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# THE DYNAMIC IMPACT OF PERIODIC REVIEW ON WOMEN'S RIGHTS\*

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## ABSTRACT

Human rights treaty bodies have been frequently criticized as useless and the regime's self-reporting procedure widely viewed as a whitewash. Yet very little research explores what, if any, influence this periodic review process has on governments' implementation of and compliance with treaty obligations. We argue oversight committees may play an important role in improving rights on the ground by providing information for international and primarily domestic audiences. This paper examines the cumulative effects on women's rights of self-reporting and oversight review, using original data on the history of state reporting to and review by the Committee on the Elimination of Discrimination against Women (CmEDAW). Using a dynamic approach to study the effects of the periodic review process, we find that self-reporting has a significant positive effect on women's rights. We explore three clusters of evidence for the domestic mobilization mechanism: information provision through domestic civil society organizations; publicity and critique through the domestic media; and parliamentary attention, debate, and implementation of recommendations. This is the first study to present positive evidence on the effects of self-reporting on rights and to describe the mechanisms that link Geneva bodies with local politics. Our findings challenge the received wisdom that the process of reporting to these treaty bodies is basically useless.

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## I. Introduction

A large scholarly literature seeks to explain why states voluntarily commit themselves to legal regimes designed to monitor implementation of international human rights standards.<sup>1</sup> Dozens of human rights treaties have been promulgated over the past six decades and some have gained near-universal adherence. Yet the consequences of these international commitments for human rights practices are hotly contested. Some argue that international law has contributed very little to improving rights.<sup>2</sup> Others claim that international human rights law has failed to help the people who need it the most.<sup>3</sup> Many allege that United Nations (UN) enforcement has been an utter failure, and that UN treaty bodies constitute a bloated yet toothless bureaucracy that is unable to contribute much to rights protections.

It is time to bring evidence to bear on this debate about the value of UN oversight of international human rights law. Studies on the effects of treaty ratification are now plentiful. But none of these examine systematically one of the main consequences of human rights treaty ratification: the obligatory self-reporting process.<sup>4</sup> All major UN human rights treaties have established bodies of experts to oversee treaty implementation. States parties are obligated to *self-report* to these bodies of putative experts. Critics uniformly point out that these bodies cannot enforce their recommendations. This is true. However, we contend that it does not follow that they are *useless* or without effect.

Why might we expect self-reporting to influence rights outcomes? We posit at least three possible channels of influence that do not involve traditional notions of external enforcement.<sup>5</sup> Critically, reporting to treaty monitoring bodies initiates a dialogue with international experts that can have important consequences. This dialogue can contribute to socialization of domestic elites and bureaucrats responsible for human rights practices. It may also set in motion domestic bureaucratic routines to gather, authenticate, and analyze information that might not have occurred in the absence of the obligation to report. It is even possible that reporting helps to develop an autonomous capacity to self-monitor and self-enforce.<sup>6</sup>

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<sup>1</sup> Oona A Hathaway, *The Cost of Commitment*, 55 STANFORD LAW REVIEW (2003); BETH A. SIMMONS, *MOBILIZING FOR HUMAN RIGHTS : INTERNATIONAL LAW IN DOMESTIC POLITICS* (Cambridge University Press. 2009).

<sup>2</sup> ERIC A POSNER, *THE TWILIGHT OF HUMAN RIGHTS LAW* (Oxford University Press. 2014).

<sup>3</sup> Emilie Hafner-Burton, *Making human rights a reality* (Princeton University Press 2013).

<sup>4</sup> There are a small number of case study reports on the influence of reporting to various treaty bodies, but to date they have been few in number, limited in geographic scope, and generally inconclusive about the connection between reporting and rights outcomes Ronagh McQuigg, *How Effective is the United Nations Committee Against Torture?*, 22 EUROPEAN JOURNAL OF INTERNATIONAL LAW (2011); The first CEDAW impact study. (2000).

<sup>5</sup> As many have noted, enforcement mechanisms in the human rights context are likely to be indirect, and work through non-governmental actors, transnational organizations, information mechanisms, and domestic institutions Geoff Dancy & Kathryn Sikkink, *Ratification and Human Rights Prosecutions: Toward a Transnational Theory of Treaty Compliance*, 44 NYU JOURNAL OF INTERNATIONAL LAW AND POLITICS 751(2011-2012); Xinyuan Dai, *The Conditional Effects of International Human Rights Institutions*, 36 HUMAN RIGHTS QUARTERLY 569(2014); Susanne Zwingel, *How Do Norms Travel? Theorizing International Women's Rights in Transnational Perspective I*, 56 INTERNATIONAL STUDIES QUARTERLY (2012).

<sup>6</sup> Specialized agencies and INGOs often assist governments who may need technical or data help in reporting to the CEDAW, contributing to improved capacity to collect and report data. See for example World Health Organization WHO, *Women's health and human rights: Monitoring the implementation of CEDAW*, (2007). at 4.

While we recognize that self-reporting may impact rights outcomes through these two pathways, in this article we focus on how self-reporting and external review provides information and a process for domestic audiences and an opportunity to mobilize around issues of concern.<sup>7</sup> We argue it is thus useful to recast self-reporting not simply as a procedural obligation that supports traditional external enforcement, but as an opportunity for a variety of *domestic audiences* to hold their governments accountable to their international human rights commitments.

We use the case of women's rights to assess the value of self-reporting and the discussion it stimulates. Each state party is obligated under the Convention on the Elimination of Discrimination against Women (CEDAW) to turn in periodic reports on the status of their implementation for review by the Committee for the Elimination of Discrimination against Women (CmEDAW). Non-state actors are also active in this process; they turn in "shadow reports" that give additional information on implementation issues to the CmEDAW. The Committee responds to the reports it receives, and provides guidance and recommendations on next steps. Governments are asked—indeed encouraged and obligated—to respond to these questions and recommendations. In this way treaty ratification initiates an iterative and ongoing "constructive dialogue" between a government and the international human rights regime about progress (or lack thereof) on treaty implementation.

Plenty of states have ratified CEDAW, but they have quite heterogeneous laws and traditions in place,<sup>8</sup> making women's rights a fertile case for the influence of external review. Several studies conclude that ratification of CEDAW is, in fact, associated with improved outcomes for a range of women's rights,<sup>9</sup> although many are careful to note that positive effects are highly conditional.<sup>10</sup> None of this research examines the effects of self-reporting. Women's rights organizations clearly use the treaty to focus their demands for specific policies<sup>11</sup> and to bolster legal cases.<sup>12</sup> The CEDAW is therefore a case in which the domestic political reverberations of state-to-expert dialogue is plausible. Our goal in this paper is to shed light on whether and how the legal obligation to self-report influences human rights outcomes for women on the ground.

Part II summarizes the treaty-based periodic review process and the claims made about this system's (un)importance. Drawing from original dataset, this article then describes patterns in the frequency and quality of states' reporting under CEDAW, and presents evidence that poor

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<sup>7</sup> Xinyuan Dai, *Why Comply? The Domestic Constituency Mechanism*, 59 INTERNATIONAL ORGANIZATION (2005)..

<sup>8</sup> Judith Resnik, *Comparative (in)equalities: CEDAW, the jurisdiction of gender, and the heterogeneity of transnational law production*, 10 INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW (2012).

<sup>9</sup> Daniel W. Jr. Hill, *Estimating the Effects of Human Rights Treaties on State Behavior*, 72 THE JOURNAL OF POLITICS (2010); Yonatan Lupu, *The informative power of treaty commitment: using the spatial model to address selection effects*, 57 AMERICAN JOURNAL OF POLITICAL SCIENCE (2013); Mark M. Gray, et al., *Women and Globalization: A Study of 180 Countries, 1975–2000*, 60 INTERNATIONAL ORGANIZATION (2006).

<sup>10</sup> Seo-Young Cho, *International Women's Convention, Democracy, and Gender Equality*, 95 SOCIAL SCIENCE QUARTERLY (2014); Wade M. Cole, *Human Rights as Myth and Ceremony? Reevaluating the Effectiveness of Human Rights Treaties, 1981–2007*, 117 AMERICAN JOURNAL OF SOCIOLOGY (2012); SIMMONS. 2009. Kevin Cope & Cosette D. Creamer, "Disaggregating the Human Rights Treaty Regime," 56 VIRGINAL JOURNAL OF INTERNATIONAL LAW 459 (2017).

<sup>11</sup> S. Laurel Weldon & Mala Htun, *Feminist mobilisation and progressive policy change: why governments take action to combat violence against women*, 21 GENDER & DEVELOPMENT (2013).

<sup>12</sup> Recognizing Right, Promoting Progress: The Global Impact of the Convention of [sic] the Elimination of All Forms of Discrimination against Women. (2010).

reporting is more consistent with lack of state capacity than with a disregard for women's rights. Part III theorizes one primary channel through which we suggest reporting influences women's rights practices: via domestic political awareness and mobilization. Part IV presents systematic evidence on the likely effect of reporting and engagement with the CmEDAW on women's rights, while Part V presents evidence supporting a domestic mobilization mechanism in Latin America. We show that the causal consequences of self-reporting are reflected in three specific behavioral outcomes: the mobilization of domestic women's organizations that participate in the reporting process; coverage of the CmEDAW reporting process in the local media; and evidence of legislative action connected with the self-reporting and review process. In short, evidence of civil society *mobilization*, media *information* and legislative *attention* plausibly link the reporting process with better outcomes for women's rights on average. Part VI concludes. We emphasize that the history of interaction—multiple presentations, Committee responses and evaluation, follow up discussions—contribute to measurable if modest improvements in women's rights. These results are the first to show systematically that self-reporting likely has positive consequences. The results suggest that the international community should not think of self-reporting as a hard enforcement mechanism, but rather as an opportunity for domestic stakeholders to mold their own futures in the shadow of international law.

## II. State Reporting on Women's Rights

### *Historical context*

Public international law has long been recognized as a highly decentralized system that treads a delicate line between voluntary participation and enforceable obligations. The more stringent the demands made on states, it has long been feared, the less willing they will be to obligate themselves to a legal agreement. While self-reporting requirements have been fairly common in a range of modern treaties, they only developed gradually in the realm of international human rights law. Early efforts to encourage reporting on the implementation of international human rights norms were largely reflected in hortatory resolutions "requesting" information, emanating from the General Assembly and the Economic and Social Council (ECOSOC) of the United Nations. As early as 1947, the General Assembly recommended that the Secretary-General request member states to report annually to ECOSOC, who would in turn report to the General Assembly on steps taken to give effect to "recommendations made by the General Assembly on matters falling within the Council's competence."<sup>13</sup> This resolution was intended to include the principles contained in the Universal Declaration of Human Rights (UDHR), which had no explicit provisions for implementation. Perhaps unsurprisingly, few states responded to such a general exhortation. ECOSOC thus postponed systematic review and instead perused the few reports it received on an *ad hoc* basis. Five years later, the submission of official state reports remained a rarity, and so the Council decided to discontinue the system of self-reporting entirely.<sup>14</sup>

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<sup>13</sup> UNGA Resolution 119 (11) "Implementation of recommendations on economic and social matters." Available at [file:///C:/Users/BethSimmons/Dropbox/State%20Reporting%20Data/Self-reporting%20documents/UNGA%20Res%20119%20\(1947\).html](file:///C:/Users/BethSimmons/Dropbox/State%20Reporting%20Data/Self-reporting%20documents/UNGA%20Res%20119%20(1947).html).

<sup>14</sup> Early efforts to set up a self-reporting system are discussed in John Humphrey, *Report of the Rapporteur of the International Committee on Human Rights*, in REPORT OF THE FIFTY-THIRD CONFERENCE [OF THE INTERNATIONAL LAW ASSOCIATION] HELD AT BUENOS AIRES, ARGENTINA, AUGUST 1968 (1969). At 439.

The first resolution calling for systematic state self-reporting on human rights was passed by the ECOSOC in 1956.<sup>15</sup> This resolution requested UN members to transmit reports to the Secretary General every three years, describing ways in which they were implementing principles of the UDHR. John Humphrey, then serving as Rapporteur of the International Committee on Human Rights, would later report that 41 states responded as requested in the first round of reporting, and 67 responded in the second round (1957-1959). But Cold War rhetoric and a “perfunctory” review by the Human Rights Commission rendered the exercise ineffective.<sup>16</sup> Self-reporting received a boost six years later, when non-governmental organizations with consultative status in the ECOSOC were invited to submit their views and observations to the Council. As the ECOSOC resolution put it, “to meet the objectives set by the Commission...and to promote respect for and observance of human rights and fundamental freedoms, a greater number of reports are required and more information should be given therein concerning the problems or difficulties which have been or may be encountered;...”<sup>17</sup> The system of “shadow reporting” by civil society organizations was thereby created.

The problem remained state and institutional cooperation. In 1965, ECOSOC invited states to participate in a three-year cycle of reporting on specific rights areas, including civil and political rights, economic and social rights, and freedom of information.<sup>18</sup> This process routed state reports through the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, which generally failed to read them – an outcome John Humphrey referred to as “a political victory won by governments who do not favour the international enforcement of human rights.”<sup>19</sup> And yet, rights advocates knew they were not in a position to do much more than request state information. Despite his frustrations, Humphreys concluded that “Of the various techniques, reporting is the one with which the international community has had the most and probably the most successful experience.... In a situation where, as today, governments seem to be unwilling to vest international supervisory bodies with adequate powers to deal with complaints, reporting may indeed, even for these rights, be the most practical means of implementation.”<sup>20</sup>

Self-reporting as part of a consent-based treaty obligation was another possible route to enhance implementation. This approach would build on an explicit legal commitment, and engage expert implementation committees rather than the politicized and government-composed bodies of the United Nations. However, the early treaties that dealt with women’s rights had practically no implementation provisions. The Convention on the Political Rights of Women (1952),<sup>21</sup> the Convention on the Nationality of Married Women (1957),<sup>22</sup> and the Convention on Consent to

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<sup>15</sup> ECOSOC Res. 624B (XXII) August 1, 1956. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/NR0766/28/IMG/NR076628.pdf?OpenElement> (p. 12).

<sup>16</sup> Humphrey. 1969.

<sup>17</sup> ECOSOC Res. 888B (XXXIV), July 24, 1962. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/NR0759/95/IMG/NR075995.pdf?OpenElement> (p. 21).

<sup>18</sup> ECOSOC Res. 1074C (XXXIX) July 28, 1965. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/NR0760/97/IMG/NR076097.pdf?OpenElement> (pp. 24-25).

<sup>19</sup> Humphrey. 1969.

<sup>20</sup> Id. at.: 438-39.

<sup>21</sup> Convention on the Political Rights of Women (1952) [cite]

<sup>22</sup> Convention on the Nationality of Married Women (1957) [cite]

Marriage (1962)<sup>23</sup> all contain interstate dispute settlement through the International Court of Justice—provisions that have proved practically irrelevant when it comes to women’s rights—but no reporting requirements.<sup>24</sup> In the fashion of the day, ECOSOC and the UNGA passed resolutions “requesting” and “recommending” states parties to report on implementation,<sup>25</sup> and in 1963 extended this request to all UN members.<sup>26</sup> The International Covenant on Civil and Political Rights<sup>27</sup> as well as the International Covenant on Economic, Social and Cultural Rights<sup>28</sup> were path-breaking in incorporating this requirement into the treaty text. But until the CEDAW, no treaty on women’s rights or issues contained an obligation for parties to self-report.<sup>29</sup>

Why were women’s rights treaties behind the reporting requirement curve? For several reasons that have been the subject of much feminist analysis,<sup>30</sup> women’s rights had for many years not been seen as central to the main body of human rights, broadly understood. The CEDAW was a turning point in this regard. Two important moments in history supported global attention to women’s rights. First and most importantly, the women’s movement was at its height between 1965 and 1985, which gave impetus to the elaboration of women’s rights in international law.<sup>31</sup> Secondly, détente was starting to overtake the Cold War freeze on the negotiation of new human rights treaties, and a reasonable degree of agreement existed between East and West on women’s rights.<sup>32</sup> In early 1967, the United Nation’s Commission on the Status of Women (CSW) began drafting a non-binding Declaration on the Elimination of Discrimination Against Women (DEDAW), which was adopted by the General Assembly in November of that year.<sup>33</sup> The

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<sup>23</sup> Convention on Consent to Marriage (1962) [cite]

<sup>24</sup> States parties are required under the Convention of the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1950 – not quite a human rights treaty, but considered at the time to deal with “women’s issues”) to communicate to the Secretary General of the UN the passage of laws relevant to the treaty (Article 21).

