House Index, and the amount of treaty reservations used by each region.

Table 2 portrays the Freedom House ratings for each region. The freedom levels were calculated by averaging the freedom levels of each state in a particular region. MENA had the lowest average of 29.43 and is classified as not free. Europe averaged a score of 91.14 and has the highest rating compared to the other regions. Sweden and Latvia have high freedom ratings, whereas Libya and the UAE have low freedom ratings (Table 1). The freedom levels

demonstrate how a region with high freedom interacts with international law compared to an area with low freedom.

Table 2: Freedom House Index and Classification

| Region | Freedom Level | Freedom House Classification |
|---------------|---------------|------------------------------|
| MENA | 29.4 | Not Free |
| Asia | 43.4 | Partly Free |
| Africa | 43.9 | Partly Free |
| South America | 71.7 | Free |
| Europe | 91.1 | Free |

These cases allow for comparisons to be made between states that are from the same region and similar culture. For example, Sweden can be compared to Latvia, and Libya can be compared to the UAE. Comparisons can also be made between Europe and the MENA. Furthermore, states that ratified the Optional Protocol can be compared to the states that have not ratified it. The following section discusses each states' human rights violations, UPR recommendations, and domestic policies to protect women's rights.

The data collected for each case study was from two nongovernmental organizations: Amnesty International and Human Rights Watch. The bulk of the data was gathered from the United Nations Universal Periodic Review (UPR). The UPR publishes reports on the human rights practices of UN member states and compiles a list of recommendations the state can implement to improve its human rights practices.

The UPR reviews 48 states every year and is conducted by 47 members of the UN Human Rights Council (UNHRC) (UNHRC 2018). All UN member states are allowed to

participate in the dialogue and recommendations sections of the review (UNHRC 2018). Three UN member states, chosen by random, assist the review process and act as rapporteurs (UNHRC 2018). These sources document every human right violation for each state. Moreover, the UPR resources are used to analyze what recommendations states have accepted and if they have made progress in fulfilling and implementing those recommendations.

States report their progress in human rights in their National Report, a document required for the UPR process. The UPR data illustrates if states listen to and obey international law institutions. The UPR reviews states every five years. States are supposed to adopt the recommendations from the UPR into their domestic politics over that time period. The cases in this study all have two UPR cycles. UPR recommendations have been taken from the first cycle, while the reports on what the states have done to respond to the recommendations have been taken from the second cycle. This makes it possible to observe if the states have adequately responded to UPR recommendations in the time after their first cycle.

Table 3: Sovereignty Reservations for all Regions for 5 Treaties

| Treaty | MENA | Asia | Africa | South America | The West |
|--------------------|------|------|--------|---------------|----------|
| ICCPR | 6 | 4 | 4 | 1 | 83 |
| ICESCR | 3 | 2 | 3 | 0 | 13 |
| CEDAW | 41 | 13 | 5 | 3 | 12 |
| CRC | 9 | 22 | 3 | 3 | 14 |
| CAT | 17 | 6 | 7 | 1 | 8 |
| Total Reservations | 76 | 47 | 22 | 8 | 130 |
| States per Region | 21 | 31 | 49 | 12 | 41 |

Table 3 and Table 4 depict the treaty reservations for each region to five major human rights treaties. A reservation is a unilateral declaration made by a state that allows it to ignore following a certain treaty article. The treaties are the ICCPR, ICESCR, CEDAW, CRC, and the Convention Against Torture (CAT). These treaties were analyzed because they all have an individual petition system that allows citizens to file cases against their state for a right violation. The reservations were calculated by counting each treaty article and not sub articles. This was done to get a broad overview of how reservations are used in treaties.

Table 3 portrays sovereignty reservations which are reservations that allude to state sovereignty as a justification for rejecting a treaty provision. The West refers to Europe, Canada, the United States, Australia, and New Zealand. The West used the most sovereignty reservations than the other regions. It used 130 total sovereignty reservations with most of them, 83 reservations, being used in the ICCPR. This demonstrates how the West is concerned with the protection of civil and political rights over other rights. MENA had the second highest amount of sovereignty reservations with 76 reservations. In contrary to the West, the reservations of MENA were primarily in the CEDAW with 41 reservations. This conveys that MENA is concerned with women's rights than other rights. MENA and the West are the two regions that used the most sovereignty reservations. South America used the least amount of sovereignty reservations with a total of eight reservations.

On the other hand, Table 4 displays the culture reservations which cite culture as a justification for rejecting a treaty article. MENA issued the highest number of culture reservations with 46 reservations. Asia had the second highest with 16, followed by Africa with 11, the West with three, and finally South America with zero. Similar to its sovereignty

reservations, a majority of MENA's reservations are concentrated in the CEDAW with 27 reservations. The CRC received the second highest amount from MENA with 13 reservations. The West used three culture reservations. Two for CEDAW and one for the CRC. This shows that MENA has more cultural objections to human rights, in particular women's rights, than other regions.

Table 4: Culture Reservations for all Regions for 5 Treaties

| Treaty | MENA | Asia | Africa | South America | The West |
|--------------------|------|------|--------|---------------|----------|
| ICCPR | 5 | 0 | 2 | 0 | 0 |
| ICESCR | 1 | 0 | 0 | 0 | 0 |
| CEDAW | 27 | 11 | 5 | 0 | 2 |
| CRC | 13 | 5 | 4 | 0 | 1 |
| CAT | 0 | 0 | 0 | 0 | 0 |
| Total Reservations | 46 | 16 | 11 | 0 | 3 |
| States per Region | 21 | 31 | 49 | 12 | 41 |

Overall, the West used the most reservations followed by MENA. The great majority of the reservations of the West and MENA were sovereignty reservations. Unlike the West, MENA also used more cultural reservations.

States that participate with the UPR system may seem to demonstrate that international law affects state behavior. However, this does not account for how sovereignty plays a role in state compliance with international law. Treaty reservations and the ratification status of many Optional Protocols showcase how states use their sovereignty to avoid complying with

international law requirements. Similarly, cultural relativism can also prevent states from complying with international law standards. By studying the two regions with the most amount of reservations, the relationship between international law and the regions that often reject international law principles can be examined.

Chapter 2: State Sovereignty

2.1 Treaty Reservations

Reservations are a crucial aspect to international law that can illuminate how states reject international legal standards. To repeat, reservations allow a state to evade certain articles of a human rights treaty. The analysis of reservations is important because it will explain why states oppose certain human rights principles. Tables 2 and 3 from earlier can be analyzed. They outline the reservations for the ICCPR, ICESCR, CEDAW, CRC, and the CAT made by each region. The West contains all of Europe, the United States, Canada, Australia, and New Zealand. The reservations came in the form of sovereignty and culture reservations. Sovereignty reservations allude to state sovereignty as a justification for noncompliance with a treaty rule, and culture reservations cite culture, religion, and tradition as justifications for noncompliance with treaty rules.

The sovereignty reservations are dispersed across multiple treaties. The West used the most sovereignty reservations with 130, followed by MENA with 76, Asia with 47, Africa with 22, and South America with 8. The vast amount of the reservations made by the West were for the ICCPR with 83 reservations made just for that treaty. MENA made the most reservations for the CEDAW with 41, and Asia made the most for the CRC with 22. It appears that each region

has its own concern for a specific area of human rights. The West is concerned with civil and political rights, MENA with women's rights, and Asia with children's rights. Above all, sovereignty reservations are a clear tactic used by states to avoid compliance with international law standards.

The culture reservation table illustrates that culture reservations are practiced by certain regions and for certain treaties. MENA used the most culture reservations with 44 total. Every other region used less than 20. South America used the least with 0 reservations. Moreover, culture reservations are concentrated in two treaties, the CEDAW and the CRC. MENA submitted the most culture reservations to the CEDAW and the CRC. Asia made the second highest amount of culture reservations with 16. It followed a similar pattern as MENA by implementing 11 reservations in the CEDAW and 5 in the CRC. Africa made 11 total culture reservations with the majority of its reservations being in the CEDAW and the CRC. Finally, the West made 3 culture reservations. New Zealand made 2 reservations and Canada made 1 reservation to protect the customs of their indigenous population. All culture reservations referenced Islam and sharia except 3 from the West and 2 from Israel. Culture reservations are rare in the ICCPR, ICESCR, and the CAT. It can be suggested that there is less of a cultural objection to civil and political rights, as well as economic, social, and cultural rights. However, it is apparent that there is a cultural objection to the rights of women and children. The culture reservations convey how cultural relativism is a legitimate threat to international law compliance.

Overall, sovereignty is a greater threat to international law compliance than culture. Sovereignty reservations are practiced more often than culture reservations. Culture reservations

are used primarily by MENA. While culture reservations are still used by other regions, they are not used to the same extent as MENA. So, culture reservations are practiced by mainly one region, whereas sovereignty reservations are practiced and used more by the whole world. Nevertheless, the combination of sovereignty and cultural relativism permit states to not comply with international legal standards.

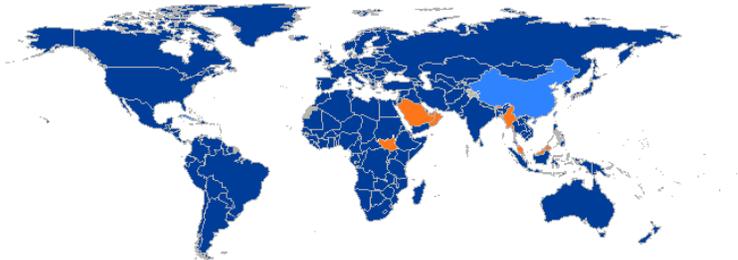
2.2 Ratification of General Treaties and Optional Protocols

This section studies the ratification data for five major human rights treaties: the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), and the Convention on the Rights of the Child (CRC). These treaties were chosen because they all have Optional Protocols, are popular, and have strong enforcement mechanisms. Strong enforcement mechanisms are systems of enforcement that give power to individuals to hold their state accountable for human rights violations. The most popular strong enforcement mechanism is the individual petition system which lets individuals sue their states for violating human rights laws. All strong enforcement mechanisms are found in the Optional Protocols of treaties. This enforcement mechanism takes power away from the state and puts it into the hands of individual citizens. Next, the ratification data of these five treaties and their Optional Protocols will be illustrated and compared. States that are dark blue have ratified the treaty, states in light blue have signed the treaty, and states in orange have taken no action towards the treaty. Ratified states are legally bound to the treaty

laws, signatory states have acknowledged the treaty, but are not bound to them, and states that took no action reject the treaty and not bound to it. By observing the difference in ratification behavior between the standard treaty and its Optional Protocol, the significance of state sovereignty in international law is revealed.

