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Does Anyone Care About Migrant Rights?
**An Analysis of Why Countries Enter the Convention on the Rights of Migrant Workers
and Their Families**

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Abstract

Although the Convention on the Rights of Migrant Workers (CRMW) is a 'core' human rights treaty, it is poorly ratified. Previous studies have elucidated the barriers to ratification; in this article we focus on the factors that generate incentives to ratify. We argue that states that ratify this treaty desire to strengthen their relationships with their own emigrants and their citizens at home who advocate for emigrant protections, not to protect the rights of immigrants residing in their own country. The political incentives to strengthen this relationship depend on the costs and benefits that inward migration and outward migration bring to the state. The benefits of emigration are captured by the size of remittance flows, the net immigration position of the country, and by the ratio of unskilled to skilled emigrants, whereas the costs are reflected in the size of the immigrant stock. When the benefits of migration are substantial and the costs of potentially providing rights are small, states will be more likely to ratify this agreement. These determinants are distinctive from the explanations proffered for other human rights treaties. Our statistical analysis is consistent with the theoretical arguments that we make.

Only one ‘core’ United Nations human rights treaty explicitly focuses on non-nationals: the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CRMW).¹ The protections provided by the CRMW affirm the rights found in many other human rights agreements (the right to life, freedom from torture, etc.), but importantly this treaty also specifies rights that are particularly relevant for immigrants, such as access to the judicial system (Article 26), due process in deportation proceedings (Article 22), the right of appeal (Article 22), the prohibition of mass deportations (Article 22), and the right to take part in trade unions (Article 26). The agreement also requires equal treatment of nationals and immigrants regarding employment (Article 49) and social benefits (Article 43). Furthermore, it guarantees documented immigrants’ choice of employer and occupation, and free movement within the immigrant-receiving state. While states may protect some of these rights through domestic legislation, immigrant rights are commonly limited in comparison to the rights of nationals, especially the right to work (Morris 2003). Importantly, most rights are provided by the CRMW without regard to legal status in the country; ratifying states are thus required to protect the rights of individuals who are present without authorisation whom the state might actively be seeking to remove.²

Although the CRMW’s ratification rate is low compared to most other human rights treaties, it entered into force in 2003, and as of the end of 2018 fifty-four states have ratified it. Given both the salience of migration and migrant rights and renewed efforts within the United Nations to protect migrant rights, despite more than a century of failure, this treaty deserves

¹ The CRMW was proposed in 1979, adopted by the UN General Assembly in 1990 and entered into force in 2003.

² Lyon (2013), Martin (2014), and Ryan (2013) provide details on the specific rights contained in the treaty. While migrant-sending states have obligations before and after a migrant leaves her state, these requirements largely involve providing emigrants information, promoting cultural links, and establishing political rights for emigrants.

closer inspection to understand why states have ratified it thus far and what that portends for future efforts to protect migrant rights through multilateral agreements.³

In most human rights agreements, citizens are implicitly or explicitly the primary beneficiaries of rights. We argue that the CRMW is no exception; in reality, states ratify this treaty to benefit their own citizens living abroad. Although immigrants are ostensibly the primary beneficiaries, states ratify because they want to solidify their relationship with their *emigrants* (and emigrant allies).⁴ We argue that states most likely to ratify this agreement are those that are heavily dependent on their emigrant populations. This finding suggests that securing migrants' rights using international human rights laws will likely remain challenging for the foreseeable future as states ratify not to protect immigrants in their own society but as a tool to advocate for their citizens living and working abroad.

This article proceeds in three sections. First, we discuss existing explanations of human rights treaty ratification and their failure to explain ratification of the CRMW. Second, we argue that states rely on a logic of consequences when committing themselves to international law, and that this is the case with migrant rights. These consequences are determined by the role of migration within the state. We then derive empirical expectations about the factors we anticipate to increase the probability of ratification. We find empirical support for our argument and

³ We refer to the 2016 New York Declaration for Refugees and Migrants and the ensuing negotiations for the Global Compact for Safe, Orderly and Regular Migration and the Global Compact on Refugees. The century of failure refers to the creation of the International Labour Organization (ILO) in 1919, which incorporated concerns about workers 'in countries other than their own' and includes the ILO migrant conventions agreed in 1949 and 1975 (Money and Lockhart 2018, Chapter 7).

⁴ Migrant refers to an individual who moves from one country to another for more than a year. Because our argument depends on the relationship between the state and migrant we use more specific language in this paper. Immigrant refers to foreign-born persons living within the state. Immigration refers to the process through which non-nationals enter the state. Emigrant refers to citizens living outside of the state. Emigration refers to the process through which citizens leave the state.

conclude that states are most likely to ratify the CRMW when they benefit substantially from emigration through remittances and low-skilled emigration and are least likely to do so when they have a significant immigrant population. Moreover, these findings imply that a consequentialist argument of ratification applies to this agreement, rather than the frequently employed norms-based perspective. Given the tendency of the human rights literature to focus on widely ratified treaties (von Stein 2018), existing theories should be re-evaluated to understand whether this logic can be transferred to human rights treaty ratification more generally.

The Limitations of Existing Explanations

Most of the literature on the CRMW focuses broadly on why ratification has been difficult to achieve (Hune and Niessen 1994) and specifically on why immigrant-receiving states, which advocate for human rights in other spheres, refuse to ratify it (Money et al. 2016; Wong 2015; Ruhs 2012; Ruhs 2013; Vucetic 2007). But, given that many migrant-sending states have also refused to ratify this agreement, explanations that focus solely on the costs of ratification for immigrant-receiving states are insufficient.⁵

Despite the CRMW's status as a 'core' human rights agreement, it is rarely included in analyses of these treaties.⁶ Its exclusion is problematic for two reasons. First, widely-ratified human rights agreements are far from typical (Von Stein 2018), and thus the extent to which they

⁵ Wong (2015) posits that dependence on remittances may explain ratification, yet he lacks a larger argument for why this is the case and his analysis supporting this conclusion is only a bivariate regression of the relationship between remittances and ratification. Thus, we argue that further theorising and analysis is warranted.

⁶ For instance, Wotipka and Tsutsui (2008) and Simmons (2009) conduct analyses of core human rights agreements but do not include the CRMW.

can inform us about why states commit to human rights treaties more generally is limited.⁷

Second, many theories of human rights treaty ratification include norms as a potential explanation, yet focusing on only cases where there is a well-developed norm does not provide sufficient variation to explain outcomes. In this case we can evaluate why states ratify a human rights treaty absent an international norm.

Over the last twenty years, the literature on human rights in international law has exploded. According to this research, states ratify human rights treaties for three reasons: (1) because they sincerely want to promote human rights (Simmons 2009); (2) because they are responding to international pressure exerted through rewards and punishments (Smith-Cannoy 2012; Milewicz and Elsig 2014; Spence 2014); and (3) because it benefits elites in the domestic political arena (Moravscik 2000; Simmons and Danner 2010; Vreeland 2008).

Commitment to International Norms. The extant literature first proposes that states ratify human rights treaties because they are genuinely committed to the content of the treaties and foresee their own compliance (Simmons 2009, 57). Ratification helps states codify international human rights law, thereby enshrining their preferences in an international agreement (Simmons 2009). For these states, ratification is fairly costless because they are unlikely to violate it (Cole 2005; Chapman and Chaudoin 2013).

This argument, however, falls apart for the CRMW. First, there was no group of states that was committed to the agreement because they foresaw their own compliance. The fiercest advocates for migrant rights in the CRMW negotiations were the G-77 states, many of which had

⁷ Von Stein (2018) presents a data set of universal human rights agreements numbering 42, only 18 (43%) of which are considered ‘core’ by the United Nations Office of the High Commissioner for Human Rights. There is also a significant number of regional human rights agreements.

poor records on immigrant rights themselves.⁸ These states focused on their role in sending migrants, rather than reflecting on their own treatment of foreigners (Lonroth 1991; Böhning 1991; Martin 2014; Money et al. 2016). While these states made moral arguments about migrant human rights during the negotiations, their statements focused largely on condemning immigrant-receiving states for their poor policies (Lonroth 1991). They did not appear to reflect at all on their own dismal records on immigrant rights. Nevertheless, they championed the CRMW and ratified it, not because they already promoted these rights at home and also wanted to promote them abroad; rather, the treaty was a tool they could use against powerful immigrant-receiving states, and ratification allowed them to wield it.

