

**THE IMPORTANCE AND IMPACT OF NON-RATIFYING
INTERNATIONAL TREATIES: A COMPREHENSIVE LEGAL
ANALYSIS WITH A SPECIAL FOCUS ON CORE HUMAN RIGHTS
INSTRUMENTS**



Submitted by:

Ammad Khan

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Submitted to:

Abdur Rauf Khatana

Assistant Professor of Law

DEPARTMENT OF LAW
FACULTY OF SHARIAH & LAW
INTERNATIONAL ISLAMIC UNIVERSITY, ISLAMABAD
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Acceptance Certificate

This thesis “The Importance and Impact of Non-Ratifying International Treaties: A Comprehensive Legal Analysis with a Special Focus on Core Human Rights Instruments”, submitted by **Ammad Khan**, **Registration No. 454-FSL/LLMIL/S21**, is accepted for submission by Department of Shariah Faculty of Shariah & Law, for fulfilment of LLM degree.

(Supervisor)

Date: _____

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Abstract

The decision of the countries not to ratify international treaties is a very serious and legal matter as it demonstrates determination for the cooperation among nations at an international level and in particular, affects the standards that should prevail on treaties instead of being established state rights. This research investigates the changing nature and role of international treaties in diplomacy, global governance from ancient times to contemporary age. It covers the Vienna Convention on Law of Treaties and its legal implications for treaties; binding character, consent requirement as well as negotiation, signature, ratification and accession. With this main claim in place, the study shifts its focus to provide a more detailed discussion on how non-ratification underlies domestic and constitutional pressures as well legal constraints are compounded by ideological or social opposition that can prevent states from signing certain international agreements. The research examines the primary international treaties that have not been ratified by USA, China and Pakistan, as well combines their failure of ratification with effecting state relations at home and outside. Instead, the findings highlight that non-ratification is frequently strategic behavior used by states to resist legal norms and maintain global power or sovereignty– but also signal an awareness of how best to protect national interests. The study also compares the non-ratification strategies of these major powers and their implications for global governance. The research reveals much-needed new perspectives on the interaction of state sovereignty, international co-operation and in constant evolution world-wide areas of law and diplomacy.

Chapter 1: Introduction

Thesis Statement

The choice of nations not to ratify international treaties has substantial, profound legal implications since it indicates a state's dedication to international cooperation and impacts treaty standards to safeguard state interests.

1.1 Introduction

The history of treaties has a time ranged of about three millennia, and the aims of treaties has considered essentially the same almost because of the worth and necessity of time and during the 400-year-old history of the community of states, treaties always played its mainly role for states to connect and cooperate over an ever changing and expanding list of subjects. This lists mostly included security, trade, telecommunications, terrorism, health, the environment and much else.¹ Whatever found in the UN treaty collection is almost based on such of these pre-occupied values of treaties. However, new treaties are also concluded with the passage of requirements. The current framework of the international system can mostly be traced back to the “Peace of Westphalia in 1648”, which brought an end to the destructional war dreadfully fought thirty years consecutively,² and at the outcome, this treaty was referred and considered to as an engagement of nations or an international community

¹ Conway W. Henderson, *Understanding International Law* (Willey Blackwell: UK, 2010), 66-67.

² Gideon Boas, *Public International Law Contemporary Principles and Perspectives* (Northampton: USA, 2012), 8.

that inputs the worth of sovereign states and has the right to enforce their sovereign will inside their own boundaries.³

However, in the present time of fast globalization, with its states interested based tightening interdependence among actors increased the reliance on treaties which can leads and guide the indebt patterns of cooperation and also the importance has grown fast.⁴

Treaties have historically been used to stabilize power relations between the powerful and the weak, despite the fact that collaboration and advancement have always been the goals of treaties. The term “unequal treaties” now refers to agreements formed in this way. This term is essentially a political one and not a legal concept, because legally a well adopted procedure is always followed for a treaty to be ratified, that is, the provisions may provide that for the treaty to be enforceable, it must first be ratified before it can be signed. An instrument of ratification, which is a document conveying a formal certification that the government agrees to the conditions of the treaty, must be deposited at a place designated in the treaty for a country to ratify a treaty. Depending on each nation's laws and constitution, the ratification procedure differs.⁵

Therefore, when implemented and enforced with agreement, treaties can contribute to advancement for nations beyond serving merely as a record of collaboration. Even while treaty law has a reputation for being a ‘conservative force’ that is utilized to maintain the ‘*status quo*’ and treaties can also be used to advance

³ <https://unacademy.com/content/upsc/study-material/general-awareness/peace-of-westphalia-1648-international-relations/> (last accessed 28 September, 2023).

⁴ Conway W. Henderson, *Understanding International Law* (Willey Blackwell: UK, 2010), 67.

⁵ Science Safety Security, <https://www.phe.gov/s3/law/Pages/International.aspx> (last accessed 31 August 2023).

reform.⁶Regarding titles for treaties, they include ‘Conventions,’ ‘International Agreements,’ ‘Pacts,’ ‘General Acts,’ ‘Charters,’ up to Statutes, ‘Declarations’, and Covenants. All of these words refer to a same event, the drafting of formal agreements by which the participating states oath themselves to conduct themselves in a certain way or establish certain relationships amongst themselves. The parties are required to abide by a number of terms and agreements that are outlined.⁷

However, a treaty is not the only way for a state to create a binding agreement. If a state intends for a unilateral promise to be legally enforceable, then that state's promise is enforceable in accordance with international law. Similar to this, if a state unilaterally waives a legal right, it can no longer claim that right as long as it is obvious that it is doing so.⁸ It is feasible to distinguish between treaty-contracts, which only apply as between two or a limited number of nations, and 'law-making' treaties, which are meant to have universal or general application. Such a difference is meant to represent the scope of duties imposed as well as the universal or local applicability of a specific treaty. There are numerous overlaps and ambiguities, therefore it cannot be described as being black and white.⁹

As seen by the rising number of volumes in the ‘United Nations Treaty Series’ or the ‘United Kingdom Treaty Series,’ the total number of treaties signed over the past century has increased and they fulfil a vital role in international relations,¹⁰international cooperation and also influencing the global governance. However, it is discovered that effective treaties have their effects through normative

⁶ Conway W. Henderson, *Understanding International Law* (Willey Blackwell: UK, 2010), 67.

⁷ Malcolm N. Shaw, *International Law*, Fifth ed. (Cambridge University Press: UK ,2003), 88.

⁸ Peter Malanczuk, *Akehurst's Modern Introduction to International Law* (Taylor & Francis, New York, 1997), 130.

⁹ Malcolm N. Shaw, *International Law*, Fifth ed. Cambridge University Press: UK, 2003), 90

¹⁰ Malcolm N. Shaw, *International Law*, Fifth ed. Cambridge University Press: UK, 2003), 90.

and socialization processes rather than through longer-term legal processes, and that the only adaptable aspect of treaty design that has the potential to increase the efficacy of treaties governing the environmental, human rights, humanitarian, maritime, and security policy domains is enforcement mechanisms.¹¹

It is in this context that one can understand the term ‘law-making treaties.’ In contrast to those treaties that just control specific concerns between a small number of states, they are meant to have a general, not a restrictive, impact. Treaties that create new laws are those in which governments expand on their views of a particular area of international law or lay down new principles to act as a roadmap for future international behavior. In order to underline this impact, such law-making treaties must necessarily involve a large number of states, and they may result in regulations that will apply to everyone.¹² However many of the powerful states cannot comply directly with the aims of treaties and may make reservations, sometime merely sign it but not ratify it and at another hand they are not willing to ratify and sign it and discard it totally, likely in the case of US the list of the treaties rejected by USA is too contested¹³ and the case of China is same to some extent and Chinese status of non-Ratification seems also to govern with its state interests.¹⁴

Thus, the provisions of any such treaty shall not apply to parties who have not signed and ratified such treaty. This is a general norm that was demonstrated in the “North Sea Continental Shelf cases,” when West Germany was free to disregard the

¹¹ Douglas Massey, ed, International Treaties have Mostly Failed to Produce Their Intended Effects, *PNAS*, v. 119, 2002, p. 1-9. <https://www.pnas.org/doi/epdf/10.1073/pnas.2122854119> (Last accessed August 28, 2023).

¹² Malcolm N. Shaw, *International Law*, Fifth ed. (Cambridge University Press: UK, 2003), 90.

¹³ United States Senate, <https://www.senate.gov/legislative/RejectedTreaties.htm> (last accessed August 29, 2023).

¹⁴ United Nation Human Rights Treaty Bodies, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=36&Lang=EN (last accessed August 29, 2023).

relevant Convention's provisions since it had not ratified it. In contrast, non-parties are bound when treaties uphold a rule or norms of customary international law, not because it is a term of a treaty. Similar to this, depending on the nature of a given treaty's terms, non-parties may come to believe that they might create customary law.¹⁵

In this regard in every case the UN Charter purposes is to be seen as a global factor. The UN Charter, for example, in its creation of a definitive framework for the preservation of 'international peace and security,' declares in article 2(6) that "the organization shall ensure that states which are not members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security"¹⁶. For instance, a standard code of conduct for international commerce was established by the 1947 'General Agreement on Tariffs and commerce' (GATT), which has since evolved into the World Trade Organization (WTO). It has also had a significant impact on non-party governments.¹⁷

Thus, for all the treaties which are functioning under the scheme of UN Charter the "Vienna Conventions on the Law of Treaties 1969," has a to be fallowed and these conventions were entered into force on January 27, 1980. This govern nearly all treaty rules with relation to endorsing, signing, ratifying or refusing to ratify it, and as well as expressing some reservations.¹⁸ In compliance of the treaties to be ratified Article 11 of this Convention mentions:

¹⁵ Malcolm N. Shaw, *International Law*, Fifth ed. (Cambridge University Press: UK, 2003), 90.

¹⁶ U.N Charter art 2 para

¹⁷ Malcolm N. Shaw, *International Law*, Fifth ed. (Cambridge University Press: UK, 2003), 92.

¹⁸ 18 Peter Malanczuk, *Akehurst's Modern Introduction to International Law* (Taylor & Francis: New York, 1997), 130.

“The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.”¹⁹

However, the process which shall be followed as described above, the ratification and consent mechanism differs and every state has its own procedures and rules and various level of checks. As in the case of US, the president and his representatives ratify treaties on behalf of the US. Thus, any foreign responsibilities that the US would acquire as a result of ratifying a treaty would be brought about by a ‘unilateral executive’ decision. This sort of ‘unilateral executive’ authority, however, seems to be in tension with the process mentioned in Article II of the Constitution for permitting and making treaties, which needs the ‘advice and consent’ of two-thirds majority of the Senate members.²⁰ In this view this research signifies the most impact of non-ratifying treaties and the states aims of not ratifying the international treaties.

1.2 Significance of Study

This study mainly stresses on understanding the important reasons that why countries decide not to officially sign and ratify general and specific international agreements, like treaties, and how this decision affects global relationships and governance. As well the key worth of this study lies in assisting us to spell out the crucial facts that how these actions of non-ratification of treaties influence and create a big impact on the world order to protect specific states interest. Analyzing the scheme of non ratification gives us insights into a state’s legal and diplomatic strategies. It is understood that, the main aims of this study are to figure out why

¹⁹ Vienna Convention on the Law of Treaties 1969, art. 11.

²⁰ Curtis A. Bradley, “Unratified Treaties, Domestic Politics, and the U.S. Constitution,” *Harvard International Law Journal* 48 (2007): 308.

someone chose not to be a part of global society. Thus, this research will guide us a lot about their priorities and concerns behind the non-ratification act of states. By probing the main treaties which are not ratified by USA, China and Pakistan, this study compares the similarities and differences among them in order to know their effect on global politics internally and externally. Importantly, the main objectives of this research are to probe and understand the main points, likely:

1. To counter and observe the reasons behind states decisions to not ratify treaties.
2. Also, to examine the legal consequences and implications of non-ratification at the domestic and international levels.
3. To analyze the potential impact of non-ratification on international relations, cooperation, and global governance.
4. To evaluate and probe solution with mentioning an effective alternative mechanisms and strategies available to non-ratifying states for achieving aims of treaty.

1.3 Literature Review

International treaties and agreements are considered to be the commitments between two states or more than two states. A formal agreement between two states can be termed as “bilateral” agreement while an agreement between several parties, organizations and states is termed as “multilateral” and such states and nations obliged by an ‘international agreement’ are referred to as “States Parties.” In the paradigm of international law, a treaty can be defined as ‘any legally binding agreement between states (countries)’. It is also named as in other ways like a Pact, a

Protocol, an Accord, Convention, etc. It should be noted that a treaty is defined specifically by its substance rather than by its name. Determining that both the ‘Geneva Protocol’ and the ‘Biological Weapons Convention’ are treaties despite though none of their names contain the word “treaty.” A treaty is precisely defined as a binding international agreement under U.S. law that needs Senate “advice and consent” in order to be ratified. However, in international law, the United States is still bound by all previous agreements, which are known as executive agreements (treaties in the international sense).²¹ However, the contention of domestic laws its hurdles in contrast to ratification of treaties are further understood in the following writings as we discussed here.

One of the reputed writings in this regard is the work of Curtis A. Bradley and in his paper “Unratified Treaties, Domestic Politics, and the U.S. Constitution,” he thoroughly probed the domestic legal and social hurdles.²² Particularly, the US Constitutional mechanism which put forward and maintain the states interest at first in not ratifying all international treaties which is in compliance with the purposes of the UN Charter.

Thus, he saw it a ‘constitutional tension.’²³ And he extensively argued a number of reasons and intentions that why the US sometime sign a treaty but not ratify it. Likely one key reason in his views is that, “the president might submit a treaty to the Senate and have it defeated there, although this happens only rarely, for instances two key treaties are the ‘Versailles Treaty’, which established the League of

²¹ Science Safety Security, <https://www.phe.gov/s3/law/Pages/International.aspx> (Last accessed August 30, 2023).

²² Curtis A. Bradley, “Unratified Treaties, Domestic Politics, and the U.S. Constitution,” *Harvard International Law Journal* 48 (2007): 308.

²³ Ibid.

Nations, and the ‘Comprehensive Nuclear Test Ban Treaty’. Above all, a president might conceal submission of the treaty to the Senate because of ‘seeking opposition in that body’ and also probably with the hope that the Senate’s stance—and perhaps its framework composition— would alter.”²⁴

Importantly, this article seeks the domestic legal problems and observes an overview of the US Senate versus president powers in regard a treaty ratification. And it mostly discussed the implications of signing a treaty but not ratifying it domestically. However, my research will see the impact and importance of non-ratifying treaties with its implications on global governance and international relations. The above article did not discuss the status of China and on non-ratification. I will discuss this at length.

In term of impacts of non-ratifying treaties—at this place—the article written by Wessel and Van der Loo is a significance one named as “The non-ratification of mixed agreements: Legal consequences and solutions.” Though this contains very relevant research relating to non-ratification. As the article is about the non-ratification which would lead to so-called “incomplete mixed agreements.” The researchers focused in the present papers with relevance with the EU mechanism of non-ratification and also mentions the legal problems and concerns connected to incomplete agreements and also spell out the differences between ‘bilateral and multilateral agreements.’ For instance, this is more common demerits and due to the wider scope of ‘Free Trade Agreements,’ the European Union nationals and their parliaments are more outspoken and direct with respect to the content of these treaties and argued that just a matter of time before they are faced with problems of non-

²⁴ Curtis A. Bradley, “Unratified Treaties, Domestic Politics, and the U.S. Constitution,” *Harvard International Law Journal* 48 (2007): 310.

ratification. Therefore, the unclear and ambiguous division of external competences between the EU and its Member States also makes it difficult to offer clear cut solutions.²⁵ However my research will mainly analysis the repercussions of non ratifications and to seek out the behind states intention not to ratify treaties and I also thoroughly discuss the main international treaties not ratified by USA, China and particularly Pakistan in respect of global governance and creating an impact on world politics.

Another worthy work is done by Jeffrey L. Roberg the “The Importance of International Treaties: Is Ratification Necessary?” He viewed that in this case of ratifying and not-ratifying there is a difference between opinion. In this regard ‘internationalists’ said that these treaties burden specific obligations and limits on States while ‘realists and neo-realists’ mentioned that in all cases the sovereignty of state has always protected and it is still largely like a king. He also stated that the existing position of the US in terms of military and economic power make it easy for US to treat and negotiate treaties in its favor and preoccupied interests.²⁶ However, this article not specifically mentioned the manners and traits in which US is using the non-ratification tools to exhibit it interest and effect on the global governance and IR and also lack the study of relation of treaties with emerging power China. My research will interlink the China status and US status on non-ratification of treaties and then spell out the impacts on global arena along with states similarities and differences of interest on this topic.

In this respect, the article of Natalie Baird “To Ratify or Not to Ratify? An Assessment of the Case for Ratification of International Human Rights Treaties in the

²⁵ Ramses A. Wessel, Guillaume Van der Loo, “The Non-Ratification of Mixed Agreements: Legal Consequences and Solutions,” *Common Market Law Review* 54 (2017): 735

²⁶ Jeffrey L. Roberg, “The Importance of International Treaties: Is Ratification Necessary?” *World Affairs* 169 (2007): 181.

Pacific,” is worthy achievement and its is mostly related to only the human rights treaties leaving the other important nuclear and biological weapon treaties not ratified by the pacific states. He mainly reviews and observes the repercussions of ratification and then tells the particular benefits and issues and hurdles of ratification, specifically, for ‘Pacific’ states.²⁷ However, my research will thoroughly discuss and evaluate human rights treaties and other treaties not ratified by US, China and Pakistan in a specific context of global governance which was not discussed by Natalie.

