Least Developed Countries and Ratification of Human Rights Treaties; Motives for Adherence

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Least Developed Countries and Ratification of Human Rights Treaties: Motives for Adherence

Valerie A. Nolasco

February 2015

Master Thesis

Submitted in Partial Fulfillment of the Requirement for the Degree of Masters of Arts in International Affairs at the City College of New York

Advisor: Dr. Jacqueline Braveboy-Wagner
I dedicated this thesis to my two angels, my father Arzenio Nolasco and my brother Carlos Nolasco. Making you proud has given me the motivation to pursue graduate school and finish this thesis. I love and miss you dearly.

To my beautiful mother, Valeriana, thank you for being an exceptional role model and source of strength. Your unconditional love, support and encouragement has made me the woman I am today. A special thank you to my big brother, Geovanny. Thank you for being the best ‘personal assistant’ a sister could ever ask for.

I would also like to thank Annie Minguez, my editor-in-chief. You not only helped me with the thesis but throughout the last two years. I am forever in debt to you. I want to also thank my sisters, Ivette and Karen. You have kept me focused and given me the extra confidence I needed in moments when I felt defeated. Thank you for always being there for me. Alex I want to thank you for being the best library partner and motivator. You made my graduate school experience one to remember.

Last, but not least, a warm thank you to my love, Raymond. Your patience throughout this process did not go unnoticed. I appreciate you and love you more than words could ever express. Thank you for always reminding me of the bigger picture.

Thank you all for your unconditional support.
Abstract

“Human rights are inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. We are all equally entitled to our human rights without discrimination.”¹ The core of the international system for the promotion and protection of these rights are human rights treaties (HRTs).² With the level of importance human rights possess the assumption is that states would ratify HRTs immediately. Unfortunately, not all states either ratify these treaties or do so quickly. In this thesis I focus on the poorer countries of the world (Least Developed Countries, LDCs). I hypothesize that LDCs are motivated to ratify human rights treaties (HRTs) by the prospect of obtaining economic aid and legitimacy.

Before delving into which motive influenced Lesotho and Bangladesh to ratify treaties, I looked into what delayed them for so long. The three obstacles which could possibility affect a country’s ratification are: (a) political instability; (b) lack of economic and bureaucratic issues; and/or (c) cultural issues. Lesotho and Bangladesh each encountered these obstacles. Lesotho experienced a one party rule for 20 years (1970-1986) followed by a seven year military regime (1986-1993), therefore it was determined political instability played a significant factor in its ratification. Bangladesh democratized in 1991 and experienced a fairly stable period until 1998. During this period little progress was made in the area of human rights and thus it was determined political instability was not the primary impediment in Bangladesh’s case. The lack of economic

and bureaucratic resources was an obstacle that both countries encountered. Evidence suggested the lack of resources delayed their domestication of the treaty’s provisions not their ratification. With respect to cultural issues it had a minor effect in delaying Lesotho and Bangladesh in ratifying HRTs.

Overall, legitimacy was a more significant factor when these LDCs decided to ratify than economic aid. Since these countries received official development aid (ODA) more or less throughout the period under review, their ODA contributions were not related to their adherence to human rights treaties.

I conclude that there is evidence to support further research on the impact of the spread of human rights norms and the search for legitimacy among least developed countries.
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Chapter 1- Rationale for Thesis

On January 1, 1924 prior to the end of the war, the League of Nations (LoN) made a declaration motivated by the extent of the damage World War I had created. The LoN, with the assistance of nongovernmental activists, pledged to continue fighting against the Axis powers. This commitment was strengthened on December 10, 1948 when the United Nations (UN) and its member states adopted the Universal Declaration of Human Rights (UDHR), which laid the foundation for the first concerted efforts to protect the human rights of all people. Since then, the majority of states have joined at least one of the ten core International Human Rights Treaties\(^3\) (HRTs) and attention to human rights within the United Nations and other international organizations, both intergovernmental and nongovernmental, has flourished.\(^4\)

The United Nations international human rights treaties (HRTs) serve as the backbone of the global human rights regime. Unlike UN declarations, these instruments are legally binding documents and therefore are more capable of promoting global human

\(^3\) International Convention on the Elimination of All Forms Of Racial Discrimination (ICERD), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT), Convention on the Rights of the Child (CRC), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), International Conventional for Protection of All Persons from Enforced Disappearance (CPED), Convention on the Rights of Persons with Disabilities (CPRD)

rights. When confronted with a treaty, countries may decline to join, sign, and later ratify with reservations or ratify unconditionally. A state’s decision to ratify signifies a deeper sense of commitment since ratification results in being voluntarily bound by the treaty. In ratifying, states undertake the responsibility to create laws pertaining to the specific treaty and to implement them on a domestic level. There are instances when a state may take the initial step of signing an HRT but not go through with ratification. As a result, years may pass before the state revisits the HRT and finally decides to ratify the treaty. A state’s reason for ratifying after a prolonged period may derive from a number of factors; for the purposes of this thesis two related factors will be explored: the recognition of the economic benefits to be gained from developed countries, and the search for international legitimacy. According to Wotipka and Kiyoteru, as states increasingly participate in international society, they tend to internalize human rights norms and use ratification of human rights treaties as a signal to other countries that they are legitimate members of the international society. Governments that need more legitimacy in international society are more likely to ratify human rights treaties, because they need a cover for their domestic human rights problems.

In the case of least developed countries (LDCs), a core argument is that these countries ratify human rights treaties because they are motivated by aid concerns rather

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6 Ibid., 567.
8 Ibid., 749.
than because the state is genuinely concerned about human rights. On the other hand, like other states, LDCs seek the legitimacy that derives from ratifying treaties. States might ratify human rights treaties because they see ratification as what they “are supposed to do” in order to be good global citizens. Therefore, ratification is used to present a country as a member in good standing in the international community. If a state commits to the treaty it can deflect criticisms as well as pressure and unwanted attention. However, often these states have difficulty committing to these treaties. In some cases, LDCs are unable to ratify due to political instability, lack of economic resources to support the agencies and programs that must be established under the treaty, and/or cultural differences. These factors often lead to LDCs’ delay in ratifying human rights treaties in a timely manner. It is important to discuss the factors cited.

Treaties were created to protect the human rights of individuals and to create norms to help protect people everywhere from severe political, religious, legal and social abuses.⁹ States that adopt an HRT should genuinely be a part of a community that cares to stop severe abuses and promote a better quality of life for its citizens. HRTs are legally binding agreements that states should uphold and respect; if a state is unable to keep its commitment to human rights then its intentions should be questioned.

This research is guided by the idea that while global adherence to human rights norms is obviously highly desirable, least developed countries (LDCs), which form the bulk of nations in the world, encounter unique difficulties when it comes to ratifying treaties. In Chapter 2, I will delve into my research design.

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Chapter 2- Research Design

As stated in Chapter 1, it is often said, as one factor, that least developed countries ratify human rights treaties in exchange for economic incentives given by developed countries. For example Wotipka and Tsutsui state that hegemonic states take advantage of their standing to apply pressure, economic as well as military, to force other states to adopt human rights policies that are in line with their ideology or interests. Risse, Ropp and Sikkink state, "[w]ith regard to Third World countries, one could also assume that human rights conditions improve resulting from pressures by the World Bank and/or donor countries employing good governance criteria. State actors in Third World countries might enact liberalizing measures in order to get financial and economic development aid from the West or from multilateral institutions such as the World Bank and the International Monetary Fund (IMF)."

In terms of my second proposal, that states gain legitimacy via ratification, some human rights changes occur because a country’s leaders care about the perception of leaders of other countries. In this respect, James Fearon introduces the distinction between rules and norms: rules take the form of “do X to get Y,” while norms take a different form of “good people do X.” Thus, people sometimes follow norms because they want others to think well of them, and because they want to think well of themselves. People’s ability to think well of themselves is influenced by norms that are held by a relevant community of actors.

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2 Ibid., 8.
A state may decline to join a human rights treaty, sign it, ratify it with reservations, or ratify it unconditionally. It may also accede to a treaty. Signing a treaty implies a weaker obligation under international law than ratification. According to the U.N. *Treaty Handbook* (2001:3)

A signing State does not undertake positive legal obligation under the treaty upon signature… [Signature] allows States time to seek approval for the treaty at the domestic level and to enact any legislation necessary to implement the treaty domestically, prior to undertaking the legal obligation under the treaty at the international level.

Ratification… refer[s] to the act undertaken on the international plane, whereby a State establishes its consent to be bound by a treaty… Once a State has ratified a treaty at the international level, it must give effect to the treaty domestically. Upon ratification, the State becomes legally bound under the treaty.

Accession combines signature and ratification into a single act, and succession, whereby a newly established state accepts the treaty obligation of its predecessor.

This thesis will attempt to do two things, first to uncover what caused some Least Developed Country (LDCs) to delay their ratification of human rights treaties by ten years or more (explained below), and second to assess whether the prospect of receiving aid and legitimacy drives them to finally ratify. LDCs were selected as the focus of this thesis for the reason that they are economically handicapped, have low human development and are the most susceptible to accepting economic aid due to their

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4 Ibid., 571
5 Ibid., p. 567
6 Ibid., 571
hardships. For them, ratifying human rights treaties may be a way to obtain and maintain economic aid from the international community while simultaneously gaining legitimacy for ratifying. The reason I chose a period of ten years was because a preliminary analysis showed that the majority of states ratify within ten years of a human rights treaty’s entry into force.

**What are Least Developed Countries?**

The least developed country category comprises low-income developing countries which face severe structural impediments to growth.\(^7\) Indicators of such impediments are the high vulnerability of the countries’ economies and their low level of human capital.\(^8\)

The UN Office of High Commissioner, advised by the Committee for Development Planning (CDP), first put together a list of countries in 1971. The CDP is a subsidiary body of the UN Economic and Social Council, which reviews LDCs every three years and monitors their progress after graduation from the category.\(^9\) Initially, there were 24 countries which grew over the years to 48. Today the UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Developing States (UN-OHRLLS) uses the following criteria to identify and define LDCs: gross national income (GNI per capita), low level of human assets, and economic vulnerability to external shock. The two last elements are measured using the human asset index (HAI) and the economic vulnerability index (EVI). The low

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\(^8\) Ibid., p.1.

The income criterion is based on a three-year average estimate of GNI per capita, based on the World Bank Atlas method as of 2012. For a country to be classified as an LDC it must have a GNI of under $992 (US).\textsuperscript{10} The GNI criterion is critical in analyzing a state’s financial standing. GNI per capita can provide an indication of the income position of a country vis-à-vis other developing countries.\textsuperscript{11} It provides for a rough estimate of the productive capacity of an economy and the state’s ability to provide requisite services.\textsuperscript{12}

The Human Asset Index (HAI) provides information about the level of development of human capital.\textsuperscript{13} The human asset index has two indicators for health and nutrition and two for education. Those indicators are as follows: (a) nutrition- percentage of population undernourished; (b) health- mortality rate for children aged five years and under; (c) education- gross secondary school enrollment ratio; and (d) adult literacy rate. These indicators are an important measure because undernourishment compromises one’s health status and educational achievement and has an important negative impact on productivity.\textsuperscript{14} Similarly, the mortality rate for children aged 5 years and under is a measure of child survival and reflects the social, economic and environmental conditions in which children (and others in society) live, including health care.\textsuperscript{15} A low level of education is the main obstacle to development as it implies shortage of skills for the

\begin{itemize}
\item \textsuperscript{10} “Least Developed Countries,” UN-OHRLLS UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, accessed March 9, 2014, http://unohrlls.org/.
\item \textsuperscript{11} United Nations et al., Handbook on the Least Developed Country Category.
\item \textsuperscript{12} Ibid., p.39
\item \textsuperscript{13} Ibid., p.45.
\item \textsuperscript{14} Ibid.
\item \textsuperscript{15} Ibid.
\end{itemize}
organization and functioning of the economy. It also reflects a low capacity on behalf of the population to absorb technological advances.

The Economic Vulnerability Index (EVI) attempts to capture the relative risk posed to a country’s development by exogenous shocks. The EVI is based on the following indicators: (a) population size; (b) remoteness; (c) merchandise export concentration; (d) share of agriculture, forestry and fisheries in GDP; (e) share of population living in low elevated coastal zones; (f) instability of exports of goods and services; (g) number of victims of natural disasters (explanation below); (h) instability of agricultural production. The period for which victims of natural disasters varies with each CDP triennial review of LDCs. For instance, in the 2006 review the period spanned from 1990 through 2004. In the 2012 review the timeframe was from 1991 through 2010.

Based on UN-OHRLLS criteria it can be stated that these countries are poor and less industrialized than the rest of the world. Because LDCs are economically handicapped, they are often unable to provide their populations with basic necessities (i.e. food, clean and safe drinking water, etc.) and sustainable infrastructures (i.e. schools, hospitals). For instance, the creation of the eight Millennium Development Goals (MDGs) was in large part done to address and assist LDCs. These goals are: (1) eradicate extreme poverty and hunger; (2) achieve universal primary education; (3) promote gender equality and empower women; (4) reduce child morbidity; (5) improve maternal health; (6) combat HIV/AIDS, malaria and other diseases; (7) ensure environmental sustainability; and (8) create a global partnership for development. It is no coincidence that the OH-RLLS criteria for LDCs match the majority of the MDG goals. These goals were created

\[^{16}\text{Ibid., p.46}\]
to reach the world’s poorest, and that intended population resides within the 48 LDCs.

Table 2.1 gives the list of 48 countries the UN OH-RLLS has identified as least developed countries, as of 2013.