Appeasing International Audiences. The second argument in the literature claims that states ratify due to a desire to appease international audiences (Hathaway 2002; Milewicz and Elsig 2014). Wealthy, liberal states advocate for human rights and reward states that perform well on human rights and punish those that perform poorly (Magesan 2013). Ratification occurs to reap these rewards and evade punishment (Spence 2014).

Again, this explanation falls short when applied to the CRMW. The states that took the lead in initiating, drafting, and promoting this treaty lacked the influence to incentivize ratification through rewards or punishments. Figure 1 shows a map of the states that have ratified the CRMW. These states are clustered in Central and South America, Northern Africa, and the Middle East, regions not typically associated with human rights promotion. Similarly, states in Europe and North America that typically ratify human rights agreements and advocate for human rights have not ratified this treaty. This pattern stands in contrast to other human rights laws (Wotipka and Tsutsui 2008).

⁸ G-77 states initiated the treaty negotiations. Of the 54 states that have ratified as of December 2018, 49 are members of the G-77.

[Figure 1 about here]

Relatedly, the rewards argument supposes that there is an international norm tied to the rights specified in the treaty (Finnemore and Sikkink 1998). Yet there is simply no international norm of protecting migrant rights; the issue of migrant rights is contested (Boswell 2007): a significant portion of the international community does not accept the legitimacy of the CRMW's framing of migrant rights as fundamental human rights (Basok 2009). Continuing norm-contestation reduces the pressure around the norm to push for substantive policy changes in contrast to human rights agreements where a broader consensus exists.

Ratification as a Tool in Domestic Politics. The third argument in the literature states that human rights treaty ratification furthers the goals of political elites. In some cases, states ratify because elites are dedicated to human rights, but either face incentives to violate human rights, or realise that future governments will have such incentives. Ratifying an international agreement allows elites to bind themselves to normatively better policies by increasing the costs of defection by themselves or future administrations (Moravscik 2000; Simmons and Danner 2010). In other cases, reforms are demanded by domestic civil society, and ratification is a way to appease these groups (Hafner-Burton and Tsutsui 2005). We agree that domestic political benefits do explain ratification but the domestic group driving these benefits is not citizens in destination states but rather citizens of countries of origin. This is not what the extant literature anticipates, since those who nominally benefit most from ratification – immigrants – are largely tangential to political decision-making calculus. However, they and their advocates may well be important to the elites in the countries of origin (Vucetic 2007). Thus the benefit of treaty ratification is that it allows a country to strengthen ties with its own emigrants and emigrants' political allies at home.

This argument is substantiated by qualitative evidence from the CRMW's negotiations which presented an opportunity for G-77 states to morally condemn major migrant-receiving states in North America and Western Europe (Lonroth 1991). These states made the treaty more difficult for migrant-receiving states to ratify by prohibiting reservations omitting certain kinds of migrants from the treaty's provision (Vucetic 2007). The G-77 states' focus in the negotiations was not about how they should treat foreigners; the focus of the debate remained almost exclusively on the behaviour of wealthy receiving states that did not, in the end, sign on to the treaty (see also Díaz and Kuhner 2009). When determining the domestic political benefits of ratification it is necessary to determine which states have an incentive to use the treaty in this manner.

Additional Explanations of Variation in Ratification Behaviour. Finally, the ratification literature highlights three factors that hinder ratification of all international agreements, including human rights treaties. First, sovereignty costs reduce the likelihood that states will ratify. Abbott and Snidal (2000) argue that costs are greatest when they concern issues between the state and its citizens in ways that impinge on a state's domestic policies. Second, states may avoid ratification if the structure of the agreement is too complex or lacks escape clauses (Milner and Rosendorff 2001; Kahler 2000). This generates uncertainty about how a treaty will be enforced and limits future options for states that foresee a need to violate the agreement, thus inhibiting ratification. Third, domestic institutions that increase the likelihood of domestic treaty enforcement decrease the likelihood of ratification (Von Stein 2016). For example, common law states, where international law can have a broader impact through the principle of *stare decisis*, take more time to ratify than states that have other legal systems (Simmons 2009).

There is some evidence that all three factors inhibited ratification of the CRMW. Sovereignty costs were very high for this treaty. Japan even asserted that elements of the treaty would violate its constitution (Piper 2009). During the negotiations, migrant-receiving states expressed concerns about how the treaty would affect their migration policies and ability to limit migration, particularly because it codified new rights for undocumented migrants (Money et al. 2016; Wong 2015). Ruhs (2012) argues that, because the rights of migrant workers play such a key role in shaping the outcomes of international labour migration, they cannot be isolated from admissions policies. The treaty is also comparatively complex; the length of the treaty and specificity of its terms alone might give states pause.⁹ Additionally, the G-77 states insisted on prohibiting reservations that would have allowed states to exclude certain types of migrants from the terms of the treaty (Vucetic 2007). But, while these design issues likely decreased the probability of ratification, they were endogenous to the treaty creation process, as G-77 states chose treaty structures that allowed them to best use this treaty as a tool to protect their emigrants at the cost of widespread ratification (Vucetic 2007). And, despite the complexity of the treaty and potential sovereignty costs, some scholars have argued that the policy implementation costs of the treaty are manageable for the highly developed states that declined to sign the treaty (Pécoud et al. 2006). In fact, Lyon (2018) argues that U.S. immigration policy today is now largely compliant with the CRMW, despite its continued refusal to ratify. Thus, it appears that political costs are the primary impediment for receiving states. Finally, as our analysis shows, common law states are more reticent to ratify this agreement.

⁹ The CRMW is 28 pages long, compared to, for example, 9 pages for the Convention on the Elimination of All Forms of Discrimination against Women. The text is also remarkably specific; Article 48, for example, specifies that immigrants are entitled to the same tax deductions as nationals, and receiving states must avoid double taxation.

Reinforcing Ties to Citizens Abroad

The CRMW clearly creates a legal obligation between immigrants and their host state. We argue, however, that the motivating purpose of states actually ratifying the treaty is to cement the bond between *emigrants* and their *home* state, and citizens and the emigrant state more broadly. While only a small portion of the treaty explicitly addresses home states' obligations towards migrant workers (CRMW 1990), this link is the most important in practice, and we argue that the value of this link explains the decision to ratify and the subsequent use of the treaty.

Sending states do not sign the CRMW because of a moral commitment to migrant rights, as evidenced by the dismal rights records in many signatory states. Instead, their interest in emigrant rights stem primarily from domestic political pressure, channelled by civil society. In some cases, pressure from receiving states to not ratify the treaty overwhelmed domestic political pressure, at least in the short term. Mexico, which was one of the states that took the lead in the negotiation of the CRMW, was the first state to sign the treaty. It was a well-established source country of immigrants in the U.S., and it had long advocated bilaterally for their rights. But it took Mexico another eight years to ratify the CRMW in 1999. It was reluctant to do so during the early 1990s for fear of jeopardizing negotiations over NAFTA, the trade agreement with the U.S. and Canada that entered into force in 1994. It was only after civil society groups implemented a national campaign to portray emigrants as 'dignified workers' and used their strong relationships with the Mexican Senate to create political pressure that the Mexican government ratified the treaty (Díaz and Kuhner 2009). Piper (2009) similarly argues that the decision to ratify the CRMW in the Philippines was driven by civil society concerns about the plight of migrant workers abroad, particularly in the wake of the trial and execution of a Philippines national in

Singapore in 1995. But Indonesia and Bangladesh, two other Asian states with large emigrant populations, had to weigh the domestic pressure to ratify the treaty against the potential costs of being seen as ‘troublemakers’ by important receiving states, including Malaysia and a number of the Gulf States (Piper 2009, 179). There is evidence that, on the eve of its ratification of the treaty in 1998, Bangladesh received a message delivered through diplomatic channels from one of the Gulf States, explicitly threatening to cut off *all* worker admissions if Bangladesh ratified (Piper 2009). Bangladesh eventually did ratify (in 2011), as did Indonesia (in 2012), after well-documented cases of emigrants abused abroad created renewed domestic pressure in favour of the CRMW (Missbach and Palmer 2018). These cases demonstrate that the states ratifying the CRMW employ a logic of consequences approach, weighing the costs and benefits of ratification at a given point in time. These costs and benefits are nearly entirely focused on emigration. In a few cases, pressure from receiving states appears to have delayed but not prevented ratification, supporting the view that domestic political pressure on behalf of emigrants has been the decisive factor explaining ratification.