Specifically, “Explaining Non-Ratification of the Genocide Convention: A Nested Analysis” by Brian Greenhill and Michael Strausz is an important research paper.²⁸ The title of this paper mandatorily shows that this analysis is thoroughly related to the ‘Genocide Convention.’ Importantly, inside the paper a case study was carried out only of Japan. The writers noted that “the Japan case demonstrates how even in a nation that didn't sign the Genocide Convention, the norms that the treaty embodies can still obtain a taken for-granted quality. Regardless of the politician’s party or philosophy, it is impossible to see them challenging those standards in Japan. Given that the prohibition against genocide already forms a significant portion of Customary International Law, this should not be too unexpected”²⁹ and as well the article stressed to find the answer to the question that, “what explains the large variation in the time taken by states to ratify 1948 Genocide Convention?”³⁰ Beside this, my research will stress the focus on the global impact of non ratification which is largely not discussed here, as how this act of non-ratification shape the global policy.

²⁷ Natalie Baird “To Ratify or Not to Ratify? An Assessment of the Case for Ratification of International Human Rights Treaties in the Pacific,” *Melbourne Journal of International Law* 12 (2011): 1-2.

²⁸ Brian Greenhill and Michael Strausz, “Explaining Non-Ratification of the Genocide Convention: A Nested Analysis” *Foreign Policy Analysis*, 10, (2014): 371-391.

²⁹ Brian Greenhill and Michael Strausz, “Explaining Non-Ratification of the Genocide Convention: A Nested Analysis” *Foreign Policy Analysis*, 10, (2014): 389.

³⁰ Brian Greenhill and Michael Strausz, “Explaining Non-Ratification of the Genocide Convention: A Nested Analysis” *Foreign Policy Analysis*, 10, (2014): 371.

Last but not least, in the context of Pakistan an important paper is produced by Ahmad Ghouri by naming as “Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan,”³¹ this is very relevant to my research. As this research discussed that treaties do not always become a part of domestic law in Pakistan since it is a “dualist” state. The ratification of treaties in accordance with the Bill’s procedures should be regarded as sufficient for their enforcement in national courts, even though some treaties, such as bilateral investment treaties, may not require domestic implementation due to the supra-national nature of their subject matter and the scope of their application, or because of the nature of the rights and obligations they create for party States.³² The main study of this research is to see that, “treaties create binding legal obligations for States enforceable under international law, this article primarily argues that Parliamentary oversight of treaties is necessary for their democratic legitimacy.”³³ However, the research lack the discussion of non-ratification of international treaties as an impact on the international relations of Pakistan with other nations and how Pakistan shape and play part in the global governance.

A very relevant book is written by Robert Kolb on “The Law of Treaties: An Introduction.” He thoroughly discussed on the basic concept of law of treaties and the ways of interpretation it and also focused on the implementation and reservations status. However, mainly this was discussed in the context of third states.³⁴ The main

³¹ Ahmad Ghouri, “Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan,” *Statute Law Review* 42, (2021): 137-155.

³² Ahmad Ghouri, “Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan,” *Statute Law Review* 42, (2021): 154-155.

³³ Ahmad Ghouri, “Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan,” *Statute Law Review* 42, (2021): 137.

³⁴ Robert Kolb, *The Law of Treaties: An Introduction* (Edward Elgar Cheltenham: UK, 2016), 115.

focuses of the book are on the legal side of its development and definitions and there is not a signal chapter devoted to non-ratification of treaties. As well, what can be the impacts on 'global governance and international relations' this book is kept silence. My research will deeply probe the impact on the states internally and externally within a legal comprehensive manner and to find a solution of how respect and importance of a treaty will be maintained in the global society. Therefore, in this phenomenon these specific issues will be framed in my research.

1.4 Framing of Issues

1. What are the impacts and benefits of non-ratification on international relations and global governance?
2. How does the Vienna Convention (1969) explain the legal implications and consequences of non-ratification?
3. What are the differences between signing and ratifying a treaty and does a state have any legal responsibilities as a result of mere signing a treaty?
4. Whether states have the right to submit reservations or ask for modifications when they observe not to ratify a particular provision?
5. What are the main reasons for non-ratification of international treaties?

1.5 Research Methodology

To explore the research question for optimal findings, the researcher shall use qualitative research which is a method of inquiry that aims to gain a deep understanding of human behavior, experiences, and perspectives by exploring the

richness and complexity of qualitative data gathered through techniques like interviews, observations, and content analysis.

Additionally, statistical methods to quantitatively analyze legal cases, statutes, court decisions, or other legal documents, providing empirical evidence for legal arguments, policymaking, and the evaluation of legal systems, shall be used. Moreover, data analysis, which in legal research involves the systematic examination and interpretation of quantitative or qualitative legal data to identify patterns, relationships, and insights that contribute to a deeper understanding of legal phenomena, inform legal arguments, and support evidence-based decision-making, shall also be undertaken.

For this, the researcher will rely on books, articles, journals, and websites to compile and gather facts about the topic. The data is collected from primary and secondary sources, and the IRAC method is also adopted for the stipulation of case laws related to treaties and other relevant materials. Above all, the principles of jurisprudence on international law are discussed and followed to resolve the legal technicalities and expressions on this topic, where required.

Chapter 2: The Historical Background and Evolution of International Treaties

2.1 An Introduction to Early Treaties and Its Effects on Diplomacy

The history of international treaties is as old as civilization itself. From early human societies to modern nation-states, treaties have played a critical role in establishing and maintaining diplomatic relationships, resolving conflicts, and setting the groundwork for international cooperation.

2.1.1 Ancient Concept of Treaties

In ancient times, treaties played a crucial role. They were mainly agreements among city-states, empires, or tribes. These treaties often dealt with many issues. Things like trade, alliances, & land borders were common topics. A well-known example is the Treaty of Kadesh. This treaty was signed around 1259 BCE. It involved the Egyptian Pharaoh Ramses II and the Hite King Hattusili III. This pact is recognized as one of the earliest peace agreements in history. It ended years of fighting between these two nations. Plus, it set up terms for defense against threats and included provisions for returning fugitives.³⁵

The importance of these ancient treaties is huge. Often, they were written with solemn oaths, calling upon divine witnesses to make sure everyone followed the rules. Breaking a treaty wasn't just a political mistake; it was also a religious offense. People believed this could lead to punishment from the gods! These early agreements established key concepts of reciprocity and mutual obligation. Today, we still see these principles in international law.³⁶

³⁵ Malanczuk, Peter. *Akehurst's Modern Introduction to International Law*. 7th ed. Taylor & Francis, New York, 1997.

³⁶ Henderson, Conway W. *Understanding International Law*. Wiley Blackwell: UK, 2010.

2.1.2 Legal Importance of Ancient Treaties

The legal framework established by ancient treaties set precedents for future diplomatic and legal interactions. For example, the Greek city-states frequently entered into agreements that included clauses on arbitration and dispute resolution, foreshadowing modern practices in international arbitration. The Roman Empire also made extensive use of treaties, known as "foedus," to manage its relationships with neighboring states and tribes. These agreements often included provisions for military alliances, trade, and the recognition of sovereignty, which influenced the development of international legal norms.³⁷

2.2 Main International Treaties and Its Impact on States Within Their Relations

As the concept of the nation-state evolved, so did the complexity and significance of international treaties. Several landmark treaties have shaped the course of history and the nature of international relations.

2.2.1 Medina Charter (Dustar Al-Madinah) 622 CE

Medina Charter was created by the Prophet Muhammad (pbuh) in the year 622 CE, it was the first written constitution in the Islamic world. The Medina Charter contained every aspect of running a country from politic to the human rights administration. The Medina Charter consists of 47 clauses. 23 clause governed the relationship between Muslims, between Ansar and Muhajirin, while the remaining 24 clauses governed the relations of Muslims with non-Muslims, the Jews and others.

³⁷ Boas, Gideon. Public International Law Contemporary Principles and Perspectives. Northampton: USA, 2012.

The Medina Charter form the constitution for Medina which was based from the regulations of Islamic law to establish a pure Islamic state that puts people of different races or ethnic groups in one country living peacefully. The purposed of the Medina Charter was to face a plural society of Medina and was to establish rules that will be complied by all the people. The main contents in the Charter were the declaration that the Prophet Muhammad (pbuh) is the head of state to all the people of Medina and any dispute shall be referred to him.

All residents are free to practice their customs and religious ceremonies respectively. All residents of Medina should cooperate in economic and if Medina to be attacked by outsiders all the citizen shall defend its. The Jews freedom are guaranteed as long as they obey the agreements listed in the charter. The charter also provide elements to unite people of various races and to establish peace and eliminate any hostility that was occurring before the arrival of Prophet Muhammad to Medina. Medina Charter was not only the first Islamic constitution but it was also the first human right charter that provided the basic rights of every human living in Medina.³⁸

2.2.2 Treaty of Westphalia (1648)

The Treaty of Westphalia, concluded in 1648, ended the Thirty Years' War in Europe and is often cited as the beginning of the modern international system. The Treaty of Westphalia set forth the essential principles of state & non-intervention. These principles became foundational to international law. By the rights of states to

³⁸ Guillaume, Alfred, and Muḥammad Ibn-Ishāq. "The life of Muhammad: A translation of [Ibn-] Ishāq's Sīrat rasūl Allāh [engl.][Hrsg.: 'Abdalmalik Ibn-Hišām.] With introd. and notes by A [lfred] Guillaume." (1955).

manage their territories without outside influence, it laid the groundwork for what we now know as the modern concept of nation-states.³⁹

The influence of the Treaty of Westphalia reached far beyond Europe. It shaped international relations across the globe. The treaty introduced a crucial idea: all states, big or small, hold equal status in the eyes of international law. This notion of sovereign equality has played a vital role in shaping organizations such as the United Nations & others involved in international affairs..⁴⁰

2.2.3 Vienna Congress (1814-1815)

The Congress of Vienna took place from 1814 to 1815. It was a key event in the timeline of international treaties. After Napoleon's defeat, major European powers came together. Their goal? To bring back political stability & create a balance of power. The treaties that followed focused on preventing any one nation from overpowering the others. This period led to nearly a century of peace, known as the Concert of Europe.⁴¹

At the Congress of Vienna, significant ideas were established. For example, there was a push to restore rightful monarchies. They also worked on changing national borders to better represent this balance of power. These foundational principles greatly affected how diplomacy worked in the 19th century. They laid out

³⁹ Wessel, Ramses A., and Guillaume Van der Loo. "The Non-Ratification of Mixed Agreements: Legal Consequences and Solutions." *Common Market Law Review* 54 (2017): 735. <https://unacademy.com/content/upsc/study-material/general-awareness/peace-of-westphalia-1648-international-relations/> (accessed September 28, 2023)

⁴⁰ *ibid*

⁴¹ Malanczuk, Peter. *Akehurst's Modern Introduction to International Law*. 7th ed. Taylor & Francis, New York, 1997.

important ways for resolving conflicts & encouraged cooperation among European nations.⁴²

2.2.4 Hague Conventions (1899 and 1907)

The Hague Conventions of 1899 & 1907 were some of the first major global agreements aimed at dealing with laws of war. They also focused peaceful ways to settle disputes. Tsar Nicholas II of Russia for these meetings, gathering representatives from many different nations. They talked about important topics like disarmament, how to conduct a war, and what rights neutral states should have.⁴³

These Conventions introduced key legal standards. They banned certain kinds of weapons and made rules aimed at protecting prisoners of war. Additionally, they set up ways for countries to settle their differences peacefully through international arbitration, which helped create the Permanent Court of Arbitration.

The principles found in the Hague Conventions still play a big role in shaping international humanitarian law today. They influence how armed conflicts are managed & remembered.⁴⁴

2.2.5 Treaty of Versailles (1919)

The Treaty of Versailles, signed in 1919, formally ended World War I and imposed significant reparations and territorial changes on Germany. The treaty's punitive measures aimed to prevent future aggression by weakening Germany economically and militarily. However, the harsh terms of the treaty also contributed to

⁴² Boas, Gideon. Public International Law Contemporary Principles and Perspectives. Northampton: USA, 2012.

⁴³ Henderson, Conway W. Understanding International Law. Wiley Blackwell: UK, 2010.

⁴⁴ Shaw, Malcolm N. International Law. 5th ed. Cambridge University Press, UK, 2003.
United Nation Human Rights Treaty Bodies.
https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=36&Lang=EN
(accessed September 29, 2023).

economic hardship and political instability in Germany, which ultimately led to the rise of Adolf Hitler and the outbreak of World War II.⁴⁵

Despite its controversial nature, the Treaty of Versailles had a lasting impact on international relations. It established the League of Nations, the first international organization dedicated to maintaining peace and preventing future conflicts. Although the League ultimately failed to prevent World War II, it set a precedent for international cooperation and provided a model for the United Nations.⁴⁶

2.2.6 Geneva Conventions (1864-1949)

The Geneva Conventions, spanning from 1864 to 1949, represent a series of international treaties aimed at protecting the victims of armed conflict. Initiated by the efforts of Henry Dunant and the International Committee of the Red Cross, these conventions established rules for the humane treatment of wounded soldiers, prisoners of war, and civilians.⁴⁷

The Geneva Conventions have gone through many updates and changes over time to keep up with how warfare is changing. The four conventions from 1949, along with their extra protocols, are really the foundation of international humanitarian law. Almost every country in the world has to them, showing their commitment to protecting human rights during war.⁴⁸

⁴⁵ Kolb, Robert. *The Law of Treaties: An Introduction*. Edward Elgar: Cheltenham, UK, 2016.

⁴⁶ Boas, Gideon. *Public International Law Contemporary Principles and Perspectives*. Northampton: USA, 2012.

⁴⁷ Henderson, Conway W. *Understanding International Law*. Wiley Blackwell: UK, 2010.

⁴⁸ Shaw, Malcolm N. *International Law*. 5th ed. Cambridge University Press, UK, 2003.

United Nation Human Rights Treaty Bodies.
https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=36&Lang=EN
 (accessed September 29, 2023).

2.2.7 United Nations Charter (1945)

The United Nations Charter, signed in 1945, is one of the most significant international treaties of the 20th century. This treaty was super important for the 20th century. It created the United Nations, which is an organization that works to promote peace, security, & collaboration among nations. The charter explains how the UN works, touching on things like the General Assembly, the Security Council, and other specialized groups.⁴⁹

The principles of sovereign equality & non-intervention are set out in the UN Charter. It emphasizes resolving disputes peacefully too. Besides that, it allows for international teamwork on many different matters. This includes everything from economic development to protecting human rights. Over the years, the UN has been essential in resolving conflicts, giving humanitarian aid, & encouraging global partnerships.⁵⁰

2.2.8 Vienna Conventions (1969)

The Vienna Convention on the Law of Treaties was in 1969. It set out the rules that guide the making, understanding, and enforcing of international treaties. Often, people call it the "treaty on treaties." It's a key part of international law.⁵¹

This convention introduced important ideas. For instance, it laid down the principle of *pacta sunt servanda*, meaning agreements must be kept. Also, it emphasized the need for good faith during treaty talks. Moreover, it specified when treaties can be ended or paused. Many countries have agreed to it. The Vienna

⁴⁹ Boas, Gideon. *Public International Law Contemporary Principles and Perspectives*. Northampton: USA, 2012.

⁵⁰ Kolb, Robert. *The Law of Treaties: An Introduction*. Edward Elgar: Cheltenham, UK, 2016.

⁵¹ Henderson, Conway W. *Understanding International Law*. Wiley Blackwell: UK, 2010.

Convention gives a clear legal framework for how nations should engage with one another.⁵²

2.3 The Nature and Responsibilities of Signatory Parties to Treaties

International treaties create certain obligations & responsibilities for the countries that sign them. When states agree to these treaties, promise to follow the rules mentioned in agreements. These rules might involve keeping the peace, respecting borders, helping each other in defense, or supporting human rights standards.⁵³

The duties of those who sign treaties are legally binding. This means they must follow international law. Countries are expected to put treaty rules into action. They should also take any needed steps—like making laws or changes in administration—to keep their promises. Ignoring these obligations can lead to problems between countries, like diplomatic disputes, sanctions, or other kinds of international criticism.⁵⁴

2.4 Definition of International Treaties

International treaties are like formal promises made between countries or international groups. They follow the rules of international law. These agreements set out rights responsibilities for everyone involved. They help manage how countries get along with each other.

One important guide to understanding these treaties is the Vienna Convention on the Law of Treaties, which created in 1969. It explains that a treaty is “an

⁵² Boas, Gideon. *Public International Law Contemporary Principles and Perspectives*. Northampton: USA, 2012.

⁵³ Kolb, Robert. *The Law of Treaties: An Introduction*. Edward Elgar: Cheltenham, UK, 2016.

⁵⁴ Henderson, Conway W. *Understanding International Law*. Wiley Blackwell: UK, 2010.

international agreement made between States in written form and governed by international law.”.⁵⁵

This can mean it’s in one document or several related ones—no matter what it’s called. Treaties can look different too! Some are bilateral, meaning just two countries are involved. Others might be multilateral, with many countries joining in. There are even universal treaties that anyone can sign up for! These agreements touch on many important topics, like peace, trade, environmental care, and human rights.⁵⁶ This variety makes treaties super handy. They can tackle many complicated issues that come up in the world. It’s all about working together to solve big problems.

2.4.1 Key Features of International Treaties

The key aspects of international treaties include their binding nature, the necessity for consent from the involved parties, and the principles of reciprocity & mutual benefit. These traits help treaties act effectively as tools of international law & diplomacy.

2.4.2 Binding Nature

A main feature of international treaties is that they bind the parties involved. Once a treaty is approved, it becomes a legal obligation for those who agreed to it. This binding aspect is crucial, as it requires the parties to follow the terms set in their agreement. The principle known as *pacta sunt servanda*, which translates to

⁵⁵ Vienna Convention on the Law of Treaties, 1969.

⁵⁶ Shaw, Malcolm N. *International Law*. 5th ed. Cambridge University Press, UK, 2003.

United Nation Human Rights Treaty Bodies.
https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=36&Lang=EN
 (accessed September 29, 2023).