<sup>25</sup> Resolution 504 E (XVI) of 1953;

<sup>26</sup> Resolution 961 B (XXXVI) of 1963; UNGA res 2018 (XX) “The Recommendation on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages (1965)

<sup>27</sup> [ICCPR official cite]

<sup>28</sup> [ICESCR official cite]

<sup>29</sup> Note however that several ILO labor conventions aim to protect female workers from discrimination and do have a reporting requirement. The conventions include the Discrimination (Employment and Occupation) Convention, 1958 (No.111), Equal Remuneration Convention, 1951 (No.100), Workers with Family Responsibilities Convention, 1981 (No. 156) and the Maternity Protection Convention, 2000 (No. 183). The ILO constitution (Article 22) does mandate annual reports, to be examined by both a committee of experts and the International Labor Conference itself.

<sup>30</sup> See for example Hilary Charlesworth, et al., *Feminist Approaches to International-Law*, 85 AMERICAN JOURNAL OF INTERNATIONAL LAW (1991)..

<sup>31</sup> Jane Jenson, *Representation of Difference: The Varieties of French Feminism*, in MAPPING THE WOMEN'S MOVEMENT : FEMINIST POLITICS AND SOCIAL TRANSFORMATION IN THE NORTH (Mónica Threlfall ed. 1996);LEILA J. RUPP, *WORLDS OF WOMEN : THE MAKING OF AN INTERNATIONAL WOMEN'S MOVEMENT* (Princeton University Press. 1997);VALENTINE M. MOGHADAM, *GLOBALIZING WOMEN : TRANSNATIONAL FEMINIST NETWORKS* (Johns Hopkins University Press. 2005).. Women’s groups such as the Women’s International Democratic Federation urged ECOSOC that “Adoption of the single convention would place the States under the obligation to review existing legislation regarding women and indicate the shortcomings that exist in national legislation relative to the equality of women with men. It would thus enable the broad mobilization of public opinion around these problems.” ECOSOC, “Statement submitted by the Women’s International Democratic Federation, a non-governmental organization in consultative status with the economic and Social Council.” E/CN.6/NGO/254. January 11, 1974.

<sup>32</sup> LARS ADAM REHOF, *GUIDE TO THE TRAVAUX PRÉPARATOIRES OF THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN* (Kluwer Academic Publishers. 1993).

<sup>33</sup> Proclaimed by General Assembly Resolution 2263(XXII) of 7 November 1967.

ECOSOC and CSW worked on strategies for implementing the declaration over the next several years. In the hortatory tradition described above, one tactic was to ask states to submit reports on their implementation efforts voluntarily, but this request elicited very little cooperation.<sup>34</sup> By the mid-1970s the CSW was working on a draft of a comprehensive and legally binding instrument, and by 1976 began to garner the comments of governments and specialized agencies. The International Year of the Woman in was declared for 1975, and opened the Decade of the Woman from 1976 to 1985, which helped to focus global attention on women's issues. The CEDAW was thus the culmination of a series of multilateral negotiations on women's issues after World War II.

Self-reporting requirements were very much a part of the discussions of the Working Group that drafted the CEDAW. An early Soviet draft did not contain a reporting requirement, directing only that the ECOSOC consider periodically whether the convention was being implemented.<sup>35</sup> Early discussions revealed a willingness to include a reporting requirement, with most states considering the Convention on the Elimination of Racial Discrimination (CERD),<sup>36</sup> the International Labor Organization (ILO),<sup>37</sup> or the ICCPR reporting requirements to be appropriate models.<sup>38</sup> The Netherlands called for civil society participation in the reporting process "granting these organizations the function of correspondent. As correspondents they might play a role in channelling [sic] wishes and complaints towards an international forum," such as the CSW.<sup>39</sup> Canada suggested all reporting go through the CSW, in order to avoid "conflict in implementation procedures" across treaties.<sup>40</sup> Several countries anticipated the modern critique of reporting overlap, and called for simplifications.<sup>41</sup> Women's groups were strongly behind reporting; in fact the draft article on state reporting was the *only* provision mentioned explicitly in a crucial 1976 statement by a broad coalition of women's NGOs sent to the Working Group.<sup>42</sup> In the end, Egypt, Nigeria and Zaire's proposal to use language almost identical to that contained in the CERD was accepted.<sup>43</sup> A series of working groups finalized the agreement throughout 1979, and the CEDAW,

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<sup>34</sup> REHOF, 7. 1993.

<sup>35</sup> ECOSOC, Working Group on a New Instrument or Instruments of International law to Eliminate Discrimination against Women, Working paper submitted by the Union of Soviet Socialist Republics, E/CN.6/AC.1/L.2. January 7, 1974. Draft Article 22: "Every four years following this Convention's entry into force, the Economic and Social Council or the United Nations shall consider the question of the status of the implementation of the Convention in order to satisfy itself that the purpose stated in the preamble and articles of the Convention are being carried out."

<sup>36</sup> [CERD official cite]; Article 9.

<sup>37</sup> [ILO example]

<sup>38</sup> Finland called for a reporting system resembling that of the ILO. ECOSOC, Commission on the Status of Women, 25<sup>th</sup> session, "International Instruments and National Standards Relating to the Status of Women: Consideration of proposals Concerning a new Instrument of Instruments of International Law to Eliminate Discrimination Against Women." E/CN.6/573, November 6, 1973. At Para 103. Sweden endorsed the model contained in the CERD (Ibid., p. 107), as did the CSW. ECOSOC, Commission on the Status of Women, 24<sup>th</sup> session, "International Instruments and National Standards Relating to the Status of Women: study of Provisions in existing conventions that relate to the status of women." E/CN.6/552; January 21, 1972. At para. 236. The Philippines advocating using existing machinery, such as the Human Rights Committee, so as to not duplicate reporting requirements. E/CN.6/573, November 6, 1973 (para. 106).

<sup>39</sup> E/CN.6/573, November 6, 1973 (para. 105).

<sup>40</sup> E/CN.6/573, November 6, 1973 (para. 104).

<sup>41</sup> E/CN.6/573, November 6, 1973 (Austria, para 108; Brazil, para. 109; Canada para 110).

<sup>42</sup> E/CN.6/NGO/259. August 26, 1976, para. 4.

<sup>43</sup> ECOSOC, Working Group on a New Instrument or Instruments of International law to Eliminate Discrimination against Women, "Nigeria and Zaire: Draft proposals concerning the measures of implementation of the draft convention." E/CN.6/AC.1/L.5 January 9, 1974. With the slight exception of explicitly not requiring the submission of information that had been provided to other specialized agencies of the UN. Article 2.1(a and b).



with Article 18 describing the obligation to report on implementation, opened for signature the next year.

### *Self-Reporting and the CEDAW*

As this history suggests, the major international human rights treaties were meant to improve rights through enhanced accountability. CEDAW was the first women's rights instrument to make self-reporting obligatory for states parties. By virtue of ratifying CEDAW, states must submit reports every four years on the legislative, judicial, administrative, or other measures adopted to give effect to their women's rights obligations.<sup>44</sup> Similar to self-reporting under the Covenants and the CERD, these reports are submitted to an oversight committee—the CmEDAW—comprised of independent experts nominated and elected by states parties. CmEDAW then considers these reports in the presence of government representatives, acknowledges progress made, and identifies areas for improvement. Finally, oversight committees issue a set of “concluding observations” containing non-binding recommendations for legislative reforms and other efforts a government should undertake to address shortcomings.<sup>45</sup> This entire process is known as “periodic review,” with all state reports, reports received from other intergovernmental and civil society organizations, and CmEDAW recommendations made public.

In contrast to early resolutions exhorting states to voluntarily report to ECOSOC or the UNGA, periodic review was intended to encourage treaty implementation and compliance, with the “main responsibility for the international monitoring of national implementation...entrusted to the UN human rights treaty bodies.”<sup>46</sup> Moreover, since reporting is a mandatory obligation, Kälin refers to the report and review process as “the key mechanism established at the universal level to monitor the implementation of treaty obligations by contracting states.”<sup>47</sup> In the case of CEDAW, implementation oversight was initially weaker than that of other major human rights treaties. For example, the CmEDAW did not move to Geneva and receive the administrative support of the office of the UN High Commissioner for Human Rights, like the other human rights treaty bodies, until 2008. Several analysts have concluded that initially at least, CEDAW's system of implementation oversight was probably weaker than that of the two core Covenants.<sup>48</sup>

The system of self-reporting as a whole continues to be criticized as inadequate, ineffective and even “in crisis.”<sup>49</sup> Some observers point to the professional inadequacies of the “expert” committees.<sup>50</sup> Others note that states—even resource rich, democratic ones—ignore what they are

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<sup>44</sup> Part V, Article 18; CEDAW.

<sup>45</sup> Michael O'Flaherty, *The Concluding Observations of United Nations Human Rights Treaty Bodies*, 6 HUMAN RIGHTS LAW REVIEW, 36 (2006).

<sup>46</sup> Helen Keller & Geir Ulfstein, *UN human rights treaty bodies : law and legitimacy 2* (Cambridge University Press 2012).

<sup>47</sup> Walter Kälin, *Examination of state reports, in UN HUMAN RIGHTS TREATY BODIES : LAW AND LEGITIMACY 16*, (Helen Keller & Geir Ulfstein eds., 2012).

<sup>48</sup> Neil A Englehart & Melissa K Miller, *The CEDAW effect: International law's impact on women's rights*, 13 JOURNAL OF HUMAN RIGHTS (2014). at 24. Susanne Zwingel, *From intergovernmental negotiations to (sub)national change*, 7 INTERNATIONAL FEMINIST JOURNAL OF POLITICS (2005). at 405.

<sup>49</sup> PHILIP ALSTON & JAMES CRAWFORD, *THE FUTURE OF UN HUMAN RIGHTS TREATY MONITORING* (Cambridge University Press. 2000); ANNE F. BAYEFSKY, *THE UN HUMAN RIGHTS TREATY SYSTEM : UNIVERSALITY AT THE CROSSROADS* (Kluwer Law International. 2001).

<sup>50</sup> Hafner-Burton, 102. 2013.

told to do by the experts.<sup>51</sup> Moreover, there is a growing sense among critics that the system as a whole is breaking under its own unwieldy weight.<sup>52</sup> As the number of treaties have grown, so too have the treaty bodies to which states are expected to report. One result may be reporting fatigue.<sup>53</sup> Late and non-reporting is not uncommon, although CEDAW holds a slightly better record than a number of other treaty regimes, which is surprising in light of the weaker initial administrative support for the CmEDAW.

Of the 188 states parties to the CEDAW in 2016, only five countries had still not submitted their *initial* report.<sup>54</sup> Between 1982 (when the first report was due) and 2016, the average length of delay in reports submission was 3.7 years.<sup>55</sup> The Committee recently has begun to encourage submission of long overdue reports by reviewing implementation progress even in the absence of a state report. For instance, although Dominica never submitted its initial report due in 1982, the Committee issued concluding observations in 2009 based on an in-person dialogue with Dominican government representatives.<sup>56</sup> In this way, states are encouraged to participate in a dialogue with the CmEDAW, even if they sometimes fail to report.

Figure 1 illustrates the record of state reporting to the CmEDAW since the treaty entered into force. Between 1982—when the Committee received its first reports—and 2014, governments have submitted a total of 621 implementation reports, with absolute report submission increasing steadily over the years in tandem with growing treaty membership. Of these, 229 reports were considered consolidated or "combined reports" due to delayed submission; in such cases, one report 'counts' for two (up to four) reports due. Many states have submitted six to eight reports. However, many states seem unable to meet their obligation to go beyond an initial or second report.

Ultimately, we want to understand the *consequences* of state reporting, but first it is critical to understand why states report—or fail to—in the first place. All states are obligated to send the Committee a report within a year of ratification; each is then required to follow up with a report every four years,<sup>57</sup> but as we can see, many states are not meeting their reporting obligations. We thus begin by simply asking: what factors increase the probability a state will turn in a report to the CmEDAW in any given year?

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<sup>51</sup> McQuigg, *EUROPEAN JOURNAL OF INTERNATIONAL LAW*, (2011).

<sup>52</sup> POSNER, 2014; Hafner-Burton, 99, 2013.

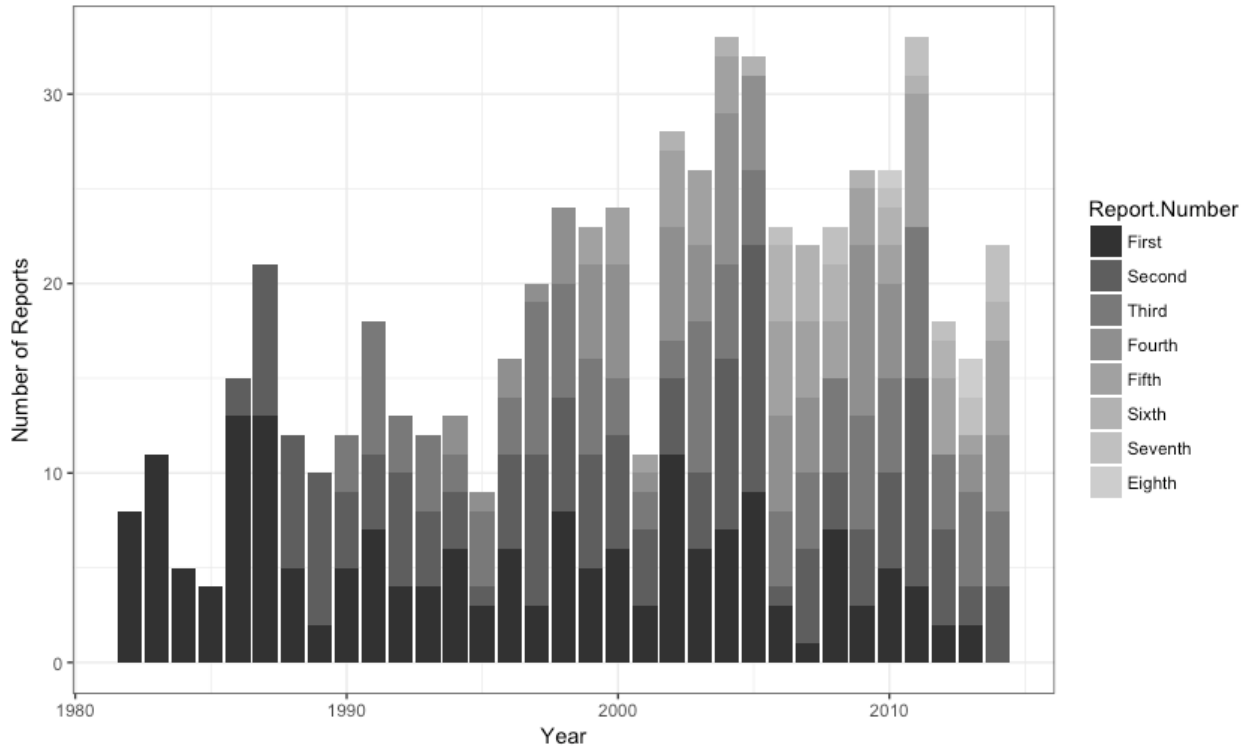
<sup>53</sup> Françoise J Hampson, *An Overview of the Reform of the UN Human Rights Machinery*, *HUMAN RIGHTS LAW REVIEW* (2007); Hanna Beate Schöpp-Schilling, *Treaty Body Reform: the Case of the Committee on the Elimination of Discrimination Against Women*, see id. at.

<sup>54</sup> Dominica, Kiribati, Micronesia, San Marino, and Sao Tome and Principe.

<sup>55</sup> The length of time reports are overdue includes those instances where the Committee has indicated in its concluding observations on the prior report that a revised date of submission (usually in the near future) is permitted. In addition to extending due dates and consolidating reports, the Committee often reviews within one session two separate reports submitted by a government. These represent methods through which the Committee has attempted to address both systematic late reporting and its own increased workload, deviating from the periodicity mandated in the Convention.

<sup>56</sup> The Committee first notifies the states party that in the absence of a report, it will proceed with a consideration of the implementation of the Convention on a set date.

<sup>57</sup> CEDAW, Part V, Art. 18. Text at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article18>. (Accessed 15 February 2015).