As a policy tool, there are four different ways in which being a party to the CRMW helps migrant-sending states solidify links with their citizens. First, being a party to the treaty necessitates unilateral policies to promote emigrants’ rights abroad and domestic legislation ensuring that emigrants are aware of their rights and the procedures for protecting them (Articles 7a, 23, and 33).

Second, ratification provides states with leverage in negotiating with other states to further the interests of the domestic public; this is true not just for the CRMW but other human rights treaties as well. Domestic publics commonly care about the practices of other governments

towards their denizens.¹⁰ Human rights advocacy groups lobby their own governments to improve their own practices and ensure other states to do the same (Clark 2001). Ratification provides the government with leverage in pressuring other states to change their human rights behaviour because it provides a common standard against which behaviour can be judged. It also allows states to shame others while protecting themselves because states can point to their own ratification as evidence that they are following the same standard, whether or not this is true in practice.

Third, states can also use the CRMW as leverage in international negotiations to extract concessions beyond rights for their emigrants.¹¹ Bilateral negotiations are not uniformly biased in the favour of receiving states; sending states often have bargaining power to extract concessions based on their ability to moderate flows to the receiving state (Money and Lockhart 2018). The CRMW provides a focal point for these negotiations, and the Committee on Migrant Workers (the monitoring body established by the treaty) encourages parties to seek such bilateral agreements (Ryan 2013). Libya, for example, ratified the CRMW in 2004 in the midst of negotiations with European states, particularly Italy, from whom it was trying to extract financial concessions in exchange for accepting the repatriation of third-country nationals and preventing transit migration from sub-Saharan Africa. We suspect that this ratification was likely part of its bargaining strategy, not a reflection of a genuine commitment to migrant rights, given the timing of the ratification and its treatment of migrants (Human Rights Watch 2006). Paoletti (2011) argues that engaging in bilateral cooperation with Italy helped to burnish Libya's poor international reputation. Ratifying the CRMW had a similar effect, especially as increased

¹⁰ See, for example, Amnesty International's letter writing campaign that mobilizes individuals to pressure both their own governments and foreign governments to ensure human rights.

¹¹ Again, this benefit is not unique to the CRMW. Hafner-Burton (2005) shows that states incorporate human rights in their international trade agreements.

refugee flows into Libya drew attention to the fact that Libya is not a signatory to the Refugee Convention (Paoletti 2011). Ratifying the CRMW was a relatively costless way to signal that it was a suitable partner for bilateral cooperation; the states most likely to criticise its migrant rights practices (primarily the European states) were relying on it to prevent immigration into Europe and were not signatories themselves.¹² Libya's negotiation strategy was successful; it managed to secure millions of Euros in funding for a variety of projects, support for police training, and joint anti-smuggling efforts (Paoletti 2011).¹³ In exchange, in 2005 Libya accepted approximately 1,900 migrants removed from Italy, at Italy's expense (Paoletti 2011). The story of Libya's ratification illustrates the way in which the ratification of the CRMW is embedded as part of a broader international negotiation strategy intent on serving the interests of the state and its citizens, not the interests of immigrants.

Finally, the CRMW created the Committee on Migrant Workers, a monitoring body that largely focuses on emigrants and provides states an additional vehicle to support emigrant workers. For instance, Vucetic (2007, 404) states, 'The current parties to the [CRMW] are primarily migrant-exporting states, such as Mexico and the Philippines, who see the convention as a vehicle to protect their citizens living and working abroad.' Similarly, Ryan (2013) finds that the majority of work done by the Committee on Migrant Workers, established by the CRMW, focuses on emigrants. These findings support our contention that states focus on emigrants, not immigrants, when deciding to ratify.

¹² Italy was still widely condemned for deporting migrants to Libya; other European governments, IGOs, and NGOs all expressed concern that migrants were deported to a country that is not party to the Geneva Conventions and absent a formal readmission agreement (Paoletti 2011). We have not seen the CRMW cited in these critiques.

¹³ Paoletti (2011) notes that Libya continued to facilitate illicit smuggling operations even as it collaborated with Italy on anti-smuggling efforts.

The Logic of Consequences: The Costs and Benefits of Treaty Ratification

Ratification is a calculated decision for governments because, although ratification can be beneficial, it also can carry significant costs. We argue that the costs and benefits of ratification vary depending on the features of the treaty and the state, and that states will only ratify when it is politically beneficial. We first present the types of costs and benefits that are generated by human rights treaties. We then translate the generic concepts into specific costs and benefits associated with the CRMW.

Costs of Ratification. The extent to which ratification necessitates policy change, generates uncertainty, and limits sovereignty determines how costly ratification is and, in turn, creates high costs inhibit ratification. First, states face the costs of policy change in order to become compliant with the treaty. These costs depend on the extent to which the treaty provides a stricter standard than domestic law weighted by the likelihood of the treaty enforcement (Cole 2005). For states that have the same or stronger standards, ratification is relatively costless (Simmons 2009). Relatedly, policy costs are low even if the state is non-compliant if the policy affects few individuals (Vreeland 2008, Von Stein 2016).

The second type of costs is related to uncertainty about the future. Uncertainty depends, in part, on the internal characteristics of the regime (McKibben and Western 2018) as well as the issue area. If there is the possibility of unexpected shocks, states are likely to be more reticent to adopt international laws that could be held against them during a crisis (Kahler 2000). Uncertainty about human rights agreements is particularly difficult for states to address because, in crisis situations, governments may have an incentive to engage in human rights abuses, but human rights agreements do not permit derogations (Rosendorff and Milner 2001).

Finally, states face sovereignty costs from ratification. Sovereignty costs occur when states lose control over issues because they are governed by international agreements.

Sovereignty costs are greatest when they concern issues between the state and its *denizens* in ways that impinge on a state's domestic policies (Abbott and Snidal 2000).¹⁴ Additionally, sovereignty costs are generated by normative beliefs shared by both political elites and the public, who chafe at being controlled by an unelected international authority (Kahler 2000).

Benefits of Ratification. Human rights treaties lack the security and economic benefits that other treaties deliver because they ostensibly affect only domestic affairs. Yet the prevalence of human rights agreements suggests that they hold some benefits for the regimes that ratify them.¹⁵ We argue that ratification has three benefits: it strengthens the bond between the citizen and the state, it allows the state leverage in politicking on behalf of its citizens, and it sends international signals that allow the government to achieve larger political goals.

Ratification involves the state making an external promise to its citizens which tells citizens that the state values its citizens' rights related to the issue areas covered by the agreement, strengthening the relationship between the state and its citizens. Ratification provides more heft to the promise as the state assumes the potential costs of ratification in order to send the signal. At the same time, this signal is not too costly, and ratification may relieve pressure for more substantive policy changes (Hafner-Burton and Tsutsui 2005).

¹⁴ Abbott and Snidal (2000) contend that sovereignty costs are greatest in areas that concern the state and its *citizens*; we point out that this should be more clearly specified to include both *citizens and resident aliens (denizens)*.

¹⁵ Claims that focus on the normative underpinnings of ratification rely on arguments about political activists generating political costs to persuade governments to take particular actions. Thus, governments do not ratify because it is the morally right thing to do; rather when we look at the foundations of that logic and we find that such decisions are driven by political benefits.