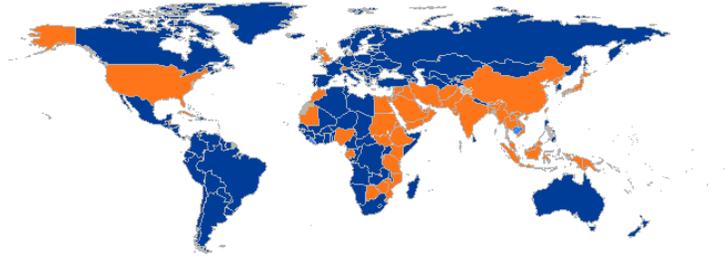
The image below is the ratification status of the standard ICCPR. Clearly, a vast majority of the world has ratified it. On the contrary, the following image depicts the ratifications of the First Optional Protocol to the ICCPR. Notice the drop off in ratifications. There are 171 ratification for the ICCPR, but 116 ratifications for the First Optional Protocol (UN Office of the High Commissioner 2018a). Major liberal democracies have taken no action on the First Optional Protocol either such as the United States, the United Kingdom, Japan, and Switzerland (UN Office of the High Commissioner 2018a). Therefore, states are reluctant to ratify treaties that suspend their sovereignty.

Image 1: Ratification Status of the ICCPR



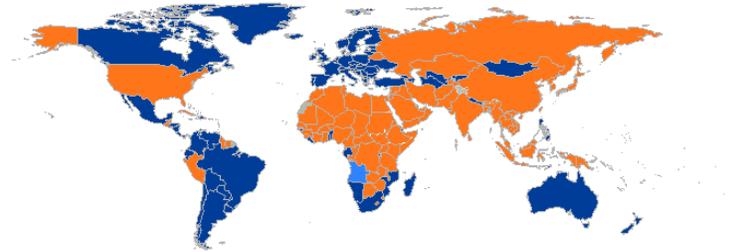
United Nations. 2018.[Map illustration of ICCPR ratifications]. United Nations High Commissioner for Human Rights. Retrieved from <http://indicators.ohchr.org>.

Image 2: Ratification Status of the First Optional Protocol to the ICCPR



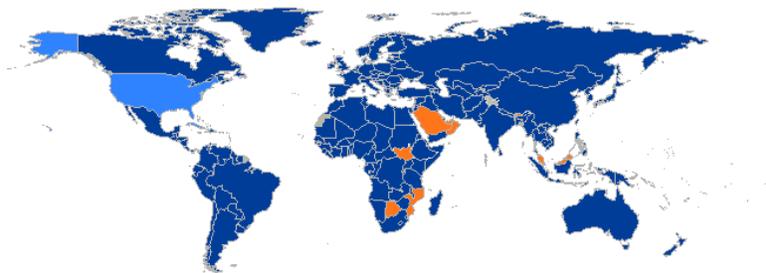
United Nations. 2018.[Map illustration of ICCPR Optional Protocol 1 ratifications]. United Nations High Commissioner for Human Rights. Retrieved from <http://indicators.ohchr.org>.

The ratification status continues to evaporate for the Second Optional Protocol. There are 85 ratifications of the Second Optional Protocol and 110 states that took no action (UN Office of the High Commissioner 2018a). The Second Optional Protocol combines human rights content with a strict enforcement mechanism. The Second Optional Protocol revolves around the death penalty and states under Article 1 that “No one within the jurisdiction of a State Party to the present Protocol shall be executed” (UN Office of the High Commissioner 2018b). The difference between the First and Second Optional Protocols is that the First Protocol just establishes the individual petition system. The Second Optional Protocol would extend the same enforcement mechanism from the First Protocol and bind states to outlawing executions. The contrast in ratifications between the basic treaty and the Optional Protocols sheds light on the fact that the state sovereignty drives states away from complying with international law standards. This notion is further boosted based on the ratification status of the ICESCR.

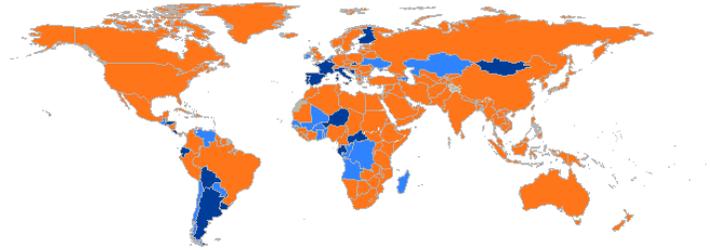
Image 3: Ratification Status of the Second Optional Protocol to the ICCPR

United Nations. 2018.[Map illustration of ICCPR Optional Protocol 1 ratifications]. United Nations High Commissioner for Human Rights. Retrieved from <http://indicators.ohchr.org>.

The ICESCR has 169 ratifications, 4 signatures, and 24 states took no action (UN Office of the High Commissioner 2018a). Predictably, its Optional Protocol has 24 ratifications, 25 signatures, and 149 states took no action (UN Office of the High Commissioner 2018a). Again, this demonstrates how states act according to their sovereignty and avoid ratifying treaties that would diminish state power.

Image 4: Ratification Status of the ICESCR

United Nations. 2018.[Map illustration of ICESCR ratifications]. United Nations High Commissioner for Human Rights. Retrieved from <http://indicators.ohchr.org>.

Image 5: Ratification Status of the Optional Protocol to the ICESCR

United Nations. 2018.[Map illustration of ICESCR Optional Protocol 1 ratifications]. United Nations High Commissioner for Human Rights. Retrieved from <http://indicators.ohchr.org>.

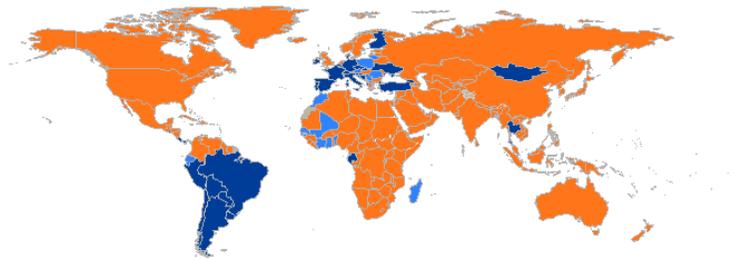
A dramatic third case is the CRC. The CRC is the most widely accepted human rights treaty. It has 196 ratifications and 1 signatory (UN Office of the High Commissioner 2018a). There are three Optional Protocols to the CRC. The third establishes the individual petition system (UN Office of the High Commissioner 2018a) found in the ICESCR and the ICCPR. What is utterly shocking is how many ratifications are lost on the third protocol cementing an individual petition system. The third protocol has 39 ratifications with 139 states taking no action (UN Office of the High Commissioner 2018a). This example augments the argument that states are less likely to ratify treaties that challenge their sovereignty. This case goes from having 196 ratifications to 39 when more effective monitoring forces are applied. The fact that the most popular human rights treaty around the world can lose nearly all of its supporters greatly displays the influence of state sovereignty on compliance with international law.

Image 6: Ratification Status of the CRC



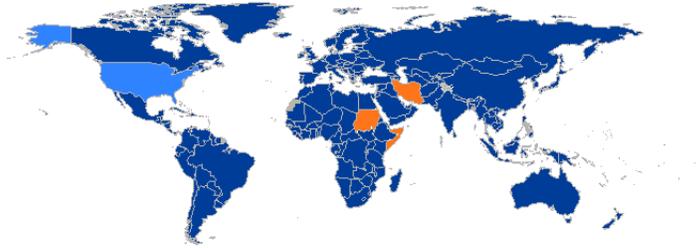
United Nations. 2018.[Map illustration of CRC ratifications]. United Nations High Commissioner for Human Rights. Retrieved from <http://indicators.ohchr.org>.

Image 7: Ratification Status of the Third Optional Protocol to the CRC

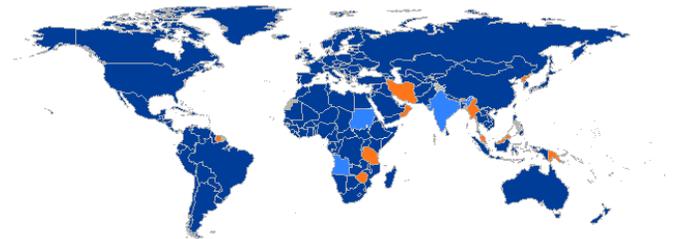


United Nations. 2018.[Map illustration of CRC Optional Protocol 3 ratifications]. United Nations High Commissioner for Human Rights. Retrieved from <http://indicators.ohchr.org>.

Furthermore, the CEDAW and the CAT follow the same pattern as the previous human rights treaties. The CEDAW is a very popular treaty boasting 189 ratifications, 2 signatories, and 6 states with no action (UN Office of the High Commissioner 2018a). The CAT is also well recognized with 164 ratifications, 7 signatories, and 26 states with no action (UN Office of the High Commissioner 2018a).

Image 8: Ratification Status of the CEDAW

United Nations. 2018.[Map illustration of CEDAW ratifications]. United Nations High Commissioner for Human Rights. Retrieved from <http://indicators.ohchr.org>.

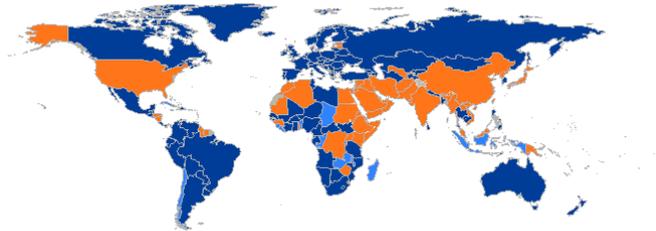
Image 9: Ratification Status of the CAT

United Nations. 2018.[Map illustration of CAT ratifications]. United Nations High Commissioner for Human Rights. Retrieved from <http://indicators.ohchr.org>.

Like the other cases, the number of ratifications drops off for the Optional Protocols. The ratifications for the Optional Protocol to the CEDAW is 109, alongside 13 signatories and 75 states that took no action (UN Office of the High Commissioner 2018a). Likewise, the Optional Protocol to the CAT has 88 ratifications, 14 signatories, and 95 states that took action (UN Office of the High Commissioner 2018a). The Optional Protocol to the CEDAW creates the individual petition system that has been used in the other treaties, and the Optional Protocol to the CAT enacts a subcommittee to regularly visit states to monitor the conditions of detainees

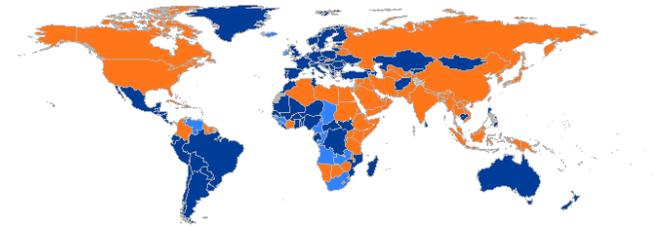
and the detainment practices of the state (UN Office of the High Commissioner 2018a). This is a strong enforcement mechanism because its power is placed in an intergovernmental organization rather than the state.

Image 10: Ratification Status of the Optional Protocol to the CEDAW



United Nations. 2018.[Map illustration of CEDAW Optional Protocol 1 ratifications]. United Nations High Commissioner for Human Rights. Retrieved from <http://indicators.ohchr.org>.