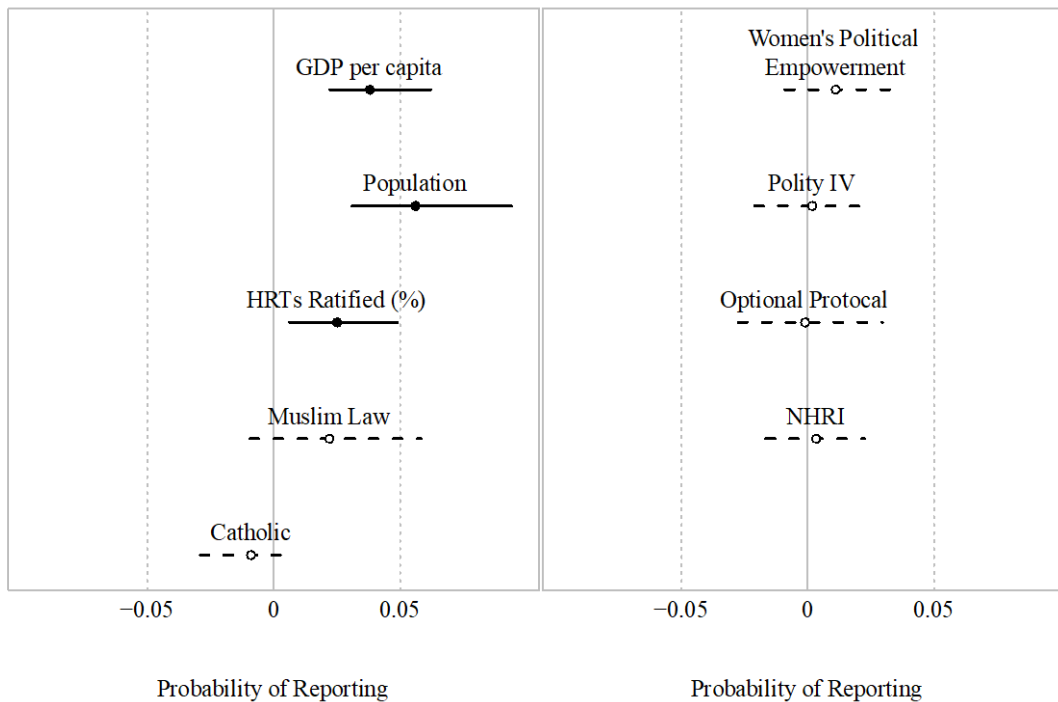


**Figure 1:** Report Submission by Year, disaggregated by Report Number (whether the report was the first submitted by a state party, the second, etc.).

Figure 2 presents the expected probability of reporting as each explanatory variable changes, based on a pooled logistic odds regression. The figure shows how (holding other traits constant) different state characteristics are associated with a higher probability that a state reports in a given year, and that states report to the CmEDAW if they have the capacity as well as the political will to do so. The evidence for the importance of capacity is strong. The richer and larger a polity, the more likely it is to report in a given year. GDP per capita and total population (both logged) are strongly and positively correlated with reporting. Small, resource strapped states likely lack the capacity to meet their periodic treaty obligations to report.<sup>58</sup>

There is also some evidence that reporting is, at least initially, correlated with strong buy-in to the human rights treaty system in general. The higher percentage of major human rights treaties a state has ratified, the more likely it is to turn in its CEDAW reports, though this relationship is substantively not large. As Figure 2 demonstrates, doubling the percentage of human rights treaties ratified by a government (from 26 to 52%) only increases its probability of report submission by 2.5%. That being said, ratification of the CEDAW Optional Protocol (OP), which establishes the individual communication's procedure for the treaty, is not strongly correlated with a higher likelihood of reporting, although the OP did not enter into force until 2000.

<sup>58</sup> We note the similarity between this and a finding in the literature that smaller firms are most likely non-compliers with self-reporting to regulatory agencies. See for example Brehm and Hamilton *Noncompliance in environmental reporting: are violators ignorant, or evasive, of the law?*, AMERICAN JOURNAL OF POLITICAL SCIENCE (1996).



**Figure 2: Likelihood of Reporting to CmEDAW.** Simulated estimates of probability of report submission. Circles represent the expected effect on the probability of report submission in a given year as GDP *per capita*, Total Population, Polity IV Scores (level of democracy), Women’s Political Empowerment Index (V-Dem), and Human Rights Treaties Ratified (percentage of all major human rights treaties) in the previous year changes from its 25<sup>th</sup> to 75<sup>th</sup> quartile, and all other variables are held constant at their means. For Muslim Law, Catholic, Ratification of the Optional Protocol, and National Human Rights Institution (NHRI), the circle represents the expected probability of reporting as these variables change from 0 to 1, and all other variables are held constant at their means. The lines are 95% confidence intervals. When the circles and lines are solid, there is at least a 95% confidence of a positive or negative effect on the probability of reporting. Otherwise, circles and lines are dotted. See Appendix Table A1 for traditional results of the pooled logistic odds regression.

In contrast to the Convention against Torture (CAT), under which the existence of a National Human Rights Institution (NHRI) strongly correlates with greater likelihood of reporting,<sup>59</sup> countries with an NHRI are neither more nor less likely to report to CmEDAW. Perhaps this type of human and institutional resource is not as central to the women’s rights context; what matters instead may be the existence of a National Mechanism on Gender Equality (NMGE).<sup>60</sup> Interestingly, democracies or countries that provide greater rights protections are not any more or

<sup>59</sup> Cosette Creamer & Beth A Simmons, *Ratification, Reporting and Rights: Quality of Participation in the Convention Against Torture*, 37 HUMAN RIGHTS QUARTERLY (2015).

<sup>60</sup> NMGEs include those bodies and institutions within different branches of the State (legislative, executive and judicial branches) as well as independent, accountability and advisory bodies that, together, are recognized as ‘national mechanisms for gender equality’ by all stakeholders. This could be in the form of a Ministry on Women or Gender Equality, a gender equality ombudsperson, a parliamentary committee, an inter-ministerial body, or multi-stakeholder advisory body. See UN Women, *Directory of National Mechanisms for Gender Equality*, February 2015.

less likely to report to CmEDAW. We were also surprised to find that states with legal systems entailing some elements of Islamic law are generally as—if not more—likely than other states to report.<sup>61</sup>

Critics of the periodic review process are right about a number of its limitations. States often neglect to turn in their reports on time, if at all. Moreover, many reports celebrate the positive steps taken to improve women’s rights and fail to mention any shortcomings. However, many do explicitly recognize shortcomings in a country’s implementation of and compliance with treaty obligations, particularly when such shortcomings can be attributed to lack of resources.

To evaluate report quality and responsiveness under CEDAW, we read all 621 reports submitted to the CmEDAW from 1982-2014 and coded each along four dimensions: three related to report quality (implementation, compliance, and data), and one concerning responsiveness. A report’s “quality score” (an index of the three quality measures) is based on the states party’s willingness to recognize shortcomings in implementation or compliance, and to provide gender-disaggregated data. A report’s “responsiveness score” is based on how well the report engages with the Committee’s previous concluding observations.<sup>62</sup>

To be sure, a report’s quality or responsiveness score does not measure the *accuracy* of the information provided, but rather the extent to which it explicitly recognizes and is responsive to shortcomings in implementation of and compliance with the treaty’s terms. A higher quality score represents more self-critical reports that admit to weaknesses in implementation and compliance. Examining report quality permits evaluation of the quality of states’ engagement with the periodic review process, not just as a procedural obligation, but as an opportunity for government officials and their constituents to learn about and become socialized into the women’s rights regime.

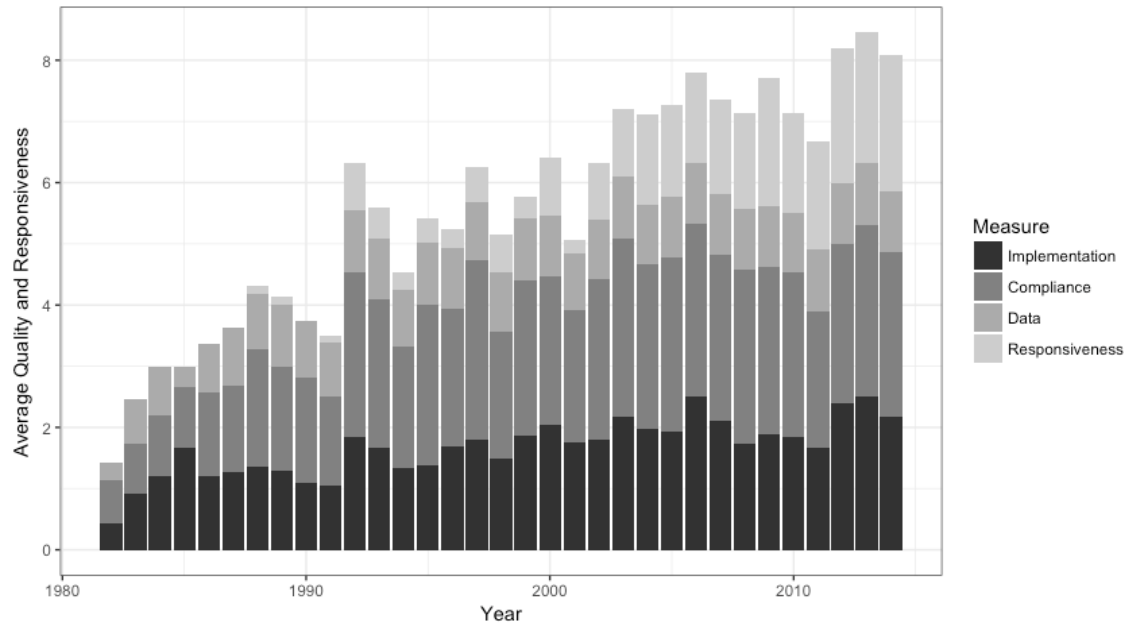
Figure 3 displays the average quality and responsiveness scores of reports submitted, by year. While the quality of reports submitted to CmEDAW has improved over the years,<sup>63</sup> there has not been that much improvement since the mid- to late-1990s. What has improved dramatically, however, is responsiveness to CmEDAW’s concluding observations (for second or later reports), suggesting increased engagement with the periodic review process and Committee recommendations. The CmEDAW has increasingly provided more detailed and concrete recommendations, which appears to have facilitated this greater responsiveness.

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<sup>61</sup> Perhaps understandably, more Catholic societies are less likely—though not significantly—to report. Yet a bit surprisingly, neither the proportion of women in parliament nor the proportion of states reporting in the region (regional reporting density) increases a state’s reporting likelihood (results not reported).

<sup>62</sup> See Appendix B for the coding scheme and description of the coding process.

<sup>63</sup> This observation is at least partially consistent with Kathryn Sikkink’s *KATHRYN SIKKINK, EVIDENCE FOR HOPE: MAKING HUMAN RIGHTS WORK IN THE 21ST CENTURY* (Princeton University Press, 2017). observation on the availability of information about HR violations increasing over time.



**Figure 3: Average CEDAW Report Quality and Responsiveness by Year.** See Appendix B for coding guidelines.

### III. Theory: Self-Reporting and Review in Domestic Politics

While valuable, understanding why states report and that these reports display fairly high quality and responsiveness provides no indication of whether the reporting regime fulfills its stated purpose: to facilitate improved women’s rights practices and increased treaty compliance. Hafner-Burton represents the informal consensus among commentators when she writes that “the reports often don’t seem to lead to results that matter.”<sup>64</sup> Even members of the CmEDAW have surprisingly little to tell us about the impact of the Committee on actual state practices.<sup>65</sup>

Our central question is thus whether reporting matters to treaty implementation and respect for women’s rights. We theorize that it does, primarily because of the dynamics underlying the reporting process itself. Many theories of compliance with international law rely implicitly on the availability of information about government activities and legal obligations, particularly to domestic publics. For example, it is possible that knowledge that one’s government is publicly committed to comply with a human rights treaty raises domestic groups’ expectations that they can demand compliance with such treaties. Xinyuan Dai argues that information produced by international bodies informs domestic audiences about the activities of their governments and whether a government has complied with its international legal obligations. This information allows domestic constituencies to apply electoral pressure on their government in order to hold them accountable.

<sup>64</sup> Hafner-Burton, 100. 2013.

<sup>65</sup> H.B. SCHÖPP-SCHILLING & C. FLINTERMAN, *THE CIRCLE OF EMPOWERMENT: TWENTY-FIVE YEARS OF THE UN COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN* (Feminist Press at the City University of New York. 2007).

We argue that the very event of reporting serves to stimulate attention, discussion, and perhaps even participation in the process of report drafting. By mobilizing and empowering groups within and outside of government, reporting can have a catalytic effect in promoting internal policy reform. The Committee's concluding recommendations provide domestic constituencies with information needed to apply electoral and other forms of political pressure to encourage substantive compliance. Such information facilitates evaluation of a state's treaty compliance, which helps domestic audiences to focus pressure on the government to perform better.<sup>66</sup> Even when states are less than forthright, their reports provide a focal point for non-state actors to assess and criticize the information provided. As Jacqui True has written of the international reporting process, "[O]rganizing of women's groups for the purpose of international reporting and global conferencing has consequently, often unintentionally, increased the effectiveness of women's lobbying of local and national governments."<sup>67</sup> Examples abound, from Southeast Asia<sup>68</sup> to India<sup>69</sup> to Nigeria.<sup>70</sup> A formal report submission presents opposition parties or NGOs and other rights constituencies with a convenient and visible occasion for mobilization. Indeed, political activism may contribute to the quality of governmental reporting over time by helping to expose its shortcomings. If so, then even incomplete or inadequately analyzed official *information* is much better than none at all.

If the reporting cycle (by which we mean the process over time of both submitting reports and receiving CmEDAW feedback and recommendations) can mobilize demands for better rights practices, we would expect to observe a positive relationship between a state's participation in this process and improvements in its women's rights practices. We do not expect this effect to be homogeneous across all states, but we do expect to see such a relationship if we have appropriately weighted for the effects of regime type on outcomes. Part IV evaluates this expectation.

Second, we would expect to see some evidence consistent with the mobilization argument, especially under conditions for which the theory is clearest: a region of the world that has

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<sup>66</sup> A growing number of experimental studies provide micro-level data to supplement the largely observational literature connecting international obligations with enhanced compliance expectations. Adam Chilton (2014) finds some evidence that attitudes in the general population shift against domestic solitary confinement practices when informed that they may violate international legal obligations. Attitudes about the appropriateness of torture specifically have been shown to be influenced by international legal obligations, particularly when it is believed that third parties may enforce obligations Geoffrey P.R. Wallace, *International Law and Public Attitudes Toward Torture: An Experimental Study*, 67 INTERNATIONAL ORGANIZATION (2013).. These observations—that international legal obligations raise expectations of compliance; that reporting provides new information about the progress of compliance; and that authoritative third parties enhance these effects—all suggest that self-reporting to treaty bodies may be important for mobilizing publics and improving human rights practices on the ground.

<sup>67</sup> Jacqui True, *Mainstreaming Gender in Global Public Policy*, 5 INTERNATIONAL FEMINIST JOURNAL OF POLITICS, 377 (2003).

<sup>68</sup> For example, in Cambodia, NGO-CEDAW's role is to monitor and promote the implementation of CEDAW and to engage in advocacy following the publication of each NGO Shadow Report. See [http://ngocedaw.org/?page\\_id=7](http://ngocedaw.org/?page_id=7) (Accessed 16 February 2015). For an assessment of the capacity-building effects of CEDAW reporting on NGO capacity in Southeast Asia see <http://cedawsouthasia.org/2959/sri-lanka-to-be-reviewed-by-human-rights-committee-in-october>.

<sup>69</sup> See for example the virtual call for shadow reports at <http://cedawsouthasia.org/2959/sri-lanka-to-be-reviewed-by-human-rights-committee-in-october>.

<sup>70</sup> See for example International Federation for Human Rights, *The Nigeria NGO coalition shadow report to the CEDAW committee*, 31 July 2008, available at: <http://www.refworld.org/docid/48a0007a2.html> [accessed 16 February 2015]

experienced democratic transitions during which governments must engage in balancing the tradeoff between expectations and information consequences involved in the reporting decision. Part V follows up with evidence on the mechanism of mobilization in Latin America—a region that fulfills these conditions—in the form of civil society shadow reporting, media reporting, and domestic legislative activity.

#### **IV. Evidence: Reporting, Review, and Women’s Rights**

This section examines how the *process* of periodic review and the *history* of a government’s engagement with the CEDAW regime impact subsequent rights practices. Because the act of treaty ratification itself generates the expectation of report submission, we focus only on states parties to the CEDAW. For this analysis, we collected panel data on CEDAW report submission and Committee review for 184 states parties between 1982 and 2014. By the beginning of 2014, only seven of these states parties had not completed even one reporting-and-review cycle, 101 had completed between two and four cycles, and forty-six had completed five or more cycles.