Second, ratification provides states with leverage to engage in politicking at the international level based on the preferences of the domestic population. Ratification provides the government with greater leverage because it provides a common standard against which behaviour can be judged and, in ratifying, states seeking to shame others as they provide themselves coverage by ostensibly agreeing to follow the same standard.

Finally, ratification can help political leaders achieve their larger political interests by providing signals about their foreign policy goals. For example, states might ratify agreements to attract and secure the goodwill of others, which then has a spill-over effect into other issue areas (Milewicz and Elsig 2014). This goodwill might be cultivated simply by establishing a reputation as a state that upholds international human rights standards, and ratification signals this. These reputational effects increase as more states ratify, so that ratification itself becomes a norm and not ratifying risks being seen as deviant (Finnemore and Sikkink 1998). Additionally, states may face international pressure to ratify and ignoring this pressure could lead not only to a loss of goodwill but also of material benefits. Moreover, international agreements themselves may be designed to generate political support from domestic civil society groups (Brown and Urpelainen 2015).

Calculating the Consequences of Ratification. The idea that states incur costs and benefits through ratifying a treaty is not novel; the treaty ratification and human right literatures discuss these various costs and benefits at length. However, our contribution in combining these factors systematically is three-fold. First, we highlight factors that are much more conditional than the extant literature suggests. Specifically, the arguments around international signalling and norm diffusion are based on a receptive audience that can reward (punish) ratification (non-ratification). Yet this mechanism is not always in effect, particularly when less powerful states

advocate international laws that their domestic audience favours. Second, we provide a generalisable framework to understand the ratification of all human rights agreements, not just those that are championed by wealthy democracies. For this reason, we do not derive specific hypotheses that will apply across all agreements because doing so oversimplifies the nature of these costs and benefits.¹⁶ Rather we argue that this framework should be applied in a context-specific fashion, as the nature of the costs and benefits depends on each treaty's unique features.

Third, we highlight the relationship between the state and the citizen in shaping the decision to ratify. Until now, this factor has either been ignored or underdeveloped, even in studies specifically examining the ratification of the CRMW, which focuses on why states would protect immigrants who are not citizens (Money et al. 2016; Wong 2015). Our model flips this logic around and examines when states will want to protect their own citizens, or emigrants. Predicting when this will occur requires careful consideration about each state's role in the migration process. As we develop below, the costs and benefits of ratifying the CRMW are associated with the level of migration that states experience. Although states are commonly classified as countries of origin (sending states) or countries of destination (receiving states), all states have both immigrants and emigrants and weigh the costs and benefits of treaty ratification associated with their respective levels of in- and out-migration. Nevertheless, sending states tend to discount the importance of their own immigration as well as uncertainty about the future. There is little evidence that sending states hesitate to sign the treaty out of concern that they may one day become receiving states. And this is perhaps for good reason; none of the current parties

¹⁶ For instance, Beth Simmons (2009) argues that democracies have preferences to protect human rights through international treaty law. While this may be true for many human rights agreements, it is not the case for all of them. We argue that democracy, though often a proxy for policy preference, does not capture it for this particular treaty. By providing a more general framework we allow for concepts like preferences to be more accurately captured.

to the treaty have become a country of migrant employment, and this is a treaty focused on migrant workers (Lyon 2018). Even those that have experienced an increase in immigration, like Mexico, are primarily facing transit and refugee migration, not labour migration. Because labour migration patterns change slowly, and the political benefits of ratification are immediate, state leaders discount the cost of being held accountable to the CRMW at some future date.

Emigration and the Benefits of Treaty Ratification. For most human rights agreements, there is congruence between the group that is the focus of the treaty and the citizenry. The CRMW appears, at first, to be different; those whom the state is pledging to protect (foreigners) are categorically not citizens. Yet ratification of the CRMW does, in fact, fulfil the same promise as other human rights agreements. It tells the citizenry that migrant rights are an important issue for the government at the international level and that the government will use international forums to support its emigrants. But the extent to which states value their citizens who live abroad varies. The states that benefit most from the CRMW are the states that benefit the most from emigration. Advancing the interests of emigrants can serve the state both politically and economically.

Politically, emigrant workers (and their families back home) can be an important political constituency, and promoting emigrant interests can be a form of constituency service. In the contemporary era, sending state governments take seriously their responsibility to their diaspora. Ratification gives emigration states a tool with which they can better serve their emigrant population. In return, the governments expect political support from both emigrants themselves, if they are permitted to participate in the domestic political process, and their friends and families back home. Migrant-receiving states, on the other hand, place far less emphasis on their citizens who live abroad and are not a politically powerful constituency. For these states, the importance

of the immigrant population far outweighs the importance of the emigrant population. These arguments lead to the following hypothesis:

Hypothesis 1: Sending states are more likely to ratify the CRMW than receiving states.

Economic motivations may be even more significant, since many sending states depend on remittances for revenue and view emigration as a development strategy. Because remittances tend to be counter-cyclical, governments can use them to balance their accounts in economic crisis, promoting government stability (Ahmed 2012). By providing support and services for emigrant citizens, and advocating on their behalf, sending states increase the likelihood that emigrants will be economically successful and able to send money home to their families. Governments implement policies to promote emigrant loyalty to ensure the continuation of remittance flows (Guarnizo et al. 2003).

Remittances also indicate that emigrants are maintaining links with people in their home country who may then advocate on their behalf. Migrants do not send remittances to the state; they send them to families and other loved ones whom they left behind (Maimbo and Ratha 2005). These recipients thus constitute a political constituency with a vested interest in the welfare of emigrants abroad. In addition to economic incentives, states whose emigrants send money home face even stronger political incentives to protect emigrant rights than those states whose citizens do not depend on the financial support of workers abroad for their own survival and prosperity. This is not necessarily because they intrinsically value emigrant rights but rather because they face political pressure from citizens who do. These arguments lead to the following hypothesis:

Hypothesis 2: The higher the state's dependence on remittances, the more likely it will ratify the CRMW.

Emigration and the Costs of Treaty Ratification. Although emigration provides potential benefits for the state, it may come with costs. There is an extensive literature on emigration and the ‘brain drain’ and, while findings are mixed about its significance, it does affect some states more than others (Asongu 2014). In essence, states that send a large portion of their tertiary educated population abroad make a large investment in an individual only to see that education pay off for another state. For example, if Ghana invests in educating a doctor who moves to the United Kingdom, it has helped the individual and the United Kingdom, but Ghana has lost a skilled medical professional. If this doctor is an anomaly and most emigrants are poorly educated, low-skilled workers, the state can absorb these costs. However, if many doctors emigrate, Ghana will lose a substantial investment it made in training doctors and may face shortages in skilled sectors. Additionally, when such individuals emigrate, states lose a potentially lucrative source of tax revenue.

When a state’s emigrant population is highly-skilled, it may be less likely to ratify the CRMW for two reasons. First, the state may want to discourage emigration, and a poor record of protecting migrant rights may help it do so. Second, highly educated migrants advocate for themselves fairly well with the host government because they are often highly desirable, or even individually differentiated, which gives them leverage in advocating for policies that serve their interests without help from their home states. Moreover, highly educated migrants better integrate into the host society and are more likely to have access to channels of power that unskilled migrants lack (Martinovic et al. 2009). Additionally, the rights guaranteed by the CRMW are more important to undocumented migrants than documented migrants. Since many states base visa decisions on skill levels, it is easier for high-skilled migrants to obtain legal status and the rights that go along with it (Ruhs 2013). Consequently, high-skilled emigrants

benefit less from the CRMW, and thus they (and their supporters in their home country) are less likely to promote its ratification.

In contrast, states that send low-skilled immigrants do not experience widespread brain drain effects. Indeed, they may be better off by having the low-skilled portion of the labour market employed abroad, where they can command much higher wages that can be remitted to family in the sending country. Unlike their high-skilled counterparts, low-skilled migrants have less leverage with employers and host states because they are viewed as interchangeable and replaceable. Relatedly, it is often harder for such individuals to get visas, and thus legal status, providing them with less legal recourse in their host state if their rights are violated. When states export more low-skilled migrants relative to high-skilled migrants, the rights enshrined in the CRMW are more relevant. Because the costs related to emigration depend on the composition of the emigrant population, we propose a third hypothesis:

Hypothesis 3: The greater the proportion of high-skilled emigrant stock, the less likely it is that a state will ratify the CRMW.

