

Covenants, Constitutions, and Distinct Law Types: Investigating Governments' Restrictions on CSOs Using an Institutional Approach

KEYWORDS: CSOs; NGOs; civil society; regulations; constitutions; international treaties

ABSTRACT: A growing number of researchers study the laws that regulate the third-sector and caution the legal expansion is a global crackdown on civil society. This article asks two questions of a thoroughly researched form of legal repression: restrictions on foreign aid to CSOs. First, do institutional differences affect the adoption of these laws? Second, do laws that appear different in content also have different causes? A two-stage analysis addresses these questions using data from 138 countries from 1993-2012. The first analysis studies the ratification of the International Covenant on Civil and Political Rights (ICCPR) and constitution-level differences regarding international treaties' status. The study then uses competing risk models to assess whether the factors that predict adoption vary across law types. The study finds that given ICCPR ratification, constitutions that privilege treaties above ordinary legislation create an institutional context that makes adoption less likely. Competing risk models suggest different laws have different risk factors, which implies these laws are more conceptually distinct than equivalent. Incorporating these findings in future work will strengthen the theory, methods, and concepts used to understand the legal approaches that regulate civil society.

1. Introduction

Research studying the laws and policies regulating voluntary association around the world has been a growth industry since the mid-2000s. Despite the growing body of work on public regulation of civil society, important questions remain. While focusing primarily on the adoption

1 of legislation restricting civil society organizations (CSOs), previous work underemphasizes the
2 broader legal context in which lawmaking occurs. This context is crucial because it informs the
3 institutional constraints that inhibit or facilitate the adoption of new laws. It is necessary to
4 consider the effect that preexisting legal commitments and constitutional rules have on CSO
5 legislation. Moreover, laws that appear qualitatively different—such as those passed by Oman
6 (2000) that categorically prohibit foreign funding versus those that merely require ex-post
7 notification or accounting requirements (e.g., Pakistan 2003 and Uruguay 2004)—might be
8 promulgated for different reasons and implemented with varying degrees of success. This raises
9 another important consideration: if the laws that restrict CSOs are different in content, could it be
10 that different factors affect the adoption of different laws?

11 This article makes two key contributions. Its first builds on current theory to introduce
12 institutional variables, specifically preexisting institutions and constitutional differences, which
13 many prior analyses omit. The research design accomplishes this by simultaneously analyzing
14 two key institutional variables. The International Covenant on Civil and Political Rights
15 (ICCPR) is the first. It is a critical international human rights treaty that commits its parties to
16 promote human rights and fundamental freedoms (Donnelly, 2013; Henkin, 2000). Ratification
17 makes the covenant a preexisting institution that constrains legal attempts to undermine civil and
18 political rights. Ratification may not be sufficient, however, to protect these rights because
19 constitutional rules condition whether the obligations enshrined in the ICCPR affect domestic
20 lawmaking. From an institutional analysis perspective, the consequences of ICCPR ratification
21 depends on constitutional rules.

22 The second analysis disaggregates the types of laws to explore nuanced relationships. Given
23 reports of the growing number of laws restricting civil society around the world (e.g., Amnesty

1 International, 2019; Anheier and Toepler, 2019; CIVICUS, 2018; Musila, 2019), it is empirically
2 expedient and sometimes necessary to classify all laws as equally restrictive and presume
3 marginal and unimportant differences. The second analysis tests the degree to which this
4 presumption holds. It does so by reorganizing laws restricting foreign funding into three
5 qualitatively different groups that fall along a continuum from highly- to minimally-restrictive.
6 The quantitative analysis assesses whether the factors that predict adoption for the ‘pooled’
7 conceptualization also predict adoption of distinct law types. It also discusses whether the
8 presumption of conceptual equivalence produces either Type-I or Type-II errors.

9 To review, this analysis uses preexisting institutions and legal differences to build theory
10 and further explain the adoption of laws that restrict CSOs. It accomplishes this by investigating
11 two research questions: first, do preexisting institutions affect the adoption of restrictive laws?
12 Second, do the political factors that predict the adoption of highly-restrictive laws also predict
13 the adoption of moderately- and minimally-restrictive ones? These are essential questions that
14 advance theory. As an example, leading research shows that 39 countries adopted restrictive
15 foreign financing laws between 1999 and 2013 (Dupuy et al, 2016). Figure 1 uses two indicators
16 to highlight the range of countries that have adopted restrictive foreign funding laws. The
17 vertical location of each marker identifies the level of democracy in each country along a
18 continuous 10-point scale with larger values indicating higher levels of democracy. Shapes
19 identify states' Freedom House Status category in the year of adoption. As expected, the data
20 show a strong relationship between authoritarianism and adoption. The data also show that
21 democracies and hybrid regimes adopt these laws. Indeed, we see almost as many Free or Partly
22 Free countries adopted restrictive laws as Not Free states. This figure raises the question of
23 whether different countries are passing the same law, or if different countries pass different laws.

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Figure 1: Adoption of Restrictive Foreign Funding Laws

Two theory-driven arguments motivate this study. First, countries with preexisting institutions to promote civil and political rights are less likely to adopt laws that restrict voluntary association. Second, beginning with the premise that laws are more different than presumed, the factors that predict adoption vary across highly-, moderately-, and minimally-restrictive laws. Analyses test these hypotheses using an event history analysis (EHA) and competing risk models (CRMs) to gain refined estimates on how different factors—such as the level of democracy, voting alignment with superpowers in the United Nations, preexisting institutions, and organized civil society activity—relate to the adoption of particular laws. The analysis uses several sources to rebuild the dataset used in “Hands Off My Regime!” (Dupuy et al, 2016). The models analyze a sample of 138 countries between 1993-2012, of which 37ⁱ adopted laws identified as highly-, moderately-, or minimally-restrictive.

A summary of my results follows. First, constitutions and preexisting institutions matter. Given ICCPR ratification, countries with constitutional rules that explicitly place treaties above ordinary legislation are less likely to adopt restrictive laws. This institutional arrangement is significant across law types and robustness checks. Second, findings suggest that laws are qualitatively and quantitatively different. Nuanced results from the CRMs show the risk factors that predict the adoption of one law type rarely accurately predict the adoption of two or more types. These findings suggest that ‘pooling’ distinct laws into one broad category can produce false positives that overstate the variables’ relationship with the adoption of different law types. Likewise, presuming equivalence of distinct laws makes analyses susceptible to false negatives

1 that wrongly reject the importance of a factor that is strongly associated with the adoption of a
2 specific law type. I conclude by discussing the implications these results have for studying the
3 regulation of civil society around the globe.

4 2. Theory

5 Institutions Affecting Voluntary Association

6 Vast areas of literature discuss civil society as a crucial factor for important sociopolitical
7 outcomes such as governance, democracy, interpersonal trust (Aligica, 2018; Brass, 2016; de
8 Tocqueville, 1840; Edwards, 2004; Fukuyama, 1995; Putnam, 1993). The relationship is not
9 unidirectional, and politics can and do affect CSOs. One manifestation of politics affecting civil
10 society appears in a country's CSO regulatory regime, or the legal framework of various laws
11 and constitutional protections that create carefully institutionalized regulatory systems that
12 structure the activity of CSOs (DeMattee, 2019). These constellations of legal protections have
13 been part of the literature on non-governmental organizations and international development for
14 over 35 years (Brass et al, 2018) and exist alongside self-regulation instruments (Breen et al,
15 2017; 2019; Crack, 2018). A growing literature attempts to predict and explain the adoption of
16 restrictive laws that seek to minimize the political influence of civil society, or what some refer
17 to as the “Closing Space” phenomena (Carothers, 2015; Carothers and Brechenmacher, 2014).
18 This research explains that state repression is not only physical but also legal and judicial. It
19 argues that regimes use laws to reconfigure regulatory regimes to protect their hold on political
20 power (Carothers, 2006; Christensen and Weinstein, 2013; Dupuy et al, 2016).

21 Analysts discuss the degree to which differences in constitutions, ratification of
22 international treaties, and domestic laws affect de facto civil liberties and the organizational
23 ecology of CSOs (e.g., Elkins et al, 2009; Hathaway, 2002; Salamon and Toepler, 1997; World

1 Bank, 1997). From an institutional analysis perspective, constitutions are the ultimate pre-
2 existing institution because they structure the terms and conditions of governance and establish
3 the boundaries of government activity (Buchanan and Tullock, 1961; Ostrom, 1997) and inform
4 our understanding of how predatory states develop a credible commitment and the state capacity
5 necessary to undertake protective and productive roles for society (Boettke and Candela, 2019;
6 Buchanan, 1975). Constitutions sit atop a multi-level rulemaking process that determines the
7 creation of laws and working rules that affect decision making (Brennan and Buchanan, 1985;
8 Cole, 2017; Ostrom, 2005). Relevant examples are systems of checks and balances, whether
9 ratification of international treaties constrains domestic lawmaking, and power bestowed to the
10 executive. At the same time, constitutions affect individuals by creating and maintaining a sense
11 of shared identity (Breslin, 2009; Murphy, 1993; Mutunga, 1999; Pitkin, 1987), protecting and
12 enforcing property rights conducive to development (North and Weingast, 1989), and
13 constitutionalism that guarantees a state's commitment to "a set of inviolable principles" such as
14 freedom of association and religion (Elkins et al, 2014: 38). Studying constitutional differences
15 provides insight into the constraints on rule-making and the importance of preexisting rules.
16 Although constitutional-level rules change slower than collective-choice or operational-rules
17 (Ostrom and Ostrom, 2004), scholarship on the topic finds the average life expectancy of
18 constitutions is only 19 years with a "decline in constitutional life spans after World War II"
19 (Elkins et al, 2014: 131).

20 At the international level, the 1966 International Covenant on Civil and Political Rights
21 (ICCPR) is considered the principal treaty in the area of international human rights (Donnelly,
22 2013; Henkin, 2000; ICNL, 2009; 2015; Kiai, 2012)ⁱⁱ. The ICCPR guards the civil and political
23 rights of citizens in the majority of countries in the world with new signatories ratifying the

1 agreement each year (United Nations Office of Legal Affairs, 2018)ⁱⁱⁱ. Article 22(2) outlines the
2 limited conditions under which restrictions on association are permissible with similar language
3 appearing in several subsequent regional treaties such as Article 16(2) of the American
4 Convention on Human Rights (1969), Article 11 of the African Charter on Human and Peoples'
5 Rights (1981), and Article 11 of the European Convention on Human Rights (2010).

6 International law uses Article 22(2) to establish legal criteria to evaluate the legitimacy of
7 laws affecting voluntary association (U.N. Human Rights Committee, 2006; 2007; 2015). A
8 three-part test sets a threshold that all rules regulating voluntary association must be:

- 9 1. Prescribed by law that uses sufficiently precise and accessible language;
- 10 2. Established to meet legitimate aims specified by Article 22(2) to include "national
11 security or public safety, public order, the protection of public health or morals or the
12 protection of the rights and freedoms of others"; and
- 13 3. "Necessary for democracy" in that they meet a pressing social need in a proportional
14 manner.

15 In general, the three-part test suggests that states may regulate (prescribe by law) CSOs to
16 perform specific actions in the interests of transparency and accountability (legitimate aims) if
17 such requirements are properly scoped to prevent real dangers to democracy (necessary for
18 democracy).

19 Ratification of the ICCPR provides information concerning when it becomes a preexisting
20 institution. But the strength of the ratification as a preexisting institution depends on the status
21 constitutional rules give international treaties. Thus, the preexisting institution is most influential
22 when a constitution elevates the ICCPR's international commitments above ordinary legislation.
23 Table 1 shows the year each country adopted its restrictive law (*Law Adopted*). It also displays

1 the institutional context present in the country the year it adopted its law: the ratification status of
2 the ICCPR (*ICCPR Ratified*) and whether constitution constitutional rules make international
3 treaties superior to ordinary legislation (*Treaty Superior*). Of these 39 countries, 25 ratified the
4 ICCPR before the start of the observation period and nine ratified during the observation period.
5 But two of those countries, Indonesia and Pakistan, ratified the covenant after adopting
6 restrictive laws. In total, 33 countries adopted laws in an institutional context that either had no
7 preexisting commitments to promote civil and political rights or had no constitutional rules
8 enforcing ICCR ratification.

9

10 **Table 1: Varying Institutional Contexts—Adoption, ICCPR Ratification Status, and**
11 **Constitutional Rules**

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13 Countries that abstained from adoption also changed their institutional contexts during the
14 observations period. Of the 101 countries that did not adopt restrictive laws, 23 changed their
15 constitutional rules regarding international treaties, and 44 ratified the ICCPR during the analysis
16 period. Figure 2 summarizes the institutional context for all countries in the sample. *Abstainers*
17 designate countries that do not adopt a law while *adopters* identify those that eventually do. The
18 integer values express the number of countries that sort into the given institutional context for at
19 least one year. Percentage values denote the proportion of country-year observations that match
20 the institutional context. The top branch of Figure 2 is the institutional arrangement that
21 maximizes the effect of the preexisting institutions. The next highest branch is less constraining
22 because ratification exists alongside constitutional rules that give lawmakers the option to follow
23 or ignore the ICCPR’s commitments. When the ICCPR is not ratified (Figure 2, bottom

1 branches), the constitutional rules concerning international treaties are inactive because ICCPR
2 ratification is absent.

