

## World Society and Prisoner's Human Rights

:The National Ratification of the Convention Against Torture, 1984~2000

Min Kyung Kim

(MA Student, Korea University)

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**Abstract** This study focuses on a specific national display of human rights commitment and the national ratification of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). I emphasize the positive influence on ratification of CAT of crucial time points. For the this study, I address the two argument frame as theoretical background. The world society perspective assert that the human rights regime and its theorization gives rise to a logic of appropriateness that leads nation-states to present themselves as entities affirming human rights, especially in the international arena. World society perspective emphasize the importance of cultural or institutional frames. On the other hand, the rational actor models assert that countries are not homogeneous, thus will react differently to external pressure. That is, nation-states have their own social and political structures and public belief systems that may align with or work in opposition to the norms and beliefs articulated by world society. From these argument frames, I examine several hypotheses, emphasizing the positive influence on ratification of CAT of crucial time points with event history analysis. The final analysis include 174 countries having a total of 115 events (this mean that instance of ratification of CAT) over the time period 1984-2000. The results from the event history analyses of the rating of becoming party to CAT are shown that (1) old nation states and state's level of torture, which has a positive effect of CAT ratification. But economic development and western countries was not consistently significant. On the other hands, turning to the world society perspectives, strong results were found for each model. (2) Establishing of National Human Rights Institutions, and having more memberships in IGOs, INGOs, HRIGOs and HRINGOs increases the rate of CAT ratification. From these results, an effects of external normative and endogenous factors influences consistent with the national ratification of CAT.

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**Keywords:** *UN CAT. human rights. rational actor model. world society. global culture.*

## *INTRODUCTION*

Since the World War II, human rights has become the most central value in the world. And over the latest years, the struggle against torture has become a central concern of human rights. Torture is a serious crime in the international law, therefore the world society make effort to diminish the acts of torture. The first international legal text specifically outlawing 'torture' was the *Universal Declaration of Human Rights 1948*<sup>1)</sup> and then *International Covenant on Civil and Political Rights 1966*<sup>2)</sup> also prohibiting torture. The first treaty prohibiting torture –*the European Convention on Human Rights*– was adopted in 1950(Walter Kälin, 1998). Today, there are no State justified torture. Most of nations, take up the position that one's own country prohibiting torture. However, the present situation call into question that States have agreed in principle with the need for prohibiting torture rather than the State will substantially prevent acts of torture. Amnesty International published report, *Torture in the Eighties*, which found that “more than a third of the world's governments have used or tolerate torture or ill–treatment of prisoners”(Amnesty International, 1984). In these situation, the United Nations *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)* became the first binding international instrument exclusively dedicated to the struggle against one of the most serious and pervasive human rights violations of our time. This convention adopted in 1984.

This paper focuses on a specific national display of human rights commitment and that is national ratification of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. I emphasize the positive influence on ratification of CAT of crucial time points. I address the two argument frame as theoretical background for the study. First argument frame is "world society perspectives", another argument frame is "rational actor models".

The world society perspective assert that the human rights regime and its theorization gives rise to a logic of appropriateness that leads nation–states to

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1) No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5).

2) No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation (Article 7).

present themselves as entities affirming human rights, especially in the international arena and assumes that nation-states vary with respect to how much access they have to the appropriate scripts and norms. On the other hand, the rational actor models assert that countries are not homogeneous, and thus will react differently to external pressure. That is, nation-states have their own social and political structures and public belief systems that may align with or work in opposition to the norms and beliefs articulated by world society. Social structural, political, and cultural factors are three important sets of domestic influences as rational actor models. From a world society perspectives and rational actor models, I examine several hypotheses, emphasizing the positive influence on ratification of CAT of crucial time points with event history analysis.

### *THE UN CONVENTION AGAINST TORTURE (CAT)*

The drafting of the Convention Against Torture was commenced by the UN Commission on Human Rights in 1978, and the document was adopted by the General Assembly in 1984. This convention, the term "torture" means "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" (Article 1). The Convention Against Torture stipulates explicitly in Article 2 that countries under the Convention are obliged to "take effective legislative, administrative, judicial and other measures to prevent acts of torture." This particular provision formally established the specific legal obligation of the state to prevent torture.