Table 2.1 The UN-OHRLLS list of Least Developed Countries & Date of Inclusion

<table>
<thead>
<tr>
<th>Country</th>
<th>Date of Inclusion to the list</th>
<th>Country</th>
<th>Date of Inclusion to the list</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>1971</td>
<td>Madagascar</td>
<td>1991</td>
</tr>
<tr>
<td>Angola</td>
<td>1994</td>
<td>Malawi</td>
<td>1971</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>1975</td>
<td>Mali</td>
<td>1971</td>
</tr>
<tr>
<td>Benin</td>
<td>1971</td>
<td>Mauritania</td>
<td>1986</td>
</tr>
<tr>
<td>Bhutan</td>
<td>1971</td>
<td>Mozambique</td>
<td>1988</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>1971</td>
<td>Myanmar</td>
<td>1987</td>
</tr>
<tr>
<td>Burundi</td>
<td>1971</td>
<td>Nepal</td>
<td>1971</td>
</tr>
<tr>
<td>Cambodia</td>
<td>1991</td>
<td>Niger</td>
<td>1971</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>1975</td>
<td>Rwanda</td>
<td>1971</td>
</tr>
<tr>
<td>Chad</td>
<td>1971</td>
<td>Sao Tome and Principe</td>
<td>1982</td>
</tr>
<tr>
<td>Comoros</td>
<td>1977</td>
<td>Senegal</td>
<td>2000</td>
</tr>
<tr>
<td>Djibouti</td>
<td>1982</td>
<td>Solomon Islands</td>
<td>1991</td>
</tr>
<tr>
<td>Equatorial Guinea</td>
<td>1982</td>
<td>Somalia</td>
<td>1971</td>
</tr>
<tr>
<td>Eritrea</td>
<td>1994</td>
<td>South Sudan</td>
<td>2012</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>1971</td>
<td>Sudan</td>
<td>1971</td>
</tr>
<tr>
<td>Gambia</td>
<td>1975</td>
<td>Timor-Leste</td>
<td>2003</td>
</tr>
<tr>
<td>Guinea</td>
<td>1971</td>
<td>Togo</td>
<td>1982</td>
</tr>
<tr>
<td>Guniea- Bissau</td>
<td>1981</td>
<td>Tuvalu</td>
<td>1986</td>
</tr>
<tr>
<td>Haiti</td>
<td>1971</td>
<td>Uganda</td>
<td>1971</td>
</tr>
<tr>
<td>Kiribati</td>
<td>1986</td>
<td>United Rep. of Tanzania</td>
<td>1971</td>
</tr>
<tr>
<td>Lao People’s Dem. Republic</td>
<td>1971</td>
<td>Vanuatu</td>
<td>1985</td>
</tr>
<tr>
<td>Lesotho</td>
<td>1971</td>
<td>Yemen</td>
<td>1971</td>
</tr>
<tr>
<td>Liberia</td>
<td>1990</td>
<td>Zambia</td>
<td>1991</td>
</tr>
</tbody>
</table>


Methodology

In order to assess my hypothesis, I have chosen to do two case studies. The following four steps facilitated my case study selection.
Step 1 - Identification of the core Human Rights Treaties

Below are the most important HRTs, the dates they were formulated, and the dates they came into force.

**Table 2.2: Human Rights Treaties**

<table>
<thead>
<tr>
<th>Human Rights Treaty</th>
<th>Date established</th>
<th>Entry into force</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)</td>
<td>December 10, 1984</td>
<td>June 26, 1987</td>
</tr>
</tbody>
</table>


I selected three out of the six core human rights treaties for further analysis: ICCPR, ICESCR and CEDAW. These treaties cover an array of rights from political rights to civil rights and rights of women. ICCPR commits states to guarantee their citizens civil and political rights which include the right to life, freedom of speech, freedom of religion, and electoral rights among many other rights. ICESCR commits states to ensure economic, social and cultural rights: right to education, labor rights, right
to health and various other rights. States which have ratified CEDAW, commit to
guaranteeing women the right to gender equality, right to social security, right to work
and so forth.

**Step 2: Which LDCs Ratified Human Rights Treaties?**

Since five of the six the conventions were formulated in the 1960s (except
CEDAW formulated in the 1970s) and entered into force in the 1970s (CEDAW in
1981), I am only interested in least developed countries that were classified as such by
the UN in the 1970s. Table 2.3 lists the reduced set of countries.

**Table 2.3: Least Developed Countries (1970s) and their Human Rights Treaties
Ratification Status**

<table>
<thead>
<tr>
<th>Least Developed Countries</th>
<th>ICERD 1965</th>
<th>ICCPR 1966</th>
<th>ICESCR 1966</th>
<th>CEDAW 1979</th>
<th>CAT 1984</th>
<th>CRC 1989</th>
<th>Ratified/Acceded to all six HRTs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>R</td>
<td>R</td>
<td>R</td>
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</tr>
<tr>
<td>Bangladesh</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>R</td>
<td>A</td>
<td>R</td>
<td>YES</td>
</tr>
<tr>
<td>Benin</td>
<td>R</td>
<td>A</td>
<td>A</td>
<td>R</td>
<td>A</td>
<td>R</td>
<td>YES</td>
</tr>
<tr>
<td>Bhutan</td>
<td>S</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>R</td>
<td>NO</td>
</tr>
<tr>
<td>Burkina</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>R</td>
<td>YES</td>
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<tr>
<td>Burkina Faso</td>
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<td>Burundi</td>
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<td>R</td>
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<td>Central African Republic</td>
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<td>A</td>
<td>R</td>
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<tr>
<td>Comoros</td>
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<td>S</td>
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<td>Ethiopia</td>
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<td>Gambia</td>
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<td>NO</td>
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Table 2.3- Continued

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<thead>
<tr>
<th>Least Developed Countries</th>
<th>ICERD 1965</th>
<th>ICCPR 1966</th>
<th>ICESCR 1966</th>
<th>CEDAW 1984</th>
<th>CAT 1984</th>
<th>CRC 1989</th>
<th>Ratified/Acceded to all six HRTs</th>
</tr>
</thead>
<tbody>
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<td>Lesotho</td>
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<td>R</td>
<td>A</td>
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<td>Yes</td>
</tr>
<tr>
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<td>A</td>
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<td>A</td>
<td>A</td>
<td>A</td>
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<td>Yes</td>
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<tr>
<td>Mali</td>
<td>A</td>
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<td>A</td>
<td>R</td>
<td>A</td>
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<td>A</td>
<td>R</td>
<td>A</td>
<td>R</td>
<td>Yes</td>
</tr>
<tr>
<td>Niger</td>
<td>R</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>R</td>
<td>Yes</td>
</tr>
<tr>
<td>Rwanda</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>R</td>
<td>A</td>
<td>R</td>
<td>Yes</td>
</tr>
<tr>
<td>Somalia</td>
<td>R</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>S</td>
<td>S</td>
<td>No</td>
</tr>
<tr>
<td>Sudan</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>S</td>
<td>R</td>
<td>R</td>
<td>No</td>
</tr>
<tr>
<td>Uganda</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>R</td>
<td>A</td>
<td>R</td>
<td>No</td>
</tr>
<tr>
<td>United Rep. of Tanzania</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>R</td>
<td>R</td>
<td>R</td>
<td>No</td>
</tr>
<tr>
<td>Yemen</td>
<td>R</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>R</td>
<td>Yes</td>
</tr>
<tr>
<td>Zambia</td>
<td>R</td>
<td>A</td>
<td>A</td>
<td>R</td>
<td>A</td>
<td>R</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Key
A= Accession
S= Signed
R= Ratified
ICERD= International Convention on the Elimination of All Forms of Racial Discrimination
ICCPR= International Covenant on Civil and Political Rights
ICESCR= International Covenant on Economic, Social & Cultural Rights
CEDAW= Convention on the Elimination of All Forms of Discrimination against Women
CAT= Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment


Step 3: Reduced Sample Pool of Countries

From the list of LDCs in Table 2.3, I found 17 least developed countries which have ratified all six core human rights treaties. Those countries are: Afghanistan, Bangladesh, Benin, Burkina Faso, Burundi, Chad, Ethiopia, Guinea, Laos, Lesotho, Malawi, Mali, Nepal, Niger, Rwanda, Yemen and Zambia. Of the six HRTs, I further reduced the sample pool by focusing on countries which delayed ratifying the three
selected core treaties by ten years of more. Tables 2.4, 2.5 and 2.6 reflect the further reduced list of countries and the date they ratified the three selected core human rights treaties: ICCPR, ICESCR and CEDAW.

**Table 2.4- Ratification of the ICCPR Adopted on December 16, 1966. Entry into force on March 23, 1976**

<table>
<thead>
<tr>
<th>Least Developed Country</th>
<th>Signed</th>
<th>Ratified/ Acceded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangladesh</td>
<td>N.A.</td>
<td>9/2000a</td>
</tr>
<tr>
<td>Benin</td>
<td>N.A.</td>
<td>3/12/1992a</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>N.A.</td>
<td>1/4/1999a</td>
</tr>
<tr>
<td>Burundi</td>
<td>N.A.</td>
<td>5/9/1990a</td>
</tr>
<tr>
<td>Chad</td>
<td>N.A.</td>
<td>6/9/1995a</td>
</tr>
<tr>
<td>Lesotho</td>
<td>N.A.</td>
<td>9/9/1992a</td>
</tr>
<tr>
<td>Malawi</td>
<td>N.A.</td>
<td>12/22/1993a</td>
</tr>
<tr>
<td>Nepal</td>
<td>N.A.</td>
<td>5/14/1991a</td>
</tr>
</tbody>
</table>


**Table 2.5: Ratification of the ICESCR Adopted on December 16, 1966 entry into force January 3, 1976**

<table>
<thead>
<tr>
<th>Least Developed Countries</th>
<th>Signed</th>
<th>Ratified/ Acceded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>N.A.</td>
<td>1/24/1983a</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>N.A.</td>
<td>10/5/1998a</td>
</tr>
<tr>
<td>Benin</td>
<td>N.A.</td>
<td>3/12/1992a</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>N.A.</td>
<td>1/4/1999a</td>
</tr>
<tr>
<td>Least Developed Countries</td>
<td>Signed</td>
<td>Ratified/Acceded</td>
</tr>
<tr>
<td>---------------------------</td>
<td>--------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>8/14/1980</td>
<td>3/5/2003a</td>
</tr>
<tr>
<td>Chad</td>
<td>N.A.</td>
<td>6/9/1995a</td>
</tr>
<tr>
<td>Lesotho</td>
<td>7/17/1980</td>
<td>8/22/1995</td>
</tr>
<tr>
<td>Niger</td>
<td>N.A.</td>
<td>10/8/1999a</td>
</tr>
</tbody>
</table>

Source: United Nations Treaty Collection Convention on the Elimination of All Forms against Women

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The List of LDCs has now been further reduced to 9, 10 and 7, to reflect ratification delays in the ICCPR, ICESCR and CEDAW from the original list of 48 countries.

**Step 4: Final Choice**

Benin, Burundi, Chad and Lesotho appear on all three lists. Those are four African countries and of those four I chose one, Lesotho. Chad and Benin suffered from various conflicts and military coups over the period I am looking at. Lesotho was, on the other hand, comparatively stable.

I also wanted to include an Asian country and even though none of the Asian countries had delayed ratifying all three human rights treaties, I decided to select countries which had delayed ratifying two. These countries were Afghanistan, Bangladesh, Laos and Nepal. Of these I chose Bangladesh as the largest, most democratic (despite many setbacks) country.

My case studies are therefore Lesotho and Bangladesh.

**Step 5: What Caused the Delay in Ratification?**

Before considering the reasons why my two states eventually ratified the HRTs I also wanted to explain what domestic circumstances caused them to delay. As I said earlier, three obstacles were identified: (a) political instability; (b) lack of economic and bureaucratic resources; and/or (c) cultural issues. With respect to (b), I should explain that when a treaty is ratified it also must be domesticated. Domestication is the process of internalizing and implementing legislation to give effect to a treaty. Once a country makes the decision to be legally bound to an HRT via ratification or accession, the next step is domestication. This step is usually the most difficult for countries, particularly LDCs, because the programs and institutions that are required to be established as part of
the treaty must be financially backed. Countries are also required to submit periodic reports to the respective treaty committee. These reports are designed to highlight the legislative and, judicial policies and other measures states have taken to implement the rights affirmed in the conventions they ratified. The ICCPR’s CCPR Committee requires states to submit their report within one year of ratifying the treaty and thereafter every five years. The ICESCR’s CESC Committee requires states to submit their report within two years of ratification and thereby every five years; and CEDAW requires states to submit within one year of ratification and every four years post-ratification. Since LDCs do not have quite as many resources as Advanced Developed Countries, it is more difficult for them to carry out such provisions.

Step 6- Aid and Legitimacy as Reasons for Ratifying

After discussing the cause of delay for my two case studies, I will investigate what might have motivated Lesotho and Bangladesh to ratify after such a long time. I suggest the following two options as motives: (a) the prospect of retaining and maintaining the flow of aid, represented here as Official Development Aid (ODA); and/or (b) the prospect of gaining legitimacy in the international community.

The Development Assistance Committee (DAC) defines ODA as flows to countries and territories on the DAC list of ODA recipients and to multilateral development institutions. Flows are transfers of resources, either in cash or in the form of commodities or services. Each transaction made by the DAC is administered with the promotion of the economic development and welfare of developing countries as its main

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objective. Least Developed Countries are included in the DAC along with upper, middle
and low income countries. UN-administered or UN-approved peace operations are ODA
eligible. Those activities and operations include: human rights, election monitoring,
rehabilitation of demobilized soldiers and of national infrastructure and so forth.¹⁹ Social
and cultural programs meet eligibility of ODA via the promotion of museums, libraries,
art and music schools and sports training facilities and venues counts as ODA.²⁰ Nuclear
energy is ODA eligible provided it is for civilian purposes (i.e. nuclear safety and
medical use of radioisotopes). Only research directly and primarily relevant to the
problems of developing countries may be counted as ODA.²¹ Assistance to refugees is
limited to the first 12 months of stay of when a refugee from a developing country arrives
to a donor country. Also all costs associated with eventual repatriation to the developing
country of origin are also ODA eligible. Military aid, civil police work, and anti-terrorism
are excluded from receiving ODA.

Literature- Theoretical Perspectives

Liberalism

Liberalism is the school of thought that is most relevant to any discussion of
human rights. It emphasizes interdependence between states and substate actors²² as the
key characteristic of the international system.²³ The core beliefs of liberalism consist of

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¹⁹ Ibid.
²⁰ Ibid.
²¹ Ibid.
²² Substate actors- actors within a state that interact with others outside the state, such as local
businesses that import goods from abroad and provincial governments that establish trade mission
in other countries. James Lee Ray and Juliet Kaarbo, Global Politics (Boston: Houghton Mifflin
²³ James Lee Ray and Juliet Kaarbo, Global Politics (Boston: Houghton Mifflin Company, 2007),
7.
strengthening global economic ties, promoting international organizations and spreading
democratic ideals. Since states are interdependent according to liberal theorists, their
interests are intertwined and cooperation is likely. Liberals believe in the steady
expansion of human freedom through various political strategies. According to
liberalism, “[c]entral to the realization of greater human freedom is the growth of
international cooperation. Cooperation is needed to maximize the possible benefits and
minimize the possible damages of interactions and interdependence and to capture the
opportunities for realizing greater peace, welfare and justice.”

Liberals view cooperation as an ideal which is central to progress in human freedom. Although
liberalism places great emphasis on interdependence and cooperation, it also focuses on
the impact domestic politics have on state behavior.