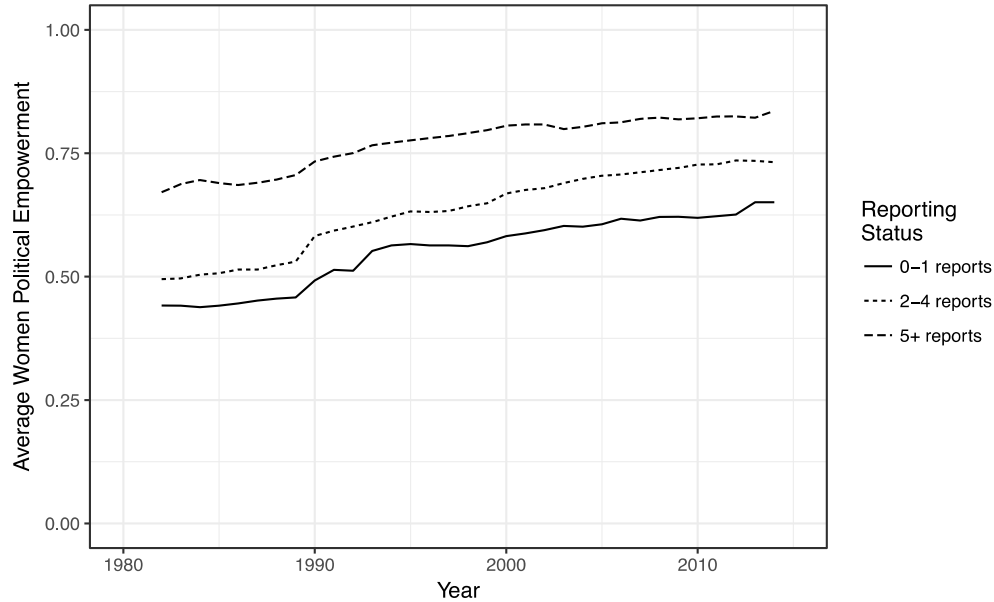
Even though we found no evidence of a correlation between women’s rights guarantees and the likelihood of reporting,<sup>71</sup> Figure 4 plots trends in average Women’s Political Empowerment scores by reporting record.<sup>72</sup> These trends demonstrate that countries with greater initial levels of women’s empowerment have gone through more periodic review cycles since CEDAW entered into force. That being said, countries that engage relatively regularly in periodic review (specifically more than two report-and-review cycles) have experienced greater improvements over time in women’s empowerment than those who have never submitted a report (or did so only once).

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<sup>71</sup> We found no significant correlation between the probability of report submission and a country’s Women’s Political Empowerment score (V-Dem), Women’s Economic Rights score (CIRI) or Women’s Political Rights score (CIRI). See Figure 2 and Appendix Table A1.

<sup>72</sup> See Michael Coppedge, John Gerring, Staffan I. Lindberg, Svend-Erik Skaaning, Jan Teorell, David Altman, Michael Bernhard, M. Steven Fish, Adam Glynn, Allen Hicken, Carl Henrik Knutsen, Kyle L. Marquardt, Kelly McMann, Valeriya Mechkova, Pamela Paxton, Daniel Pemstein, Laura Saxer, Brigitte Seim, Rachel Sigman, and Jeffrey Staton. 2017. “V-Dem Codebook v7.1 “Varieties of Democracy (V-Dem) Project. See Appendix Figure A1 for similar trend figures using CIRI Women’s Political and Economic Rights.





**Figure 4: Trends in Women's Political Empowerment (V-Dem) by Reporting Group.** Figure plots the average Women's Political Empowerment score for (1) countries that had ratified CEDAW but not submitted any reports or had submitted only one report by 2014; (2) countries that had submitted 2-4 reports by 2014; (3) countries that had submitted 5+ reports by 2014. The index ranges from 0 to 1 and incorporates equally-weighted dimensions of fundamental civil liberties, women's open discussion of political issues and participation in civil society organizations, and the descriptive representation of women in formal political positions.

Self-reporting and periodic review is an ongoing and iterative process with potentially cumulative effects. It was never intended or designed to affect rights practices through a single report submission. Modeling the effects of a single-shot report is thus not the best approach to analyzing the dynamic nature of periodic review to the CmEDAW, since both the act of reporting and the evolving nature of the review process represent treatment variables of interest. Estimating the cumulative influence of the reporting and review process as a whole requires a different approach from conventional regression estimators for single-shot effects. To attempt to adjust for the dynamic nature of periodic review, we fit a Marginal Structural Model (MSM).<sup>73</sup>

This approach entails two steps. First, we estimate a model for treatment—here, CmEDAW review—in each time period, conditional on time-varying confounders and past reporting history.<sup>74</sup> Then, we fit a regression model for the outcome, given treatment and treatment history, by weighting each observation with the inverse of its treatment probabilities calculated in the first

<sup>73</sup> This approach was developed by Robins et al (2000) and recently introduced to political science by Blackwell (2013). These models are estimated using an Inverse Probability of Treatment Weighting (IPTW) estimator, which permits adjustment for intermediate confounders while avoiding bias from conditioning on a post-treatment variable.

<sup>74</sup> Because the decision to engage in the report-and-review process is binary, we estimate the probability of undergoing review with a logit model and the parameter vector for the model with a pooled logistic regression, with country-year as the unit of analysis. This permits us first to estimate the probability, in each period, that the unit received the treatment history that it did.

step.<sup>75</sup> The parameters of this weighted regression model bring us closer than ordinary regression to causal analysis, assuming we have not omitted important causal variables, though it does not completely overcome issues that arise due to selection into the self-reporting process based on unobservable factors. Given the paucity of viable solutions to that problem, however, we view this approach as a substantial improvement over traditional methods.

The weighting models estimating the probability of treatment (CmEDAW review at time  $t$ ) include all potential confounders: covariates expected to influence both the decision to undergo periodic review and women's rights practices. As discussed within Part II, capacity (measured with logged GDP *per capita* and population, as collected by the World Bank) and engagement with the international human rights regime (proxied by the percentage of major human rights treaties ratified) strongly predict report submission. These variables likely affect women's rights outcomes as well, so we include them and a number of additional time-varying covariates in the weighting model: the degree of women's political empowerment in each country (as measured by V-Dem); a country's level of democracy (as measured by its Polity IV score); the existence of an NHRI; and ratification of CEDAW's Optional Protocol.

We also include two non-time-varying covariates in the model. Governments with elements of Islamic law within their legal systems are slightly more likely to submit their CEDAW reports, but present special challenges for CEDAW adherence.<sup>76</sup> Similarly, we include a non-time-varying indicator for whether Catholicism is the dominant religion within a country. Predominantly Catholic countries are slightly less likely to submit their reports, and the strong role of the Catholic religion within society may make governments more reticent in fully implementing CEDAW guarantees, particularly in the realm of reproductive and family rights.<sup>77</sup> We thus include it as a potential baseline confounder.

In addition to these confounders, we include within the weighting models a set of treatment history variables; in this case a state's history of CmEDAW periodic review. This permits us to estimate the average treatment effect of both the single-shot treatment of undergoing review and *the history of a country's engagement with the review process* on a government's women's rights practices. These treatment history variables include: the total number of in-person CmEDAW reviews undertaken by a country by time  $t$ ; whether the country had undergone review in the previous year; and the number of years since the last review.<sup>78</sup> All weighting models include year fixed effects.<sup>79</sup>

In a second step, we fit an inverse-probability weighted MSM to estimate the effects of CmEDAW review (the treatment) and the review process (treatment history variables) on women's human

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<sup>75</sup> Robins et al (2000) show that this weighting scheme adjusts for confounding by observed and time-varying confounders. Intuitively, weighting creates a hypothetical 'super-population' where the link between treatment and observable confounders is broken.

<sup>76</sup> Anita M. Weiss, *Interpreting Islam and Women's Rights: Implementing CEDAW in Pakistan*, 18 INTERNATIONAL SOCIOLOGY (2003).

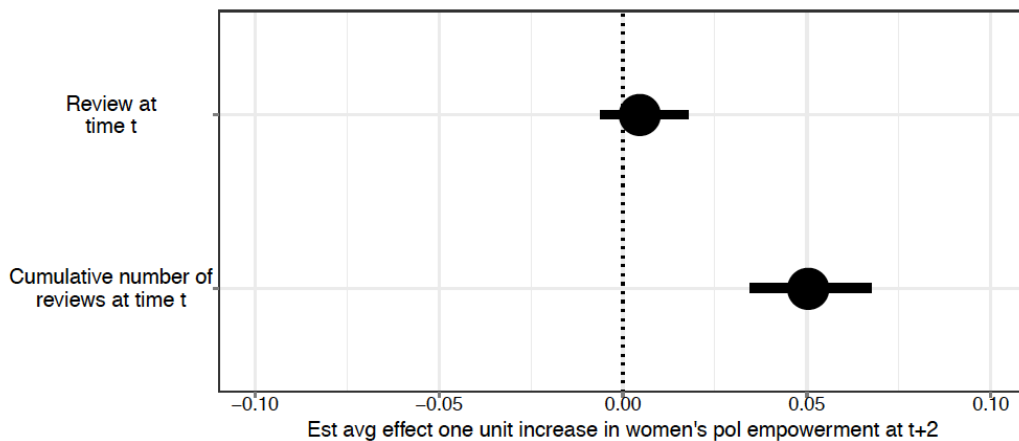
<sup>77</sup> (Simmons 2009: 221, 245-253).

<sup>78</sup> Following Blackwell (2013) and Cole and Hernan (2008), we conduct a preliminary model check based on the final distributions of the stabilized weights for each year. The stabilized weights' means at each point in time are all close to one, with their upper bounds relatively low, indicating we have estimated a set of fairly well-behaved weights. See Appendix Figure A2.

<sup>79</sup> See Appendix Table A2 for weighting model estimates.

rights practices at year  $t+2$ . Because we have few priors about precisely when we should expect the review process to affect women’s rights practices on the ground, we estimate its relationship with a government’s rights record two years following review, as significant reforms of deficient legislation and practices often cannot occur instantaneously. Indeed, one of the primary conclusions of case studies on the effectiveness of the CmEDAW is that implementing Committee recommendations often takes several years.<sup>80</sup>

There are potentially dozens of ways to measure women’s rights. One possibility would have been to test indicators that relate to specific articles of the CEDAW, such as a measure of women’s or girls’ education, health, or employment outcomes.<sup>81</sup> As a first cut, we have instead elected to test broad measures of women’s political empowerment and fundamental civil rights (as developed by the Varieties of Democracy project), largely because the periodic review dialogues are broad-ranging and cover issues that differ by country and even by report.<sup>82</sup> We estimate an ordered probit model that includes the inverse-probability of treatment weights for Women’s Political Empowerment (V-Dem). All models include a linear time trend. Confidence intervals were obtained using a cluster bootstrap procedure for the entire two-stage weighting and MSM fitting procedure, clustering on country.<sup>83</sup>



**Figure 5. Estimated CmEDAW review treatment and treatment history effects.** Circles represent estimated effect of undergoing a single review (compared to not undergoing review) at time  $t$  and undergoing one additional review at time  $t$ , on Women’s Political Empowerment score at  $t+2$ . Lines denote 95% cluster-bootstrapped confidence intervals (20,000 iterations, clustering on country). See Appendix Tables A3 and A4 for outcome model coefficients and respective bootstrapped confidence intervals.

<sup>80</sup> The Impact of the CEDAW Convention: Paths to Equality. (2012).

<sup>81</sup> SIMMONS. 2009.

<sup>82</sup> For a discussion of V-Dem and its Women’s Political Empowerment Index, see Kevin L Cope, et al., Exploring Disagreement in Indicators of State Repression (January 1, 2018, 2018). Aksel Sundström, et al., *Women’s Political Empowerment: A New Global Index, 1900–2012*, 94 WORLD DEVELOPMENT (2017). As a check, we also run analyses using CIRI Women’s Economic and Political Rights measures. CIRI Women’s Economic Rights data include a series of sub-indicators relating to such matters as an equal right to paid work (without a husband’s permission) and working conditions, non-discrimination with respect to pay and promotions, etc. Political Rights include the right to vote, run for and hold public office, join political organizations, and petition government officials. See Appendix Figures A4, A5, A6, A7 and Tables A5 and A6.

<sup>83</sup> We ran the bootstrap for 20,000 iterations and took the 2.5th and 97.5th percentiles of the bootstrapped distribution for the MSM parameter estimates.

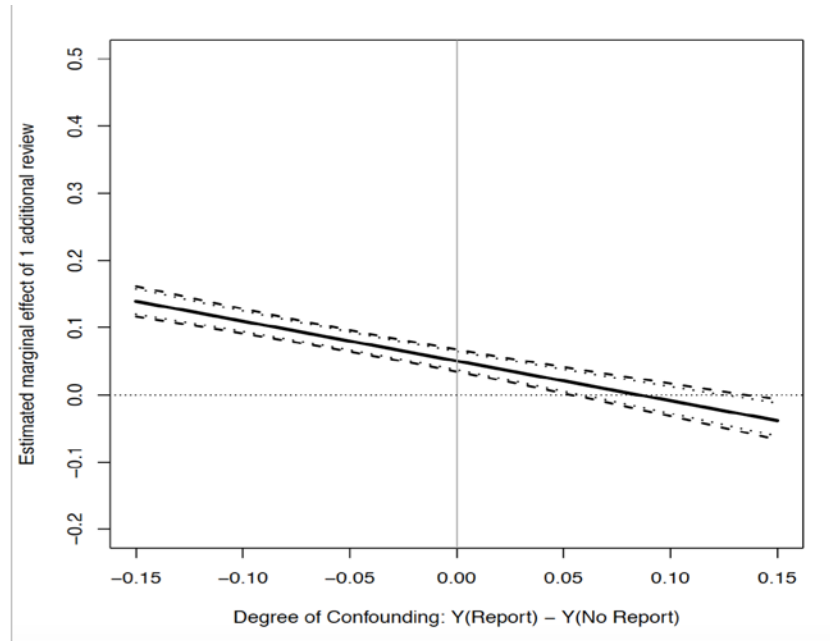
Figure 5 plots the estimated instantaneous and history effects of the review process along with bootstrapped 95% confidence intervals. We find that the single, instantaneous effect of review at time  $t$  on women's political empowerment at time  $t+2$  is statistically indistinguishable from 0. That is, there are essentially no effects on women's political empowerment attributable to turning in one report. However, as Figure 5 demonstrates, increasing the number of times a country previously engaged in CmEDAW review significantly increases the degree of Women's Political Empowerment observed. We estimate that a country that receives one additional review throughout its history will, on average, have a women's political empowerment score that is approximately 0.05 higher—a small but statistically significant effect.

How sensitive are these results to unobserved confounders? Figure 6 presents results for a sensitivity analysis procedure as described in Blackwell (2013).<sup>84</sup> We assume unobserved confounding where countries that receive review and countries that do not receive review differ in their underlying potential Women's Political Empowerment score by  $\alpha$ . This parameter denotes the amount of the difference in women's political empowerment scores between treated (additional review) and untreated (no additional review) countries that can be explained by some unaccounted-for factor. The procedure varies  $\alpha$  across a range of values and re-estimates the treatment history effect after adjusting for the assumed amount of unobserved confounding.  $\alpha = 0$  denotes the original effect estimate. Positive values of  $\alpha$  denote situations where treated countries have better women's political empowerment scores than control, while negative values of  $\alpha$  assume treated countries have worse women's rights records.

The analysis demonstrates that for the estimated effect of review to no longer be significant at conventional levels ( $p < 0.05$ ), countries undergoing an additional review would have to have systematically higher women's political empowerment scores than countries that do not. Until  $\alpha = 0.06$ , a bit more than the treatment effect size, the estimated positive effect of reporting history remains statistically significant at  $p < 0.05$ . In other words, even if—due to unaccounted-for factors—countries undergoing an additional review had systematically better women's political empowerment records by an amount slightly more than the effect size, we could still conclude with moderate confidence that review history has a positive effect on women's political empowerment scores.

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<sup>84</sup> Matthew Blackwell, *A framework for dynamic causal inference in political science*, 57 AMERICAN JOURNAL OF POLITICAL SCIENCE (2013).