Immigration and the Benefits of Treaty Ratification. There is a significant body of literature that enumerates the benefits of immigration to the host country and thus promoting migrant rights may be beneficial to secure these benefits of immigration. That said, these benefits can largely be achieved unilaterally as states determine which migrants and which rights will be protected under domestic laws (Ruhs 2013). We do not dispute these findings but rather point out, given that current customary international law that provides states sovereignty over the entry of non-citizens, states can reap these benefits without treaty ratification, that is, the benefits of immigration can largely be achieved unilaterally (Ruhs 2013). Therefore, we move to consider the costs of treaty ratification associated with immigration.

Immigration and the Costs of Treaty Ratification. Ratifying the CRMW requires that the state modify its current policies to comply with the prescriptions of the treaty which generates financial and political costs; treaty ratification also generates uncertainty and sovereignty costs. The higher the costs states must bear, the less likely they are to commit themselves to this agreement. In this section, we explore these costs and conclude that they increase as the proportion of immigrants in the country increases.

Providing rights is financially costly because states are required to provide equal access to social programs and other financial benefits, disincentivizing states from committing themselves to an international agreement through which home states could further demand access for their emigrants. All else equal, financial costs of enforcing the migrant rights treaty will be higher where migrant stocks are greater. Even small changes in policy will cost more when they apply to larger numbers of people. The costs of these changes also depend on the size of the native population, as the same number of immigrants will have a different impact on a population of 2 million versus 200 million. Thus, we argue, the higher the proportion of immigrants in the population, the higher the costs of providing them rights.

Providing immigrant rights can be politically costly, as well. Immigration can create a backlash that generates political mobilization (Branton et al. 2011; Lawrence 2011; McLaren 2011; Koopmans et al. 2012). Not all citizens are anti-immigrant, but virtually all states have anti-immigrant constituencies of some size. The backlash can stem from a variety of grievances, real and perceived: higher taxes to pay for services granted to migrants; crowding of the current provision of services; cultural differences, etc. (Brader et al. 2008; O'Rourke and Sinnott 2006). Competition between natives and immigrants can generate hostility towards immigrants and generate electoral costs. Although Razin et al. (2002) find that the overall tax burden does not

increase for receiving states, this tends to be because receiving states cut benefits, which in turn, can generate backlash from citizens whose benefits are cut. These political costs make it difficult for states to commit to providing immigrant rights by generating uncertainty about the political implications of providing those rights. The size of the immigrant population is one marker of the potential for a political backlash (Hatton 2007).

Finally, the CRMW provides immigrants in ratifying states with a considerable legal toolkit to challenge the state's policies in court, injecting uncertainty and limiting the state's sovereignty over both the treatment of immigrants upon arrival as well as the admission of immigrants. Additionally, providing rights to undocumented workers may attract more migrants; because the CRMW makes deporting migrants resource intensive, it could be more difficult for states to control the number and characteristics of the migrants they admit or deport if they ratify. Thus, the CRMW has sovereignty costs that inhibit ratification (Wong 2015; Money et al. 2016). These costs increase when immigrants comprise a larger percentage of the population.

Immigrant stocks are an indicator of both current and potential future costs. Immigrant networks generate future costs because they sustain immigrant flows (Tilly 1991; Vertovec 2004). The immigrants who are already established in the host state are those most likely to be reunited with family, friends, neighbours, and countrymen, whether the flows are through legal channels or undocumented. The CRMW contains provisions regarding family reunification and other rights to access, meaning that the impact on states' sovereignty in controlling immigration is greater when immigrant stocks are larger. These arguments about the costs of ratification leads to the following hypothesis:¹⁷

¹⁷ To clarify the difference between Hypothesis 1 and Hypothesis 4, the latter is associated with the size of the migrant stock whereas the former is associated with the balance between immigrants and emigrants.

Hypothesis 4: The larger a state's immigrant stock, the less likely it will be to ratify the CRMW.¹⁸

In summary, we have argued that commitment to the CRMW follows a logic of consequences; states weigh the costs and benefits of ratification and sign only when the benefits tip the scale. All states face potential costs from the CRMW; these include policy change, uncertainty, and sovereignty costs. These costs are most salient for states that have large immigrant populations. The benefits of the CRMW also depend on the characteristics of citizens residing abroad. When emigration is costly, as when high-skilled emigration makes up a larger percentage of emigrant flows, states will be more ambivalent about the CRMW and less likely to ratify. Yet under certain conditions, emigration can provide political and financial benefits to sending states. In these cases, ratifying the CRMW can provide sending states with a tool to advocate for their citizens abroad, enhancing the benefits of emigration. Thus, ratification of the CRMW largely depends on the degree to which a state benefits from emigration, not immigration, and the nature of emigrant flows.

Research Design and Empirical Analysis

In this section, we evaluate our arguments using duration analysis to evaluate the time it takes states to ratify the CRMW. Ratification is most often a one-way process, as treaty withdrawal is rare and, indeed, this has not occurred with the CRMW. This modelling strategy allows for more fine-grained measurement and thus provides more information about state

¹⁸ This hypothesis simplifies a more complex argument about the policy change, uncertainty and sovereignty costs of immigration. However, on a global scale it is impossible to find empirical referents for these theoretical concepts. So we choose to employ an empirical referent that is a component part of the financial, political and sovereignty costs – the size of the immigrant population.

preferences and the decision to ratify a treaty than the binary decision alone (see Von Stein 2008). Additionally, analyses of treaty ratification are prone to right-hand censoring issues as states may still ratify once the analysis has ended, and duration modelling allows us to account for this. Duration modelling also helps us account for left-hand censoring, which is important here as some states gained independence (making them eligible to ratify the treaty) after 1990, the year in which our analysis begins. For these reasons, event duration modelling is widely used in the treaty ratification literature (Cole 2005; Chapman and Chaudoin 2013; Hathaway 2007; Simmons and Danner 2010; Smith-Cannoy 2012). Specifically, we use a Cox proportional hazards model as we do not have specific arguments about the functional form of the hazard ratio. We use the Efron method to deal with tied data and cluster for standard errors based on country. Our statistical analysis begins in 1990 and ends in 2015 which is the last year for which we have data for all of our variables.

Measuring the Costs and Benefits of Ratification. Hypotheses 1 and 2 propose that the more emigration benefits the state, the more likely the state will ratify the CRMW. The benefits of emigration are measured in two ways. First, we use the country's net migration position to measure whether a state is a sending or receiving state in order to evaluate Hypothesis 1. Net migration is the number of immigrants less the number of emigrants in a given country. These data are measured every five years; we use World Bank data from 1987 to 2017 and interpolate the data for missing years. We then dichotomize the measure to indicate if a state is a sending or receiving state. We do this to minimize error due to estimation of the data, as there are few cases where states move from being net sending states to net receiving states. Thus, we choose a measure that is blunter, but more reliable.¹⁹ In order to evaluate Hypothesis 2, we use World

¹⁹ In the web appendix we include an alternative measure that uses net migration totals instead and find results that are consistent with the arguments that we make here.

Bank data on remittance inflows as a percentage of GDP to account for the financial benefits of emigration. As there is a significant amount of missing data we linearly interpolate this variable.²⁰

Hypothesis 3 stipulates that the types of migrants a state sends determine the incentives the state has to ratify. This variable is measured as the percentage of tertiary educated in the emigrant stock. These data are taken from Docquier et al. (2009) and only include information on documented immigrants in OECD states.²¹ Because these data are only available in 1990 and 2000, we use the 1990 data from 1990 to 1999 and the 2000 data through 2015. While this is less than ideal, these are the only data available that disaggregate emigrant characteristics. Measuring emigration in non-OECD states and undocumented populations is very challenging, so estimating the characteristics of migrant stocks is necessarily rough.