Image 11: Ratification Status of the Optional Protocol to the CAT



United Nations. 2018.[Map illustration of CEDAW Optional Protocol 1 ratifications]. United Nations High Commissioner for Human Rights. Retrieved from <http://indicators.ohchr.org>

To summarize, this empirical evidence proves that states are unlikely to comply with international law standards that threaten their state sovereignty. States are more likely to ratify treaties with weak enforcement mechanisms than treaties with strong enforcement mechanisms. Weak enforcement mechanisms are found in each standard treaty studied, while the strict

enforcement mechanisms are located in the Optional Protocols. The unwillingness for states to be bound by a strong enforcement mechanism reveals that states do not want to be held accountable for their human rights violations and policies. This illustrates that states care more about their own sovereignty than individual human rights and compliance with international law. Treaty reservations are another subject that demonstrates how states prioritize their own sovereignty over treaty laws.

Chapter 3: Case Studies

3.1 Sweden

Sweden is ratified to the CEDAW and its Optional Protocol. It has a perfect Freedom House Index of 100 out of 100. Sweden highlights how a state that is ratified to a general convention and a specific protocol is influenced by international law. Also, the high freedom level of Sweden portrays how a state with high freedom is affected by international law.

3.1.1 Rights Abuses

Sweden experienced many cases of sexual violence against women. Amnesty International (2018) in its annual human rights report stated that rape was a common abuse against women and that “The number of rapes reported to the police increased by 14% during the first half of the year compared with the same period in 2016 (from 2,999 to 3,430)”. Also, only 111 cases made it to court (Amnesty International 2018).

The majority of concerns from the United Nations (UN) and Sweden’s own domestic concerns were about domestic violence and the gender wage gap. The United Nations Human

Rights Council (UNHRC) reported that “each year 13 to 20 women died at the hand of a partner” (UNHRC 2014a, 5). Sweden noted in its UPR National Report that, “While the total pay gap between women and men had decreased by 3 percentage points between 1994 and 2013, there was still a pay gap in Sweden of around 13 per cent” (UNHRC 2015a, 4). However, the UN “observed that the wage gap between women and men had essentially remained constant for 30 years and the labour market was markedly segregated” (UNHRC 2014a, 3).

3.1.2 Universal Periodic Review Recommendations

Next, UPR recommendations can be studied to see if the international community is responding effectively and accurately to these rights abuses. The first UPR cycle for Sweden occurred in 2010. Sweden accepted 106 UPR recommendations out of 149 (UNHRC 2010a, 12-23). Sixteen of the accepted recommendations were about women’s rights. Many of the recommendations were about domestic violence, some were about ending the gender wage gap, and the rest were about giving women more representation in decision making in Swedish society.

3.1.2.1 Recommendations on Domestic Violence

Sweden was recommended to increase funding for programs that prevent violence against women (Greece), to continue to fund programs that prevent violence against women and create more shelters for affected women (Portugal), and to improve its efforts at fighting violence against women in accordance with international human rights standards (Netherlands) (UNHRC 2010a, 16). Also, Sweden was recommended to “Intensify its efforts to eliminate violence against women and to develop a national plan of action” (Iran) (UNHRC 2010a, 16), to

“Intensify measures to avoid discrimination against women and to combat violence against them” (Chile) (UNHRC 2010a, 16), and to “Continue to implement its effective measures to prevent discrimination against women and to combat violence against them” (Botswana) (UNHRC 2010a, 16).

3.1.2.2 Recommendations on the Gender Wage Gap

Other recommendations dealt with the gender wage gap. Sweden was recommended to “Continue taking efficient measures with a view to decreasing and eventually eliminating the wage gap between men and women” (Slovenia) (UNHRC 2010a, 16), to “Take concrete actions to reduce the gender gap in decision-making positions as well as to ensure equal remuneration for men and women” (Pakistan) (UNHRC 2010a, 21), and to “Continue to move forward in its efforts to achieve full equality in remuneration between men and women” (Colombia) (UNHRC 2010a, 14).

3.1.2.3 Recommendations on Women’s Representation in Decisionmaking

A minority of the recommendations suggest that Sweden give women the opportunities to be in important decisionmaking roles. Sweden was suggested to “Continue to make efforts to guarantee equality between men and women so that women may play important roles in the decision-making processes of public institutions” (Nicaragua) (UNHRC 2010a, 14) and to “Give the female population the opportunity to achieve high-level positions with important decision-making levels” (Iraq) (UNHRC 2010a, 16).

3.1.3 Domestic Responses to the International Community

Sweden has adopted many policies to address the recommendations of the UPR through increased government spending on programs to end domestic violence and new laws to help women succeed in the economy. Like the UPR recommendations, Sweden's active policy measures have been geared towards fighting domestic violence and the gender wage gap. The actions Sweden took to combat domestic violence was mixed between improving the police, raising awareness and funding research projects, and building and sustaining shelters for women affected by violence. With the police force, a special inspection group was assigned in 2013 to review the use of lethal force in relationships and research if there are additional ways for the police to prevent violence against women (UNHRC 2014b, 11). Additionally, the police have spread information on domestic violence and encouraged victims to report their case to the police (UNHRC 2014b, 11). The government noted that special attention was given to honor-related acts of violence and improved the awareness of local schools to the issue of domestic violence (UNHRC 2014b, 11). For shelters, the government has developed a method to evaluate the effectiveness of its shelters and reported that each municipality could provide shelter, advice, and support for victims of domestic violence (UNHRC 2014b, 11).

The Government continues to fund research and awareness campaigns about domestic violence. Sweden funds non-profit organizations that work to end domestic violence. The government stated that it spent \$2,545,295 to non-profit groups fighting domestic violence (UNHRC 2014b, 11). In addition, \$12,062,485 is spent each year on bolstering the services of each municipality which assist women, children, and facilitators of domestic violence (UNHRC 2014b, 11). Currently, Sweden is working on a national strategy for eliminating domestic

violence and the final report was completed on May 29th, 2015 (UNHRC 2014b, 11). Also, \$4,647,930 was spent on multiple projects researching domestic violence and forms of sexual violence (UNHRC 2014b, 11). Similarly, a national coordinator was responsible for researching domestic violence from 2012-2014. (UNHRC 2014b, 11). The report of the coordinator contained 50 suggestions to the government which are being reviewed (UNHRC 2014b, 11). The government declared that it spent a total of about \$110,665,000 on its programs to end domestic violence from 2010-2014 (UNHRC 2014b, 10). Sweden proclaims that its spending has helped municipalities and agencies conduct better work around domestic violence, strengthened the cooperation between agencies, and has “helped to improve skills in the public sector, both in agencies and in individual employees” (UNHRC 2014b, 10). Finally, Sweden has ratified new human rights treaties. Sweden ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) and “introduced new legislation that strengthened the protection against forced marriage and child marriage” (UNHRC 2015a, 4).

Sweden was very active in taking measures to improve women’s conditions in the economy. Many of the policies work to remove the wage gap and increase the amount of women in leading business and entrepreneurial roles. A government delegation is researching ways to promote gender equality and remove the wage gap (UNHRC 2014b, 10). Wage surveys will be given each year to track the progress of removing the wage gap (UNHRC 2014b, 10). Furthermore, the Discrimination Act of 2008 bans any kind of wage discrimination based on gender (UNHRC 2014b, 10). In fact, employers are required to promote equal rights in the workplace (UNHRC 2014b, 10). The Equality Ombudsman monitors the efforts of employers to

achieve equal rights in the workplace, and it will bolster its task of monitoring pay rates (UNHRC 2014b, 10). The Equality Ombudsman will be issuing a report of its findings during its increased surveillance of pay rates on March 1st, 2015 (UNHRC 2014b, 10). Finally, the government created “the Delegation for Gender Equality in Working Life to investigate the different conditions for women and men and to propose actions to promote gender equality and reduce the pay gap” (UNHRC 2015a, 4). In addition to ending the wage gap, Sweden hopes to increase the number of women on the boards of companies. Sweden stated that “If the proportion of women on the governing boards of listed companies is not at least 40 per cent by 2016, a legislative proposal on quotas will be presented” (UNHRC 2014b, 9-10). The government intends to boost the number of female entrepreneurs through the Golden Rules of Leadership program between 2013 and 2014 (UNHRC 2014b, 9-10). Indeed, Sweden spent \$11,066,500 on a program to increase businesses run by women (UNHRC 2014b, 9-10). Sweden recorded that the number of businesses ran by women increased by 13.2% between 2006 and 2010 (UNHRC 2014b, 9-10).

Besides domestic violence and economic rights, Sweden has seen growth in the representation of women since the 1990’s. Sweden asserted that “One area in which there has been marked favourable development since the 1990s is the distribution of power and influence in politically elected assemblies, as a result of several Riksdag parties’ active work to boost women’s representation” (UNHRC 2014b, 9). Specifically, the members of government agencies’ boards are 48% women and 52% men, and the agency chairs were composed of 41% women and 59% men (UNHRC 2014b, 9).

3.1.4 Summary

After reviewing the recommendations from the UPR and observing the policies Sweden has implemented to secure women's rights, Sweden complied with international law and the UPR. Most of the recommendations were concerned with violence against women and the wage gap, and most of the actions taken by Sweden dealt with combating violence against women and ending the wage gap. Fixing these two issues can be difficult because they are more forms of de facto discrimination than de jure discrimination, meaning the adoption of a norm or change of a law will not necessarily bring an end to either problem. Still, the government is actively involved in solving these issues and has put a great amount of money towards research and raising awareness of domestic violence. Government monitoring of wages, legal and normative pressure on employers, programs that support entrepreneurship, and annual surveys can all help Sweden eliminate the wage gap and increase the representation of women in the economy. Ultimately, Sweden has responded to many of the UPR's recommendations with active government policies.

The recommendations to combat violence against women were fulfilled.

Recommendations to increase funding for domestic violence programs and to add more shelters for victims of abuse were successful. Sweden is able to maintain shelters in all of its municipalities and spent \$111 million on programs to end violence against women. In addition, Sweden satisfied the recommendations for the gender wage gap. Recommendations that suggested to continue to reduce the gender wage gap were fulfilled through wage monitoring, the Delegation for Gender Equality in Working Life, and Golden Rules of Leadership Program. Lastly, Sweden did not create new policies to increase women's representation in

decisionmaking positions primarily because Sweden already has a large proportion of women that serve in the government.

3.2 Latvia

Latvia is ratified to the CEDAW and not the Optional Protocol. Latvia has a high Human Freedom Index of 87 out of 100. Latvia demonstrates how a state with high freedom that has ratified only a general convention is influenced by international law.