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Figure 2: Frequencies of Institutional Contexts

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6 Constitutions and international treaties are preexisting institutions that shape the
7 institutional context that affects lawmaking in several ways. Principally, the adoption of laws or
8 policies is commonly an exercise of incremental change rather than significant reordering
9 (Lindblom, 1959; Pierson, 2000). Next, preexisting policies provide society with the opportunity
10 to form opinions about policy as well as gives lawmakers and bureaucrats experience in
11 implementing and adapting objectives to local conditions and preferences (Lowi, 1964; 1972;
12 Pierson, 1993; 1994). Finally, understanding policy adoption as part of a link in a historical
13 process of institutional change means the adopted law or policy has one of four relationships
14 with preexisting institutions: independent, complementary, contingent, or substitute (Mahajan
15 and Peterson, 1985). Analytical frameworks of institutional analysis underscore the importance
16 of history and show that one period's policy outcome shapes the rules of future political action
17 arena (Cole et al, 2014; McGinnis and Ostrom, 2014; Ostrom, 1990; 2011; Ostrom and Cox,
18 2010).

19 For this analysis, constitutions both define the processes of lawmaking and determine the
20 degree to prior commitments constrain future legislation. The former are the rules of rulemaking,
21 and the latter are preexisting institutions. The ICCPR is an international treaty whose parties
22 accept additional commitments to promote civil and political rights. Once ratified, the treaty both
23 modifies current institutions and constrains future attempts to alter the regulatory regime of

1 voluntary association. But the strength of international treaties as preexisting institutions depends
2 on constitutional rules. Some constitutions fail to discuss treaties altogether, some give treaties a
3 status that is less than or equal to domestic legislation, and still others explicitly grant treaties a
4 status that is superior to ordinary laws. Two institutional hypotheses follow:

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6 ***HIA:*** ICCPR ratification decreases the probability of adoption.

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8 ***HIB:*** The institutional arrangement that minimizes the probability of adoption is one that (A)
9 ratifies the ICCPR and (B) possesses constitutional rules that make international treaties
10 superior to ordinary legislation.

11

12 Restrictions on Foreign Aid to CSOs

13 Most research on the adoption of restrictive laws disagrees on the extent to which
14 international or domestic factors influence adoption. Research by scholars testing the influence
15 of policy diffusion across borders has mixed findings with some finding no significant
16 relationships (Dupuy et al, 2016) and others finding strong support of neighborhood effects and
17 international linkages (Reddy, 2018). Others focus on the intervention of influential global
18 leaders who either protect states who attempt to pass restrictive laws (Christensen and Weinstein,
19 2013) or serve as the object of emulation in a leader-laggard model of policy adoption. This
20 research is part of a larger a body of work that discusses the laws that affect civil society around
21 the world with a recent review identifying over 50 distinct types of provisions (Bloodgood et al,
22 2014; DeMattee, 2019; Kameri-Mbote, 2002; Maru, 2017; Mayhew, 2005; Ndegwa, 1996;
23 Salamon and Toepler, 1997; 2000; Sidel, 2017).

1 Despite the broad approach used by some analyses, many recent studies focus on provisions
2 that restrict access to financial resources even though such provisions belong to a more
3 substantial subgroup of provisions regulating organizations' financial and non-financial resources
4 (DeMattee, 2019; Kiai et al, 2017). Legal experts identify various tactics of "philanthropic
5 protectionism" that restrict the flow of resources to CSOs (Rutzen, 2015) such as requiring prior
6 governmental approval, capping the total amount of international funding, requiring burdensome
7 reporting, and mandating the routing of foreign funds through state-controlled financial
8 institutions.

9 With so many provisions restricting foreign aid to CSOs, it is empirically expedient and
10 sometimes necessary to classify all laws under the same monolithic group—"restrictive laws"—
11 which suggests there exist only slight differences among them. This practice may be a misstep
12 for theoretical and conceptual reasons. Law and policy difference are central to theories that
13 explain the adoption and effects of regulation^{iv}. Further conceptualization of these instruments
14 can advance our understanding of the laws that restrict CSOs. Figure 3 presents three ordering
15 logics to demonstrate that the categorization of laws is possible. This analysis investigates
16 governments' restrictions on CSOs ability to access foreign funding (top row) and organizes law
17 types from *prohibitive* (highly-restrictive, left) to *notification* (minimally-restrictive, right). The
18 figure provides examples of restrictive provisions discussed by scholars (bottom row).
19 International law provides another ordering logic to conceptualize law types. Here, the three-part
20 test organizes law types from highly-restrictive and *illegitimate* to minimally-restrictive and
21 *contestable*. Transaction costs are yet another logic to conceptualize laws (Salamon and Toepler,
22 2000; 2012). Laws that impose debilitating transaction costs are *predatory* (highly-restrictive),
23 while less restrictive laws may be either *inefficient* or *proscriptive*.

1 Readers may disagree with the ordering of these provisions along the continuums of
2 restrictiveness, illegitimacy, or transaction costs. And others may still propose more useful
3 categorizations as prior attempts to classify laws, policies, and regulations have shown (e.g.,
4 Gormley, 1986; Lowi, 1964; 1972; Salamon, 2002). The significant point on which I hope many
5 agree is that the broad category of restrictive laws is not monolithic, and theory predicts these
6 differences have consequences for research analyzing adoption.

7

8 **Figure 3: Continuum of Restrictive Laws, Policies, and Regulations**

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10 Two sets of conceptual hypotheses follow. One tests the conceptual equivalence of factors,
11 and the other evaluates their conceptual distinctness. If laws are conceptually equivalent, then the
12 factors that predict adoption for one type of law should also predict the adoption of other laws.
13 This means the factors believed to be positively associated with the adoption of restrictive
14 laws—such as foreign aid flows, competitive elections, and the degree to which CSOs seek to
15 topple the existing political system—should predict the adoption of different laws similarly as
16 indicated by the variables' sign, effect size, and significance. Likewise, factors believed to be
17 negatively associated with the adoption of restrictive laws—such as higher levels of
18 democracy—should also be consistent in their sign, size, and significance. Four conceptual-
19 equivalence hypotheses follow:

20 **H2A:** Higher levels of overseas development aid increase the probability of adopting
21 restrictive laws, and that relationship is generally similar for all restrictive law types.

22 **H2B:** The context of electoral competition increases the probability of adopting restrictive
23 laws, and that relationship is generally similar for all restrictive law types.

1 **H2C:** Higher levels of organized opposition by CSOs to the current political system
2 increases the probability of adopting restrictive laws, and that relationship is generally
3 similar for all restrictive law types.

4 **H2D:** Higher levels of democracy decrease the probability of adopting restrictive laws, and
5 that relationship is generally similar for all restrictive law types.

6
7 The second set of conceptual hypotheses proposes the predictive power of individual factors
8 varies across law types. At least four types of variation may exist that signal conceptual
9 distinctness. First, a factor can increase the probability of adopting highly-restrictive laws, but
10 the effect wanes for less restrictive types. Russia is believed to possess highly-restrictive CSO
11 laws (Benevolenski and Toepler, 2017; Toepler et al, 2019), therefore, a shared ideology with
12 Russia—as measured by voting alignment in the U.N. General Assembly—should increase the
13 probability of adopting highly-restrictive laws.

14 Second, a factor may decrease the probability of adopting highly-restrictive laws but also
15 increase the probability of adopting minimally-restrictive ones. Although CSOs may lobby to
16 dissuade lawmakers from passing laws that harm the sector’s organizational ecology, this
17 relationship is likely too weak to identify in the data because lawmakers likely excluded CSOs
18 when such laws are under consideration. CSOs may support minimally-restrictive laws, however,
19 to establish ‘reasonable regulation’ that promotes trust, accountability, and transparency.
20 Therefore, greater participation by CSOs in the lawmaking process increases the probability of
21 adopting minimally-restrictive.

22 Third, a factor may decrease the probability of adopting highly-restrictive laws, but the
23 effect wanes for less restrictive types. The institutional arrangement of treaties and constitutions

1 discussed in *H1B* is expected to exhibit this behavior because, according to international law’s
2 three-part test, countries can prescribe by law actions in the interests of legitimate aims if such
3 requirements are properly scoped and necessary for democracy. The presence of this particular
4 institutional arrangement decreases the probability of adopting rightly-restrictive laws that do not
5 meet the three-part test.

6 Finally, a factor may increase the probability of adopting minimally-restrictive laws, but be
7 unrelated to the adoption of more restrictive types. The United States is believed to possess a
8 legal approach that supports CSOs (Barber and Farwell, 2017; Salamon and Toepler, 1997), but
9 its tax code contains provisions that may be characterized as minimally-restrictive. For example,
10 its laws require CSOs to file tax forms if they wish to be formal tax-exempt organizations, and
11 501(c)(3)s must pay taxes revenue earned through activities that are unrelated to their charitable
12 mission. Therefore, shared ideology with the United States—as measured by voting alignment in
13 the U.N. General Assembly—increases the probability of adopting minimally-restrictive laws.
14 Four conceptual-distinctness hypotheses follow:

15 ***H3A:*** Greater voting alignment with Russia in the U.N. General Assembly increases the
16 probability of adopting highly-restrictive laws.

17 ***H3B:*** Greater participation by CSOs in the lawmaking process increases the probability of
18 adopting minimally-restrictive laws.

19 ***H3C:*** An institutional context where ICCPR ratification exists and constitutional rules make
20 treaties superior to ordinary legislation decreases the probability of adopting highly-
21 restrictive laws, but this relationship wanes or vanishes for moderately- and minimally-
22 restrictive types.

1 **H3D:** Greater voting alignment with the U.S. in the U.N. General Assembly increases the
2 probability of adopting minimally-restrictive laws.

3 3. Methods & Data

4 This study uses competing risk models (CRMs), which are a simple extension of event
5 history analysis (EHA) and reveals considerably more information about social phenomena with
6 multiple types of outcomes (for review see Allison, 2014: 53-66; Box-Steffensmeier and Jones,
7 2004: 155-182; Jones, 1994). A logit model acts as the primary modeling strategy, and two
8 additional methods act as robustness checks. The first is a Cox proportional hazards model (Cox,
9 1972; 1975). This model is appropriate because preliminary testing showed the proportional-
10 hazards assumption holds for some laws but not others, which requires incorporation of time-
11 varying coefficients. The second robustness check concerns rare events. The data show that 37 of
12 138 countries adopted a law between 1993 and 2012. For some, these laws represent only 37
13 country-year ‘events’ among nearly 2,400 ‘non-events’ (approximately 1.5%), making them rare
14 events because there are “dozens to thousands of times fewer ones [than zeros]” (King and Zeng,
15 2001: 138). When statistical software corrections are unavailable^v, methodologists prescribe
16 specific data collection and sampling strategies to minimize bias (King and Zeng, 2001: 141-
17 143)^{vi}.

18 19 Dependent Variables

20 The dependent variable is the adoption of a law that restricts foreign aid to CSOs. In
21 the first analysis, the variable is coded as 0 and changes to 1 if country_{*i*} adopts the law at time *t*.
22 This pooled approach is typical for most of the literature on this topic and is used here to test the
23 institutional hypotheses (**H1A** and **H1B**). Three countries passed multiple laws during the

1 analysis period^{vii} but specifications here analyze only initial adoptions. While losing these
2 country-year observations that occur before these subsequent adoptions is statistically inefficient,
3 doing so allows for consistent estimation of factors that predict the adoption of initial laws
4 without having to model the effects of initial adoptions on later adoptions.

5 In the CRM analyses, the coding of the dependent variable depends on the law type. Testing
6 the conceptual hypotheses (*H2A-D* and *H3A-D*) requires recoding the dependent variable for
7 each CRM. In these models, the content of adopted laws as described by Dupuy et al (2016:
8 Appendix Table 3) determine their values. *Prohibitive Laws* are highly-restrictive and contain
9 strong language regarding what organizations cannot do^{viii}. The coding protocol identified laws
10 as prohibitive/highly-restrictive if the description of the legal restriction used contains forms of
11 the qualifier “prohibited.” The dependent variable equals 1 if a country adopts a law in that year
12 and that law is coded as prohibitive, 0 if a country adopts a law in that year but the law is not
13 prohibitive, and 0 if the country does not adopt a law in that year.

14 Coding for red-tape and notification laws follows the same protocol. *Red-tape Laws* are
15 moderately-restrictive and communicate ex-ante conditions that organizations must meet before
16 receiving funds^{ix}. The protocol coded laws as red-tape/moderately-restrictive if the description of
17 the law included variations on terms "restrictions on," "required to," and "approval for." This
18 category also includes laws that require "government monitoring of contracts" (i.e., Ecuador
19 2011) because foreign funding is allowed given the ex-ante condition. The variable equals 1 if a
20 country adopts a law in that year and that law is a red-tape type, and 0 otherwise. *Notification*
21 *Laws* are minimally-restrictive and contain instructions for what organizations must do after
22 receiving foreign funding^x. The protocol uses terms such as “notification,” “reporting,” and

1 “taxation” to code notification/minimally-restrictive laws. The variable equals *1* if a country
2 adopts a law in that year and that law is a notification type, and *0* otherwise.