Liberalism places great emphasis on international organizations. Liberals actively
promote the rise of international organizations (IOs), particularly intergovernmental
organizations in which states are members. International organizations such as the United
Nations and the World Trade Organization facilitate cooperation, which liberals see as in
the interests of states. International organizations help establish agreements and
international law that can provide incentives for cooperation and organized, collective
responses for punishing states that do not cooperate. Furthermore, international
institutions can actually change a state’s interests by developing new norms of

24 Mark Zacher and Richard Matthew, “Liberal International Theory: Common Threads,
Divergent Strands,” in Controversies in International Relations Theory: Realism and the
Neoliberal Challenge (Boston: Cengage Learning, 1995), 118.
12.
international behavior, such as the respect for human rights and by developing mechanisms for cooperation, such as economic integration.\textsuperscript{26}

Liberalism is relevant to this thesis because it focuses on the importance of norms and on states’ coming together internationally in IOs to cooperate with one another to reach an agreement on human rights treaties (HRTs). Adherence to HRTs is dependent on interdependence and cooperation among states. The effectiveness of HRTs also depends on domestic cultural and political factors.

Liberal theory argues that domestic interests shape states’ actions internationally, and that states ratify treaties when powerful domestic actors lobby for the cause.\textsuperscript{27} It follows that adherence to a treaty is achieved more quickly in states where domestic actors can express preferences to their governments. Ratification occurs more readily in democratic states because such states are more responsive to the preferences of domestic interest groups.\textsuperscript{28}

Countries join human rights treaties to reinforce domestic politics and reforms.\textsuperscript{29} In addition, the decision to join human rights treaties is motivated by the expected payoffs of treaty membership.\textsuperscript{30} States are incentivized or driven by the expected payoffs they anticipate by joining the rest of the international community. By ratifying, states are entering an international community, creating closer ties in an attempt to avoid being ostracized for not ratifying. For instance, if a country lies in a region in which human

\begin{thebibliography}{9}
\bibitem{26} Ibid.
\bibitem{28} Ibid., p.693
\bibitem{30} Ibid., 570
\end{thebibliography}
rights norms are highly valued, it will seek to demonstrate its commitment to these shared norms and thereby strengthen relations with other countries within the region—countries that because of their proximity, are more likely to engage with them in trade and security alliances. Domestic politics and reforms in newly democratic countries impact ratification of human rights treaties because newly democratic countries seek to prevent autocratic backsliding. In countries where accountability mechanisms are weak, reformers bind themselves (and their successors) to external accountability systems such as treaty regimes. Human rights treaty membership therefore “locks in” liberal reforms by delegating authority and enforcement to international organizations.

**Constructivism**

Constructivism proposes the most important aspects of global politics are socially “constructed” through systems of norms, beliefs, and discourse. Constructivists believe that international politics is shaped by persuasive ideas, collective values, culture, norms, and social identities. In a sense, constructivists are more interested in understanding the subjective than the objective. Constructivism’s relevance to this thesis lies in the several important insights it gives into the process of ratification. A state ratifies a treaty in part because of its commitments to the norms or ideas that it embodies, so states must first have been persuaded by these norms. Countries join human rights treaties to affirm a

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34 Ibid., 17.
sincere commitment to treaty principles. According to norm-based approaches such as constructivism, countries support or oppose treaties purely on substantive grounds, and will join only those treaties that affirm their deep-seated normative, cultural, or ideological commitments.\textsuperscript{36} Genuine treaty commitments render provisions designed to enforce, coerce, or evade compliance unnecessary because “true believers” comply even in the absence of such measures.\textsuperscript{37} Countries that join human rights treaties are therefore expected to ratify without qualification regardless of the mechanisms established for monitoring and enforcing compliance.\textsuperscript{38}

For constructivists, state interests are formed through interactions with other states because social structures both constrain actors and enable them to develop their interests. According to norms scholar Martha Finnemore, “[s]ocially constructed rules, principles, norms of behavior, and shared beliefs may provide states, individuals, and other actors with an understanding of what is important or valuable and what are effective and/or legitimate means of obtaining those valued goods.”\textsuperscript{39} State interests are defined in the context of internationally held norms and understandings about what is good and appropriate.\textsuperscript{40} Norms can be defined as a “broad class of prescriptive statements—rules, standards, principles, and so forth—both procedural and substantive” that are “prescriptions for action in situations of choice, carrying a sense of obligation, a sense

\textsuperscript{37} Ibid.
\textsuperscript{38} Ibid.
\textsuperscript{40} Ibid., p.2.
that they ought to be followed.”

Norms have a quality of “oughtness” that sets them apart from other kinds of rules. Norms are identified by regularities of behavior among actors. Norms reflect actual patterns of behavior and give rise to expectations as to what will in fact be done in a particular situation. On the other hand, norms reflect patterned behavior which gives rise to normative expectations as to what ought to be done. Thus regularity is combined with an internal attitude involving criticism of oneself or others on the ground that a particular norm is being violated.

We recognize norm-breaking behavior because it generates disapproval or stigma.

States are embedded in dense networks of transnational and international social relations that shape their perceptions of the world and their role in that world. States are socialized to want certain things by the international society in which they and the people in them live. States are socialized to accept new norms, values, and perceptions of interest by international organizations. These transnational networks, are important influences on state behavior because a state’s interest changes as the interests of its neighboring states change. In this vein, Martha Finnemore and Kathryn Sikkink argue that a “norm cascade” results when states’ behavior reaches a tipping point, persuading reluctant states to adopt a new norm created by the majority. Once states have adopted a

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41 Andrew Hurrell, “Chapter 7: Norms and Ethics in International Relations,” in Handbook of International Relations, ed. Walter Carlsnaes, Thomas Risse, and Beth A. Simmons (SAGE, 2002), p.143
42 Ibid.
43 Ibid.
45 Martha Finnemore, National Interests in International Society.
46 Ibid., p.5.
norm, other states will be motivated by a desire to enhance their legitimacy, reputation, and esteem by also adopting the norm.47

Constructivist scholars such as Finnemore, Sikkink, Risse and various others emphasize the ways in which international organizations can socialize or teach states to accept the goals and values embedded in international law. Drawing on their key assumptions that state interests are defined in a context of internationally held norms—norms that are often embedded by international law and carried by governmental as well as nongovernmental actors—constructivists have argued that states comply with international law when government elites learn to accept and incorporate shared norms and values that structure international political life.48 International organizations not only constrain states’ behavior through legal sanctions applied to international law, they also socialize states to accept new norms and values, such as the human rights enshrined in international law today.49

**Human Rights Treaty Ratification**

The notion of a least developing country ratifying a treaty in order to receive aid and legitimacy (though legitimacy is an argument that applies to other states as well) is supported by human rights scholars such as Hathaway, Posner, Hafner-Burton, Magesan and several others who have researched and conducted studies in an attempt to determine the link between aid, legitimacy and HRTs.

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48 Martha Finnemore, *National Interests in International Society*.
Oona Hathaway examines why states decide to ratify HRTs, and concludes that countries ratify treaties in order to obtain collateral incentives, which are the incentives created by collateral effects. States ratify to make themselves look good to developed countries. By doing so, they hope to attract foreign investment, aid donations, international trade, and other tangible benefits.⁵⁰

Magesan constructs a dynamic game of treaty ratification, known as a game of oligopoly competition where firms invest in quality. Here aid receiving countries compete to attract economic resources from the developed world by ratifying costly human rights treaties.⁵¹ He believes donor countries make resource allocation decisions based on the relative treaty participation of recipient countries.⁵² In his research he establishes that aid donors reward countries that participate more frequently in HRTs: countries that ratify HRTs more frequently than other aid recipients experience an increase in foreign aid receipts.⁵³ The decision to donate aid to HRT participants is consistent with rational donors having positive preferences for human rights conditions in recipient countries. Therefore, countries that participate in HRTs receive more foreign aid than countries that do not. He concludes that there is indeed a linkage between aid and HRTs’ ratification. He states that when there is a 10 percent decline in aid as an incentive to ratify, then there is 33 percent less chance the state will ratify the treaty.⁵⁴ In

⁵² Ibid., 5.
⁵³ Ibid., 9.
⁵⁴ Ibid., 49.
comparison, when human rights is used as the sole motive without the use of incentives to persuade states to ratify a treaty, there are hardly any changes to ratification behavior.

Posner’s position is different from the rest of the human rights scholars. He is more concerned with human rights effectiveness in constraining states and his research dwells more on the attention that should be given to human welfare and not human rights. His explanation as to why developing countries ratify is that this is due to international pressure from the West (developed nations). According to Posner, some developing countries, “[s]uccumb to pressure from Western states that tie aid and other benefits (such as EU membership) to treaty ratification.”\textsuperscript{55} The aid given to developing countries is significant and is intended to improve the well-being of the poor, but much of it is designed to serve strategic or political interests of the donor. Posner recalls, “[a]t one time, donor nations did not expect that recipient nations would necessarily comply with HRTs, but in recent years there has emerged a norm of ‘rights-based development’ that insists that aid must be sensitive to the human rights practices of the recipient state.”\textsuperscript{56}

Posner introduces a third party that influences ratification, international organizations (IOs). He believes international organizations like the World Bank and International Monetary Fund encourage recipients of aid to improve their human rights record. Posner finds support from norm scholars such as Risse, Ropp and Sikkink. They are interested in the conditions under which HR regimes and the principles, norms and rules embedded in them are internalized and implemented domestically.\textsuperscript{57} Risse, Ropp and Sikkink find that developed countries and IOs apply pressure to states to ratify in

\textsuperscript{56} Ibid., p.1796.
\textsuperscript{57} Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, \textit{The Power of Human Rights}., p.35
exchange for aid. They state, “[w]ith regard to Third World countries, one could assume that human rights conditions improve resulting from pressures by the World Bank and/or donor countries employing good governance criteria. State actors in Third World countries might enact liberalizing measures in order to get financial and economic development aid from the West or from multilateral institutions such as the World Bank and the International Monetary Fund (IMF).”

Hafner-Burton and Tsutsui examine the impact of the international human rights regime on government human rights practices. They propose an explanation that highlights a “paradox of empty promises.” Their arguments are that governments often ratify human rights treaties as a form of window dressing and human rights advocates leverage legitimacy as a global norm of appropriate state behavior, thus pressuring states to improve their human rights practices. In conducting their research they find that the decision to ratify by developing countries is a “symbolic gesture to signal that the government is not a deviant actor,” and does not necessarily lead to compliant practices with the treaty. In other words, ruling elites might ratify a treaty to gain legitimation in international society, putting little effort into aligning their behavior with the treaty provisions. Legitimacy is an intangible benefit valued in the international community. A legitimate state is viewed as authentic and capable of handling issues that may arise within its borders.

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58 Ibid., p.35.
60 Ibid., p.1383
61 Ibid.
Many scholars including Finnemore have focused on the “logic of appropriateness,” in which states adopt international norms because they become convinced that such behavior is appropriate for any actor claiming statehood.\(^{62}\) In this view, norms become constitutive of statehood such that states routinely adopt them as part and parcel of their identities as states. Sociologists adopting a world society approach argue in a similar vein that institutional forms spread throughout states because they are legitimized internationally as part of what it means to be a state.\(^{63}\)

Hafner et al research the rationale behind repressive regimes ratifying HRTs and conclude that legitimacy, among numerous other factors, influences ratification. According to them, “[t]he subscribing sovereign gains, or claims, legitimacy in the eyes of superior sovereigns, peers, internal and external competitors, and internal subordinate groups and interests. This clearly helps explain why, as we show below, very large numbers of nation-states ratify human rights treaties -- far beyond those few states that have some prospect of effectively implementing these treaties in practice.”\(^{64}\)

These scholars have contributed tremendously to the literature on human rights treaties. In the next few chapters, I seek to add to the literature by investigating whether there is a correlation between ratification and economic aid/legitimacy by taking a deeper look at two countries. But first in Chapter 3 I will take a closer look at the performance of

\(^{62}\) Martha Finnemore, *National Interests in International Society*.


all LDCs and in particular the 17 LDCs (Table 2.3) which ratified all six treaties. This chapter will provide a general understanding of these LDCs and their attitudes toward human rights.
Chapter 3- Least Developed Countries

The Least Developed Countries (LDCs) represent the poorest and weakest segment of the international community.\(^1\) Their low level of socio-economic development is accompanied by weak human and institutional capacities, low and unequally distributed income and scarcity of domestic financial resources.\(^2\) They often suffer from governance crises and internal and external conflicts. In this chapter I will provide an overview of LDCs performance in ratifying the core human rights treaties (HRTs). Aside from lack of economic resources, LDCs share similar political, social and cultural characteristics, which shape their identity as least developed. Those characteristics will be closely examined to provide a better understanding of least developed countries.

Africa

As previously mentioned, the majority of LDCs are located within the African continent. Twenty-two of the 34 African LDCs ratified the six human rights treaties (HRTs). The African states share similar societal and cultural values, turbulence in their political histories, and experience similar issues in the area of human rights.

In the mid to late 19th Century, the European powers colonized much of Africa and Southeast Asia. During the decades of imperialism, the industrializing powers of Europe viewed the African and Asian continents as reservoirs of raw materials, labor and territory for future settlement.

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\(^2\) "About LDCs A Propos Des Pays Les Moins Avancés."
The 1960s was a critical decade for Africa. The majority of the states obtained their independence from their European colonial rulers: France, Belgium, Spain, and United Kingdom. A few newly independent countries acquired stable governments almost immediately; others were ruled by dictators or military juntas for years or endured long civil wars. A trend among these newly independent states is that approximately within 15 years of independence they were inducted into the Committee for Development Policy (CDP) list of least developed countries.

The colonial powers drew arbitrary natural boundaries where none had existed before, dividing ethnic and linguistic groups and laying the foundation for the creation of numerous states lacking geographic, linguistic, ethnic, and political affinity. Once they gained their independence there was no established infrastructure for the new nations to follow and their colonial rulers were no longer supporting the states. Thus the new nations had difficulties establishing stable government. As mentioned before, some were able to establish stable government but the majority experienced authoritarian regimes or military government. Many new nations endured civil conflict and patrimonial regimes post-independence. Patrimonialism is a form of political domination, in which authority rests on the personal and bureaucratic power exercised by a royal household, where that power is formally arbitrary and under the direct control of the ruler. For instance, the president of former Zaire, present day Democratic Republic of Congo (DRC), Mobutu Sese Seko ruled the Congo under a patrimonial style. Two years into office, Mobutu

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consolidated his rule and proceeded to give the country a new constitution and a single party. Under the new constitution executive powers were centralized in the office of the president who would be the head of state, head of government, commander in chief of the armed forces and the police, and in charge of foreign policy. Mobutu would reign over Zaire for the next 30 years (1965-1997).

In addition, African nations became independent during the era of East-West conflict and many African countries adopted socialist regimes. For instance, Benin obtained its independence in 1960 and for the next 12 years it endured several coups and regime changes. In 1972, the new leader of Benin Lt. Col Mathieu Kerekou declared the country Marxist-Leninist, garnering support from the Eastern bloc. This regime lasted until 1989, just after the collapse of the USSR. In 1990, the country began the democratization process by holding multi-candidate presidential elections. Once Benin transitioned into a democratic state it ratified human rights treaties.

