

The Distributive Effects of Human Rights Treaties Against Child Labor: Evidence from Brazil

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Abstract

When a state joins a human rights treaty, it usually must incorporate its international treaty obligations into domestic law by creating domestic regulations and legislation that match the international standards. Why do some treaty members change their domestic laws to align them with treaty standards, while other members do not? I argue that human rights treaties have distributional consequences that divide civil society into treaty supporters and opponents. Consequently, treaty incorporation is the result of political battles between competing interest groups. When anti-incorporation groups are strong, they can delay or block the adoption of national laws that align a state's legal system with the treaty's standard. I build my argument by focusing on child labor, an issue largely overlooked in the literature despite its effect on the health, educational attainment, and economic prospects of over a billion children worldwide. I describe the incentives of groups in favor of and against child labor bans. I test an observable implication of this argument by analyzing voting patterns of a law that raised the minimum age to work from fourteen to sixteen in Brazil. I find that legislators from constituencies that grew crops dependent on child labor were less likely to vote in favor of the law. This case study shows that material considerations matter for the incorporation of human rights standards into domestic law. More broadly, by problematizing how distributive politics hinders treaty incorporation, this paper suggests one way in which domestic politics mediates the effect that treaty ratification has on human rights outcomes.

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1 Introduction

In July 2014, Bolivia adopted a new Child and Adolescent Code. Among different provisions aimed at protecting children, Article 129 prohibited the employment of children under fourteen, reflecting international standards against child labor. However, the Code also introduced a number of loopholes making it possible for ten-year-olds to work independently and twelve-year-olds to work under contract with an employer. In practice, these loopholes enable employers to hire thousands of children under the age stipulated by the international human rights treaties to which Bolivia is a signatory. In response, the committee that supervises the implementation of one of these treaties said, for instance, that it strongly deplores the adoption of the new Code as “the derogation from the minimum age for admission to employment under section 129 of the . . . Code is not in conformity with . . . the Convention” ([International Labour Organization CEACR 2015a](#)). The new Code also drew condemnation from the media—where newspapers proclaimed that Bolivia had legalized child labor ([El Tiempo 2014](#))—and international organizations such as the European Parliament, where members debated placing economic sanctions ([Strak 2015](#)).

Why did Bolivia introduce these loopholes? As I argue below, to answer this question it is important to consider how interest groups campaign for and against the adoption of specific human rights treaty standards into domestic legislation—a process I call incorporation. In the case of Bolivia, perhaps surprisingly, the main opponents to the incorporation of standards against child labor into domestic law were children themselves. Towards the end of 2013, members of the Bolivian Union of Working Children and Adolescents (*Unión de Niños, Niñas y Adolescentes Trabajadores de Bolivia*, known as UNATSBO), outraged at a proposal for the new Code that maintained prohibitions against child labor, protested through the streets of La Paz, chanting “Down with the ILO agreements!” and “Long live child labor!” ([Pacosillo Mamani 2015](#)). One member said that “[the proposal] attacks our bases . . . We want work to be voluntary and respected” ([El Diario 2013](#)). Organizations of working children—of which UNATSBO is just one example—argue that minimum ages of employment should not exist and that governments’ efforts should be directed towards raising employment standards instead of eradicating child labor. Through their activism and mobilization, UNATSBO successfully persuaded legislators to modify the proposal and, as a result, the final version of the Code approved in 2014 introduced numerous loopholes that effectively lowered the age at which children can work, violating Bolivia’s international commitments.

In this paper, I ask: How does domestic political opposition influence the adoption of laws that incorporate human rights treaties? Further, why do the intended beneficiaries of human rights treaties mobilize against laws that incorporate international standards designed to protect them? These questions are important because theories in political science contend that the alignment of the domestic legal system to international standards is essential for compliance. I argue that interest groups affect the alignment of national laws to international standards

after a treaty is ratified. Interest groups can be any type of association—such as domestic non-governmental organizations, trade unions, business associations or religious groups—that organizes to take concrete actions for policy change. Most research in political science emphasizes how civil society uses human rights treaties to hold governments accountable for rights violations. Instead, I contend that not all interest groups support human rights standards: indeed, some groups believe that treaties hurt their interests and thus oppose treaty incorporation. I contend that when groups that oppose incorporation are strong, they can successfully delay or block the adoption of laws that align a country’s legal system with the international treaty’s standards.