3

4 Independent Variables

5 Access to data for such a large number of countries is difficult. Thus, this analysis uses the
6 Varieties of Democracy Project (V-Dem) that provides data for 201 countries from 1789-2018
7 (Coppedge et al, 2018), to include as many countries as possible in the analysis. Data are added
8 from other sources as necessary. The U.N. Office of Legal Affairs and the *Comparative*
9 *Constitutions Project* (CCP) provide data to test hypotheses **HIA** and **HIB**. The former provides
10 information on whether and when a country ratifies the ICCPR. For each country-year
11 observation, *ICCPR Ratified* equals *1* if the country ratified the human rights treaty, and *0* if it
12 did not. The CCP provides constitutional texts for 214 independent countries from 1789 thru
13 2013 (Elkins et al, 2014). *Treaties Superior* equals *1* for all constitutional systems that explicitly
14 states international treaties are superior to ordinary legislation. The variable equals *0* if the
15 constitution does not mention international treaties or gives them a status equal or inferior status
16 to ordinary legislation. *Executive Power* measures the powers given to the country's chief
17 executive and follows the working paper on the constitutional boundaries of executive
18 lawmaking (Elkins et al, 2012; 2014). The variable ranges from *0-7* with higher values indicating
19 more constitutional powers entrusted to the chief executive^{xi}. Analyses do not lag institutional
20 variables because they frame the institutional context of lawmaking in the current year.

21 The models lag all control variables discussed below. *Electoral Competition* measures
22 whether elections to fill chief executive offices and the legislative body are characterized by
23 uncertainty, meaning that the elections are, in principle, sufficiently free to enable the opposition

1 to gain power (Coppedge et al, 2018: 299). The variable equals I when electoral competition
2 exists^{xiii}.

3 The World Development Indicators (World Bank, 2018) provide country-year data for
4 population, GDP (constant 2010 US\$), and the net official development assistance received
5 (constant 2014 US\$). Following the practice of prior scholarship, this analysis removes countries
6 with GDP per capita exceeding \$12,615 throughout the observation period (Dupuy et al, 2016:
7 9). Net ODA is divided by the total population to normalize ODA on a per capita basis. Zero and
8 negative ODA per capita values are set to \$0.01 before transforming the variable with a natural
9 log function to achieve a normal distribution. Multiplying $\ln(\text{Net ODA per capita})$ and *Electoral*
10 *Competition* produces an interaction term that recent research finds relevant for explaining the
11 adoption of restrictive laws (Dupuy et al, 2016).

12 The *Yearbook of International Organizations* (Union of International Associations) is often
13 used to measure the vitality of civil society with a country. That data only includes information
14 for intergovernmental and international non-government organizations. Scholarship finds both
15 local and international non-state actors can affect politics in developing counties by merely
16 providing the necessary infrastructure to develop civil society (Brown et al, 2008; Stremlau,
17 1987), providing charitable service without political motivations (Brass, 2012; Frantz, 1987), and
18 serving as a catalyst for policy change in an international system (Kajese, 1987; Keck and
19 Sikkink, 1999). This suggests the role and character of CSOs, from both local and international
20 origins, matter more than merely the number of non-state actors in attendance. Two variables
21 control for the degree to which CSOs influence lawmaking. *CSO Routinely Consulted*, measures
22 the degree to which policymakers consult major CSOs with higher values representing more
23 significant consultation (Coppedge et al, 2018: 176). *CSOs are Anti-System* measures the level of

1 organized opposition to the current political system with higher values representing stronger anti-
2 system activity (Ibid, p. 178). Both variables were initially collected using ordinal intervals and
3 then converted to a continuous interval using a Bayesian item response theory measurement
4 model (Ibid.).

5 Though the Polity2 indicator is commonly used to control for regime type, the data are only
6 available for countries whose populations exceeded 5000,000 in 2006 (Marshall et al, 2017).
7 This population cutoff omits small countries such as Belize which adopted its law in 2003 but
8 only had a population of approximately 300,000 in 2006. This analysis instead uses *Imputed*
9 *FH/Polity2* to control for regime type to include as many countries as possible. The variable uses
10 Freedom House Political Rights and Civil Liberties values, and the original Polity2 variable to
11 impute values for countries where Polity data are missing (Coppedge et al, 2018: 290). The scale
12 ranges from the least democratic (0) to most democratic (10) and is shown to perform better in
13 terms of validity and reliability than its component indicators (Hadenius and Teorell, 2005).

14 Policy diffusion can occur vertically or horizontally through mechanisms of learning,
15 imitation, normative pressures, competition, and coercion (Berry and Berry, 2014). Two
16 continuous variables control for vertical diffusion: *U.N. votes with the U.S.A. (%)* and *U.N. votes*
17 *with Russia (%)*. These indicators measure government ideology compared to international
18 leaders. Values are the average of all votes during a particular session. The variables range from
19 0-100 with higher values indicating greater alignment with the superpower (Bailey et al, 2017;
20 Voeten, 2013). The correlation between these variables is approximately -0.46. A third variable,
21 *Regional Diffusion*, controls for horizontal diffusion. The variable represents the percentage of
22 states within a country's World Development Indicators regional group (World Bank, 2018) that
23 adopted the law type studied as the outcome.

1 The Political Terror Scale (PTS) provides data for *PTS Average*, which measures local
2 political terror and unrest (Gibney et al, 2017). PTS provides three separate indicators coded
3 from annual human rights reports published by Amnesty International, Human Rights Watch,
4 and the U.S. Department of State. Each variable is measured on a 5-point scale with higher
5 values indicating higher levels of abuse and physical integrity rights violations. In this analysis,
6 the control variable averages all PTS scores available for each country in the given year.

7 Research shows states' decisions to violate human rights is negatively related to their
8 judicial effectiveness, which is the primary enforcement mechanism of legal obligations at home
9 and abroad (Powell and Staton, 2009). *Rule of Law Index* measures the degree to which laws are
10 fairly enforced and to what extent the actions of government officials comply with the law. The
11 index is a latent variable that methodologists show is superior to using a single indicator or
12 averaging several measures (Linzer and Staton, 2015) and uses a Bayesian factor analysis of 15
13 indicators (Coppedge et al, 2018: 235-236). The variable *Time* represents the number of years a
14 country has gone without adopting a law since entering the dataset. To maintain a consistent
15 sample, countries always leave the dataset the year they adopt any law. But the value of the
16 dependent variable for those countries varies according to the competing risk model used. The
17 appendix contains a table with descriptive statistics for all variables (Appendix Table 1). The top
18 panel summarizes dependent variables for the 138 cases while the bottom panel summarizes all
19 variables for the 2,398 country-year observations.

20 4. Results

21 This section presents the results in the same order as the hypotheses. The primary modeling
22 strategy and its robustness checks show that the institutional arrangement that minimizes the
23 adoption of restrictive laws is one where the constitutional rules explicitly place ICCPR

1 ratification above ordinary legislation. Competing risk models find that the factors that predict
2 the adoption of one law type do not necessarily predict the adoption of a different type, which
3 suggests laws are more distinct than equivalent.

4 The discussion of results follow recommended practice and uses marginal effects at the
5 means (AMEs) to summarize practical implications of independent and linked interaction
6 variables (Amrhein et al, 2019a; Amrhein et al, 2019b; Cameron and Trivedi, 2005; Greenland,
7 2017; Hanmer and Ozan Kalkan, 2013; Long, 1997; Wasserstein et al, 2019). This is done
8 because logit models produce coefficients that are difficult to interpret or depend on specific
9 values that are inconsistent across cases^{xiii}. AMEs are direct, interpretable measures that compute
10 the marginal change of the factor across all cases in the sample and then calculates an average
11 size of the effect in the sample (Long and Freese, 2014). The implication for the reader is that
12 numeric values discussed may not appear in the accompanying regression tables; therefore,
13 results report p-values of two-tailed hypothesis tests for all AMEs to allow readers to judge
14 significance for themselves.

15 Results of Institutional Hypotheses using Event History Analysis (EHA)

16 Table 2 shows the results of an event history analysis using logistical regression to test the
17 institutional hypotheses: first, that the ratification of the ICCPR decreases the probability of
18 adopting restrictive laws (*HIA*). Second, that the institutional arrangement that minimizes the
19 probability of adoption is one where ICCPR ratification exists alongside constitutional rules that
20 make international treaties superior to ordinary legislation (*HIB*). The baseline specification
21 (model 1) suggests contexts with higher values of electoral competition and increased voting
22 alignment with Russia increase the probability of adopting restrictive laws, whereas higher levels
23 of democracy decrease the probability of adoption. Model 2 introduces ICCPR ratification as an

1 independent variable and executive power as a control variable. The data suggest that ratification
2 has no apparent relationship with adopting restrictive laws. This finding is contrary to the first
3 institutional hypothesis that predicts ratification decreases the probability of adoption (*H1A*).
4 However, model 2 omits constitutional rules that condition the status of international treaties.
5 Subsequent models (3-5) analyze constitutional differences in various ways. These latter models
6 show that constitutional rules that treat international treaties as superior to ordinary legislation
7 decrease the predicted probability of adopting a restrictive law.

8 The interaction term specified in model 5 tests the second institutional hypothesis (*H2A*)
9 that argues the institutional arrangement that minimizes the probability a country adopts a
10 restrictive law is one where constitutional rules elevate ICCPR ratification commitments above
11 ordinary legislation. The interaction term and the main effect have a strong relationship with the
12 predicted outcome. Given ICCPR ratification by the average country in the sample, a discrete
13 change in its constitutional rules to privilege international commitments decreases the probability
14 of adoption by one-half a percentage point ($-0.005, p = 0.01$). Though the magnitude might seem
15 small, the effect is larger than both a standard deviation increase in the level of democracy within
16 a country ($-0.002, p < 0.01$), and entering a context of electoral competition ($0.003, p = 0.08$).

17 The data show the effect of this institutional arrangement varies by context. For an
18 otherwise average country with ICCPR ratification, the average effect of constitutional rules that
19 privilege international commitments is 2.5 percentage points larger when states are a standard
20 deviation below the mean level of democracy ($-0.026, p = 0.01$) than when states are one
21 standard deviation above the mean ($-0.001, p = 0.08$), the difference is significant at the 0.03
22 level. For the average country, the average effect of this institutional arrangement is 1 percentage

1 point larger when political competition is present ($-0.013, p = 0.01$) than when absent ($-0.003, p$
2 $= 0.03$), the difference is significant at the 0.07 level.

3

4 **Table 2: Pooled Event History Analysis (EHA) with Logistic Regression**

5

6 Figure 4 shows the effect of preexisting institutions in different contexts. For the average
7 country, possessing constitutional rules that make international commitments superior to
8 ordinary legislation generally decreases the probability of adopting restrictive laws for all levels
9 of executive power (Figure 4, left panel) and net ODA per capita (Figure 4, right panel).
10 Comparing the effect when executive power is low (2) versus high (6) in an otherwise average
11 country, the data suggests the decrease in predicted probability is smaller for lower levels of
12 executive power ($-0.004, p = 0.01$) than higher ones ($-0.012, p = 0.03$), and the difference is
13 significant at the 0.07 level. However, the average effect of preexisting institutions is only
14 slightly smaller when the natural log of net ODA per capita is 0 (\$1 per capita) compared to 6
15 (\$403 per capita), but the difference is not significant ($p = 0.78$).

16 These results support the second institutional hypothesis (*HIB*) that the institutional
17 arrangement that minimizes the probability a country adopts a restrictive law is one where
18 ICCPR ratification exists alongside constitutional rules that elevate international treaties above
19 ordinary legislation. Robustness checks support these findings. The average effect size for this
20 institutional arrangement varies across context, but its impact appears strongest in settings
21 described as undemocratic, politically competitive, or possessing a strong constitutional
22 executive.

23

1 **Figure 4: The Effect of Constitutional Rules on Adopting Restrictive Laws**

3 Results of Conceptual Hypotheses using Competing Risk Models (CRMs)

4 CRMs indicate whether the risk factors that predict the adoption of laws varies across
5 different law types. Table 4 shows the results of the logit primary modeling strategy (the
6 appendix contains the full regression tables). Models recode dependent variables, but the
7 specification and sample remain the same. ‘Pooled Laws’ (model 1) presumes laws are the same
8 and analyzes them as a monolithic group. Models 2-4 disaggregate this monolithic group to
9 assess equivalence (hypotheses *H2A-D*) and distinctness (hypotheses *H3A-D*). The ‘Only
10 Prohibitive Laws’ model shows the factors that predict adoption of highly-restrictive laws
11 containing strong language regarding what organizations cannot do. In column three, the ‘Only
12 Red-Tape Laws’ model identifies the factors that predict adoption of moderately-restrictive laws
13 that erect ex-ante conditions for what organizations must do before receiving foreign funding.
14 Finally, ‘Only Notification Laws’ reveals factors associated with the adoption of minimally-
15 restrictive laws that prescribe actions that organizations must take after receiving foreign
16 funding.