Despite the collapse of the Eastern bloc and end of the Cold War, the problems in Africa have intensified with respect to civil rights. African states are still experiencing civil conflict and the democratization process is a difficult transition for some. If you look at Table 3.1, under the Freedom House rating there is a ‘not free’ or ‘partially free rating for many African states. As can be seen many states are still not free because they violate civil and political rights.

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Table 3.1- African Least Developed Countries

<table>
<thead>
<tr>
<th>LDCs</th>
<th>Year of Independence</th>
<th>Induction into LDC list</th>
<th>Freedom Rating</th>
<th>Main Religion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benin*</td>
<td>1960</td>
<td>1971</td>
<td>Free</td>
<td>Christianity</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>1960</td>
<td>1971</td>
<td>Partially Free</td>
<td>Islam</td>
</tr>
<tr>
<td>Burundi**</td>
<td>1962</td>
<td>1971</td>
<td>Partially Free</td>
<td>Christianity</td>
</tr>
<tr>
<td>Chad **</td>
<td>1960</td>
<td>1971</td>
<td>Not Free</td>
<td>Islam</td>
</tr>
<tr>
<td>Table 3.1 Continued</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DRC**</td>
<td>1960</td>
<td>1971</td>
<td>Not Free</td>
<td>Christianity</td>
</tr>
<tr>
<td>Djibouti</td>
<td>1977</td>
<td>1982</td>
<td>Not Free</td>
<td>Islam</td>
</tr>
<tr>
<td>Equatorial Guinea</td>
<td>1968</td>
<td>1982</td>
<td>Not Free</td>
<td>Christianity</td>
</tr>
<tr>
<td>Eritrea</td>
<td>1968</td>
<td>1994</td>
<td>Not Free</td>
<td>Islam</td>
</tr>
<tr>
<td>Ethiopia*</td>
<td>1968</td>
<td>1971</td>
<td>Not Free</td>
<td>Ethiopian Orthodox</td>
</tr>
<tr>
<td>Guinea</td>
<td>1958</td>
<td>1971</td>
<td>Partially Free</td>
<td>Islam</td>
</tr>
<tr>
<td>Guinea- Bissau*</td>
<td>1973</td>
<td>1981</td>
<td>Not Free</td>
<td>Islam</td>
</tr>
<tr>
<td>Liberia</td>
<td>1847</td>
<td>1990</td>
<td>Partially Free</td>
<td>Christianity</td>
</tr>
<tr>
<td>Madagascar*</td>
<td>1960</td>
<td>1991</td>
<td>Partially Free</td>
<td>Indigenous beliefs</td>
</tr>
<tr>
<td>Malawi</td>
<td>1964</td>
<td>1971</td>
<td>Partially Free</td>
<td>Christianity</td>
</tr>
<tr>
<td>Mali*/**</td>
<td>1960</td>
<td>1971</td>
<td>Partially Free</td>
<td>Islam</td>
</tr>
<tr>
<td>Mauritania</td>
<td>1960</td>
<td>1986</td>
<td>Not Free</td>
<td>Islam</td>
</tr>
<tr>
<td>Niger</td>
<td>1960</td>
<td>1971</td>
<td>Partially Free</td>
<td>Islam</td>
</tr>
<tr>
<td>Rwanda**</td>
<td>1962</td>
<td>1971</td>
<td>Not Free</td>
<td>Roman Catholic</td>
</tr>
<tr>
<td>Senegal</td>
<td>1960</td>
<td>2000</td>
<td>Free</td>
<td>Islam</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>1961</td>
<td>1982</td>
<td>Partially Free</td>
<td>Islam</td>
</tr>
<tr>
<td>Togo</td>
<td>1960</td>
<td>1982</td>
<td>Partially Free</td>
<td>Indigenous beliefs</td>
</tr>
<tr>
<td>Zambia</td>
<td>1964</td>
<td>1991</td>
<td>Partially Free</td>
<td>Protestant</td>
</tr>
</tbody>
</table>

Key

*= Former Socialist country
**= Child solider recruitment is a problem in these countries

Freedom House Rating system is to be defined as follows:

Free means a country or territory which enjoys a wide array of political and civil liberties; the political liberties include free and fair elections; civil liberties are freedom of
expression, assembly, association, education and religion. Partially Free countries moderately protect almost all political and civil rights or strongly protect some political and civil rights while neglecting others. Countries which are considered Not Free have few or no political and civil rights because of severe government oppression, sometimes in combination with civil war. These countries allow virtually no freedom of expression or association, do not protect the rights of detainees and prisoners.

Today African LDCs are still caught in a never ending cycle between democracy and one party rule. With such instability, citizens’ civil and political rights are not respected and at times states are not considered fully free. An example of this volatility and its effect on civil rights is the serious concern over the recruitment of child soldiers within the continent. Recruitment has occurred in Burundi, Sierra Leone, Rwanda, Chad, the Democratic Republic of Congo (DRC), and Mali. For example, the Eastern part of the DRC has been torn by conflict since 1996 and in 2012 the situation intensified. The M23, a Rwandan backed armed group which has committed widespread war crimes has been actively recruiting Congolese children. The UN documented 910 children (783 boys and 127 girls), who have been newly recruited and used by armed groups. Almost half of the children were reportedly used as combatants, informants, carriers and other support roles. Most of the girls were subjected to sexual slavery. In the 2014 Universal Periodic Review (UPR), the Secretary General noted, “An alarming number of reports of grave violations of children’s rights were documented, including killing and maimed child

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7 Ibid.  
8 Universal Periodic Review is a review of the human rights records of all UN Member states. UPR provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations.
recruitment, sexual violence and occupation of schools.” The Secretary-General addressed to the Security Council in May 15, 2013:

The resurgence of conflict in the eastern Democratic Republic of the Congo following the creation of the Mouvement du 23 mars (M23) in April 2012 resulted in a marked increase in the number of grave violations against children. M23 is responsible for systematic recruitment and use of children. A total of 65 boys between 13 and 17 years of age, including 25 who claimed to be Rwandan, escaped or surrendered from M23 between April and December 2012. A total of those boys 21, (18 Rwandan and 3 Congolese) stated they were recruited on Rwandan territory to fight in the DRC. Testimonies from former M23 combatants suggested that hundreds of children remained in M23. As a direct result of conflict-related violence, 154 children (86 boys and 64 girls) were killed and 113 (76 boys and 35 girls) were injured in 2012. The report continues to discuss incidents that were sparked by M23 including cases of rape and other forms of sexual violence performed on children. In 2012, 5,584 children associated with armed forces and armed groups received support from the United Nations, as did 5,022 child victims of sexual violence. While the efforts of the government to cease underage recruitment are commendable, the lack of accountability for perpetrators of grave violations against children remains of concern. More has to be done to ensure that adult perpetrators are duly prosecuted. Of the 185 cases of rape and sexual violence against children by government security forces documented in 2012, only 40 alleged perpetrators were arrested and 4 sentenced.10

Socio-Economic Rights

In addition to the civil and political human rights issues, the people of the continent are suffering from violations of socio-economic rights. Table 3.2 demonstrates the correlation between human development and the economic status of the African LDCs. As mentioned in Chapter 2, in order to be classified as an LDC, the country must have a Gross National Income (GNI) per capita of $992 and under. For some countries like Burundi a GNI per capita of $992 is unattainable; the country has a GNI per capita of $280 in 2013 (the highest GNI it has ever experienced; it has been on the CDP list of

LDCs since 1971 but has yet to surpass $992. Although it has ratified all six human rights treaties its HDI is one of the lowest. Its citizens are experiencing a low quality of life and are barely receiving their basic necessities. Equatorial Guinea is an exception to the rule that LDCs have a low per capita income. Its GNI per capita for 2013 was $14,320. Equatorial Guinea was inducted into the CDP list of LDCs in 1982. In the last past decade it has experienced rapid economic growth due the discovery of large offshore oil reserves.\(^1\) This rapid economic growth has garnered approval for the country to graduate from the list of LDCs. On December 4, 2013, the General Assembly endorsed the recommendation of the CDP and Economic and Social Council (ECOSOC) to graduate in 3 ½ years. Nevertheless, Equatorial Guinea citizens’ suffer from low human development, placing 144 on the 2014 Human Development Index.

In education, the expected years of schooling for Burundi citizens’ are 10.1 years.\(^2\) The human development index defines years of schooling as the number of years a child of school entrance age can expect to receive if prevailing patterns of age specific enrollment rates persist throughout the child’s life.\(^3\) Equatorial Guinea has an expected years of schooling of 8.5 years. The life expectancy in Equatorial Guinea the life expectancy at birth is 53 years compared to Burundi 54.\(^4\) There are several factors involved when accounting for quality of life but for the most part African states’

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\(^3\) Ibid.
\(^4\) Ibid.
economic hardships are getting in the way of providing for better human development within their borders.

Table 3.2- Socio-Economic Status of African States

<table>
<thead>
<tr>
<th>Least Developed Countries</th>
<th>Gross National Income per capita for 2013(^{15})</th>
<th>Human Development Index for 2014(^{16})</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benin #</td>
<td>$790</td>
<td>165</td>
</tr>
<tr>
<td>Burkina Faso #</td>
<td>$670</td>
<td>181</td>
</tr>
<tr>
<td>Burundi</td>
<td>$280</td>
<td>180</td>
</tr>
<tr>
<td>Chad#</td>
<td>$1,020</td>
<td>184</td>
</tr>
<tr>
<td>DRC</td>
<td>$400</td>
<td>186</td>
</tr>
<tr>
<td>Djibouti #</td>
<td>N.A.</td>
<td>170</td>
</tr>
<tr>
<td>Equatorial Guinea</td>
<td>$14,320*</td>
<td>144</td>
</tr>
<tr>
<td>Eritrea #</td>
<td>$490</td>
<td>182</td>
</tr>
<tr>
<td>Ethiopia #</td>
<td>$470</td>
<td>173</td>
</tr>
<tr>
<td>Guinea #</td>
<td>$460</td>
<td>179</td>
</tr>
<tr>
<td>Guinea-Bissau #</td>
<td>$520</td>
<td>177</td>
</tr>
<tr>
<td>Liberia #</td>
<td>$410</td>
<td>175</td>
</tr>
<tr>
<td>Madagascar</td>
<td>$440</td>
<td>155</td>
</tr>
<tr>
<td>Malawi</td>
<td>$270</td>
<td>174</td>
</tr>
<tr>
<td>Mali #</td>
<td>$670</td>
<td>176</td>
</tr>
<tr>
<td>Mauritania #</td>
<td>$1,060</td>
<td>161</td>
</tr>
<tr>
<td>Niger #</td>
<td>$410</td>
<td>187</td>
</tr>
<tr>
<td>Rwanda</td>
<td>$620</td>
<td>151</td>
</tr>
<tr>
<td>Senegal #</td>
<td>$1,070</td>
<td>163</td>
</tr>
<tr>
<td>Sierra Leone #</td>
<td>$680</td>
<td>183</td>
</tr>
<tr>
<td>Togo #</td>
<td>$530</td>
<td>166</td>
</tr>
<tr>
<td>Zambia</td>
<td>$820</td>
<td>141</td>
</tr>
</tbody>
</table>


\(^{16}\) Khalid Malik, United Nations Development Programme, and Human Development Report Office, *Sustaining Human Progress*, 162
Africa is home to several of the world’s worse performing countries in terms of respect for human rights. The majority of African states commit societal abuses targeting women, children and the Lesbian, Gay, Bisexual and Transgender community. Violence against women, sexual exploitation and human trafficking are relatively common. Female Genital Mutilation/Cutting (FGM/C) occurs in some countries and recognized internationally as a violation of the human rights of girls and women. According to the World Health Organization (WHO), it reflects deep-rooted inequality between the sexes, and constitutes an extreme form of discrimination against women. FGM/C is practiced in 29 countries in Africa and the Middle East, 15 of which are included in Table 3.2. The causes of female genital mutilation include a mix of cultural, religious and social factors within families and communities. Where FGM/C is a social convention, the social pressure to conform to what others do and have been doing is a strong motivation to perpetuate the practice. FGM/C is associated with cultural ideals of femininity and modesty. In most societies, FGM/C is considered a cultural tradition, which is often used as an argument for its continuation. Eleven of the 15 countries are predominantly Islamic states; though no religious scripts prohibit the practice, practitioners often believe the practice has religious support. Despite no religion

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condoning the practice, it is worth noting that there is a correlation between Islamic states and FGM practices. For instance, 96 percent which is 6.5 million of Guinea’s girl and women population have been affected by the practice of FGM/C. Despite the practice being banned in the 1960s and still considered illegal today, Guinea’s Office for the Protection of Gender, Children and Morals (OPROGEM) Special Police Unit prosecuted only one case of FGM/C in 2013. Guinea’s persistent practice of FGM/C is a major violation to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), a Convention which Guinea signed in 1980 and ratified two years later in 1982. Seeing that the country ratified all six human rights treaties, it is disheartening that it is experiencing such difficulty eradicating a practice that is detrimental to the rights of girls and women. Guinea is not alone in the practice and the following are the remaining top four countries with the highest percentage of girls and women aged 15 to 49 years who have undergone FGM/C: Djibouti 93%, Mali 89%, Sierra Leone 88%, and Burkina Faso 76%, and the remaining Islamic states in Table 3.2.

Asia-Pacific

There are far fewer LDCs in Asia Pacific and their ranking in the Human Development Index (HDI) is generally higher. Despite those variations, in the Asia-Pacific region there are also states which violate political and civil rights, and in particular the rights of women and children. Today the majority of these countries are not free and there are restrictions on basic freedoms (speech and assembly), accusations of cruel inhuman treatment against detainees, arbitrary arrests, and unlawful killings of

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opposition candidates. In the area of women and children rights, in countries including Afghanistan, Cambodia and Yemen women and children endure sexual based violence, underage and forced marriages, trafficking in persons, and sex and labor trafficking.