Organizations of working children like UNATSBO are not the only interest group affected by the distributional consequences of human rights treaties. In fact, many other domestic stakeholders try to affect government policy regarding child labor. For example, employers benefit when they can hire children because increasing the labor supply pushes wages down, maximizing profits. Consequently, employers care deeply about child labor legislation. I explain these incentives in more detail in Section 3. Then, in Section 4 I present original data showing that Bolivia is not the only state with legislation in place that does not conform to international labor standards. In fact, Latin American states have had, on average, three exceptions to the minimum age of employment since 1980 that violate international agreements. Then, in Section 5, I test an observable implication of the argument that distributional effects affect treaty incorporation by analyzing voting patterns of a law to increase the minimum age to work from fourteen to sixteen in Brazil. I find that legislators whose constituents rely on the work of children are less likely to support restrictions on the ability of employers to hire children. Section 6 concludes.

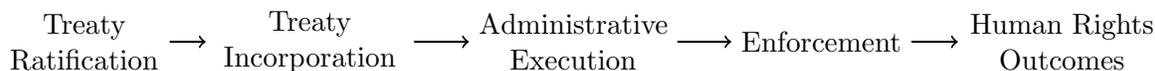
This paper suggests a previously unexplored reason for why governments violate human rights treaties: the response of politicians to pressure from domestic groups *not* to incorporate a treaty. By placing domestic politics at the center of treaty incorporation, I am able to observe the disagreements that exist between domestic groups about how to translate human rights treaties into national legislation. The fact that domestic groups disagree about policy is not surprising, but existing scholarship has obscured these disagreements by focusing mostly on the interaction between the government—characterized as the focus of treaty violations—and pro-compliance civil society advocates. Most scholars have explained states’ failure to comply with international obligations by suggesting that states are either unable to comply (e.g. [Chayes and Chayes 1993](#)) or unwilling (e.g. [Smith-Cannoy 2012](#), [Simmons and Nielsen 2015](#)). Instead, this paper suggests that even when the international community, domestic activists, and the government favor incorporation, the government may not incorporate treaty standards into domestic law as a concession to anti-rights groups. This contribution is important for scholars and activists as it suggests that states may backslide if anti-incorporation groups can effectively influence government policy as they did in Bolivia.

2 Child Labor and International Law

2.1 Treaty Incorporation

Although states around the world have signed and ratified human rights treaties, these commitments are not always upheld. Indeed, human rights are violated every day. While scholars have devoted considerable efforts to determining whether treaties matter in practice,¹ the answer is elusive, at least partly because the indirect effects that treaties have on state behavior are not yet fully understood (Dai 2013, Dai 2014). Understanding these indirect effects is challenging because it requires examining the process of treaty implementation, which involves multiple steps with various domestic actors, each with its own set of incentives. Figure 1 depicts a theoretical treaty implementation process.

Figure 1: Treaty Implementation Process



After treaty ratification, the incorporation of specific treaty standards into national legislation is presumably the first step towards the full implementation of treaties. It is followed by administrative execution—involving government agencies and bureaucracies that develop national policies to achieve the goals set forth by the law—and enforcement of the law through litigation in court.

Existing theories in political science suggest that if these steps work as expected, then treaties will improve respect for human rights. For example, Simmons (2009) argues that treaty ratification can, under certain conditions, encourage compliance by influencing legislative agendas, encouraging litigation in courts, and mobilizing domestic human rights advocates who push the government to change its behavior. Similarly, Powell and Staton (2009) show that states with an effective judiciary are less likely to torture citizens if they have signed the Convention Against Torture.

