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Do Constitutional Rights Make a Difference?

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Abstract

Although the question of whether constitutional rights matter is of great theoretical and practical importance, we know little about whether any constitutional rights actually improve rights in practice. We test the effectiveness of six political rights. We hypothesize that "organizational" rights increase de facto rights protection, because they create organizations with the incentives and means to protect the underlying right. By contrast, individual rights are unlikely to make a difference. To test our theory, we use a recently developed identification strategy that mitigates selection bias by incorporating previously unobserved information on countries' preferences for constitutional rights into the research design. Specifically, we use data on constitutional rights adoption since 1946 to calculate countries' yearly constitutional ideal point, and then match on the probability that a country will protect a specific right in its constitution. Our results suggest that only organizational rights are associated with increased de facto rights protection.

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1. Introduction

There has been long-standing skepticism about whether constitutional bills of rights make a difference in practice. Although constitution-making is often surrounded by high hopes and aspirations for a better future, the track record of countries complying with their constitutional rights commitments is dubious at best. Some of the world's worst human rights offenders offer robust rights protections in their constitutions. Afghanistan, the country with the lowest literacy rate in the world, guarantees a right to education, while the constitution of North Korea shamelessly grants every citizen the freedom of expression (Law and Versteeg 2013).

Skepticism over the effectiveness of bills of rights traces back at least to James Madison, who famously postulated that constitutional rights in the United States would constitute mere "parchment barriers" (Hamilton, Madison, and Jay 1999). Madison's skepticism derived from the lack of external enforcement mechanism for constitutional rights. Indeed, around the world, authoritarian leaders have often written bills of rights primarily to deceive both domestic and international audiences (Satori 1962). In other instances, constitution-writers act in good faith, but they produce unrealistic constitutional goals, ensuring that the promised rights will ultimately disappoint. Conversely, countries like Australia and New Zealand have amassed strong rights records in the absence of a constitutional bill of rights. These incongruities fuel doubt over whether bills of rights meaningfully affect government respect for rights in practice.

Although the question of whether protecting rights within constitutions improves respect for those rights in practice is of great theoretical and practical importance, only a handful of previous studies explore the relationship between de jure constitutional rights protections and de facto respect for these rights (Pritchard 1986; Davenport 1996; Cross 1999; Keith 2002; Keith, Tate, and Poe 2009; Fox and Flores 2009; Melton 2013). Moreover, the existing studies suffer

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from a number of common limitations. First, most studies are based on small samples, often only a cross-section of countries (Pritchard 1986; Davenport 1996; Cross 1999). Second, most studies consider the effect of constitutional rights on aggregate indicators of government repression and do not link specific constitutional rights protections to corresponding human rights outcome variables (Pritchard 1986; Davenport 1996; Keith 2002; Keith, Tate, and Poe 2009). Third, existing studies do not adequately address the fact that constitutional rights are not randomly assigned, which poses a threat to causal inference. Indeed, the existing literature does not yield any consistent findings, with some studies providing substantially more cause for optimism than others. Thus, to date, we still know very little about whether constitutional rights actually make a difference in practice.

In this paper, we explore the effectiveness of the constitutional incorporation of political rights. We argue that not all political rights are equally effective. Specifically, political rights that establish organizations that can act strategically to protect the right (most notably, the right to form political parties and the right to form trade unions) are more likely to be effective than those rights that are typically practiced on an individual basis only (such as the freedom of expression and the freedom of movement). The distinctive feature of organizational rights is that they do not merely represent a substantive policy preference for a particular right, but also aid the establishment of organizations—political parties and trade unions—that have the incentives to safeguard the right as well as the means to act strategically to protect it from government repression. In other words, they have a built-in mechanism that addresses the collective-action problem inherent in individual rights protection. By contrast, political rights that are practiced individually are more easily encroached upon.

To test this theory, we rely on new data and a novel identification strategy to take up the question that has troubled constitution-writers since James Madison: do constitutional rights actually improve respect for rights in practice or are they mere "parchment barriers"? We study the impact of six political rights (that is, rights that empower individuals to take actions that allow them to partake in the civil and political life of the state). We specifically focus on: (1) the right to form political parties; (2) the right to unionize and/or strike; (3) the freedom of association; (4) the freedom of religion; (5) the freedom of expression; and (6) the freedom of movement.

To estimate the causal relationship between these six de jure constitutional rights and de facto protection of the same rights, we rely on a variation of an identification strategy that was recently developed to test the effectiveness of human rights treaties (Lupu 2013a) and, for the first time, apply it to study constitutional rights. Specifically, we use constitutional ideal point estimation and propensity score matching to estimate the causal effect of constitutional rights on actual government respect for rights. To do so, we first use ideal point estimation to capture a trait that is often considered unobservable: countries' pre-existing preferences for constitutional rights. Second, we use the constitutional ideal points to calculate the probability that any given country will adopt a particular right, and we propensity-score match on these probabilities. The purpose of this strategy is to match countries that possess similar constitutional preferences, while separating those countries that adopted the constitutional right in question from those that did not. Third, we analyze the impact of de jure constitutional rights on de facto rights practices by estimating multivariate ordered logit regression models on our matched data.

The results of our analysis support to theory. We find that constitutional rights are perhaps surprisingly effective: the right to establish political parties and the right to unionize have a robust and statistically significant positive impact on government respect for these rights in practice. By

contrast, adoption of the two constitutional rights that are first and foremost practiced individually—the freedom of movement and the freedom of expression—are unrelated to government respect for those rights in practice. We also find some, albeit less robust, evidence that the freedom of association and the freedom of religion positively impact government respect for those rights in practice. We posit that these two rights fall into an intermediate category of rights that are neither purely organizational nor fully individual. Taken together, our findings suggest that where rights facilitate collective action through the establishment of organizations with the incentives and means to protect their own interests, they can become self-enforcing.

This paper unfolds as follows. Section 2 sets forth a theory on organizational rights. Section 3 introduces our data and research design. Section 4 presents our main findings. Section 5 discusses the robustness of these findings and Section 6 concludes.

2. A Theory of Organizational Rights

Skepticism over the effectiveness of constitutional rights has long troubled constitution-makers. James Madison famously opposed a bill of rights for the United States because he feared that including rights in a constitution would create mere "parchment barriers" (Hamilton, Madison, and Jay 1999, 276). According to Madison, rights, "however strongly marked on paper," will never actually constrain popular majorities, unless they are somehow made self-enforcing (Madison 1788, 163). Madison instead believed in institutional solutions: "[t]he only effectual safeguard to the rights of the minority, must be laid in such a basis and structure of the Government itself" (Madison 1829, 355). Instead of enumerating rights in the constitution, Madison sought to protect rights more indirectly by creating and empowering different

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government departments whose competing incentives would facilitate rights protection (Levinson 2011, 630). In essence, Madison believed that the constitution could become self-enforcing, because "those who administer each department" would act to preserve their own power, so that "ambition" would "counteract ambition" (Hamilton, Madison, and Jay 1999, 289-90; Levinson 2011).

In keeping with the Madisonean tradition, a modern body of social science literature has shown that when political choices establish organizations with the means to protect these choices, these are more likely to endure and become self-enforcing.[1] For example, although President Roosevelt contemplated a second, socio-economically oriented bill of rights, his social welfare agenda ultimately became self-enforcing because he established an administrative apparatus that would enforce his New Deal agenda even after his term ended (McCubbins, Noll, and Weingast 1999). It was the administrative state, and not the substantive commitment to redistribute wealth itself, that allowed for the New Deal's effective enforcement for decades to come. The same logic applies to other organizations and institutions, such as: central banks that enforce a commitment to monetary stability (Rogoff 1985); democratically elected parliaments that enforce commitments by ruling elites to adhere to majority preferences (Acemoglu and Robinson 2000); corporations that empower minority share-holders (Black and Kraakman 1996); and independent courts that guard pre-commitments to various constitutional rights or policies (Elster 2000;

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[1] The literature often refers to "institutions", that is, "humanly devised constraints that structure political, economic and social interactions" (North 1991, 97). The definition encompasses all types of constitutional constraints, which is why we specifically focus on organizations with the means to protect substantive choices.

Hirschl 2004). In all these cases, it is not only the substantive policy commitments themselves, but also the organizations and groups that they established, that rendered decisions self-enforcing.

Commitments to rights likewise have the potential to become self-enforcing. Some rights establish organizations that have incentives and the means to guard and protect these rights. We refer to these as "organizational rights." In their most characteristic form, these are the right to form political parties and the right to unionize. Both of these rights establish independent organizations capable of protecting the substantive rights commitments. Just as administrative agencies, central banks, and judiciaries can protect their own interests, the same is true for political parties and trade unions. To a lesser extent, the same might be true for other associations that can guard the freedom of association and for churches that can guard the freedom of religion. In all these cases, it is the creation of organizations with incentives to preserve these rights, and the capacity to strategically act and mobilize against the government, that makes them self-enforcing.

More formally, at the time of constitution-writing, organizational rights are placed into a constitution. This is *time 0*. At this time, rights might be adopted for different reasons. For example, pre-existing organizations may lobby to place protections into a new constitution in order to strengthen their future position. Or alternatively, it may happen arbitrarily. A recent body of literature suggests that the writing of a bill of rights is often less deliberative and more random than constitutional theory has traditionally suggested (Elkins 2010; Goderis and Versteeg 2011; Law and Versteeg 2011). As Tushnet (1999, 1285-1301) puts it, constitution-making is often characterized by "bricolage," whereby constitution-makers "reach into the bag and use the first thing that happens to fit the immediate problem they are facing." This phenomenon is most salient for rights: while political actors spend substantial resources in lobbying for institutional

arrangements that fit their preferences, bills of rights largely derive from standardized templates (Cope 2013; Parkinson 2007). Indeed, this lack of attention for bills of rights might explain why the autocracies in our sample are just as likely to adopt political rights as democracies.[2]

Even when nations put little thought into rights adoption, these rights could still make a difference if a window of opportunity exists for organizations to form. This is *time 1*. Because constitutions are usually written in times of transition, when political power is in flux and there exist genuine hopes and aspirations for a better future, the period after the adoption of the constitution might offer a window of opportunity for new organizations to form or for existing organizations to grow stronger (Elster 1995, 370). At *time 1*, the constitution itself facilitates the establishment of new political parties, trade unions, and other types of association by providing a focal point for coordination. Groups might have wanted to organize collectively anyway, but constitutionalizing these rights can facilitate and catalyze the groups' coordination efforts (Ginsburg et al. 2013). Where organizations already existed, granting them constitutional protections might make them grow stronger. Where organizations enjoy constitutional status, individuals and societal groups are more likely to bet their resources on these organizations' future and make asset-specific investments in these organizations, thereby gaining a larger stake in preserving them (Levinson 2011, 730). The dynamic is to some extent self-reinforcing; since the organization grows stronger, asset-specific investments will also increase because the benefits

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[2] 41% of autocracies (polity2 score<5) enshrine a right to establish political parties in their constitution, compared to 43% of democracies (polity2 score>5) Likewise, 52% of autocracies enshrine the right to strike and unionize in their constitution, compared to 59% of democracies. Finally, 89% of autocracies enshrine a right to association and/or assembly in their constitution, compared to 86% of democracies.

from the joining the organization increase. This, in turn, incentivizes individuals who made these investments to preserve the organization. Thus, with time, independent organizations establish themselves and develop the capacity to resist future rights encroachment.

Governments are likely to eventually want to renege on their promises and attempt to repress the rights that were enshrined in the constitution at *time 0*. This is *time 2*. In mature democracies, the impulse to repress might surface in the face of emergencies, such as terror threats, warfare or violent dissent (Davenport, Moore and Armstrong 2007). In fledgling democracies, a government might repress rights when authoritarian groups try to grab power, and the country slides back into its authoritarian past (Davenport 2007). Finally, in autocracies, the urge to repress might grow stronger when the regime wants to hold onto power in the face of growing opposition (Gurr 1986; Acemoglu and Robinson 2006; Ritter 2014). Regardless of why governments renege, it is at *time 2* that the differences between organizational rights and other types of political rights surface.

For a government that wants to renege on its constitutional promises, it is relatively easy to crackdown on political rights that are practiced in an individual capacity (such as the freedom of expression or movement). Undoubtedly, these rights empower individuals, and individuals empowered by those rights have an incentive to preserve them. Yet organizing collectively against the government requires citizens to overcome social and political cleavages to coordinate their activities, which introduces a potentially difficult collective action problem (Weingast 1997). But for individual rights, there exists no pre-existing forum through which citizens can channel their activities and mobilize to protect the rights. Where citizens fail to organize collectively, governments might successfully repress the constitution's rights.

It is more difficult for governments to renege on organizational rights. These organizational rights are guarded by groups—like political parties, trade unions, and other associations—that have the power to organize and mobilize against rights encroachment. Indeed, these groups exist primarily to protect their constituents' interests, and, as such, they are experienced social and political activists. Organizations have a wide arsenal of strategies at their disposal: they can strategically mobilize domestic opposition groups, enlist civil society, stage strikes or non-violent protests, rally against the government, and even threaten revolution (Lichbach 1998; Pierskalla 2010; Murdie and Bhasin 2011; Ginsburg et al. 2013). For example, after South African police forces shot thirty-four striking miners in 2012, unions staged a wave of protests across the country, thereby "alter[ing] South Africa's political landscape" going forward, with the unions putting the ruling ANC party on the defensive.[3] Political parties and trade unions are often sufficiently connected to the political arena to anticipate potential crack-downs, and to act strategically to prevent them. Unlike unorganized citizens, they do not await actual crackdown but act preemptively.