3.2.1 Rights Abuses

Like Sweden, Latvia has been criticized for the wage gap between men and women and domestic violence. The United Nations noted that “The Human Rights Committee was concerned at the persisting wage gap between men and women in the private sector and the high unemployment rate of women” (UNHRC 2015b, 10). With domestic violence, the Council of Europe (CoE) “found in relation to Latvia that measures implemented to address the problem of domestic violence had not been sufficient” (UNHRC 2015c, 6). Furthermore, Latvia is a hotspot for human trafficking. “The Human Rights Committee was concerned that Latvia remained a country of origin for trafficking in human beings for sexual and labour exploitation, particularly of young women” (UNHRC 2015b, 7). In addition, the CoE “found in relation to Latvia that insufficient efforts had been undertaken to reduce the prevailing high maternal mortality rate” (UNHRC 2015c, 8). Lastly, Muslim women have faced discrimination with a potential bill that would ban the wearing of a full face veil. Amnesty International (2018) reports that “In August, the government put forward draft legislation which effectively prohibits wearing the full-face

veil in public. The Justice Ministry argued that the measure would protect people's welfare and morality, and facilitate the integration of immigrants."

3.2.2 Universal Periodic Review Recommendations

Latvia accepted 71 out of 122 recommendations (UNHRC 2016a, 2). Fourteen were about women's rights. Many recommendations focused on domestic violence and protecting the general equality of women. In addition, other recommendations brought attention to human trafficking.

3.2.2.1 Recommendations on Domestic Violence

Latvia was suggested to "Establish a comprehensive plan on gender equality, especially stressing prosecution of sexual exploitation and prevention of gender violence" (Spain) (UNHRC 2011a, 14), to "Intensify its efforts to prevent, punish and eliminate all forms of violence against women" (Argentina) (UNHRC 2011a, 14), and to "Further continue its efforts to combat domestic violence, including through raising public awareness" (Azerbaijan) (UNHRC 2011a, 14). Moreover, Latvia received recommendations to "Provide specific training to law enforcement staff to enable them to better understand and prevent domestic violence" (Hungary) (UNHRC 2011a, 14), to "Strengthen its criminal legislation on domestic violence to notably make sure that such violence is considered as an aggravating circumstance" (France) (UNHRC 2011a, 16), and to "Adopt the necessary legislative measures in the Criminal Code to define domestic violence and criminalize marital rape as a specific crime" (Mexico) (UNHRC 2011a, 16).

3.2.2.2 Recommendations on Women's Equality

Some recommendations encouraged Latvia to maintain equality between men and women.

Latvia was asserted to “Continue to strengthen the national mechanism on gender equality, as recommended by the Committee on the Elimination of Discrimination against Women” (Chile) (UNHRC 2011a, 14), to “Continue efforts to advance gender equality and continue tackling the gender equality issues indicated in the national report” (Lithuania) (UNHRC 2011a, 14), and to “Further adopt and implement policies and legislation to combat gender discrimination and to promote the empowerment of women, including equal job opportunities and equal remuneration for work of equal value” (Brazil) (UNHRC 2011a, 14).

On the contrary, Latvia declined two recommendations about women's equality. Latvia rejected a resolution to “Adopt a comprehensive gender equality law” (Poland) (UNHRC 2011a, 19) and a recommendation to “Promote the inclusion in the Constitution and national legislation of the definition of discrimination against women, as well as the principle of equality between men and women” (Mexico) (UNHRC 2011a, 19). Latvia declined these two recommendations because it “has chosen a different approach – to integrate anti-discriminatory provisions into sectoral laws. Such approach is consistent with the Latvian legal tradition and is no less effective than the comprehensive law approach” (UNHRC 2011b, 3).

3.2.2.3 Recommendations on Human Rights Law and Human Trafficking

The remaining recommendations were about human trafficking and participating in international law. Latvia was urged to “Consider the possibility of ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women” (Argentina)

(UNHRC 2011a, 13) and to “Continue efforts to improve and protect the rights of women and children by implementing recommendations made by the United Nations mechanisms and its related special procedures” (Palestine) (UNHRC 2011a, 13). Two human trafficking recommendations were accepted by Latvia. It accepted to “Pursue its efforts to combat trafficking in human beings, especially women and children” (Algeria) (UNHRC 2011a, 15) and to “Prioritize training for the judiciary and the police on how to treat victims of trafficking as well as domestic violence” (Norway) (UNHRC 2011a, 15).

3.2.3 Domestic Responses to the International Community

Latvia has passed many new policies that protect women’s economic rights and that fight domestic violence. To start, Latvia criminalized marital rape thanks to amendments to its Criminal Law (CL) in 2014 (UNHRC 2016b, 17). Latvia has made it easier for victims of domestic violence to end their marriage. The new law holds that if the couple has lived separately for less than three years, then “the marriage may be dissolved by a court if the reason for breaking down of a marriage is physical, sexual, psychological or economical violation of the spouse against the other spouse” (UNHRC 2016b, 17). Also, Latvia introduced the Concept of Preventive Coercive Measures in 2013 which “aims to achieve a long-term reduction of number and recurrence level of violence cases, including domestic violence-related offences” (UNHRC 2016b, 17). The State Family Policy Guidelines (2011-2017) and its Action Plan (2012-2014) list goals to make towards ending domestic violence (UNHRC 2016b, 17). The Cabinet of Ministers (CM) approved of measures to develop social rehabilitation centers for victims of domestic violence in 2014 (UNHRC 2016b, 17-18). Social rehabilitation centers will provide lawyers,

psychologists, and social workers to assist victims and perpetrators (UNHRC 2016b, 17-18). In addition, Latvia noted that “On 31 March 2014, complex amendments to legal acts introducing temporary protection against violence entered into force” (UNHRC 2016b, 2) which allows it “to improve legal framework in order to join the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention) (UNHRC 2016b, 2). In fact, Latvia plans on ratifying the convention by the end of 2018 (Amnesty International 2018).

Similarly, Latvia has taken a lot of responsibility in securing women’s economic rights. Latvia created the “Gender Equality in Economic Decision Making – Tool to Promote Economic Competitiveness and Equality Value” in 2013 (UNHRC 2016b, 16). This program was a public awareness campaign that “highlighted the principles of equality with regard to equal pay, choice of profession, and career prospects” (UNHRC 2016b, 16). Moreover, Latvia has ran its Mentoring Program since 2009 which promotes women’s entrepreneurship (UNHRC 2016b, 16). To address workplace segregation based on gender, Latvia adopted the Guidelines on Inclusive Employment in 2015 (UNHRC 2016b, 16). This policy “addresses the labour market segregation and the lack of balanced representation of women and men in different sectors of the labour market that has an impact on the formation of the pay gap” (UNHRC 2016b, 16). In 2012, Latvia drafted the Gender Equality Actions Plan (UNHRC 2016b, 16). This plan hopes to achieve the “elimination of gender roles and stereotypes, promotion of healthy and environment-friendly lifestyle for women and men, promotion of economic independence and equal opportunities in the labour market for women and men, and monitoring and evaluation of gender equality policy” (UNHRC 2016b, 16).

The state has made notable progress in women's rights. Latvia highlighted that it was ranked among the top twenty states in securing gender equality according to the Global Gender Gap Report (UNHRC 2015b, 4). The same report indicated that Latvia "had fully closed the gender gap in the fields of health and survival as well as education attainment" (UNHRC 2015b, 4). Additionally, one third of all enterprises in Latvia are owned by women (UNHRC 2016b, 2). Latvia maintains that "31.44% of all positions in company boards and councils were held by women" (UNHRC 2016b, 2) and that "31% of companies listed on the stock exchange were managed by women, which is the second highest indicator in the European Union" (UNHRC 2016b, 2).

Finally, Latvia has made changes to address human trafficking, the maternal mortality rate, and to strengthen family relations. Latvia is aiding victims of human trafficking by "building the capacity of law enforcement agencies in this field and increased State-funded support for victims, compensation and rehabilitation" (UNHRC 2016b, 4). For maternal mortality, Latvia has adopted the Maternal and Child Health Improvement Plan in 2012 (UNHRC 2016b, 3). To add, Latvia has seen an increase in paternity leaves. Paternity leaves have increased from 22% in 2004 to 45% in 2014 (UNHRC 2016b, 16). Latvia contends that "Measures have been implemented to promote the reconciliation of work and family, informative and educational activities, improvement of child care services, and the introduction of flexible working hours and forms" (UNHRC 2016b, 16).

3.2.4 Summary

Latvia faced similar threats to women's rights as Sweden. Domestic violence and women's economic rights were observed in Latvian society, and the state took measures to eliminate these abuses. Latvia criminalized marital rape and made violence against women an aggravating crime, a response to two recommendations. Furthermore, the state introduced new policies like the Gender Equality Action Plan in 2012, the Maternal and Child Health Improvement Plan, and the Guidelines on Inclusive Employment in 2015. Latvia accepted the majority of its recommendations and made it clear that 17 recommendations were already implemented or were in the process of implementation during its first cycle (UNHRC 2011a, 16-17). Two of these recommendations were about women's rights. Latvia accepted and implemented its recommendations despite only being ratified to the CEDAW. Ratification to the Optional Protocol appears to have no impact on compliance with international law in the case of Latvia. Also, Latvia's high freedom level and status as a European state may explain its compliance with international law.

Latvia fulfilled recommendations that advocated to pass measures to prevent domestic violence. Latvia did this by passing the Concept on Preventive Coercive Measures, State Family Policy Guidelines, and the Action Plan (2012-2014). Also, Latvia addressed recommendations which stated to advance gender equality, end the gender wage gap, and get women involved in more sectors of the economy. Latvia implemented the Gender Equality in Decisionmaking, Guidelines on Inclusive Employment, and the Gender Equality Actions Plan to help women get involved in the economy and eliminate the gender wage gap. Finally, Latvia responded to recommendations on human trafficking by training the police to better handle human trafficking,

and by giving trafficking victims assistance in the forms of compensation and rehabilitation. In summary, Latvia followed the recommendations of international law by adopting new legislation in its domestic affairs.

3.3 Libya

Libya is the first case study of the MENA group. Libya is ratified to the CEDAW and the Optional Protocol. Libya has a low freedom level score of 9 out of 100 on the Freedom House Index. Libya displays how a MENA state that is ratified to a general convention and a strict protocol interacts with international law. In addition, Libya illustrates how a state with low freedom engages with international law.

3.3.1 Rights Abuses

The rights abuses in Libya were composed of violence against women, violation of marriage equality laws, and denied the right to pass down their nationality to their kids or husband. On a smaller scale, the representation of women in government and various forms of discrimination were of concern. For violations of rights in marriage, Human Rights Watch (2018) reported that “Personal status laws continue to discriminate against women, particularly with respect to marriage, divorce, and inheritance” and that “The penal code prohibits all sexual acts outside marriage, including same-sex relations, and punishes them with up to five years in prison.” A law requiring that the husband obtain consent from his wife to marry a second wife was overturned in the Libyan Supreme Court citing that it was incompatible with Islamic law (UNHRC 2015d, 4). Also, the Grand Mufti allegedly introduced a law that would prohibit

Libyan women from marrying foreign men (UNHRC 2015d, 4). Furthermore, the Penal Code allowed for a husband to receive a reduced prison sentence if he killed his wife, sister, daughter, or mother who he suspected of having an extramarital affair (UNHRC 2015d, 6). The adultery law, Law No. 70/1973, criminalized extramarital sexual relations without accounting for forced sex (UNHRC 2015d, 6). This law has been used to prosecute women who were raped or sexually assaulted (UNHRC 2015d, 6).