But very little is known about the first step in the implementation process depicted in Figure 1: the incorporation of international standards into domestic law. This issue has been

¹ Studies that look at whether ratification is associated with higher respect for human rights reach different conclusions. Some scholars link ratification to improvement of human rights practices (see Simmons 2009, Hill Jr. 2010, and Lupu 2015, for example). Other studies, however, find that treaty ratification does not improve human rights outcomes and, furthermore, that members are more likely to violate human rights than non-members (Hathaway 2002, Hafner-Burton and Tsutsui 2005, Hollyer and Rosendorff 2011). More recently, Fariss (2014) shows that if we account for the changing standards of what constitutes a human rights violation, we will conclude that they have actually been improving.

examined mostly by scholars of international law.² However, before we can consider how bureaucratic execution or judicial enforcement affect compliance, it is necessary to consider whether the laws being implemented or enforced reflect the treaty's standards. If domestic laws do not adequately reflect treaty standards, it is not clear what can be said about the later stages of the implementation process. For example, a state may have a strong judiciary but enforce legislation that does not adequately reflect international human rights standards, in which case a treaty would not have a positive effect on human rights outcomes.

In this paper, I focus on the first causal step of treaty incorporation. I define incorporation as the adoption of specific treaty provisions containing human rights standards into domestic legislation.³ Using novel data, I document the existence of an incorporation gap—a distance between treaty provisions and the laws that countries have in place to protect human rights. This incorporation gap can jeopardize all the subsequent steps in the implementation process and, as a result, is crucial for understanding how governments and activists can work to improve human rights outcomes.

Indeed, human rights treaties highlight incorporation as an important element of compliance. Many treaties contain specific articles directing states to implement their provisions in domestic laws. The Convention on the Rights of the Child (CRC), for instance, mandates states to “undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention” (Article 4). Similarly, Article 2(b) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) requires members “[t]o adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women,” and Article 7 of the Convention 182 from the ILO—which prohibits children from working in hazardous occupations—mandates members to “take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention.”⁴

² In political science, only a handful of studies have focused on the incorporation of treaties. [Sanchez \(2009\)](#) assesses the impact of governments' preferences and their ability to change the status quo on whether signatories to the Mine Ban Treaty adopted implementing legislation. She also examines how implementation affected compliance with the treaty. Similarly, [Loding and Appel \(2018\)](#) study the effects of incorporating the Rome Statute, suggesting that governments who have incorporated key provisions of the Statute are less likely to repress their citizens.

³ This definition refers to specific treaty provisions or standards that need to be incorporated in domestic law and not the way a treaty as a whole becomes part of a domestic legal system. Consequently, the concept of incorporation used here is different from the usual distinction between monist and dualist systems. For instance, in the case of prohibitions against child labor, treaty incorporation takes place when there is a domestic law that explicitly sets the age of employment in hazardous industries at eighteen and not when legislators adopt a law ratifying the Convention on the Rights of the Child (CRC). See [Verdier and Versteeg \(2015\)](#) on how the distinction between monist and dualist systems, will theoretically fruitful, does not adequately reflect the empirical record where most national systems combine aspects of both approaches.

⁴ The text of the treaties may be accessed through the UN Treaty Collection website, available here: <https://treaties.un.org/pages/Treaties.aspx?id=4&subid=A> (last accessed May 19, 2018).

2.2 Why Child Labor?

To examine how domestic considerations constrain the incorporation of human rights treaties, in this paper I focus on treaties against child labor. I choose to focus on child labor for three reasons. First, because child labor is an important policy problem affecting many people worldwide. The ILO estimates that throughout the world, around 152 million children are engaged in child labor each year. In other words, child labor affects almost one in ten children.⁵ Moreover, nearly half of all children engaged in child labor—73 million children—work in hazardous activities that put their health, safety and moral development directly at risk ([International Labour Organization 2017](#), 3). These patterns are concerning because child labor is thought to have long-lasting negative effects on a child's life. To start, working can have negative consequences in the short-term, by putting children at physical risk, particularly for work done in hazardous industries. Physical injuries will persistently affect children during their lifetime. Working also puts children at social and emotional risk. Children in domestic service, for instance, are frequently separated from their families and live with their employers, who often renege on promises to allow time for education and recreation. Moreover, child labor reduces educational attainment by making it harder for children to attend school or have time to dedicate to their studies (e.g. [Psacharopoulos 1997](#), [Heady 2003](#)).⁶ By not making necessary investments in education, child labor perpetuates poverty and decreases human capital. Child labor also has a negative effect on health outcomes. For example, scholars have shown that it is positively correlated with adolescent mortality and infectious disease ([Roggero et al. 2007](#)). Due to its negative effects and how many children it affects each year, I chose to focus on treaties against child labor.