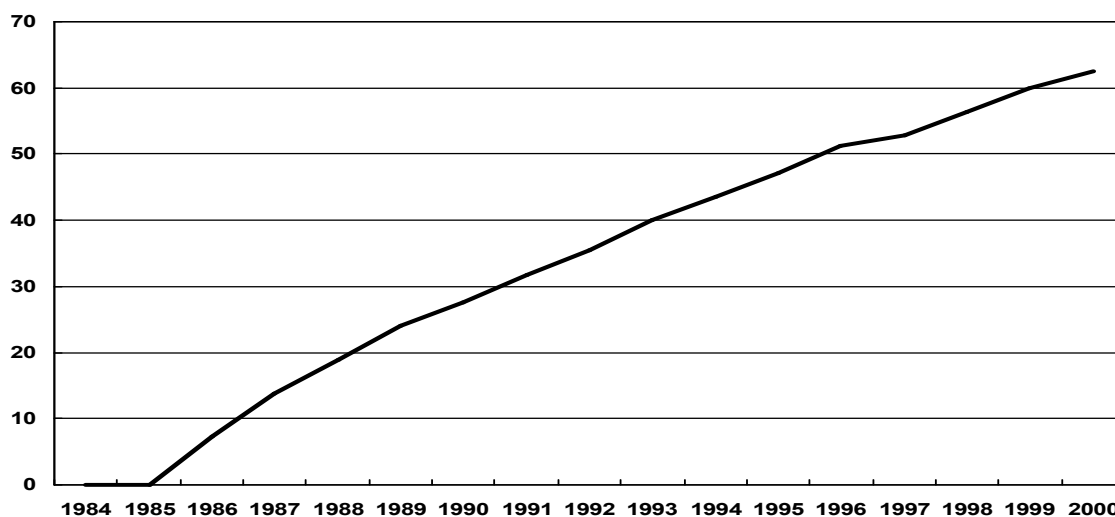
Article 4 of the Convention Against Torture makes clear that the crime of torture is of a "grave nature." Article 11 of the Convention Against Torture requires states to "keep under systematic review interrogation rules, instructions, methods and practices, as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment." Article 11 professionalizes the practices of

interrogation and mandates the creation of a record of actual practices, thereby enhancing not only education, but transparency and accountability as well.

Article 13 imposes upon a state party the obligation to ensure that any individual who alleges they have been subjected to torture has the right to complain to state authorities.

The Convention also establishes institutions and procedures to effect implementation of its goals. It establishes a Committee Against Torture (Article 17) and outlines the Committee's functioning (Article 18). The Committee Against Torture is empowered to examine reports from state parties to the Convention and to inquire into allegations of systematic practices of torture (Articles 19 and 20). The Committee Against Torture is also empowered to accept complaints from states alleging a particular state's noncompliance with the Convention (Article 21). However, this power might only be exercised with the explicit consent of the state alleged to be in non-compliance. Under Article 22, the Committee Against Torture may receive complaints from individuals against the state and is to report annually to state parties and to the UN General Assembly(Nagan and Atkins, 2001).

**<Figure 1> Cumulative Percentage of Ratifications of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984–2000.**



*Source:* United Nations

Since its adoption in 1984 and up to 2000, the cumulative percentage of countries that ratified the convention increased. This pattern evidenced in figure 1. By 2000,

115 countries had ratified the CAT (see Appendix). This finding is caused by overall increase in the number of economically, politically, or culturally modern countries in the world. This mean that overall increased in ratification reflects the state's domestic factors. And as noted earlier, I also insist that these increased in ratification reflects the world society perspectives.

### *THEORETICAL ARGUMENTS*

In this section, I consider theoretical perspectives on compliance with international human rights treaties. I opt to blend the two scholarships in the two broad approaches, which I group under the labels "rational actor models" and "world society perspectives". Each theoretical approach provides useful complementary insights into the ratification of treaty.