“agreements must be kept,” is essential in international treaty law. This idea highlights that states are expected to uphold their treaty promises sincerely.⁵⁷

2.4.3 Requirement of Consent

Consent forms a basic part of how international treaties are made. For a treaty to be valid and enforceable, it must be accepted voluntarily by the countries or organizations involved. This consent usually shows up through negotiation, signing, & ratification steps. Representatives from each party talk about and agree on what will go into the treaty during negotiations. Signing the treaty shows that they initially agree with the terms, while ratification means they formally approve it and commit to following it. This whole process makes sure that everyone has willingly taken on the rights and responsibilities set by the treaty.⁵⁸

2.4.4 Principles of Reciprocity and Mutual Benefit

Reciprocity & mutual benefit are key ideas in international treaty law. Treaties aim to create obligations while giving rights that help all involved. The principle of reciprocity makes sure that when one party makes a commitment, the other parties respond with their commitments. This two-way approach builds cooperation & trust among states. Each party can expect to gain from the agreement based on what it offers.

Now, mutual benefit means that treaties should be made to reflect the interests of everyone involved. It encourages a fair balance of advantages. This balance, in turn, motivates parties to stick to the treaty’s terms and conditions.⁵⁹

⁵⁷ Boas, Gideon. *Public International Law Contemporary Principles and Perspectives*. Northampton: USA, 2012.

⁵⁸ Malanczuk, Peter. *Akehurst’s Modern Introduction to International Law*. 7th ed. Taylor & Francis, New York, 1997.

⁵⁹ Henderson, Conway W. *Understanding International Law*. Wiley Blackwell: UK, 2010.

2.4.5 Negotiation and Ratification Process

The process of making international treaties involves several important steps. Each step helps that all parties think about the agreement carefully & accept it fully. key stages are negotiation, signing, ratification, and sometimes, additional states may join through accession or adherence.

I. Negotiation

First comes the negotiation phase. Here, representatives from each party meet to talk about the terms of the treaty. These talks can be between two parties or involve many at once, depending on who is involved. During this time, everyone tries to find common ground and meet each other's needs. They often have to give up something to reach a deal that works for all. When negotiations go well, they produce a draft treaty that shows what's been agreed upon.⁶⁰

II. Signing

After finalizing the draft treaty, it's time for the signing. The representatives of each party will sign it. This act means they agree to the terms and plan to get approval from their governments for ratification. However, just signing does not create legal duties; it shows an intention to follow through with their own procedures for ratification.⁶¹

⁶⁰ Warbrick, "AKEHURST'S MODERN INTRODUCTION TO INTERNATIONAL LAW 'Professor Malanczuk Has Written a New Edition of Michael Akehurst's Textbook Which Maintains Its High Traditions of Clarity, Precision and Coherence. The New Edition, More Detailed and More Widely Referenced, Will Appeal to a Wider Audience of Students than Its Predecessor, While Still Satisfying the Needs of Those Seeking an Accessible Introduction to International Law, Whether Lawyers or Not,'" 154.

⁶¹ *ibid* p. 155

III. Ratification

Ratification is when a state officially agrees to follow the treaty. Generally, this requires a thumbs-up from the national legislature or another authority. Once a treaty is ratified, it becomes legally binding for that state. Different countries have various rules for how ratification works due to their unique laws and constitutions.⁶²

IV. Accession and Adherence

Sometimes states that did not sign the original treaty want to join later—they can do this through what's called accession or adherence. Accession happens when a state agrees to the terms of a treaty that others have already signed and negotiated. This way, treaties can become accepted by more states over time.⁶³

V. Treaties as Part of International Law

Once a treaty is ratified, it becomes part of international law—meaning all parties must stick to it. Being part of international law allows treaties to be enforced in different ways, like through international courts or arbitration groups. If someone breaks their promises under a treaty, it could lead to diplomatic problems or even penalties from other countries.⁶⁴

This step-by-step process helps maintain order in international relations & encourages cooperation among nations. The binding nature of treaties is crucial. They play a major role in international law. Through these agreements, we can maintain international order & promote cooperation among nations. Treaties set out clear rules

⁶² *ibid* p.156

⁶³ *ibid* p. 156

⁶⁴ *ibid* P. 157–58.

& expectations. This helps reduce conflicts and encourages peaceful exchanges between countries.⁶⁵

International treaties are very important tools for managing global relations. These formal agreements, which are based on international law, cover a variety of topics. They can be bilateral or multilateral, and even universal in scope. Key features of treaties include their binding force, the need for consent, as well as principles like reciprocity and mutual benefits. All these aspects help them serve effectively as diplomatic tools.⁶⁶

Negotiation, signing, ratification, and accession are all key steps in making and enforcing treaties. These processes show how voluntary & consensual these agreements really are. Once treaties are integrated into international law, they become obligations that states must follow to support global stability & cooperation.⁶⁷

As our world changes, international treaties will keep playing an essential role in tackling global issues and encouraging international teamwork. To truly understand their impact on law and relations between countries, it's vital to grasp the definition and characteristics of these treaties.

2.5 “Reservation“ - “Objections“ - “Legal Status“ and Their Impact on International Treaties

International treaties are super important for how countries get along. They're basically agreements that lay out different rights and responsibilities. But,

⁶⁵ Hamidi, Emman. “INSTITUTIONAL CHALLENGES AND POLITICAL COSTS IN THE US FAILURE TO RATIFY THE ICESCR,” n.d.

⁶⁶ Warbrick, “AKEHURST’S MODERN INTRODUCTION TO INTERNATIONAL LAW ‘Professor Malanczuk Has Written a New Edition of Michael Akehurst’s Textbook Which Maintains Its High Traditions of Clarity, Precision and Coherence. The New Edition, More Detailed and More Widely Referenced, Will Appeal to a Wider Audience of Students than Its Predecessor, While Still Satisfying the Needs of Those Seeking an Accessible Introduction to International Law, Whether Lawyers or Not,’” 154.

⁶⁷ *ibid* p. 154

international politics can be pretty tricky. Sometimes, countries need a way to say, “Hey, we don’t exactly agree with this part,” without completely backing out of the treaty. This sort of flexibility helps different countries with their unique needs. The Vienna Convention on the Law of Treaties (VT) from 1969 gives us clear rules to understand what reservations and objections mean, especially in Articles 19 to 23.⁶⁸

2.5.1 The Concept of Reservations

Basically reservation in the context of international treaties refers to a unilateral statement made by a state when signing, ratifying, accepting, approving, or acceding to a treaty, whereby the state purports to exclude or modify the legal effect of certain provisions of the treaty in their application to that state.⁶⁹ Reservations allow states to participate in treaties while adjusting certain obligations that may conflict with their domestic laws or policies. This mechanism is particularly crucial in multilateral treaties, where a broader acceptance of the treaty is desired, even if it means allowing certain states to opt out of specific provisions.⁷⁰

2.5.2 Legal Framework for Reservations under the Vienna Convention

The Vienna Convention on the Law of Treaties lays down the rules for the formulation and acceptance of reservations. Article 19 of the VCLT states that a state may formulate a reservation unless (a) the reservation is prohibited by the treaty; (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or (c) the reservation is incompatible with the object and purpose of the treaty.⁷¹

⁶⁸ Vienna Convention on the Law of Treaties, May 23, 1969, United Nations Treaty Series, vol. 1155, p. 331.

⁶⁹ *Ibid.*, Art. 2(1)(d)

⁷⁰ Anthony Aust, *Modern Treaty Law and Practice* (Cambridge University Press, 2013).

⁷¹ Vienna Convention on the Law of Treaties, Art. 19

Article 20 further elaborates on the acceptance of and objections to reservations. For example, a reservation expressly authorized by a treaty does not require acceptance by the other contracting states unless the treaty provides otherwise. In cases where a treaty's application in its entirety is essential for the consent of all parties, such reservations require acceptance by all parties.⁷²

2.5.3 The Role of Objections

Objections to reservations play a significant role in safeguarding the integrity of treaties. When a state objects to a reservation made by another state, the legal effects of the reservation are impacted. According to Article 20(4) of the VCLT, an objection by a state does not preclude the entry into force of the treaty between the reserving and objecting states unless the objecting state expressly indicates that the treaty will not enter into force between them.⁷³

This provision ensures that objections do not automatically lead to the exclusion of the reserving state from the treaty framework, allowing for a more nuanced approach where the specific provisions to which the reservation relates do not apply between the objecting and reserving states.⁷⁴

2.5.4 Legal Status and Impact of Reservations and Objections

The legal status of reservations and objections has profound implications for the application of treaties. Article 21 of the VCLT clarifies the effects of reservations and objections. A reservation that has been established with regard to another party modifies the provisions of the treaty for the reserving state in its relations with that

⁷² Ibid., Art. 20.

⁷³ Ibid., Art. 20(4)

⁷⁴ Mark E. Villiger, *Commentary on the 1969 Vienna Convention on the Law of Treaties* (Martinus Nijhoff Publishers, 2009).

other party to the extent of the reservation. Likewise, the provisions are modified to the same extent for the other party in its relations with the reserving state.⁷⁵

Furthermore, reservations do not modify the provisions of the treaty for the other parties *inter se*.⁷⁶ This means that the original provisions of the treaty continue to apply between states that have not made or accepted reservations. Additionally, when a state objects to a reservation but does not oppose the entry into force of the treaty between itself and the reserving state, the provisions subject to the reservation do not apply between them to the extent of the reservation.⁷⁷

2.5.5 The Impact of Reservations and Objections on the Integrity of Treaties

The allowance for reservations & objections under the VCLT is quite a tricky matter. It has its good points, sure. For one, it helps more countries join treaties by considering their different legal & political systems. But there's a downside too. When too many states add reservations, it might make the treaty less clear and predictable. This is especially true for multilateral agreements where many countries are involved.⁷⁸

Yet, there is an important rule: reservations can't go against the main goals of the treaty (Vienna Convention, 1969, Art. 19(c)). This rule is really crucial because it keeps states from weakening what the treaty aims to achieve, even when they customize their duties. Plus, objections are there to help nations defend their interests

⁷⁵ Vienna Convention on the Law of Treaties, Art. 21(1)

⁷⁶ *Ibid.*, Art. 21(2)

⁷⁷ *Ibid.*, Art. 21(3)

⁷⁸ Ian Sinclair, *The Vienna Convention on the Law of Treaties* (Manchester University Press, 1984)

against any reservations they don't like. This way, a balance between flexibility & treaty integrity is maintained.⁷⁹

Reservations and objections play a key role in how international treaties work. They give states the needed freedom to join global agreements without losing control over their laws. The Vienna Convention on the Law of Treaties outlines this through Articles 19 to 21, creating a clear legal guide for these processes.

Even though reservations & objections can make things a bit complicated in international law, they also help treaties stay open and flexible for different countries' needs. The challenge is finding that right balance—keeping flexibility while ensuring treaties stay strong and effective in the legal world.

2.6 Types of International Treaties

International treaties form the backbone of international relations and law, facilitating cooperation, conflict resolution, and the establishment of legal norms among states. These treaties can be categorized into unilateral, bilateral, and multilateral types, each playing a unique role in the international legal framework.

2.6.1 Unilateral Treaties

Unilateral treaties are not as frequent as bilateral or multilateral treaties, yet they play an important role in international law. These treaties take place when one state makes a declaration. This declaration is meant to create obligations or grant rights under international law. A well-known instance is Egypt's unilateral declaration from 1957 about the Suez Canal. The goal was to keep the canal open for international shipping, while claiming Egyptian sovereignty over it. By doing this,

⁷⁹ Villiger, *Commentary on the 1969 Vienna Convention on the Law of Treaties*.

Egypt confirmed its control and committed to upholding international navigation rights, which shows the complicated nature of unilateral treaties.

Peter Malanczuk notes that unilateral promises in international law bind the state making the promise if there is a clear intention for it to be legally binding⁸⁰. This idea highlights how intricate unilateral treaties can be because they show a state's commitment to act—or not act—in certain ways. Such commitments can greatly affect other countries or the global community. For instance, if a state declares it will cut carbon emissions, it may influence worldwide environmental policies and inspire others to do the same.

Unilateral treaties often arise when a state wants to assert its position or influence without needing an immediate response from others. These declarations can be strategic. They aim to shape global norms or prevent actions by other nations. Nevertheless, whether these declarations are binding largely depends on the motivations behind them and how the international community accepts those intentions. The complexity and importance of unilateral treaties come from their power to bind states to their commitments, affecting both the declaring nation and the wider international community.

2.6.2 Bilateral Treaties

Bilateral treaties are agreements between two states, representing the most straightforward form of international agreements. These treaties cover a wide range of issues, including trade, defense, and environmental protection. The simplicity of bilateral treaties lies in the involvement of only two parties, making them relatively easier to negotiate and implement compared to multilateral agreements.

⁸⁰ Malanczuk, Peter. *Akehurst's Modern Introduction to International Law*. 7th ed. Taylor & Francis, New York, 1997.

The Vienna Convention on the Law of Treaties (1969) defines a bilateral treaty as an international agreement concluded between two states in written form and governed by international law.⁸¹ Bilateral treaties often serve as the foundation for broader cooperation, paving the way for more extensive multilateral agreements. They help create clear agreements on specific topics. This makes them super important in international diplomacy.

Take the North American Free Trade Agreement (NAFTA for example. It as a deal between the United States, Canada, & Mexico. It started with agreements just between two countries which laid out a way for stronger economic ties across the region. Bilateral treaties can also focus on narrower topics. Like the U.S.-Russia Strategic Arms Reduction Treaty (START) This one targets arms control & aims for nuclear disarmament specifically.

Negotiating these bilateral treaties is usually easier than dealing with many parties, like in multilateral treaties. Fewer countries mean it's quicker to settle issues & get things done smoothly. Still, how well a bilateral treaty works depends on both sides being willing & committed to stick to their promises and solve any problems that pop up.

2.6.3 Multilateral Treaties

Now, let's talk about multilateral treaties! These involve more than two states and mostly deal with big global issues—stuff like climate change, human rights, and international security. They can be tricky to negotiate since lots of countries must agree together, which takes a lot of diplomatic effort.

⁸¹ Vienna Convention on the Law of Treaties, 1969.

Since World War II ended, multilateral treaties have become really important. The United Nations Charter is a key example—it created the United Nations and set up ways for countries to work together on various matters. The Charter's not just about keeping peace; it also tackles issues like development, human rights, & international laws that matter worldwide.

Multilateral treaties help promote teamwork across nations and keep international standards in check everywhere. They make it possible for countries to work together on big challenges that cross borders. A good example is the Paris Agreement on climate change—it involves almost every country and aims to lower global warming by cutting greenhouse gas emissions. This agreement shows how working together can tackle tough global problems.

Negotiating these bigger treaties often means complex talks & compromises—after all, many states have different interests! This process can take time & effort but leads to solid solutions for global problems once everyone agrees. These treaties then create laws and standards that nations need to follow, helping keep stability and cooperation worldwide.

Lastly, multilateral treaties are super important for setting international legal standards too! Take the Geneva Conventions—these set rules on how to treat people during wars and have been agreed upon by nearly every country out there! They give support for victims caught in conflicts.

To sum it up: international treaties—whether they involve one country (unilateral), two (bilateral), or many (multilateral)—are at the heart of how countries interact legally and diplomatically. Each type has its own role in dealing with various issues from national security to huge challenges like climate change and human rights.

The complexity of these treaties really highlights how essential they are for keeping our world organized and encouraging countries to work together.

2.7 Treaties Which Created an Impact on The Modern International Law

Throughout history, many treaties have played a big role in the growth of international law. These treaties didn't just shape international relations; they also built legal frameworks & helped global governance.

2.7.1 The Significance of Treaties in Shaping International and Diplomatic Relations and Global Governance

Treaties are very important when it comes to international relations & global governance. They are formal agreements that create legal frameworks for how countries interact & work together on various topics. These agreements have set up the rules for today's international legal order. They recognize state sovereignty, encourage diplomacy, and promote peace & stability.

One of the most important treaties in the history of international law is the Treaty of Westphalia, signed in 1648. It marked the end of the Thirty Years' War in Europe. This treaty introduced state sovereignty & non-interference in each other's domestic issues. By acknowledging the sovereignty of states & their territorial integrity, the Treaty of Westphalia created a basis for the modern state system. It also set up ideas for today's diplomatic practices (Treaty of Westphalia, 1648). Its focus on sovereignty and non-interference remains a key part of international law, shaping how countries interact & solve disputes.

Another crucial treaty is the Vienna Convention on the Law of Treaties, which was adopted in 1969. It put together many customary principles about treaties into one document. This convention made rules for creating, understanding, and enforcing

treaties. The Vienna Convention has become essential to modern international law, affecting how countless treaties are written & put into action globally. It provides clear guidelines for treaty processes, allowing smoother and more predictable diplomatic interactions so that treaties are negotiated & enforced consistently.⁸²

The Geneva Conventions are a set of treaties developed from 1864 to 1949 that have greatly influenced international law, especially humanitarian law. These treaties set out standards for humanitarian treatment during war times. They protect people not taking part in fighting—like civilians, medical workers, and prisoners of war. Nearly every country has accepted these Geneva Conventions, showing their worldwide importance in safeguarding human rights during conflicts.⁸³

The United Nations Charter, signed in 1945, is another very impactful treaty shaping international relations & global governance. This Charter created the United Nations, an organization focused on promoting peace, security & cooperation among nations worldwide. Key principles from the UN Charter—like sovereign equality for all member states and peaceful dispute resolution—have become fundamental to international law over the years.⁸⁴

These treaties laid out legal standards & norms that guide how states and other global actors behave. They provide a framework for collaboration and conflict resolution and have helped increase global stability as well as develop international law.

⁸² Vienna Convention on the Law of Treaties, 1969.

⁸³ Shaw, Malcolm N. *International Law*. 5th ed. Cambridge University Press, UK, 2003.