More rights violations with marriage had to do with nationality laws. Women are not allowed to pass their Libyan nationality to their foreign husbands or children (UNHRC 2015d, 6). The UN recommended that “Libya ensure that mothers were able to pass their nationality to their children, regardless of the status or nationality of the child’s father” (UNHRC 2015e, 6). Moreover, the UN was concerned about Law No. 24/2010, Libya’s primary nationality law, suggesting that it:

remained ambiguous with respect to the ability of women to confer their nationality on their children if their husbands were non-nationals. Libyan men, by contrast, were able to confer their nationality on their children irrespective of the nationality of their wives. (UNHRC 2015d, 3)

Violence against women is another major violation of women’s rights in Libya. Amnesty International (2018) noted that women’s activists and political candidates are threatened for expressing their views and often retreat from the public spotlight. A specific incident concerned Salwa Bugaighis, a women’s rights activist, who was killed by a group of gunmen (UNHRC 2015d, 4). Also, Libyan law does not criminalize forms of domestic violence (Human Rights Watch 2018). Likewise, the reduced sentencing for husbands who kill their wives, daughters, or mother discussed above further illustrates issues of violence against women. More so, rapists can

evade prosecution if they marry their victim according to Article 424 of the Penal Code (Human Rights Watch 2018) and rape was used as a tactic in war (UNHRC 2015d, 5). Moreover, sexual violence was prevalent in many communities, sexual torture was used against detainees to obtain information (UNHRC 2015d, 8), and refugees experienced sexual violence (Amnesty International 2018). Similarly, marital rape is not a crime in Libya (UNHRC 2015d, 6). Law No. 10/1984, legislation that defined the rights of men and women in marriage (Refugee Documentation Centre 2015), failed to explicitly criminalize domestic violence and marital rape, lacked enforcement, and did not provide any services to abuse victims (UNHRC 2015d, 6). The Grand Mufti received criticism from issuing a fatwa that was “against the agreed conclusions of the UN Commission on the Status of Women on the elimination and prevention of all forms of violence against women and girls, on the grounds that they were incompatible with Sharia law” (UNHRC 2015d, 4). Finally, women were held in social rehabilitation centers for being suspected of “transgressions of moral codes” (UNHRC 2015d, 6), but have not broken any crimes, already served time, or were rape victims abandoned by their families (UNHRC 2015d, 6).

Women have also experienced violations affecting their representation in government. For one thing, “The High Commissioner for Human Rights and the United Nations Country Team noted growing threats and attacks against women activists, which had contributed to women’s reluctance to run for election” (UNHRC 2015d, 11). The National Transitional Council, which briefly governed Libya after the fall of the Gaddafi regime, had 2 total women on a 40 member council and was only allowed 17% of the seats to be held by women (UNHRC 2015d, 9). In a similar case, 600 women ran for election to the General National Congress

(GNC) where 33 women were elected, yet only 2 of those women ended up serving in the GNC (UNHRC 2015d, 9). Additionally, only 6 women served on the Constitutional Drafting Assembly in 2014 (UNHRC 2015d, 9). This was a 10% quota which fell short of international standards set by the Beijing Declaration (UNHRC 2015d, 9). Lastly, Law No. 10/2014, a law governing the election rules of Libya, created a 16% quota for women's representation in the House of Representatives on the GNC, but because of violent disruptions of the election polls, 30 women were elected instead of 32 and the quota was not reached (UNHRC 2015d, 9).

The last violations in Libya were about general discrimination towards women. Decree No. 6 of 2017 prohibited women from traveling abroad without a male chaperone (Amnesty International 2018; Human Rights Watch 2018). The law was later repealed and replaced with a new law that required men and women to gain a security approval before traveling abroad (Amnesty International 2018; Human Rights Watch 2018). Women from Sub Saharan Africa who were not accompanied by males were accused of being prostitutes and were detained while giving birth at government hospitals (UNHRC 2015e, 6). Also, the Grand Mufti suggested that men and women be segregated at universities and offices because a mixed environment created "unethical behavior" (UNHRC 2015d, 4). In addition, women had trouble reaching educational facilities due to poor public transportation and having to travel with a male guardian (UNHRC 2015d, 9). Finally, Law No. 58/1970 restricted women to only working in fields associated with their gender like education, healthcare, and services (UNHRC 2015d, 4). These jobs are low paying which contributes to the wage gap between men and women (UNHRC 2015d, 4).

3.3.2 Universal Periodic Review Recommendations

Libya fully accepted 115 out of 120 recommendations (UNHRC 2015f, 2). 14 accepted recommendations were about women's rights. The recommendations given to Libya were mostly about empowering women in society, violence against women, and economic rights.

3.3.2.1 Recommendations on Equality

Libya was proposed to “Explore the possibility of adopting a national strategy to combat discrimination against women” (Malaysia) (UNHRC 2011c, 16) and to “Continue to take practical measures to ensure the effective participation of women in economic, social and political fields” (Pakistan) (UNHRC 2011c, 16). Furthermore, it was recommended to “Continue to scale up its efforts to empower women, mainly rural women” (North Korea) (UNHRC 2011c, 16), to “Continue the measures to promote women rights, including the advancement of women's empowerment” (Azerbaijan) (UNHRC 2011c, 16), and to “Continue the implementation of measures designed to enhance the role of women in social and political life” (Belarus) (UNHRC 2011c, 16). In addition, Libya was noted to “Step up efforts to enhance the participation of women in all spheres of socio-economic life, in line with the progress made in education” (Bangladesh) (UNHRC 2011c, 16), to “Strengthen measures and policies to promote the active role and participation of women in the political, social and economic life of the country” (Vietnam) (UNHRC 2011c, 16), and to “Continue to improve policies and programmes to advance the status of women and girls, and to protect children” (Myanmar) (UNHRC 2011c, 16).

3.3.2.2 Recommendations on Violence Against Women

Other recommendations focussed on violence against women. Recommendations proclaimed to “Adopt policies and legislation aimed at promoting women’s rights and combating gender-based discrimination, particularly domestic violence” (Brazil) (UNHRC 2011c, 16), to “Continue its efforts to promote women’s role in social and public life, and protect them from violence” (Iran) (UNHRC 2011c, 16), and to “Take comprehensive measures to eliminate violence against women and children, in particular by adopting a national strategy to combat violence against women, as recommended by the Committee on the Elimination of Discrimination against Women” (Thailand) (UNHRC 2011c, 16).

3.3.2.3 Recommendations on Work and Economic Rights

The last recommendations were about work. Libya was urged to “Continue its special efforts to empower women in various areas, in particular in the labour market” (Egypt) (UNHRC 2011c, 16) and to “Continue its efforts to increase job opportunities for educated women in the Libyan Arab Jamahiriya” (Sudan) (UNHRC 2011c, 16).

3.3.2.4 Declined Recommendations

Libya declined 1 recommendation about women’s rights. Libya declined Recommendation 96.7 which recommended to:

Ensure equality, under the law and in practice, of women, and amend all discriminatory legal provisions concerning marriage (including polygamy), male guardianship, child custody, divorce and inheritance, as recommended by the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child.

(UNHRC 2011c, 21)

This declined recommendation displays how Libya is hostile to any change in the domestic relationship between husband and wife. This example illustrates how cultural practices can lead to noncompliance with international legal requirements.

3.3.3 Domestic Responses to the International Community

While Libya has accepted an extreme majority of its recommendations, the state had a hard time implementing the recommendations because of the revolution to overthrow the Gaddafi regime. Libya explained that “The year 2011 saw the outbreak of the 17 February revolution, which responded to the legitimate aspiration of the Libyan people to free itself from the oppressive measures that had been enacted by the former regime” (UNHRC 2015f, 2). Also, Libya noted that because of the revolution, “it has not been possible to implement some of the recommendations” (UNHRC 2015f, 2). In fact, there were only minor developments in the national legislation of the state that responded to the recommendations. The Council of Ministers established a committee to research sexual violence and determine reparations to be given to victims (UNHRC 2015e, 8-9). However, the committee lacked enforcement and adequate health care services (UNHRC 2015e, 8-9). It was also observed that “In some instances of rape, women had been accused of adultery or encouraged to marry the perpetrator to protect their honour” (UNHRC 2015e, 8-9). To add, the Minister of Justice issued a ministerial decree that protected victims of sexual violence (UNHRC 2015d, 5-6). The law focused on giving victims cash reparations and gave assistance to victims to sue the perpetrator in court (UNHRC 2015d, 5-6). Nevertheless, the bill has not officially passed into law (UNHRC 2015d, 5-6). Indeed, the

Council of Ministers passed a law that classified rape victims of the revolution as war victims (UNHRC 2015f, 8). This allowed women to receive medical and psychological care, financial assistance, and assistance in suing perpetrators (UNHRC 2015f, 8). Lastly, Libya has ratified the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (UNHRC 2015f, 7). However, it is uncertain if a recommendation caused this. The treaty was not mentioned specifically, but Libya was recommended to "Accede to international human rights conventions not yet acceded to" (UNHRC 2011c, 18). Still, this recommendation is too broad to determine a causal relationship.

The UN was critical of Libya's domestic responses to protect women's rights. It highlighted that "Libya had failed to address discriminatory laws that encouraged violence against women despite Recommendation 93.36 enjoying support" (UNHRC 2015d, 6). Recommendation 93.36 was made by Thailand and recommends to "Take comprehensive measures to eliminate violence against women and children, in particular by adopting a national strategy to combat violence against women, as recommended by the Committee on the Elimination of Discrimination against Women" (UNHRC 2011c, 16). Also, the UN maintained that no changes have been made to fulfill other recommendations (UNHRC 2015d, 3). Specifically, the UN noted that no changes were made in regard to Recommendation 93.20, 93.26, and 93.33 (UNHRC 2015d, 3). Recommendation 93.20 was made by Brazil which states to "Adopt policies and legislation aimed at promoting women's rights and combating gender-based discrimination, particularly domestic violence" (UNHRC 2011c, 16), Recommendation 93.26 was issued by Vietnam which pronounces to "Strengthen measures and policies to promote the active role and participation of women in the political, social and

economic life of the country” (UNHRC 2011c, 16), and 93.33 by Pakistan advising to “Continue to take practical measures to ensure the effective participation of women in economic, social and political fields” (UNHRC 2011c, 16).

3.3.4 Summary

Libya responded positively at first to working with international law by accepting 115 of 120 recommendations. Yet, as has been discussed, Libya had trouble creating policies to implement these recommendations. One vital reason that explains why Libya had trouble creating new laws is that the country is experiencing intrastate violence from non-state actors and political instability in the aftermath of the revolution. This may have hindered the ability for Libya to effectively materialize the recommendations into laws. In spite of its lack of new policies, Libya achieved success in women’s education. Libya announced that “Libyan women are some of the most educated in the Arab world. More than half of all graduates in Libya are women, according to the United Nations Development Programme (UNHRC 2015f, 8). The case of Libya displayed that a MENA state with low freedom was unable to effectively respond to international law, and that international law failed to change Libya’s behavior. Also, the ratification to the Optional Protocol did not affect Libya’s compliance with international law.