#### **RATIONAL ACTOR MODELS**

The rational actor models beliefs that state's behavior is motivated by self-interest, and this interest is determined by the structure of the international system of power(Waltz, 1979). States and individuals that guide them are rational self-interested actors that calculate the costs and benefits of alternative courses of action in international realm and act accordingly. In this view, compliance on international law and treaty does not hold a privileged position. It is one of a series of tools available to the relevant actors in their ongoing battle to achieve their self-interested ends. Compliance does not occur unless it furthers the self-interest of the parties by, for example, improving their reputation, enhancing their geopolitical power, furthering their ideological ends, avoiding conflict, or avoiding sanction by a more powerful state(Hathaway, 2002).

Rational actor models assert that countries are not homogeneous, and thus will react differently to external pressure. That is, nation-states have their own social and political structures and public belief systems. Social structural, political, and cultural factors are important sets of domestic influences as rational actor models.

Economic modernization leads to political stability and increased respect for human rights, so increasing possibility of ratification. The poorest countries, with substantial

social and political tensions created by economic scarcity.

Political culture and regime type seem to be the principal political conditions. The dominant attitudes and beliefs of a society are considered to be of great importance in the choice of methods of political control and the relative propensity of governments to violate human rights. The governments operate within the liberal tradition are likely to observe their citizen's human rights. By contrast, communitarian societies in which the community or the state has priority over the individual, will not be receptive to the observance of human rights(Mitchell and McCormick, 1998).

Cultural modernization is indeed a very contentious idea, as in the contrast between "west countries" and "non west countries". But the underlying mechanism throughout these arguments is that internal changes in the direction of greater societal modernization. From these perspectives it is less costly, and thus more likely, for a more modern society to ratify a treaty that express a point of a view more consistent with its internal modern arrangements. (Wotipka and Ramirez, 2007).

The preceding discussion motivates five hypotheses:

*Hypothesis 1a: More economic developed countries are more likely to ratify CAT than less economic developed countries.*

*Hypothesis 1b: Western countries are more likely to ratify CAT than non-Western countries.*

*Hypothesis 1c: Old nation-states are more likely to ratify CAT than New sovereign states (old nation-states means that established before 1945).*

*Hypothesis 1d: There are significant relationship between CAT ratification and State's level of torture.*

*Hypothesis 1e: There are significant relationship between CAT ratification and State's level of political rights.*

## WORLD SOCIETY PERSPECTIVES

A rational actor models focuses on a state's endogenous characteristics. Conversely, world society perspectives argue that state are embedded in and constituted by an exogenous world society(Meyer et al., 1997). World society perspectives maintain that a global culture promulgates cognitive frames and

normative prescriptions that constitute the legitimate identities, structures, and purposes of modern nation-states (Meyer, Boli, and Thomas, 1987). World society perspectives refers to a theoretical approach that pays special attention to cognitive, cultural, and normative dimensions of organizational reality (Meyer and Rowan, 1977).

Legitimacy is a core element in this approach, as organizations are thought to enact scripts composed of standardized elements deemed legitimate in their environments. The core argument is that models and norms that are institutionalized at the world level acquire assumed status over time and influence policy makers at the national level. As many governments organize and restructure their national politics around global models and standards of appropriate behavior, a growing number of states share isomorphic political and social structures that are harmonious with the international model (Meyer, Boli et al., 1997; Boli and Thomas, 1999).

In the case of ratification of international treaties, the world society approach predicts that the policy decision to ratify is often a symbolic gesture to signal that the government is not a deviant actor, and does not necessarily lead to compliant practices with the treaty. In other words, ruling elites might ratify a treaty to gain legitimation in international society (Hafner-Burton and Tsutsui, 2005).