17 In comparing the pooled logit results to the competing risks estimates, it is clear that the two
18 approaches produce different results regarding the relationship a factor has on the adoption of
19 law types. In general, the coefficients’ signs in the pooled model are the same as those in the
20 CRMs. The pooled results cannot differentiate among law types and so represent an ‘average’ or
21 ‘dampened’ effect. The CRMs show more refined estimates on how a type-specific covariate
22 relates to a particular law type. The pooled model produces false positives (Type I errors) or
23 false negatives (Type II errors) when coefficients are type-specific hazards that correlate with the

1 adoption of only one law type. The CRMs' nuanced results identify these spurious results. For
2 example, the pooled model's emphasis on electoral competition is a false positive because the
3 type-specific hazard positively correlates with the adoption of red-tape laws only ($p < 0.05$). The
4 data show no relationship for the adoption of other law types. The pooled model's rejection of
5 CSO consultation's significance is a false negative because the coefficient positively correlates
6 with the adoption of notification laws ($p < 0.01$). I continue this exercise to assess the conceptual
7 equivalence and distinctness of law types.

8

9 **Table 4: Competing Risk Model (CRM) with Logistic Regression**

10

11 Assessing Conceptual Equivalence

12 Table 5 organizes data to evaluate the equivalence and distinctness of law types. The top
13 panel contains the conceptual-equivalence hypotheses (**H2A-D**), and the bottom includes the
14 conceptual-distinctness hypotheses (**H3A-D**). Each row contains the hypothesis followed by the
15 average marginal effect of a discrete change in the factor for each law type. The appendix
16 contains a table that combines this information with the same data for the two robustness checks
17 (Appendix Table 4).

18 If factors predict adoption of different law types in generally consistent ways, then such
19 patterns signal laws are conceptually equivalent and are perhaps best analyzed as a monolithic
20 group. If this is the case, factors associated with the adoption of restrictive laws should predict
21 the adoption of different law types in similar ways as indicated by the variables' sign, effect size,
22 and significance. The data does not support the hypothesis that ODA per capita is a significant,
23 positive, and consistent predictor of restrictive laws (**H2A**). The analyses found no evidence

1 suggesting a statistical relationship between a standard deviation increase in ODA per capita and
2 the adoption of any law type. Robustness checks confirm this finding.

3 The data partially support the hypothesis that the context of electoral competition increases
4 the probability of adopting restrictive laws. Although the factor has a statistically significant
5 coefficient in all pooled models, CRMs show the presence of electoral competition robustly
6 predicts the adoption of moderately-restrictive, red-tape laws only. For the average country in the
7 sample, a context of electoral competition increases the probability of adopting red-tape laws by
8 less than 1 percentage points in the primary modeling strategy (0.002, $p = 0.07$) and almost 1
9 percentage point in the rare-events robustness check (0.009, $p = 0.14$). Electoral competition
10 weakly predicts the adoption of highly- and minimally-restrictive laws. Hypothesis **H2B** is
11 unsupported because electoral competition is not a significant, positive, and consistent predictor
12 of all restrictive laws.

13 The data does not support the claim that organized opposition by CSOs to the current
14 political system is a significant, positive, and consistent predictor of restrictive laws. The CRMs
15 find no relationship between a standard deviation increase in CSOs' organized opposition to the
16 current political system and the adoption of any restrictive law. Therefore, **H2C** is not supported.

17 The data finds evidence that higher levels of democracy decrease the probability of
18 adopting restrictive laws. The factor is generally significant and always negative. However, the
19 CRMs show that for the average country, the change in the predicted probability caused by a
20 standard deviation increase in democracy is consistent for only two types of laws in only one
21 modeling strategy: in the primary modeling strategy, a discrete change decreases the predicted
22 probabilities of adopting red-tape (-0.001 , $p < 0.01$) and notification (-0.001 , $p < 0.10$) laws by
23 the same amount. The Cox model robustness check shows the average marginal effect of a

1 positive discrete change is insignificant across the types of laws. This statistical insignificance
2 may be because the democracy-adoption relationship varies over time. According to the Cox
3 model with time-varying coefficients (Appendix Table 3.2), the level of democracy has a
4 significant correlation with highly-restrictive, prohibitive laws only. The factor's main effect is
5 negative ($p < 0.05$) and its time-varying component is positive ($p < 0.05$), which suggests the
6 impact of level of democracy as an adoption deterrent declines over time^{xiv}. This time-varying
7 relationship is inconsistent across law types, however. The hypothesis that higher levels of
8 democracy decrease the probability of adopting restrictive laws in a manner that is consistent for
9 all types of restrictive laws (*H2D*) is unsupported.

11 **Table 5: Assessing Conceptual Equivalence & Distinctness**

13 Assessing Conceptual Distinctness

14 If the predictive power of individual factors varies across law types, then the laws are
15 conceptually distinct and best analyzed in a disaggregated manner. The pooled models suggest
16 greater voting alignment with Russia in the U.N. General Assembly increases the probability of
17 adopting restrictive laws. This relationship appears unique to only one law type, but not the type
18 predicted. For the average country, a positive discrete change in voting alignment with Russia
19 produces an average marginal effect that is significant for predicting minimally-restrictive,
20 notification laws only. The Cox model robustness check shows the average marginal effect of a
21 positive discrete change is insignificant across law types. Like other factors, this statistical
22 insignificance may be because the factor's effect varies over time. According to the Cox model
23 with time-varying coefficients (Appendix Table 3.2), voting alignment with Russia correlates

1 with highly-restrictive, prohibitive laws only. The factor's main effect is positive ($p < 0.01$) and
2 its time-varying component is negative ($p < 0.01$), which suggests the impact of voting
3 alignment with Russia as an adoption propellant declines over time^{xv}. Together these findings
4 partially support the hypothesis that increased voting alignment with Russia increases the
5 probability of adopting only one law type (**H3A**), but the hypothesis incorrectly predicted the law
6 type.

7 Data show that for the average country, a positive discrete change in CSO participation
8 produces an average marginal effect that is significant for predicting minimally-restrictive,
9 notification laws. Depending on the modeling strategy, a discrete change increases the predicted
10 probabilities of adopting notification laws by less than one percentage point in two of the three
11 modeling strategies ($p < 0.05$). This relationship suggests increased CSO participation in
12 lawmaking may coincide with a push for reasonable regulation from within the sector. Notably,
13 the same discrete change produces an average marginal effect that decreases the predicted
14 probability of adopting prohibitive laws. That relationship conforms to theory but lacks statistical
15 evidence ($p > 0.20$). In support of hypothesis **H3B**, the data show increased participation by
16 CSOs in the lawmaking process increases the probability of adopting notification laws only.

17 The data finds evidence that ICCPR ratification combined with constitutional rules that
18 make international treaties superior to ordinary legislation decreases the probability of adopting
19 restrictive laws. Table 4 shows this institution-adoption relationship is not unique to any one law
20 type. Contrary to hypothesis **H3C**, the effect is not strongest for highly-restrictive laws and then
21 wanes for less restrictive ones. Instead, the data show that in the average country, the preexisting
22 institution decreases the predicted probability of adopting moderately-restrictive, red-tape laws
23 by less than one percentage point in two of the three modeling strategies ($p < 0.05$, Appendix

1 Table 4). This institutional context has smaller effects for prohibitive and notification laws, but
2 these relationships have weaker statistical evidence in those models.

3 For the final hypothesis, the data does not support the claim that greater voting alignment
4 with the U.S. in the U.N. General Assembly decreases the probability of adopting highly-
5 restrictive, prohibitive laws. Instead, the analysis finds the no relationship and *H3D* is not
6 supported.

7 The above eight hypotheses carefully examined factors' type-specific relationships to assess
8 whether qualitatively different laws are conceptually equivalent or distinct. A signal of
9 conceptual equivalence occurs when factors predict adoption in ways generally consistent across
10 law types. Such patterns would imply—but not prove—conceptual equivalence and support
11 pooling various law types into a monolithic group. Of the four factors examined, only electoral
12 competition and level of democracy showed robust signs of a relationship with adoption. The
13 data show the relationship between these two factors and adoption varies in effect size—as
14 measured by both regression coefficients and average marginal effects—and significance across
15 law types. Thus, the analysis is unable to produce strong evidence supporting the argument that
16 restrictive laws are conceptually equivalent.

17 Not only do these null results fail to demonstrate restrictive laws are a monolithic group, but
18 the findings provide additional support to the argument that restrictive laws are conceptually
19 distinct. The case for conceptual distinctness relies on the relationship between individual factors
20 and adoption to vary across law types. Several factors portray this behavior and deserve mention:
21 electoral competition, voting alignment with Russia, and CSO participation in lawmaking have
22 robust relationships with only one type of law. These relationships are consistent within a

1 particular law type and across robustness checks, regression coefficients, and average marginal
2 effects.

3 The remaining variables—level of democracy and preexisting institutions—predict multiple
4 types of laws with varying degrees of success. Looking at the factors' regression coefficients is
5 the minimal approach. Here, while holding all else constant, the factors predict adoption for red-
6 tape and notification laws reasonably well, but only preexisting institutions robustly predict
7 adoption of prohibitive laws. A stricter approach uses average marginal effects. This shows that
8 for the average country, the average effect of a discrete change in democracy or preexisting
9 institutions robustly predicts one and perhaps two law types depending on the significance
10 threshold used. In total, the evidence from five of the eight factors examined implies the laws
11 that restrict foreign aid to CSOs are conceptually distinct and should be analyzed and
12 conceptualized accordingly.

13 5. Discussion

14 This analysis makes two original contributions. First, the study incorporates institutions in
15 two ways: first, it looks to the past and countries' ratification of the ICCPR as a preexisting
16 institution. Second, it looks up to constitutional-level rules to understand the degree to which
17 international commitments constrain lawmaking. The data show the institutional arrangement
18 that minimizes the probability a country adopts a restrictive law is one where ICCPR ratification
19 exists alongside constitutional rules that elevates international treaties above ordinary legislation.
20 This critical finding calls for a turn to history when analyzing the institutional development of
21 the laws and policies that regulate civil society around the world. Boring into the
22 conceptualization of these laws is the second original contribution. Previous work tends to
23 analyze the laws that restrict CSOs as a monolithic group. The second analysis demonstrated that

1 disaggregating law types reveals counterintuitive and overlooked relationships. For example, the
2 positive relationships that voting alignment with Russia and CSO consultation have with
3 increasing the probability of adopting minimally-restrictive, notification laws. The mechanisms
4 behind these associations beyond the scope of this research but deserve discussion here and
5 investigation in the future.

6 To begin, as a government's decisions on international matters align with Russia's, analysts
7 might expect a higher probability that the country passes harsh, Putin-style laws as a result of
8 diffusion through learning, coercion, or mimicry. The analysis shows that this is not the case.
9 Instead, the data show a positive correlation between voting alignment with Russia and the
10 adoption of minimally-restrictive, notification laws. This may seem like a peculiar finding, but a
11 focus on institutions offers two possible explanations. One the one hand, CSO regulatory
12 regimes are political institutions that change incrementally over time. Thus, the adoption of
13 minimally-restrictive laws is not necessarily an endpoint but may instead be a waypoint or entry-
14 point towards a more “bureaucratically illiberal” regulatory regime that uses laws and policies to
15 raise the transaction costs for CSOs to emerge and operate (DeMattee, 2019: 10). This
16 institutional explanation emphasizes that laws accumulate and unless their language is precise,
17 governments may enforce them widely and differentially.

18 On the other hand, describing the Russian case as entirely closed to civil society may be a
19 mischaracterization of its institutionalized legal approach. Such a conclusion fails to account for
20 the complicated relationship between formal legal rules and social norms to produce what Cole
21 (2017: 6) and others call “working rules.” While laws may closely resemble working rules in
22 some contexts, in other settings informal rules and social norms amend legal rules to produce
23 working rules. A regulatory regime may have one set of friendlier working rules for apolitical

1 CSOs that provide services complementary or supplementary to government, while at the same
2 time using a harsher set of working rules to crackdown on CSOs that are politically inconvenient
3 (for a recent example of the Burundian case see Popplewell, 2018). This explanation matches
4 work discussing “the Russian government’s divergent positions towards civil society”
5 (Benevolenski and Toepler, 2017: 64; Salamon et al, 2015; Toepler et al, 2019). This is
6 congruent with research on dictators' decision-making studied as both a tradeoff between
7 suppressing rivals and delivering public services (Woldense, 2018), and the rational use of their
8 tools of office to gather information that prolongs their stay in power and maximizes their gains
9 from office ^{xvi} (Malesky and Schuler, 2011; Sartori, 1976; Smyth and Turovsky, 2018; Wintrobe,
10 1998). Forthcoming work on the Russian case suggests this is a possibility and identifies CSO
11 laws are one of several strategies regimes use to gather information about political opponents'
12 public support and resources (Smyth, 2019: 17-21).