**Figure 6. Sensitivity analysis for review history effect.** Dotted and dashed lines denote 90% and 95% cluster-bootstrapped confidence intervals respectively (20,000 iterations, clustering on country).

To summarize, governments that engage in more dialogue with the CmEDAW are more likely *cumulatively* to provide greater women’s fundamental rights. The very fact of participating in the review process may provide an opening for constructive engagement with the treaty monitoring body that promises small and incremental improvements in women’s political empowerment over time. This opening seems to have important consequences, even if the quality of initial reporting is not especially high. These findings support the conclusion that it is the constructive dialogue with the CmEDAW as an *ongoing process*—one made possible by iterative report submission and conversation—that holds the potential to improve rights practices on the ground. In this respect, periodic review under CEDAW has continuous, albeit small, positive effects on women’s rights guarantees from the cumulative exercise of reporting, to review, to the next report’s preparation.

## V. Evidence of the Mechanisms: Women’s Rights in Latin America

What mechanisms lead to the positive effects associated with reporting found in the previous section? We hypothesize that the review process mobilizes domestic demands for closer scrutiny of and improvement to laws and practices surrounding women’s rights. If reporting in Geneva matters to implementation, we should see some evidence of that at the domestic level. Specifically, we look for: mobilization of domestic civil society around reporting in the form of shadow reports; discussion of the reporting process in local media; and evidence that legislators begin to take note and consider how to improve treaty implementation through legislation. If in fact the reporting process stimulates domestic policy change from the bottom up, we would expect to observe these three key activities: *political mobilization*, *public discourse*, and *legislative attention*.

For several reasons, we focus in this section on Latin America.<sup>85</sup> First, Latin American countries vary considerably in how regularly and promptly they engage in periodic review. Second, this is a region in which the strong influence of the Catholic Church within many countries makes women's rights socially and politically salient. Combined with its history of relatively democratic institutions, active civil society, and meaningful press freedom, Latin America is a plausible candidate to investigate the potential for the periodic review process to acquire some level of publicity and to focus public and political attention on women's rights practices.

### *Mobilization: Civil Society Shadow Reporting*

CEDAW ratification has had an influence on domestic politics by stimulating formation of women's organizations, at least in some cases. In fact, memberships in women's organizations increase post-ratification.<sup>86</sup> This is because CEDAW helps to legitimize specific rights demands: those guaranteed by law. In addition, the CEDAW self-reporting procedure creates high-profile assessment opportunities. We argue that women's organizations—both local and transnational—take advantage of the reporting process to make these rights demands and hold their governments accountable for treaty implementation.<sup>87</sup>

When governments turn in their self-rendered reports, women's groups regularly spring into action to correct, supplement, and criticize the official account of implementation progress. Indeed, the Committee has increasingly urged governments to consult with women's civil society organizations (CSOs) when preparing their reports. The “shadow reports” of these CSOs constitute evidence that women's groups have an active existence, are aware of CEDAW treaty obligations, and are motivated to monitor the implementation process. As such, they are a critical part of the conversation that links Geneva with domestic politics in states parties; they act as conduits for information flowing in both directions.

Figure 9 displays the average number of shadow reports per state report received by the CmEDAW between 2007 and 2014,<sup>88</sup> broken down by report type. While there is noticeable variance across years, there is an unmistakable upward trend in shadow reporting since about 2010. But do these reports reflect domestic mobilization around the reporting process, or rather international groups reporting from afar? To find out, we coded whether each CSO submitting alternative information

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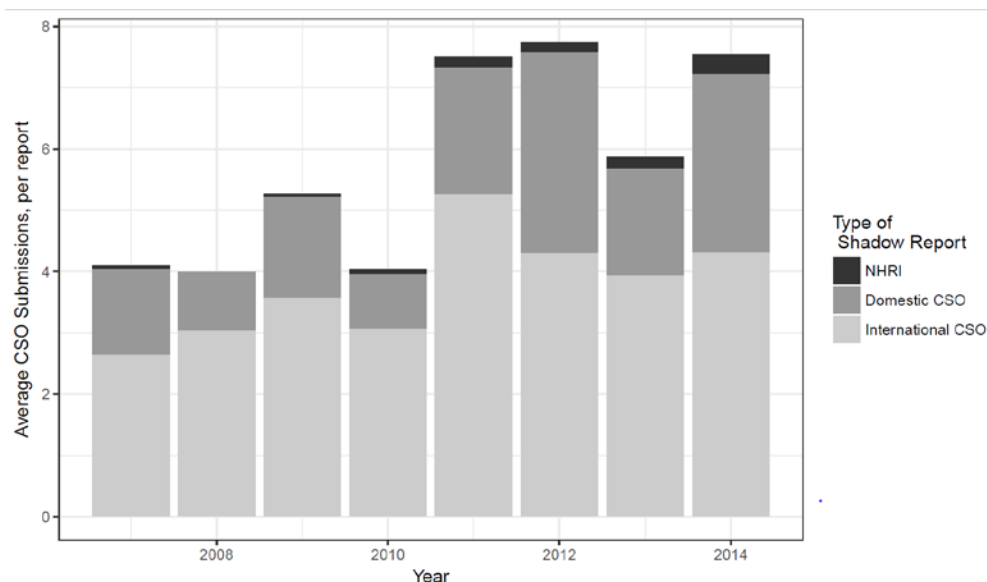
<sup>85</sup> We have reasons to believe that the domestic mechanisms discussed here have their counterparts in Advanced democracies (see for example, FRAUKE LISA SEIDENSTICKER, EXAMINATION OF STATE REPORTING BY HUMAN RIGHTS TREATY BODIES: AN EXAMPLE OF FOLLOW-UP AT THE NATIONAL LEVEL BY NATIONAL HUMAN RIGHTS INSTITUTIONS (DEU. 2005). available at: [https://www.ssoar.info/ssoar/bitstream/handle/document/32911/ssoar-2005-seidensticker-Examination\\_of\\_state\\_reporting\\_by.pdf?sequence=1](https://www.ssoar.info/ssoar/bitstream/handle/document/32911/ssoar-2005-seidensticker-Examination_of_state_reporting_by.pdf?sequence=1)) and elsewhere in the world.

<sup>86</sup> Even when controlling for country and year fixed effects, a time trend, and a lagged dependent variable, there is significant evidence that membership in women's international non-governmental organizations grew in the first and second year after CEDAW ratification. Simmons at pp. 210-211.

<sup>87</sup> Here we focus on non-governmental organization (NGO) shadow reporting as an example of mobilization of women's groups, but it is important to recognize that international NGOs as well as Intergovernmental Organizations, such as the World Health Organization and the International Labor Organization, regularly take this opportunity to engage states on implementation steps. Our point is not that domestic actors are the only ones to mobilize around reporting, but that the reporting regime in fact penetrates domestic politics where implementations policies ultimately take place.

<sup>88</sup> The OHCHR has yet to make available online shadow reports received before 2007. These data are tentatively reliable, in as much as they represent what is available on the OHCHR site.

could be considered a domestic CSO, an international CSO,<sup>89</sup> or in fact was a National Human Rights Institution (NHRI). For the 182 state reports submitted between 2007 and 2014, CSOs provided the Committee with a total of 1,026 shadow reports, about a third of which (332) came from what can be considered a domestic CSO; NHRIs provided an alternative shadow report for only 22 of these 182 state reports. Moreover, domestic groups contributed the most to the growth in reporting, especially since 2010. Interestingly, high-quality and responsive state reports were just about as likely to elicit shadow reporting as were low-quality and unresponsive official reports.<sup>90</sup>



**Figure 9: Average number of Shadow Reports submitted per State Report, 2008-2014.** Based on shadow reports posted to the UN Treaty Body Database, available at: <http://tbinternet.ohchr.org/> (last accessed January 30, 2018).

A close examination of the shadow reports from Latin American countries indicates that domestic civil society actors are willing to point out the shortcomings in the state reports and explain to the CmEDAW exactly how the government has fallen short. For Argentina’s 2010 periodic review, for example, domestic CSOs contested Argentina’s implementation by revealing the inaction on the part of the government to use data to guide public policy on matters of economic and social policies pertaining to women’s health and trafficking.<sup>91</sup> Many of the shadow reports emphasize the lack of effective implementation of laws and policies to improve women’s health and security. For example, domestic CSOs exposed the abuses of women in prisons at the hands of male prison

<sup>89</sup> By “domestic CSOs” we mean organizations based in-country and which took primary responsibility for compiling the report, even if assisted by an international non-governmental organization (INGO). By contrast, “international CSOs” are not based in-country and operate on a (near-)global scale.

<sup>90</sup> See Appendix C.

<sup>91</sup> Equipo Latinoamericano de Justicia y Género (ELA), Center on Housing Rights and Evictions (COHRE); the Programa “Género, Sociedad y Universidad”, Secretaría de Extensión de la Universidad Nacional del Litoral (“Programa de Género”); Acción por los derechos en el Noroeste (ADN); and the Asociación por los Derechos Civiles (ADC), “Shadow Report for the Committee on the Elimination of Discrimination against Women,” 46<sup>th</sup> Session (July 2010). Available at: <http://tbinternet.ohchr.org/>.

staff, an issue scarcely noted in the Argentine state report.<sup>92</sup> The CmEDAW itself takes such input seriously and often incorporates this information into its recommendations.<sup>93</sup>

Shadow reports indicate mobilized women's groups elsewhere in Latin America as well. In response to Brazil's 2012 state report, anti-human trafficking groups exposed the continuing gaps in the country's law to address domestic trafficking and prostitution of women.<sup>94</sup> A broad coalition of women's groups in Chile supplied information on the underreporting of violence and crime against women, and pointed to the government's failure to implement laws on the books, from criminalizing femicide to advancing anti-trafficking awareness to facilitating access to modern forms of contraception and other kinds of women's reproductive health care.<sup>95</sup> Neglect of violence against women, femicide, and disappearances of women and girls—in conjunction with the inadequate official response—was a central theme of Mexico's National Citizens' Observatory on Femicide.<sup>96</sup> In Uruguay, human rights organizations pressed the government to incorporate the CEDAW's definition of "discrimination against women," and to create national plans to achieve objectives from women's access to justice to health care.<sup>97</sup> Uruguay's National Human Rights Institute sent the Committee a separate shadow report as well.<sup>98</sup> During Venezuela's 7<sup>th</sup> and 8<sup>th</sup> (combined) reviews in 2014, nine separate shadow reports were received—some from broad coalitions — covering topics from LGBTQ rights to equal access to health care for women.<sup>99</sup>

In sum, shadow reports are authentic and critical domestic efforts to hold governments accountable for implementation of their obligations under CEDAW. These reports are the foot print that CSOs leave of their concerns about state implementation of women's rights obligations. Some of these reports require considerable research, consultation, and collective action. As such, they represent

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<sup>92</sup> Joint CSO Submission, "Women's Human Rights: Argentine State Pending Debts," Alternative Report from CSOs in Connection with the Submission of the Sixth Periodic Report of the States Parties (CEDAW/C/ARG/6) to the Committee for the Elimination of all forms of Discrimination against Women, 46<sup>th</sup> Period of Sessions (2010). Available at: <http://tbinternet.ohchr.org/>.

<sup>93</sup> Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Argentina*, U.N. Doc. CEDAW/C/ARG/CO/6 (13 July 2010), para. 28.

<sup>94</sup> Coalition against Trafficking in Women, "Information on Brazil for consideration by the Committee on the Elimination of Discrimination against Women at its 51st Session" January 25, 2012. Available at: <http://tbinternet.ohchr.org/>.

<sup>95</sup> Articulación Feminista por la Libertad de Decidir, "Chile: Shadow Report to the UN Committee on the Elimination of Discrimination against Women," 53 Session, October 2012. Available at: <http://tbinternet.ohchr.org/>. Many of these issues were echoed in the summary records and the concluding observations. See Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Chile*, U.N. Doc. CEDAW/C/CHL/CO/5-6 (2 October 2012), paras 12, 20, 22.

<sup>96</sup> National Citizens' Observatory on Femicide, "Submission to the United Nations Committee on the Elimination of Discrimination against Women with regard to the consideration of the combined 7<sup>th</sup> and 8<sup>th</sup> Periodic Report of Mexico." June 2012. Available at: <http://tbinternet.ohchr.org/>. These concerns are explicitly mentioned in the CmEDAW's concluding observations. See, e.g., Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Mexico*, U.N. Doc. CEDAW/C/MEX/CO/7-8 (17 July 2012), paras 15, 17, 20.

<sup>97</sup> Latin American and the Caribbean Committee for the Defense of Women's Rights, et al: "Alternative Report for the Committee on the Elimination of Discrimination against Women," May 26, 2016. Available at: <http://tbinternet.ohchr.org/>.

<sup>98</sup> "Report by the National Institution of Human Rights of Uruguay" June 10, 2016. Available at: <http://tbinternet.ohchr.org/>.

<sup>99</sup> See shadow reports posted under Venezuela's 7-8<sup>th</sup> CmEDAW review on the UN Treaty Body Database, available at: <http://tbinternet.ohchr.org/>.



the mobilization of groups and organizations to press governments for implementation and compliance.

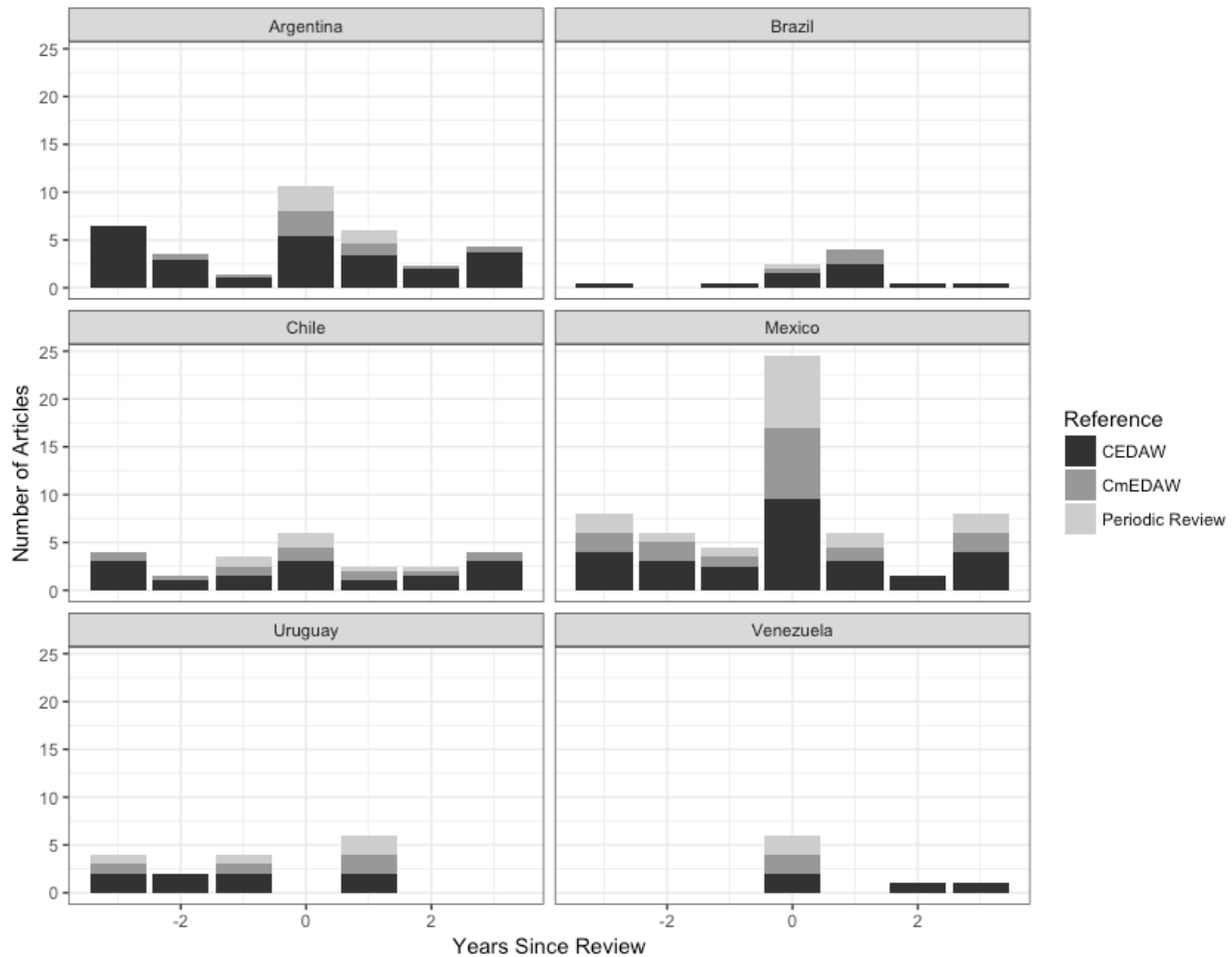
*Information: Coverage of Periodic Review in Domestic Media*

Does the reporting process reverberate beyond dialogue between organized civil society groups, the government, and the treaty body? To be meaningful domestically, there must be some public awareness of the existence of review and the issues it entails. To establish whether this in fact occurs, we searched the major local press outlets of fifteen Latin American countries for awareness and discussion of the reporting-and-review process.<sup>100</sup> Each news article was coded for whether it mentioned the focal state's CEDAW obligations, the CmEDAW, and/or the reporting and review process specifically. If the "constructive dialogue" with the Committee is invisible to domestic publics, we would expect little to no reference to any of these topics in the local press. But if such dialogue matters to domestic audiences, we should see a spike in press references, followed by a somewhat higher degree of attention in the news to CEDAW and the CmEDAW during and after the review year.