In essence, organizational rights allow groups to act strategically to prevent or halt repression in a way that individuals cannot. While it might ultimately be possible for repressive regimes to crack down on organizational rights (Davenport 2015), it will be substantially harder to repress those rights that are guarded by trade unions or political parties with a stake in preserving these rights. Likewise, while it is ultimately possible for individual citizens to overcome collective action problems and to rise up against the government, these citizens do not possess the organizational advantage of political parties and trade unions.

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[3] *New York Times*, 17 August 2013, A4.

2.1 Which Rights Are Organizational Rights?

The defining feature of organizational rights is that they create rights-protecting organizations, thereby rendering those rights self-enforcing. We conceptualize political rights as placed along a continuum, with rights that establish and empower distinct organizations on one end of the continuum and rights that are individually practiced on the other. The six political rights that feature in our analysis can be placed along the following continuum:

Figure 1: Organizational-Individual Spectrum

On one end of the continuum is the right to establish political parties and the right to unionize and/or strike. What distinguishes these rights from other political rights is that they empower specific groups to strategically protect their interests. For political parties, these interests include the development and promotion of their parties in a system of free and fair elections. For trade unions, these interests include the protection of organized workers, and allowing these workers to protect their own interests through collective bargaining (including strike) with their employers. In order to achieve these goals, political parties and trade unions routinely mobilize their constituents and act strategically in the political arena. They respond to government crackdown or take preemptive action. Political parties and trade unions therefore

produce seasoned political activists, who know how to act strategically to protect their interest against government encroachment.

Next on the continuum is the right to association and assembly. Like the rights to establish political parties and the right to unionize, this right empowers organizations—in this case, associations. Unlike the other organizational rights, however, it is less clear what kind of groups are empowered by this right or what type of interests these groups seek to protect.[4] Indeed, it is likely that the associations empowered by the freedom of association are diverse in nature. Associations could be small and private (rather than large and public), and are not necessarily politically active in the same way as political parties and trade unions. As a result, it is harder to predict *a priori* whether and to what extent these groups will be able to mobilize against future rights encroachment. At the same time, the existence of the freedom of association does have potential to empower groups that can protect their interests against rights encroachment.

Further on the continuum is the freedom of religion. The freedom of religion is an individual right because its exercise does not depend on the existence of religious organizations. In its essence, it allows every individual to practice his/her own religion. Yet, unlike for other individual rights, this right is commonly practiced in groups, when individuals become members of a religious denomination. When people practice their religion together, enduring religious

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[4] We treat the right to freedom of assembly and/or association as a single right primarily because the available de facto data combines assembly and association into one variable. Of course, this can be conceptualized as two different rights: the right to assembly (that is, to protest in groups) and the right to association (that is, to join an association). In practice, however, the two almost always go hand-in-hand in national constitutions: 95% of all countries with the freedom of assembly in their constitution also contain the freedom of association.

organizations—churches, synagogues, or mosques—are created. Although religious organizations are established to facilitate religious practice by members of the congregation, these organizations also often become political players with their own distinct political agendas. One recent study shows how the protestant church played a crucial role in the spread of religious liberty, mass education, mass printing, voluntary organizations and propagated colonial reform in many parts of the world, ultimately facilitating the emerge of democracy (Woodberry 2012). Religious organizations might therefore possess an arsenal of strategies similar to political parties or trade unions. Thus, when religious rights are encroached upon, it is possible that religious groups can act collectively to guard religious freedom. The right to religious freedom, therefore, constitutes an intermediate category, placed in the middle of the continuum between pure individual rights and pure organizational rights.

On the far end of the continuum are political rights that are practiced on an individual basis. Our analysis is focused on the freedom of expression and the freedom of movement, but many other individual political rights exist. Indeed, most political rights are primarily individual rights. The right to a fair trial, habeas corpus, an interpreter, counsel, and to vote, among others, all empower individuals to participate in the civil and political life of the nation. Importantly, for these rights to be exercised, they do not require individuals to organize collectively in groups. Instead, they empower the individual in his or her individual capacity.[5] Consequently, these rights

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[5] The press is a potential organized force that could act and mobilize against rights encroachment. However, it is not clear that its primary objective is to have minority views represented (as opposed to, for instance, generating profits). Indeed, when there are substantive restrictions on speech, it is still possible for news outlets to flourish; they are merely restricted in what they can report.

are more easily encroached upon, as those empowered by the right will often fail to act collectively against government repression.

3. Research Design

3.1. Data

To analyze the effect of constitutional rights on de facto respect for rights in practice, we rely on an original dataset of constitutional rights. Our data on constitutional rights is based on the hand-coding of all the written constitutions in place from 1946-2012 for 186 countries. For each constitution, over 200 variables were coded relating to the presence of rights and their enforcement. The dataset was first introduced and explained in Law and Versteeg (2011) and Goderis and Versteeg (2015). From the larger dataset, we selected six political rights: (1) the right to establish political parties; (2) to strike and/or unionize; (3) to associate and assemble; (4) to religious freedom; (5) to press/expression freedom; and (6) to free movement. We selected these rights because they are political rights—that is, rights that empower individuals to take actions that allow them to partake in the civil and political life of the state—for which corresponding de facto rights indicators were also available. Part 1 of the Supplementary Materials (SM) includes a graph that depicts the average number of the six political rights in each constitution over time, as well as a world map that shows many of the six rights are currently found in each country's constitution.

From the constitutional dataset, we also selected an additional 81 variables to conduct our ideal point estimation to measure a country's constitutional rights preferences. The resulting list of 87 rights is similar to the one used by Goderis and Versteeg (2011). Part 2 of the SM lists all 87 rights included in our ideal point estimation and a graph that depicts their historical trajectory.

We link each of the six political rights to corresponding data on de facto respect for those rights. Our data on *de facto* human rights practices comes from the "CIRI" dataset, which was created by Cingranelli and Richard (2010) and covers 195 countries from 1981 through 2010. This data is commonly used in the empirical human rights literature (Simmons 2009; Hill 2010; Lupu 2013a; Lupu 2013) and is based on quantitative coding of the annual U.S. State Department and Amnesty International country reports. We use the CIRI coding on: (1) the existence of free and fair elections to estimate the impact of a constitutional right to establish political parties; (2) the protection of workers' right to strike and/or unionize to estimate the impact of a constitutional right to strike and/or unionize; (3) the freedom of assembly and association to estimate the impact of constitutional protections of the freedom of assembly and association; (4) the freedom of religion to estimate the impact of a constitutional right to freedom of religion; (5) the freedom of the press and expression to estimate the impact of a constitutional right to free press and/or expression; and (6) the freedom of movement to estimate the impact of a constitutional right to free movement. For each of these six political rights, CIRI grades countries on a three-point scale. A country that frequently violates or severely restricts a right receives a score of 0; a country that occasionally violates or moderately restricts a right receives a score of 1; and a country that practically never violates or restricts the right receives a score of 2.

A descriptive exploration of the relationship between the de jure and de facto rights reveals that most constitutional rights associated with increased de facto rights protection after their adoption. Figure 2 depicts this graphically for a subset of countries that added the right to their constitution during the period for which we have de facto data. It depicts the average score for each of the 10 years before and after the constitutional right was adopted. Figure 3 presents the average CIRI score (and 95% confidence interval) for all of the years before and after the

constitutional right was adopted for the same subset of countries. Of course, we cannot simply attribute these increases in de facto rights protection to the constitutional rights; there are likely to exist numerous confounding factors which our main analysis will take into account.

Figure 2: Trends in Rights Protections
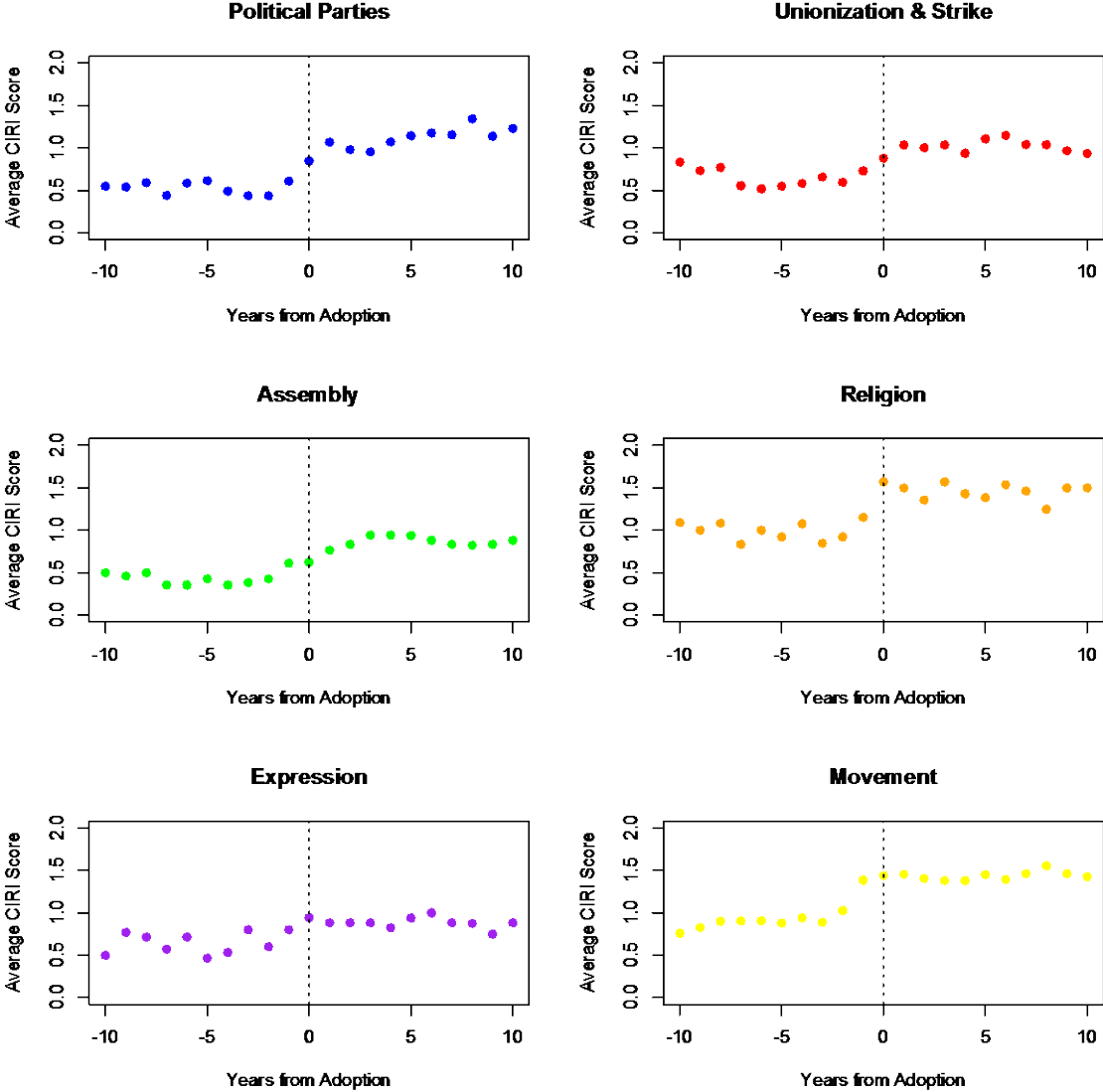
Figure 3: CIRI averages before and after adoption
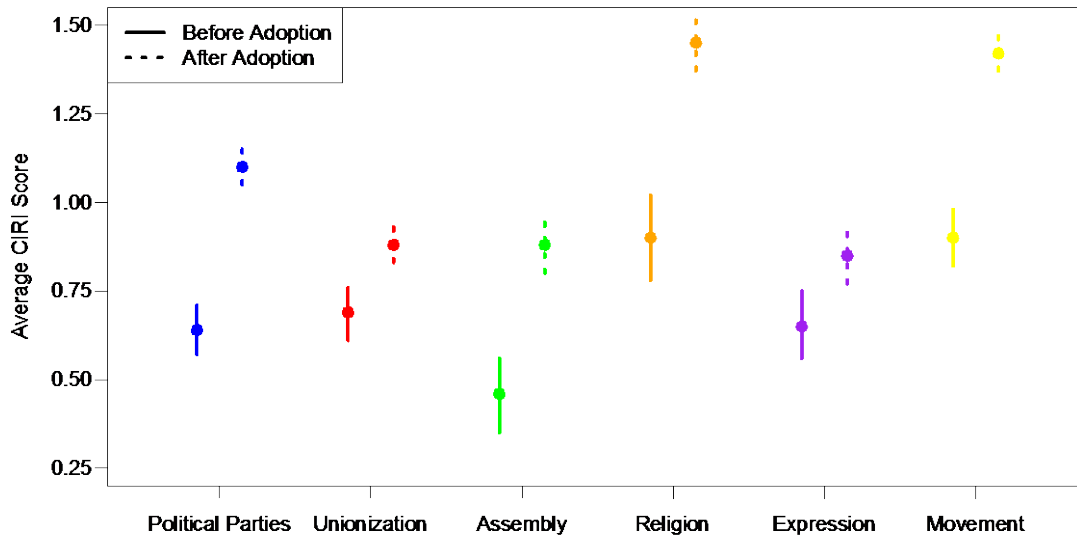
3.2 Identification Strategy

Although there exists a growing empirical comparative constitutional law literature, there have been relatively few efforts to test whether the inclusion of a specific right within a constitution affects the protection of that right in practice. This is not merely an oversight of the comparative constitutional literature, but instead a reflection of the fact that testing this empirically is not a straightforward task. The difficulty is that any research design would have to account for the fact that there may be factors that influence both the decision to incorporate a right into a constitution and the later protection of that right. This selection problem biases any naïve analysis of the effectiveness of constitutional rights.