World society perspectives have suggested three primary mechanisms to explain when states are most susceptible to world cultural influences. The first is the strength of a country's linkages to the central polity. The more active states are in transnational governance regimes (e.g., the UN) and global civil society, the more likely they are to adopt. As embodiments and carriers of world culture, international non-governmental organizations (INGOs) are effective at spreading global human rights norms. Membership in international governmental organizations (IGOs) is important as well, because it is here that human rights conventions are debated, drafted. Participation in international meetings or conferences provides another mechanism by which world cultural norms are consolidated, articulated, and diffused throughout the world.

Second, some have argued that participation in human rights conference more directly persuades, socializes, or otherwise influences states that have not yet ratified the conventions to do so.

A third mechanism posited by institutional theorists is imitation (DiMaggio and Powell, 1983). As the number of countries adopting a practice or ratifying a treaty increases,

other countries perceive that practice or treaty as legitimate and adopt it themselves, regardless of its practical relevance.

The preceding discussion motivates four hypotheses:

*Hypothesis 2a: Countries are more likely to ratify CAT if a National Human Rights Institutions were established.*

*Hypothesis 2b: The stronger a state's linkage to the wider world of international treaties, the greater is its likelihood of ratifying the CAT*

*Hypothesis 2c: The stronger a state's linkage to the wider world of organizations (IGO and INGO), the greater is its likelihood of ratifying the CAT.*

*Hypothesis 2d: A state's likelihood of ratifying the convention increases as the other countries throughout the world or one's region have already ratified it.*

## **QUANTITATIVE ANALYSIS: DATA AND METHODS**

### **DEPENDENT VARIABLE: RATIFY THE CAT**

I examine the rate at which states ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment from the time it was available for ratification (1984) to 2000. The data were coded from the United Nations. The event studied is whether a country ratifies CAT in a given year during the time period. When it does, it receives a value of 1 for that year. For those years in which a country does not become party to CAT, the country receives a score of 0.

### **INDEPENDENT VARIABLES**

In order to estimate my hypothesis, I use several independent variables. I begin with a set of endogenous variable.

**GDP per capita.** National economic development measured by real Gross Domestic Product(GDP) per capita in constant US\$ (2000). It is logged to correct for a skewed distribution. The idea that national economic development strengthens democratic institutions and increase the possibility of ratification.



**Western status.** I define Western status to include most of Western Europe as well as the "White settler" colonies of Australia, Canada, New Zealand, Austria, and the United States. These Western countries typically experienced earlier political modernization. The data were coded from the CIA's World Factbook. Western countries receives a value of 1, non-Western countries receives a score of 0.

**New sovereign nations.** I include a measure of new sovereign nations. The data derived from the CIA's World Factbook. New nation-states means that State established after 1945, that countries receives a value of 1, otherwise, old nation-states means that state established before 1945, that countries receives a value of 0.

**State's level of torture.** For the coding, I used second material. Hathaway(2002) generated the data on torture by coding the sections on torture in the United States Department of the State Country Reports on Human rights. Torture index ranges from 1 to 5(low: 1, High: 5).

**Political rights.** There are significant relationship between CAT ratification and state's level of political rights. So, I captured this variables for study. Freedom House's yearbook that surveys comparative freedoms. Each nation is assigned an 'overall freedom rating' – a level of political rights. Political rights index ranges from 1 to 7(low: 1, high: 7)

**National Human Rights Institutions.** National Human Rights Institutions harmonized with international law. National Human Rights Institutions received a world culture, and convey the world culture to the nation. So, there are strong relationship between National Human Rights Institution's existence and participation of international treaties. For the study, I used second data. Koo(2007) generated the data on year of founding by coding the National Human Rights Institutions Forum and Human Rights Watch.

**Intergovernmental and Nongovernmental Organizations.** There are more obvious organizational forms of others such as intergovernmental organizations(IGOs), including OECD and UNESCO, and international nongovernmental organizations(INGOs)

that define and provide recipes for proper nation–states activities. The strength of a state's "embeddedness" in the world society is measured by the number of its memberships in international organization, both governmental and nongovernmental. Membership data for both IGOs and INGOs come from the *Yearbook of International Organizations*(*UIA: Union of International Associations*). And the contributions of human rights international governmental organizations(HRIGOs) and human rights international nongovernmental organizations(HRINGOs) have become even more critical in the contemporary international human rights regimes. So, I especially include country memberships in human rights international governmental organizations(HRIGOs) and human rights international nongovernmental organizations(HRINGOs). This data coded by Tsutsui&Wotipka.