Media evidence collected is generally consistent with the hypothesis that the conversations initiated by the periodic review process between Latin American governments and the CmEDAW have had important reverberations in the local (national) press, at least in Argentina and Mexico, and slightly less so in Chile, Uruguay, and Venezuela. Figure 10 demonstrates strong evidence of a spike in attention by the local press in these countries to the review process, particularly during the year of in-person review (0).

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<sup>100</sup> The countries for which we could find a reliable and searchable media database include: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, Uruguay, and Venezuela. We identified the top three newspapers (by circulation) using [www.pressreference.com](http://www.pressreference.com), supplemented with queries to regional and country experts or citizens. It was not possible to search electronically all three outlets for every single year since the CmEDAW entered into force, but in each case we searched as many years as possible from 1982 to the present. Using three specific combinations of search terms in Spanish and Portuguese ("CEDAW", "convención AND discriminación AND mujer", and "comité AND discriminación AND mujer") we collected all news articles mentioning the CEDAW, the CmEDAW, and/or the periodic review process. We only collected and coded articles published by a newspaper within and about the reporting state. We did not collect media stories for states prior to their ratification of CmEDAW, but we did search for them *regardless* of whether or not a state had in fact met its reporting obligation(s).



**Figure 10: Domestic Media Coverage of CEDAW and CmEDAW review in Latin America.** Figure indicates the number of domestic newspaper articles that reference the CEDAW, the CmEDAW, or the in-person periodic review and/or the concluding observations and recommendations issued by the CmEDAW (Periodic Review). References are averaged over the number of CmEDAW reviews (CEDAW reports) undertaken by each country within its searchable time period. References are centered around the year of review (0). For Argentina, the searchable period is 1996-2014 and covered 3 CmEDAW reviews. For Brazil, the searchable period is 2003-2014 and covered 3 CmEDAW reviews. For Chile and Mexico, the searchable period is 2005-2014, and covered 2 CmEDAW reviews for each country. For Uruguay and Venezuela, the searchable period is 2002-present, and covered 2 CmEDAW reviews for each country.

Argentina has been incredibly diligent about submitting its CEDAW reports, with all seven reports due submitted within two years of the due date.<sup>101</sup> Argentina also has a large private media sector, although the relationship between the press and both Kirchner administrations was particularly tense. We searched the two most influential national daily newspapers—*Clarín* and *La Nación*—for references to CEDAW and the periodic review process. *La Nación* is considered to have a respectably center-right editorial position, and is often viewed as the smart but conservative

<sup>101</sup> For efficiency's sake, the CmEDAW sometimes reviews two state reports in one session; thus Argentina has only appeared before the Committee and received recommendations five times (in 1988, 1997, 2002, 2010, and 2016).

mainstream paper of Argentina.<sup>102</sup> During the searchable period (2005-2014), this paper referenced CEDAW a total of twenty-five times, but only two of these articles referenced the CmEDAW. Much of this coverage is of the contentious 2007 ratification of CEDAW's Optional Protocol, strongly opposed by the Catholic Church, which viewed the individual communication procedure as a step toward the decriminalization of abortion.<sup>103</sup> Interestingly and contrary to our expectations, none of the *La Nacion* articles searched discuss the 2010 periodic review process.

In line with our expectations, however, the relatively middle-of-the-road publication *Clarín* referenced CEDAW fifty-six times during the searchable period (1996-2014), fifteen of which discuss the periodic review process. Many of these articles cover the shadow reporting conducted by domestic civil society organizations,<sup>104</sup> but some are critical of the government's lack of implementation of CEDAW obligations and Committee recommendations.<sup>105</sup> For instance, an editorial in 1998 considered that four bills before the legislature intended to emphasize the self-determination of rape victims and to criminalize other types of sexual assaults fell far short of CmEDAW's 1997 recommendations.<sup>106</sup> In a society where the political influence of the Catholic Church is strong, the vast majority of articles on CEDAW and Committee recommendations unsurprisingly discuss those relating to family planning policies and the decriminalization of abortion.

Much of the Mexican media coverage is highly critical of the state of women's rights in Mexico, and quite specific about the CmEDAW recommendations to improve. For example, *El Universal* covered the CmEDAW's critical questioning of the Mexican representative during the periodic review of August 2006.<sup>107</sup> Follow-up articles noted CmEDAW (and other) pressures on Mexico to address homicides and disappearances of women in Ciudad Juarez.<sup>108</sup> Several articles followed CmEDAW review of Mexico's report in 2012, mentioning its specific recommendations to implement measures to protect female journalists from violence<sup>109</sup> and to diffuse the CEDAW by translating it into thirteen indigenous languages.<sup>110</sup>

Like Argentina, Chile has submitted all of its reports—most of relatively high quality—on or soon after the due date.<sup>111</sup> Chile's traditionally active press, closely tied to the country's competitive political parties, has been reasonably attentive to this review process. The country's most influential, center-right publication, *El Mercurio* (searchable from 2005-2015) has covered Committee recommendations in a relatively neutral tone. For instance, a couple of articles provide balanced coverage of CmEDAW's lengthy questioning of the Director of the National Service for Women (SERNAM) Laura Alborn in 2006. Alborn is quoted as stating “clearly and

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<sup>102</sup> See, e.g., Carlos Ares, “El periódico conservador argentino 'La Nación' ha cumplido 115 años,” *El País*, 6 January 1985.

<sup>103</sup> *La Nacion*, “Critican que se apruebe una ley que dara luz verde a todo tipo de abortos,” 16 November 2006.

<sup>104</sup> *Clarín*, “La situacion de la mujer en la Argentina,” 7 August 2002.

<sup>105</sup> *Clarín*, “Una pesada deuda con las mujeres,” 28 September 2002.

<sup>106</sup> *Clarín*, “La mujer de hoy y sus problemas,” 12 March 1998.

<sup>107</sup> *El Universal*, “Critican al país por la violencia de género,” 18 August 2006.

<sup>108</sup> *El Universal*, “La ONU critica rezagos en el país para proteger a mujeres,” 07 September 2006.

<sup>109</sup> *El Universal* “Propondrá PAN evaluación a funcionarios electos,” 26 September 2013.

<sup>110</sup> *El Universal* “Traducen para indígenas instrumentos para respeto a DH de mujeres,” 20 August 2013.

<sup>111</sup> Thus far, the Chilean government has appeared before the CmEDAW for periodic review four times (1995, 1999, 2006, 2012), typically led by the Director of the National Service for Women (SERNAM).

emphatically that legislating on abortion or decriminalization is not contemplated within the government program of President Bachelet.”<sup>112</sup> As within a number of other countries in Latin America, press coverage tends to focus on the legal status of abortion and a country’s relationship with CEDAW.

Coverage of CmEDAW review in Brazil, Uruguay and Venezuela is considerably less frequent. Publications within these countries, when discussing women’s rights, tend to reference Inter-American obligations rather than the UN regime. In Uruguay, *El Pais* (searchable from 2002-2015)—largely supportive of the right-wing conservative political party—and *La Republica* (searchable from 2003-2015)—a more center-left publication—provided scattered coverage of CmEDAW review, largely in relation to other international obligations. In Venezuela, one of Caracas’ most influential dailies—*El Nacional* (searchable from 2002-2015)—only references CmEDAW review twice, but provides strong coverage of activities of the National Institute of Women (*Inamujer*) and local NGOs working toward gender equality.

Overall, the press in Latin American countries facilitates robust information and even debate about the reporting and review process. This suggests that a causal mechanism linking the reporting process to domestic information, awareness, and eventual mobilization varies across countries, but overall is highly plausible.

#### *Political Attention: Self-Reporting in Legislative Debates*

A number of CEDAW obligations—from criminalizing gender-based violence to prohibiting gender discrimination in public educational systems—depend on implementing legislation. The centrality of the legislature to ensuring treaty compliance has been recognized by the Committee itself; it has at times called on a government “to encourage its parliament...to take the necessary steps with regard to the implementation of [...] concluding observations.”<sup>113</sup> In this section, we look for evidence that parliaments are aware of CEDAW obligations and the CmEDAW itself. Our model of the iterative influence of the reporting process suggests that legislators should draw on the Committee’s recommendations soon after a country’s review and that these references should cumulate over time. We also examine the content of parliamentary debates for evidence that laws relating to women’s rights were nudged by the substance of CmEDAW’s recommendations or concluding observations. We expect the self-reporting process to link to legislative debates over gender-focused laws, constituting one pathway through which periodic self-reporting and review under CEDAW impacts women’s rights on the ground. We focus on Argentina, Chile, Mexico and Uruguay, four major Latin American countries for which a significant legislative history is available online.

#### **Argentina**

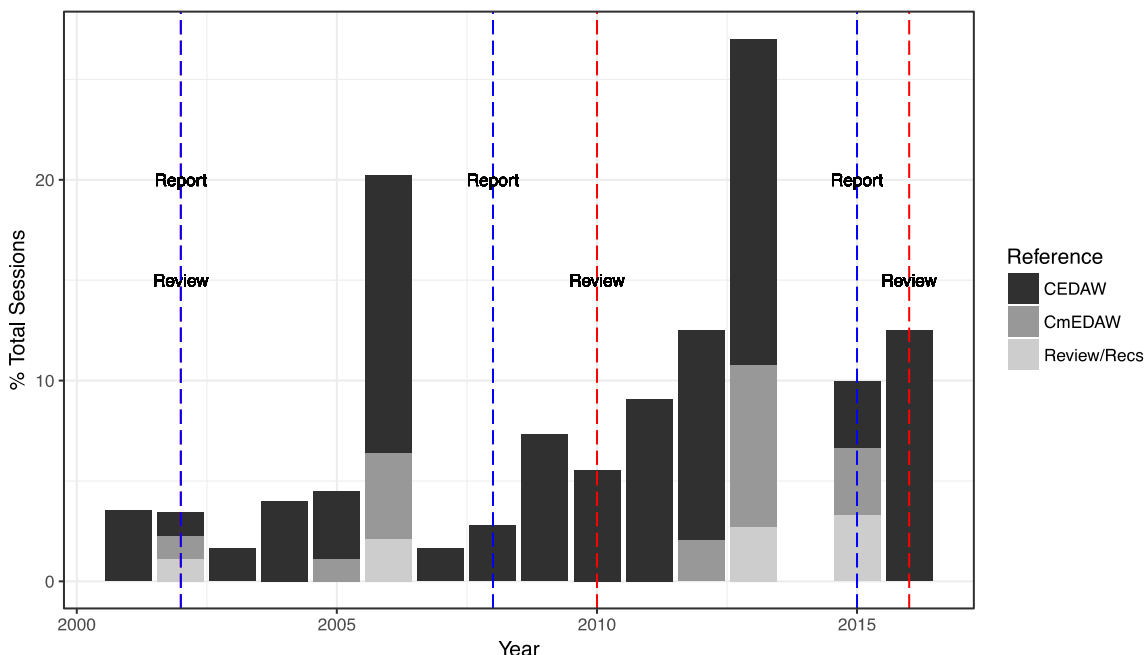
Argentina roughly fits our expectations for a state whose dialogue with the CmEDAW has made a mark on legislative activity. Figure 11 demonstrates that attention to CEDAW in the legislature has surged in three distinct swells following review, growing with each round of interaction with

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<sup>112</sup> *El Mercurio*, “En Resumen,” 17 August 2006; *El Mercurio*, “Poli Notas,” 2 December 2006.

<sup>113</sup> See, e.g. Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Argentina*, U.N. Doc. CEDAW/C/ARG/CO/6 (13 July 2010), para. 10.

the CmEDAW. In two of three reporting years, there are references to the committee and/or its recommendations. In 2013, more than a quarter of all legislative sessions included at least one reference to CEDAW, and more than ten per cent of all sessions that year contained at least one mention of the Committee, its recommendations, or the review process itself.



**Figure 11.** References to the CEDAW regime within Argentina’s legislature (2001-2016). Figure displays the percentage of all sessions held by the Senate and Chamber of Deputies in a given year in which at least one legislator referenced the CEDAW regime, categorized by reference type: the treaty itself (CEDAW); the CmEDAW; or the periodic review process/recommendations. Horizontal dashed lines represent years in which Argentina either submitted a Report or the CmEDAW issued its concluding observations (Review).

How did CEDAW influence legislation? Following its 2002 CEDAW review and 2004 follow-up, the new government undertook a number of legislative reforms to further implement CEDAW obligations and to mitigate the effects of the economic crisis on women.<sup>114</sup> For example, in supporting the creation of a National Program for Sexual Health and Responsible Procreation, Senator Gomez de Bertone (PJ) noted that despite the fact that CmEDAW had ‘forgiven’ (*se le perdonan*) Argentina for many implementation deficiencies due to the economic crisis, it had strongly recommended the enactment of this bill.<sup>115</sup>

<sup>114</sup> This included ratification of the CEDAW Optional Protocol (March 2007); adoption of a Comprehensive Law on the Prevention, Punishment and Elimination of Violence against Women in their Interpersonal Relations (Law 26,485 (2009)), which covers all forms of gender-based violence, including physical, psychological, sexual, economic and patrimonial violence and creates the Observatory on Violence; ratification of the United Nations Convention against Transnational Organized Crime and the two Palermo protocols thereto by means of Law 25,632, and the adoption in April 2008 of the Law on the Prevention and Punishment of Trafficking in Persons (Law 26,364 (2008)), which amends the Criminal Code and the Code of Criminal Procedure and prohibits and punishes all forms of trafficking in persons.

<sup>115</sup> República Argentina, Cámara de Senadores de la Nación, *Versión Taquigráfica*, Período 120°, 31ª Reunión, 16ª Sesión ordinaria (30 octubre 2002); Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Argentina*, U.N. Doc. A/57/38(SUPP) (16 August 2002), para. 361.

We found further evidence that the CmEDAW interactions are at least occasionally on legislators' minds. Legislators within both the Senate and the Chamber of Deputies reference CEDAW obligations (and the Committee's General Recommendations) when discussing bills or programs. Legislators cited specific CEDAW provisions and CmEDAW General Recommendation 19 when discussing modification of the penal code to incorporate violence against women or femicide,<sup>116</sup> the Comprehensive Law on the Prevention, Punishment and Elimination of Violence against Women in their Interpersonal Relations (2009) and its further implementation,<sup>117</sup> and data collection for sexual crimes.<sup>118</sup> Frequent references to specific CEDAW provisions and one reference to CmEDAW recommendations have also been made in debates over bills addressing sexual and reproductive health services,<sup>119</sup> which was a specific focus of the Committee's concluding observations.<sup>120</sup>

## Chile

Chile has a strong history of attention to the status of women in society, having established as early as 1949 a Legal Office for Women, followed by the National Office for Women in 1951.<sup>121</sup> The government has been a reliable self-reporter that typically engages actively with the CmEDAW. Chile also elected its first female President in 2006, Michelle Bachelet of the center-left Socialist Party (*Partido Socialista de Chile*), who achieved gender parity within her first Cabinet.