13 An entirely different set of explanations seem to drive the positive relationship between the
14 adoption of minimally-restrictive laws and consultation with CSOs. The magnitude of this
15 relationship is substantial. A standard deviation increase in voting alignment with Russia is
16 roughly half the size of the same discrete change in CSO consultation. Not only does the effect
17 size deserve attention, but the sign on the coefficient itself challenges received wisdom: why
18 would a political opportunity structure open to CSOs also be one that, *ceteris paribus*, propels the
19 adoption of restrictive laws? One explanation is that CSOs successfully pull lawmakers away
20 from highly- or moderately-restrictive bills and negotiate agreement around minimally-restrictive
21 laws. Although supported by theory, this explanation lacks supporting evidence in this data
22 because the prohibitive and red-tape models do not show CSO consultation to be negative and
23 significant.

1 An alternative account asserts these minimally-restrictive, notification laws might not be as
2 undesirable as analysts interpret them to be. Notification laws may be attempts to minimize
3 patterns of wrongdoing within the sector (Gibelman and Gelman, 2004) or correct the dualism
4 foreign funding causes among domestic CSOs (Chahim and Prakash, 2013; Pallas et al, 2018:
5 259). Perhaps these notification laws are a type of ‘reasonable regulation’ that CSOs support to
6 enjoy the privileges that accompany registration as a nonprofit or religious legal entity. And
7 given the ballooning of development NGOs beginning in the early-1990s (Anheier and Salamon,
8 1998; Cammett and MacLean, 2014; Reimann, 2006; Schnable, 2015), CSOs’ support for
9 minimally-restrictive laws may be an attempt to cull ‘briefcase NGOs’ from the sector while at
10 the same time earn regulatory legitimacy (Poplewell, 2018) and show themselves as transparent
11 and accountable to citizens, donors, and governments (Arhin et al, 2018).

12 6. Conclusion

13 Scholars offer many reasons why countries adopt laws that restrict foreign funding to CSOs.
14 Despite the growing body of work on this topic, scholars have not studied the institutional
15 context of lawmaking, nor has research investigated how factors’ relationships with adoption
16 vary across law types. This paper has explored these understudied areas to explain the conditions
17 that propel or deter the adoption of laws that restrict CSOs. It has made both theoretical and
18 conceptual contributions in the process.

19 The first analysis introduced institutional variables to further our understanding of the
20 factors that predict the adoption of restrictive laws. The argument focused on preexisting
21 institutions to explain the changing constraints lawmakers face. Incorporating constitutional rules
22 into the analysis explains why ratification of the International Covenant for Civil and Political
23 Rights (ICCPR) is not a sufficient deterrent to adopting restrictive laws. Constitutions condition

1 the degree to which international commitments constrain lawmaking. Thus, the effect of ICCPR
2 ratification as a preexisting institution is strongest when constitutional rules give international
3 treaties a status that is superior to ordinary legislation. Although the average effect size for this
4 institutional arrangement varies across context, its impact appears strongest in settings described
5 as undemocratic, politically competitive, or possessing a strong constitutional executive.

6 Next, while researchers and practitioners discuss many types of laws that regulate CSOs,
7 most empirical studies analyze them as a monolithic group. The second analysis showed several
8 benefits to disaggregating law types. First, analyses that pool laws may unknowingly overstate
9 factors' relevance in adopting restrictive laws. The pooled models identified several factors
10 thought to propel or deter the adoption of restrictive laws. But after disaggregating laws, the
11 analyses showed these factors robustly predicted only *one* law type: electoral competition
12 positively correlates with the adoption of moderately-restrictive laws; higher levels of democracy
13 negatively correlates with moderately-restrictive laws; stronger voting alignment with Russia in
14 the United Nations positively correlates with minimally-restrictive laws. Pooling laws may also
15 unintentionally understate the relevance of a particular factor. The pooled models rejected the
16 importance of CSO consultation in all instances. Only after conceptualizing laws as distinct did
17 we identify nuanced relationships such as greater participation by CSOs in the lawmaking
18 process positively correlates with the adoption of minimally-restrictive laws.

19 These findings call on researchers to give increased attention to institutions and
20 conceptualizations when studying the adoption of laws that restrict CSOs. Constitutions and
21 history matter and analysts should consider these and other important factors when studying the
22 adoption of laws that restrict CSOs. Findings also urge researchers not to oversimplify or ignore
23 the differences among laws or else risk overstating or overlooking key relationships. Analysts

1 should instead embrace legal differences and use them as analytical leverage in empirical
2 research and theory building. Going forward, research studying the laws, policies, and
3 regulations of civil society should pay increased attention to political institutions, preexisting
4 laws and policies, and fundamental policy differences.

1 Appendix

2

3

Appendix Table 1: Descriptive Statistics of Estimation Sample

4

5

Appendix Table 2: Pooled Event History Analysis (EHA) with Logistic Regression (full

6

table)

7

8

Appendix Table 3.1: Competing Risk Model (CRM) with Logistic Regression (full table)

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10

Appendix Table 3.2: Cox with Time-Varying Coefficients CRM (full model)

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Appendix Table 3.3: Rare-Events CRM (full model)

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Appendix Table 4: Assessing Conceptual Equivalence & Distinctness (All Modeling

15

Strategies)

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ⁱ Belize and Vietnam are not analyzed because they are not coded in several datasets. These countries adopted laws in 2003 and 2009, respectively.

ⁱⁱ The ICCPR protects freedoms of expression and belief (Articles 18, 19, 27), rights to associate and organize (Articles 1, 18, 21, 22), rule of law and human rights (Articles 6, 7, 9, 14, 15, 16, 17, 25, 26), and personal autonomy and economic rights (Articles 1, 3, 8, 12, 22, 23, 25).

ⁱⁱⁱ Costa Rica was the first to ratify (November 29th, 1968) and Fiji was the 172nd and most recent (August 16th, 2018).

^{iv} Policy differences have theoretical implications for Kingdon’s politics and policies streams of the Multiple Stream Approach (Kingdon, 1984) where various policies compete in the policy stream, and only proposals that successfully match the national mood, and the politics of policymaking get considered during the policy window (Zahariadis, 2014). Through the theoretical lens of Punctuated Equilibrium Theory (Baumgartner and Jones, 1991; 1993), strong, established interests in the policy subsystem make adoption of substantial policy changes less likely. Only in disequilibrium are entrenched players unable to railroad massive policy changes. In the Advocacy Coalitions Framework (Sabatier, 1988; Sabatier and Jenkins-Smith, 1993; Sabatier and Weible, 2007), policies that are an affront to a coalition’s belief systems are met with stiff resistance whereas minor changes may be the result of a cross-coalitional learning or the negotiated outcome of the dialogue with policymakers. While the above theories predict differences in policies affect policymaking, policy differences are shown to have different effects on public and elite opinion and the social construction of target groups (Ingram and Schneider, 1990; 1991; Schneider et al, 2014) and affect the extent to which targeted groups participate in politics (MacLean, 2011; Mettler and Soss, 2004; Pierson, 1993).

^v Statistical software corrections—such as `relogit` or `firthlogit` in Stata 15—for analyzing rare events with logistic regressions are not yet available for panel data or analyzes requiring clustered standard errors.

^{vi} This involves first collecting all the ‘events’ and an equal number of randomly selected ‘non-events,’ and continuing to add randomly sampled non-events and stop when the confidence intervals are sufficiently small for the substantive purposes at hand. In the rare events analysis, countries that adopt laws appear in all analyses (482 country-year observations).

^{vii} Belarus (2001, 2003); Indonesia (2004, 2008); and Uzbekistan (2003, 2004)

^{viii} The variable takes the value of *1* if at least one of the following nine provisions exist: “*certain organizations are prohibited from receiving foreign funding*”; “*certain types of organizations are prohibited from receiving foreign funding*”; “*foreign funded organizations prohibited from carrying out particular activities*”; “*foreign funding can be used only for certain purposes*”; “*foreign funding prohibited*”; “*foreign funding prohibited for certain activities*”; “*foreign-funded NGOs prohibited from working on certain issue areas*”; “*foreign-funded organizations prohibited from carrying out particular activities*”; “*use of foreign funding prohibited for particular activities*”.

^{ix} The variable equals *1* if at least one of the following twelve provisions exist: “*government approval for foreign funding*”; “*government approval required for particular uses of foreign*”; “*government may cap the amount*”; “*government monitoring of NGO contracts financed with foreign funding*”; “*government restrictions on use and source*”; “*government restrictions on whether foreign funding can be received*”; “*other restrictions on use of foreign funding*”; “*requirements for how organizations can receive foreign funding*”; “*restrictions on certain types of organizations receiving foreign funding*”; “*restrictions on receipt and use of foreign funding*”; “*restrictions on sources from which foreign funding can be acquired*”; “*restrictions on use of foreign funding*”.

^x The variable equals *1* if at least one of the following six provisions exist: “*foreign funds are taxed*”; “*government notification of foreign funding required*”; “*organizations must report source of revenues*”; “*reporting and accounting requirements*”; “*reporting and accounting requirements for foreign funding*”; “*reporting requirements*”.

^{xi} Operationally, the additive index increases by 1 for each of the following binary variables present in the constitutional system as identified by CCP: (i) power to initiate legislation (coded *1* if head of state, head of government, or government can initiate legislation); (ii) power to issue decrees (coded *1* if head of state or head of government can issue decrees); (iii) power to declare emergencies (coded *1* if head of state, head of government, or government can declare emergencies); (iv) power to propose amendments (coded *1* if head of state, head of government, or government can propose amendments to the constitution); (v) power veto legislation (coded *0* if no vetoes are possible or can be overridden by a plurality or majority in the legislature; coded *1* if vetoes are possible but require at least 3/5 supermajority of the legislature to override veto); (vi) power to challenge the constitutionality of legislation (coded *1* if head of state, head of government, or government can challenge the constitutionality of legislation); (vii) power to dissolve the legislature (coded *1* if head of state, head of government, or government can dissolve the legislature).

^{xii} The NELDA dataset provides similar information for country-year observations that are also election years but contains no information on years that did not experience national elections. Thus, the V-Dem variable provides a consistent indicator of electoral competition for election and non-election years.

^{xiii} The logit models used here produce coefficients that represent the direction of the variable’s effect on the probability of adoption but are difficult to interpret or odds ratios whose substantive

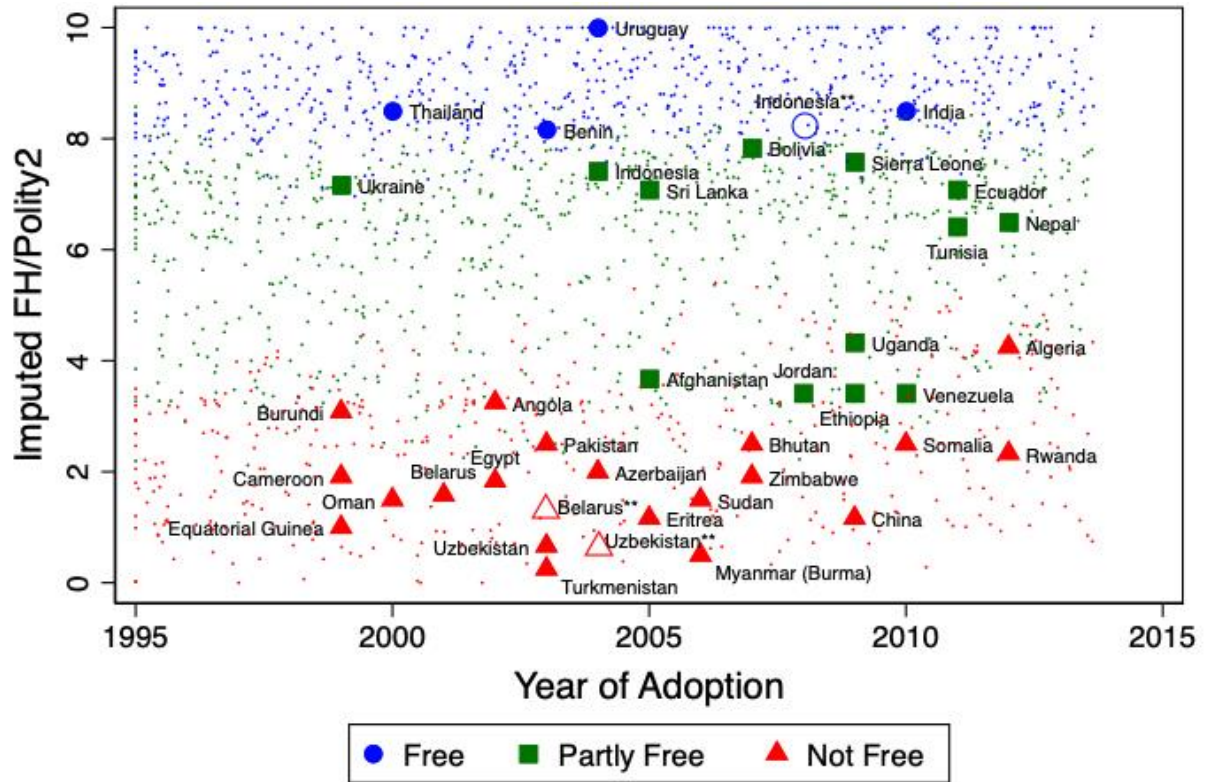
meanings depends on the specific value of the odds before they change (Long and Freese, 2014: 228-235).