Hypothesis 4 proposes that states with larger immigrant stocks are less likely to ratify the CRMW than states with smaller immigrant stocks. These data are available from the World Bank every five years from 1990 to 2015; immigrants are measured as a proportion of the total population, which accounts for the fact that states with larger populations can incorporate a larger number of immigrants than states with small populations. We argue that the relative concentration of immigrants, not that absolute number, is the key factor in measuring the costs of treaty ratification. These data are then linearly interpolated so that we have annual observations for each state through 2017.²²

Alternative Explanations and Control Variables. We also include measures of the

²⁰ The number of cases we keep by interpolating is fairly substantial given how few countries ratify. The results from the non-interpolated data, presented in the web appendix, are largely consistent with what is presented here.

²¹ Approximately 70% of all high-skilled migrants are located in the OECD (Artuc et al. 2015).

²² As these data are right skewed we also ran models with logged migrant stocks. The results presented in web appendix are largely consistent with our reported results.

normative and institutional factors found in the broader human rights treaty literature in order to evaluate the strength of our explanation in comparison to alternative explanations.

The human rights literature finds that democracies are more likely to ratify human rights agreements (Simmons 2009), and the migrant rights literature finds that autocracies are more likely to restrict migrants' rights (Ruhs 2013). Therefore, we include a dichotomous variable that measures whether leaders are chosen in free and fair elections and whether there are sufficient levels of suffrage (Boix et al. 2013). The primary advantage of this measurement is its fairly universal coverage through 2015.²³

The extensive literature on legal systems and ratification finds that common law systems generally take more time to ratify treaties than other systems (Simmons 2009). We include a dummy variable indicating that a state has common law legal system. The data are taken from La Porta et al. (1999) via the Quality of Government Project (Teorell et al. 2018). We control for the effects of state capacity on ratification by including the logged GDP per capita, using data from the World Bank. While capacity could make ratification more likely as states with higher GDPs can better incorporate migrants, scholars have found that wealthier states are less inclined to favour migration, making it unclear the extent to which GDP per capita will affect state behaviour. To control for the potential that human rights practices might explain ratification of the CRMW, we include the Political Terror Scale measure, rescaled so that low values indicate 'worse' human rights practices and larger values indicate 'better' human rights practices (Wood and Gibney 2010). Finally, to account for policy diffusion, we include indicators of ratification at

²³ By the end of 2015, 47 states ratified the CRMW; thus the models presented in Table 1 capture every state that has ratified at that point in time. As a robustness check, we ran alternative specifications using Polity IV both as a dichotomous measurement and as a continuous measurement. The results of those analyses, presented in the web appendix, are consistent with what we have presented here.

the regional level.²⁴

Findings and Discussion. Our findings, presented in Table 1, show that our theoretical expectations of CRMW ratification are generally supported and the statistical evidence regarding Hypotheses 1, 2, and 4 are consistently statistically and substantively significant in this analysis. We evaluate our argument using five models. Models 1 through 4 evaluate each of the hypotheses in turn and Model 5 evaluates all four hypotheses in a single model.

[Table 1 about here]

Hypothesis 1, which argues that net sending states should be more likely to ratify the CRMW, is both statistically and substantively supported by the results of Models 1 and 5; states that send more migrants than they receive are at 2.55 times the risk of ratification compared to countries that are net receiving states.²⁵ This relationship is further visualised in Figure 2 which provides a Kaplan-Meier hazard estimate of ratification with these groups separated out. The figure shows the two lines are roughly parallel for the first 10 years but subsequently sending states diverge from receiving states. By the end of the analysis period roughly 90% of states that are classified as migrant-receiving states have not ratified the CRMW whereas approximately 60% of sending states have not ratified. This figure shows that there are marked differences between the groups; it also shows that among sending states ratification is far from universal. Sending state status is related to a significant amount of variation in ratification.

[Figure 2 about here]

The relationship between remittances and ratification, proposed in Hypothesis 2, is statistically significant in both Models 2 and 5. Substantively the relationship between

²⁴ We also included global ratification rate as a robustness check. Those models do not indicate a clear relationship in the data.

²⁵ The 95% confidence interval is (1.04-6.27).

remittances and ratification is relatively modest. A state in the 75th centile of remittances as a proportion of GDP has approximately an 8.5% increase in the risk of ratifying compared to a state in the 25th centile.²⁶ Similarly, moving from the 75th centile to the 95th centile is related to a 30% increase in the risk of ratification.²⁷ Thus remittances do appear to be meaningful related to the risk that states will ratify the CRMW.

We find only tenuous support for Hypothesis 3, which stipulates that the higher proportion of highly skilled emigrants, the greater the likelihood that states will ratify the CRMW. The coefficient for high-skilled emigration rate negative which is what our argument anticipates, but it is statistically significant at only the .1 level in Model 3 and in Model 5 it is no longer statistically significant. That said, if better data become available this argument should be re-evaluated to determine whether and how emigrant characteristics are related to the ratification of this agreement.

Finally, we find that the relationship between the size of the immigrant population and treaty ratification is both statistically significant and substantively meaningful. Evaluating Hypothesis 4, we see that a state at the 75th percentile has approximately three-tenths the risk of ratifying compared to one at the 25th percentile.²⁸ This supports the claim that the costlier it is for a state to provide migrants rights, the less likely it is that a state will ratify.

Combined, these results provide evidence that migration patterns, in terms of both net immigration position and size of the immigrant population, are related to ratification. These

²⁶ This move is the equivalent of having remittances at 4.3% of GDP compared to remittances at 0.22% of GDP. The precise hazard ratio for this change is 1.085 (95% confidence interval is 1.01 to 1.16).

²⁷ This move is the equivalent to having remittances at 17.9% of GDP compared to remittances at 4.3% of GDP. The hazard ratio is 1.31 (95% confidence interval is 1.04 to 1.65).

²⁸ This move is the equivalent of having migrants as 1.22% of the population compared to migrants as 10.5% of the population. The hazard ratio for this change is .28 (95% confidence interval is .09 to .92)

findings are consistent with our argument that states consider the consequences of migration and providing migrant rights when deciding whether or not to ratify the treaty. Moreover, these findings confirm earlier analyses that wealthy ‘western’ democracies are unlikely to ratify the CRMW because they are net receiving states with relatively large immigrant stocks.

Of the factors associated with alternative explanations, only one has a statistically significant relationship with the risk of ratifying at the .05 level across all models. States in regions where ratification is relatively high are more likely to ratify than states in regions where ratification is fairly low. Importantly, this variable has a large substantive relationship with the hazard of ratification. Using the regional ratification rates from January 2018, we see that a country in the Americas that has not ratified is at 59 times risk of ratification than a European country. These regional effects may be due to similar migration patterns within regions, diffusion processes, or both. Interestingly, common law states face approximately half the risk of ratifying the CRMW compared to states with other legal systems. However, the coefficient for common law states is not statistically significant at the .05 level across all models but it is statistically significant at the .1 level. It is unclear why this relationship is not as clear as it is for other treaties and thus more work may be useful to understand the nuances through which common law influences ratification rate.

Conclusions

In this article, we evaluated the conditions under which states will ratify the CRMW. We found evidence that the consequences of migration shape the likelihood that states will ratify the CRMW. Migrant-receiving states, scholars have long argued, are loath to extend protections to migrant workers, so it is perhaps unsurprising that they choose *not* to ratify. Our argument,

however, answers an important part of the puzzle of CRMW ratification why do some migrant-sending states choose *not* to ratify the CRMW. Some states clearly benefit from emigration through remittances; they are more likely to ratify. Other states benefit less from emigration and as such they too lack incentives to commit to international migrant rights law.