Although there has not been any work to develop methods to address selection effects in the comparative constitutional literature, substantial progress has been made in a related literature

studying the impact of human rights treaty ratification.[6] Over the last decade, there has been a growing body of empirical research examining whether a state's decision to ratify an international human rights agreement changes its human rights practices (Hathaway 2002; Neumayer 2005; Simmons 2009; Hill 2010; Lupu 2013b). This literature has had to confront a selection problem that mirrors the one confronting scholars studying the effectiveness of constitutions—that is, the decision whether to ratify an agreement is related to the state's rights preferences and practices.

Scholars studying the effectiveness of human rights treaties have used a number of increasingly sophisticated techniques to overcome the selection problem posed by treaty commitment, such as Heckman selection models (Neumayer 2005) and instrumental variable regressions (Simmons 2009). Both these methods require specifying a variable that influences commitment to human rights agreements but does not influence human rights practices. Efforts to identify variables that meet that condition, however, have received strong criticism (Posner 2012).

In response to these concerns, one method that is increasingly used by scholars studying compliance with international agreements is matching (Simmons and Hopkins 2005; Hill 2010; Lupu 2013a; Lupu 2013b; Nielsen and Simmons 2014). The problem that matching tries to solve is that with observational data, there are often significant differences between groups that researchers are interested in studying. As a result, observed differences in outcomes between the groups may be due to those underlying differences, and not the key explanatory variable of interest. Matching mitigates this problem by pairing observations together that are as similar in as many relevant ways as possible except that one has received a particular treatment (i.e. adopted a constitutional rights) while the other has not. The intuition is that if the observations are similar

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[6] For an overview, see Simmons (2010); Hafner-Burton (2012).

along all relevant dimensions except that one has received the treatment, then observed differences in the dependent variable can be attributed to the treatment.

Although matching methods can help to improve causal inference by producing comparable samples, a shortcoming of the method is that it relies on conditioning exclusively on observable variables. Thus, it is possible that there are unobserved variables that influence both the treatment and outcome, thereby biasing the results produced through matching. In the human rights context, a major concern has been that there are unobserved differences in states' preferences for treaty commitments that are related to human rights practices. Such preferences for treaty commitments are harder to observe than a country's level of democracy or economic welfare, for example. In order to address this problem, Lupu (2013a) recently developed a method to directly measure a state's preferences for commitments to treaties. Lupu's proposed method is to estimate the treaty ideal point for countries based on their prior ratification of universal treaties, and then calculate the probability that a state would have ratified a particular agreement. To do so, Lupu uses a method that was developed to explain the ideological preferences of legislators—the W-NOMINATE algorithm (Poole and Rosenthal 1997).

When using this approach, the decision to ratify a particular treaty and the decision not to ratify a particular treaty are modeled as specific points in n-dimensional policy space (Lupu 2013a). The ideal points of every state in every year are then calculated as specific points in the same n-dimensional policy spaced based on previous ratification decisions. The assumption is then that the closer a state's ideal point is to the specific point estimated for a particular treaty, then the more likely it is that a state will ratify that treat (Lupu 2013a; Lupu 2013b). Lupu directly tested the plausibility of this assumption by using Monte Carlo simulations to demonstrate that

this method is better at predicting whether a state would have ratified a given treaty than statistical models using conventional observable variables.

Although Lupu's method was developed to test whether treaty commitments improved the protection of rights, there are a number of reasons why it is also a promising method to test the effectiveness of constitutional rights. First, part of the justification for the method is that any state is free to ratify any universal treaty (Lupu 2013a), and, in the same way, any state is free to include any right within its constitution. Second, the rights that states elect to include in their constitutions are an important source of information about their constitutional preferences in the same way that countries prior treaty ratification decisions are an important source of information about their treaty ratification preferences. Third, a body of research has demonstrated that it is possible to directly code the rights that states have included in their constitutions in a way that makes cross-national comparisons possible (Elkins, Ginsburg, and Melton 2009; Law and Versteeg 2011). Given these similarities between constitutional rights and treaty ratification, we have elected to use the methodology developed by Lupu (2013a; 2013b) to test whether including a right within a constitutional influences the protection of that right.

3.3 Implementation

3.3.1 Ideal point Estimation

Following Lupu (2013a; 2013b), our analysis involves a three-stage process. In the first stage, we estimate every country's constitutional ideal point. We do so following Law and Versteeg (2011), who previously used ideal point estimation to analyze constitutional bills of rights. We repeat the Law and Versteeg analysis for a set of 87 constitutional rights, estimating a two dimensional model using the W-NOMINATE algorithm for the R programming language

(Poole et al. 2011). This analysis yields annual constitutional ideal points along two dimensions for 186 countries from 1946 to 2012.

With these ideal points, we next estimate the probability that a country would have included each of six rights in its constitution by calculating the distance between the country's ideal point and the ideal point of that specific right (Lupu 2013a). Doing so produces an estimate of the probability between 0 and 1 that a country would have a specific right protected by its constitution in every year. These estimates capture the probability that a country will adopt a right based on its general preference for rights commitment as demonstrated by the country's other constitutional choices.

3.3.2 Matching

In the second stage of our analysis, we match country-year observations that include the relevant constitutional right to country-year observations that do not include the right. Our matching procedure uses both the probabilities calculated in the first stage of analysis and a number of observable variables in our matching equations that have been previously shown to influence rights practices (Poe and Tate 1994; Poe, Tate, and Keith 1999).[7] Specifically, in addition to the probabilities generated through the ideal point analysis, we match on the following variables: (1) a variable that captures a country's level of democracy (from the Polity IV dataset, "polity2"); (2) the natural log of a country's GDP per capita (from the World Development

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[7] This decision is a departure from Lupu (2013a; 2013b), which only matched on the estimated probability that a country would have ratified a particular treaty, but then included a number of other variables in his post-matching regressions. In more recent work, however, Lupu has also included observable variables in his initial matching procedure (Lupu 2013c).

Indicators, "gdppc"); (3) the natural log of a country's population size (from the World Development Indicators, "pop"); (4) whether or not a country is engaged in international war (taken from the Correlates of War); (5) whether a country is engaged in a civil war (from the Correlates of War Dataset); (6) and a variable that captures each country's level of judicial independence (from the CIRI dataset). These six variables are consistent with those used by other recent scholarship on human rights practices (Hill 2010; Lupu 2013a; Lupu 2013b). Additionally, to address the concern that countries with better rights records are more likely to adopt constitutional rights, we also match on two years of the lagged dependent variable (t-1 and t-2). Doing so reduces concerns over reversed causality, that is, countries adopting the constitutional right when they already respect that right in practice. We also experimented with excluding the lagged dependent variables from the matching procedures, the result of which are presented in Part 4 of the SM.

Although there are many matching methods available (Honaker, King, and Blackwell 2011), we selected to use propensity score matching. Specifically use nearest neighbor matching with a caliper of 0.5 to ensure that the matched pairs improve the balance within the sample. This method is both advocated by Lupu (2013a), and has been the primary method used in the international law literature (Simmons and Hopkins 2005; Hill 2010). Using this approach, we created six different matched datasets—one for each of the six political rights that we study. As Table 1 shows, doing so dramatically improves the balance for each of our six matched samples (ranging from an improvement of 72% for the right to unionize & strike to an improvement of 93% for the freedom of expression). Part 3 of the SM further shows the mean values and standard deviations for each of our covariates in control and treatment groups for the matched samples as well as further descriptive information on the matched samples.

Table 1: Matching Results

	Political Parties		Unionize & Strike		Association & Assembly	
	Full	Matched	Full	Matched	Full	Matched
Sample Size	2,064	1,910	4,060	1,940	4,057	148
Treatment Units	2,347	955	2,690	970	3,752	124
Control Units	1,717	955	1,370	970	305	124
Mean Distance – Treatment Group	0.741	0.556	0.756	0.650	0.972	0.756
Mean Distance – Control Group	0.354	0.478	0.478	0.572	0.347	0.701
Improvement in Balance	78.40%		71.96%		91.17%	
	Religion		Expression		Movement	
	Full	Matched	Full	Matched	Full	Matched
Sample Size	4,540	330	4,064	210	4,591	968
Treatment Units	4,308	165	3,798	105	3,701	484
Control Units	232	165	266	105	890	484
Mean Distance – Treatment Group	0.968	0.726	0.975	0.825	0.895	0.664
Mean Distance – Control Group	0.598	0.687	0.355	0.781	0.437	0.614
Improvement in Balance	89.48%		92.95%		89.17%	

3.3.3 Multivariate Regression Analysis

In the third stage of our analysis, we use multivariate regression to test the effect of de jure political rights on de facto respect for those rights in practice for each of our six datasets. If a matched sample is perfectly balanced, it is possible to estimate a treatment effect by simply comparing the outcome variable for the two groups (Ho et al. 2007). In situations where there is remaining imbalance, however, it is standard practice to use multiple regression analysis while including control variables that are likely to influence rights practices (Hill 2010; Lupu 2013a; Lupu 2013b; Nielsen and Simmons 2014). Our regression model includes all the variables that we matched on (see section 3.3.2), as well as a set of year fixed-effects. We address any potential serial correlation by calculating robust standard errors clustered at the country level. Since our

dependent variable is categorical, we estimate an ordered logit model for each of the six matched datasets.

Although our data on constitutional rights and human rights practices has relatively few missing values, there is missing data among our control variables. Dropping these observations via list-wise deletion, however, risks biasing our results because the missing observations are likely non-random (Honaker and King 2010). To account for this source of bias, we imputed values for the missing observations using the Amelia II package for R (Honaker, King, and Blackwell 2011).[8] Doing so is consistent with the practice of other recent scholarship in the human rights literature (Hill 2010; Lupu 2013a; Lupu 2013b).[9]

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[8] To improve the accuracy of imputation, we imputed the missing values for all control variables using the full dataset of country years instead of simply the matched sample (Lupu (2013a; 2013b)).

[9] First, we only imputed missing values for our six control variables. Second, we included a polynomial term to allow for the possibility of trends in these variables over time ("polytime = 2"). Third, we followed the standard procedure of imputing five datasets, but since our matching procedure cannot use multiple values for a single variable, we used the average values of the imputed datasets for our matching procedure.

4. Empirical Findings

Table 2 presents the main results from the regression analysis.[10] The results indicate that the adoption of the political rights on the far organizational end of our continuum—that is, the right to establish political parties and the right to unionize—have a statistically significant and positive effect on respect for these rights in practice (both at the 5 percent confidence level). These findings support our theory that constitutional rights that allow organizations to be established (political parties and trade unions) are effective in protecting rights in practice. Table 2 also reveals that the two rights next on the continuum—the freedom of assembly and the freedom of religion—have a positive and statistically significant effect on government respect for these rights in practice. As we will show however, the effect of these two rights is less robust to alternative model specifications. By contrast, the adoption of the rights that are at the individual end of the continuum—the freedom of expression and the freedom of movement—do not appear to have a statistically significant effect on actual respect for those rights in practice (with p-values of 0.16 and 0.80, respectively).

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[10] Although control variables are included in Table 2 to account for any remaining post-matching imbalance, it is inappropriate to causally interpret the coefficients for these variables (Nielsen and Simmons 2014).

Table 2: Effect of Constitutional Rights – Ordered Logit Models

	(1) Political Parties	(2) Unionize & Strike	(3) Association & Assembly	(4) Religion	(5) Expression	(6) Movement
Treatment	0.376**	0.305**	2.447***	0.872**	0.764	-0.062
	(0.168)	(0.132)	(0.834)	(0.373)	(0.540)	(0.241)
Probability of Right	-0.040	-0.082	1.402*	0.286	0.700	-0.057
	(0.229)	(0.167)	(0.757)	(0.567)	(0.586)	(0.275)
Polity	0.196***	0.068***	0.240***	-0.004	0.111	0.074***
	(0.018)	(0.013)	(0.062)	(0.033)	(0.069)	(0.024)
GDP per capita (ln)	0.093	0.003	-0.761**	-0.128	0.593**	-0.074
	(0.057)	(0.054)	(0.308)	(0.133)	(0.231)	(0.095)
Population size (ln)	-0.052	-0.077**	-0.033	-0.079	0.127	-0.141**
	(0.046)	(0.036)	(0.173)	(0.133)	(0.143)	(0.069)
Interstate war	0.416	-0.719	3.053	-1.127	14.310	-1.005
	(0.509)	(0.440)	(12.16)	(1.510)	(16.830)	(0.626)
Civil war	-0.411	-0.227	-2.776***	0.745**	0.811	0.223
	(0.252)	(0.274)	(0.761)	(0.361)	(0.672)	(0.427)
Judicial independence	0.447***	0.405***	2.409***	0.791**	0.744**	0.402**
	(0.120)	(0.104)	(0.705)	(0.319)	(0.328)	(0.191)
Rights $_{t-1}$	1.674***	1.991***	4.175***	1.042***	2.174***	3.199***
	(0.127)	(0.143)	(0.860)	(0.199)	(0.423)	(0.300)
Rights $_{t-2}$	0.665***	1.210***	1.702**	0.872**	0.942**	0.916***
	(0.126)	(0.135)	(0.819)	(0.373)	(0.448)	(0.199)
Observations	1,910	1,940	248	330	210	968

- All models included year fixed effects.
- Robust standard errors clustered on country in parenthesis.
- * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$.