^{xiv} According to the Cox model with time-varying coefficients (Table 3.2), the level of democracy has a negative sign for all types of laws but is statistically significant for highly-restrictive laws only (-3.05, $p < 0.05$). A standard deviation increase in the level of democracy (approximately 2.85 points on a 10-point scale) at the beginning of the observation period, while all other variables are held constant yields a hazard ratio equal to $\exp(-3.05 * 2.85) = 0.0001$. Thus, the rate of adoption decreases by $(100\% - 0.01\%) = 99.99\%$ with a standard deviation increase in democracy at the beginning of the observation period. The time-varying component of the level of democracy has a positive sign for all types of laws but is statistically significant for highly-restrictive laws only (0.18, $p < 0.05$). This suggests the level of democracy as a deterrent for adopting highly-restrictive declines with every unit of time. A standard deviation increase in the level of democracy at year 10 of the observation period, while all other variables are held constant yields a hazard ratio equal to $\exp(-3.05 * 2.85 + 0.18 * 2.85 * 10) = 0.0283$. Thus, the rate of adoption decreases by $(100\% - 2.89\%) = 97.11\%$. While holding all other variables constant, this discrete change at year 20 yields a hazard ratio equal to $\exp(-3.05 * 2.85 + 0.18 * 2.85 * 20) = 4.79$, which increases the rate of adoption by $(479\% - 100\%) = 379\%$. Holding all else equal, a positive and discrete change in democracy causes a decrease in the rate of adoption by 99.99% at the beginning of the observation period, 97% in year 10, and increases the rate of adoption by over 350% in year 20.

^{xv} According to the Cox model with time-varying coefficients (Table 3.2), voting alignment with Russia has a positive and statistically significant relationship with highly-restrictive laws (0.22, $p < 0.01$). A standard deviation increase in the voting alignment with Russia (approximately 11.75 points on a 100-point scale) at the beginning of the observation period, while all other variables are held constant yields a hazard ratio equal to $\exp(0.22 * 11.75) = 13.26$. Thus, the rate of adoption increases by 1226% with a standard deviation increase in voting alignment with Russia at the beginning of the observation period. The time-varying component has a negative and statistically significant relationship for highly-restrictive laws only (0.18, $p < 0.05$). This suggests the voting alignment with Russia is a propellant for adoption for highly-restrictive laws declines with every unit of time. A standard deviation in the factor, while all other variables are held constant yields a hazard ratio equal to $\exp(0.22 * 11.75 + -0.02 * 11.75 * 10) = 1.264$. Thus, the rate of adoption increases by 26.4%. While holding all other variables constant, this discrete change at year 20 yields a hazard ratio equal to $\exp(0.22 * 11.75 + -0.02 * 11.75 * 20) = 0.1206$, which decreases the rate of adoption by $(100\% - 12.06\%) = 87.93\%$. Holding all else equal, a positive and discrete change in voting alignment with Russia increases the rate of adoption by more than 1000% at the beginning of the observation period, 26% at year 10, and decreases the rate of adoption by 88% at year 20.

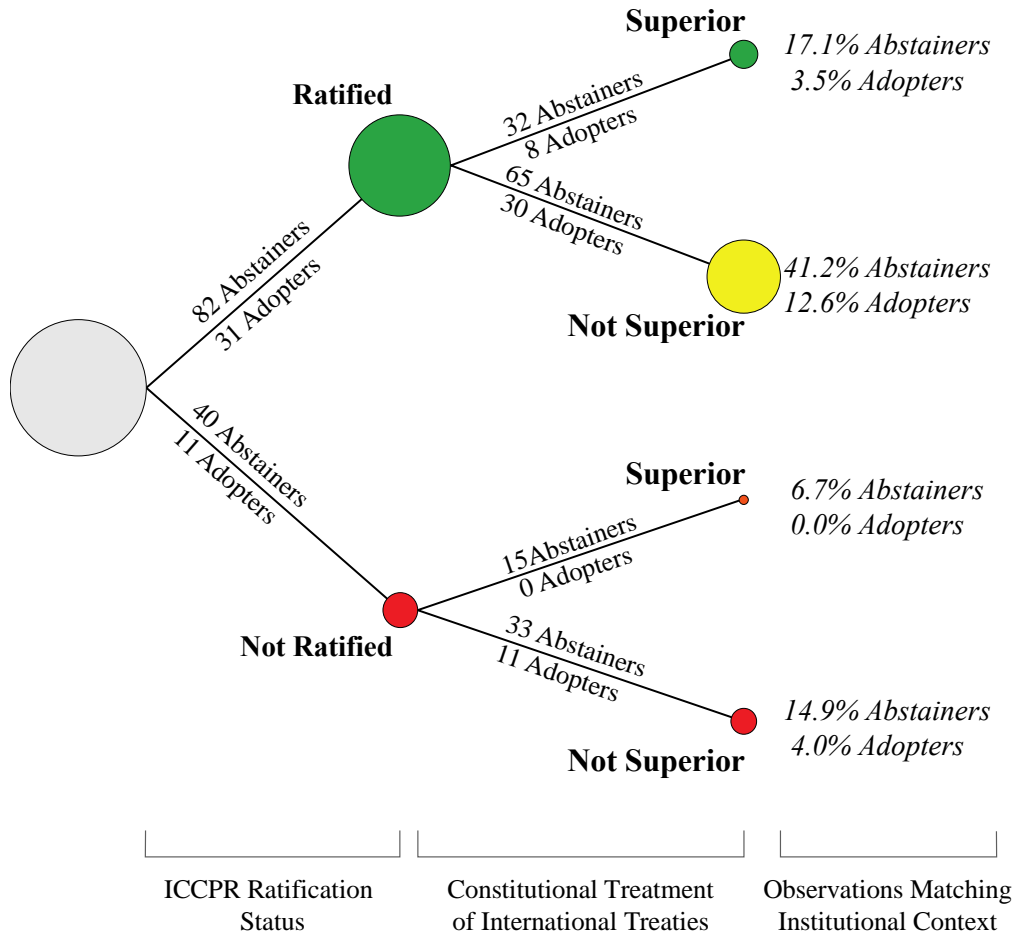
^{xvi} The dictators dilemma of comparative politics stresses undemocratic leaders use their tools of office—such as elections, laws, and policy implementation—to gather information that prolongs their stay in power and maximizes their gains from office.

Figure 1: Adoption of More Restrictive Foreign Funding Laws



Solid shapes identify the year a country adopts its restrictive law, hollow shapes identify countries that passed a second law during the analysis period. These include Belarus (2001, 2003); Indonesia (2004, 2008); and Uzbekistan (2003, 2004). Background shows country-year values of nearly 100 additional countries that did not adopt laws. **Sources** “Hands Off My Regime!” (Dupuy et al. 2016: Table 1); Values of Democracy (V-Dem); Freedom House.

Figure 2: Frequencies of Institutional Contexts



Integer values express the number of countries that sort into the given institutional context for at least one year during the analysis period (138 countries, 1993-2012). It is possible for a single country to represent multiple institutional contexts because ratification status and constitutional rules vary within countries over time. Circle sizes signify the proportion of country-year observations that match the given institutional context. The area of the four circles on the right is the same as the two in the center, and the one on the left. **Sources** Dupuy et al. (2016, Table 1); United Nations Office of Legal Affairs; Comparative Constitutions Projects; United Nations Treaty Collection.

Figure 3: Continuum of Restrictive Laws, Regulations, and Policies

	Highly	Moderately	Minimally
Ordering Logic: Restrictions on CSOs' ability to access foreign funding.	<i>Prohibitive Laws</i> Contain strong language forbidding certain organizational activities.	<i>Red-tape Laws</i> Erect ex-ante conditions organizations must meet before receiving funds.	<i>Notification Laws</i> Impose ex-post instructions for what organizations must do after receiving foreign funding.
Ordering Logic: Illegitimacy according to international law's three-part test (Article 22(2) of the ICCPR).	<i>Illegitimate Laws</i> Inaccessible or vague, fails to meet legitimate aims, or overreaches while declaring to meet a pressing social need.	<i>Unnecessary Laws</i> Precise and accessible, but does not meet legitimate aims, or is unnecessary for democracy.	<i>Contestable Laws</i> Precise and attempts to meet legitimate aims, but the approach is challengeable as "disproportional" in its attempt to protect voluntary association.
Ordering Logic: Transaction costs imposed on CSOs (Salamon and Toepfer 2000; 2012).	<i>Predatory Laws</i> Make the day-to-day operation of a CSO overly difficult or impossible.	<i>Inefficient Laws</i> Procedural hurdles create uncertainty and waste scarce resources, but still allow CSOs to operate at suboptimal levels.	<i>Proscriptive Laws</i> Required actions drain organizational resources but are predictable and can be part of a decision-making process.
<i>Provisions limiting access to foreign funding according to analysts. Provisions sorted from highly- to minimally-restrictive.</i>	<ul style="list-style-type: none"> •Foreign funding prohibited; •Certain CSOs forbidden to receive foreign funds; •CSOs cannot operate in a sector if they received foreign funds; •Restrictions on the source of funds; •Stigmatization of foreign funding; •Restrictions on use of funds. 	<ul style="list-style-type: none"> •CSO allows the government to monitor financing agreements and contracts; •Must route money through government financial institution; •CSOs must be approved to receive funds; •One-time approval for all future transactions; •Government approval is necessary for each transaction. 	<ul style="list-style-type: none"> •Caps on funding; •Must not exceed threshold of budget spent on overhead; •Must pay taxes on unrelated business activities; •Must provide an annual report of financial flows; •CSOs must follow reporting requirements; •Taxation of foreign funding.

Sources Appe and Marchesini da Costa (2017); Carothers and Brechenmacher (2014); Chikoto-Schultz and Uzochukwu (2016); Christensen and Weinstein (2013); Cunningham (2018); Dupuy and Prakash (2017); Dupuy, Ron, and Prakash (2016); Gershman and Allen (2006); Gugerty (2017); Hodenfield and Pegus (2013); Kameri-Mbote (2002); Maru (2017); Mayhew (2005); Rutzen (2015); Salamon and Toepfer (1997); Sidel (2017); Tiwana and Belay (2010); Wolff and Poppe (2015); World Bank (1997)

Figure 4: The Effect of Constitutional Rules on Adopting Restrictive Laws

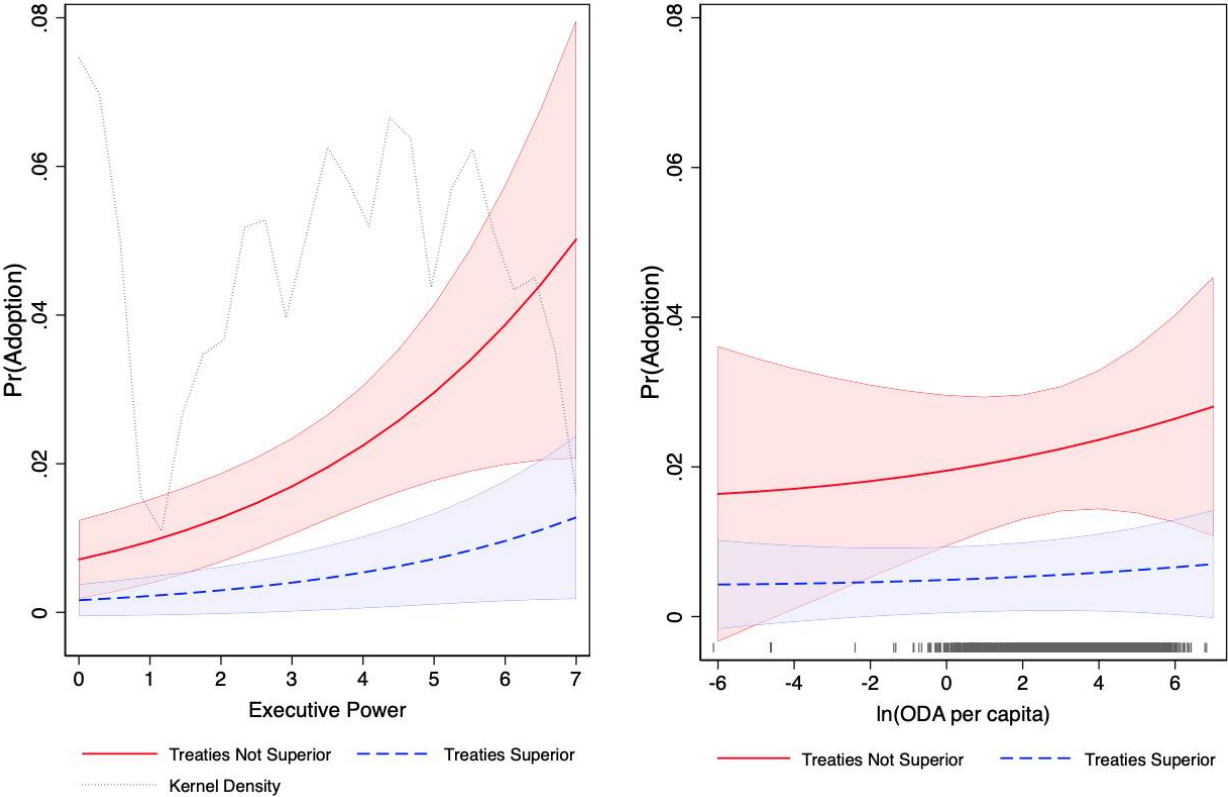


Figure shows the average marginal effect (with 95% confidence intervals) of the discrete change of constitutional rules that elevate international treaties above ordinary legislation. Thin gray lines show the distribution of observations across the dataspace using kernel density (Executive Power, left panel) and a rug plot (ODA per capita, right panel).