Due to the lack of responses from Libya, many of its recommendations were not fully satisfied. It could be argued that Libya responded to recommendations that encouraged it to take actions to empower women which Libya did by establishing a research committee on sexual violence and passing a law that gave women legal, financial, and medical assistance if they were raped in the revolution. On the contrary, Libya failed to answer recommendations which

promoted women's roles in social, economic, and political life. None of Libya's responses fully dealt with these recommendations. Moreover, Libya failed to address recommendations to stop domestic violence, and recommendations to empower women in the economy.

3.4 The United Arab Emirates

The UAE is ratified to the CEDAW, but not to its Optional Protocol. It has a low freedom level with a rating of 17 out of 100 according to the Freedom House Index. The UAE portrays how a state only ratified to a general convention complies with international law.

3.4.1 Rights Abuses

The United Arab Emirates (UAE) violates the rights of women in marriage, fails to protect women from domestic violence, and discriminates against women in the legal system. Amnesty International (2018) summarizes, "Women remained subject to discrimination in law and in practice, notably in matters of marriage and divorce, inheritance and child custody. They were inadequately protected against sexual violence and violence within the family." Personal status laws do not protect women. Law No. 28 of 2005, legislation on marriage rights and inheritance, was heavily criticized. Human Rights Watch noted that Federal Law No. 28 of 2005 discriminates against women because it allows males to conclude a woman's marriage, men can divorce their marriage by themselves, but women must obtain a court order, women are required to have sexual relations with their husbands, and women are required to obey their husbands commands (UNHRC 2017a, 8). Law No. 28 of 2005 was criticized again by the UN stating that "women's rights under personal status laws, such as Federal Law No. 28 (2005), remained in

need of development, as they continued to fall outside of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women” (UNHRC 2017b, 6). Men can also stop their wives from working or determine what their occupation is and limit their movement under Articles 71 and 72 of the Personal Status Law (UNHRC 2017a, 5). Marital rape is not a crime (Human Rights Watch 2018). In addition, there were further concerns over the required male guardianship of women, the inability for women to sign their marriage contracts, the dowry, the requirement to obey the husband, polygamy, and the difficulty for women to get a divorce (UNHRC 2017b, 7). Men can get a divorce for any reason and end the marriage by themselves, but women must go through a legal process to get a divorce (UNHRC 2017b, 7).

Women were discriminated against in terms of passing on their nationality. There was a 2011 decree ordered that children born to Emirati women and foreign fathers will be Emiratis once they reach the age of majority (UNHRC 2017b, 7). However, the Committee on the Elimination of Discrimination Against Women maintained that women were still discriminated against conferring their nationality to children compared to men, and it recommended to let women pass their nationality on to their children and foreign husband (UNHRC 2017b, 7). Likewise, men are allowed to transfer their nationality to their foreign wife and kids, but women are not granted the same right (UNHRC 2017a, 8).

Also, women are victims of domestic violence. Human Rights Watch (2018) asserts that Article 53 of the penal code gives permission to men to beat their wives and children so long as it leaves no physical marks and does not “exceed the limits of Islamic law.” This law was legitimized in a 2010 Federal Supreme Court ruling that cited Article 53 (Human Rights Watch 2018). The UN announced that women faced violence because of the criminalization of

consensual sex outside of marriage defined in Article 356 of the Penal Code (UNHRC 2017b, 7). The law was used to arrest victims of human trafficking, sexual exploitation, abuse, and women prostitutes (UNHRC 2017b, 7). Furthermore, women affected by this law were subjected to torture, the death penalty, stoning, and flogging (UNHRC 2017b, 7).

The legal system discriminates against women. Women have a hard time accessing legal resources, especially in the case of domestic violence, due to “the negative attitudes of law enforcement officials towards women denouncing acts of violence committed against them” (UNHRC 2017b, 7). Foreign women face even harsher discrimination because of a lack of interpretation services, legal aid, and crueler sentences (UNHRC 2017b, 7). Moreover, there is observed gender bias, stereotypes, and discrimination in the legal system (UNHRC 2017b, 7). Women cannot be judges or prosecutors and are underrepresented in the legal system (UNHRC 2017b, 7).

3.4.2 Universal Periodic Review Recommendations

The UAE was given 180 recommendations. It fully accepted 100 of them and 30 were about women’s rights. Some recommendations urged the UAE to continue its implementation of the National Strategy for the Advancement of Women in the United Arab Emirates, 2013-2017. Other recommendations dealt with general women empowerment and women’s representation in decisionmaking positions.

3.4.2.1 Recommendations on the UAE National Strategy

The UAE was recommended to “Accelerate its efforts in women’s empowerment and gender equality, including through the updated National Strategy for the Advancement of Women in the United Arab Emirates, 2013-2017” (Indonesia) (UNHRC 2013, 20), to “Steadily implement the National Strategy for the Advancement of Women” (Japan) (UNHRC 2013, 20), to “Work on renewing the National Strategy to empower women by integrating additional programmes and projects to strengthen the role of women as a main partner in the development process” (Egypt) (UNHRC 2013, 20), and to “Continue enhancing its efforts on strengthening women’s rights through its National Strategy for the Advancement of Women” (Malaysia) (UNHRC 2013, 20).

3.4.2.2 Recommendations on General Empowerment

Other recommendations dealt with promoting the general empowerment and equality of women in public life. For example, proposals included to “Continue its efforts to promote gender equality and eliminate discrimination against women and girls” (Singapore) (UNHRC 2013, 20), to “Continue putting forward effective measures for the protection and promotion of the rights of women in the country” (Azerbaijan) (UNHRC 2013, 20), to “Take efforts in the area of promotion and protection of women’s rights so as to ensure that women are fully integrated into the development dynamics of the country” (Burkina Faso) (UNHRC 2013, 20), and to “Continue to pay attention to promoting gender equality and eliminating discrimination against women” (Sudan) (UNHRC 2013, 20). Two recommendations advocated for changes to be made to the UAE constitution. They were to “Fully incorporate in the Constitution or other national legislation the principle of equality between men and women” (Chile) (UNHRC 2013, 20) and

to “Undertake efforts to integrate in the Constitution, or other national legislation, the principle of equality between men and women and related regulations” (Ecuador) (UNHRC 2013, 20).

3.4.2.3 Recommendations on Representation in Decisionmaking

In addition, a group of recommendations were concerned about women’s representation in decision making. These recommendations included to “Continue its efforts in the field of women participation in high level positions of decision-making and in all areas of society” (Angola) (UNHRC 2013, 21), to “Continue to work towards increasing the representation of women in leading and decision-making positions” (Sudan) (UNHRC 2013, 20), and to “Continue with the necessary legislations to ensure the promotion and protection of the rights of women and their role in society, including the enhancement of their participation in the State institutions, and achieve full equality in employment opportunities” (Egypt) (UNHRC 2013, 20).

3.4.2.4 Other Recommendations

Two recommendations were made about the legal system and domestic violence. One was made about the legal system of the UAE which urged the state to “Ensure that women have full access to justice, obtain equal legal capacity and are treated equally in courts” (Lichtenstein) (UNHRC 2013, 20), while the other was about domestic violence and noted to “take active measures to reduce social elements that could contribute to acquiescence or passivity with regard to domestic violence as demonstrated in its UPR report” (South Korea) (UNHRC 2013, 20-21).

3.4.2.5 Declined Recommendations

The recommendations the UAE declined or took note of were all about personal status laws relating to marriage. The UAE declined a recommendation which stated to “Reform the legislation with a view to providing women with equal rights in marriage, divorce, property relations, the custody of children and inheritance” (Lichtenstein) (UNHRC 2013, 20), to “Continue to introduce amendments to its national family law to ensure equal status and rights for women, in all matters” (Canada) (UNHRC 2013, 20), and to “Introduce legislation to prohibit the rights of men to physically punish their wives” (Denmark) (UNHRC 2013, 21). On a similar note, the UAE did not accept a recommendation which suggested to eliminate “all forms of discrimination which may persist with regard to arrangements of divorce and the ways in which domestic violence is dealt with” (France) (UNHRC 2013, 21) and to give “women equal status to men in matters of divorce, inheritance and child custody” (Norway) (UNHRC 2013, 21). The last two recommendations that were not accepted urged the UAE to “achieve legal equality between men and women in terms of marriage, divorce, inheritance and child custody” (Germany) (UNHRC 2013, 21) and to “repeal the right of a husband to punish his wife and the right of parents or custodians to punish their minor children by means of physical violence or coercion” (Germany) (UNHRC 2013, 21).

3.4.3 Domestic Responses to the International Community

The UAE was criticized for not allowing human rights groups to enter the state (Human Rights Watch 2018) and for responding poorly to UN recommendations (Amnesty International 2018; UNHRC 2017a, 2). In spite of this, the UAE conveyed that women are well represented in the workplace. The state indicated that “Emirati women comprise 43 per cent of the workforce and

hold 66 percent of governmental sector positions, including 30 percent of senior decision-making posts” (UNHRC 2017c, 13). Also, women are working more in the judicial sector. The UAE asserts that “Women now work as prosecutors and judges within the judiciary and the Office of the Public Prosecutor. There are also increasing numbers of women in the police and the military” UNHRC 2017c, 15). In addition, the state suggests that its Emirates Businesswomen Council has helped get more women involved in the economy (UNHRC 2017c, 15). In fact, 22,000 women are registered with the state’s department of commerce and participate in domestic and international markets (UNHRC 2017c, 15).

The UAE drafted The National Strategy for the Empowerment and Advancement of Emirati Women (2015–2021). This program sets the goals for local and federal governments and private and civil institutions on how to give women “decent” lives (UNHRC 2017c, 13). Still, the UN held that the “the practical implementation of the national strategy for the empowerment and advancement of Emirati women remained unclear” (UNHRC 2017b, 2). Moreover, in 2014 the UAE Cabinet made a decision that requires women to be included on boards of all government organizations, institutions, and companies (UNHRC 2017c, 13). The Presidential Decree of 2011 gave women the ability to confer their nationality to their children once the child has reached the age of majority if the husband is a foreigner (UNHRC 2017b, 7).