**Table 3.3: Least Developed Countries in Asia-Pacific**

<table>
<thead>
<tr>
<th>LDCs</th>
<th>Year of Independence</th>
<th>Induction into LDC list</th>
<th>Freedom</th>
<th>Main Religion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan <em>/</em>*</td>
<td>1919</td>
<td>1971</td>
<td>Not Free</td>
<td>Sunni Muslim</td>
</tr>
<tr>
<td>Cambodia</td>
<td>1953</td>
<td>1991</td>
<td>Not Free</td>
<td>Buddhist</td>
</tr>
<tr>
<td>Laos</td>
<td>1953</td>
<td>1971</td>
<td>Not Free</td>
<td>Buddhist</td>
</tr>
<tr>
<td>Nepal</td>
<td>1768</td>
<td>1971</td>
<td>Partially Free</td>
<td>Hindu</td>
</tr>
<tr>
<td>Timor-Leste</td>
<td>2002</td>
<td>2003</td>
<td>N.A.</td>
<td>Roman Catholic</td>
</tr>
<tr>
<td>Yemen **</td>
<td>1967</td>
<td>1971</td>
<td>Not Free</td>
<td>Islam</td>
</tr>
</tbody>
</table>


**Key:**

*Former Socialist country

**Child Soldier recruitment is an issue in those countries

Like African states, Asian-Pacific countries also endured authoritarian, socialist and one-party rule governments. These forms of regimes may influence a country’s attitude towards human rights. For instance Laos, is one of the world’s few remaining communist states.20 This country is an extreme case of violations of human rights.

According to Freedom House ranking, Laos Freedom Rating is 6.5 (1=best, 7=worst); civil liberties 6 and political liberties 7. The country’s 1991 constitution makes the Laos People’s Revolutionary Party (LPRP) the sole legal political party and grants it a leading

role at all levels of government.\textsuperscript{21} As previously mentioned, the lack of respect for its citizens’ civil and political rights derives from its governing style. The U.S. State Department Country Report on Human Rights Practice for 2013 Laos stated, “Among the most significant human rights problems continued to be that the government denied the right to change their government, infringements on freedom of speech, press assembly and association.”\textsuperscript{22} In order for more freedoms to be granted a change of government must take place. Unless the critical step of transitioning governments is taken, Laotians will continue to endure infringement on their civil and political rights.

Yemen is an example of a country where civil conflict has escalated to the extent of recruiting child soldiers. Armed conflict involving Houthi-aligned forces persists in the north and between the Yemeni Armed Forces (YAF) and al-Qa’ida in the Arabian Peninsula in the south of the country.\textsuperscript{23} Children in Yemen are vulnerable to recruitment and engagement in ongoing armed conflicts.\textsuperscript{24} During the reporting period, 106 children were reported to be recruited, all boys between 6 and 17 years of age.\textsuperscript{25} While a 1991 law prohibits the use of child soldiers, the YAF, many tribal militias and al Qa’ida in the Arabian Peninsula, among various other groups, continue to have children in their ranks. Family members, military officers and local sheiks facilitate the recruitment of children

\textsuperscript{24} Ibid.
\textsuperscript{25} Ibid.
for the YAF through the means of false identification and birth certificates. The Yemini government is not doing enough to prevent recruitment from occurring. The government does not appear to have any disarmament, demobilization, or reintegration programs for children affected by armed conflict.

Laos serves to demonstrate the manner in which a form of government may infringe the civil and political rights of its citizens, while Yemen serves as an example of how civil conflict may be used to recruit child soldiers.

**Socio-Economic Rights**

As mentioned earlier, there is a correlation between economic and social development. There is a noticeable increase in GNI for Asian-Pacific countries compared to African states. This increase in GNI can be equated with higher social development but unfortunately it is not the case for the majority of states. Cambodia and Yemen will be examined in regards to women and children’s rights.

**Table 3.4: Socio-Economic status of Asia-Pacific**

<table>
<thead>
<tr>
<th>LDCs</th>
<th>Gross National Income per capita for 2013</th>
<th>Human Development Index 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>$700</td>
<td>169</td>
</tr>
<tr>
<td>Cambodia</td>
<td>$950</td>
<td>136</td>
</tr>
<tr>
<td>Laos</td>
<td>$1,460</td>
<td>139</td>
</tr>
<tr>
<td>Nepal</td>
<td>$730</td>
<td>145</td>
</tr>
<tr>
<td>Timor-Leste</td>
<td>$3,580</td>
<td>128</td>
</tr>
<tr>
<td>Yemen #</td>
<td>$1,330</td>
<td>154</td>
</tr>
</tbody>
</table>


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26 Ibid.
As can be noted from Table 3.4, Cambodia has a GNI per capita of $950 and placed 136th in the human development index. Despite its “low” placement and moderate GNI (for an LDC), there are several problems in regards to women and children’s rights. Cambodia has a traditional society, which is a factor in children’s rights specifically in rural areas. Within these traditional structures children are not seen as having rights but responsibilities. In a 2012 survey conducted by the government called the Cambodia Labor Force and Child Labor Survey, data indicated that more than half of child laborers ages 5-17 were engaged in agriculture, forestry and the fishing sector. Children in rural areas are more susceptible to child labor than children in urban areas due to the prevalence of rural poverty and lack of educational opportunities. Despite creating legislation establishing a minimum age for employment, rural families rely on the additional income that derives from their child’s labor.

Cambodian women suffer widespread economic and social discrimination. Only 9.9 percent of the female population has obtained a secondary education compared to 22.2 percent for males. Rape and violence against women is common. The 2013 U.S. State Department Country Report on Human Rights Practices stated, “There likely was underreporting on the problem of rape and domestic violence because of inadequate crime statistics reporting women’s fear of reprisal by perpetrators. NGOs reported

29 Ibid.
30 Khalid Malik, United Nations Development Programme, and Human Development Report Office, Sustaining Human Progress., p. 174
authorities did not aggressively enforce domestic law and avoided involvement in domestic disputes.\textsuperscript{31}

The U.S. State Department 2014 Human Trafficking Report classifies Yemen as a Tier 3 country. Tier 3 countries do not fully comply with the minimum standards and are not making significant efforts to do so.\textsuperscript{32} The report describes Yemen as a, “country of origin and, to a lesser extent, a transit and destination country for men, women, and children subjected to forced labor, and women and children subjected to sex trafficking.”\textsuperscript{33} The Yemeni government and international NGOs estimate that there are approximately 1.7 million laborers under the age of 14 in Yemen, some of whom are subjected to forced labor.\textsuperscript{34} A factor that encourages impoverished Yemeni families is that often children are paid the same wages as adults. A serious concern aside from forced labor is sex trafficking and forced marriages in the country. Yemini girls, some as young as 15 years-old, are subjected to sex trafficking within the country and in Saudi Arabia. There is no criminal law that prohibits foreign tourists from sexually exploiting children and adults in Yemen. The trafficking law is not fully comprehensive, and only narrowly focuses on transactions and movement of humans internationally. There are no provisions for children trafficked domestically. As for forced marriages, there is no


\textsuperscript{34} Ibid. p. 411
minimum age for marriage in Yemen, and there is evidence that girls as young as eight are forced into marriage.\textsuperscript{35}

In the area of women’s rights, Yemeni women continue to face discrimination in several aspects of life.\textsuperscript{36} For instance, a woman must obtain permission from her husband or father to receive a passport and travel abroad. This behavior goes against Article 5(a) of CEDAW,

\begin{quote}
To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.\textsuperscript{37}
\end{quote}

Women are vastly underrepresented in government; there is only one woman in the lower house of parliament in 2013.\textsuperscript{38} In education, school enrollment of girls falls far that of boys.\textsuperscript{39} The Yemeni female population with a secondary education is 7.6 percent compared to 24 percent for males.\textsuperscript{40}

Overall, LDCs in both the regions experienced and continue to experience violations in the areas of civil, political, and socio-economic rights. It must be noted that all the countries which were cited as examples of violating rights actually ratified all six human rights treaties. This brings the question, if such gross violations are occurring to the citizens of these countries, what made them ratify all six HRTs? In the chapters to come I will attempt to address this question. Using Lesotho and Bangladesh as my case

\footnotesize
\textsuperscript{35} United States Department of Labor, “2013 Findings on the Worst Forms of Child Labor - Yemen.”
\textsuperscript{38} Freedom House, “Yemen: Freedom in the World 2014.”
\textsuperscript{39} Ibid.
\textsuperscript{40} Khalid Malik, United Nations Development Programme, and Human Development Report Office, \textit{Sustaining Human Progress.}, p. 174
studies I will delve into what caused their delay in ratification and what influenced them to ratify the treaties eventually. Like the countries mentioned in this chapter, they are LDCs and have experienced their own difficulties in addressing human rights.
Chapter 4- Lesotho

Background

Lesotho is an example of a Least Developed Country that has signed on to human rights treaties but has experienced a delay of ten years or more in acceding/ratifying human rights treaties. Based on my hypothesis then, Lesotho probably experienced on or all of the following obstacles to justify such a delay: (a) political instability; (b) lack of economic and bureaucratic resources; (c) cultural concerns. Once it decided to ratify, I propose, it probably did so for reasons of economic aid and/ or legitimacy.

Lesotho, officially named the Kingdom of Lesotho is located in the Southern part of Africa. Lesotho represents the southernmost landlocked country in the world and has an area of 30,355 square kilometers. Its population was expected to reach 1,942,008 by July of 2014. Lesotho is considered a Least Developed Country and has been on the Committee for Development Policy (CDP) list since 1971. With a gross national income per capita (GNI) of $1,380, the Kingdom of Lesotho has a higher GNI than some of the LDCs on the UN’s list.

Political History

The Kingdom of Lesotho, formerly known as Basutoland, was a former British protectorate. Lesotho has had a turbulent, if not particularly bloody, period after independence with several parties, army factions and the royal family competing for power in coups and mutinies. It gained independence from Britain on October 4, 1966.

Moshoeshoe II became king and Chief Leabua Jonathan, a member of the Basotho National Party (BNP), became prime minister of Basutoland.

The BNP ruled from 1966 until 1970. In the first election post-independence held in January of 1970, Leabua Jonathan, then the acting Prime Minister, ran against the BCP candidate, Ntsu Mokhehle. The BCP won in a landslide victory but the BNP was not ready to relinquish power. Jonathan declared a state of emergency, suspended the constitution, instituted a de facto party system with no regular elections, imprisoned various opponents, and exiled the king. Jonathan’s decision to remain in power caused great political instability: riots ensued and a guerilla wing, the Lesotho Liberation Army, was created by the BCP. The BNP would remain in power for the next 16 years (1970-1986). Jonathan resorted to iron rule politics anchored in the police and the paramilitary forces he had created to keep vigilance over the population. Under Jonathan, there was a major escalation of coercion and a glaring setback for human rights. The majority of deaths and atrocities, numbering in the hundreds rather than the tens, occurred during the period of resistance immediately following Chief Jonathan’s decision to retain power. Ironically, despite the human rights violations occurring within the country Jonathan was an outspoken critic of apartheid South Africa, a stance which garnered him favor with the international community.

By the early 1980s, opposition was building against Jonathan and the BNP. There was renewed hostility when Jonathan permitted China, the then Soviet Union and North Korea to open embassies in Lesotho in 1982. In 1986, a military coup led by Major-

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3 John Bradley et al., *South Africa: Lesotho & Swaziland* (Modern Overland, 2011), 582.
5 John Bradley et al., *South Africa*., (Modern Overland, 2011), 582.
General Justin Lekhanya deposed the BNP government in a bloodless coup. The military government governed Lesotho for the next seven years (1986-1993). During this period the military government ratified the ICCPR and ICESCR in 1992. The Military Council reinstated King Moshoeshoe II as head of state, granting him executive powers (the king up until then was a ceremonial monarch). In February 1990, conflict arose within the Military Council. King Moshoeshoe wrote a memorandum requesting more executive powers than what was already granted to him by the Military Council. Subsequently, King Moshoeshoe was dethroned and went into exile, and his son King Letsie III was installed as the head of state. In April 1991 Maj. Lekhanya, the chairman of the Military Council, was deposed by a coup led by Col. Elias Tutsoane Rameama. Rameama lifted the ban on political activity and promised a new constitution.\(^6\) In March 1993, the first democratic elections since 1970 were held and the BCP was voted into power. Ntsu Mokhehle became Prime Minister under the BCP. Once a new democratic government took office, King Letsie III tried unsuccessfully to persuade the BCP to reinstate King Moshoeshoe as head of state.

In August of 1994, another military coup led by King Letsie III, deposed the BCP administration. The displacement of the BCP only lasted a month; in September of 1994 the BCP was reinstated and King Moshoeshoe II was allowed to return as king. Unfortunately, in January 1996 King Moshoeshoe was killed in an accident and King Letsie was restored as king.

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During this period (1994-1996), Lesotho experienced economic pressures. The country was heavily affected by the Apartheid regime in South Africa and its own political turmoil. When international donors removed economic sanctions against South Africa, Lesotho was negatively impacted; its economy declined because its competitor was no longer economically isolated.\(^7\) Lesotho had enjoyed the advantage of being close to South Africa, a target of economic sanctions. In conjunction with the removal of sanctions, South Africa reduced the demand for Sotho laborers, which consequently increased unemployment and underemployment and increased the political instability within the country.\(^8\) As a result, Prime Minister Mokhehle, the leader at the time, was dismissed. Mokhehle went on to form his own political party, the Lesotho Congress of Democrats (LCD). LCD won the general elections in 1998, but the victory caused protests and riots by the opposition. With the assistance of the international community, troops were sent in to handle the country’s unrest. A solution to the constant opposition to the victory of rival parties was the implementation of a new electoral system, the Mixed Proportional System. This system was used in the 2002 elections to ensure fair and equal representation of parties. However, the opposition deemed the results fraudulent, despite the polls being monitored by international observers. This turbulence continued for several years.

Today, Lesotho is still a constitutional monarchy with King Letsie III serving as ceremonial head of state. The lower house of Parliament, the National Assembly, is comprised of 120 seats; 80 seats are filled through first past-the-post constituency votes

\(^7\) Ibid.
\(^8\) Ibid.
and 40 through proportional representation. Members serve five-year terms, and the leader of the majority party becomes the prime minister. The Senate, the upper house of Parliament, consists of Lesotho’s 22 traditional principal chiefs.

**Human Rights Issues**

**Table 4.1: Ratification of Human Rights Treaties by Lesotho (1966)**

<table>
<thead>
<tr>
<th>Core Human Rights Treaties</th>
<th>Date of Signature</th>
<th>Date of Ratification, accession or succession</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICERD (1966)</td>
<td>November 4, 1971a</td>
<td></td>
</tr>
<tr>
<td>ICESCR (1966)</td>
<td>September 9, 1992a</td>
<td></td>
</tr>
<tr>
<td>ICCPR (1966)</td>
<td>September 9, 1992a</td>
<td></td>
</tr>
<tr>
<td>CEDAW (1979)</td>
<td>July 17, 1980</td>
<td>August 22, 1995</td>
</tr>
<tr>
<td>CAT (1984)</td>
<td></td>
<td>November 12, 2001a</td>
</tr>
</tbody>
</table>


Despite Lesotho’s tumultuous political history, it has ratified all of the six core human rights treaties: ICERD, ICESCR, ICCPR, CEDAW, CAT and CRC. Nevertheless, Lesotho’s human rights record requires improvement. The country has various human rights issues, which include societal abuse of women and children, the stigmatization of

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10 Ibid.
11 Ibid.
persons with disabilities, human trafficking, discrimination against persons with 
HIV/AIDS and the persistence of child labor.