Table 1: Varying Institutional Contexts—Adoption, ICCPR Ratification Status, and Constitutional Rules

	Law Adopted	ICCPR Ratified	Treaty Superior		Law Adopted	ICCPR Ratified	Treaty Superior		Law Adopted	ICCPR Ratified	Treaty Superior
Bhutan	2007	No	No	Egypt	2002	1982	No	Uganda	2009	1995	No
China	2009	No ¹	No	Equatorial Guinea	1999	1987	No	Ukraine	1999	1973	No
Myanmar	2006	No	No	Eritrea	2005	2002	No	Uruguay	2004	1970	No
Oman	2000	No	No	Ethiopia	2009	1993	No	Uzbekistan	2003 ⁺	1995	No
				India	2010	1979	No	Venezuela	2010	1978 ²	No
Indonesia	2004 ⁺	2006	No	Jordan	2008	1975	No	Vietnam	2009	1982	No
Pakistan	2003	2010 ²	No	Nepal	2012	1991	No	Zimbabwe	2007	1991	No
				Sierra Leone	2009	1996	No				
Afghanistan	2005	1983	No [*]	Somalia	2010	1990	No	Algeria	2012	1989	Yes [*]
Angola	2002	1992	No	Sri Lanka	2005	1980	No	Azerbaijan	2004	1992	Yes [*]
Belarus	2001 ⁺	1973	No	Sudan	2006	1986	No	Benin	2003	1992	Yes
Belize	2003	1996 ²	No	Thailand	2000	1996	No	Cameroon	1999	1984	Yes [*]
Bolivia	2007	1982	No	Tunisia	2011	1969	No [*]	Ecuador	2011	1969	Yes [*]
Burundi	1999	1990	No	Turkmenistan	2003	1997	No	Rwanda	2012	1975	Yes [*]

¹ Signatory but has not ratified the ICCPR.

² Reservation made upon ratification.

⁺ Denotes countries that passed similar law in subsequent years.

^{*} Denotes variation in the country's constitutional rule regarding treaties before adoption of the law.

Sources Dupuy et al. (2016: Table 1); United Nations Office of Legal Affairs; Comparative Constitutions Projects; United Nations Treaty Collection. Countries are organized into four groups and then alphabetically sorted. Bhutan begins a group that never ratified the ICCPR and did not possess constitutional rules making international treaties superior to ordinary legislation at the time of adoption. Indonesia and Pakistan ratified the ICCPR after adopting their restrictive law. Afghanistan is the first of 27 countries that ratified the ICCPR before adopting a restrictive law. For this group, adoption occurred under constitutional rules that did not give international treaties an elevated status. Algeria is one of six countries that ratified the ICCPR and adopted restrictive laws under a set of constitutional rules that privilege international treaties. Although 39 countries adopted restrictive laws, the models analyze only 37 because Belize and Vietnam are not coded in several datasets. In addition, models analyze only initial adoptions of the three countries that passed multiple laws during the analysis period—Belarus (2001 & 2003), Indonesia (2004 & 2008), Uzbekistan (2003 & 2004).

Table 2: Pooled Event History Analysis (EHA) with Logistic Regression

	(1)	(2)	(3)	(4)	(5)
	Baseline	Treaty	Constitution	Institutions	Treaty x Constitution
(DV: Adopts any law)					
ICCPR Ratified		0.71		0.59	0.37
Treaties Superior			-1.46**	-1.41**	-14.24***
ICCPR Rat. x Treaties Sup.					12.99***
Electoral Competition ^a	1.72*	1.96**	1.71*	1.72*	1.72*
ln(ODA/cap) ^a	0.07	0.06	0.10	0.09	0.10
ln(ODAcap) x ElectComp ^a	-0.14	-0.10	-0.16	-0.15	-0.15
CSO Routinely Consulted ^a	0.35	0.28	0.27	0.25	0.26
CSOs are Anti-System ^a	-0.14	-0.17	-0.12	-0.13	-0.11
Imputed FH/Polity2 ^a	-0.54***	-0.66***	-0.53***	-0.57***	-0.56***
UN votes with USA (%) ^a	-0.03	-0.03	-0.01	-0.01	-0.01
UN votes with RUS (%) ^a	0.04*	0.04+	0.04*	0.04*	0.04*
Observations	2398	2398	2398	2398	2398
<i>AIC</i>	350.46	345.89	338.76	339.42	339.78
<i>BIC</i>	425.63	432.63	425.50	431.94	438.08
Degrees of Freedom	12	14	14	15	16
Failure Events	37	37	37	37	37
Countries in Sample	138	138	138	138	138

+ p<0.10, * p<0.05, ** p<0.01, *** p<0.001

^a Denotes one-year lag on variables

Models ran with Stata 15 with cluster-robust standard errors grouped by unique country IDs. Some controls omitted, see appendix for full table.

Table 4: Competing Risk Model (CRM) with Logistic Regression

	(1) Pooled Laws	(2) Only Prohibitive Laws	(3) Only Red-Tape Laws	(4) Only Notification Laws
(DV: Adopts specific law)				
ICCPR Ratified	0.37	0.33	0.49	-0.36
Treaties Superior	-14.24***	-14.13***	-15.03***	-13.74***
ICCPR Rat.xTreaties Sup.	12.99***	12.57***	13.86***	13.23***
Electoral Competition ^a	1.72*	1.92	1.93*	1.53
ln(ODA/cap) ^a	0.10	-0.09	0.09	0.14
ln(ODAcap) x ElectComp ^a	-0.15	-0.01	-0.14	-0.14
CSO Routinely Consulted ^a	0.26	-0.31	0.21	1.25**
CSOs are Anti-System ^a	-0.11	0.01	-0.05	-0.33
Imputed FH/Polity2 ^a	-0.56***	-0.35	-0.58***	-0.62**
UN votes with USA (%) ^a	-0.01	-0.06	-0.01	-0.01
UN votes with RUS (%) ^a	0.04*	0.02	0.04	0.08**
Observations	2398	2398	2398	2398
<i>AIC</i>	339.78	141.53	284.52	184.09
<i>BIC</i>	438.08	239.83	382.82	282.39
Degrees of Freedom	16	16	16	16
Failure Events	37	10	29	15
Countries in Sample	138	138	138	138

+ p<0.10, * p<0.05, ** p<0.01, *** p<0.001

^a Denotes one-year lag on variables

Models ran with Stata 15 with cluster-robust standard errors grouped by unique country IDs. Some controls omitted, see appendix for full table.

Table 5: Assessing Conceptual Equivalence & Distinctness

	Only Prohibitive Laws	Only Red-Tape Laws	Only Notification Laws
Panel A: Conceptual-equivalence Hypotheses			
<i>H2A: ODA per capita positively correlated with adoption.</i>	-0.000 (<i>p</i> =0.330)	0.000 (<i>p</i> =0.881)	0.000 (<i>p</i> =0.462)
<i>H2B: Electoral competition positively correlated with adoption.</i>	0.001 (<i>p</i> =0.400)	0.002 (<i>p</i>=0.071)	0.001 (<i>p</i> =0.338)
<i>H2C: CSOs are anti-system positively correlated with adoption.</i>	0.000 (<i>p</i> =0.986)	-0.000 (<i>p</i> =0.783)	-0.000 (<i>p</i> =0.281)
<i>H2D: Level of democracy negatively correlated with adoption.</i>	-0.000 (<i>p</i> =0.234)	-0.001 (<i>p</i>=0.001)	-0.001 (<i>p</i>=0.079)
Panel B: Conceptual-distinctness Hypotheses			
<i>H3A: Voting alignment with Russia positively correlated with adopting prohibitive laws.</i>	0.000 (<i>p</i> =0.592)	0.001 (<i>p</i> =0.233)	0.001 (<i>p</i>=0.019)
<i>H3B: CSO consultation positively correlated with adopting notification laws.</i>	-0.000 (<i>p</i> =0.432)	0.000 (<i>p</i> =0.544)	0.002 (<i>p</i>=0.004)
<i>H3C: Preexisting institutions negatively correlated with adoption, with strongest for prohibitive laws.</i>	-0.000 (<i>p</i>=0.147)	-0.004 (<i>p</i>=0.028)	-0.001 (<i>p</i>=0.518)
<i>H3D: Voting alignment with USA positively correlated with adopting notification laws.</i>	-0.001 (<i>p</i> =0.162)	-0.000 (<i>p</i> =0.773)	-0.000 (<i>p</i> =0.730)

Primary modeling strategy only, see appendix for full table. **Bold text** represents factors with statistically significant regression coefficients ($p < 0.10$) in either main effects or interaction effects. See individual regression tables for additional information. Shaded cells identify statistically significant discrete marginal effects at the $p < 0.10$ and $p < 0.20$ level. Discrete changes are changes from 0 to 1 in binary variables and a standard deviation change in continuous variables. Each average marginal effect is accompanied by its *p*-value in the parentheses for readers to evaluate statistical significance in their own terms. All predictions computed in Stata 15 using *mchange* to reflect interaction terms (Long & Freese, 2014).

Appendix

Appendix Table 1: Descriptive Statistics of Estimation Sample

	Mean	Std. Dev.	Min	Max
<i>138 Cases</i>				
Adopted Law ¹				
Any Law ^a	0.268		0	1
Prohibitive ^a	0.072		0	1
Red-Tape ^a	0.210		0	1
Notification ^a	0.109		0	1
<i>2,398 Country-year Observations</i>				
Adopted Law ¹				
Any Law ^a	0.015		0	1
Prohibitive ^a	0.004		0	1
Red-Tape ^a	0.012		0	1
Notification ^a	0.006		0	1
Treaties Superior ^{b, 2}	0.272			
ICCPR Ratification ^{b, 3}	0.744			
Executive Power ^{b, 2}	3.223	2.30	0	7
Electoral Competition ^{c, 4}	0.536	0.50	0	1
ln(ODA per capita) ^{c, 5}	2.382	3.06	-6.10	6.83
CSOs Routinely Consulted ^{c, 4}	0.579	1.12	-2.25	3.04
CSOs are Anti-System ^{c, 4}	-0.561	1.14	-2.94	3.33
Imputed FH/Polity2 ^{c, 4}	5.790	2.85	0	10
U.N. Votes with USA (%) ^{c, 6}	19.991	11.75	0	100
U.N. Votes with Russia (%) ^{c, 6}	65.976	11.71	0	100
Regional Diffusion (%) ^{c, 1, 5}	7.317	11.53	0	55.56
PTS Average ^{c, 7}	2.685	1.05	1	5
Rule of Law Index ^{c, 4}	0.488	0.27	0.03	0.98
Analysis Time (years) ^d	10.125	5.69	1	20

^a Outcome variable; ^b Institutional variables; ^c Control variables lagged one year in analysis; ^d Control variable for the the number of years without adopting a law since entering the dataset.