Descriptive statistics of the independent variables are displayed in Table 1.

**<Table 1> Descriptive Statistics for Variables Used in the Analysis.**

Theory	Variable	Min	Max	Mean	Std.Dev
	GDP per capita(constant 2000 US\$)	4.04	10.52	7.14	1.49
rational actor models	Dummy variable of western countries	0	1	.08	.27
	Dummy variable of new sovereign nations	0	1	.74	.44
	State's level of torture	1	5	3.14	1.41
	State's level of political rights	1	7	3.91	2.26
	National Human Rights Institutions (dummy)	0	1	.07	.26
world society	IGOs memberships	4	119	42.21	15.89
	INGOs membership	0	9.37	5.25	2.37
	HRIGOs memberships	1	17	8.10	3.03
	HRINGOs memberships	0	146	37.36	32.16

## METHODS OF ANALYSIS

Event history analysis is an appropriate tool to explain events occurring to individuals or in this case, countries over a specified period of time. As the use of event history analysis becomes increasingly pervasive, more and more issues concerning phenomena at the national level have been examined using this method. Event history analysis offers a more dynamic method in that it provides coefficients demonstrating the influence of explanatory variables on the rate of treaty ratification, a single, non–repeatable event involving discrete change. Event history analysis also allows for the possibility that some cases(countries) will not experience an event, as

in the case of countries that have yet to ratify CAT, if ever. The data are "right-censored" in that I do not know if or when these countries will ratify the treaty in the future. The set of states at risk of becoming a party to CAT is made up of all the countries in the world. Countries that gained their independence during this time period get inserted into the risk set the year in which they become independent. Assuming that changes in the hazard rate are function of changing covariates, I used an exponential model. In such models, the hazard rate is constant over time, following an exponential distribution. Accordingly, the change of the hazard rate over time in the exponential model only depends on the change of the values of the independent variables(Allison, 1984).

## RESULTS

The results from the event history analyses the rate of becoming party to CAT are shown in Table 2. The final analysis include 175 countries having a total of 115 events(instance of ratification of CAT) over the time period 1984–2000. I report 6 different models using differing combinations of variables.

<Table 2> Exponential Models of Rate of Ratification of CAT, 1984~2000

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
	Coef.	Coef.	Coef.	Coef.	Coef.	Coef.
	(S.E)	(S.E)	(S.E)	(S.E)	(S.E)	(S.E)
<i>rational actor models</i>						
GDP per capita (logged)	.06 (.08)	.10 (.08)	.02 (.08)	.06 (.08)	.07 (.08)	.08 (.08)
western countries	.30 (.36)	.10 (.37)	-.03 (.37)	-.0004 (.36)	.11 (.37)	.11 (.36)
new sovereign nations	-.45* (.23)	-.42+ (.23)	-.42+ (.23)	-.24 (.23)	-.47* (.23)	-.39+ (.23)
state's level of torture	-.13+ (.07)	-.11 (.07)	-.08 (.07)	-.10 (.08)	-.13+ (.07)	-.13+ (.07)
state's level of political rights	.04 (.05)	.02 (.05)	.05 (.05)	.04 (.05)	.03 (.05)	.01 (.05)
<i>world society perspectives</i>						
National Human Rights Institutions		1.08*** (.24)				
IGOs memberships (logged)			1.03** (.30)			
INGOs membership (logged)				.22** (.07)		
HRIGOs memberships (logged)					.48+ (.27)	
HRINGOs memberships (logged)						.32** (.12)
Constant	-2.85*** (.62)	-3.25*** (.65)	-6.57*** (1.29)	-4.31*** (.77)	-3.79*** (.83)	-3.96*** (.78)
Log likelihood	-196.75	-188.40	-190.21	-190.06	-195.08	-193.02
Number of ratifications	115	115	115	115	115	115
Number of countries	174	174	174	174	174	174
Yearly spells	2019	2019	2019	2019	2019	2019

Note: +P<.1 \*P<.05 \*\*P<.01 \*\*\*P<.001

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## Appendix A. Countries Used in the Analysis and Year of Ratification.