Chile's legislature has not been as explicitly tuned to the CmEDAW as has the executive, however. A pattern of parliamentary mentions similar to Argentina's is found in Chile's legislature, though without as obvious a cumulative effect over time. Although mentions of CEDAW in the legislature

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<sup>116</sup> República Argentina, Cámara de Senadores de la Nación, *Versión Taquigráfica*, Período 130°, 2ª Reunión, 1ª Sesión ordinaria (14 marzo 2012); República Argentina, Cámara de Senadores de la Nación, *Versión Taquigráfica*, Período 130°, 16ª Reunión, 11ª Sesión ordinaria (3 octubre 2012); República Argentina, Cámara de Senadores de la Nación, *Versión Taquigráfica*, Período 134°, 8ª Reunión, 2ª Sesión ordinaria (8 junio 2016); República Argentina, Cámara de Diputados de la Nación, *Dirección de Taquígrafos*, Período 130, 5ª Reunión, Sesión ordinaria (18 abril 2012).

<sup>117</sup> República Argentina, Cámara de Senadores de la Nación, *Versión Taquigráfica*, Período 133°, 5ª Reunión, 4ª Sesión ordinaria (1 julio 2015).

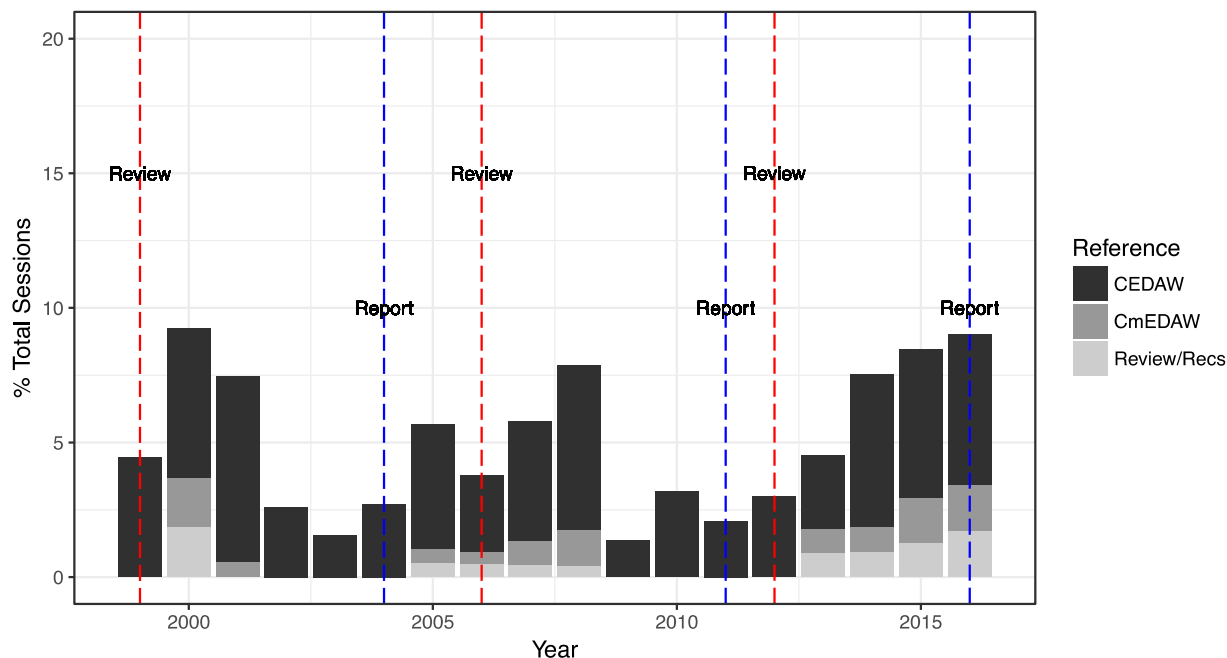
<sup>118</sup> República Argentina, Cámara de Diputados de la Nación, *Dirección de Taquígrafos*, Período 131, 8ª Reunión, 6ª Sesión ordinaria (3 julio 2013).

<sup>119</sup> República Argentina, Cámara de Senadores de la Nación, *Versión Taquigráfica*, Período 131°, 6ª Reunión, 2ª Sesión ordinaria (24 abril 2013); República Argentina, Cámara de Senadores de la Nación, *Versión Taquigráfica*, Período 131°, 12ª Reunión, 6ª Sesión ordinaria (3 julio 2013); República Argentina, Cámara de Diputados de la Nación, *Dirección de Taquígrafos*, Período 130, 11ª Reunión, 8ª Sesión ordinaria (27 junio 2012); <sup>119</sup> República Argentina, Cámara de Diputados de la Nación, *Dirección de Taquígrafos*, Período 131, 6ª Reunión, 5ª Sesión ordinaria (5 junio 2013).

<sup>120</sup> Committee on the Elimination of Discrimination against Women, *Summary Record of the 926<sup>th</sup> meeting, forty-sixth session: Consideration of reports submitted by States parties under article 18 of the Convention*, U.N. Doc. CEDAW/C/SR.926 (13 July 2010), para. 38.

<sup>121</sup> Chile has long focused on the status of women in society. However, in the 1970s, with the transition to military rule, a National Secretariat for Women formed mainly to promote the military regime's ideology. When Chile transitioned to democracy in 1990, cultural debate over women's issues had effectively been non-existent for 20 years. Nevertheless, on the heels of democratic transition, advances in the status of women were led by the National Office for Women's Affairs (SERNAM), established in January 1991. SERNAM was a public agency whose Director held ministerial rank as a member of the Presidential Cabinet.

are not as frequent as is the case in Argentina, legislative attention does appear to increase slightly after every review year, with a fairly steady increase in legislative attention since 2011. In particular, mentions of review and/or recommendations have recently increased.



**Figure 12.** References to the CEDAW regime within Chile’s legislature (1999-2016). Figure displays the percentage of all sessions held by the Senate and Chamber of Deputies in a given year in which at least one legislator referenced the CEDAW regime, categorized by reference type: the treaty itself (CEDAW); the CmEDAW; or the periodic review process/recommendations. Horizontal dashed lines represent years in which Chile either submitted a Report or the CmEDAW issued its concluding observations (Review).

CEDAW has been brought into discussions relating to wage equality, the decriminalization of abortion, and the minimum age for marriage.<sup>122</sup> The persistent wage and employment gap between women and men, despite women’s higher education levels, has been an area of concern for the Committee since Chile’s transition to democracy.<sup>123</sup> In 2008 and again in 2012, Senators drew on CmEDAW’s recommendations to support legislation that modified the Labor Code to safeguard the right to equality in remuneration.<sup>124</sup> The Committee has also consistently urged the Chilean legislature to amend laws relating to abortion, to permit pregnancy termination for therapeutic or health reasons.<sup>125</sup> Controversial debates within the legislature during the 2000s over whether and how to decriminalize abortion ultimately led to the adoption of a law in 2017 to do so in instances

<sup>122</sup> See Concluding Observations, U.N. Doc. CEDAW/C/CHI/CO/4 (16 August 2006), paras 21-22; Chamber Leg 355 Session 59; Chamber Leg 362 Session 113 – 13-jan-15.

<sup>123</sup> Concluding Observations, U.N. Doc. A/50/38 (24 January 1995), para. 109; Concluding Observations, U.N. Doc. CEDAW/C/CHI/CO/4 (16 August 2006), paras 11-12; Concluding Observations, U.N. Doc. CEDAW/C/CHI/CO/5-6 (2 October 2012), paras 32-33.

<sup>124</sup> Senate Leg 356 Session 36 – 15-jul-08. Boletín 4356-13, became a law in 2009. Ley N° 20.348 (Diario Oficial del 19/06/2009); Chamber Leg 364 Session 2 – 16-mar-16.

<sup>125</sup> U.N. Doc. A/54/38/REV. 1(SUPP) (22 January 1999), para. 229; Concluding Observations, U.N. Doc. CEDAW/C/CHI/CO/4 (16 August 2006), paras 19-20; Concluding Observations, U.N. Doc. CEDAW/C/CHI/CO/5-6 (2 October 2012). Paras 34-5.

of rape, danger to the life of the mother, or danger to the life of the fetus.<sup>126</sup> The bill for this legislation was initially introduced by President Bachelet, and justified with reference to CmEDAW's (and other's) recommendations.<sup>127</sup> She reminded legislators "[o]ur country cannot avoid these recommendations by postponing a decision, nor can it continue to ignore the serious violation of rights that this situation poses."<sup>128</sup> These recommendations and the need for Chile to fulfill its international obligations were relied upon by deputies, particularly from the Socialist Party, supporting the proposed bill during its subsequent debate.<sup>129</sup>

## Mexico

In Mexico, we see precisely the pattern one might expect if the process of self-reporting and Committee review is salient in legislative activity. Mexican legislators have referred to CEDAW obligations and Committee recommendations when legislating on women's rights more frequently than others in the region, particularly during the last decade. Yet in the first twenty years after ratifying CEDAW, discrimination and violence against women remained a persistent problem in Mexico. Following the democratic transition in 2000, the new government instituted constitutional reforms that prohibited gender discrimination and established the National Women's Institute (INMUJERES) in 2001. The following year, INMUJERES submitted 30 pieces of legislation on questions affecting women, including political participation, sexual harassment, social security, job discrimination and violence.<sup>130</sup>

Despite these efforts, violence against women has remained a serious concern of the CmEDAW and featured prominently in their 2002, 2006, and 2012 reviews and concluding observations.<sup>131</sup> These concerns have not gone unnoticed by legislators in Mexico, particularly those from the Party of the Democratic Revolution (PRD), the minority Labor and Citizen's Movement parties at that time.<sup>132</sup> In 2009, Deputy Humberto Dávila Esquivel (New Alliance Party) proposed a bill to

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<sup>126</sup> *Regula la despenalización de la interrupción voluntaria del embarazo en tres causales*, Ley N° 21.030 (Diario Oficial del 23/09/2017).

<sup>127</sup> Mensaje No 1230-362, *Mensaje de S.E. La Presidenta de la Republica con el que Inicia un Proyecto de Ley que Regula la Despenalización de la Interrupción Voluntaria del embarazo en Tres Causales*, 31 January 2015.

<sup>128</sup> Ibid. Chamber Leg 361 Session 22 – 7-may-13 pp. 172-173. See also reference to these recommendations within a report on the proposed bill by the parliamentary Committee on Health (*Comisión de Salud*), Chamber Leg 363 Session 72 – 29-sep-15, and the Committee on the Constitution, Legislation, Justice, and Regulation (*Comisión de Constitución, Legislación, Justicia y Reglamento*), Chamber Leg 364 Session 1 – 15-mar-16.

<sup>129</sup> Chamber Leg 364 Session 4 – 17-mar-16

<sup>130</sup> Committee on the Elimination of Discrimination against Women, *Summary Record of the 569<sup>th</sup> meeting, Exceptional session: Consideration of reports submitted by States parties under article 18 of the Convention*, U.N. Doc. CEDAW/C/SR.569 (6 August 2002), paras 3-4.

<sup>131</sup> Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Argentina*, U.N. Doc. A/57/38(SUPP) (6 August 2002), paras. 431-2; Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Argentina*, U.N. Doc. CEDAW/C/MEX/CO/6 (17 August 2006), paras 14-5; Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Argentina*, U.N. Doc. CEDAW/C/MEX/CO/7-8 (17 July 2012), paras 15-9.

<sup>132</sup> See, e.g. La Cámara de Diputados del Congreso de los Estados Unidos Mexicanos, *Diario de los Debates*, Legislatura LX, Año I, Primer Período Ordinario, Número de Diario 27 (21 noviembre 2006); La Cámara de Diputados del Congreso de los Estados Unidos Mexicanos, *Diario de los Debates*, Legislatura LX, Año III, Segundo Período Ordinario, Número de Diario 13 (10 marzo 2009); La Cámara de Senadores del Congreso de los Estados



harmonize the concept of family violence in the Federal Civil Code with CEDAW and the provisions of the General Law on Women's Access to a Life Free of Violence. He mentioned the CmEDAW's 2006 recommendations to do just this.<sup>133</sup> The bill died almost immediately, however. Similarly, when speaking in favor of a call by the Commission for Gender Equality for three Mexican state congresses to criminalize the offence of femicide, Senator Angélica de la Peña Gómez (PRD) cited CmEDAW's recommendations regarding this issue.<sup>134</sup> More successfully, adopted reforms of the 2007 Law of Access of Women to a Life Free From Violence (*Ley General de Acceso de las Mujeres a una Vida Libre de Violencia*),<sup>135</sup> proposed and supported by Senators Gloria Bautista Cuevas (PRD)<sup>136</sup> and María Candelaria Ochoa Ávalos (Citizen's Movement),<sup>137</sup> relied on CmEDAW's recommendations for how to strengthen this law.

In addition to concerns about violence against women in Mexico, CmEDAW recommendations have been drawn on to support gender-related reforms of labor laws,<sup>138</sup> health policies,<sup>139</sup> and government institutions,<sup>140</sup> among other topics.

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Unidos Mexicanos, *Versiones Estenográficas*, Legislatura LXII, Año II, (13 febrero 2014); Senado de la República, Comisión Permanente del H. Congreso de la Unión, *Versiones Estenográficas*, Legislatura LXII, Año III, Segundo Receso, No. 22 (19 agosto 2015).

<sup>133</sup> La Cámara de Diputados del Congreso de los Estados Unidos Mexicanos, *Diario de los Debates*, Legislatura LX, Año III, Segundo Período Ordinario, Número de Diario 9 (24 febrero 2009).

<sup>134</sup> La Cámara de Senadores del Congreso de los Estados Unidos Mexicanos, *Versiones Estenográficas*, Legislatura LXII, Año II, Sesión Ordinaria (5 septiembre 2013).

<sup>135</sup> *Ley General de Acceso de las Mujeres a una Vida Libre de Violencia*, Nueva Ley publicada en el Diario Oficial de la Federación el 1 de febrero de 2007 (reformada 20 enero 2009), Última reforma publicada en el Diario Oficial de la Federación 17 diciembre 2015.

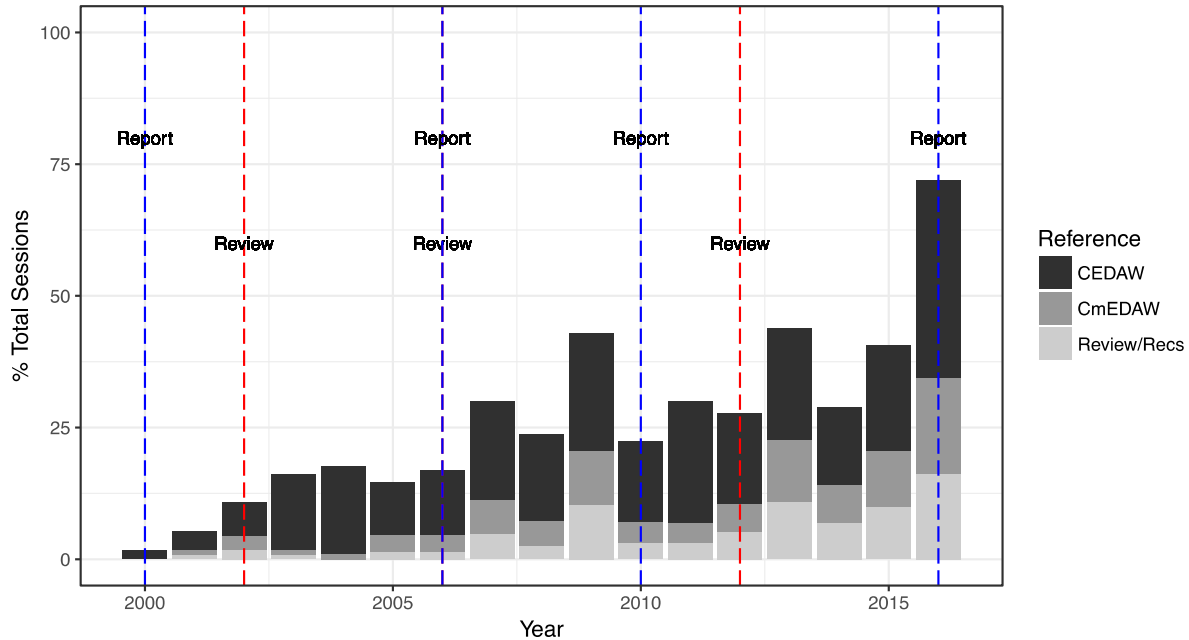
<sup>136</sup> La Cámara de Senadores del Congreso de los Estados Unidos Mexicanos, *Versiones Estenográficas*, Legislatura LXII, Año III, Sesión Ordinaria (24 junio 2015).

<sup>137</sup> La Cámara de Diputados del Congreso de los Estados Unidos Mexicanos, *Diario de los Debates*, Legislatura LXIII, Año I, Primer Período Ordinario, Número de Diario 13 (8 octubre 2015).