As demonstrated by Table 4.1, Lesotho has made the commitment to be legally 
bound by these HRTs. Human rights are guaranteed under Chapter 2 of Lesotho’s 
constitution. It covers fundamental human rights and freedoms ranging from right to life 
to the right to participate in government. Although the rights of its citizens are 
guaranteed, there are difficulties in the creation of legislation and implementation of 
these rights. Lesotho has a dual legal system- Roman Dutch Law (common law) and 
Basotho customs (customary law). These two systems of law have equal validity with the 
proviso that in cases of inconsistency, statutory law prevails.\(^\text{12}\) However, the two systems 
cannot be applied simultaneously in a given situation.\(^\text{13}\) Lesotho’s legal duality poses a 
serious problem for the domestication of a HRTs, because this duality creates a 
contradiction, thus making the creation of legislation a difficult process.

In spite of Lesotho’s human rights challenges and conflicting legal duality, the 
UN reports that it is working towards improving its performance in the area of human 
rights. For instance, Lesotho is attempting to achieve the Millennium Development Goals 
(MDGs). It is currently on track to achieving the gender equality and women’s 
empowerment targets of Goal 3.\(^\text{14}\) It is also on track to achieving Goal 2 targets on

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\(^{13}\) Ibid.

education.\textsuperscript{15} I selected CEDAW, ICCPR and ICESCR to highlight some of Lesotho’s improvements as well as challenges in the area of women’s rights, socio-economic rights, and civil/political rights.

**CEDAW**

Lesotho ratified CEDAW on August 22, 1995. CEDAW’s 30 articles are said to provide a blueprint to promote basic human rights, achieve progress and overcome barriers of discrimination against women and girls, while recognizing that it is up to each country to determine how best to bring their policies and laws in line with ending discrimination against women.\textsuperscript{16} Lesotho’s constitution and law prohibit discrimination based on race, gender, disability, language, or social status. The constitution recognizes customary law as a parallel legal system, however, under which women remain disadvantaged with regard to property rights, inheritance, and succession rights.\textsuperscript{17} The following are the forms of violations the women of Lesotho face: discrimination, rape and domestic violence, sexual harassment, violations of reproductive rights and harmful traditional practices.

**Rape**

The law criminalizes rape including spousal rape and domestic violence. When cases are reported, authorities are said to enforce the law promptly. However, sexual assault and rape are often not reported. Domestic violence against women is widespread

\textsuperscript{15} Ibid.
\textsuperscript{17} “Country Reports on Human Rights Practices for 2013.”
and under reported. Since it is under reported very few cases are brought to trial.\textsuperscript{18} Categorizing the type of domestic violence used to charge offenders is very vague and therefore judges convict offenders at their own discretion.\textsuperscript{19}

**Sexual Harassment**

The Law criminalizes sexual harassment, indecent exposure and sexual assault.\textsuperscript{20} Victims rarely reported sexual harassment. According to the registrar of the Labor Court, only one case has been reported since 2002 and the plaintiff’s lawyer withdrew that case.\textsuperscript{21}

**Discrimination**

Men and women enjoy equal rights in civil and criminal courts. The law prohibits discrimination against women under formal and customary law. The law also prohibits discrimination against women in access to employment or credit, education, pay, housing or in owning or managing businesses. However, contrary to the law women do experience discrimination in all these aspects of life.

**ICCPR- Civil and political rights**

Lesotho acceded to the ICCPR on September 9, 1992. In acceding to the ICCPR, Lesotho is legally bound to respect civil and political rights of individuals, including: freedom of speech, freedom of assembly, right to life and the right to due process and a


\textsuperscript{19} Ibid.

\textsuperscript{20} Ibid.

\textsuperscript{21} Ibid.
fair trial. For instance, Article 7 of the ICCPR states, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”

Although the constitution and law expressly prohibit such practices, in 2013 there were reported instances of torture and cruel, inhuman, or degrading treatment or punishment by police. The Lesotho Mounted Police Service (LMPS) investigated 24 reported cases of police allegedly torturing suspects. An instance of this abuse was an arrest made by police on June 27, 2013. Kabelo Makateng was arrested on the basis of assaulting a police officer; he was arrested and released seven days later without being charged. During his detention, four policemen allegedly blindfolded Makateng, burned his arms with an iron rod, poured hot water on his torso, and assaulted him with a knobkerrie. Police did not allow Makateng contact with family members during his detention. This is one example of the numerous obstacles Lesotho’s government faces as it works towards remedying its ICCPR violations.

**ICESCR- Economic and Social rights**

Lesotho’s government acceded to the ICESCR on September 9, 1992. Under this Covenant, Lesotho’s citizens have multiple socio-economic rights guaranteed to them; the right to health is included within those rights. According to ICESCR Article 12(1), “Right to Health: The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

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23 Ibid.
health.” The right to health in general is important but in the case of Lesotho, it is critical because of the HIV/AIDS pandemic occurring within the country.

Lesotho has the second highest HIV/AIDS prevalence in the world. Twenty-nine percent of the population ages 15-49 years old experiences a cut in their life expectancy from 60 years old to a staggering 35 years. Approximately 23 percent of the population is infected and an estimated 358,700 people are living with HIV/AIDS. Lesotho is reportedly attempting to remedy this situation. The Ministry of Health and Social Welfare offers counseling and testing for pregnant women as part of antenatal care. In government hospitals and clinics, pregnant women receive free antenatal check-ups and thereafter, their newborn babies are entitled to a free immunization course up to the age of 5 years including the vitamins and nutritional supplements.

In an attempt to improve Lesotho citizens’ right to health, the country says that it is undergoing reforms to achieve a sustained increase in access to quality preventive, curative and rehabilitative health services throughout Lesotho. In 2011, 12.8 percent of its gross domestic product (GDP) was contributed to its health sector. Access to health services in the country is divided among four institutions, namely, the Government through the Ministry of Health and Social Welfare, Christian Health Association of Lesotho (CHAL), the Private Practitioners or Sector and Non-Governmental Organizations. In total, there are 20 hospitals with 2,466 beds, 157 health centers and four

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26 Ibid.
filter clinics. In terms of health care professionals, there is one doctor per 14,808 people and one nurse per 2,990 people. Fees for normal surgical deliveries are standardized in the hospitals while services in all health centers are free. In an effort to improve the number of hospitals, the government is building a 425-bed referral hospital in Lesotho’s capital, Maseru and three filter clinics. The Millennium Challenge Corporation is supporting the rehabilitation of 150 Health Centers, training of health professionals and construction of the National Laboratory.

On the Human Development Index (HDI), Lesotho ranks 158 out of 187 countries, which places the country in the low human development category. The 2013 Human Development Report stated, “[o]f 132 countries with a complete data series, only 2 had a lower HDI value in 2012 than in 1990: Lesotho and Zimbabwe.” Among Lesotho’s numerous challenges is eradicating poverty, hunger, and the HIV/AIDS epidemic. Poverty, drought and the HIV/AIDS epidemic have rendered more than half of Lesotho dependent on food assistance. 26.7 percent of the population is vulnerable to poverty and 11 percent of the population lives in severe poverty. In fact, 43 percent are

29 Ibid., 14.
30 Ibid.
31 Ibid.
32 Ibid.
34 UNICEF, “UNICEF Lesotho Background.”
35 Ibid.
living on less than $1.25 a day.\textsuperscript{36} Despite emergency food donations, it seems unlikely that Lesotho will eradicate hunger or extreme poverty by 2015.\textsuperscript{37}

Reasons for Delay in Ratification

As shown in Table 4.1, there was a delay of 14 to 16 years in ratifying CEDAW and ICCPR and ICESCR (an exception to the delays is the CRC, which gathered a rapid response from the Lesotho government and was ratified within two years of its signature). I look into the three factors previously mentioned as possible motives for Lesotho’s delay.

**Political Instability**

As already described the BNP was in power from 1966 until 1986. In the 20 years of the BNP little progress was made in the area of human rights. In fact, Prime Minister Jonathan abused his authority by suppressing human rights, specifically civil and political rights of Lesotho citizens. It was not until after the BNP was deposed that the military government ratified ICCPR and ICESCR. It is therefore clear that political instability was a major factor in the delay in ratifying these treaties, since 20 years transpired without either of the two treaties being signed nor ratified. CEDAW was signed under the BNP in 1980 but not ratified until 1995. Between 1980 through 1986, the BNP had the opportunity to ratify CEDAW, but Jonathan’s authoritarian regime prevented any advancements in the area of human rights. The military government assumed power in 1986 but did not ratify CEDAW until 1993. CEDAW was ratified by the new democratic administration under the BCP. I believe political instability served as Lesotho’s reason

\textsuperscript{36} Ibid. Statistics are from the years 2002-2011
\textsuperscript{37} Ibid.
for delay due to the various political transitions the country endured. Although I deem political instability as the primary reason for delay I will investigate whether a lack of economic resources/ bureaucratic and cultural issues were a possibility in Lesotho delaying ratification.

**Lack of Economic Resources/ Bureaucratic Issues**

When a state ratifies a Convention it is obliged to carry out the mandates of the treaty via domestication. States are required to adopt legislation, build agencies and implement all the requirements mandated by human rights treaties. Country reports are also an essential obligation mandated under conventions. Lesotho, as a least developed country, has experienced constraints which have prevented the country from fully complying with convention mandates. In the country’s Universal Periodic Report and CEDAW periodic reports, Lesotho has repeatedly expressed its limited capacity in explaining why it did not submit its reports on time. Lesotho has reported on the following Conventions: ICCPR in 1999, ICERD in 2000 and CRC in 2001, all of which were overdue. Due to very limited capacity it has been lagging behind in reporting on other conventions. Limited capacity has been the sole cited cause of delays in domesticating some of the conventions.\(^{38}\) When the Lesotho Minister of Justice and Human Rights and Correctional Services appeared before the 50\(^{th}\) session of the Committee on CEDAW, she stated that the late submission of the report was caused by insufficient financial and human resources. Lesotho’s continued economic constraints have hindered its ability to follow through with the required mandates of the conventions.

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but it may be, then, that concern about these responsibilities also played a role in delaying ratification in the first place. However, it is more likely that the lack of bureaucratic and economic resources played more of a factor in domesticating HRTs and not in ratifying treaties.

**Cultural Differences**

Lesotho has a dual legal system, Roman Dutch Law (common law) and Basotho customs (customary law). These two systems of law have equal validity with the proviso that in cases of inconsistency, statutory law prevails. However, the two systems cannot be applied simultaneously in a given situation. Lesotho’s legal duality poses a serious problem upon domestication of an HRT; custom and common law often conflict with one another. An example of the conflict Lesotho’s duality creates is demonstrated in the country’s ratification of CEDAW. The state ratified with a reservation on Article 2, which encompasses the domestication of the convention. Lesotho states under the reservation:

[quote]
The Government of the Kingdom of Lesotho declares that it does not consider itself bound by article 2 to the extent that it conflicts with Lesotho’s constitutional stipulations relative to succession to the throne of the Kingdom of Lesotho and law relating to succession to Chieftainship.\(^3\)

When Lesotho was approached by the Human Rights Council in their Universal Periodic Review to remove the reservation of Article 2 of CEDAW, the response was a follows:

The recommendation does not enjoy the support of the Government of Lesotho in that it conflicts with the Basotho Customary Law of succession to the throne and Chieftainship. This would require extensive and comprehensive consultations.
Despite this, the legal duality could not be the primary reason for Lesotho’s delay in ratifying the convention, precisely because countries have a right to add reservations—which Lesotho did.

In the next section, I turn to the hypothesis that Lesotho may have eventually ratified the HRTs for economic reasons and legitimacy.

**Aid**

What motives influenced Lesotho to ratify the conventions after its 20-year plus delay. Was it: (a) the prospect of receiving/maintaining the flow of economic aid (ODA), or (b) seeking legitimacy from the international community. The two are not mutually exclusive as legitimacy could lead to receiving more aid.

Table 4.2 shows Lesotho’s ODA from 1980-1998, a timeframe selected on the basis of the dates of signature, accession/ratification of the ICESCR, ICCPR, and CEDAW. ODA is not dispersed immediately to countries in need but gradually over time; therefore the use of a three-year post ratification period was considered advisable. The chart reflects fluctuations in ODA, developmental food aid and humanitarian aid during this period (1998 represents three years after the ratification of CEDAW).

**Table 4.2 Lesotho ODA Breakdown**

<table>
<thead>
<tr>
<th>Year</th>
<th>ODA (in millions dollars)</th>
<th>Developmental Food Aid (in millions dollars)</th>
<th>Humanitarian Aid (in millions dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980 Signed CEDAW</td>
<td>93,160,000</td>
<td>12,080,000</td>
<td>.54</td>
</tr>
<tr>
<td>1981</td>
<td>103,250,000</td>
<td>14,580,000</td>
<td>.46</td>
</tr>
<tr>
<td>1982</td>
<td>92,350,000</td>
<td>7,290,000</td>
<td>.66</td>
</tr>
<tr>
<td>1983</td>
<td>106,180,000</td>
<td>14,670,000</td>
<td>.72</td>
</tr>
<tr>
<td>Year</td>
<td>Population</td>
<td>ODA</td>
<td>HRT</td>
</tr>
<tr>
<td>--------</td>
<td>------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>1984</td>
<td>98,460,000</td>
<td>15,340,000</td>
<td>.63</td>
</tr>
<tr>
<td>1985</td>
<td>92,180,000</td>
<td>11,470,000</td>
<td>.42</td>
</tr>
<tr>
<td><strong>1986 Government Transition</strong></td>
<td><strong>85,380,000</strong></td>
<td><strong>6,710,000</strong></td>
<td><strong>.29</strong></td>
</tr>
<tr>
<td>1987</td>
<td>104,850,000</td>
<td>7,310,000</td>
<td>.42</td>
</tr>
<tr>
<td>1988</td>
<td>108,900,000</td>
<td>6,910,000</td>
<td>.37</td>
</tr>
<tr>
<td>1989</td>
<td>134,510,000</td>
<td>4,260,000</td>
<td>.19</td>
</tr>
<tr>
<td>1990</td>
<td>139,130,000</td>
<td>2,160,000</td>
<td>.17</td>
</tr>
<tr>
<td>1991</td>
<td>123,310,000</td>
<td>4,650,000</td>
<td>.2</td>
</tr>
<tr>
<td><strong>1992 Acceded to ICCPR &amp; ICESCR</strong></td>
<td><strong>143,160,000</strong></td>
<td><strong>6,060,000</strong></td>
<td><strong>.25</strong></td>
</tr>
<tr>
<td>1993</td>
<td>143,060,000</td>
<td>1,660,000</td>
<td>.17</td>
</tr>
<tr>
<td>1994</td>
<td>115,620,000</td>
<td>.19</td>
<td>.05</td>
</tr>
<tr>
<td><strong>1995 BCP ratified CEDAW</strong></td>
<td><strong>125,650,000</strong></td>
<td><strong>12,690,000</strong></td>
<td><strong>.82</strong></td>
</tr>
<tr>
<td>1996</td>
<td>103,210,000</td>
<td>3,460,000</td>
<td>.44</td>
</tr>
<tr>
<td>1997</td>
<td>91,340,000</td>
<td>.11</td>
<td>.19</td>
</tr>
<tr>
<td>1998</td>
<td>61,170,000</td>
<td>1,550,000</td>
<td>.37</td>
</tr>
</tbody>
</table>

*Source: OECD, QWIDS Database*

Lesotho signed onto CEDAW on July 17, 1980 and in 1981, the women’s HRT went into force. At the time Lesotho was a Cold War ally and receiving a relatively high amount of aid despite its human rights problems. In the 1980s, however, ODA decreased as the regime moved away from the West and opposition also began to build against the regime. As already noted, in 1982 the BNP opened embassies for the Eastern bloc. International donors could have interpreted Jonathan’s action as leaning towards the Communist bloc. Because of both, internal opposition and the turn to the left, Lesotho
experienced a decline in ODA in the early 1980s (except 1983). The overall ODA dropped to $85 million in 1986, the lowest figures in the 1980s. 1986 was the year Lesotho underwent a political transition, and the BNP was replaced in a bloodless coup.