Country	Year	Country	Year	Country	Year
Albania	1994	Estonia	1991	Marshall Islands	
Algeria	1989	Ethiopia	1994	Mauritania	
Angola		Fiji		Mauritius	1992
Antigua and Barbuda	1993	Finland	1989	Mexico	1986
Argentina	1986	France	1986	Micronesia	
Armenia	1993	Macedonia	1994	(Republic of) Moldova	1995
Australia	1989	Gabon	2000	Mongolia	
Austria	1987	Gambia		Morocco	1993
Azerbaijan	1996	Georgia	1994	Mozambique	1999
Bahamas		Ghana	2000	Namibia	1994
Bahrain	1998	Greece	1988	Nepal	1991
Bangladesh	1998	Grenada		Netherlands	1988
Belarus	1987	Guatemala	1990	New Zealand	1989
Belgium	1999	Guinea	1989	Nicaragua	
Belize	1986	Guinea-Bissau		Niger	1998
Benin	1992	Guyana	1988	Nigeria	
Bhutan		Haiti		Norway	1986
Bolivia	1999	Honduras	1996	Oman	
Bosnia and Herzegovina	1993	Hungary	1987	Pakistan	
Botswana	2000	Iceland	1996	Palau	
Brazil	1989	India		Panama	1987
Bulgaria	1986	Indonesia	1998	Papua New Guinea	
Burkina Faso	1999	Iran		Paraguay	1990
Burundi	1993	Iraq		Peru	1988
Cambodia	1992	Ireland		Philippines	1986
Cameroon	1986	Israel	1991	Poland	1989
Canada	1987	Italy	1989	Portugal	1989
Cape Verde	1992	Jamaica		Germany	1990
Central African Republic		Japan	1999	Romania	1990
Chad	1995	Jordan	1991	Russian Federation	1987
Chile	1988	Kazakhstan	1998	Rwanda	
China	1988	Kenya	1997	Saint Vincent and the Grenadines	
Colombia	1987	Kiribati		Sao Tome and Principe	
Comoros		Korea (Republic of)	1995	Saudi Arabia	1997
Congo	1996	Kuwait	1996	Senegal	1986
Congo(Brazzaville)		Kyrgyzstan	1997	Seychelles	1992
Costa Rica	1993	Laos		Sierra Leone	
Cote d'Ivoire	1995	Latvia	1992	Singapore	
Croatia	1992	Lebanon	2000	Slovakia	1993
Cyprus	1991	Lesotho		Slovenia	1993
Czech Republic	1993	Liberia		Solomon Islands	
Denmark	1987	Libyan Arab Jamahiriya	1989	South Africa	1998
Djibouti		Lithuania	1996	Spain	1987
Dominica		Luxembourg	1987	Sri Lanka	1994
Dominican Republic		Madagascar		Saint Kitts and Nevis	
Ecuador	1988	Malawi	1996	Saint Lucia	
Egypt	1986	Malaysia		Sudan	
El Salvador	1996	Maldives		Suriname	
Equatorial Guinea		Mali	1999	Swaziland	
Eritrea		Malta	1990		

Appendix A. Countries Used in the Analysis and Year of Ratification.

Country	Year
Sweden	1986
Switzerland	1986
Syria	
Tajikistan	1995
Tanzania	
Thailand	
Togo	1987
Tonga	
Trinidad and Tobago	
Tunisia	1988
Turkey	1988
Turkmenistan	1999
Uganda	1986
United Kingdom	1988
Ukraine	1987
United Arab Emirates	
Uruguay	1986
U.S.A	1994
Uzbekistan	1995
Vanuatu	
Venezuela	1991
Viet Nam	
Samoa	
Zambia	1998
Zimbabwe	