Figure 4 presents the marginal effects for the organizational right regressions in Table 2. The marginal effects calculation estimates the impact that moving the treatment variable (in our case, the presence of a constitutional right) from 0 to 1 has on the annual percentage-point increase in the probability of a country displaying full respect for rights (value 2 on the dependent variable) or placing severe restrictions on rights (value 0 on the dependent variable).

Figure 4 shows that upon adoption of the right to form political parties the probability of a country placing severe restrictions on this right decreases by 3.2 percentage points in each year, while the probability of fully respecting this right increases by 2.7 percentage points in each year. Likewise, upon the adoption of the right to unionize and/or strike, the probability of a country placing severe restrictions on this right decreases by 3.0 percentage points in each year, while the probability of fully respecting this right increases by 2.5 percentage points in each year. Moreover, upon adoption of the right to association and assembly, the probability of a country placing severe restrictions on this right decreases by 10.4 percentage points in each year, while the probability of fully respecting this right increases by 5.7 percentage points in each year. Finally, upon adoption of the right to freedom of religion, the probability of a country placing severe restrictions on this right decreases by 11.1 percentage points in each year, while the probability of fully respecting this right increases by 8.0 percentage points in each year.

Figure 4: Marginal Effects

Marginal Effects on Rights Provision (percentage points)
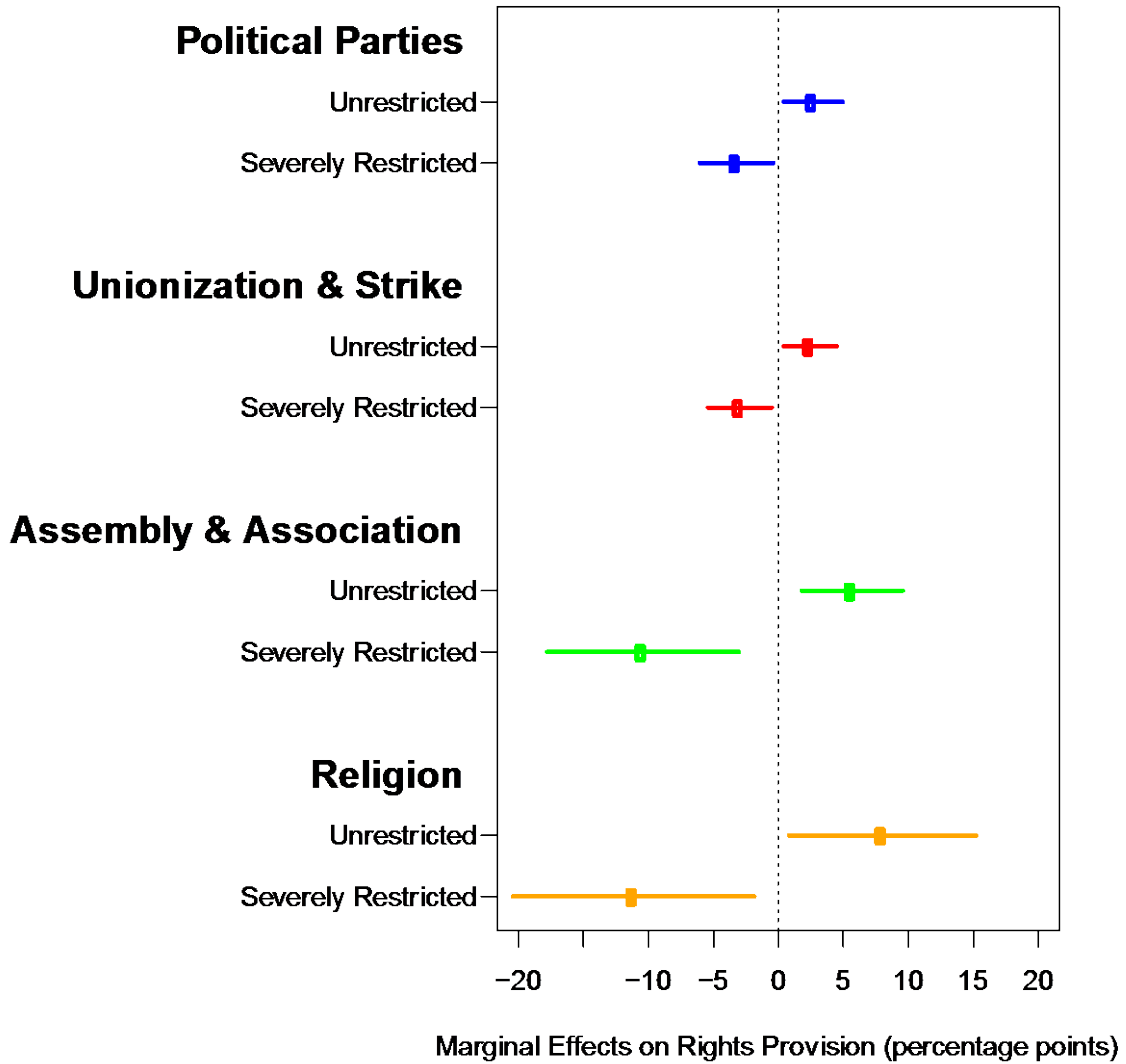
To appreciate the size of this effect, these numbers can be evaluated against a baseline probability of adoption, that is, the probability of falling in each of these categories in the absence of constitutional rights adoption. For example, without the right to form political parties in the constitution, the probability that a country places severe restrictions on rights is 34.7 percent, while the probability that a country places no restrictions on rights is 37.6 percent. Upon adoption of the right to form political parties, the probability of severe restrictions decreases from 34.7 to

31.4 percent, while the probability of no restrictions increases from 37.6 to 30.2 percent. Note that these increases are annual, so that the effect becomes more sizeable over time. [11]

5. Robustness Checks

One concern with the results so far is that may fail to account for unobservable variables that are correlated with both constitutional rights adoption and actual rights practices. While our research design brings in a previously unobserved variable that is correlated with both rights adoption and rights practices (a country's pre-existing preference for constitutional rights, as captured through our ideal point estimation), it is theoretically possible that other factors are omitted. To address this concern, we also estimated a random effects model which calculates country-specific intercepts that absorb unexplained cross-country heterogeneity and hence reduce the potential for omitted variable bias caused by time-invariant omitted variables. [12] Specifically, we re-estimated all our specifications in an ordered logit model that includes country random effects but excludes the lagged dependent variables from the post-matching regressions (Angrist and Pischke 2009).

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[11] The baseline probability of placing severe restrictions on the right to form trade unions is 35.9 percent while the probability of placing no restrictions on this right is 26.0 percent. Likewise, baseline probability of placing severe restrictions on the right to association and assembly is 50.1 percent while the probability of placing no restrictions on this right is 34.1 percent. Finally, baseline probability of placing severe restrictions on the freedom of religion is 52.8 percent while the probability of placing no restrictions on this right is 21.5 percent.

[12] Melton 2013. Because we are estimating an ordered logit model, it is not possible to include country fixed-effects.

The results from this model, which are reported in Part 5 of the SM, reveal that the effects for three of the rights—the right to form political parties, unionize, and associate—remain positive and statistically significant, while the results for two of the individual constitutional rights—the right to freedom of expression and the right to freedom of movement—remain statistically insignificant. Religious freedom, however, is no longer statistically significant. This finding suggests that we cannot rule out the possibility that the effect of religious freedom is driven by omitted variable bias. We also test the robustness of our results to alternative matching specifications. So far, we have matched on *both* a countries probability of rights adoption as generated by the W-NOMINATE algorithm and on a set of observable variables that are standard in the literature. Following robustness checks performed by Lupu (2013a), we also match countries on: (1) the probability of rights adoption only and (2) all the other observable variables only. The results, presented in Parts 6 and 7 of the SM, reveal that the findings for the right to unionize and the right to establish political parties are again robust to all these alternative specifications. By contrast, the freedom of association and assembly loses statistical significance when we match on constitutional preferences only and when we match on the other observables only. Likewise, the freedom of religion loses statistical significance when we match on constitutional preferences. Thus, our finding on the impact of the freedom of association and religion are less robust to alternative model specifications than our findings on the right to establish political parties and unionize.

We also test whether our results depend on model selection. As previously noted, there are many possible matching methods to choose from (King et al. 2010). Following Lupu (2013a; 2013b), we elected to use nearest neighbor propensity score matching using the logit distance. Other scholars, however, have opted to use the mahalanobis distance to create matched samples

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(Nielsen and Simmons 2014). To explore whether our results depend on this choice, we re-matched out matched using the mahalanobis distance. Part 8.A of the SM presents the results from this exercise. Using this approach, our results remain statistically significant for the right to form political parties and the right to unionize, but not the freedom of assembly and association or the freedom of religion. This again shows that the findings for the rights that fall in the middle of our continuum—the freedom of association and the freedom of religion—are not as robust as the findings for the rights at the far organizational end of the spectrum.

Another decision we made when matching was to use a caliper of 0.5. Doing so insured that our matching approach actually improved balance by discarding observations for which a credible match could not be found. To test the robustness of the decision, we also tested using calipers of 0.25, 0.75, and 1.0. The results of this analysis are presented in Part 8.B of the SM. As the calipers increase, the sample becomes less balanced, but the tradeoff is that the total number of observations increases as well. The results for the right to form political parties, the right to unionize, and the right to freedom of religion were robust to all three alternative calipers. The result for the freedom of association and assembly is robust to the caliper set to 0.25 and 0.75, but not 1.0.

A final concern is that the matched samples for the right to establish political parties and the right to unionize are substantially larger than the samples for the other rights. This raises the concern that if the samples for the right to establish political parties and the rights to unionize were smaller, the results for these two rights would no longer be statistically significant. We tested this possibility by examining what the effects would be if the samples for the right to establish political parties and the right to unionize were equivalent to the matched sample for the freedom of movement. To do so, we randomly sampled 484 treatment observations and 484

control observations from the matched sample for the right to establish political parties and the right to unionize. After doing so we estimated our primary regression model and saved the coefficient. To ensure that our results were not driven by the sample that we randomly drew, we repeated this procedure 1,000 times. The results of this analysis are presented graphically in Part 9 of the SM. They suggest that for the right to establish political parties, if the sample was 968 observations, that the coefficient would be 0.395 with a 95% confidence interval of 0.119 to 0.672. For the right to unionize, the estimated coefficient was 0.316 with a 95% confidence interval of 0.082 to 0.551. Both results are statistically significant, and nearly identical with the results presented in Table 3.

Overall, our robustness analysis reveals that our findings on the rights to form political parties and unionize are robust to a range of alternative specifications, while the results for the freedom of association and religion are less robust. We posit that the effect for the (organizational) freedom of association is less robust because of the potentially diverse nature of the associations that might be established by the freedom of association, and because it is unlikely that all these associations are politically active in the same way as political parties and trade unions. We posit that we find some non-robust effect for the (individual) freedom of religion because it is commonly exercised collectively and can therefore lead to the emergence of religious institutions that can mobilize to protect religious freedom when the government threatens to suppress this right.

6. Conclusion

The question of whether writing bills of rights make actually makes a difference in practice has troubled constitution-makers ever since James Madison. It is a question that remains of great practical importance today, as countries keep rewriting their founding documents. In this paper, we have offered the first comprehensive exploration of the effect of enshrining political rights in the constitution. We find that the effectiveness of political rights adoption depends on the kind of right at issue. Rights that establish organizations with the incentives and means to protect the right obtain a certain self-enforcing quality that makes them more effective than the rights that do not establish such organizations. Our findings suggest that a nation's best bet against future repression and undemocratic backsliding is to enshrine rights that establish institutions with the ability to preserve those rights in the future. It is these rights that really matter.

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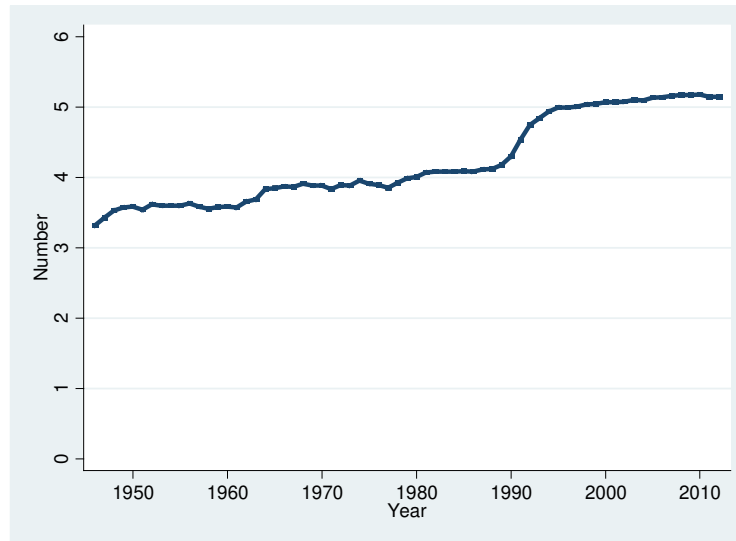**Do Constitutional Rights Make a Difference?**

Supplementary Materials

These supplementary materials provide information that supplements the analysis and results presented in the body of our paper. The supplementary materials are broken down into nine parts: (1) presents descriptive information on the six political rights that feature in our analysis; (2) lists the 87 rights used for our ideal point analysis and shows their trajectory over time; (3) presents additional informaiton on the matched samples used in our primary analysis; (4) presents complete information on the samples that were matched without including the lagged dependent variables; (5) presents the regression results from a country random effects model; (6) presents complete information on the samples that were matched only on consitutional preferences; (7) presents complete informaiton on the samples that were matched only on standard observable variables; (8) presents the regression results from using alternative matching methods; and (9) presents the complete results of our analysis testing the results of reducig the sample size for the right to form political parties and the right to unionize.