Initially donors did not react harshly to the military government that came to power after 1986. Although donors did not publicly denounce the military take-over and threaten suspension of economic assistance, they exerted a quiet diplomacy exhorting the military to return to multi-party rule. The Military Council was able to maintain a steady stream of ODA because it moved Lesotho back to being a firm Western ally. With the collapse of the Soviet Union, authoritarian regimes were put under pressure to accede to both political and economic liberalization. When Lesotho finally made the transition from military government into a democratic state it aligned its politics with the majority of its donors. In doing so Lesotho was growing closer to its donors, thus enjoying a boost in its ODA.

In 1992 Lesotho’s military regime acceded to the 1966 treaties and it received a significant increase in aid of approximately $20 million dollars. Ratifying these HRTs certainly created a better relationship with the country’s donors, but the increase in 1992 can be attributed to Lesotho’s call for help from donors to assist them with a drought that affected the country. The country received ODA from NGOs (USAID, Peace Corps, and AID) and donor countries in the form of humanitarian aid. The Peace Corps and AID donated approximately $580,000 and 5.7 million respectfully; those funds were aimed at

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41 Ibid., 31.
alleviating the effects of the drought.\textsuperscript{42} ODA for Lesotho was at an all-time high in 1992 as can be seen in Table 3.2.

After the 1993 elections, the BCP rose once more to power but it did not, however, take long before political instability threatened to wreck Lesotho’s democratization. In 1994, the BCP government locked horns in a fierce conflict with various forces including the security machinery, the monarchy and the opposition BNP.\textsuperscript{43} When, at the climax of this power struggle, the King deposed the BCP government, some donors withheld aid and others threatened to do so, should the situation deteriorate. As belligerent parties eased their tensions early in 1995, it was assumed that donor confidence would be regained. In August 1995, an increase in aid occurred again when CEDAW was ratified. In the period that CEDAW was ratified the military regime was no longer in power and the country had already undergone democratization two years earlier. Despite enduring political tensions the international community ODA contributions to Lesotho did not falter.

\textbf{Legitimacy}

Legitimacy and good global citizenship motivated Lesotho to accede to HRTs. The two key years to observe are 1992 and 1995. As previously noted, Lesotho experienced a difficult period post BNP regime (1966-1986); after the coup deposed the BNP there was not much objection from the international community. Once the military junta was in power it had the opportunity to accede to the ICCPR and ICESCR. In

\textsuperscript{42} Those funds assisted Lesotho in implementing food assistance, water system and various other development assistance.

acceding to these HRTs the military junta appeared to be acting to legitimize itself internationally. As for the ratification of CEDAW, the BCP ratified the Convention at a time when the country had finally had made the transition to a democracy.

An example of Lesotho exercising good global citizenship is the rapid response to the Convention on the Rights of the Child. Lesotho signed the CRC on August 21, 1990 and ratified the HRT within two years on March 10, 1992. The overall response by the international community was to address children’s rights quickly, with the majority of states signing and ratifying within four years of its entry to force in 1989. The global focus on children’s rights made the swift signing and ratification process a goal Lesotho accepted. It did not want to identify as a state that was not concerned with protecting its children and therefore it accelerated the signing and ratification of the CRC to prove it was pro children’s rights.

Overall, legitimacy influenced Lesotho to ratify the human rights treaties. Their decision to ratify the ICCPR, ICESCR and CEDAW was done to maintain and sustain a relationship with its international donors. In appeasing donors, they also solidified themselves as legitimate members of the international community.

In conclusion Lesotho received aid throughout the period of the military regime and democratization of the country, which suggests ratification was less about aid than legitimacy. Its search for legitimacy was heightened when the military regime decided to ratify treaties. Due the oppressive nature of military governments it would use ratification of human rights treaties to appear as good global citizens and legitimize its administration.
Chapter 5- Bangladesh

Background

The People’s Republic of Bangladesh is located in Southeastern Asia, bordering the Bay of Bengal, between Burma and India.\(^1\) Bangladesh is one of the world’s most densely populated countries, ranking in ninth place for the highest populated country in the world.\(^2\) It has an area of 143,998 square kilometers and its population was expected to reach 166,280,712 by July 2014.\(^3\) Bangladesh is considered a Least Developed Country and has been on the Committee for Development list since 1975.

Political History

Bangladesh, formally East Pakistan, gained its independence from West Pakistan on March 26, 1971. West Pakistan was politically and economically dominant within Pakistan, giving rise to a secessionist movement in the eastern province. Despite attempts to ease tensions, these grievances grew into open hostility. In 1971, a brief but bloody civil war flared up that lasted for two weeks and ended with the intervention of Indian troops and the subsequent independence of West Pakistan.\(^4\) Like many countries which have gained their independence, Bangladesh experienced political turbulence and military coups in 1975, 1981 and 1982. From 1971 through 1990, the country had five different heads of state, two of whom obtained their power via military coups.

\(^3\) Ibid.
Sheikh Mujibur Rahman had led the revolution against West Pakistan and had subsequently been exiled. He returned from political exile in 1972 and became Prime Minister. Mujibur Rahman relied on nationalism, socialism, secularism and democracy as appropriate ideologies to assist in governing Bangladesh. In the following years, however, he discarded everything Bangladesh theoretically represented: constitutionalism, freedom of speech, rule of law, the right to dissent and equal opportunity of employment.\(^5\) In the economic sphere, he introduced a program of nationalization of all key industries as a way to improve the living standards within the country. Mujibur Rahman’s nationalization program had little success and the country started to enter into an economic decline. His economic policies, particularly the nationalization of industries, contributed to Bangladesh’s economic chaos, which was compounded by natural disasters (i.e. widespread flooding and famine). This created severe hardship for the people of Bangladesh.

By 1974, political unrest was so severe that Mujibur Rahman declared a state of emergency. In January 1975, Mujibur Rahman became president of Bangladesh. He amended the constitution to make himself president for five years and gave himself full executive powers. His presidency was short-lived, however, because in August of 1975, a military coup comprising young majors with a personal vendetta against Mujib, assassinated him.

Khondakar Mushtaque Ahmed assumed the presidency; he announced that parliamentary democracy would be restored by February 1977. Mushtaque promised to dissolve the authoritarian power that Mujib had invested in the office of the presidency. However, the continuing unstable situation in Bangladesh did not improve enough to permit a significant degree of liberalization. Mujib loyalists overthrew Mushtaque in November 1975. General Zia Rahman assumed the presidency and made himself martial law administrator in November 1976. Rahman was considered ruthless for his treatment of the political opposition. He established the political party, Bangladesh National Party (BNP), and governed the country until May 30, 1981, when he was assassinated by a military coup. The Bangladeshi people would once again welcome a new head of state, Abdus Sattar. Sattar would not stay in power for long, for General Ershad deposed him on March 24, 1982. Ershad suspended the constitution, disbanded the Parliament, prohibited all political activities and deprived the President, Vice President and cabinet ministers of their offices. Echoing the words of many past military leaders, Ershad announced that the military, as the only organized power in the nation, had been forced to take over until elections could be held. He declared that Bangladesh would return to democratic rule in about two years. Martial law lasted until November 1986, but Ershad remained in power for the next seven years (December 11, 1983 – December 6, 1990).

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7 Ibid., 36.
8 Ibid., 165.
In 1991, the first free and fair elections were held in Bangladesh. Begum Khaleda Zia, Zia Rahman’s widow and her party (BNP) won the elections and she became Prime Minister. Her administration achieved the reinstatement through a constitutional amendment of a parliamentary (as opposed to presidential) form of government and introduced economic and educational reform.\(^{10}\) Her tenure as prime minister was hampered, however, by strikes instigated by the Awami League (AL) and other opposition parties and by a cyclone in 1991, which killed approximately 130,000 people.\(^{11}\) In the February 1996 parliamentary elections, the BNP won an overwhelming victory. The BNP victory was short-lived, as only a small percentage of eligible voters had cast ballots, heeding a boycott called by the Awami League. Khaleda came under immense pressure to resign, and six weeks later she stepped down. In subsequent elections, former President Mujibur Rahman’s daughter, Hasina Mujibur, was elected into office. The political situation did not improve much during Hasina’s tenure in office. The BNP regularly boycotted the parliament, and antigovernment demonstrations were common. In addition to political issues, the country also was beset in 1998 by a disastrous monsoon that flooded some two-thirds of Bangladesh’s territory for two months and left more than 30 million people homeless.\(^{12}\)

In 2001 Khaleda promised to eliminate corruption and was returned to office. The victory, however, did little to curb the tension between the BNP and the Awami League. By the end of Khaleda’s second term, minimal progress had been made towards controlling corruption. She stepped down as prime minister in late 2006. However, unrest

\(^{10}\) Ibid.
\(^{11}\) Ibid.
\(^{12}\) Ibid.
between the BNP and AL led the interim head of government to resign and to install a new caretaker administration before the polls opened. In January 2007, a state of emergency was declared and elections were canceled. The new caretaker government embarked on an aggressive program to rid the country of corruption prior to holding elections. Meanwhile, the tension between Khaleda and Hasina continued, and their conflict was perceived by the administration as a hindrance to the country’s stability. In 2007 both women were arrested, Khaleda on charges of corruption and Hasina on charges of extortion. Both were released from custody in 2008. General elections were held in December of 2008, and the Awami League captured the majority of seats in parliament. Hasina returned as prime minister. As the years progressed, Bangladesh’s political arena continued to experience turmoil. In 2011, a change in the Bangladeshi constitution discarded the provision for a neutral caretaker government to oversee elections. The removal of this provision created tension during the 2013 national elections. The BNP boycotted the elections to demand the reinstatement of the Caretaker Government system. Hasina was declared prime minister for the third time in these elections.

Today, Bangladesh continues to be a contentious parliamentary democracy. The country has a strong two-party system with governments alternating regularly between political coalitions led by the AL and BNP. However, the level of political violence in Bangladesh remains relevantly high. Endemic corruption and criminality, weak rule of law, limited bureaucratic transparency and political polarization have long undermined

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13 Ibid.
government accountability.\textsuperscript{15} Bangladesh placed 144th out of 177 countries in the 2013 Corruption Perceptions Index.\textsuperscript{16}

**Human Rights Issues**

Despite Bangladesh’s problematic political transitions, it managed to accede/ratify the core HRTs (see Table 5.1 below). The U.S. State Department’s Country Reports on Human Rights Practices for 2013 noted, “The most significant human rights problems were arbitrary arrests, regulation of online speech, and poor working conditions and labor rights.”\textsuperscript{17} In addition to those issues, Bangladesh suffers from politically motivated violence and pervasive official corruption. There are instances of authorities infringing on citizens’ privacy rights.\textsuperscript{18} Women are suffering from unequal treatment and children are compelled to work, particularly in the informal sector, due either to economic necessity or in some instances, trafficking.\textsuperscript{19}

**Table 5.1: Ratification of Human Rights Treaties by Bangladesh (1971)**

<table>
<thead>
<tr>
<th>Core Human Rights Treaties</th>
<th>Date of Signature</th>
<th>Date of Ratification, accession or succession</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICERD (1966)</td>
<td></td>
<td>June 11, 1979a</td>
</tr>
<tr>
<td>ICESCR (1966)</td>
<td></td>
<td>October 5, 1998a</td>
</tr>
<tr>
<td>ICCPR (1966)</td>
<td></td>
<td>September 6, 2000a</td>
</tr>
<tr>
<td>CEDAW (1979)</td>
<td></td>
<td>November 6, 1984a</td>
</tr>
</tbody>
</table>

\textsuperscript{15} Ibid.  
\textsuperscript{16} Ibid.  
\textsuperscript{18} Ibid.  
\textsuperscript{19} Ibid.
On the Human Development Index in 2013, Bangladesh ranked 142 out of 187 countries.\textsuperscript{20} Ranking 142 classifies Bangladesh as a country in the low human development category. Bangladesh faces numerous obstacles which prevent the country from moving up in rank. The most difficult challenge for Bangladesh is the eradication of poverty. Approximately, 43 percent of the people live on $1.25 a day and 31 percent of the population live below the national poverty line.\textsuperscript{21} 41 percent of the country’s children suffer from moderate to severe malnutrition. Primary education enrollment rates are at an astonishingly high 114 percent but are accompanied by a 33 percent dropout rate.\textsuperscript{22} Since some children are obliged to assist the household economically, and not all children can pursue a secondary education so only 26 percent of the population obtain secondary education. Bangladesh enshrines human rights in its constitution. Part II, Article 2 states, “The Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured.” Theoretically these rights are ensured to the Bangladeshi population but lack of resources, among other factors, make it difficult for the people to fully enjoy their rights.

In spite of the steep challenges posed by lack of resources and capacity, climate change and natural disasters, Bangladesh has, according to the UN, made noteworthy progress in achieving some key gender and health related MDGs and a higher pace of

\begin{footnotesize}
\textsuperscript{21} Ibid.
\textsuperscript{22} Khalid Malik, United Nations Development Programme, and Human Development Report Office, \textit{Sustaining Human Progress.}, 186.
\end{footnotesize}
human development compared to other South Asian countries. In the following section, the ICCPR and ICESCR will be selected to highlight some of Bangladesh’s challenges in the area of socio-economic rights, and civil/ political rights.