Sources: ¹Dupuy et al. (2016), Ron, Prakash 2016); ²Comparative Constitutions Project; ³United Nations Office of Legal Affairs; ⁴Varieties of Democracy dataset; ⁵World Bank Development Indicators; ⁶United Nations Voting Data; ⁷The Political Terror Scale

Appendix Table 2: Pooled Event History Analysis (EHA) with Logistic Regression (full table)

	(1)	(2)	(3)	(4)	(5)
	Baseline	Treaty	Constitution	Institutions	Treaty x Constitution
(DV: Adopts any law)					
ICCPR Ratified		0.71		0.59	0.37
Treaties Superior			-1.46**	-1.41**	-14.24***
ICCPR Rat. x Treaties Sup.					12.99***
Executive Power		0.19*	0.32***	0.30***	0.30***
Electoral Competition ^a	1.72*	1.96**	1.71*	1.72*	1.72*
ln(ODA/cap) ^a	0.07	0.06	0.10	0.09	0.10
ln(ODAcap) x ElectComp ^a	-0.14	-0.10	-0.16	-0.15	-0.15
CSO Routinely Consulted ^a	0.35	0.28	0.27	0.25	0.26
CSOs are Anti-System ^a	-0.14	-0.17	-0.12	-0.13	-0.11
Imputed FH/Polity2 ^a	-0.54***	-0.66***	-0.53***	-0.57***	-0.56***
UN votes with USA (%) ^a	-0.03	-0.03	-0.01	-0.01	-0.01
UN votes with RUS (%) ^a	0.04*	0.04+	0.04*	0.04*	0.04*
Regional Diffusion (%) ^a	-0.00	-0.00	-0.01	-0.01	-0.00
PTS average ^a	0.40*	0.41*	0.42*	0.39+	0.39+
Rule of Law Index ^a	-0.15	0.35	-0.34	-0.12	-0.18
Time	0.11**	0.12**	0.13**	0.13**	0.13**
Constant	-7.53***	-8.14***	-9.06***	-9.22***	-8.96***
Observations	2398	2398	2398	2398	2398
AIC	350.46	345.89	338.76	339.42	339.78
BIC	425.63	432.63	425.50	431.94	438.08
Degrees of Freedom	12	14	14	15	16
Failure Events	37	37	37	37	37
Countries in Sample	138	138	138	138	138

+ p<0.10, * p<0.05, ** p<0.01, *** p<0.001

^a Denotes one-year lag on variables

Models ran with Stata 15 with cluster-robust standard errors grouped by unique country IDs.

Appendix Table 3.1: Competing Risk Model (CRM) with Logistic Regression (full table)

	(1) Pooled	(2) Prohibitive	(3) Red-Tape	(4) Notification
(DV: Adopts specific law)				
ICCPR Ratified	0.37	0.33	0.49	-0.36
Treaties Superior	-14.24***	-14.13***	-15.03***	-13.74***
ICCPR Rat. x Treaties Sup.	12.99***	12.57***	13.86***	13.23***
Executive Power	0.30***	0.24	0.29**	0.16
Electoral Competition ^a	1.72*	1.92	1.93*	1.53
ln(ODA/cap) ^a	0.10	-0.09	0.09	0.14
ln(ODAcap) x ElectComp ^a	-0.15	-0.01	-0.14	-0.14
CSO Routinely Consulted ^a	0.26	-0.31	0.21	1.25**
CSOs are Anti-System ^a	-0.11	0.01	-0.05	-0.33
Imputed FH/Polity2 ^a	-0.56***	-0.35	-0.58***	-0.62**
UN votes with USA (%) ^a	-0.01	-0.06	-0.01	-0.01
UN votes with RUS (%) ^a	0.04*	0.02	0.04	0.08**
Regional Diffusion (%) ^a	-0.00	-0.01	0.01	-0.00
PTS average ^a	0.39+	0.42	0.46+	0.25
Rule of Law Index ^a	-0.18	0.02	-0.10	0.01
Time	0.13**	0.15*	0.13*	0.05
Constant	-8.96***	-8.76**	-9.26***	-10.93***
Observations	2398	2398	2398	2398
<i>AIC</i>	339.78	141.53	284.52	184.09
<i>BIC</i>	438.08	239.83	382.82	282.39
Degrees of Freedom	16	16	16	16
Failure Events	37	10	29	15
Countries in Sample	138	138	138	138

+ p<0.10, * p<0.05, ** p<0.01, *** p<0.001

^a Denotes one-year lag on variables

Models ran with Stata 15 with cluster-robust standard errors grouped by unique country IDs.

Appendix Table 3.2: Cox with Time-Varying Coefficients CRM (full model)

	(1)	(2)	(3)	(4)
	Pooled	Prohibitive	Red-Tape	Notification
(DV: Adopts specific law)				
ICCPR Ratified	0.28	0.29	0.44	-0.33
Treaties Superior	-20.43***	-21.74***	-20.24***	-20.12***
ICCPR Rat. x Treaties Sup.	19.40	20.17	19.32	19.90
Executive Power	0.85**	0.70	0.92*	0.79
Electoral Competition ^a	1.54*	2.58*	1.73*	1.57
ln(ODA/cap) ^a	0.08	-0.04	0.07	0.18
ln(ODAcap) x ElectComp ^a	-0.16	-0.15	-0.15	-0.20
CSO Routinely Consulted ^a	0.24	-0.39	0.28	1.22**
CSOs are Anti-System ^a	-0.10	0.09	-0.10	-0.33
Imputed FH/Polity2 ^a	-0.66	-3.05*	-0.40	-0.28
UN votes with USA (%) ^a	0.10	0.63***	0.08	-0.07
UN votes with RUS (%) ^a	-0.03	0.22**	-0.07	-0.02
Regional Diffusion (%) ^a	-0.22*	-0.21	-0.16+	-0.44**
PTS average ^a	0.39*	0.59	0.46+	0.27
Rule of Law Index ^a	-2.58	14.35*	-6.99+	-9.79
<i>Time-varying Coefficients</i>				
Executive Power	-0.04	-0.02	-0.05+	-0.05
Imputed FH/Polity2 ^a	0.01	0.18*	-0.01	-0.03
UN votes with USA (%) ^a	-0.01	-0.06***	-0.01	0.01
UN votes with RUS (%) ^a	0.00	-0.02**	0.01	0.01
Regional Diffusion (%) ^a	0.01*	0.01	0.01+	0.03**
Rule of Law Index ^a	0.19	-0.97*	0.50+	0.80
Observations	2398	2398	2398	2398
AIC	329.14	105.46	260.80	152.67
BIC	444.79	221.10	376.45	268.32
Degrees of Freedom	20	20	20	20
Failure Events	37	10	29	15
Countries in Sample	138	138	138	138

+ p<0.10, * p<0.05, ** p<0.01, *** p<0.001

^a Denotes one-year lag on variables

Cox model with robust standard errors using Stata 15. Coefficients are displayed rather than exponentiated coefficients or hazard ratios. Time-varying covariates (TVC) added because model 2 failed the proportional hazard assumption. New predictors are added to the model using the -tvc()- option. These time-varying covariates are temporal interaction terms equivalent to the product of the predictor interacted with a function of time. The hazard ratio of the TVC at time=0 is shown in the top panel of the table and adjusts by the value shown in the bottom panel of the table for every unit of time. Thus, like any interaction term, the effect of each TVC is unenterable as one number and instead changes according to the specified function of time.

Appendix Table 3.3: Rare-Events Competing Risk Model (logistic regression, random 35% of sample)

	(1) Pooled	(2) Prohibitive	(3) Red-Tape	(4) Notification
(DV: Adopts specific law)				
ICCPR Ratified	-0.27	0.22	-0.11	-0.65
Treaties Superior	-16.10***	-13.33***	-14.99***	-15.05***
ICCPR Rat. x Treaties Sup.	14.94***	12.01***	13.98***	14.61***
Executive Power	0.33***	0.21	0.31**	0.18
Electoral Competition ^a	1.70+	1.73	1.97*	1.27
ln(ODA/cap) ^a	0.16	-0.10	0.14	0.22
ln(ODAcap) x ElectComp ^a	-0.20	0.06	-0.20	-0.24
CSO Routinely Consulted ^a	0.29	-0.57	0.27	1.18**
CSOs are Anti-System ^a	-0.06	-0.13	-0.05	-0.21
Imputed FH/Polity2 ^a	-0.45***	-0.24	-0.48***	-0.40+
UN votes with USA (%) ^a	0.02	-0.04	0.02	0.01
UN votes with RUS (%) ^a	0.06*	0.04	0.06+	0.09*
Regional Diffusion (%) ^a	-0.00	-0.01	0.01	-0.00
PTS average ^a	0.20	0.41	0.32	0.05
Rule of Law Index ^a	-1.08	0.48	-0.99	-1.02
Time	0.22***	0.22*	0.20**	0.13+
Constant	-10.07***	-11.06*	-10.39***	-11.49**
Observations	849	849	849	849
AIC	268.12	121.74	228.72	154.98
BIC	348.76	202.38	309.37	235.63
Degrees of Freedom	16	16	16	16
Failure Events	37	10	29	15
Countries in Sample	135	135	135	135

+ p<0.10, * p<0.05, ** p<0.01, *** p<0.001

^a Denotes one-year lag on variables

Models ran with Stata 15 with cluster-robust standard errors grouped by unique country IDs. Random 135 cases sampled following recommendations by King & Zeng (2001, p141-142). All 482 country-year observations of countries that adopt laws included in sample.

Appendix Table 4: Assessing Conceptual Equivalence & Distinctness (All Modeling Strategies)

	Only Prohibitive Laws	Only Red-Tape Laws	Only Notification Laws
Panel A: Conceptual-equivalence Hypotheses			
<i>H2A: ODA per capita positively correlated with adoption.</i>			
Primary modeling strategy (logit)	-0.000 ($p=0.330$)	0.000 ($p=0.881$)	0.000 ($p=0.462$)
Cox with TVC robustness check	-0.000 ($p=0.880$)	-0.000 ($p=0.916$)	0.000 ($p=0.877$)
Rare-events robustness check	-0.000 ($p=0.560$)	0.001 ($p=0.549$)	0.001 ($p=0.292$)
<i>H2B: Electoral competition positively correlated with adoption.</i>			
Primary modeling strategy (logit)	0.001 ($p=0.400$)	0.002 ($p=0.071$)	0.001 ($p=0.338$)
Cox with TVC robustness check	0.000 ($p=0.878$)	0.004 ($p=0.839$)	0.000 ($p=0.856$)
Rare-events robustness check	0.004 ($p=0.523$)	0.009 ($p=0.142$)	0.002 ($p=0.623$)
<i>H2C: CSOs are anti-system positively correlated with adoption.</i>			
Primary modeling strategy (logit)	0.000 ($p=0.986$)	-0.000 ($p=0.783$)	-0.000 ($p=0.281$)
Cox with TVC robustness check	0.000 ($p=0.892$)	-0.000 ($p=0.852$)	-0.000 ($p=0.863$)
Rare-events robustness check	-0.000 ($p=0.652$)	-0.000 ($p=0.788$)	-0.001 ($p=0.459$)
<i>H2D: Level of democracy negatively correlated with adoption.</i>			
Primary modeling strategy (logit)	-0.000 ($p=0.234$)	-0.001 ($p=0.001$)	-0.001 ($p=0.079$)
Cox with TVC robustness check	-0.000 ($p=0.883$)	-0.002 ($p=0.848$)	-0.000 ($p=0.868$)
Rare-events robustness check	-0.001 ($p=0.471$)	-0.004 ($p=0.005$)	-0.002 ($p=0.222$)
Panel B: Conceptual-distinctness Hypotheses			
<i>H3A: Voting alignment with Russia positively correlated with adopting prohibitive laws.</i>			
Primary modeling strategy (logit)	0.000 ($p=0.592$)	0.001 ($p=0.233$)	0.001 ($p=0.019$)
Cox with TVC robustness check	0.000 ($p=0.897$)	-0.002 ($p=0.830$)	-0.000 ($p=0.763$)
Rare-events robustness check	0.001 ($p=0.400$)	0.005 ($p=0.148$)	0.004 ($p=0.019$)
<i>H3B: CSO consultation positively correlated with adopting notification laws.</i>			
Primary modeling strategy (logit)	-0.000 ($p=0.432$)	0.000 ($p=0.544$)	0.002 ($p=0.004$)
Cox with TVC robustness check	-0.000 ($p=0.890$)	0.001 ($p=0.844$)	0.001 ($p=0.870$)
Rare-events robustness check	-0.001 ($p=0.167$)	0.002 ($p=0.441$)	0.007 ($p=0.017$)
<i>H3C: Preexisting institutions negatively correlated with adoption, with strongest for prohibitive laws.</i>			
Primary modeling strategy (logit)	-0.000 ($p=0.147$)	-0.004 ($p=0.028$)	-0.001 ($p=0.518$)
Cox with TVC robustness check	-0.000 ($p=0.887$)	-0.010 ($p=0.850$)	-0.000 ($p=0.876$)
Rare-events robustness check	-0.003 ($p=0.196$)	-0.008 ($p=0.033$)	-0.002 ($p=0.525$)
<i>H3D: Voting alignment with USA positively correlated with adopting notification laws.</i>			
Primary modeling strategy (logit)	-0.001 ($p=0.162$)	-0.000 ($p=0.773$)	-0.000 ($p=0.730$)
Cox with TVC robustness check	0.000 ($p=0.894$)	0.004 ($p=0.869$)	-0.000 ($p=0.861$)
Rare-events robustness check	-0.001 ($p=0.485$)	0.001 ($p=0.477$)	0.000 ($p=0.778$)

Bold text represents factors with statistically significant regression coefficients ($p < 0.10$) in either main effects, interaction effects, or time-varying coefficients. See individual regression tables for additional information. Shaded cells identify statistically significant discrete marginal effects at the $p < 0.10$ and $p < 0.20$ level. Discrete changes are changes from 0 to 1 in binary variables and a standard deviation change in continuous variables. Each average marginal effect is accompanied by its p-value in the parentheses for readers to evaluate statistical significance in their own terms. All predictions computed in Stata 15 using `mchange` to reflect interaction terms (Long & Freese, 2014).