The UAE boasted about the representation of women in governing and decision making positions. The UN congratulated the UAE on having 30% of government leadership positions being held by women (UNHRC 2017b, 7). Still, it condemned the UAE for not having enough women in the Federal National Council and the judiciary (UNHRC 2017b, 7). Likewise, the UN praised the UAE for Cabinet Decision 319/15F/22 which gives assistance to women to gain

leadership roles on the boards of directors of the federal government, companies, and institutions (UNHRC 2017b, 7). However, the UN was still concerned that the law lacked a strategy and would have a hard time being translated into actual policies. Additionally, there were 9 female members of the Federal National Council out of 40, making the council 22.5% women (UNHRC 2017c, 13). The UAE Cabinet has 8 female members out of 29 which the UAE proclaims is one of the highest figures in the world (UNHRC 2017c, 15). The Ministry of Happiness and the Ministry of Tolerance are both led by women (UNHRC 2017c, 15). Finally, 30% of the workers at the Ministry of Foreign Affairs and International Cooperation are women (UNHRC 2017c, 15). This equated to 234 women members of the Ministry of Foreign Affairs and International Cooperation (UNHRC 2017c, 15).

3.4.4 Summary

The UAE accepted recommendations that dealt with women in the economy, political decisionmaking, and general recommendations to empower women in society. Yet, it declined any recommendation that made changes to the domestic affairs and power hierarchy between a man and woman in marriage. The UAE declined seven recommendations about personal status laws. Recommendations that promoted rights relating to marriage, divorce, inheritance, and physical force against wives were declined and are likely to be declined in future UPR sessions. The UAE also rejected two recommendations that proclaimed to prohibit the right of men to physically punish their wives. These declined recommendations are similar to the declined recommendation of Libya since they are both about personal status rights. The MENA case

shows that cultural relativism is practiced in international law and hinders international law compliance.

The National Strategy for the Empowerment and Advancement of Emirati Women (2015–2021), the 2011 Presidential Decree, and Cabinet Decision 319/15F/22 are all policies taken to address women's rights and empowerment. The UAE is not ratified to the Optional Protocol, but it still made some contributions to empowering women. So, the Optional Protocol is not a major variable that influences a state's behavior towards international law.

The UAE delivered on most of its recommendations. The recommendations on a national strategy for the empowerment of women were responded to because of the National Strategy for the Empowerment and Advancement of Emirati Women (2015-2021). These recommendations urged the UAE to continue promoting women's rights under its national strategy. Furthermore, the UAE fulfilled its recommendations by that advocated to continue to protect the equality of men and women. This was fulfilled through the National Strategy for the Empowerment and Advancement of Emirati Women, the Businesswomen's Council, the 2011 Presidential Decree, and Cabinet Decision 319/15F/22. These policies all empowered women in different areas like with economic rights, representation in decisionmaking, and the ability to pass down their nationality to their children. Moreover, the UAE addressed its recommendations about women's representation in decisionmaking roles. Three recommendations were about increasing women's participation in decisionmaking. Cabinet Decision 319/15F/22 was passed to help women get on the boards of private enterprises and government institutions which satisfied those recommendations.

The UAE failed to uphold two of its recommendations. One suggested to treat women equally under the law, and the other asserted to reduce social elements that lead to domestic violence. The UAE made no new changes to deal with these recommendations.

Chapter 4: Comparison and Analysis

Four comparisons can be made from the case studies. First, the two European states can be compared to each other, and the two MENA states can be compared to each other. This comparison reveals if states ratified to the Optional Protocol are more likely to comply with international law than states that are not ratified to it. This also reveals if there are any behavioral differences between states from the same region. Next, states that ratified the Optional Protocol can be compared to states that did not ratify the Optional Protocol from both regions. For example, the states that did ratify the Optional Protocol, Sweden and Libya, can be compared to the states that did not, Latvia and the UAE. Finally, comparisons can be made between each region. These comparisons depict if ratification to the Optional Protocol makes states more compliant with international law, and if region and culture affect compliance with international law.

4.1 General Conventions versus Specific Protocols

First, Sweden and Latvia can be compared. This comparison will reveal if European states follow international law in a similar way or not. Also, it tests whether ratification to the Optional Protocol affects state behavior. Both states had problems of domestic violence and women being

unequal in the economy. Sweden accepted 71% of its recommendations, whereas Latvia accepted 58% (Table 5). While there may be a difference in accepted recommendations, both states added new policies to address women's rights. Most of Sweden's policies focused around researching and raising awareness on domestic violence. Also, Sweden took action to research better ways for police to address domestic violence, and the police have started to encourage victims of domestic violence to report their cases. Sweden and Latvia both augmented the capacity of their shelters to provide assistance for victims of domestic violence. Both states made progress in ratifying new women's rights treaties. Sweden ratified the Istanbul Convention, and Latvia is making changes in its domestic laws to ratify the same treaty by the end of 2018. Sweden has introduced the Golden Rules of Leadership Program and the Delegation for Gender Equality in Working Life to reduce the wage gap, help women work in all sectors of the economy, and increase the number of female entrepreneurs.

Table 5: Accepted UPR Recommendations

| State | Sweden | Latvia | Libya | UAE |
|-----------------|---------------|---------------|--------------|------------|
| Total | 149 | 122 | 120 | 180 |
| Accepted | 106 | 71 | 115 | 100 |
| Percent | 71 | 58 | 95 | 55 |

Latvia made changes to its laws by criminalizing marital rape. Moreover, the Concept of Preventive Coercive Measures, State Family Policy Guidelines (2011-2017), and the Action Plan (2012-2014) all intend to reduce the number of domestic violence cases in Latvia. In the economy, Latvia passed the Gender Equality in Economic Decision Making and Guidelines on

Inclusive Employment to raise awareness around the gender gap and to reduce workplace segregation based on sex. Lastly, the Gender Equality Actions Plan is a general plan to empower women in society, in the workplace, and to remove gender stereotypes.

Sweden and Latvia both responded effectively to the UPR and made changes to their national policies to adhere to international standards (Table 6). There were no critical differences between the states. Both had the same problems in terms of domestic violence and women's economic rights, and both responded. They even responded in similar ways such as both improving their shelters for domestic violence victims, funding research on women's rights, and raising awareness of domestic violence and women's economic rights. The only difference that was mentioned is the fact that Sweden accepted much more recommendations than Latvia did. This is likely due to the attitudes that each state has to other areas of human rights that are outside of women's rights. In other words, the attitudes towards other human rights like torture, civil and political rights, and the rights of refugees may explain why Sweden accepted more recommendations than Latvia.

Furthermore, it is inferred that states that ratify the Optional Protocol are likely to accept more recommendations than states that have not ratified it. While Latvia accepted nearly all of its recommendations on women's rights specifically and responded with many domestic policies, it accepted far less recommendations in total than Sweden. On the other hand, Sweden which ratified the Optional Protocol to the CEDAW has accepted more recommendations in total than Latvia which is only ratified to the general treaty. States that accede to the Optional Protocols in general are more likely to be compliant and cooperative with international human rights institutions than states that have not ratified Optional Protocols. Optional Protocols are strict and

specific agreements that can hold states accountable for any human rights violations. So, states that ratify the Optional Protocols are expected to be more protective of human rights and have less overall violations. However, this is not evident with Sweden and Latvia since they had similar human rights violations and responded to the violations in the same way. Between Sweden and Latvia, the Optional Protocol cannot be said to influence state compliance with international law standards. The greatest evidence of this is how Latvia responded to the UPR. Latvia passed more policies than Sweden (Table 6) despite only being ratified to the general CEDAW and not the Optional Protocol. Therefore, the Optional Protocol does not cause states to be more compliant with international human rights standards.

So, what drove Latvia to take such an active response to the UN's recommendations? It could be possible that the UPR process influenced Latvia to pass these new laws. Yet, it is also probable that the sovereignty and autonomy of Latvia has caused it to pass these new laws too. Latvia's response cannot be fully attributed to the UPR process because it has declined some of the specific recommendations on women's rights, and more importantly, rejected about a half of its other recommendations. If these major policy changes happened in Latvia because of the UPR process, then Latvia would likely have accepted more recommendations than just 58% of them. It would be expected that if Latvia trusted the recommendations of the UPR for women's rights, then it would also trust the UPR for policies on other areas of human rights which would lead Latvia to accept more recommendations in total. Nevertheless, the total accepted recommendations of Latvia is low compared to Sweden which suggests that Latvia prioritizes its sovereignty and self interest over the solutions of international law. In fact, Latvia declined two recommendations that advocated for a gender equality bill and to define discrimination in its

constitution because those legal methods were not compatible with the Latvian legal system. This is a case where Latvia demonstrates its sovereignty in opposition to international law requirements. Another level of analysis is Latvia's domestic constituents. While this level of analysis was outside the scope of this study, it is possible that domestic political movements and demands influenced Latvia to pass some of its new laws as well. Therefore, the sovereignty of Latvia is likely the main explanation for its active response to the UPR.

The same conclusions on Latvia can be applied to Sweden. The Optional Protocol has likely not caused Sweden to change its behavior on women's rights, but rather its sovereignty is responsible for the changes. While Sweden accepted more recommendations than Latvia, the Optional Protocol and the amount of total accepted recommendations had no impact on the responses to enhance women's rights. Sweden is a notoriously progressive state which has a perfect 100 point score on the Freedom House Index. It is likely that Sweden's domestic responses were done because they are in the interests of the state itself, and not because they are desirable by international law. Indeed, Sweden got recommendations to increase women's representation in decisionmaking, but it did not list any policies that addressed those recommendations. This is probably because women's representation in decisionmaking in Sweden is already high so it was not a major concern for the government. So, Sweden has a domestic interest in promoting women's rights which means Sweden can create policies to empower women without the influence of international law.

Table 6: Domestic Policies in Response to International Law

| Sweden | Latvia | Libya | UAE |
|---|--|--|--|
| Improved capacity of police to stop domestic violence | Criminalized marital rape | Established a research committee on sexual violence | Emirates Businesswomen Council |
| Improved shelters for domestic violence victims | Concept of Preventive Coercive Measures | 2014 Ministerial Decree (not passed into law) | National Strategy for the Empowerment and Advancement of Emirati Women (2015–2021) |
| Spent \$111 million on domestic violence programs | State Family Policy Guidelines (2011-2017) | Council of Ministers War Victims Law | Presidential Decree of 2011 |
| Ratified the Istanbul Convention | Action Plan (2012-2014) | Ratified the African Charter on Human and Peoples' Rights on the Rights of Women in Africa | Cabinet Decision 319/15F/22 |
| Delegation for Gender Equality in Working Life | Developed shelters for domestic violence victims | | |
| Golden Rules of Leadership Program | Gender Equality in Economic Decision Making | | |
| | Guidelines on Inclusive Employment in 2015 | | |

| |
|--|
| Gender Equality Actions Plan |
| Maternal and Child Health Improvement Plan |

Sweden and Latvia were compared to identify any distinctions between European states. Now, the MENA states can be compared to each other. The biggest difference between Libya and the UAE is over the amount of accepted recommendations. Libya has accepted 95% of its recommendations, while the UAE has accepted 55% (Table 5). This is significant because in the European cases and the MENA cases, the states that ratified the Optional Protocol both accepted more recommendations than the states that did not ratify the Optional Protocol. Both MENA states had similar rights violations in the forms of domestic violence and personal status laws like rights relating to marriage, divorce, inheritance, and the passing down of nationality. A second difference is that the UAE passed new measures to get women involved in the economy and in government, whereas Libya passed laws that combated sexual violence. This illustrates that the UAE is content empowering women in economics and government, but not in domestic affairs concerning marriage and family affairs. Libya took no steps to empower women in economics or government. Like the UAE, Libya declined one recommendation about marriage laws, inheritance, and divorce. This rejection portrays that opposition to marriage equality is a regional and cultural trend.