United Nation Human Rights Treaty Bodies.
https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=36&Lang=EN
 (accessed September 29, 2023).

⁸⁴ United Nations Charter, 1945.

2.7.2 Observance and Application of Main International Treaties in Developing the Process of Signing, Ratifying, and Non-Ratifying

The processes of signing, ratifying, & not ratifying treaties play crucial role in international. The Vienna Convention details how actions work, explaining legal effects. It ensure that treaties are made and enforced in a clear way.

Signing a treaty shows that a state intends to follow its terms. This first step means the representatives agree on the treaty's text. Yet, just signing doesn't create binding obligations. It simply shows early consent to the treaty's terms. The next step is ratification for it to become legally binding.

Ratification is when a state formally agrees to be bound by the treaty. This usually needs approval from the national legislature or other important authorities. When a state ratifies a treaty, it commits itself to following its provisions. This step makes the treaty legally binding on that state. Different countries have various procedures for ratification, which reflect their unique legal & constitutional setups.⁸⁵

However, it's important to note that not all signed treaties are ratified. For instance, the U.S. has often signed significant treaties but hasn't ratified them because of domestic politics and constitutional processes. This situation shows how complicated the treaty-making process can be, highlighting how important domestic laws are in international agreements. The link between domestic politics & international obligations can greatly impact a state's dedication to these agreements, showing how closely national and international legal systems interact.⁸⁶

⁸⁵ Vienna Convention on the Law of Treaties, 1969.

⁸⁶ Bradley, Curtis A. "Unratified Treaties, Domestic Politics, and the U.S. Constitution." *Harvard International Law Journal* 48 (2007): 307-357.

Take the Kyoto Protocol as an example. The U.S. signed this treaty aimed at cutting greenhouse gas emissions but never ratified it. Political opposition at home and worries about economic effects stopped the U.S. from moving forward with ratification despite initial support. This case clearly shows how local political issues can sway the process and affect global commitments.⁸⁷

Non-ratification of treaties can have serious effects on international law & relations. It can cause confusion and keep international agreements from being effective, impacting global cooperation & governance overall. That's why understanding how signing, ratifying, & non-ratifying works is vital for grasping the complexities of international law and what influences states' commitments to these agreements.

2.8 Conclusion

International treaties have changed a lot since their early days. Now, they reflect how global diplomacy & governance today. These treaties are for keeping international order, encouraging cooperation, tackling global issues. The differences between unilateral, bilateral, and multilateral treaties show how countries interact and agree on international rules. Key treaties, like the Treaty of Westphalia, the Geneva Conventions, and the United Nations Charter, have shaped international law. They set legal standards and also help build diplomatic ties & global governance. To really understand international law, it is vital to grasp the nature & responsibilities of the countries that sign these treaties. As new challenges arise in the world, treaties will continue to help with international cooperation and legal compliance. Watching how these treaties evolve is key for promoting a stable and fair international order. The

⁸⁷ *ibid*

ongoing commitment to these agreements remains crucial for ensuring global peace and collaboration.⁸⁸

⁸⁸ Ghouri, Ahmad. "Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan." *Statute Law Review* 42, no. 2 (2021): 137-155.

Chapter 3: The Impact and Significance of Non-Ratifications of Treaties

3.1 Introduction

International treaties serve as fundamental instruments in governing international relations and establishing global legal norms. These agreements form the bedrock of international law, guiding the conduct of states in various areas, including human rights, environmental protection, and arms control. International treaties are super important for managing how countries get along and setting some basic rules for. These agreements sit at the heart of international law. They help guide what countries do about human rights, protecting our environment, & controlling arms. The process to officially approve these treaties—called ratification—can be really complicated. Not every treaty that countries sign gets ratified in the end. When a country chooses not to ratify a treaty, it can cause big problems for international law, diplomacy, & even local politics. This chapter will take a closer look at non-ratifications of treaties. We'll chat about how treaties are made, why some are not ratified, and what effects these choices have on society and politics.

3.2 The Basic Steps of the Treaty-Making Process

The treaty-making process includes several important steps that ensure treaties created, agreed upon, & implemented. Knowing these steps helps one understand the complexities surrounding treaty ratification. It also sheds light on why some treaties might not be ratified.

3.2.1 Negotiation

Negotiation is the first step in making a treaty. Here, representatives from different states gather to talk and agree on the treaty's terms. This stage requires lots

of diplomatic efforts. States present their positions, negotiate terms, & make concessions so they can find common ground. Sometimes these discussions are bilateral, and sometimes they involve several states (multilateral). When negotiations go well, they produce a draft treaty that lists all the agreed terms and conditions (Vienna Convention on the Law of Treaties, 1969)⁸⁹.

The negotiation phase is very important because it lays the groundwork for the treaty. Whether states can compromise & work together during this time largely decides if the treaty will be successful and if it will get ratified. A good example is the Paris Agreement on climate change. It required detailed negotiations as states had to balance their own interests with global environmental goals.⁹⁰

3.2.2 Signature

After successful negotiations, representatives from the participating states sign the treaty. This signing shows that the states agree on terms, but it also means they to move forward with rat the treaty. Still, just signing doesn't make it legally binding. It's more of a formal way to say they accept the terms & intend to get local approval for ratification.⁹¹

The signature represents a commitment to the treaty. However, there are challenges. Sometimes, domestic political issues pop up at this point and can affect ratification. Take the United States as an example. They signed the Kyoto Protocol but never ratified it due to important political and economic concerns. For example,

⁸⁹ Vienna Convention on the Law of Treaties, 1969.

⁹⁰ Henderson, Conway W. *Understanding International Law*. Wiley Blackwell: UK, 2010.

⁹¹ Vienna Convention on the Law of Treaties, 1969

the United States signed the Kyoto Protocol but never ratified it due to significant political and economic concerns⁹².

3.2.3 Ratification and Exchange of the Instruments of Ratification

Ratification is the process by which a state formally consents to be bound by a treaty. Now, ratification is when a state officially agrees to follow a treaty. Usually, this approval needs to come from the national legislature or other important groups, based on what that state's constitution says. When ratification happens, it means that the state accepts all obligations from the treaty, making it legally binding. After this step, both states exchange instruments of ratification, which confirms their promise to follow what's in the treaty.⁹³

The ratification process can be swayed by what's happening politically and legally at home. In democratic nations, getting legislative approval can be a tough job because it shows broader political feelings. For example, in the U.S., needing a two-thirds majority in the Senate for treating ratification often makes things tricky. This was evident with the Comprehensive Nuclear Test Ban Treaty.⁹⁴

3.2.4 Implementation and Coming into Force

The last step in making a treaty is when it gets implemented & starts take effect. After countries exchange ratification documents, the treaty begins on a set date or once certain conditions are met as stated the treaty. Then, the countries must put the treaty's rules into their own legal systems. This stage means creating new laws,

⁹² Bradley, Curtis A. "Unratified Treaties, Domestic Politics, and the U.S. Constitution." *Harvard International Law Journal* 48 (2007): 307-357.

⁹³ Boas, Gideon. *Public International Law Contemporary Principles and Perspectives*. Northampton: USA, 2012.

⁹⁴ Hamidi, Emman. "Institutional Challenges and Political Costs in the US Failure to Ratify the ICESCR." *Berkeley Undergraduate Journal* (2020): 1-13.

changing how they run certain things, and making sure they follow the treaty's guidelines..⁹⁵

This implementation phase is super important for a treaty to work well. Countries need to turn their international promises into local actions. But this can be tricky and take a lot of time & resources. How well a treaty gets put into action often relies on the political will and ability of each country. For example, the Convention on the Rights of the Child needs big changes in laws and policies to truly protect kids' rights..⁹⁶

3.3 The Context and Background of Non-Ratification of Treaties

The non-ratification of treaties is a tricky issue. It happens because of many political, social, & legal challenges. To really get why some treaties aren't ratified, we need to look at what it means and what it can lead to. This helps us understand its effects on international law and relationships.

3.3.1 The Basic Idea of Non-Ratification of Treaties

Non-ratification occurs when a state signs a treaty but fails to complete the ratification process, thereby not becoming legally bound by the treaty's terms. So, non-ratification happens when a country signs a treaty but doesn't finish the steps to make it official. This means they aren't legally tied to following the rules of that treaty. There are lots of reasons for this. Sometimes, there's political pushback or a new government comes in. Other times, there are legal problems at home, or the country

⁹⁵ Shaw, Malcolm N. *International Law*. 5th ed. Cambridge University Press, UK, 2003.
United Nation Human Rights Treaty Bodies.
https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=36&Lang=EN
(accessed September 29, 2023).

⁹⁶ Greenhill, Brian, and Michael Strausz. "Explaining Non-Ratification of the Genocide Convention: A Nested Analysis." *Foreign Policy Analysis* 10 (2014): 371-391.

just has different priorities now. When treaties aren't ratified, it can really weaken international agreements and slow down the creation of consistent global legal standards.⁹⁷

The phenomenon of non-ratification is not merely a procedural issue; it reflects deeper political dynamics and strategic considerations. But non-ratification isn't just about procedures and paperwork; it shows deeper political issues and strategies at play. Take the United States, for example. When it doesn't ratify certain international agreements, it often has bigger worries about its own power and how these treaties could affect local law. We see this cautious approach with treaties like the Kyoto Protocol or the Comprehensive Nuclear-Test-Ban Treaty. Economic factors & security concerns were big deals in these decisions. So, in short, understanding non-ratification helps us see why countries make certain choices on the world stage.⁹⁸

3.3.2 Definition of Non-Ratification

Non-ratification happens when a state doesn't formally agree to follow a treaty after it's signed. This can occur for several reasons, like not approval from leaders, facing political pushback, or having rules that stop it. If a state decides not to ratify a treaty, it means they aren't legally required to follow any of its rules. This can create confusion problems when trying to put international agreements into action.⁹⁹

So, this definition covers both how treaties are approved and the deeper reasons behind them. The steps needed to ratify are part of the process. Then there are

⁹⁷ Bradley, Curtis A. "Unratified Treaties, Domestic Politics, and the U.S. Constitution." *Harvard International Law Journal* 48 (2007): 307-357.

⁹⁸ Hamidi, Emman. "Institutional Challenges and Political Costs in the US Failure to Ratify the ICESCR." *Berkeley Undergraduate Journal* (2020): 1-13.

⁹⁹ Vienna Convention on the Law of Treaties, 1969

the political and legal factors that affect why a state chooses to sign or not sign. Non-ratification shows what a state cares about and reflects its own political situation..¹⁰⁰

3.3.3 The Political and Social Consequences of Ratification and Non-Ratification

Actually the political and social consequences of ratification and non-ratification are significant and multifaceted. The effects of ratifying or not ratifying treaties are big and complex. When a country ratifies a treaty, it can boost its reputation on the world stage, encourage teamwork, and help with global governance. On the flip side, not ratifying can lead to problems like strained diplomatic ties, loss of trust, & missed chances to work together internationally.

Political Consequences: Not ratifying can have effects at home and abroad. In a country, it might show political disagreements or a lack of common ground on the treaty's advantages. Take the United States for example: it has faced hurdles in ratifying certain international treaties because of political pushback and rules in its constitution. On the international scene, failing to ratify can create tension between countries and damage trust. If a state signs but doesn't follow through on a treaty, others might think it is not serious about keeping its promises..¹⁰¹

Social Consequences: The social impacts of non-ratification can be serious, especially in areas like human rights, protecting the environment, & public health. Treaties usually aim to tackle big global issues and make life better for people in communities worldwide. When treaties aren't ratified, it slows down progress in these important areas and stops us from reaching our shared goals. For example, if human

¹⁰⁰ Kolb, Robert. *The Law of Treaties: An Introduction*. Edward Elgar: Cheltenham, UK, 2016.

¹⁰¹ Ibid

rights treaties aren't ratified, it makes it tougher to safeguard basic rights and freedoms for those who need protection the most.¹⁰²

Case Study: The International Covenant on Economic, Social and Cultural Rights (ICESCR): United States' choice not to ratify the International Covenant on Economic Social & Cultural Rights (ICESCR) stands as a key example how non-ratification can affect politics &. Although the U. signed the ICCR back in 1977, it never actually ratified the treaty. The government has raised worries what this might mean its own policies & sovereignty.¹⁰³ This situation has hampered the U.S.'s role in the human rights framework. It also brings up questions the nation's commitment to economic & social.¹⁰⁴ Without ratification, the role of the U.S in promoting these rights is at stake. It is one of the broader tensions that exist between international promises and priorities..

The non-ratification of treaties is a complex and multifaceted issue that can have significant implications for international law, diplomacy, and domestic politics. The issue of not ratifying treaties is complex. It involves many angles that can greatly influence things like international law & diplomacy, as well as domestic politics. Understanding how treaties are made through negotiation, signature, ratification, and implementation helps explain why some are ratified while others do not. Furthermore, the primary steps of the treaty-making process, which includes negotiation, signature, ratification, and implementation, which are critical to the understanding of the dynamics of treaty ratification and non-ratification.

¹⁰² Lewis, Hope. "New Human Rights: U.S. Ambivalence Toward the International Economic and Social Rights Framework." *Northeastern Public Law and Theory Faculty Working Papers* (2009): 105-124.

¹⁰³ Hamidi, Emman. "Institutional Challenges and Political Costs in the US Failure to Ratify the ICESCR." *Berkeley Undergraduate Journal* (2020): 1-13.

¹⁰⁴ Lewis, Hope. "New Human Rights: U.S. Ambivalence Toward the International Economic and Social Rights Framework." *Northeastern Public Law and Theory Faculty Working Papers* (2009): 105-124.

Multiple factors contribute to non-ratification these can include political pushback, legal obstacles at home, or changes in national priorities. Not ratifying treaties can have major consequences—affecting diplomatic ties, international standing, and achievement of global goals. To truly grasp its effects international law & relations, recognizing the context behind non-ratification is crucial..

In nutshell—treaties are essential for shaping international relations and setting legal standards. Still, getting them ratified is often a complicated process with many challenges. The failure to ratify treaties highlights the need to tackle political, social, and institutional barriers—this is vital for making international agreements work effectively. As we face various global issues today, committing to ratifying and upholding such treaties will remain key for fostering cooperation, stability, and progress on a worldwide scale.

3.4 Legal Implications for Non-Ratifications

The non-ratification of international treaties is a multifaceted issue with profound implications for both international and domestic legal landscapes. The fact that international treaties is a complex issue. holds deep meaning for both international & domestic laws. Treaties are crucial because they create legal standards and help countries work together. Yet, many factors might stop a country from ratifying these treaties. These factors include political pushback, social opposition, & legal hurdles. This section looks at the legal outcomes of not ratifying treaties, examining both the ideological challenges and the social barriers. We will also consider how non-ratification affects national independence and global diplomacy.

3.4.1 Domestic and Constitutional Restraints for Ratifications

Domestic and constitutional limits play key roles in stopping treaty ratifications. In several nations, like the United States, national agreements need approval from the legislature. This requirement can slow down the process or create hurdles, especially if there is political opposition or disagreements on the treaty's advantages. For instance, the U.S. Senate needs a two-thirds majority to ratify treaties. This has caused troubles with agreements like the Comprehensive Nuclear-Test-Ban Treaty and the Kyoto Protocol..¹⁰⁵

Constitutional limits add to the challenges in ratifying treaties. In democratic nations, the executive branch often can't ratify agreements without getting legislative backing first. This separation of powers maintains checks & balances but can also create standstills—particularly in times of political divide. Needing legislative support reflects a wider democratic idea, yet it can delay important international pledges that need to be acted upon quickly and effectively..¹⁰⁶

3.4.2 The Nature of Compatibility With Domestic Laws

The alignment of international treaties with local laws plays a major role in whether or not they ratified. Sometimes, treaties require countries to change their own laws to match international. This can be tricky and lead to disagreements. There are times when current local laws not fit well with the treaty's rules, leading to the need for big changes. This push for legal adjustments can cause many to resist ratification, especially if powerful local groups oppose these modifications..¹⁰⁷

¹⁰⁵ Hamidi, Emman. "Institutional Challenges and Political Costs in the US Failure to Ratify the ICESCR." *Berkeley Undergraduate Journal* (2020): 1-13.

¹⁰⁶ Ghouri, Ahmad. "Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan." *Statute Law Review* 42, no. 2 (2021): 137-155.

¹⁰⁷ Henderson, Conway W. *Understanding International Law*. Wiley Blackwell: UK, 2010.

Take human rights treaties, for instance. Ratifying them often requires major shifts in national laws to meet worldwide human rights expectations. Such adjustments aren't just simple—they can be sensitive politically and tough to manage. This is especially true in nations with strong legal customs that don't really match up with international standards. Resistance to these changes shows just how hard it can be to bring local and global legal systems together.¹⁰⁸

3.4.3 Rigidity of Legislation in Domestic Laws

The rigidity of domestic legislation can significantly hinder the ratification of international treaties. Next up is the issue of strictness in domestic laws. The firmness in local legislation can really slow down the process of ratifying international treaties. In several countries, making changes to laws so they fit treaty expectations can take a long time and be pretty complicated. When laws are rigid, with deeply rooted norms and procedural hurdles, it creates big challenges for getting treaties ratified. This is often seen in nations with complex legal frameworks or where there's strong pushback against any change.¹⁰⁹

For example, bringing international environmental agreements into local law often runs into problems because existing legal structures are resistant to updates. The need to revamp current regulations, create new ways of enforcing rules, and ensure national policies line up with international promises can feel overwhelming. This

¹⁰⁸ Lewis, Hope. "New Human Rights: U.S. Ambivalence Toward the International Economic and Social Rights Framework." *Northeastern Public Law and Theory Faculty Working Papers* (2009): 105-124.