1. Six Political Rights

This Part presents descriptive statistics on the six political rights that are the main focus of our analysis. The Figure presents the average number of the six political rights that countries include in their constitution over time. The world map depicts the total number of political rights in each constitution in 2012. The figure and world map are discussed in section 3.1 of the paper.

Average Number of Political Rights over Time

Number of Political Rights in National Constitutions (as of 2012)

[interval] (country count)
[1 right] (4)
(2 rights) (2)
(3 rights) (8)
(4 rights) (23)
(5 rights) (45)
(6 rights) (95)
No data (31)
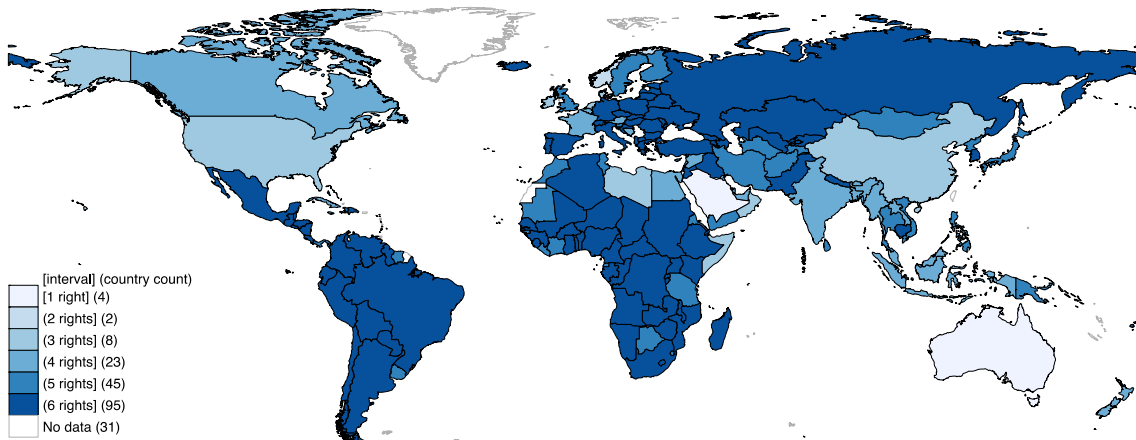
2. Rights for Ideal point Estimation

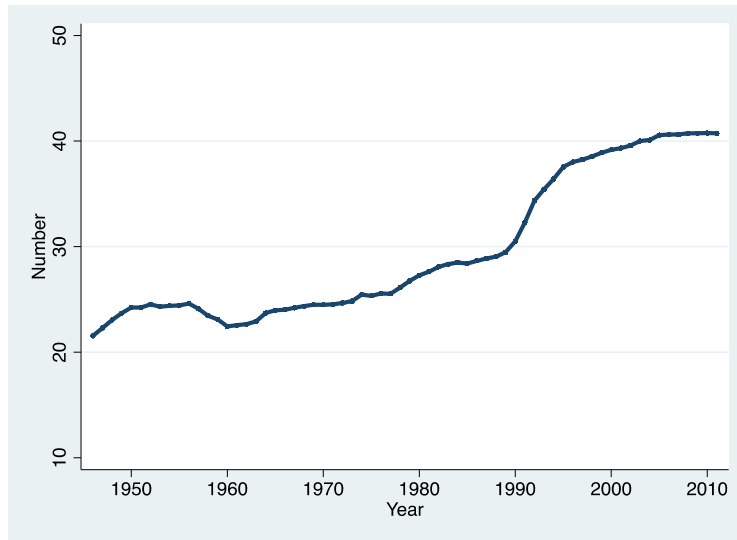This Part provides information on the full set of rights that feature in our ideal point estimation. The table below lists the 87 rights that we selected to conduct our ideal point estimation. The figure below depicts the average number of these 87 rights in the world's constitutions for the period 1946-2012. The Table and Figure are discussed in section 3.1 of the paper.

87 Rights Used in Ideal Point Estimation

Right to freedom of religion	Rights for prisoners
Freedom of press and/or expression	Right to due process
Right to assembly and/ or association	Right to equality
Right to strike and/ or unionize	Right to private property
Right to vote	Right to education
Freedom to form political parties	Right to work
Right to a remedy when rights are violated	Right to health
Right to petition	Right to social security
Right to information about government	Freedom of enterprise
Right to compensation	Right to rest
Right to resist when rights are violated	Right to minimum wage
Right to "petition for amparo"	Right to housing
Right to establish private schools	Right to work for the government
Freedom of education	Right to favorable working conditions
Right to privacy of family life	Intellectual property
Right to protection of one's reputation or honor	Right to sport
Prohibition of death penalty	Right to adequate standard of living
Right to privacy of personal data	Prohibition of child labor
Free development of personality	Prohibition of confiscation
Protection of rights for unborn children	Right to food
Right to bear arms	Right to water
Prohibition of arbitrary arrest and detention	Right to establish a family
Right to privacy of the home	Rights for children
Right to privacy of communication	Special protection of mothers
Freedom of movement	Right to get married
Prohibition of torture	Equality husband and wife within the family
Right to life	Rights for elderly people
Right not to be expelled from home territory	Special protection of women
Prohibition of slavery	Women empowerment in labor relations
Right to personal privacy	Right to maternity leave
Artistic freedom	Right to a healthy environment
Right of access to court (habeas corpus)	Right to culture
Prohibition of ex post facto laws	Protection of minority language
Presumption of innocence	Right to preserve traditional ways
Right to present a defense	Right to asylum
Right to counsel	Special protection of minorities
Right to public trial	Rights for handicapped people
Prohibition of double jeopardy	Schooling right for minorities
Right to remain silent	Rights for consumers
Right to a timely trial	Right for minorities to use indigenous lands
Right to an interpreter	Rights for victims of crimes
Right to fair trial	
Right to appeal to higher court	
Representation right for minorities	
Autonomy for minorities	

Average Number of All 87 Rights over Time

3. Matching Results

This Part provides additional information on the matched samples used in the primary analysis of the paper. This information is divided into four sections: (A) reports the balance statistics for the six matched samples used in the primary regressions; (B) includes information on the number of countries included in each of the six matched samples used in the main analysis; (C) provides maps illustrating which countries are included in the matched samples (countries are shaded in increasingly darker shades of gray as they appear in the sample in more years); (D) presents figures representing the frequency that countries appeared in the sample. These results are discussed in section 3.3.2 of the paper.

### A. Balance Statistics (mean values with standard deviations in brackets)

	Political Parties		Unionize & Strike		Assoc. & Assembly	
	Control	Treated	Control	Treated	Control	Treated
Probability of Right	0.38	0.45	0.58	0.65	0.67	0.74
	[0.35]	[0.39]	[0.40]	[0.43]	[0.38]	[0.40]
Polity	1.66	1.24	1.33	1.31	1.53	-1.63
	[7.85]	[6.70]	[7.58]	[6.89]	[8.34]	[6.32]
GDP per capita (ln)	7.65	7.09	7.62	7.23	8.24	6.39
	[1.67]	[1.50]	[1.75]	[1.46]	[2.02]	[1.69]
Population size (ln)	15.94	16.11	16.11	15.67	16.04	16.27
	[2.04]	[1.52]	[2.02]	[1.55]	[1.34]	[1.91]
Interstate war	0.01	0.02	0.02	0.01	0.01	0.00
	[0.10]	[0.13]	[0.12]	[0.13]	[0.09]	[0.01]
Civil war	0.06	0.06	0.05	0.07	0.01	0.56
	[0.28]	[0.25]	[0.26]	[0.27]	[0.13]	[0.49]
Judicial independence	1.20	0.97	1.12	0.95	1.39	0.44
	[0.82]	[0.77]	[0.80]	[0.78]	[0.80]	[0.74]
Rights $_{t-1}$	1.08	1.05	0.87	1.06	1.06	0.81
	[0.88]	[0.80]	[0.83]	[0.75]	[0.94]	[0.81]
Rights $_{t-2}$	1.08	1.05	0.88	1.07	1.06	0.81
	[0.88]	[0.81]	[0.84]	[0.75]	[0.94]	[0.82]
	Religion		Expression		Movement	
	Control	Treated	Control	Treated	Control	Treated
Probability of Right	0.68	0.74	0.76	0.81	0.52	0.57
	[0.44]	[0.42]	[0.37]	[0.38]	[0.46]	[0.44]
Polity	-2.55	0.73	-1.62	4.67	0.40	0.00
	[7.23]	[7.09]	[7.65]	[7.14]	[7.69]	[6.19]
GDP per capita (ln)	7.31	7.59	7.42	8.06	7.55	6.67
	[1.56]	[1.75]	[1.89]	[1.77]	[1.78]	[1.53]
Population size (ln)	15.03	16.34	15.66	18.46	15.48	15.80
	[1.50]	[2.46]	[0.99]	[2.12]	[2.10]	[1.50]
Interstate war	0.01	0.01	0.00	0.03	0.01	0.01
	[0.11]	[0.08]	[0.02]	[0.17]	[0.09]	[0.08]
Civil war	0.08	0.11	0.08	0.01	0.04	0.02
	[0.29]	[0.32]	[0.29]	[0.12]	[0.22]	[0.13]
Judicial independence	0.95	1.08	1.05	1.06	1.13	0.57
	[0.69]	[0.77]	[0.79]	[0.86]	[0.80]	[0.77]
Rights $_{t-1}$	0.58	0.87	0.78	1.32	1.31	1.06
	[0.70]	[0.90]	[0.66]	[0.74]	[0.80]	[0.80]
Rights $_{t-2}$	0.62	0.90	0.79	1.32	1.29	1.00
	[0.74]	[0.87]	[0.65]	[0.71]	[0.80]	[0.79]

B. Number of Countries Represented in the Matched Samples

	Political Parties	Unionize & Strike	Association & Assembly	Religion	Expression	Movement
Control	104	79	19	14	14	59
Treated	110	126	35	54	24	67
Overall	174	181	54	64	38	105