As was stated, Libya had a hard time implementing new policies because of the political instability after the revolution. Still, the state has tried to make progress in women's rights. A research committee on domestic violence was established. One of its tasks was to determine

reparations for victims of sexual violence. The 2014 Ministerial Decree would give women access to legal resources to help them sue perpetrators of domestic violence and other assistance like healthcare. Unfortunately, this law has not been passed. Women raped during the revolution were considered war victims which gave them access to additional health and psychological care, and helped them bring the perpetrators to justice. Lastly, Libya displayed its commitment to women's rights by ratifying a regional human rights treaty, the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

The UAE continued to use the Emirates Businesswomen Council which has helped increase the number of women running private enterprises. The National Strategy for the Empowerment and Advancement of Emirati Women (2015-2021) is a national strategy to empower women in the state, and the 2014 Presidential Decree gave women the right to transfer their nationality to their children once they reach the age of majority. This policy addressed some of the recommendations made by the UPR about marriage and family laws despite being rejected by the UAE. Finally, Cabinet Decision 319/15F/22 promoted the ability for women to be members of the boards of government institutions and enterprises.

The UAE ostensibly has made better progress than Libya with women's rights in spite of accepting less recommendations. The UAE adopted a national strategy for women's rights, crafted policy to bolster female representation in government and in the economy, has an economic organization to help women become involved in the economy, and gave women the right to pass down their nationality to their children while marrying a foreign spouse. These laws may not be perfect and while the UAE still has other women's rights concerns, these policies address different areas of women's rights and demonstrates that the UAE is aware of the

importance of women in economics and government. On the other hand, Libya accepted a lot of recommendations, but was unable to translate them into policy likely because of internal political dynamics, and not necessarily because of opposition towards international law. The domestic violence fact finding group was ineffective, and the ratification of the African Charter on Human and Peoples' Rights on the Rights of Women in Africa is mostly a symbolic gesture and may not directly cause new policy. In summary, the UAE accepted less recommendations than Libya, but had stronger policies towards women's rights.

The recommendation acceptance rate of Libya is the highest of the other states. Libya accepted 95% of its recommendations (Table 5). While this high acceptance rate may look like international law is changing the behavior of Libya, sovereignty still affects Libya under international law. The Gaddafi regime fell the same year as the UPR process for Libya, and with a new era in governance for Libya, promoting and protecting human rights may be a core interest of the state. The UPR recommendations still have to be within the interests of the state to be accepted and implemented. Even if a state like Libya accepts an extreme amount of recommendations, it is still up to the state to design and implement effective policies. This means that international law can do little to protect human rights in a state that has poor human rights laws. With Libya, it accepted a lot of recommendations, but failed to make any significant difference in women's rights compared to the other case studies. For the Libyan people to enjoy human rights, the government has to protect them itself. International law does not have the legitimacy nor authority to intervene and protect the citizens of a state. The point is that sovereignty continues to be an influence on state behavior under international law, and that the state is responsible for upholding human rights instead of international law.

The UAE is another case that portrays how ratification to the Optional Protocol does not cause states to be more protective of human rights than states with no ratification. The UAE is not ratified to the Optional Protocol, but it passed more effective laws than Libya which is ratified to the Optional Protocol. The UAE appears to be more successful than Libya because it has more political stability. As mentioned, Libya experienced turmoil and intrastate violence which prevented it from making new laws. Still, the UAE accepted 55% of its recommendations which suggests that the other recommendations were not in the self interest of the UAE.

So, does the Optional Protocol change state behavior? Not exactly. Latvia is not ratified to the Optional Protocol, but implemented many new policies, even more than Sweden (Table 6). Similarly, the UAE is not ratified to the Optional Protocol, and it issued new laws that were more effective than the policies of Libya. Therefore, ratification to the Optional Protocol does not have a significant impact on state behavior. Ratifying the Optional Protocol will not automatically improve the human rights practices of a state. The sovereignty and self interest of the state will determine if human rights are protected. The state has to believe in and be committed to protecting human rights if human rights are going to be enjoyed by its citizens. Individual state practices and laws protect human rights more than efforts from international law. However, ratification was correlated with a higher amount of accepted recommendations. Sweden accepted 71% of its recommendation and Libya accepted 95%. On the contrary, Latvia accepted 58% of its recommendations and the UAE accepted 55%. This suggests that states that ratified the Optional Protocol are more accepting and supportive of the international human rights regime than states that did not ratify the Optional Protocol. Indeed, Sweden and Libya both ratified new

human rights treaties further portraying that ratification to the Optional Protocol generates support and cooperation of international human rights treaties.

The second hypothesis was not proven. Ratification to the Optional Protocol made no difference in changing state behavior towards protecting women's rights. This was observed with Latvia and the UAE. Both of these states were not ratified to the Optional Protocol, but still passed more laws than Sweden and Libya which are ratified to the Optional Protocol (Table 6). The Optional Protocol has no impact on state behavior because it does nothing to directly shape state human rights policies. Again, human rights are only protected if the protection of human rights is within the interests of the state. If a state does not want to protect human rights, international law has no power to change the state's behavior. For human rights to be fully protected, the state has to protect them itself, not international law. The UAE and Latvia passed new laws without being ratified to the Optional Protocol because it was in their self interest to do so. Hence, ratification to the Optional Protocol does not change state behavior to be more responsive to international law standards.

4.2 Regional Comparison

The MENA case highlights how cultural relativism and sovereignty affect state behavior over international law. The UAE and Libya only declined recommendations about marriage equality, divorce, child custody, and inheritance, and were condemned by the UN for violating these personal status laws. These recommendations were aimed at making women equal to men in their domestic and familial affairs, yet any recommendation of this nature was declined. Both states accepted recommendations about giving women economic rights and political rights, but

not when it came to rights that would shift the power hierarchy in household relationships between a husband and wife. This set of rejected recommendations and the cultural reservations illustrated in Table 4 reveal that cultural relativism can hinder state compliance with international law requirements. The culture reservations are significant in this context because MENA used most of its culture reservations in the CEDAW and not the other major treaties. The same pattern is true with the sovereignty reservations since most of MENA's sovereignty reservations are concentrated in the CEDAW. The rejected recommendations on personal status laws and the culture and sovereignty reservations convey that culture and sovereignty have more legitimacy than international law and compel states to avoid following international standards.

How does Europe compare to MENA? In some cases, they are alike. For example, both regions have problems with domestic violence, and both want women to be more involved in the economy. Also, Sweden and Libya ratified new human rights treaties during their UPR process. Nevertheless, there are some differences between the regions. First, the MENA states had unique human rights violations with marriage equality, divorce, inheritance, and nationality laws. These issues were not prevalent in the European states examined. Second, the MENA states did not mention a gender wage gap and a willingness to reduce it like the European states did. So, European states had a bigger concern about the gender gap than the MENA states. Third, the European states were more active in creating new policies to address women's rights than the MENA states. Latvia had many new national policies to improve the lives of women, and Sweden funded various research campaigns and civil society groups that fight domestic violence. The MENA states still passed new laws, but not to the same magnitude as the European states. Sovereignty and self interest still guided both regions under international law since they use

treaty reservations and pick and choose what recommendations they wanted to fulfil.

Additionally, cultural relativism is evident in the declined recommendations of the MENA group, and no cultural relativism is displayed in the European states. Both MENA states declined recommendations about marriage, divorce, child custody, inheritance, and physical abuse.

Therefore, cultural relativism and the amount of new policies are vital differences between the European states and the MENA states.

The first hypothesis was proven. The European group responded to the recommendations with more policies than the MENA group (Table 6). This is likely because the European cases have political stability with strong government institutions that can make changes to address human rights concerns. The European group also had higher freedom levels than the MENA group (Table 2) which may have played a role in their responsiveness. States that have higher freedom levels have more respect for human rights. So, it makes sense that states with more respect for human rights responded to the recommendations with more policies than states with low freedom levels. Conversely, states with low freedom levels are less likely to protect human rights than states with high levels. Therefore, states with low freedom levels are expected to not respond with many new policies that address human rights concerns.

Chapter 5: Conclusion

This study examined if international law can change the behavior of states towards protecting women's rights. The major findings are that the European group, Sweden and Latvia, responded with more governmental action than the MENA group, Libya and the UAE. Still, the MENA group did make changes in its domestic laws to support women, just not to the same extent as the

European group. Furthermore, each region experienced different human rights concerns and violations. Domestic violence and the gender wage gap were two primary violations in the European cases, whereas domestic violence and personal status violations were concentrated in the MENA cases. The Optional Protocol had little effect on complying with international law standards. The UAE had more effective policies than Libya despite not ratifying the Optional Protocol. Likewise, Latvia adopted many new laws into its domestic sphere to empower women while not being ratified to the Optional Protocol. Ratification to the Optional Protocol is correlated with a higher number of accepted recommendations and more support of international human rights institutions than states with no ratification status. To conclude, hypothesis one was proven. The European group was more responsive and compliant with international law standards than the MENA group. To the contrary, hypothesis two was unfounded. Ratification to the Optional Protocol has no effect on responding and complying with international law standards.

Nevertheless, it is hard to say with certainty that there is causation between international law and state behavior. Of course, states do not accept every single recommendation from the UN. It appears to be the case that states accept recommendations and make changes to their domestic laws as long as they are compatible with the states' values and sovereignty. For international law requirements to be embraced, they have to coincidentally overlap with the standards and capacities of the state. A top-down system is created where international law passes down legal requirements to the states. However, states can filter what they want to accept and protect, and what they do not. International law is too compatible with state sovereignty. The enforcement of treaties, treaty reservations, and cultural relativism illustrate how states still have

great power in international law. Overall, state sovereignty and autonomy are still prioritized over international law.

So, does this prove that international law works? It depends on the expectations that citizens, states, and international legal institutions themselves have of international law. Is international law suppose to be compatible with state sovereignty, or is it suppose to directly intervene in the domestic affairs of a state? Is international law only responsible for transferring legal requirements to states from a top-down approach? If international law is only to transfer legal standards, then it is partially succeeding. It is partially successful because some standards are accepted and others are rejected. The domestic laws passed illustrate that states are accepting some legal standards and trying to materialize them into policies. Yet, even though there may be new laws, this does not mean that the laws will be effective and actually work. In this sense, a balance is struck between international law and the state. International law passes down legal standards to the state, the state picks which standards it wants to follow, and then it is responsible for implementing meaningful policies to enforce those standards. Yet, there are still major hurdles to international law compliance. Sovereignty and cultural relativism determine what standards the state follows and if the state complies with international law. Ultimately, international law does have the power to promote human rights, but the practice and protection of human rights is dependent on the state and sovereignty.

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