These findings are important because, unless these dynamics change, multilateralism will not be an effective strategy for protecting migrant rights. Roger Böhning (1991) prophetically stated that the United Nations was too optimistic about the prospects of the CRMW, especially given the outcome of its predecessor treaties, and that major migrant-receiving states would not join it. Our analysis similarly suggests that without a fundamental shift in the political benefits of promoting migrant rights, further multilateral efforts are likely in vain. Given that there were renewed calls at the United Nations for a migrant rights agreement, as evidenced by the New York Declaration in 2016, our findings are even more relevant. The Global Compact for Safe, Orderly and Regular Migration was adopted at a conference in Morocco, in December 2018. But this is an agreement rather than a treaty, which carries with it only voluntary adherence rather than binding commitment. Nonetheless, several countries including the United States, Poland and Hungary voted against the agreement and twelve other countries abstained.²⁹ We have shown that even when states have promised to protect the rights of non-nationals, such decisions were likely driven by the relationship between the state and its own citizens as emigrants, not a commitment to immigrants' rights. Until states are genuinely committed to protecting the rights of foreigners, multilateral efforts are unlikely to generate widespread international support. This conclusion does not necessitate pessimism about migrant rights; rather it suggests that migrant

²⁹ The final vote was 152 countries for, 5 countries against (the U.S., Poland, Hungary, the Czech Republic and Israel) and 12 abstentions, with 24 countries not in attendance ('General Assembly' 2018).

rights advocates pursue an instrumentalist, domestic approach that seeks out common ground with other interest groups, appealing to states' self-interest to incentivise migrant integration, rights protections, and the extension of citizenship.

Theoretically, this study makes evident the limitations of the ratification and human rights literature. By only examining widely ratified agreements, extant research overlooks the fact that some beliefs and values, indeed many, do not become codified as norms at the international level. Consequently, much of the literature on human rights misses the variation in outcomes that is essential to understanding the process of norm diffusion more generally. Given that many human rights agreements are not widely ratified (von Stein 2018), we perhaps know less about human rights ratification than we think that we do. Given the usefulness of a consequentialist logic of the costs and benefits explaining ratification of the CRMW, future work should evaluate the extent to which this framework applies to other agreements.

Our research also addresses the rational design literature (Abbott et al. 2001). We do not dispute that there are rational reasons why states create international institutions, rather we highlight that cooperation is only one possible goal. International agreements have political purposes that should not be overlooked by focusing solely on cooperation or the stated goal of an agreement. From a rational design perspective, the CRMW looks odd because it does not end up moving the dial on migrant rights at the international level because states have largely ignored it by either not ratifying it and/or not complying with its provisions. If cooperation were the goal, then we would expect that there would be more of a focus on cooperation and establishing common rights. But we do not see that; the negotiation of the CRMW was rife with political grandstanding and included elements that many states explicitly acknowledged would make the treaty unratifiable (Lonnroth 1991). We argue that this politicking serves a rational end but this

conclusion only becomes clear once it is understood that generating political support among emigrants and their allies in civil society is the primary goal, rather than international cooperation on protecting the rights of foreigners.

Works Cited

- Abbott, Kenneth W, and Duncan Snidal. 2000. "Hard and Soft Law in International Governance." *International Organization* 54 (3): 421–456.
- Ahmed, Faisal Z. 2012. "The Perils of Unearned Foreign Income: Aid, Remittances, and Government Survival." *American Political Science Review* 106 (1): 146–165.
- Artuc, Erhan, Frédéric Docquier, Çağlar Özden, and Christopher Parsons. 2015. "A Global Assessment of Human Capital Mobility: The Role of Non-OECD Destinations." *World Development* 65: 6–26.
- Asongu, Anutechia Simplicie. 2014. "The Impact of Health Worker Migration on Development Dynamics: Evidence of Wealth-Effects from Africa." *European Journal of Health Economics* 15 (2): 187–201.
- Basok, T. 2009. "Counter-Hegemonic Human Rights Discourses and Migrant Rights Activism in the US and Canada." *International Journal of Comparative Sociology* 50 (2): 183–205.
- Böhning, Roger. 1991. "The ILO and the New UN Convention on Migrant Workers: the Past and Future." *International Migration Review* 25 (4): 698–709.
- Boix, Carles, Michael Miller, and Sebastian Rosato. 2013. "A Complete Data Set of Political Regimes, 1800-2007". *Comparative Political Studies*. 46(12): 1523—1554.
- Boswell, Christina. 2007. "Theorizing Migration Policy: Is There a Third Way?" *International Migration Review* 41 (1): 75–100.
- Brader, Ted, Nicholas A Valentino, and Elizabeth Suhay. 2008. "What Triggers Public Opposition to Immigration? Anxiety, Group Cues, and Immigration Threat." *American Journal of Political Science* 52 (4): 959–978.
- Branton, Regina, Erin C Cassese, Bradford S Jones, and Chad Westerland. 2011. "All Along the Watchtower: Acculturation Fear, Anti-Latino Affect, and Immigration." *The Journal of Politics* 73 (3): 664–679.
- Brown, Joseph M, and Johannes Urpelainen. 2015. "Picking Treaties, Picking Winners." *Journal of Conflict Resolution* 59 (6): 1043–73.
- Clark, Ann Marie. 2001. *Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms*. Princeton: Princeton University Press.
- Chapman, Terrence L., and Stephen Chaudoin. 2013. "Ratification Patterns and the International Criminal Court." *International Studies Quarterly*. 57 (2): 400–409.

- Cole, Wade M. 2005. "Sovereignty Relinquished? Explaining Commitment to the International Human Rights Covenants, 1966-1999." *American Sociological Review* 70 (3): 472–495.
- CRMW (International Convention on the Protection of the Rights of Migrant Workers and Members of their Families). 1990. <http://www.un.org/documents/ga/res/45/a45r158.htm>, accessed 20 September 2018.
- Díaz, Gabriela, and Gretchen Kuhner. 2009. "Mexico's Role in Promoting and Implementing the ICRMW". In *Migration and Human Rights: The United Nations Convention on Migrant Workers' Rights*, eds. Ryszard Cholewinski, Paul de Guchteneire and Antoine Pécoud. New York: Cambridge University Press, 219–246.
- Docquier, Frédéric, B. Lindsay Lowell, and Abdeslam Marfouk. 2009. "A Gendered Assessment of Highly Skilled Emigration." *Population and Development Review* 35 (2): 297–321.
- "General Assembly officially adopts roadmap for migrants to improve safety, ease suffering." 2018. *UN News* (19 December). <https://news.un.org/en/story/2018/12/1028941> (accessed 12 February 2019).
- Guarnizo, Luis, Alejandro Portes, and William Haller. 2003. "Assimilation and Transnationalism: Determinants of Transnational Political Action Among Contemporary Migrants." *American Journal of Sociology* 108 (6): 1211–1248.
- Hafner-Burton, Emilie M. 2005. "Trading Human Rights: How Preferential Trade Agreements Influence Government Repression." *International Organization* 59 (3): 593–629.
- Hafner-Burton, Emilie M, and Kiyoteru Tsutsui. 2005. "Human Rights in a Globalizing World: the Paradox of Empty Promises." *American Journal of Sociology* 110 (5): 1373–1411.
- Hathaway, Oona A. 2002. "Do Human Rights Treaties Make a Difference?" *The Yale Law Journal* 111(8): 1935–2042.
- Hathaway, Oona A. 2007. "Why Do Countries Commit to Human Rights Treaties?" *Journal of Conflict Resolution* 51 (4): 588–621.
- Hatton, Timothy J. 2007. "Should We Have a WTO for International Migration?" *Economic Policy*. April: 339-383.
- Human Rights Watch. 2006. *Stemming the Flow: Abuses against Migrants, Asylum Seekers and Refugees*. <https://www.hrw.org/report/2006/09/12/stemming-flow/abuses-against-migrants-asylum-seekers-and-refugees> (September 18, 2018).
- Hune, Shirley and Jan Niessen. 1994. "Ratifying the UN Migrant Workers Convention: Current Difficulties and Prospects." *Netherlands Quarterly of Human Rights*. 12 (4): 393–404.
- Kahler, Miles. 2000. "Conclusion: The Causes and Consequences of Legalization." *International Organization* 54 (3): 661–683.