C. Countries Included in the Matched Samples
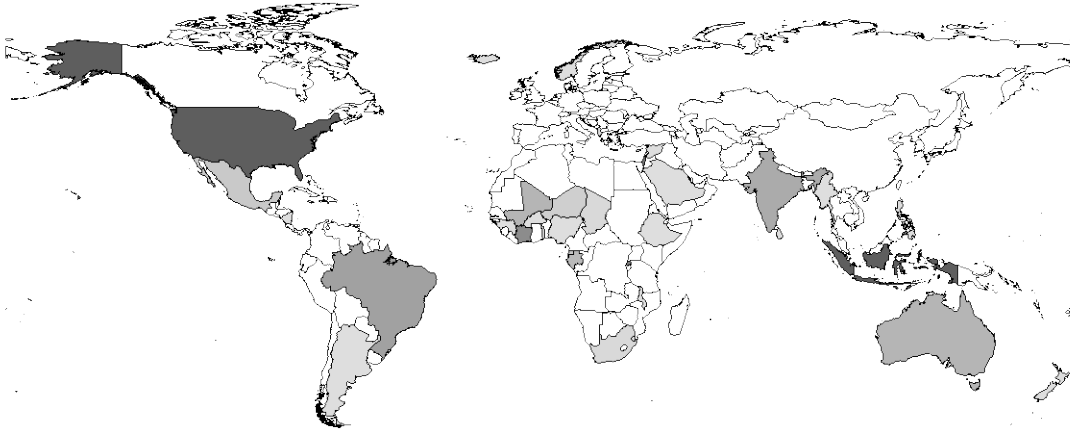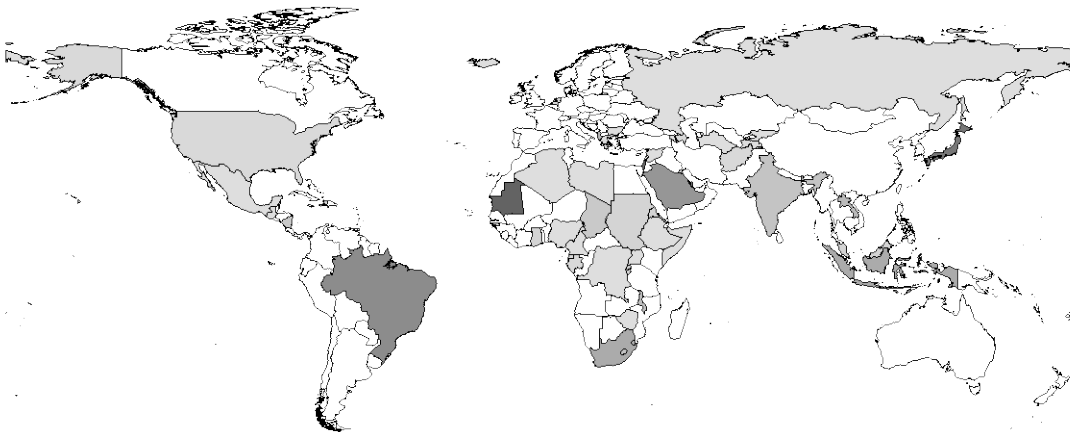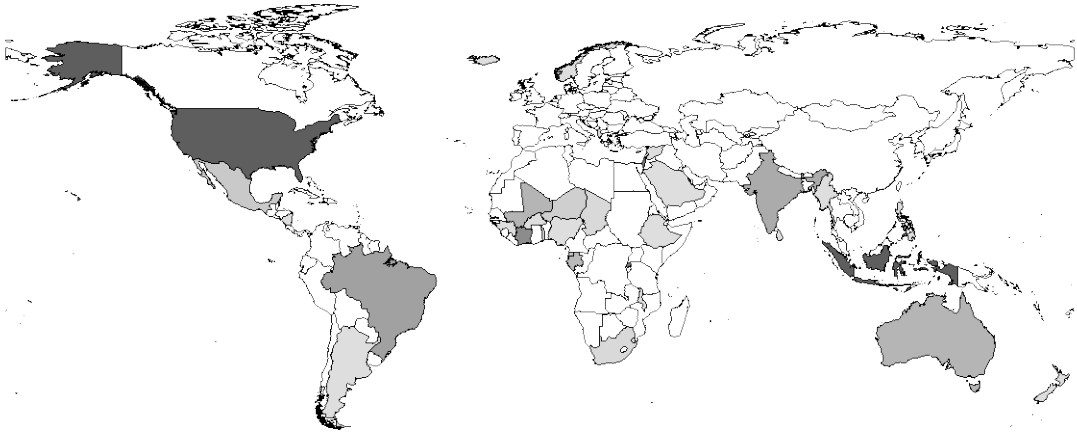
Political Parties
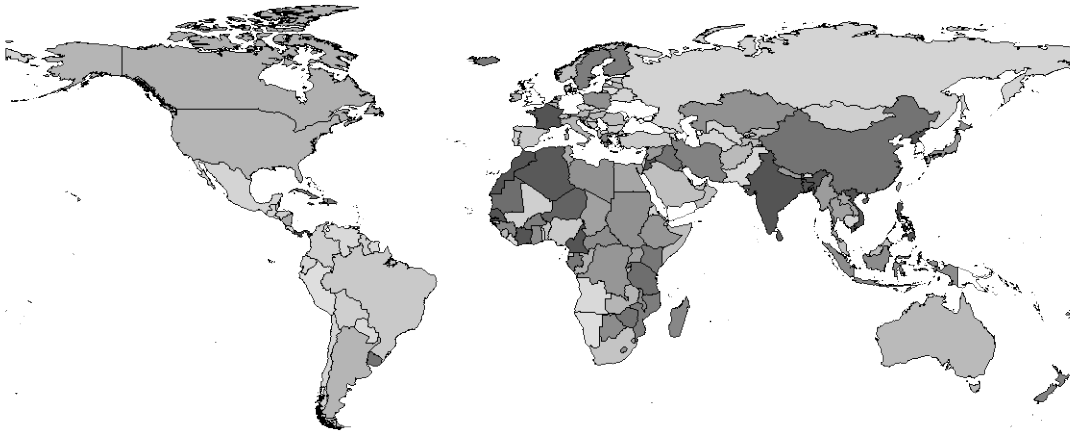
Unionization & Strike
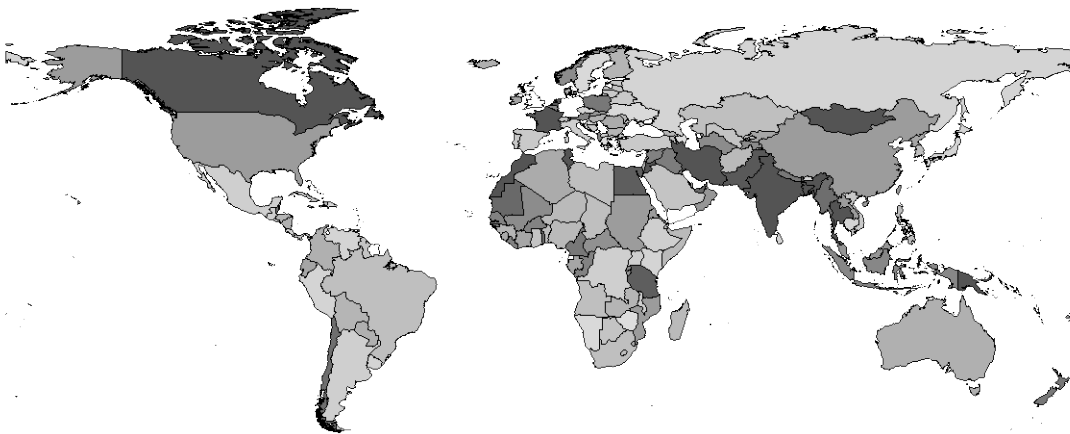
Association & Assembly

Religion

Expression

Movement

D. Frequecy of Countries Appearing in the Matched Samples

Political Parties

Unionization & Strike
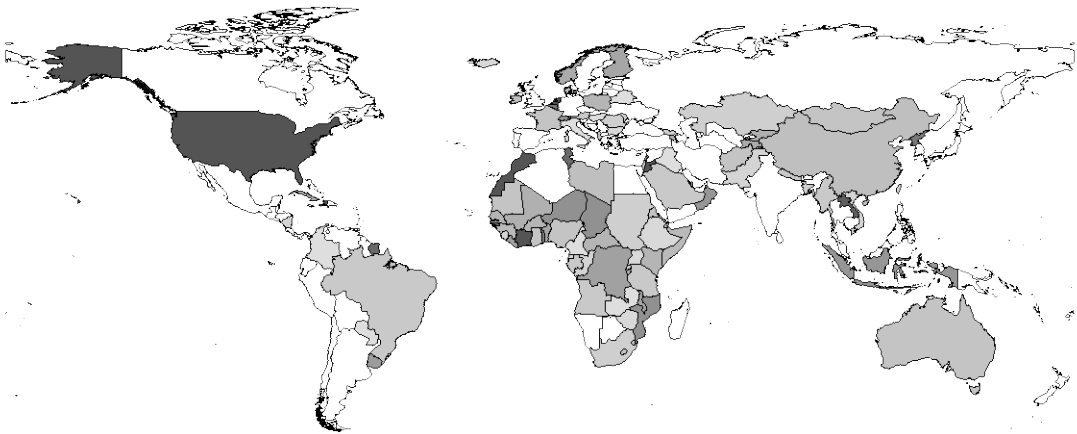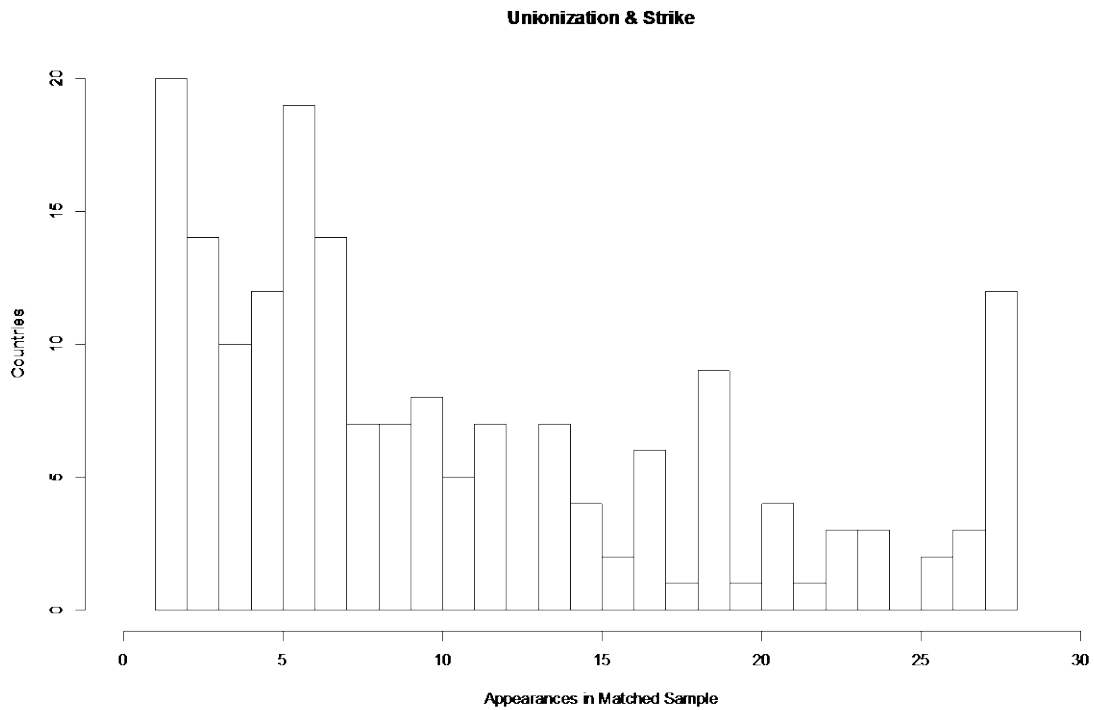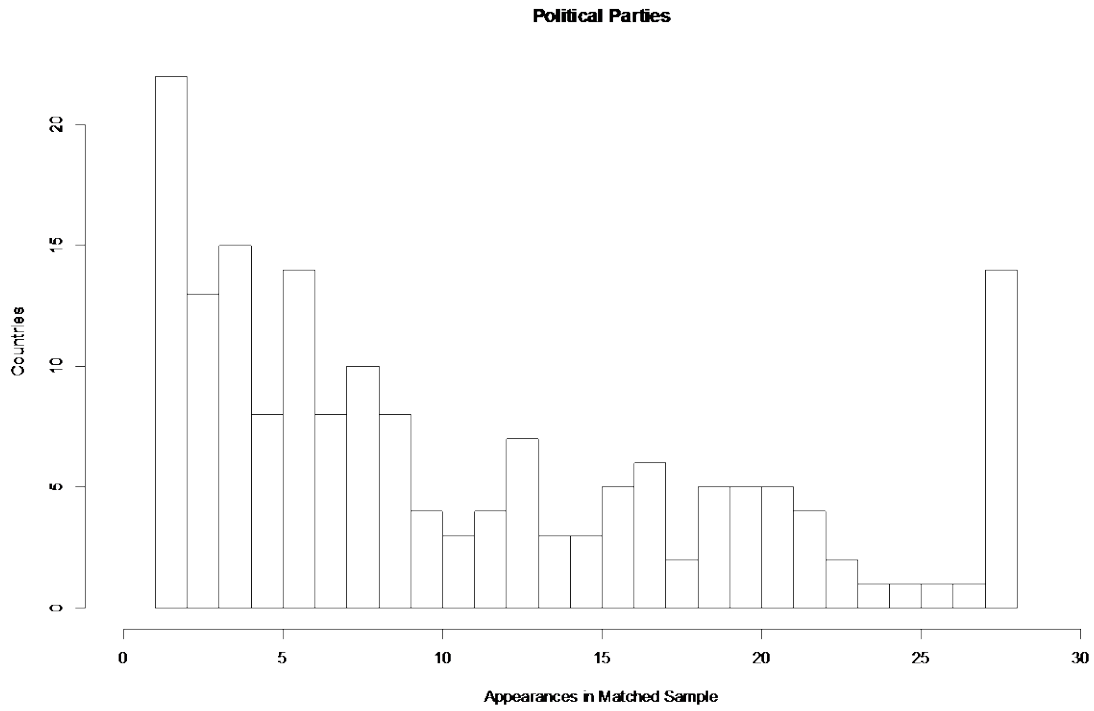
Association & Assembly

Religion

Expression

Countries (y-axis) vs Appearances in Matched Sample (x-axis)

Movement

Countries (y-axis) vs Appearances in Matched Sample (x-axis)
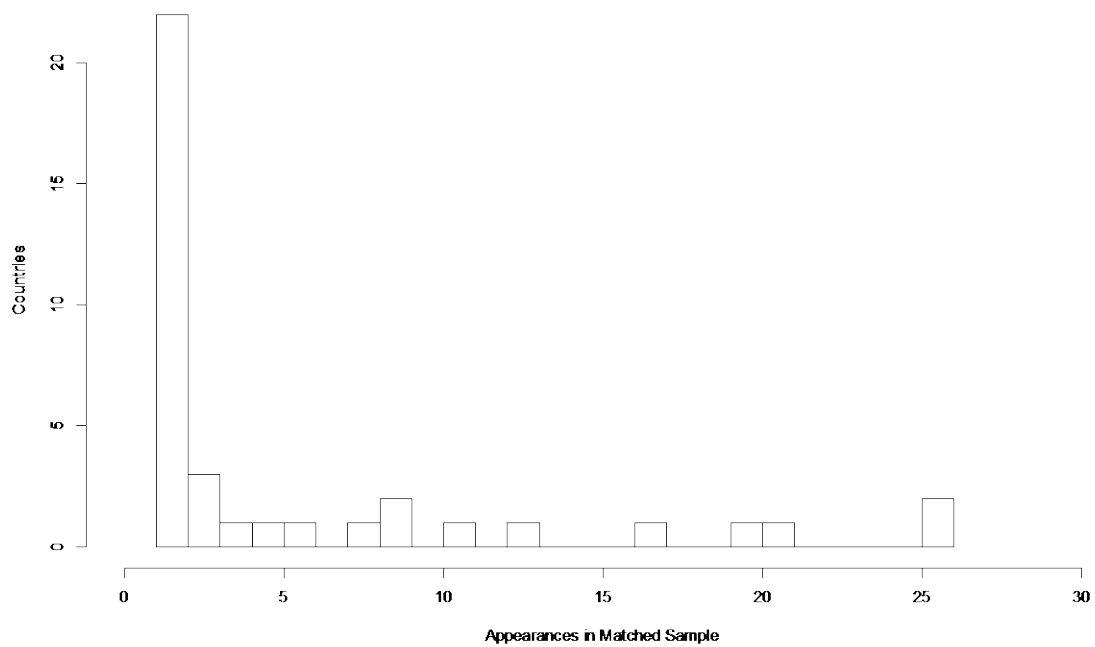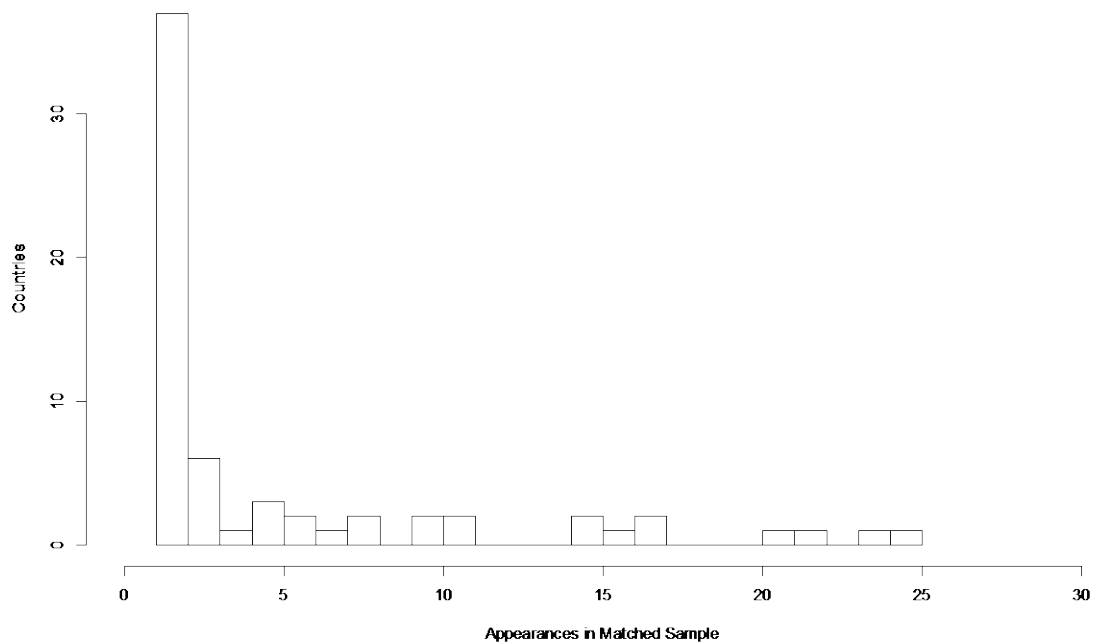
4. Matching Without the Lagged Dependent Variable