Second, I focus on child labor because, despite their importance, child protection treaties have been relatively neglected in political science, particularly when compared to treaties that protect physical integrity rights, such as the right to be free from torture, disappearance, and extrajudicial killings.⁷ The focus of the political science literature on treaties that protect physical integrity rights is understandable: physical integrity is usually a precondition for the enjoyment of other human rights.⁸ However, for the purposes of studying the effect of treaties

⁵ The ILO's definition of what constitutes child labor is precise and does not include children engaged in productive activities in their own households, nor those doing permissible light work or those above the minimum age of employment performing work that is not hazardous. For a review of concepts and definitions, see Resolution II regarding statistics of child labor adopted at the 18th International Conference of Labour Statisticians in 2008 and available here: http://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/normativeinstrument/wcms_112458.pdf (last accessed January 23, 2018). For a detailed definition of hazardous work, see paragraphs 3 and 4 of the ILO's Resolution 190.

⁶ Indeed, research shows that child labor bans help increase secondary school enrollment ([Heymann, Raub and Cassola 2013](#)).

⁷ Notable exceptions are [Grugel and Peruzzotti \(2012\)](#), [von Stein \(2016\)](#) and Chapter 8 of [Simmons \(2009\)](#) on compliance with the CRC.

⁸ The focus on physical integrity rights reflects the fact that many of the most important theories in the human rights literature developed at a time where the violation of these rights was particularly serious in Latin America,

on human rights outcomes, this narrow focus is troubling because fewer than one in four human rights agreements deals with the protection of physical integrity rights (von Stein 2018, 7), which, in turn, raises concerns about the generalizability of the findings in the literature. By examining a different subset of treaties, I broaden our understanding of the universe of human rights treaties.

Finally, given that international standards for children's rights often establish age prohibitions to protect children, they provide clearly-defined standards that national legislation should incorporate. Compared to trying to identify whether the right to education or to be free from discrimination has been incorporated into domestic law, the age focus of child protection treaties makes it easier to know whether the national law reflects the treaty standard and to measure progress by the same yardstick across states.

2.3 International Treaties Against Child Labor

Over the years, states have created international treaties to protect children from child labor's harmful consequences. The Convention on the Rights of the Child (CRC) is an all-encompassing treaty that establishes civil, political, economic, social, health and cultural rights for children. Article 32 (1) establishes "the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous... or to be harmful to the child's health or physical, mental, spiritual, moral or social development." The treaty defines a child as a human being under the age of eighteen,⁹ so by CRC standards anybody under eighteen is considered a child and should be protected from economic exploitation and hazardous work.

Besides the CRC, a number of treaties from the ILO establish international standards for working children. The ILO, established by the Treaty of Versailles in 1919, focuses generally on defending the right to work and establishing humane working conditions. While the ILO has opposed child labor since its foundation, it was only in 1973 that it set out to establish general standards to regulate the minimum age to work. Convention 138 (C138) specifies fifteen years as the age at which, under normal circumstances, a child may participate in economic activity. Article 2(3) of C138 allows developing countries to temporarily lower the age of fourteen years old. Convention 138 also establishes standards regarding two other types of work: 'light' and 'hazardous' work. The convention allows light work for those thirteen and older, but mirroring the exception to the general age to work, the treaty allows developing countries to temporarily set the minimum age for light work at twelve years old. Article 3 regulates state members' obligations regarding hazardous work. The article establishes that the minimum

where many states experienced brutal authoritarian regimes that violated the physical integrity rights of their citizens. Risse, Ropp and Sikkink (2013), for instance, acknowledge that "[t]he original spiral model was developed and applied only to states with authoritarian and repressive regimes" (16).