¹⁰⁹ Kolb, Robert. *The Law of Treaties: An Introduction*. Edward Elgar: Cheltenham, UK, 2016.

leads not just to delays but also the possibility that treaties might not get ratified at all.¹¹⁰

3.4.4 Complexity and Acceptance of Treaty Implementation

Implementing international treaties can be pretty complicated. This complexity is a reason why countries might hesitate to ratify them. You see, effective implementation needs a lot of work. There's a need for strong legal efforts, new rules, and ways to enforce them. Resources also need to be set aside for this purpose. Because of these challenges, some may resist ratification. Concerns about the workload or possible impacts on local laws can cause hesitation..¹¹¹

Also, it's really important that local groups accept the implementation of these treaties. This acceptance includes many players—government bodies, businesses, and community organizations. If any of these groups push back against changes needed by the treaty, it could throw a wrench into the ratification process and make it hard to implement things properly. Many times, whether they accept it depends on how they see the benefits and if what the treaty says matches up with their own national interests.¹¹²

When international treaties aren't ratified, numerous challenges emerge—legal ones, political issues, and social problems too. Different factors like domestic laws, strict legislative processes, and how tough it is to implement treaties all influence whether or not they get ratified. Knowing about these factors helps us understand what non-ratification means for global law and relationships between countries. To

¹¹⁰ Massey, Douglas, ed. "International Treaties Have Mostly Failed to Produce Their Intended Effects." *PNAS* 119 (2002): 1-9. <https://www.pnas.org/doi/epdf/10.1073/pnas.2122854119> (accessed September 28, 2023).

¹¹¹ Shaw, Malcolm N. *International Law*. 5th ed. Cambridge University Press, UK, 2003.

¹¹² Greenhill, Brian, and Michael Strausz. "Explaining Non-Ratification of the Genocide Convention: A Nested Analysis." *Foreign Policy Analysis* 10 (2014): 371-391.

tackle these problems effectively needs cooperation—aligning local laws with global standards, building political support, & ensuring that treaty obligations are carried out properly.

3.5 Ideological and Social Impediments for Non-Ratifications

The failure to ratify international treaties is heavily shaped by social & ideological factors. These aspects impact political choices, influence public opinion, & cause resistance to international obligations. They play a key role in the challenging area of treaty ratification.

3.5.1 The Tightened Concept of Sovereignty and National Interests

Sovereignty & national interests are big reasons why countries don't ratify treaties. A lot of states worry that accepting international treaties might limit their sovereignty or harm their national interests. This fear often comes from thinking they might lose control over their own rules, or how international duties could affect their power at home. Such worries are strong in nations where nationalism or isolationism is common, and they usually think taking care of their own matters is more important than working with other countries.¹¹³

Take China, for instance. Its hesitance to accept human rights treaties like the International Covenant on Civil and Political Rights (ICCPR) shows its focus on keeping state sovereignty intact and not allowing outside opinions on its internal decisions. The same goes for the United States. Its choice not to ratify the United

¹¹³ Ghouri, Ahmad. "Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan." *Statute Law Review* 42, no. 2 (2021): 137-155.

Nations Convention on the Law of the Sea (UNCLOS) is driven by concerns about sovereignty and wanting control over ocean resources.¹¹⁴

3.5.2 The Problems of Balancing National Interests and International Commitments

Balancing national interests with international commitments is a tough that affects non-ratification. States often feel pressure. They to put their own national interests first, especially if there are worries about how it will affect local policies. This struggle between what's best for the country versus what's required internationally lead to pushback on ratification, particularly when strong national interests go against the treaty.¹¹⁵

Take economic treaties as an example. When they need big changes to local economic policies, they might face strong opposition. A good example is the United States not ratifying the Kyoto Protocol. This was largely due to fears about how it would impact the economy. Policymakers worried that following the rules of this treaty could hurt domestic industries and stall economic growth. As a result, various powerful economic sectors resisted it.

3.5.3 Economic and Social Factors

Economic and social factors are also vital in the conversation around non-ratification. Many international treaties ask states to commit significantly in these areas, which can create hurdles if there are concerns about their effect on home policies. Furthermore, economic and social inequalities can make resistance even

¹¹⁴ Bradley, Curtis A. "Unratified Treaties, Domestic Politics, and the U.S. Constitution." *Harvard International Law Journal* 48 (2007): 307-357.

¹¹⁵ Greenhill, Brian, and Michael Strausz. "Explaining Non-Ratification of the Genocide Convention: A Nested Analysis." *Foreign Policy Analysis* 10 (2014): 371-391.

stronger, especially if there are fears about the impact on marginalized or vulnerable groups.¹¹⁶

A case in point is the U.S. decision not to ratify the International Covenant on Economic, Social, and Cultural Rights (ICESCR). This choice shows worries about the obligations the treaty would bring regarding economic and social policies. Policymakers have pointed out that agreeing to the ICESCR could mean making big changes to domestic social policies and welfare programs. Consequently, this leads to pushback from different political & economic groups..¹¹⁷

3.6 Significance of Non-Ratifications of International Treaties

The choice not to ratify international treaties carries important effects for international relations, domestic politics, and global governance.

3.6.1 Maintaining Power and Autonomy in International Affairs

Deciding against ratification can help countries keep power & independence in global matters. Some states opt not to ratify treaties to have more control over their own policies, avoiding outside pressure. This is especially vital for nations with strong nationalist or isolationist views. They want to show their independence & sovereignty on the world stage.¹¹⁸

Take the United States, for instance. The U.S. often refrains from ratifying certain treaties. This choice shows a wish to uphold its independence & steer clear of

¹¹⁶ Baird, Natalie. "To Ratify or Not to Ratify? An Assessment of the Case for Ratification of International Human Rights Treaties in the Pacific." *Melbourne Journal of International Law* 12 (2011): 1-36.

¹¹⁷ Lewis, Hope. "New Human Rights: U.S. Ambivalence Toward the International Economic and Social Rights Framework." *Northeastern Public Law and Theory Faculty Working Papers* (2009): 105-124.

¹¹⁸ Bradley, Curtis A. "Unratified Treaties, Domestic Politics, and the U.S. Constitution." *Harvard International Law Journal* 48 (2007): 307-357.

limitations on its policies. Not signing the Rome Statute, which created the International Criminal Court (ICC), allows the U.S. to control its legal and military actions without needing to follow outside judicial rules.¹¹⁹

3.6.2 Using Non-Ratification as a Diplomatic Tool

Non-ratification can also serve as a diplomatic tool, helping states get better terms or exert political power. By not signing treaties, states might express displeasure with specific terms or push others into making compromises. This method can be particularly useful in negotiations involving multiple countries since one key state's decision not to ratify can greatly affect how well a treaty works.¹²⁰

For example, during the talks regarding the Comprehensive Nuclear-Test-Ban Treaty (CTBT), several countries hinted at non-ratification to alter the treaty details and gain advantages for themselves. When important states decide not to ratify, it can be a way to influence international agreements so that they fit national interests better.¹²¹

3.6.3 Global Response and Adapting Strategies in States' Interests

State Interests Responses around the world to non-ratification differ greatly, with countries adjusting their strategies based on this situation. Although non-ratification may create diplomatic strife and weaken trust between nations, it can also open doors for renegotiation and teamwork. Countries might modify their plans to address the worries of those who don't ratify and aim for a broader consensus on international issues.

¹¹⁹ Ghouri, Ahmad. "Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan." *Statute Law Review* 42, no. 2 (2021): 137-155.

¹²⁰ Baird, Natalie. "To Ratify or Not to Ratify? An Assessment of the Case for Ratification of International Human Rights Treaties in the Pacific." *Melbourne Journal of International Law* 12 (2011).

¹²¹ Greenhill, Brian, and Michael Strausz. "Explaining Non-Ratification of the Genocide Convention: A Nested Analysis." *Foreign Policy Analysis* 10 (2014): 371-391.

For instance, when significant nations didn't ratify environmental agreements like the Paris Agreement, it led the global community to seek new ways to meet climate objectives. These approaches include launching voluntary initiatives and forming groups of willing states aimed at protecting the environment even if universal treaty acceptance was lacking.¹²²

3.7 The European Union and the Requirement for Ratification of Human Rights Treaties under GSP+

The Generalized Scheme of Preferences Plus (GSP+) is a unique arrangement from the European Union (EU). It encourages sustainable development alongside good governance. This scheme allows certain developing countries to have better access to the EU market. However, there's a catch. These countries must show that they are committed to following international agreements on human rights, labor rights, & environmental protection. One important requirement for GSP+ eligibility is ratifying and effectively implementing 27 international conventions. Among them are core human rights treaties..¹²³

3.7.1 The Role of Human Rights in GSP+ Eligibility

The EU's strong stance on ratifying human rights treaties to qualify for GSP+ shows its commitment to supporting human rights standards all over the world. By connecting trade preferences to human rights duties, the EU wants to motivate developing nations to adopt and follow these norms. This method aligns with the EU's

¹²² Massey, Douglas, ed. "International Treaties Have Mostly Failed to Produce Their Intended Effects." PNAS 119 (2002): 1-9. <https://www.pnas.org/doi/epdf/10.1073/pnas.2122854119> (accessed September 28, 2023).

¹²³ European Commission, The EU's Generalised Scheme of Preferences (GSP) (2019), accessed August 24, 2024, https://trade.ec.europa.eu/doclib/docs/2019/october/tradoc_158389.pdf.

larger foreign policy goals to promote human rights, democracy, and the rule of law beyond its own borders.¹²⁴

To gain benefits from GSP+, countries must ratify and implement key international human rights instruments like the International Covenant on Civil and Political Rights (ICCPR) & the International Covenant on Economic, Social, and Cultural Rights (ICESCR). The EU keeps an eye on compliance through regular assessments and reports to check if these countries are upholding their commitments under these treaties.¹²⁵

3.7.2 Impact of Non-Ratification on GSP+ Status

Not ratifying the needed human rights treaties can seriously affect a country's status in GSP+. If a nation fails to agree or adequately implement these conventions, it might lose its GSP+ benefits. This loss can limit its access to the EU market. Such a potential cut in trade privileges pushes countries to honor their human rights obligations.¹²⁶

Take Sri Lanka as an example regarding non-compliance with GSP+ rules. In 2010, it lost its GSP+ status due to serious concerns about human rights issues during its civil war's last stages. Losing trade preferences had big economic effects which pressured Sri Lanka's government into addressing those issues and seeking the restoration of its GSP+ status—something that successfully happened in 2017.¹²⁷

3.7.3 The Broader Significance of GSP+ Conditionality

¹²⁴ Clara Portela, "The European Union's Human Rights Conditionality and Its Application to Burma/Myanmar," *Journal of Current Southeast Asian Affairs* 26, no. 2 (2007): 52-91.

¹²⁵ Lorand Bartels, *The Application of Human Rights Conditionality in the EU's Bilateral Trade Agreements and Other Trade Arrangements with Third Countries* (European Parliament, 2007).

¹²⁶ European Commission, *The EU's Generalised Scheme of Preferences (GSP)*.

¹²⁷ Saman Kelegama, "EU GSP+ Scheme and Sri Lanka: Economic and Political Implications," *Institute of Policy Studies of Sri Lanka* (2010)

The conditions tied to GSP+ prove essential for the EU as it works to elevate human rights globally. By making trade benefits depend on ratifying & implementing these treaties, the EU promotes its own values while also helping strengthen international human rights law overall. This strategy shows how trade & human rights connect; economic levers can indeed help achieve wider social & political aims.¹²⁸

Additionally, this scheme highlights how non-state actors—like regional organizations—play an increasing role in promoting international law & enforcing it effectively as well as supporting compliance with existing treaties—this matters even more when global enforcement may not function well enough.¹²⁹

In sum, needing ratification of human rights treaties within the GSP+ framework really emphasizes how significant non-ratification is for a country's standing on the world stage & its economic relationships too! By linking trade preferences with these obligations, it not only enforces international norms but also underscores why these treaties are vital in our worldwide legal system! The GSP+ makes it clear that economic tools can be used smartly to promote following international law while boosting human rights treaties' impact overall, thereby enhancing the overall impact and significance of human rights treaties.

¹²⁸ Tanja A. Borzel and Thomas Risse, *The Transformative Power of Europe: The European Union and the Diffusion of Ideas*, KFG Working Paper No. 1 (Freie Universität Berlin, 2009)

¹²⁹ Ibid.

3.8 UN Treaty Withdrawal Procedure and Consequences of Withdrawal

Withdrawing from a UN treaty involves a formal process that is typically outlined within the treaty itself. First, the country must review the treaty's provisions on withdrawal, which often specify conditions such as a required notice period (usually 6 months to a year) and a written notification to the UN or relevant treaty body. Some treaties include clauses that restrict withdrawal during certain periods or after specific events. Once a country submits the formal notification, it is no longer bound by the treaty's obligations unless it contains continuing obligations, such as compensation for damages. The consequences of withdrawal are multifaceted.¹³⁰ Diplomatically, it can damage a country's international reputation and strain relations with other nations, potentially leading to isolation. Legally, the country may breach international law if the withdrawal violates binding commitments, and it loses the rights and benefits that come with the treaty, such as economic aid or trade advantages. Economically, withdrawal could lead to sanctions or reduced access to global markets, especially if the treaty involves trade or environmental agreements. National security may also be jeopardized, particularly for treaties related to arms control or security, as withdrawal can destabilize regional relations or contribute to arms races. Domestically, withdrawal could trigger political backlash, protests, or legal conflicts, especially if the treaty concerns human rights or environmental protection. On a global scale, such a move could erode multilateral cooperation and set a precedent for other countries to follow, undermining international governance.¹³¹

3.9 Conclusion

Not ratifying international treaties is a tricky topic. It has big effects on both global and local laws. Many things can cause non-ratification. Legal issues, beliefs, and social factors all play a part. These challenges make it hard to approve and carry

¹³⁰ Rashica, Viona. "The right, procedures and reasons of the withdrawal of states from international organizations." *SEEU Review* 14, no. 2 (2019): 62-77.

¹³¹ Schmidt, Averell. "Damaged relations: How treaty withdrawal impacts international cooperation." *American Journal of Political Science* (2023).

out treaties. To really get how non-ratification works, we need to look closely at these factors. They help us see how important national sovereignty and international diplomacy are. In closing, treaties are really important for guiding how countries get along and setting legal standards. But the process to ratify them is not simple. There are many hurdles along the way. When treaties aren't ratified, it highlights the need to deal with political, social, and institutional barriers. This way, we can better put international agreements into action. As we face worldwide problems now and in the future, sticking to our word on ratifying and supporting international treaties is super important. It helps foster cooperation, stability, and progress around the world.

Chapter 4: An Overview of International Treaties Not Ratified by States: Effects on Internal and External Relations

In international law, countries have different ways to bring treaties into their own legal systems. These ways can mainly be sorted into two categories: monism & dualism. Knowing these concepts is key to understanding countries follow international obligations and what this means for their sovereignty and legal systems.

Monism suggests that international law and domestic law create one single system. When a country ratifies an international treaty, it becomes part of the national law right away—no extra legislative steps are needed. This means international law can be enforced immediately in local courts and is often seen as equal to or even superior to national laws. The monist system helps international rules integrate quickly and uniformly into domestic law, which can lead to better compliance with global obligations. Yet, it does raise concerns about national sovereignty because it implies that local laws might be subordinate to international regulations. This could allow outside standards to take precedence over national legislative choices.¹³²

On the flip side, **Dualism** keeps a clear line between international & domestic law. In this model, when countries ratify treaties, those treaties do not automatically become part of their legal frameworks. Instead, they must be explicitly added through specific laws made by the state. This approach respects a country's sovereignty & legislative process, giving local authorities the chance to review and adapt international norms to their context. While this method offers more control over how international obligations are brought in, it may slow down how quickly these treaties

¹³² Malanczuk, Peter. *Akehurst's Modern Introduction to International Law*. 7th ed. Taylor & Francis, New York, 1997.

are put into effect, which could cause differences between a country's international commitments and its own laws.¹³³

The **Monist** approach allows for immediate and consistent application of global norms. Countries that follow this approach—like the Netherlands—can directly include international human rights treaties in their laws so that individuals can rely on them right away in court. This can strengthen the protection of human rights and other global standards within these nations. However, there may be less flexibility for local legislators to adjust these standards based on specific needs or priorities.¹³⁴

In contrast, the dualist approach highlights the importance of national sovereignty & legislative practices. In dualist countries such as the United Kingdom, treaties must be supported by new domestic laws before they become active within the nation's legal system. This ensures a more careful integration of global norms that fit within existing laws and social contexts—but it can also lead to delays or gaps in applying international law

To sum up, monism and dualism represent two different views on how nations engage with international law. Monism enables fast application of global norms which can improve compliance with treaty obligations but may cause concerns about losing some sovereignty due to external standards being imposed. The dualist view respects national authority & processes but might delay how quickly treaty obligations are fulfilled and could create inconsistencies between what is promised internationally and what exists domestically. Each system comes with its own strengths and

¹³³ International Criminal Court. "The Rome Statute." ICC, 2020.

¹³⁴ *ibid*

challenges, reflecting a nation's legal traditions, political aims, and stance on global cooperation.

4.2. Some Non-Ratified Contested Treaties by USA: Reasons and Its Implications

The United States plays a big role in creating many treaties. However, it has shown a notable reluctance to ratify several important agreements. This situation is complicated. It intertwines issues like sovereignty, economic interests, & national security. Here, we will take a close look at various treaties that the U.S. chose not to ratify, examining the reasons behind these choices and what they mean for both America and the world..¹³⁵

4.2.1. Treaty of Versailles (1919)

The Treaty of Versailles marked the end of World War I. It aimed to stop future wars by establishing the League of Nations. Even though the U.S. helped create this treaty, the Senate ultimately said no to ratification. Senators worried deeply about the League of Nations' rules, fearing it might draw the U.S. into endless international conflicts and weaken national sovereignty. This choice greatly influenced American politics, stirring up isolationist feelings and creating a cautious political atmosphere when it comes to global commitments. Internationally, refusing to ratify signaled a withdrawal from active global engagement, changing how America approached foreign policy and diplomacy during those years between the wars.¹³⁶

¹³⁵ Khan, Sana. "The Illusory Implantation of Treaties: Critical Reflections on Giving Effect to Treaties in Pakistan." *Islamabad Law Review*, Vol. 7, Issue 1, 2023.