This Part presents information on a matched sample that did not include lagged dependent variables in the matching procedure (all other independent variables discussed in Part 3.3.2 of the paper were included in the matching procedure though). This information is divided into three sections: (A) provides the matching results for each of the six rights; (B) provides information on the number of countries in the treatment and control groups of the matched samples; and (C) presents regression results using this sample.

A. Matching Results

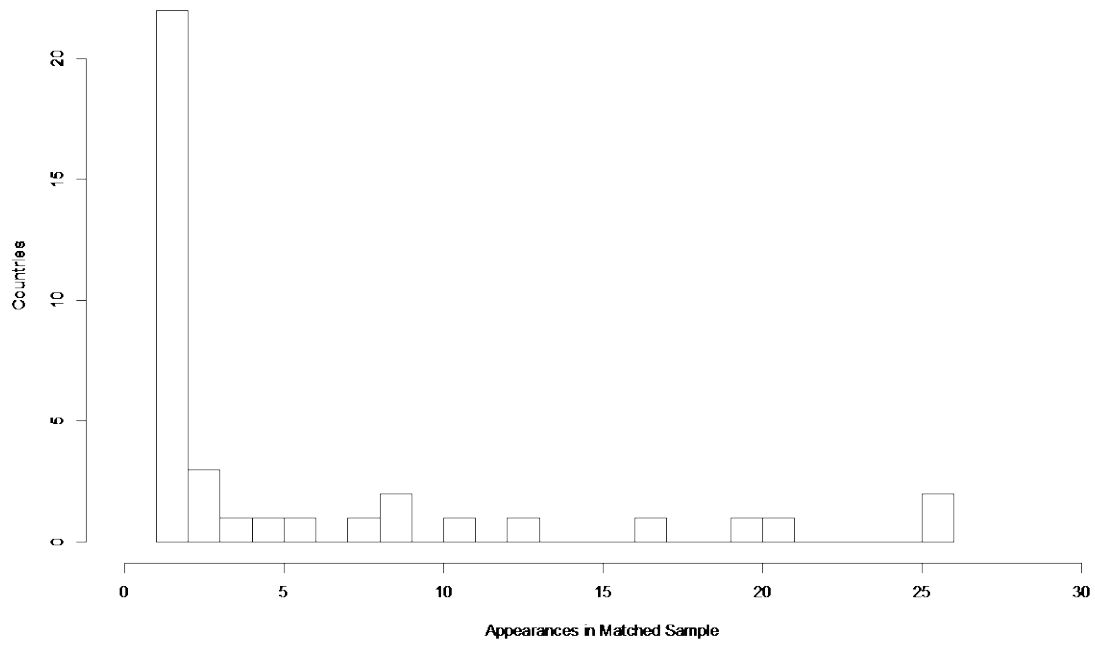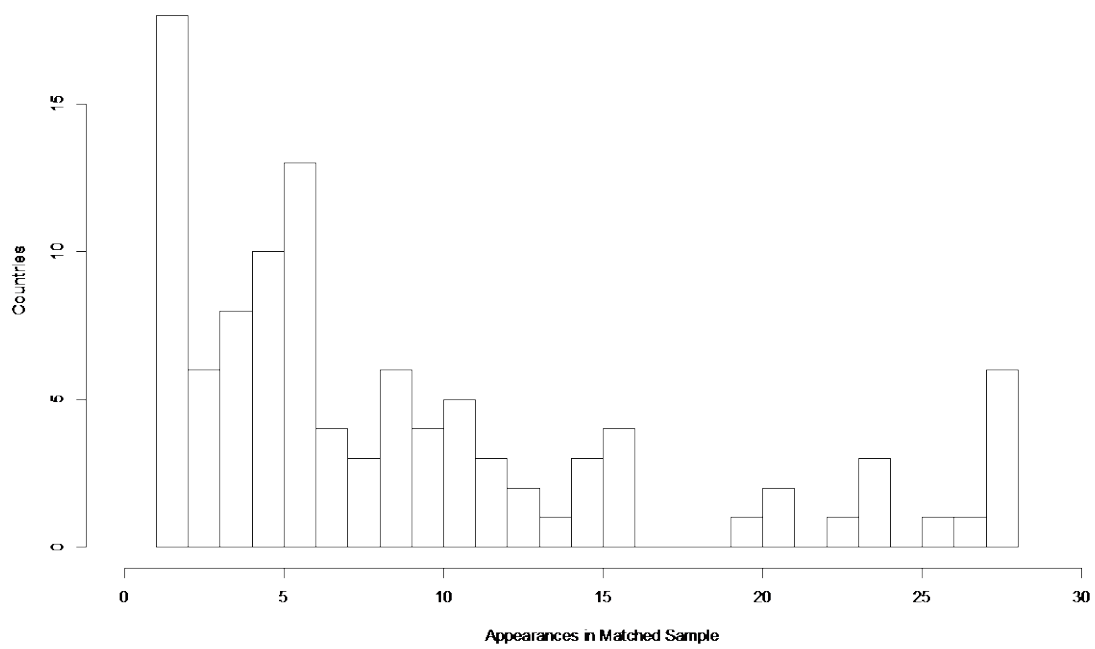|	Political Parties		Unionize & Strike		Association & Assembly	
	Full	Matched	Full	Matched	Full	Matched
Sample Size	4,064	1,908	4,060	1,908	4,057	242
Treatment Units	2,347	954	2,690	954	3752	121
Control Units	1,717	954	1,370	954	305	121
Mean Distance – Treatment Group	0.739	0.552	0.751	0.635	0.972	0.742
Mean Distance – Control Group	0.357	0.471	0.489	0.574	0.350	0.684
Improvement in Balance	78.62%		76.89%		90.71%	
	Religion		Expression		Movement	
	Full	Matched	Full	Matched	Full	Matched
Sample Size	4,540	348	4,064	210	4,591	952
Treatment Units	4,308	174	3,798	105	3,701	476
Control Units	232	174	266	105	890	476
Mean Distance – Treatment Group	0.964	0.852	0.975	0.822	0.895	0.669
Mean Distance – Control Group	0.670	0.816	0.357	0.776	0.437	0.620
Improvement in Balance	87.85%		92.56%		89.27%	

B. Number of Countries

	Political Parties	Unionize & Strike	Association & Assembly	Religion	Expression	Movement
Control	105	81	20	14	15	56
Treated	111	129	34	59	26	58
Overall	175	182	53	71	40	97

C. Regression Results

	(1) Political Parties	(2) Unionize & Strike	(3) Association & Assembly	(4) Religion	(5) Expression	(6) Movement
Treatment	0.323**	0.470***	3.053**	0.421	-0.054	-0.137
	(0.157)	(0.124)	(1.219)	(0.304)	(0.541)	(0.229)
Probability of Right	-0.049	-0.122	0.826	-0.099	0.197	-0.040
	(0.229)	(0.163)	(0.769)	(0.481)	(0.631)	(0.261)
Polity	0.183***	0.080***	0.264**	-0.002	0.103**	0.058**
	(0.016)	(0.013)	(0.107)	(0.032)	(0.049)	(0.025)
GDP per capita (ln)	0.101*	-0.036	-0.583*	-0.022	0.251	-0.081
	(0.057)	(0.052)	(0.319)	(0.135)	(0.181)	(0.099)
Population size (ln)	-0.013	-0.063**	0.184	0.106	0.096	-0.193***
	(0.043)	(0.031)	(0.208)	(0.087)	(0.123)	(0.060)
Interstate war	0.662	-0.498	68.710**	1.109	2.121*	-0.578
	(0.472)	(0.383)	(33.150)	(1.429)	(1.152)	(0.614)
Civil war	-0.490*	-0.287	-1.856***	0.768	-0.057	0.080
	(0.281)	(0.240)	(0.574)	(0.618)	(0.477)	(0.409)
Judicial independence	0.350***	0.429***	3.024**	0.470	0.473	0.440**
	(0.114)	(0.103)	(1.209)	(0.338)	(0.295)	(0.194)
Rights $_{t-1}$	1.610***	2.141***	5.604***	1.846***	2.331***	3.322***
	(0.113)	(0.142)	(0.822)	(0.329)	(0.443)	(0.320)
Rights $_{t-2}$	0.689***	1.129***	-0.309	1.615***	1.157***	0.924***
	(0.124)	(0.136)	(0.911)	(0.306)	(0.392)	(0.245)
Observations	1,908	1,908	242	348	210	952

- All models included year fixed effects.
- Robust standard errors clustered on country in parenthesis.
- * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$.

5. Country Random Effects Model

This Part presents the results from the random effects model that is discussed in section 5.1 in the main body of the paper.

	(1) Political Parties	(2) Unionize & Strike	(3) Association & Assembly	(4) Religion	(5) Expression	(6) Movement
Treatment	0.589**	1.356***	4.991**	-0.698	1.951	0.958
	(0.294)	(0.323)	(2.101)	(1.141)	(1.486)	(1.106)
Probability of Right	0.586	0.873	6.257**	-2.036**	0.545	-2.145*
	(0.465)	(0.580)	(3.156)	(1.012)	(0.979)	(1.172)
Polity	0.352***	0.144***	0.366***	0.248***	0.355***	0.175***
	(0.028)	(0.034)	(0.087)	(0.070)	(0.112)	(0.045)
GDP per capita (ln)	0.362***	0.114	-0.099	-0.008	1.579***	0.177
	(0.128)	(0.137)	(0.491)	(0.313)	(0.579)	(0.228)
Population size (ln)	-0.182*	-0.290***	0.032	-0.309	-0.126	-0.462***
	(0.098)	(0.090)	(0.600)	(0.235)	(0.403)	(0.169)
Interstate war	1.078	0.154	-3.527	0.561	10.84	-0.770
	(1.073)	(0.803)	(3.550)	(1.522)	(21.97)	(0.728)
Civil war	-0.698**	0.036	-3.859	0.432	0.607	-0.680
	(0.355)	(0.415)	(3.097)	(0.798)	(0.808)	(0.728)
Judicial independence	0.615***	0.460**	3.415***	0.678*	0.205	0.680
	(0.180)	(0.191)	(0.917)	(0.376)	(0.427)	(0.421)
Observations	1,910	1,940	248	330	210	968
# of Countries	174	181	54	65	38	105

- All models included country random effects and year fixed effects.
- Robust standard errors clustered on country in parenthesis.
- $* p < 0.10, ** p < 0.05, *** p < 0.01$.

6. Matching on Constitutional Preferences Only

This Part presents additional information on the matched samples used in the robustness analysis presented in section 5.2 of the paper. This Part specifically provides additional information on the samples that are matched on constitutional preferences only (see Table 4.B). This information is divided into three sections: (A) provides the matching results for each of the six rights; (B) provides information on the number of countries in the treatment and control groups of the matched samples; and (C) presents the full regression output that is summarized in Table 4.B in the main body of the paper.