- Koopmans, Ruud, Ines Michalowski, and Stine Waibel. 2012. "Citizenship Rights for Immigrants; National Political Processes and Cross-National Convergence in Western Europe, 1980-2008." *American Journal of Sociology* 117 (4): 1202–1245.
- La Porta, Rafael, Florencio Lopez-de-Silanes, Andrei Shleifer, and Robert Vishny. 1999. "The Quality of Government." *Journal of Law, Economics and Organization*. 15(1):222-279.
- Lawrence, Duncan. 2011. "Immigration Attitudes in Latin America: Culture, Economics, and the Catholic Church." *The Latin Americanist* 55 (4): 143–170.
- Lonnroth, Juhani. 1991. "The International Convention on the Rights of All Migrant Workers and Members of Their Families in the Context of International Migration Policies: An Analysis of Ten Years of Negotiation." *International Migration Review* 25 (4): 710–736.
- Lyon, Beth. 2013. "International Human Rights Norms on Migrants." *The Encyclopedia of Global Human Migration*. <https://onlinelibrary.wiley.com/doi/book/10.1002/9781444351071> (August 20, 2018).
- Lyon, Beth. 2018. "The ICRMW and the US: Substantive Overlap, Political Gap." *Shining New Light on the UN Migrant Workers Convention*, ed. Alan Desmond. Pretoria: University of Pretoria Press.
- Magesan, Arvind. 2013. "Human Rights Treaty Ratification of Aid Receiving Countries." *World Development* 45: 175-188.
- Maimbo, Samuel Munzele, and Dilip Ratha. 2005. *Remittances: Development Impact and Future Prospects*. Washington, DC: World Bank.
- Martin, Susan. 2014. *International Migration: Evolving Trends from the Early Twentieth Century to the Present*. New York: Cambridge University Press.
- Martinovic, Borja, Frank van Tubergen, and Ineke Maas. 2009. "Changes in Immigrants' Social Integration during the Stay in the Host Country: The Case of Non-Western Immigrants in the Netherlands." *Social Science Research* 38: 870–882.
- McKibben, Heather Elko and Shaina D. Western. 2018. "'Reserved Ratification': An Analysis of States' Entry of Reservations upon Ratification of Human Rights Treaties." *British Journal of Political Science* 1-26, doi:10.1017/s007123417000631.
- McLaren, Lauren. 2011. "Immigration and Trust in Politics in Britain." *British Journal of Political Science* 42 (1): 163–185.
- Milewicz, Karolina M., and Manfred Elsig. 2014. "The Hidden World of Multilateralism: Treaty Commitments of Newly Democratized States in Europe." *International Studies Quarterly* 58 (2): 322–335.

- Missbach, Antje and Wayne Palmer. 2018. "A Country Grappling with Migrant Protection at Home and Abroad". Migration Policy Institute. <https://www.migrationpolicy.org/article/indonesia-country-grappling-migrant-protection-home-and-abroad> <accessed 12 October 2018>
- Morris, Lydia. 2003. "Managing Contradiction: Civic Stratification and Migrants' Rights." *The International Migration Review* 37 (1): 74–100.
- Money, Jeannette, and Sarah P. Lockhart. 2018. *Migration Crises and the Structure of International Cooperation*. Athens, GA: University of Georgia Press.
- Money, Jeannette, Sarah P. Lockhart, and Shaina Western. 2016. "Why Migrant Rights are Different than Human Rights." In *Elgar Handbook on Migration and Social Policy*, eds. Gary Freeman and Nikola Mirilovic. Cheltenham, UK: Edward Elgar Publishers Ltd.
- Moravcsik, Andrew. 2000. "The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe." *International Organization* 54 (2): 217–252.
- O'Rourke, Kevin H., and Richard Sinnott. 2006. "The Determinants of Individual Attitudes Towards Immigration." *European Journal of Political Economy* 22 (4): 838–861.
- Paoletti, Emanuela. 2011. "Power Relations and International Migration: The Case of Italy and Libya." *Political Studies* 59 (2): 269-289.
- Pécoud, Antoine, and Paul de Guchteneire. 2006. "Migration, Human Rights and the United Nations: An Investigation into the Obstacles to the UN Convention on Migrant Workers' Rights." *Windsor Yearbook of Access to Justice* 24: 241–266.
- Piper, Nicola. 2009. "Obstacles to, and opportunities of the ratification of the ICRMW in Asia". In *Migration and Human Rights: The United Nations Convention on Migrant Workers' Rights*, eds. Ryszard Cholewinski, Paul de Guchteneire and Antoine Pécoud. New York: Cambridge University Press, 219–246.
- Razin, Asaf, Efrayim Tsadkay, and Phillip Swagel. 2002. "Tax Burden and Migration: A Political Economy Theory and Evidence." *Journal of Public Economics* 85 (2): 167–190.
- Rosendorff, B. Peter, and Helen Milner. 2001. "The Optimal Design of International Trade Institutions: Uncertainty and Escape." *International Organization* 55 (4): 829–857.
- Ruhs, Martin. 2012. "The Human Rights of Migrant Workers: Why do so Few Countries Care?" *American Behavioural Scientist* 56 (9):1277–1293.
- Ruhs, Martin. 2013. *The Price of Rights: Regulating International Labor Migration*. Princeton: Princeton University Press.

- Ryan, Bernard F. 2013. "In Defence of the Migrant Workers Convention : Standard-Setting for Contemporary Migration." In *The Ashgate Research Companion to Migration Law, Theory and Policy*, ed. Satvinder S. Juss. New York: Routledge, 491–515.
- Simmons, Beth. 2009. *Mobilizing for Human Rights*. New York: Cambridge University Press.
- Simmons, Beth A, and Allison Danner. 2010. "Credible Commitments and the International Criminal Court." *International Organization* 64 (2): 225–256.
- Smith-Cannoy, Heather. 2012. *Insincere Commitments: Human Rights Treaties, Abusive States and Citizen Activism*. Washington, D.C.: Georgetown University Press.
- Spence, Douglas Hamilton. 2014. "Foreign Aid and Human Rights Treaty Ratification: Moving Beyond the Rewards Thesis." *International Journal of Human Rights* 18 (4-5): 414–432.
- Tilly, Charles. 1991. "Transplanted Networks." In *Immigration Reconsidered: History, Sociology, and Politics*, ed. Virginia Yans-McLaughlin. Oxford: Oxford University Press, 79–95.
- Teorell, Jan, Stefan Dahlberg, Sören Holmberg, Bo Rothstein, Natalia Alvarado Pachon & Richard Svensson. 2018. The Quality of Government Standard Dataset, version Jan18. University of Gothenburg: The Quality of Government Institute, <http://www.qog.pol.gu.se>
doi:10.18157/QoGStdJan18
- Vertovec, Steven. 2004. "Cheap Calls: The Social Glue of Migrant Transnationalism." *Global Networks* 4 (2): 219–224.
- von Stein, Jana. 2008. "The International Law and Politics of Climate Change: Ratification of the United Nations Framework Convention and the Kyoto Protocol." *Journal of Conflict Resolution* 52 (2): 243–268.
- von Stein, Jana. 2016. "Making Promises, Keeping Promises: Democracy, Ratification and Compliance in International Human Rights Law." *British Journal of Political Science* 46 (3): 655–679.
- von Stein, Jana. 2018. "Exploring the Universe of UN Human Rights Agreements." *Journal of Conflict of Resolution*. 62(4): 871-899.
- Vreeland, James Raymond. 2008. "Political Institutions and Human Rights: Why Dictatorships Enter Into the United Nations Convention Against Torture." *International Organization* 62 (1): 65–101.
- Vucetic, Srdjan. (2007) "Democracies and International Human Rights: Why is There No Place for Migrant Workers" *International Journal of Human Rights*. 11(4), 403–428.
- Wood, Reed M., and Mark Gibney. 2010. "The Political Terror Scale (PTS): A Re-introduction and a Comparison to CIRI." *Human Rights Quarterly* 32 (2): 367–400.

Wong, Tom. 2015. *Rights, Deportation, and Detention in the Age of Immigration Control*. Stanford: Stanford University Press.

Wotipka, Christine Min, and Kiyoteru Tsutsui. 2008. "Global Human Rights and State Sovereignty: State Ratification of International Human Rights Treaties, 1965-20011." *Sociological Forum* 23 (4): 724–54.