¹³⁶ Malanczuk, Peter. *Akehurst's Modern Introduction to International Law*. 7th ed. Taylor & Francis, New York, 1997.

4.2.2. Law of the Sea Convention (1982)

The United Nations Convention on the Law of the Sea (UNCLOS) is about maritime rights and responsibilities—covering everything from territorial waters to navigation & resource management. The U.S., which was a key supporter during negotiations, still hasn't ratified UNCLOS. Concerns exist over how it might limit naval operations and infringe on American sovereignty by international bodies. By not ratifying this treaty, America loses some influence over maritime legal standards and reduces its role in global ocean governance. This affects U.S. interests regarding navigation rights & marine resources while impacting its position in international maritime law.¹³⁷

4.2.3. Convention on Biological Diversity (1992)

The Convention on Biological Diversity (CBD) promotes sustainable development and conserving biodiversity around the world. Although America signed this treaty, it has yet to ratify it due to concerns about sovereignty & economic interests—particularly around intellectual property rights and biotechnology matters. Not ratifying this agreement undermines global efforts for biodiversity and shows a tension in U.S. policies between environmental responsibility & economic growth. This cautious approach hinders international cooperation on biodiversity conservation.¹³⁸

4.2.4. Comprehensive Nuclear Test Ban Treaty (1996)

The Comprehensive Nuclear Test Ban Treaty (CTBT) aims to ban all nuclear explosions for any use—military or civilian. Despite signing it, the U.S. Senate has not ratified CTBT mostly due to worries about verification processes and how it

¹³⁷ *ibid*

¹³⁸ Simmons, Beth. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge: Cambridge University Press, 2009.

might limit national security & defense capabilities. This decision has important effects on how America leads in nuclear non-proliferation efforts and impacts international stability and relations with allies as well as adversaries.¹³⁹

4.2.5. Kyoto Protocol (1997)

The Kyoto Protocol is an international agreement where countries commit to reduce greenhouse gas emissions. The U.S., however, has opted not to ratify this protocol citing economic concerns and worrying that it could harm the American economy without holding developing nations accountable for their emissions too. This choice significantly affects global climate action efforts and highlights ongoing struggles within America between environmental duties and economic priorities.¹⁴⁰

4.2.6. Rome Statute (1998): World Court

The Rome Statute created the International Criminal Court (ICC), which prosecutes individuals for heinous crimes like genocide & war crimes. The U.S. has yet to ratify this statute because of worries surrounding possible prosecutions of its citizens and fears related to national sovereignty infringement by international entities. Not joining means America plays a limited role in shaping global justice systems and raises questions about its commitment to upholding international legal standards. In summary, these decisions shape both domestic sentiments in America & its interactions with other nations on various issues, spanning from environmental policies to military actions and human rights matters.¹⁴¹

¹³⁹ *ibid*

¹⁴⁰ Hamidi, Emman. "Institutional Challenges and Political Costs in the US Failure to Ratify the ICESCR." *Berkeley Undergraduate Journal*, 2023.

¹⁴¹ Malanczuk, Peter. *Akehurst's Modern Introduction to International Law*. 7th ed. Taylor & Francis, New York, 1997.

Analysis

The United States has not ratified some important treaties, and this shows how tricky it can be when balancing interests, concerns about sovereignty, and responsibilities to the world. The reasons for not ratifying these treaties are often a mix of politics, money, and safety worries. A common concern is that these treaties might mess with our independence. Some worry that international standards could clash with our own rules at home.

Inside the U.S., not ratifying these agreements can make isolationist feelings stronger. People seem to like making their own choices instead of working together with other countries. This "go-it-alone" attitude sometimes makes our relationships with other nations pretty uneven. The U.S. tends to follow international rules only when it suits its own goals, rather than sticking to a steady approach.

On the global stage, the hesitation to ratify these treaties can hurt America's role in international organizations. It might make things harder for everyone trying to work together on big issues like protecting the environment or promoting human rights. Other countries might start to think of the U.S. as an unreliable partner when it comes to keeping international promises.

There are big effects from not ratifying treaties—this doesn't just affect diplomatic ties; it also influences America's ability to shape worldwide standards. By saying "no" to these treaties, the U.S. risks losing its clout in key areas and might let other countries take charge instead.

The U.S.'s decision not to ratify several major treaties highlights the tricky dance between keeping national interests safe & fulfilling international duties. Sure,

worries about sovereignty, economic effects, & national security make sense. But we really have to think about how this impacts global cooperation too! As we look ahead, it's vital for the U.S. to rethink how it handles treaty ratification—considering both what's best for us at home & how we can better engage in the world community.

4.2.7. Human Rights Treaties

The United States has a complicated relationship with important human rights treaties. It has signed several but hasn't ratified them. This situation is due to a mix of domestic political, legal, and cultural factors that influence how the U.S. engages with international human rights obligations. This section looks closely at why these treaties have not been ratified & what this means for both the U.S. and the wider world.

4.2.7.1. Convention on the Elimination of All Forms of Discrimination against Women (1979)

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) serves as a detailed international bill of rights for women. The goal is to remove all discrimination against women so they can enjoy equal rights in politics, economics, social matters, & culture. Even though the United States played a significant role in drafting CEDAW & has shown support for it, it has not ratified this treaty. The main worries focus around national sovereignty and possible impacts on local legal systems, especially concerning family law & gender equality.

Critics argue that signing CEDAW might weaken state power over family law & impose international rules that could clash with U.S. legal systems and cultural attitudes.

This choice not to ratify CEDAW affects how credible the U.S. looks when promoting women's rights worldwide. It brings to light internal discussions about

gender policies & reveals larger worries about enforcing international norms onto U.S. laws..¹⁴²

4.2.7.2. Convention on the Rights of the Child (1989)

The Convention on the Rights of the Child (CRC) stands out as the most widely accepted human rights treaty globally, aiming to protect children's rights everywhere. The United States is among the few nations that haven't ratified CRC mainly due to worries about parental authority and state control over family law issues. Critics are concerned that CRC may interfere with parents' rights & encourage federal involvement in areas typically managed by state laws. This choice impacts how other countries view the U.S.'s commitment to children's rights & highlights domestic conflicts about international human rights standards. Not ratifying CRC shows a general hesitation towards international agreements that might oppose local policies or cultural values.¹⁴³

The CRC aims to ensure the protection, survival, and growth of children by recognizing their rights across many areas, like civil, political, economic, social, and cultural rights. Despite widespread agreement on these essential protections worldwide, the United States stands out by not ratifying it. Various complex factors contribute to this decision—mainly concerns surrounding parental roles, state sovereignty, & fears relating to how international treaties might affect domestic laws.

i. U.S. Concerns Over Parental Rights and Sovereignty

Concerns about CRC undermining parental authority are among the most significant reasons why the US is yet to ratify it. Some critics claim this might provide

¹⁴² United Nations Human Rights Office of the High Commissioner. "Status of Ratification: International Covenant on Civil and Political Rights." OHCHR, 2020.

¹⁴³ Simmons, Beth. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge: Cambridge University Press, 2009.

children with rights that could prevent their parents from making decisions in their best interest. For example, Article 12 of the CRC provides for children's right to freely express opinions on all matters affecting them: and it is feared by some policymakers and advocacy groups in America that this could be used to allow situations where children's preferences triumphed over parental decisions on issues like education, religion, and discipline..¹⁴⁴

Moreover, apprehension about federal interference in family law through CRC's emphasis on state responsibility raises worries of federal overreach into family law traditionally under jurisdiction of American states. In the United States' federal system of governance much power is concentrated in individual states and mostly concerning issues such as that of family law.

Thus, ratifying the CRC could be interpreted as a challenge to state sovereignty in that it may necessitate federal interference in sectors of policy-making which have traditionally been under the jurisdiction to states.¹⁴⁵

ii. Skepticism Towards International Treaties

Looking at the CRC's slowness to ratify, it also exemplifies an underlying wariness of international treaties that could possibly cross paths with American laws and culture. There is some reluctance among many in the United States' policy circles and general public regarding international treaties. These genuine fears are based on whether such agreements might impose new obligations that run counter to domestic policies or threaten national sovereignty. An area where this perspective is felt most

¹⁴⁴ Douglas Hodgson, *The Human Right to Education* (Dartmouth Publishing Company, 1992), 174.

¹⁴⁵ Steven L. Sund, "The Ratification Process in the United States: The United Nations Convention on the Rights of the Child," *Human Rights Brief* 7, no. 2 (2000): 42.

strongly is human rights treaties because there are concerns about whether international standards will undermine U.S. legal traditions and cultural norms.¹⁴⁶

For instance, the United States has consistently preferred its own ways of doing things in areas like criminal justice, education, health care rather than conforming to globally accepted principles which may be seen as incompatible with American interests or values. This unwillingness stems from a belief that the US Constitution and internal legislation provide sufficient safeguards for its citizens including children without relying upon foreign checks..¹⁴⁷

iii. Impact on U.S. International Standing

The refusal of the United States to ratify the CRC carries far-reaching consequences for its international standing, particularly in relation to children's rights. The U.S. is the only UN member that has not ratified this treaty and, as such, it has come under criticism from the international community for being less committed to children's rights. This non-ratification is frequently cited as constituting an exception in American human rights discourse thereby entrenching the view that America does not readily submit itself to global norms and standards..¹⁴⁸

Moreover, this position makes it difficult for US in advocating for children's rights globally. While various US governments have supported many concepts of CRC and even implemented several policies conforming to their provisions; there is a view that failure to ratify the same undermines its moral authority and standing in international forums. This contradiction between domestic behavior and international

¹⁴⁶ Michael Ignatieff, *Human Rights as Politics and Idolatry* (Princeton University Press, 2001), 23.

¹⁴⁷ Wade M. Cole, "Sovereignty Relinquished? Explaining Commitment to the International Human Rights Covenants, 1966–1999," *American Sociological Review* 71, no. 6 (2006): 108.

¹⁴⁸ Ryan Goodman, "Human Rights Treaties, Invalid Reservations, and State Consent," *American Journal of International Law* 96, no. 2 (2004): 241.

responsibilities underscores some of the dilemmas facing US as it tries to balance national interests against its role as a global leader on matters relating to human rights.¹⁴⁹

Deep-rooted concerns about the implications of international treaties on domestic governance, parental rights, and state sovereignty are the United States' reasons for not ratifying the Convention on the Rights of the Child. The U.S is against agreements which may contradict its national laws or cultural beliefs that focus on human rights. Although children's rights are still promoted within America, such stand has led to an adverse impact in relation to its position globally over human rights matters. The decision also highlights persisting contradictory elements in human right between nationalism and cooperation between nations at an international level.

4.2.7.3. Convention on the Rights of Persons with Disabilities (2006) and Others

The purpose of this treaty is to make sure that persons who have disabilities can enjoy their rights as well as freedoms, while actively participating in all aspects of life. Despite playing a crucial role during its negotiations, it has not ratified this treaty yet. Concerns mainly relate to national sovereignty and adequacy of existing domestic laws that protect people with disabilities. Opponents have argued that if the CRPD is ratified, the US will be liable to international review and potentially supersede existing protections under the Americans with Disabilities Act (ADA). This failure to ratify affects global disability rights advocacy and highlights internal debates over how much international treaties influence national policies. The same concerns apply

¹⁴⁹ Philip Alston, *The Best Interests of the Child: Reconciling Culture and Human Rights* (Oxford University Press, 1992), 33.

to other human rights treaties signed but not yet ratified by the USA, showing a consistent pattern of giving priority to national sovereignty over international obligations.

4.2.8. United States Senate Stance on Treaty Ratification and Non-Ratification

The treaty ratification process in America's U.S. Senate arena is an essential one that usually mirrors larger political and ideological clefs. A two-thirds majority vote in the Senate is stipulated by the Constitution for any treaty's ratification thus making it necessary for agreements to attract substantial bipartisan backing. In a highly polarized political environment, satisfying this requirement may pose challenges. Often, non-ratification of specific treaties by Senate is influenced by concerns about national sovereignty, economic implications, as well as political costs tied to worldwide pacts. Additionally, various lobbying groups and political factions also influence these considerations; eventually affecting voting among senators. This careful method can restrict the ability of the United States to fully participate in international legal frameworks and undermines its leading position in global governance. The consequences of this careful approach are enormous; it affects domestic policy-making as well as the US's influence over and shaping power with regard to international norms and standards.¹⁵⁰

The U.S. approach to ratification of international treaties is influenced by a complicated mix of legal, political, and cultural factors. The distinction between monism and dualism is part of a wider conversation about how national law interacts with international law. Other than these major treaties not being ratified also indicate

¹⁵⁰ Hamidi, Emman. "Institutional Challenges and Political Costs in the US Failure to Ratify the ICESCR." Berkeley Undergraduate Journal, 2023

concerns on sovereignty, economic impact and political viability. These choices have profound effects on domestic policies within the US as well as its relations internationally, giving rise to questions regarding its credibility and leadership in worldwide governance.

4.3. An Analysis of Chinese Roles in Non-Ratification and Its Global Influences

China's approach to treaties on the international arena is usually based on its strategic interests, domestic policies and participation in international norms that may or may not conform to her national interest. This section examines non-ratification by China of a number of vital global agreements and discusses their implications within both global and domestic dimensions.

4.3.1. Treaties Not Ratified by China and Its Consequences

China's choices concerning international treatise ratification are very complex. Not being a contracting party to some conventions, China might still preserve its sovereignty and adjust its internal laws at will. But this also has serious worldwide consequences affecting international standards as well as multilateralism.[Ibid] For instance, China is reluctant to join conventions on human rights and labor standards because it values economic growth and political stability more than external vigilance..¹⁵¹ This careful balance between global expectations and national interests typifies China's overall approach to handling international politics.

¹⁵¹ *ibid*

4.3.2. Convention concerning Freedom of Association and Protection of the Right to Organize (1950)

ILO Convention No. 87 Freedom of Association and Protection of the Right to Organise (1948) Fundamental Principle The right workers without distinction shall have the right subject only to the rules get their own organizations... [Read More]

China has not ratified largely because it strictly curtails labor organizations and prefers state-controlled unions. This has in turn curtailed the growth of a potentially autonomous labor movement in China--and with it, worker rights and freedom. Globally, it damages the reputation of China in respect to labor rights globally as well as by all multinational companies who work within its borders. This non-ratification reflects a broader pattern of prioritizing state control and stability over individual rights and freedoms.¹⁵²

4.3.3. International Covenant on Civil and Political Rights (1966)

While the Chinese government has endorsed certain global human rights instruments such as the ICCPR in 1998, it has not accede to [ratify] it. The ICCPR oblige the parties to respect civil and political liberty and such proceeding as freedom of speech, assembly, and religious belief. As for China, they are still cautious about ratifying the treaty due to the sovereignty issue and pursuing to avoid any external intervention in their internal affairs as well as incompatibility with their current legal system and political system. This non-ratification has certain consequences for the human rights organizations working in China and to the Chinias relations with the countries defending civil rights. The decision underlines that China has been rather

¹⁵² International Labour Organization. "ILO Convention No. 87." ILO, 2021.

reserved towards the western understanding of international human rights principles and that stability and obedience to the government's authority are valued more..¹⁵³

4.3.4. Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty (1989):

The Second Optional Protocol seeks to do away with death penalty. Some of the countries that have not signed this protocol include China that executes about 1000 people per year mostly due to its belief that death penalty is necessary for controlling social vices. The international community perceives this non-ratification as a serious human rights issue thus affecting China's stakeholders' human rights and its relationship with countries longing for the abolishment of the death penalty. This position shows that the government stands tall on its home-grown political intercourse on crime and punishment which sets its backing on international standards on human rights.¹⁵⁴

4.3.5. Optional Protocol to the Convention against Torture (2002)

The OPCAT operates to regularly monitor by international and national bodies places of persons in detention to prevent of torture and other forms of inhuman, cruel or degrading treatment or punishment. China's non-ratification can be attributed to its concern on how the international community will view its detention practices, and more importantly the supremacy of state power over international jurisdiction. This decision has been criticized by the human rights organizations this issue touch on China's interaction with the International human rights Affairs. This is not surprising

¹⁵³ United Nations Human Rights Office of the High Commissioner. "Status of Ratification: International Covenant on Civil and Political Rights." OHCHR, 2020.

¹⁵⁴ Amnesty International. "Death Sentences and Executions 2021." Amnesty International, 2021.

as the China is unwilling to ratify OPCAT suggesting their overall approach of reducing international influence in domestic affairs.¹⁵⁵

4.3.6. Comprehensive Nuclear Test Ban Treaty (1996)

The CTBT does not allow any nuclear explosions for peaceful and or military applications. Despite China has already signed the CTBT it has not ratified the treaty mainly due to the verification measures and strategic security concerns. This lack of ratification affects international non-proliferation endeavors and reveals the softheartedness of China's engagement to the arms control conventions. Therefore, China has the strategic edge in its nuclear force by not ratifying the CTBT as it regards the latter as an absolute necessity for its protection. CTBTO Preparatory Commission Descriptions from Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO) Documentation & Public Sources.¹⁵⁶

4.3.7. Rome Statute, the ICC's Founding Treaty (1998): World Court

After above acts the group has ratified Rome Statute to form International Criminal Court (ICC) that tries people for genocide, crimes against humanity, war crimes and deem aggression as crime. That is why China has not joined the Rome Statute; the country has certain doubts and concerns about the jurisdiction of the ICC and its impact on the country's sovereignty and national interests. This non-ratification has implications on China's participation in international justice mechanisms and its position on international legal responsibility. It also stays out of the ICC's jurisdiction so as to not be susceptible to legal repercussions of its internal

¹⁵⁵ Human Rights Watch. "World Report 2020." Human Rights Watch, 2020.