A. Matching Results

	Political Parties		Unionize & Strike		Association & Assembly	
	Full	Matched	Full	Matched	Full	Matched
Sample Size	4,064	2,092	4,060	1,828	4,057	228
Treatment Units	2,347	1,046	2,690	914	3752	114
Control Units	1,717	1,046	1,370	914	305	114
Mean Distance – Treatment Group	0.719	0.528	0.745	0.612	0.970	0.786
Mean Distance – Control Group	0.384	0.476	0.502	0.585	0.367	0.767
Improvement in Balance	84.74%		89.13%		96.89%	
	Religion		Expression		Movement	
	Full	Matched	Full	Matched	Full	Matched
Sample Size	4,540	382	4,064	210	4,591	912
Treatment Units	4,308	191	3,798	105	3,701	456
Control Units	232	191	266	105	890	456
Mean Distance – Treatment Group	0.962	0.795	0.974	0.802	0.893	0.660
Mean Distance – Control Group	0.714	0.797	0.372	0.790	0.443	0.634
Improvement in Balance	99.10%		97.92%		94.25%	

B. Number of Countries Represented in the Matched Samples

	Political Parties	Unionize & Strike	Association & Assembly	Religion	Expression	Movement
Control	108	77	15	14	16	57
Treated	64	66	57	82	59	91
Overall	149	134	71	93	74	136

C. Regression Results

	(1) Political Parties	(2) Unionize & Strike	(3) Association & Assembly	(4) Religion	(5) Expression	(6) Movement
Treatment	0.413***	0.315**	0.887	0.490	0.233	-0.131
	(0.146)	(0.133)	(0.710)	(0.410)	(0.447)	(0.259)
Probability of Right	0.058	-0.185	0.101	-0.189	0.258	-0.160
	(0.210)	(0.182)	(0.644)	(0.627)	(0.569)	(0.304)
Polity	0.182***	0.084***	0.183***	0.038	0.128***	0.053*
	(0.017)	(0.014)	(0.061)	(0.030)	(0.045)	(0.030)
GDP per capita (ln)	0.082	-0.012	-0.171	-0.146	0.295**	-0.043
	(0.050)	(0.057)	(0.233)	(0.116)	(0.143)	(0.107)
Population size (ln)	0.007	-0.041	-0.185	-0.103	0.053	-0.179***
	(0.040)	(0.038)	(0.177)	(0.133)	(0.153)	(0.063)
Interstate war	0.060	-0.194	-2.437	0.758	-0.159	-0.526
	(0.350)	(0.403)	(2.059)	(1.345)	(5.149)	(0.797)
Civil war	-0.520**	-0.333	-1.609*	0.276	-0.621	0.337
	(0.213)	(0.259)	(0.893)	(0.710)	(0.441)	(0.352)
Judicial independence	0.305***	0.331***	0.995*	0.643*	0.190	0.559***
	(0.099)	(0.111)	(0.537)	(0.374)	(0.347)	(0.183)
Rights $_{t-1}$	1.662***	2.108***	3.590***	1.149***	1.727***	3.879***
	(0.129)	(0.137)	(0.557)	(0.231)	(0.343)	(0.428)
Rights $_{t-2}$	0.760***	1.041***	0.493	0.490	1.055***	0.718**
	(0.125)	(0.136)	(0.665)	(0.410)	(0.377)	(0.333)
Observations	2,092	1,828	228	382	210	912

- All models included year fixed effects.
- Robust standard errors clustered on country in parenthesis.
- * p < 0.10, ** p <0.05, *** p < 0.01.

7. Matching on Standard Observable Variables Only

This Part presents additional information on the matched samples used in the robustness analysis presented in section 5.2 of the paper. This Part specifically provides additional information on the samples that are matched on standard observable variables only (see Table 4.C). This information is divided into three sections: (A) provides the matching results for each of the six rights; (B) provides information on the number of countries in the treatment and control groups of the matched samples; and (C) presents the full regression output that is summarized in Table 4.C in the main body of the paper.

A. Matching Results

	Political Parties		Unionize & Strike		Association & Assembly	
	Full	Matched	Full	Matched	Full	Matched
Sample Size	4,064	3,064	4,060	2,664	4,057	610
Treatment Units	2,347	1,532	2,690	1,334	3752	305
Control Units	1,717	1,532	1,370	1,334	305	305
Mean Distance – Treatment Group	0.650	0.604	0.693	0.679	0.930	0.900
Mean Distance – Control Group	0.478	0.516	0.603	0.613	0.865	0.865
Improvement in Balance	49.02%		26.88%		44.90%	
	Religion		Expression		Movement	
	Full	Matched	Full	Matched	Full	Matched
Sample Size	4,540	434	4,064	526	4,591	1,780
Treatment Units	4,308	217	3,798	263	3,701	890
Control Units	232	217	266	263	890	890
Mean Distance – Treatment Group	0.956	0.86	0.939	0.901	0.818	0.803
Mean Distance – Control Group	0.817	0.842	0.866	0.870	0.756	0.756
Improvement in Balance	75.67%		57.36%		23.91%	

B. Number of Countries Represented in the Matched Samples

	Political Parties	Unionize & Strike	Association & Assembly	Religion	Expression	Movement
Control	108	81	20	14	19	59
Treated	120	132	120	104	125	156
Overall	182	183	133	111	134	182

C. Regression Results

|	(1) Political Parties	(2) Unionize & Strike	(3) Association & Assembly	(4) Religion	(5) Expression	(6) Movement
Treatment	0.280**	0.226*	-0.321	2.022***	0.193	0.050
	(0.140)	(0.127)	(0.563)	(0.345)	(0.287)	(0.249)
Probability of Right	0.082	0.087	1.088	-1.720***	0.566	0.178
	(0.184)	(0.155)	(0.701)	(0.427)	(0.433)	(0.314)
Polity	0.159***	0.079***	0.084***	0.065***	0.131***	0.076***
	(0.018)	(0.013)	(0.029)	(0.024)	(0.035)	(0.019)
GDP per capita (ln)	0.160***	0.038	0.057	-0.285***	0.114	-0.049
	(0.041)	(0.040)	(0.109)	(0.076)	(0.084)	(0.070)
Population size (ln)	-0.026	-0.067**	-0.117	-0.292***	0.002	-0.110**
	(0.039)	(0.032)	(0.100)	(0.083)	(0.088)	(0.051)
Interstate war	0.556	-0.578	-0.360	0.352	-0.065	-0.114
	(0.381)	(0.420)	(0.777)	(0.627)	(0.927)	(0.318)
Civil war	-0.607***	-0.410**	0.527	0.006	0.137	-0.449*
	(0.228)	(0.190)	(0.687)	(0.498)	(0.383)	(0.266)
Judicial independence	0.280***	0.368***	0.361	0.560***	0.430**	0.362***
	(0.090)	(0.096)	(0.280)	(0.198)	(0.179)	(0.138)
Rights $_{t-1}$	1.649***	2.243***	3.218***	0.926***	1.617***	3.497***
	(0.120)	(0.130)	(0.374)	(0.262)	(0.221)	(0.242)
Rights $_{t-2}$	0.790***	1.194***	0.888**	2.022***	1.129***	0.933***
	(0.120)	(0.119)	(0.372)	(0.345)	(0.225)	(0.173)
Observations	3,116	2,700	610	464	532	1,780

- All models included year fixed effects.
- Robust standard errors clustered on country in parenthesis.
- * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$.

8. Alternative Matching Methods

This Part presents the results from using alternative matching methods discussed in section 5.2 in the main body of the paper. This information is divided into two sections: (A) provides the regression results from using Mahalanobis matching; (B) presents the results from using calipers of 0.25, 0.5, 0.75, and 1.0 in the matching procedure.

A. Mahalanobss Matching

	(1) Political Parties	(2) Unionize & Strike	(3) Association & Assembly	(4) Religion	(5) Expression	(6) Movement
Treatment	0.279**	0.213*	0.067	2.079	-0.063	-0.271
	(0.138)	(0.124)	(0.524)	(1.474)	(0.350)	(0.246)
Probability of Right	-0.077	0.003	1.197*	-1.541**	0.568	0.184
	(0.187)	(0.166)	(0.696)	(0.637)	(0.434)	(0.309)
Polity	0.173***	0.068***	0.107***	0.070**	0.102***	0.070***
	(0.018)	(0.012)	(0.034)	(0.031)	(0.031)	(0.020)
GDP per capita (ln)	0.072*	0.042	0.034	0.000	0.112	-0.089
	(0.04`)	(0.040)	(0.109)	(0.144)	(0.080)	(0.073)
Population size (ln)	-0.039	-0.052	-0.061	-0.235	0.062	-0.069
	(0.036)	(0.032)	(0.105)	(0.175)	(0.086)	(0.043)
Interstate war	0.552	-0.870***	-0.216	-1.660	-0.985	-0.170
	(0.445)	(0.322)	(0.763)	(1.539)	(1.232)	(0.341)
Civil war	-0.628***	-0.143	-0.907	-0.200	0.245	-0.187
	(0.221)	(0.212)	(0.713)	(1.178)	(0.449)	(0.248)
Judicial independence	0.283***	0.298***	0.201	0.443*	0.590***	0.249*
	(0.083)	(0.102)	(0.272)	(0.259)	(0.213)	(0.145)
Rights $_{t-1}$	1.786***	2.277***	3.033***	1.108***	1.749***	3.297***
	(0.105)	(0.114)	(0.340)	(0.296)	(0.205)	(0.229)
Rights $_{t-2}$	0.749***	1.350***	0.917**	2.079	0.873***	1.115***
	(0.111)	(0.111)	(0.360)	(1.474)	(0.233)	(0.201)
Observations	3,434	2,740	610	464	532	1,780

- All models included year fixed effects.
- Robust standard errors clustered on country in parenthesis.
- * p < 0.10, ** p <0.05, *** p < 0.01.

B. Alternative Calipers

	(1) Political Parties	(2) Unionize & Strike	(3) Association & Assembly	(4) Religion	(5) Expression	(6) Movement
(A) Caliper = 0.25						
Treatment	0.382**	0.406***	0.981*	0.764**	0.780*	0.024
	(0.163)	(0.133)	(0.530)	(0.352)	(0.435)	(0.248)
N	1,716	1,818	244	310	206	900
(B) Caliper = 0.50						
Treatment	0.376**	0.305**	2.447***	0.872**	0.764	-0.062
	(0.168)	(0.132)	(0.834)	(0.373)	(0.540)	(0.241)
N	1,910	1,940	248	330	210	968
(C) Caliper = 0.75						
Treatment	0.355**	0.400***	3.646***	0.921**	-0.112	-0.012
	(0.150)	(0.125)	(1.242)	(0.387)	(0.540)	(0.214)
N	2,232	2,060	248	338	212	1,048
(D) Caliper = 1.00						
Treatment	0.361**	0.369***	1.645	1.147***	0.755	-0.123
	(0.147)	(0.123)	(1.054)	(0.354)	(0.548)	(0.225)
N	2,550	2,214	250	346	216	1,092

- All Models include controls for: Polity; GDP per capita (ln); Population size (ln); Interstate war; Civil war; Judicial independence; $Rights_{t-1}$; $Rights_{t-2}$.
- All models included year fixed effects.
- Robust standard errors clustered on country in parenthesis.
- * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$.

9. Using Sampling to Test the effect of Smaller Samples

This Part graphically shows the regression coefficients for the 1,000 reduced samples for the right to establish political parties and the right to unionize, as discussed in section 5.2 of the paper. To produce these results, we first took the matched samples for the right to form political parties and the right to unionize that the primary models used in the paper were based on (these are discussed in section 3.3.2). From those matched samples, we randomly selected 484 control observations and 484 treatment observations. This is the number of observations in our sample for the right to movement. We then ran our standard regression model—which included all the covariates, year-fixed effects, two years of the lagged dependent variables, and clustered standard errors by country—and recorded the coefficient for the treatment variable. A function was written to perform this task 1,000 times. The Figure below is a density plot that graphically depicts the coefficients produced by these simulations.
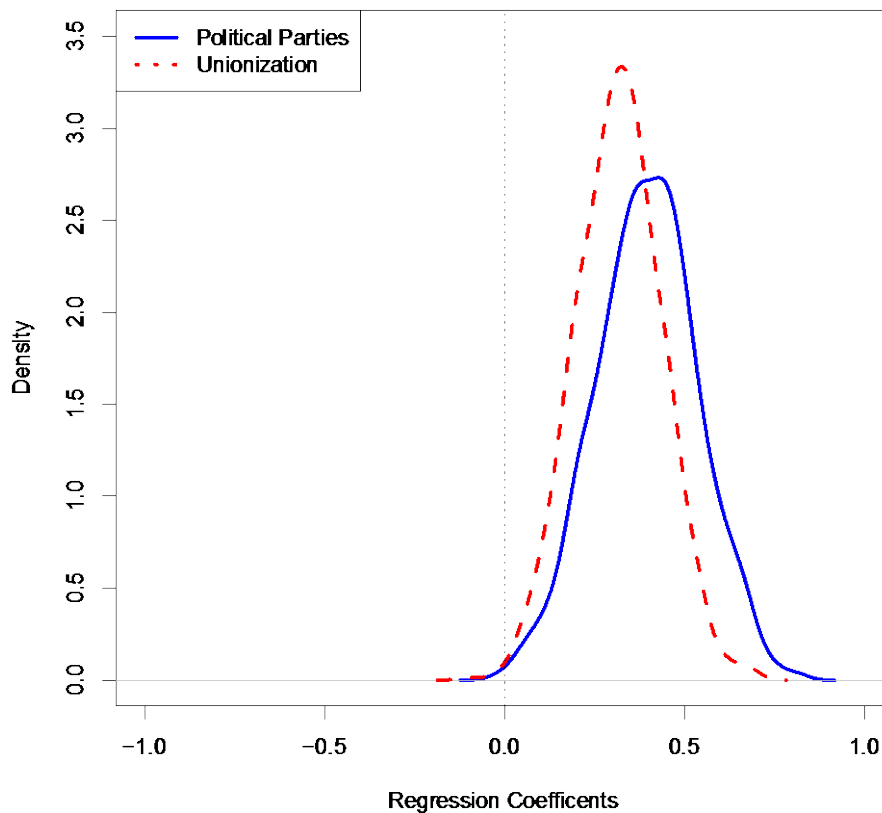
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