<sup>138</sup> La Cámara de Diputados del Congreso de los Estados Unidos Mexicanos, *Diario de los Debates*, Legislatura LXIII, Año I, Primer Período Ordinario, Número de Diario 36 (15 diciembre 2015); La Cámara de Senadores del Congreso de los Estados Unidos Mexicanos, *Versiones Estenográficas*, Legislatura LXI, Año III, Sesión Ordinaria (11 noviembre 2008).

<sup>139</sup> La Cámara de Senadores del Congreso de los Estados Unidos Mexicanos, *Versiones Estenográficas*, Legislatura LX, Año I, Sesión Ordinaria (1 febrero 2007); La Cámara de Senadores del Congreso de los Estados Unidos Mexicanos, *Versiones Estenográficas*, Legislatura LX, Año I, Sesión Ordinaria (24 abril 2007); La Cámara de Senadores del Congreso de los Estados Unidos Mexicanos, *Versiones Estenográficas*, Legislatura LXII, Año II, Sesión Ordinaria (13 mayo 2014).

<sup>140</sup> La Cámara de Senadores del Congreso de los Estados Unidos Mexicanos, *Versiones Estenográficas*, Legislatura LXIII, Año I, Sesión Ordinaria (17 febrero 2016); La Cámara de Senadores del Congreso de los Estados Unidos Mexicanos, *Versiones Estenográficas*, Legislatura LXIII, Año I, Sesión Ordinaria (12 abril 2016); La Cámara de Senadores del Congreso de los Estados Unidos Mexicanos, *Versiones Estenográficas*, Legislatura LXIII, Año I, Sesión Ordinaria (10 agosto 2016).

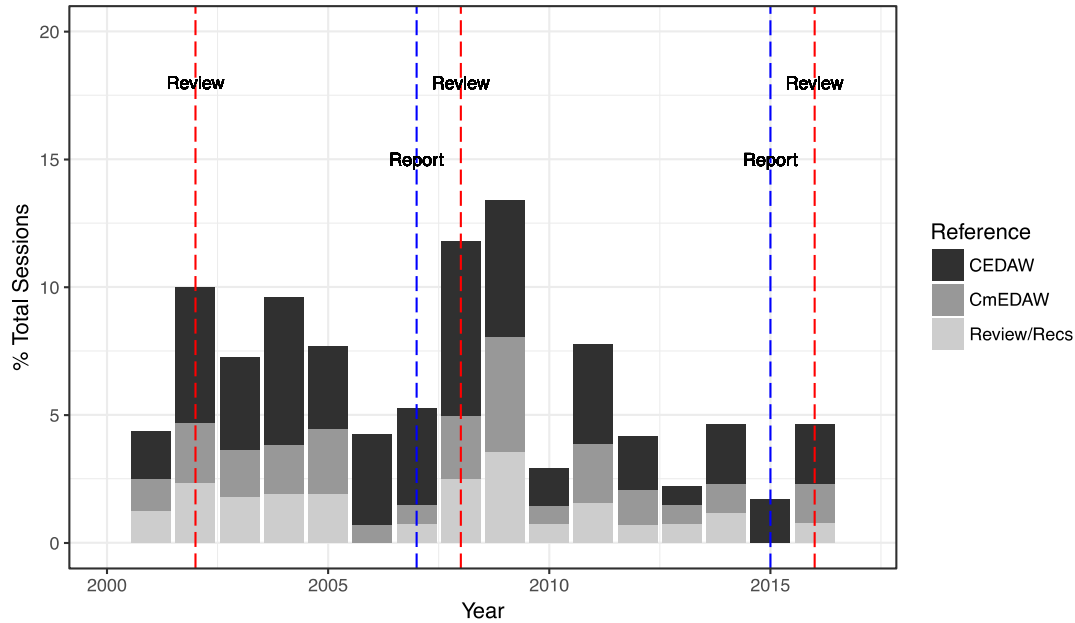


**Figure 13.** References to the CEDAW regime within Mexico’s Congress (2000-2016). Figure displays the percentage of all sessions held by the Senate and Chamber of Deputies in a given year in which at least one legislator referenced the CEDAW regime, categorized by reference type: the treaty itself (CEDAW); the CmEDAW; or the periodic review process/recommendations. Horizontal dashed lines represent years in which Mexico either submitted a Report or the CmEDAW issued its concluding observations (Review).

## Uruguay

Uruguay is among the first Latin American countries to enfranchise women (in 1937), ratify CEDAW (1981), establish an office to deal with women’s concerns (1991),<sup>141</sup> and sign on to CEDAW’s Optional Protocol (2001). Despite this strong political commitment to (international) women’s rights and in contrast to Mexico, legislative references to CEDAW are sparse and recently on the decline.

<sup>141</sup> The National Institute for Family and Women’s Affairs was replaced in 2002 by the National Women’s Institute, created under the Ministry of Social Development (Law No. 17.866, Article 6) to act as the governing body for gender policies, and is responsible, under Law No. 17,930 of 19 December 2005, for fulfilling the state’s international obligations relating to non-discrimination on the basis of gender.



**Figure 14.** References to the CEDAW regime within Uruguay’s legislature (2000-2016). Figure displays the percentage of all sessions held by the Senate and House of Representatives in a given year in which at least one legislator referenced the CEDAW regime, categorized by reference type: the treaty itself (CEDAW); the CmEDAW; or the periodic review process/recommendations. Horizontal dashed lines represent years in which Uruguay either submitted a Report or the CmEDAW issued its concluding observations (Review).

Even so, references to the CmEDAW and its recommendations have featured regularly in Uruguayan legislative discussions. For example, at least one Senator referenced CmEDAW’s 2002 recommendations<sup>142</sup> when debating a bill defining gender discrimination and promoting equal opportunities and rights.<sup>143</sup> These same concluding observations also made a number of specific recommendations, including repealing a law mitigating rape charges when the person who committed the offense married the victim.<sup>144</sup> The Committee’s “harsh criticism”<sup>145</sup> sparked renewed discussion of Penal Code reform and a bill was introduced in the Senate the following year.<sup>146</sup> During all subsequent discussions of the bill in the Senate<sup>147</sup> and the Chamber of

<sup>142</sup> Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Uruguay*, U.N. Doc. A/57/38(SUPP) (24 January 2002), paras 186-7.

<sup>143</sup> Senate, Leg XLVI (third period) Session 1 – 6-mar-07; the bill became Law No. 18.104 of 6 March 2007.

<sup>144</sup> Committee on the Elimination of Discrimination against Women, *Summary Record of the 541<sup>st</sup> meeting, twenty-sixth session: Consideration of reports submitted by States parties under article 18 of the Convention*, U.N. Doc. CEDAW/C/SR.541 (24 January 2002), para. 14; Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Uruguay*, U.N. Doc. A/57/38(SUPP) (24 January 2002), paras 196-7. During its in-person dialogue with the Committee, the Uruguayan delegate recognized that the provision was a “vestige of a former time” and so “no longer used, and therefore no one had taken the trouble to have it revoked.” Committee on the Elimination of Discrimination against Women, *Summary Record of the 541<sup>st</sup> meeting, twenty-sixth session: Consideration of reports submitted by States parties under article 18 of the Convention*, U.N. Doc. CEDAW/C/SR.541 (24 January 2002), para. 29.

<sup>145</sup> Chamber Leg XLVI (first period) Session 1 -21-dic-05, p. 81.

<sup>146</sup> Senate - Leg XLV (fourth period) Session 2 – 11-mar-03.

<sup>147</sup> Senate - Leg XLVI (first period) Session 37 – 10-aug-05; Leg XLVI (first period) Session 48 – 4-oct-05.

Deputies<sup>148</sup> elimination of this provision was framed as necessary to respond to the Committee's recommendation. The rape mitigation provision was repealed on December 29, 2005.<sup>149</sup>

The low rate of political participation by women in Uruguay also caught the attention of the CmEDAW. During its 2008 review, one Committee member indicated that it was “lamentable that nearly 30 years after Uruguay's accession to the Convention, so few women were involved in politics or occupied decision-making positions.”<sup>150</sup> The Uruguay government representative cited cultural resistance to quotas,<sup>151</sup> but also noted that the Committee's recommendations “would undoubtedly help to raise awareness of Uruguay's shortcomings in terms of women's political [...] participation.”<sup>152</sup> Legislators within both the Senate<sup>153</sup> and the Chamber of Deputies<sup>154</sup> explicitly drew on these recommendations when discussing a controversial bill to progressively implement gender quotas for government elections, which passed in 2009.<sup>155</sup>

As a final example, the Committee again criticized Uruguay's Civil Code and Code on Childhood and Adolescence, which set the minimum age for marriage for girls at 12 years, and recommended that the legislature raise the age to 18 years.<sup>156</sup> Senators referenced these recommendations when debating a bill to increase the minimum age of marriage,<sup>157</sup> which eventually was raised to 16 years. This age still fell below CEDAW's requirement of 18 years, leading the Committee to once more criticize Uruguay's legislative implementation during its 2016 review.<sup>158</sup> There is little doubt, however, that dialogue with the committee has raised the urgency of the issue in the legislature.

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<sup>148</sup> Chamber refs: Leg XLV (fifth period) Session 12 – 1-apr-04; Chamber Leg XLVI (first period) Session 1 -21-dic-05.

<sup>149</sup> Law No. 17.938.

<sup>150</sup> Committee on the Elimination of Discrimination against Women, *Summary Record of the 857<sup>th</sup> meeting (Chamber A), forty-second session: Consideration of reports submitted by States parties under article 18 of the Convention*, U.N. Doc. CEDAW/C/SR.857 (23 October 2008), para. 2. In fact, the Committee expressed concern that women “continue to be underrepresented in public and political life,” with the proportion of women in Parliament falling from 11.5 to 10.8% in the 2004 elections. Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Uruguay*, U.N. Doc. CEDAW/C/URY/CO/7 (23 October 2008), para. 30.

<sup>151</sup> Committee on the Elimination of Discrimination against Women, *Summary Record of the 857<sup>th</sup> meeting (Chamber A), forty-second session: Consideration of reports submitted by States parties under article 18 of the Convention*, U.N. Doc. CEDAW/C/SR.857 (23 October 2008), para. 3.

<sup>152</sup> *Ibid.* para. 5

<sup>153</sup> Leg XLVI (fourth period) Session 16 – 14-may-08; Leg XLVI (fourth period) Session 57 – 11-nov-08; Leg XLVI (fifth period) Session 4 – 18-mar-09.

<sup>154</sup> XLVI (fifth period) Session 8 – 24-mar-09

<sup>155</sup> Law No. 18.476 of 3 April 2009, which provides for the equal political participation of women and men in elected bodies, although it was applied only once during the 2014 national elections.

<sup>156</sup> Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Uruguay*, U.N. Doc. CEDAW/C/URY/CO/7 (23 October 2008), paras 46-7.

<sup>157</sup> Senate, Leg XLVI (fifth period) Session 22 – 14-jul-09; Leg XLVII (fourth period) Session 8 – 2-apr-13.

<sup>158</sup> Committee on the Elimination of Discrimination against Women, *Conclusions and recommendations of the Committee against Torture: Uruguay*, U.N. Doc. CEDAW/C/URY/CO/8-9 (14 July 2016), paras 45-6.

## VI. Conclusion

Criticisms of the reporting and review process of the various human rights treaty bodies are far more common than rigorous assessments of their actual consequences. While we do not dispute there are weaknesses in the reporting system, the evidence presented here is a striking contrast to the literature and folk wisdom on state interactions with expert human rights treaty bodies. We have found evidence to suggest that self-reporting and dialogue between state representatives and international experts indeed generates new ideas, advice, and domestic pressure for change in practice. The periodic review process may well have been important to making improvements in law and in practice to guarantee full political and economic rights for women in many societies (indeed, on average, as our quantitative analysis suggests). As anyone would expect, the effect on improved women's rights guarantees is not massive, but it is all the more believable for its modest size.

We also found that continued interactions are important to such improvements; modeling one-shot effects proved useless. The number and the density of reports and reviews are crucial to the process of rights improvements. This is certainly far more realistic a finding than to expect last year's report drafting or conversation with the experts to yield one-shot improvements in women's political and economic rights in the following year or so. Reporting *and* review histories has had a causal influence on the probability of improved women's rights, in law and in practice. This suggests that in the context of CEDAW, the effects of the periodic review process are ongoing, albeit incremental, from internal report preparation to external dialogue to domestic engagement to the next internal report preparation.

One of the most important accomplishments of this article is its demonstration of a plausible mechanism: domestic mobilization. We theorized and demonstrated three mutually reinforcing pathways through which the self-reporting process encourages domestic actors to demand and implement change. Domestic shadow reports are on the rise and indicate local CSOs are following the process closely and provide information that supplements and sometimes contradicts government reports. Media reports about the CEDAW spike during the reporting and review process, signifying the penetration of information about the Geneva process to local stakeholders. And finally, we were able to document legislative attention to the review process and even to trace the impact of specific CEDAW recommendations in the lawmaking process. Taken together, the evidence points to the catalytic role of self-reporting and review in putting important women's rights issues on national agendas, thereby creating an occasion for their national discussion.

We are not claiming of course that by examining the self-reporting regime we have exhausted the channels through which CEDAW may influence women's rights. CEDAW may be consequential for its influence on a number of channels, from influencing donor's development assistance policies<sup>159</sup> to clarifying violations through the optimal individual complaint process.<sup>160</sup> We also acknowledge that states have quite heterogeneous experiences in their interactions with the

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<sup>159</sup> Liam Swiss, *The adoption of women and gender as development assistance priorities: An event history analysis of world polity effects*, 27 INTERNATIONAL SOCIOLOGY (2012).

<sup>160</sup> Kwong-Leung Tang, *The leadership role of international law in enforcing women's rights: The Optional Protocol to the Women's Convention*, 8 GENDER & DEVELOPMENT (2000).

CmEDAW,<sup>161</sup> and that no amount of dialogue can nor should create homogeneous outcomes. The quality of interactions as well as the legal, cultural, and political context can be expected to produce quite different results across states.

And yet the evidence supporting the contribution of constructive dialogue to rights improvements is reasonably strong. One reason for this finding is that the review process sparks shadow reporting and gains a domestic audience through the national media. Far from finding that no one pays attention to this process outside the halls of Geneva, it turns out that in Latin America at least the review process literally piques the media's, and potentially the public's, interest. The national media in Latin America, for example, is replete with discussions and debates about what governments are telling the experts, how shadow reports shape the conversations, what CmEDAW has asked, and how governments have responded. There is plenty of official excuse-making going on, but a surprising amount of criticism as well. Legislators take up these themes in official sessions. These patterns are consistent with a theory that treaties matter because discussing human rights engage interested domestic publics, who are in a better position, armed with legal rights *and better information*, to hold their governments accountable.

Our research suggests that it might be useful to move away from trying to force the treaty body reporting-and-review process onto the spectrum of weak to strong enforcement measures<sup>162</sup> and instead to think of the whole process as more of a dialogue, or as Zwingel puts it, "a constant process of negotiating and renegotiating norms."<sup>163</sup> Indeed, such a reporting regime may in fact be quite a cost-effective way to improve law compliance.<sup>164</sup> At least our evidence suggests it is making a noticeable contribution at the margins in the realm of women's rights. Moreover, the strength of such a reporting-and-review process may not be tied to a specific treaty. We leave for further research whether our findings also hold in other international settings that involve similar review report-and-review processes, such as Universal Periodic Review before the UN Human Rights Council.

We hasten to add that the reporting regime is not a comprehensive solution to the world's worst human rights abuses. Even though CEDAW ratification is now nearly universal, it has proved impossible to coerce a meaningful conversation out of unwilling states. Constructive dialogue only has effects when it actually takes place. That said, the results of this research suggest that the reporting and review system should be supported rather than disparaged. We agree with the critics who point out the problems of stretched resources and redundant processes. But a look at the evidence suggests that self-reporting and receiving recommendations has an important causal role to play in starting conversations that reverberate domestically and open up possibilities for change.

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<sup>161</sup> Resnik, *INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW*, (2012).

<sup>162</sup> Yvonne Dutton, *Commitment to International Human Rights Treaties: The Role of Enforcement Mechanisms*, 34 *UNIVERSITY OF PENNSYLVANIA JOURNAL OF INTERNATIONAL LAW* (2012).

<sup>163</sup> Zwingel, *INTERNATIONAL STUDIES QUARTERLY*, 126 (2012).

<sup>164</sup> Optimal law enforcement with self-reporting of behavior. (1991).