¹⁵⁶ Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO) Preparatory Commission. "Status of Signature and Ratification." CTBTO, 2021.

and foreign policies, which can be seen as a cynical decision to keep one's immunity intact.¹⁵⁷

Analysis

Specifically, how China has handled the non-ratification of these critical international conventions, which has been discussed earlier, reflects China's approach to buffer national interests with international norms. Most of the explanations for non-ratification stem from domestic politics with interests, concerns of the national security dynamic, and the innate need for independence from external monitoring. Internally, this approach enables China to retain sovereignty over its laws and political process, in order not to be dictated on the type of governance system it ought to adopt by the international community.

In externally, however, China's selective ratification of international treaties has large meaning. It harms China's diplomatic image and political relations with countries and international organizations that support such values as human rights, labor rights, and world security. China's unwillingness to ratify such conventions as ICCPR, OPCAT and the Rome Statute of the ICHR puts it among countries with strong unchecked sovereignty which tends to trouble its diplomacy and international cooperation.

This fold approach to engagement with international treaties is indicative of the difficulties that are encountered globally in trying to arrive at consensus with regard to the issue or rights of human beings as well as the issues of security. This underlines the necessity to grasp the domestic politics and strategy determinants that define whether a state ratify or reject the international treaties.

¹⁵⁷ International Criminal Court. "The Rome Statute." ICC, 2020.

This non-ratification of several important international treaties depicts China in a strategic manner and being cumulative in joining international norms that are incongruous to its strategic goals. Such a position has a very important effect on its domestic politics and foreign policy. It is while reviewing China's pattern of selective treaty ratification with skill that true insights into its overall international policy and the actual prospects of the states' cooperation in addressing the most significant matters concern can be acquired.

4.4. Status Quo of Pakistan in Non-Ratifying International Treaties

Pakistan's attitude toward international agreements can be described as a delicate equilibrium between the commitment on the international level and the concerns inside the country. This trend is well reflected in the country's policy of ratifications, reservations and selective non-ratifications. Although Pakistan has ratified several international treaties, it has many problems with efficient implementation, because many more profound problems could be observed in the legal and political system of the country. This section will also describe particular treaties Pakistan has failed to ratify and the general effect of such decisions on internal and external politics.

4.4.1. Treaties Not Ratified by Pakistan and Their Implications

4.4.1.1. International Covenant on Economic, Social, and Cultural Rights (ICESCR):

Pakistan has not signed the ICESCR one of the fundamental human rights treaties which deals with the protection of economic social and cultural rights. The key causes of this not ratification are economic considerations and by signing it, the country may trigger responsibilities that will prove unbearable. Signing the ICESCR

means that Pakistan would be bound to fulfilling the rights listed in it in a progressive manner and that might prove to be financially and administratively costly for the country. The failure to ratify for ICESCR also shows that Pakistan is reluctant to take up obligations that might place huge economic costs, which speak volumes about the state's prioritization of the short term economic order over human rights objectives in the long run.¹⁵⁸

4.4.1.2. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT):

Even though Pakistan has subscribed to the CAT, it has not adhered to them as they have not ratified the convention. This reluctance is mainly attributed to sovereignty issues and fear of the provision of international scrutiny over its security systems. The ratification of CAT will lead the Pakistan to face scrutiny of the Committee Against Torture and will put the country in negative light for Human rights abuses especially regarding the detainees and prisoners. This kind of attitude toward non-ratification of the CAT can be explained by the belief that national security trumps the International Human Rights law.¹⁵⁹

4.4.1.3. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW):

Even though Pakistan has signed CEDAW, it has not signed on its Optional Protocol through which people and communities can complain to the CEDAW Committee against violations of rights of women. This fear of signing the Optional Protocol has sparked debates over sovereignty, especially with regard to the interference of the international community with the internal affairs of states

¹⁵⁸ Hamidi, Emman. "Institutional Challenges and Political Costs in the US Failure to Ratify the ICESCR." *Berkeley Undergraduate Journal*, 2023.

¹⁵⁹ Khan, Sana. "The Illusory Implantation of Treaties: Critical Reflections on Giving Effect to Treaties in Pakistan." *Islamabad Law Review*, Vol. 7, Issue 1, 2023.

especially on matters to do with family law and gender equality. This decision has implications on Pakistan's position around the world concerning the rights of women and internally will trigger the discussion on how much should be wedded to the international standards..¹⁶⁰

4.4.2. Implementation Gaps in Ratified Treaties

There is also the problem of compliance deficit that Pakistan faces in connection with the treaties which it is a party to. Nonetheless, the domestic laws and practices are found to be still deficient of the intended standards of the international agreements. This gap is especially apparent in the implementation of human rights conventions . For instance, although Pakistan has endorsed the CRC and other international conventions on child rights, problems like child labour and inadequate state measures to safeguard children remain an issue, pointing out serious difficulties which exist in converting international treaties into substantive action at the national level.¹⁶¹

In our context, the judiciary and legislature have significant a role of filling this implementation gap. However, there are so many challenges that act like impediments such as political instabilities, lack of resources, and so on, bureaucratic constraints. This is due to the low capacity of the judiciary in terms of training and resources to be able to enforce the international standards while legislative action is constrained by political interests and other competing agendas. Altogether, these

¹⁶⁰ United Nations Human Rights Office of the High Commissioner. "Status of Ratification: International Covenant on Civil and Political Rights." OHCHR, 2020.

¹⁶¹ Simmons, Beth. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge: Cambridge University Press, 2009.

circumstances contribute to the observing of the international treaty obligations that remain underemphasized in practice.¹⁶²

4.4.3. Broader Implications of Non-Ratification and Implementation Gaps

Lack of ratification to some of the international treaties and difficulties in implementing ratified treaties have significant significance for Pakistan foreign and domestic policy. Locally, these problems depict a picture of conflict between international commitments and domestic interests. This applies to those areas in which the government or the relevant organizations and institutions fail to properly fulfill their obligations under the ratified human rights treaties, for instance, containing provisions for the protection of fundamental rights and freedoms of the citizen within the territory of the country face similar issues in governance and rule of law.

These gaps negatively influence Pakistan's credibility on the international level especially since the country selectively ratifies treaties and has numerous implementation gaps. These issues can lead to criticisms from international human rights bodies and affect Pakistan's relationships with other countries, it will certainly be troublesome for the countries which give high importance to human rights and international norms. Also, non-ratification of every accord and lack of implementation obstructs Pakistan and its potential in shaping the international rules and participating actively in multilateral diplomacy..¹⁶³

The current state of Pakistan's position in non-ratifying international treaties bodes a series of factors which include domestic politics, financial conditions and

¹⁶² Hamidi, Emman. "Institutional Challenges and Political Costs in the US Failure to Ratify the ICESCR." *Berkeley Undergraduate Journal*, 2023.

¹⁶³ Simmons, Beth. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge: Cambridge University Press, 2009.

security risks. Thus, despite the propensity for selective ratifications indicating the desire to subscribe to the internationally set meaningful norms, the challenges persist with respect to the practical realisation of such commitments. The general effects of these matters stress the importance of the conceptual linkage between treaty ratification and the domestic treatment of international law on the one hand, and the duality of international commitments and local constraints on the other.

It is therefore important for international stakeholders to understand why Pakistan has not ratified some of these treaties as well as why there has been non compliance with treaty provisions once ratified. In order to effectively engage with Pakistan and challenge its support of terrorism safely and effectively, it is necessary to understand and counter these underlying issues, build the domestic political and security capabilities and constructively encourage a greater adherence to the rule of law.

4.5. An Analysis of ‘The Ratification of Foreign Agreements by Parliaments Bill’ 2018 and ‘The Ratification of International Treaties Act’ 2013

In practice of Pakistan, the legal rules concerning the ratification of the international treaties have been in a constant process of change which shows that Pakistan being a part of the world is trying to strike a balance between its international and domestic commitments. Two such important legislative initiatives undertaken in this regard are The ‘Ratification of Foreign Agreements by Parliaments Bill’ The act of 2018 and The ‘Ratification of International Treaties Act’ The act of, 2013. This section offers extensive information regarding these legislative measures, their policy implications and real effects on treaty ratification processes in Pakistan.

The Ratification of Foreign Agreements by Parliaments Bill (2018)

The Ratification of Foreign Agreements by Parliaments Bill (2018) was intended to give parliaments a greater role of supervision in foreign agreements. The bill wanted the government to take treaties and other international agreement to the parliament for ratification. It was a step towards defining the treaty making more openly and democratically, what was being aimed at was to make the actual Pakistani practice conform to the international norms. However, the bill received severe political opposition and was never passed into law; this is a clear testimony of the hurdles and obstacles of reforming treaty ratification mechanisms in Pakistan. The reluctance can be explained by two concerns – the slow down of the speed at which treaties are made, and the politicalisation of international agreements.¹⁶⁴

The Ratification of International Treaties Act (2013)

The Ratification of International Treaties Act (2013) was an earlier attempt to regulate the treaty-making process. Before the current Constitution the government passed the Ratification of International Treaties Act (2013) in an effort to control the treaty making process. It provided that all treaties after being ratified should be printed and made available for use and this made the treaties more transparent. However, the act has been poorly implemented where some of the treaties have not been well publicised or integrated into the country's domestic law. This inconsistency signals larger problems facing Pakistan's laws and administration, in which institutional problems and lack of funding contribute to weak government.¹⁶⁵

¹⁶⁴ Khan, Sana. "The Illusory Implantation of Treaties: Critical Reflections on Giving Effect to Treaties in Pakistan." *Islamabad Law Review*, Vol. 7, Issue 1, 2023.

¹⁶⁵ Hamidi, Emman. "Institutional Challenges and Political Costs in the US Failure to Ratify the ICESCR." *Berkeley Undergraduate Journal*, 2023.

4.5.1. Treaties Not Ratified by Pakistan and Its Importance and Impact

Some of the significant international treaties relating to aspects of civil, political, and human rights have not been ratified by Pakistan and this shows how difficult it is to harmonize national policies with international instruments. Many specific treaties are not ratified mainly due to the political, economic and social reasons that are tied to a particular country.

Importance and Impact of Non-Ratified Treaties

Notably, Pakistan has not accepted the Rome Statute that created the International Criminal Court due to nationalist sentiments and perceived threats to its sovereign immunity. The non-ratification affects the international reputation of Pakistan and restrain the country's involvement in global justice system. This decision also points towards Pakistan's apprehensions on joining any international legal regimes that may lead to the International Court Trials of Pakistani civilians and particularly armed forces.¹⁶⁶

Optional Protocol to the Convention against Torture (2002): This protocol is meant to eradicate torture, other types of inhumane, degrading treatment or punishment by the means of international and national visitation to the places of detention. The non-ratification of this treaty puts human rights practices in Pakistan in limbo and reduces the ability of the international community in addressing the issues in regard to conditions in detention facilities. This decision raises the questions of sovereignty and control over the government's security and detention practices, as contrary to the UN policy, this decision demonstrates the government's unwillingness to submit its decisions to the international level (Human Rights Watch, 2020).

¹⁶⁶ International Criminal Court. "The Rome Statute." ICC, 2020.

This protocol requires the following: prohibition of death penalty. Pakistan has not ratified this convention due to its policies on capital punishment that is considered a way of curbing crime and a means of ordering the society. The non-ratification impacts its place on the international human rights stage and its fragile relations with countries and other organizations which campaign against the death penalty. This decision raises issues of conflict of legal cultures – national and international human rights..¹⁶⁷

Convention for the Protection of All Persons from Enforced Disappearance (2006): This convention has been designed for dealing with enforced disappearances and the rights of the victims. This is something non-ratifying Pakistan continues to grapple with and its unwillingness to allow international observations of its security forces' practices. This affects the country in two ways; it compromises the commitment of the Pakistani government to human rights and the foreign relationships. The non-ratification is sign of a general avoidance of the international processes that may reveal violations of human rights within the country.

4.5.2. Rome Statute, the ICC's Founding Treaty (1998)

The Rome Statute created the International Criminal Court (ICC) which is charged with the responsibility of trying people for genocide, crimes against humanity, war crimes, and genocide. Pakistan has not joined the treaty in its signed form in form mainly because of sovereignty issue and its citizens and military being tried by the court I continues. This non-ratification also constrains Pakistan's interaction in international justice issues and its foreign relations with countries which are part of the ICC. On the same note, Pakistan loses out in that it is unable to contribute to and

¹⁶⁷ Amnesty International. "Death Sentences and Executions 2021." Amnesty International, 2021.

perhaps be a part of the making of ICC, that could act to boost its image in the international community.¹⁶⁸

4.5.3. Optional Protocol to the Convention against Torture (2002)

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) formalises the namely: periodic visits to places where persons are deprived of their liberty, by international and/or national independent mechanisms, as a way to prevent torture. This does not apply to Pakistan, and this is mainly due to the country's apprehensions regarding the permission of international monitoring of its detention centres and policies. This decision has invoked strict opposition of human rights organisations and impacts the overall human rights situation in Pakistan. The failure to ratify OPCAT is therefore evidence of Pakistan's lukewarm attitude to international human rights instruments capable of provoking outsiders' evaluation of the country's internal norms and policies.¹⁶⁹

4.5.4. Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty (1989):

The Second Optional Protocol to the International Covenant on Civil and Political Rights provides for the abolition of the death penalty. Given that Pakistan has capital punishment on its statute book for a number of offences, the country is not a signatory to this protocol, and argues even today that death penalty deters crime and ensures some semblance of social order. Pakistan remains affected, due to its non-ratification of the Protocol which affects Pakistan's standing on international human rights forums and with countries a part of organizations attempting to move towards

¹⁶⁸ International Criminal Court. "The Rome Statute." ICC, 2020.

¹⁶⁹ Human Rights Watch. "World Report 2020." Human Rights Watch, 2020.

abolition from death penalty. It sits at the intersection of Pakistan's national laws and global human rights standards, but it leaves little room for constructive engagement with international human rights advocacy.

4.5.5. Convention for the Protection of All Persons from Enforced Disappearance (2006)

The Convention for the Protection of All Persons from Enforced Disappearance provides an effective tool to prevent enforced disappearances and secure all human rights. Pakistan's failure to ratify points at the long-standing fears over enforced disappearances in its territory and unwillingness of state departments to put their security practices under an international microscope. It also has implications on the international relations with Pakistan and its respect for human rights. The failure of ratification highlights a reticence in Pakistan to accept the international norms which may contradict its domestic security policies and practices.

Indeed, The legislative framework for ratification of international treaties in Pakistan has been subject to many efforts in the recent past with regards to more transparency and parliamentary oversight. Yet challenges within the country's broader political and legal systems seep into this lackluster concrete form. Pakistan's non-ratification of significant international treaties reflects a web of domestic, economic, security and other priorities. The decisions made about these matters have wide-ranging consequences in Pakistan's domestic politics and foreign policy, impacting its role as a credible leader of global governance.

Understanding the reasons behind Pakistan's selective treaty ratification and the challenges in implementing ratified agreements is crucial for international stakeholders. Engaging Pakistan in meaningful dialogue and cooperation requires

addressing these underlying challenges, promoting capacity building, and fostering a more robust commitment to international norms.

4.6. The Similarities and Differences of States Over Non-Ratification and Its Repercussion on Global Governance

Pakistan and China, Islamabad's all-weather friend that has helped it on its international commitments (read: counterterrorism), have engaged differently — but only slightly when you consider non-participation in ratifying TTs as opposed to participation with reservations. Such commonalities (and differences) have profound implications for global governance and the effectiveness of international legal regimes.

Similarities

Sovereignty Concerns: Pakistan and China collectively give the most reasons of national sovereignty as a prime reason of not ratifying distinct intercontinental treaties. They see these treaties as potential threats against their sovereignty and national defense. In one case, non-ratification by China is that of a fear of foreign meddling in domestic matters; while Pakistan frequently cites it as imperative for maintaining its judicial and legislative sovereignty.¹⁷⁰

Economic and Political Considerations: Economic realities in addition to the need for political stability are two frequent reasons why neither country has chosen not to ratify. Allies like Hungary and Poland—inventing what some analysts have called the 'illiberal international'—are just doing in black and white, paperwork form of the PR version taking place in slow motion next door: shirk its way out or tread lightly on fealty to commitments that might involve even more rules—and rule-following. Pakistan, for instance, has been slow to ratify the International Covenant

¹⁷⁰ Khan, Sana. "The Illusory Implantation of Treaties: Critical Reflections on Giving Effect to Treaties in Pakistan." *Islamabad Law Review*, Vol. 7, Issue 1, 2023.

on Economic Social and Cultural Rights (ICESCR) in part because of economic reasons as is true also with China's selective treaty choice given its preoccupation replacing rapid economic growth.¹⁷¹

Human Rights Issues: Again, the refusal of both countries to sign international agreements guarantees that they will continue ducking international obligations and internal scrutiny for their domestic human rights misdemeanors. While China has not yet ratified the International Covenant on Civil and Political Rights (ICCPR) and Pakistan remains shy to join several human rights protocols, the two cases indicate some problems they both encounter in relation with their human rights issues.

Differences

Strategic Calculations: However, China often decides not to ratify treaties in order to hold its global position and economic growth patterns. Take the example of China and its handling of Comprehensive Nuclear Test Ban Treaty (CTBT), which reflects both strategic considerations related to national security as well situational factors concerning international prestige. In contrast, Pakistan has made its choices on non-ratification based more so on internal political dynamics and security considerations. Given the different varieties of political instability and security threats found within Pakistan, its wariness on international entanglements would be expected.¹⁷²

International Image: China does not always ratify to show it is a world power. China is good at choosing which international treaties it will part-take in as to present itself, strong and independent. Whereas the failure of its ratification by Pakistan can

¹⁷¹ Simmons, Beth. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge: Cambridge University Press, 2009.