**ICCPR- Civil and Political Rights**

Part III, Article 32 of Bangladesh’s Constitution states: “No person shall be deprived of life or personal liberty save in accordance to the law.” However, the media and local and international human rights organizations have reported that the government or its agents committed arbitrary or unlawful killings, which goes against this constitutional protected human right. The government has neither released statistics on total killings by security personnel nor put in place comprehensive measures to investigate cases, despite previous statements by high-ranking officials that the government would show “zero tolerance” and fully investigate all extrajudicial killings by security forces. According to the media and local human rights organizations, no case resulted in criminal punishment during 2013 and, in the few instances in which the government brought charges, those found guilty generally received only administrative punishment.

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**ICESCR- Social, Economic and Cultural Rights**

Article 7 of ICESCR states: “The State Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work.” Forced labor is common in Bangladesh and defies the provision about just and favorable work conditions of Article 7. It must be noted that Bangladesh made a declaration on Article 7 of the ICESCR.\(^{26}\) The declaration states:

> The Government of the People's Republic of Bangladesh will apply article 7 under the conditions and in conformity with the procedures established in the Constitution and the relevant legislation of Bangladesh.

Article 34 (1) of the constitution protects citizens against forced labor in stating, “All forms of forced labor are prohibited and any contravention of this provision shall be an offense punishable in accordance to the law.”\(^{27}\) However, the prescribed penalty of imprisonment for up to one year or a fine is not sufficiently stringent to deter violations, and the government does not enforce the law effectively. According to the U.S. State Department, children and adults are forced into domestic servitude and bonded labor that involves restricted movement, nonpayment of wages, threats, and physical or sexual abuse.\(^{28}\)

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\(^{26}\) States make declarations as to their understanding of some matter or as to the interpretation of a particular provision. Unlike reservations, declarations merely clarify the state’s position and do not purport to exclude or modify the legal effect of a treaty.  
Reasons for Delay in Ratification

As shown in Table 5.1, Bangladesh experienced a significant delay in ratifying three out of the six core human rights treaties (the ICCPR and the ICESCR). I will be focusing on the ICCPR and ICESCR and the reasons for their delay. I propose the following three options as possible reasons for the delay: (a) political instability; (b) lack of economic resources/bureaucratic issues; (c) cultural differences.

Political Instability

As we can see from the political history, there was constant instability from the time of independence to the present. Beginning with the secession in 1971 and throughout the 1990s, Bangladesh endured various heads of state with different political objectives, none of which prioritized human rights treaty ratifications on their political agendas. The constant change of governments and coups created volatility within the country and understandably must have had some effect on Bangladesh’s ratification.

When the first free and fair elections were held in 1991, it was assumed that concern for human rights would be prioritized in the country. However, even though 1991 through 1998 was perceived to be a relatively stable political period, the BNP only managed to ratify the ICESCR on October 5, 1998. The expectation was that the administration would have ratified HRTs at an earlier time due to its democratization in 1991. Since little progress was made during this period we must move onto another explanation for Bangladesh’s delay in ratifying the ICESCR.

Instability persisted beyond 1998 and into the 2000s, but the ICCPR was ratified by Bangladesh on September 6, 2000. Instability does not therefore seem to have been the core reason for the delay in ratifying these conventions.
**Lack of Economic Resources/Bureaucratic Issues**

Like most LDCs, Bangladesh, has experienced difficulties primarily as a result of economic constraints which have prevented it from fully committing itself to the human rights treaties. It must be noted that lack of economic resources impacts bureaucratic capability in that some states are not able to afford the construction of agencies, fund programs, and pay the staff that will run human rights programs. During Bangladesh’s first Universal Periodic Review in 2009 Bangladesh noted,

> Poverty hinders the fulfillment of rights particularly of children and women who are the most vulnerable. Bangladesh, an LDC, faces multi-dimensional challenges in fulfilling its commitment to promotion and protection of human rights primarily because of lack of resources.\(^{29}\)

Its lack of economic resources has contributed to its inability to meet the HRTs mandates.

The UPR also mentioned,

> Notwithstanding encouraging advances in human development, poverty continues to be a critical area of concern for the nation. About 40 percent of Bangladesh’s population is poor. This combined with the fact that Bangladesh is traditionally disaster-prone, which has witnessed an increased frequency due largely to greenhouse gas emission induced climate change, has been a major challenge to its human rights and development initiatives. Economic condition being one of the major root causes of violation and unfulfilment of many fundamental and human rights, Bangladesh has adopted holistic and multi-pronged approaches aimed at alleviating human poverty on the one hand and ensuring human rights of its citizens, on the other.\(^{30}\)

Bangladesh acknowledges the importance of human rights but the country’s lack of economic resources has hindered its ability to fulfill its obligations post ratification. But this does not explain why Bangladesh delayed in ratifying the treaties. Lack of economic

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resources and bureaucratic issues slowed the domestication of the conventions but there was no evidence that these concerns prevented ratification in the first place.

**Cultural Differences**

While Islam is not directly relevant to the ICCPR and ICESCR, CEDAW contains certain provisions which conflict with Islamic laws. The country acceded to CEDAW with reservations on the Conventions Articles 2 and 16(1)(c):

**Article 2:** States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

**Article 16:** 1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(c) The same rights and responsibility during marriage and at its dissolution
These two articles are essential because they set out the requirements needed to implement the Convention. Without these articles outlining the mandates the treaty is virtually useless.

Bangladesh’s reservation to Articles 2 and 16(1)(c) states:

The Government of the People's Republic of Bangladesh does not consider as binding upon itself the provisions of article 2, [...] 16 (1) (c) as they conflict with Sharia law based on Holy Quran and Sunna.\footnote{United Nations, “Convention on the Elimination of All Forms of Discrimination against Women: Country Ratification.”}

Of the core human right treaties, CEDAW was the only one in which Bangladesh added a reservation on the basis of religion. Despite the reservation, it acceded to the Convention four years after it was established.

**Reasons for Ratifying in 1998 and 2000**

**Aid**

Was the prospect of economic aid a factor in ratification in 1998 and 2000?

**Table 5.2 Bangladesh ODA Breakdown**

<table>
<thead>
<tr>
<th>Year</th>
<th>ODA (in millions dollars)</th>
<th>Developmental Food Aid (in millions dollars)</th>
<th>Humanitarian Aid (in millions dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>1,281,740,000</td>
<td>104.52</td>
<td>20.6</td>
</tr>
<tr>
<td>1996</td>
<td>1,228,070,000</td>
<td>94.29</td>
<td>13.32</td>
</tr>
<tr>
<td>1997</td>
<td>1,012,360,000</td>
<td>112.77</td>
<td>7.42</td>
</tr>
<tr>
<td>1998 Severe Monsoon ICESCR a</td>
<td>1,162,860,000</td>
<td>80.23</td>
<td>35.61</td>
</tr>
<tr>
<td>1999</td>
<td>1,219,430,000</td>
<td>113.31</td>
<td>18.8</td>
</tr>
</tbody>
</table>
Table 5.2 shows Bangladesh’s ODA from 1995-2004, a timeframe selected on the basis of signature, accession/ratification of the ICESCR and ICCPR. 2004 represents three years after the ratification of ICCPR. As stated in the last chapters, ODA is not dispersed immediately to countries in need but gradually over time, therefore the use of a three-year post ratification period was considered advisable. The chart reflects Bangladesh’s steady flow of ODA, developmental food aid and humanitarian aid during this period.

Bangladesh acceded to the ICESCR on October 5, 1998. Bangladesh’s accession came at a time when there was conflict between the BNP and AL but much more, importantly, the country was affected by a severe monsoon. The monsoon impacted two-thirds of the country, one of the worse natural disasters to ever be recorded. The international community was well aware of Bangladesh’s vulnerability to harsh weather conditions since the country has a long history of natural disasters. Between 1980 and 2008, it experienced 219 natural disasters, causing over $16 billion dollars in total damage.\(^{32}\) Seeing that Bangladesh is prone to natural disasters, Bangladesh continuously

<table>
<thead>
<tr>
<th>Year</th>
<th>ODA (in thousands)</th>
<th>2000 Accedes ODA</th>
<th>2001 ODA</th>
<th>2002 ODA</th>
<th>2003 ODA</th>
<th>2004 ODA</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000 Accedes to ICCPR</td>
<td>1,172,840,000</td>
<td>77.65</td>
<td>11.92</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>1,043,740,000</td>
<td>104.96</td>
<td>14.19</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2002</td>
<td>906,250,000</td>
<td>68.81</td>
<td>22.66</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2003</td>
<td>1,394,890,000</td>
<td>65.39</td>
<td>5.54</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td>1,413,850,000</td>
<td>61.85</td>
<td>80.48</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: OECD, QWIDS database
received a steady flow of ODA. These contributions were made to assist the country in recovering for natural disasters. There were no grave fluctuations in ODA for the designated timeframe, which leads to the conclusion that ODA was not a factor in Bangladesh’s decision to ratify.

Bangladesh’s 1998 tragic monsoon demonstrated the international donors’ commitment to Bangladesh. ODA increased, symbolizing the immediate response of the international community to assist Bangladesh. Despite the political turmoil the country was undergoing, ODA remained constant through Bangladesh’s accession to the ICCPR on September 6, 2000. Despite undergoing political turmoil and enduring natural disasters, which left the country in deplorable conditions, Bangladesh managed to ratify the ICESCR and ICCPR.

**Legitimacy**

Bangladesh has sought legitimacy in ratifying human rights treaties. They wanted to be viewed as a legitimate member of the international community by acceding to these treaties. The monsoon of 1998 occurred in July of that same year and yet the Bangladesh government was able to accede to an HRT just four months later. The aftermath of this monsoon left the country in deplorable conditions, with two-thirds of the country underwater, approximately 30 million people homeless and hundreds dead. Even so, the government managed to accede to the ICESCR, demonstrating commitment on

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Bangladesh’s behalf. Although it was experiencing extreme hardship, the country progressed in the area of human rights.

Overall, the desire for legitimacy is the most plausible explanation for Bangladesh ratifying human rights treaties. While aid was not an incentive for ratification, it should be remembered that in seeking legitimacy, countries also appease donors. Bangladesh was able to sustain a relatively high level of aid throughout the period and ratifying treaties probably helped keep the flow of aid steady.
Chapter 6- Conclusion

This thesis argues that LDCs are motivated to ratify treaties by the prospect of obtaining economic aid and/or obtaining legitimacy in the international community. As the poorest and weakest segment of the international community, LDCs are more susceptible to ratifying in exchange for aid and some states, especially those with political problems, may ratify to appear as good global citizens. In explaining LDCs’ motives for ratification I found it critical to first investigate why they delayed ratification by ten years or more, before discussing the central issue of the impact of aid and legitimacy. Typically states ratify not long after a treaty enters into force. For a state to postpone ratification by a decade or more, a significant factor must have been involved. For this reason I proposed the following three as plausible obstacles: (a) political instability; (b) lack of bureaucratic and economic issues; and/or (c) cultural issues.

These impediments were chosen because they are logical internal factors which could prevent states from ratifying. As mentioned in Chapter 3, after a majority of African and Southeast Asian countries obtained their independence from their European colonial rulers, a few newly independent countries acquired stable governments almost immediately while others experienced authoritarian or military regimes. Political instability within a country was important to examine in this thesis because instability creates turbulence which manifests in various forms--disagreements among political factions, coups that depose weak administrations, and/or the establishment of an authoritarian or military regime--and unfortunately, political instability was a frequent occurrence in the African and Asian-Pacific region.
Lesotho and Bangladesh were selected as regional case studies representing the African and Asian-Pacific regions. In looking at Lesotho and Bangladesh I found that only Lesotho postponed ratification due to political instability. Lesotho ratified the International Covenant and Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR) 26 years after those treaties entered into force. Lesotho was delayed in ratifying CEDAW by 15 years. The country endured a one party rule for 20 years (1970-1986) followed by a seven year military regime (1986-1993). These administrations hindered Lesotho’s ability to ratify those HRTs. In Bangladesh’s case, political instability was not the main obstacle postponing the ratification of the ICESCR and ICCPR. The country democratized in 1991 and experienced a relatively stable period until 1998. Since little progress was made towards ratifying human rights treaties during this period, it was determined that political instability was not the primary impediment in Bangladesh’s case.

The second impediment I considered was the lack of bureaucratic and economic resources. Bureaucratic issues are experienced in all countries but are amplified in LDCs. Resources are essential to HRT ratification because once a treaty is ratified, it must be domesticated. The process requires creating new legislation and implementing it, establishing programs and submitting periodic reports, which comes at an additional cost and could be perceived as a financial burden for these states. LDCs are impoverished states and the added costs of domesticating treaties may influence a state to reconsider its decision to ratify immediately. Aside from economic costs, other pressing and unforeseen issues such as natural disasters may impede an administration from ratifying.
Bangladesh postponed ratifying the ICESCR by 24 years and the ICCPR by 26 years. Bangladesh accredits the lack of resources for its inability to domesticate the mandated provisions, but there is no reason to believe that this led to them postponing the ratification of these treaties. Lesotho experienced a similar situation to that of Bangladesh. It blamed its limited capacity as its sole reason for delay in domesticating conventions but once again this does not seem to have affected the actual ratification.

Culture is an integral part of society; if a human rights treaty is not aligned with cultural beliefs of a country, it may cause a delay. For this reason cultural differences were selected as a third impediment in ratification of treaties. Culture affects an entire population. In Bangladesh the attitude towards women affected the interpretation of Article 2 of the Convention to Eliminate All Forms of Discrimination against Women (CEDAW). Lesotho’s dual legal system created issues for the domestication of human rights treaties. As a deeply-rooted component in society, culture can be very influential and deserves to be researched further.

The central hypothesis of my work was that LDCs ratify HRTs for economic and legitimacy purposes. In looking at my two cases, I found little support for the idea that aid was a direct motivation for ratifying treaties. In both cases, they were already receiving a substantial amount of aid during the period of ratification and therefore there was no further incentive needed to ratify HRTs. On the other hand, ratification is a social norm and once one country ratifies a treaty others will follow suit. Bangladesh’s international donors, which have always provided aid to the country in the most desperate times, have adhered to human rights norms and expect recipient countries to do the same. In ratifying, Bangladesh therefore solidified its relationship with its donors and
simultaneously appeared to acting as a good global citizen. As for Lesotho, the Military Council ratified the ICESCR and ICCPR in order to legitimize the administration. As reflected in the quick ratification of the Convention on the Rights of the Child (CRC), Lesotho clearly also wants to be seen as a good global citizen.

While my research has not shown definitively that aid is an influential factor in ratification, more research on more cases is needed to reach a more conclusive outcome.
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