¹⁷² Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO) Preparatory Commission. "Status of Signature and Ratification." CTBTO, 2021.

cause damage to growing soft-power in international relations with allies and umbrella global institutions. Such perception of Pakistan being a state hesitant to be bound by international norms can influence its bilateral as well as multilateral diplomatic engagements.

Repercussions on Global Governance

Non Ratification by Major States like China, Pakistan etc This does not only lead to erosion in the universality of International legal frameworks and norms but also affect its efficaciousness. When powerful nations decline to ratify such treaties, it undermines international norms that are underwritten by the collective acknowledgment of these agreements.

Challenges to Multilateralism: The piecemeal approach of major powers refusing to ratify international agreements undermines the very basis for multilateral and global collective action. This is in particular the case for human rights, environmental protection and international justice that all need to be solved collectively. The refusal by China and Pakistan to ratify treaties like the Rome Statute is a case in point, because it effectively makes institutions such as the International Criminal Court ineffectual.¹⁷³

Impacts on Global Cooperation: Disparate stances towards the treaty ratification could break global governance, worsening cooperation and also resolution of transnational issues. The conditional participation of countries like China and Pakistan in global agreements can leave the world outpaced — unable to find consistent, holistic answers for pressing international problems..¹⁷⁴

¹⁷³ International Criminal Court. "The Rome Statute." ICC, 2020.

¹⁷⁴ *ibid*

4.7. Conclusion

Looking into the ratification processes in Pakistan and China as well as examining several non-ratified treaties, demonstrate how domestic priorities, international pressures and strategic considerations all inform state decision making. The treaty–ratification hesitancy of these two countries may point to larger international governance issues, like the challenge. It is important for international partners to know why these countries are not signing and what the implications of non-ratification could be. Tackling these root causes and encouraging transparency that would be part of the accountability vetting process – will likely close this chasm between national interest pursuits to international commitments, creating a more united global governance system.

Conclusion and Recommendations

A. Conclusion

Failure to ratify international treaties, especially those addressing core human rights instruments, is an important issue of controversy and concern within the intersectionality between international law and global governance. We have considered the approaches in more facets by this thesis, and investigated various aspects of non-ratification both legal and social as well, served to annoy certain political player within the international system regarding their own strategic goal towards national interest on global governance concept. Through the examination of the infamous cases of United States, China and Pakistan, it has painted a vivid picture as to what these motivations truly are and listed down various reasons behind non-ratification.

a) Understanding Non-Ratification: Legal and Institutional Challenges

The law of treaty ratification is complex and diverse in its application by different states. For example, in the United States there must be a two-thirds majority in the Senate for ratification, which has often led to political deadlocks and obstructed efforts at receipt instruments of great importance such as Treaty on an extensive ban nuclear weapons tests or Kyoto Protocol. This constitutional necessity, which serves to underlie the democratic control of armed forces via the decision on ratification in many cases actually leads at best simply non-ratification through disputes between parties and political tactics

Similarly, in Pakistan the dualist nature of its legal system means that international treaties do not automatically become part of domestic law upon

ratification. They do not, however, have the force of law; they are legislation that must be adopted and is capable of adding an additional.¹⁷⁵ This dualist approach, however, frequently results in inconsistencies between international obligations and domestic legal frameworks that may create additional barriers to ratification and implementation.

In contrast, the China's attitude toward ratification of treaties is extremely sovereignty-oriented and national-interests-motivated. China is just extremely careful about endorsing treaties that might allow international interference in its domestic policies. The wariness is an obvious one, as seen in China's longstanding failure to ratify the International Covenant on Civil and Political Rights (ICCPR), amid fears of Western attempts at external intervention into a country domestic domain.¹⁷⁶

b) Sovereignty and National Interests: Ideological and Social Impediments

Sovereignty and national interest are also part of the equation for treaty ratification decisions. This is because many states are wary of agreeing to treaties that seem to limit their sovereignty or imply onerous duties. This is often due to political principles or social factors, specifically in the area of national integrity and also why they would put their domestic over international favours.¹⁷⁷

The US in particular has a long history of trade treaty negotiations putting its national interests first and foremost, often leveraging its sizeable economic clout through the ability to flex both military might (if needed) as well as consumer demand. This is consistent with a realist take on international law—treaties are tools to achieve

¹⁷⁵ Ghouri, Ahmad. "Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan." *Statute Law Review* 42, no. 2 (2021): 137-155.

¹⁷⁶ Greenhill, Brian, and Michael Strausz. "Explaining Non-Ratification of the Genocide Convention: A Nested Analysis." *Foreign Policy Analysis* 10 (2014): 371-391.

¹⁷⁷ Ghouri, Ahmad. "Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan." *Statute Law Review* 42, no. 2 (2021): 137-155.

national goals rather than binding legal guarantees. Again, China has not ratified some human rights treaties because ratification of these would mean loss of control by the state and intervention in its internal affairs.¹⁷⁸

c) Legal Harmonization and Capacity Building

Harmonization of national laws with international treaties is a crucial recommendation to overcome the constraints related to non-ratification. Legal harmonization is the process of reviewing and modifying existing laws to conform with international norms, in order to push for the ratification and execution of treaties. This involves a detailed analysis of national laws and, where appropriate, the necessary legal reforms to comply with treaty provisions.¹⁷⁹

The implementation of capacity building is another major aspect of this strategy. Most countries, especially developing ones, do not have the requisite technical skills and administrative capabilities to enforce international agreements meaningfully. Offering such a technical assistance and capacity building can assist these countries in streamlining their legal provision, administrative structures so that they have more conducive climate for ratifying and enforcing the treaties.¹⁸⁰

d) Public Awareness and Civil Society Engagement

Public awareness and civil society engagement are essential for building support for treaty ratification. Public awareness, civil society engagement, This represents the second arm of what is needed to gain popular and political majorities for ratification. Public education campaigns can serve to alert the public that

¹⁷⁸ Lewis, Hope. "New Human Rights: U.S. Ambivalence Toward the International Economic and Social Rights Framework." *Northeastern Public Law and Theory Faculty Working Papers* (2009): 105-124.

¹⁷⁹ Henderson, Conway W. *Understanding International Law*. Wiley Blackwell: UK, 2010.

¹⁸⁰ Greenhill, Brian, and Michael Strausz. "Explaining Non-Ratification of the Genocide Convention: A Nested Analysis." *Foreign Policy Analysis* 10 (2014): 371-391.

international treaties are both important and advantageous, thus creating butter on home soil which actually helps reduce it. To build a culture of support for international commitment among different sections in society, not only through campaigns targeting the general public but also that target civil society organizations and key stakeholders..

Involving civil society organizations in the process of ratifying treaties can also be an important strategy for rallying public support and ensuring governments adhere to their international obligations. Civil society can advocate for the ratification, ensuring that those who are marginalized and vulnerable have a voice in decision-making.¹⁸¹

e) Diplomatic Engagement and International Pressure

Diplomatic engagement and international pressure are effective tools for encouraging states to ratify international treaties. Diplomacy and international pressure to compel ratification of international treaties Diplomatic channels can work to foster dialogue and negotiation in ways that reassure the non-ratifiers while also creating paths for these states to join international treaties. The means can involve bilateral or multilateral dialogues, peer pressure from other states, and positive inducements in the form of technical assistance or economic benefits.¹⁸²

Monitoring and reporting mechanisms can also work as international pressure. Pointing out areas in which you are doing well and not so well helps increase transparency, encourages the application of established standards on a global scale. This will help to encourage a spirit of cooperative implementation across the different

¹⁸¹ Lewis, Hope. "New Human Rights: U.S. Ambivalence Toward the International Economic and Social Rights Framework." *Northeastern Public Law and Theory Faculty Working Papers* (2009): 105-124.

¹⁸² Ghouri, Ahmad. "Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan." *Statute Law Review* 42, no. 2 (2021): 137-155.

States Parties and a best practice sharing environment to learn from each other on how international treaties can be implemented.

f) The Role of Conditional Ratification

Conditional ratification would enable states to conclude treaties provided that they are allowed to make specific reservations or declarations regarding sovereignty. This solution is more flexible and can deliver results because it lets states make their international commitments compatible with local law, whilst controlling the outcome. Ratifications conditional in nature could be one way of managing the resistance but also giving those states whose number is crucial to future accords, assurances that their actual core interests are not going to be too jeopardised.¹⁸³

For example, the United States' approach to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) demonstrates the use of reservations to address domestic concerns. More examples include the United States' formulation of reservations upon ratification to CEDAW, as an exception from transposing international standards in light of domestic considerations. By specifying conditions under which the treaty would apply, the U.S. can tailor its commitments while still participating in the international framework.¹⁸⁴

g) Monitoring and Reporting Mechanisms

The failure of monitoring and reporting mechanisms at the international level is leading to lack of accountability on treaty obligations by states parties. Oversight and public reporting of progress, as well as shortcomings should further drive adherence to international standards. These mechanisms can also serve as a forum for

¹⁸³ Kolb, Robert. *The Law of Treaties: An Introduction*. Edward Elgar: Cheltenham, UK, 2016.

¹⁸⁴ Bradley, Curtis A. "Unratified Treaties, Domestic Politics, and the U.S. Constitution." *Harvard International Law Journal* 48 (2007): 307-357.

states to exchange good practices and lessons learnt from treaty implementation of other countries hence promoting a collective approach towards the execution efforts of international treaties.

The UPR process of the UN Human Rights Council as an monitoring mechanism would help address these issues effectively. The UPR is designed to prompt compliance with international treaties by reviewing human rights practices in member states and offering a platform for states both to discuss challenges, as well as success stories.

h) Towards Effective International Treaty Ratification

The absence of ratification for important international treaties, notably core human rights instruments, constitutes a serious stumbling block in the area of global governance and protection under international law (including human rights). However, they also provide avenues for strengthening ratification practices, harmonizing national legislation with international norms and principles, responding to concerns of sovereignty in a domestic framework context and building upon the associated scrutiny by providing appropriate incentives.

To simplify legislative procedures, fortify parliamentary scrutiny and public participation so as to facilitate more transparency in the ratification of treaties. Conditional ratifications could address concerns about sovereignty while highlighting the practical benefits of international commitments, to counteract existing systemic resistance and facilitate a more cooperative ethos. This brings domestic law in line with international standards and capacity-building responds to the skills required for states to properly fulfil their obligations under a treaty.

In addition to giving voice to society and the diplomatic channel, this can empower civil society even more by getting public opinion involved in support of ratification with other countries. Second, by developing robust monitoring and reporting mechanisms at regional level — moving beyond non-binding reviews to tools that publicise data-based insights as they begin to emerge from state practice, in an effort not only of deterrence but also rewarding states learning the right practices (Sadlier 2015) – we can create strong accountability frameworks linked for mutual benefit with other States: promoting a shared international treaty implementation strategy. However, with every challenge comes an opportunity and it can be concluded that the non-ratification of international treaties provide a unique platform to craft stronger global governance as well as better ensure respect for human rights. States that address these legal, ideological and social causes of international treaty ratification can better practice the rule giving birth to effective realization which in turn facilitates cooperation toward stability necessary for global governance

B. Recommendations

Failure to ratify international treaties, especially basic instruments of human rights, fundamentally challenges and fosters action that undermines global governance, the modern foundation of international law or/and protection human rights. Effectively addressing these challenges will take a comprehensive approach, including legal reforms, work at the community level and partnerships through international engagement to build capacity. This chapter contains these recommendations in greater detail: how to improve ratification procedures; ensure that domestic laws are harmonized with international standards; allay fears of surrendering sovereignty through co-enforcement mechanisms and/or a Multilateral

Agreement on Investment (MAI); use the leverage offered by proposals for new global labour and environmental regimes.

a) Enhancing Domestic Legislative Processes

i. Streamline Ratification Procedures

States should be streamlining their legislative processes to deal with the complexity and delays in treaty ratification. To this end, bureaucratic obstacles can be minimized and better legislative control maintained because the treaty negotiating process and its final ratification stages. Regular briefings and detailed reports to legislators, for example, can improve their grasp of treaties that call on them provide support.¹⁸⁵

ii. Increase Parliamentary Oversight

This is vital to improving transparency and accountability: through reinforcing the part of national parliaments in this process. Parliaments must be required to undertake regular evaluations of upcoming treaties and bring in a wider range of political representatives into the process. This practice opens up the system as well as a wider agreement across party lines.¹⁸⁶

iii. Example in Practice

Instead, we should look to the European Union (EU), for an example of how to increase parliamentary power by including a role in ratification process from the EU Parliament. With the European Parliament playing an active role in treaty scrutiny, a

¹⁸⁵ Ghouri, Ahmad. "Democratizing Foreign Policy: Parliamentary Oversight of Treaty Ratification in Pakistan." *Statute Law Review* 42, no. 2 (2021): 137-155.

¹⁸⁶ Bradley, Curtis A. "Unratified Treaties, Domestic Politics, and the U.S. Constitution." *Harvard International Law Journal* 48 (2007): 307-357.

broad range of perspectives must be addressed so that ratification will take place in such way to make it more robust and democratic.¹⁸⁷

b) Addressing Sovereignty Concerns

i. Clarify Sovereignty Implications

Design a whole of nation message to articulate the ganis treaty benefits and eliminate misunderstandings as concerns loss of national sovereignty. This is one reason why it is so important to show how international commitments can complement not undermine national interests and enhance global standing. Thus, if the government wants to reign in its sovereignty implications of international treaties under Article 256(2) as a policy commitment and priority for Irish decimationists/crackers which they may wish to further pursue did/did not get enjoyment from ghosting rawnesss abusing ownership — new edges break out those proud foreign broods.¹⁸⁸

ii. Conditional Ratification

Push for the acceptance of conditional ratifiers allowing states to commit to treaties with particular reservations or declarations based on their sovereignty worries. States can thus reconcile their international obligations within domestic legal orders, while retaining a certain degree of control over the implementation process. Conditional ratifications can offer some flexibility to states and assurances that their vital interests are guarded.¹⁸⁹

¹⁸⁷ Kolb, Robert. *The Law of Treaties: An Introduction*. Edward Elgar: Cheltenham, UK, 2016.

¹⁸⁸ Henderson, Conway W. *Understanding International Law*. Wiley Blackwell: UK, 2010.

¹⁸⁹ Kolb, Robert. *The Law of Treaties: An Introduction*. Edward Elgar: Cheltenham, UK, 2016.

iii. Case Study

The manner in which the United States has handled CEDAW provides an example of how reservations can be effectively employed to handle domestic concerns. The U.S. can modify its commitments within an international structure by defining the circumstances under which the treaty does and doesn't apply.¹⁹⁰

c) Aligning Domestic Laws with International Standards

i. Legal Harmonization Programs

Develop programs that help to reconcile national laws with international treaty commitments. This includes examination of current laws, mapping gaps and introducing any legal changes if required for India to comply with International standards. It is said that legal harmonization not only enhances treaty ratification but also fosters a more competent international law.¹⁹¹

ii. Capacity Building

Assist countries that are having problems with the legal and administrative aspects of implementing treaties, including technical assistance in treaty implementation (capacity-building). International organizations, together with donor countries, can have a key role in helping to set such processes up and continue running. Capacity building initiatives might be training for legal professionals, reform support legislative and setup administrative framework as missing tools to feed correct execution.¹⁹²

¹⁹⁰ Bradley, Curtis A. "Unratified Treaties, Domestic Politics, and the U.S. Constitution." *Harvard International Law Journal* 48 (2007): 307-357.

¹⁹¹ Lewis, Hope. "New Human Rights: U.S. Ambivalence Toward the International Economic and Social Rights Framework." *Northeastern Public Law and Theory Faculty Working Papers* (2009): 105-124.

¹⁹² Greenhill, Brian, and Michael Strausz. "Explaining Non-Ratification of the Genocide Convention: A Nested Analysis." *Foreign Policy Analysis* 10 (2014): 371-391.

iii. Success Story

This presented the value in capacity building, as for example through the harmonization of the African Union Member States' laws with international human rights standards. The African Union has been holding workshops, training sessions and technical assistance to make sure that national laws match international treaties better than they used to do in order to strengthen human rights protection across the continent.

d) Promoting Public Awareness and Support

i. Public Education Campaigns

Run mass campaigns on ratification and the significance of human rights treaties. The campaigns should attract the different sectors of civil society, general public and other stakeholders. Such campaigns can help to develop a culture of international support, which in turn will dissipate resistance and ultimately built up some level of regional environment for ratification.

ii. Engage Civil Society

Oversee Treaty Ratification by NGO Given greater role in the treaty ratification process of civil society organizations. These can be the champions to make crusade for ratification, and generate public support while also keeping governments accountable towards their international commitments. Community participation makes it easier for the voices of not only marginalized and vulnerable sections but also civil society to enter the ratification process.

iii. Case Example

Please also consider that the ratification of the United Nations Convention on Rights of Persons with Disabilities (CRPD) in India shall not have been possible without serious advocacy from national civil society organizations. Public campaigns, policy advocacy and direct engagement with lawmakers played a great role to make India ratifying the CRPD through these organizations.

e) Leveraging International Pressure and Incentives

i. Diplomatic Engagement

Address non-ratifying states to another international treaties through diplomatic routes. This may involve bilateral and multilateral dialogues; peer pressure from fellow states; as well as incentives such as technical assistance or economic gains. Getting diplomatic engagement takes a suitable ratification environment that reinforces the mutually beneficial nature of international cooperation.

ii. Monitoring and Reporting Mechanisms

Increase the Transparency and Reporting Obligations on a Country-Level Strengthen international oversight, transparency mechanisms responsible in holding states to account for their treaty pledges. And regular reviewing and open reporting gives transparency on what has worked and where we need to do better, encouraging adherence to global standards. Monitoring mechanisms can serve as a space for states to exchange lessons learned and best practices..

iii. Example in Practice

A more effective monitoring mechanism is the Universal Periodic Review (UPR) process of United Nations Human Rights Council.

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