⁹ Except for those cases in which the age of majority is attained earlier under domestic legislation.

age for admission to hazardous work “shall not be less than 18 years” and that the types of activities considered hazardous “shall be determined by national laws or regulations or by the competent authority.”¹⁰

The last part of Article 3 introduces an exception to the rule against hazardous work:

national laws or regulations or the competent authority may...authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

Article 3(3) of C138 therefore introduces one exception to the prohibition on using children for hazardous work. It permits such employment only if the child is at least sixteen years old, there are guarantees that the work will not hurt the child, and the child receives adequate vocational training for the activity he or she is doing. Importantly, while the CRC treaty also regulates the work of children in hazardous activities, it does not contemplate this exception.

In 1999, the Convention on the Worst Forms of Child Labor (C182) was adopted at the ILO’s 87th session in Geneva, partly as the result of renewed efforts during the 1990s to eliminate child labor. In C182, member states agree to work to prevent children from being engaged in slavery, prostitution, illicit activities and hazardous activities. Article 4(3) of the convention also requires that states develop a list of the activities considered hazardous and renew it periodically. The convention allows no exceptions for the occupation of children in hazardous work.

The international treaty standards against child labor can be summarized as follows:

1. The minimum age of employment should be fifteen, with a possible temporary exception for developing countries, which can set the age at fourteen (if adequately justified).
2. The minimum age of employment for hazardous work should be set at eighteen, with a possible exception allowed by C138 (and not the CRC or the C182) for those sixteen and older, provided that children receive vocational training and are not hurt by the activity.
3. State members will publish a list of hazardous activities and establish national procedures to review it periodically.

¹⁰ The text of C138 may be accessed here: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138 (last accessed May 31, 2018).

3 The Distributional Effects of Treaties Against Child Labor

While internationally the standards outlined in Section 2.3 are widely recognized and accepted, within each state reactions vary. In Bolivia, UNATSBO members believed that the incorporation of the ILO's conventions hurt their interests. At the same time, there were non-governmental organizations working in the country to eradicate child labor. What explains these differences?

I argue that the distributional consequences of human rights treaties create supporters and opponents. The debate over the incorporation of human rights treaties pits pro-incorporation groups—those that believe that incorporating human rights treaties into laws will benefit their interests—against groups that oppose incorporation. In this section, I explain why domestic groups such as labor unions, employers, and organizations of working children support or oppose the incorporation of human rights treaties against child labor.¹¹

3.1 Employers

Employers suffer the distributional costs of child labor bans. They benefit when the labor supply is high and workers must compete for a limited number of positions, as this pushes wages down and maximizes profits. In this way, employers benefit when children work because children expand the number of workers in the market. Consequently, I expect employers to oppose the incorporation of treaty standards against child labor.

There are a number of reasons why employers might prefer hiring children. First, the literature suggests that employers prefer hiring children over adults because they are more docile, complain less, and are easier to work with. One observer stated that “many employers prefer to employ children rather than adults because adult workers are more organized, know their rights and are vocal about them” (Myrstad 1999, 77).

Second, employers might prefer to hire children because, in many cases, children's wages are lower than those for adults. Historically, it was legal to pay children less than adults,¹² and though recently states have introduced legislation to eliminate this discriminatory practice,¹³ there are reasons to think that informally, the practice remains pervasive in labor markets. For instance, in Bolivia, children complained that in certain sectors they were paid half of what

¹¹ Of course, not every organization will fit these general trends perfectly. But I expect that, on average, organizations behave in the way I outline in this section.

¹² For example, Uruguay's law 13.245 from 1964 established a minimum salary for agricultural workers of \$530 pesos per month if they were over 18 and \$283 for workers under 18 years old. Similarly, the law established that it was legal to pay children in domestic service 25% less than adult workers.

¹³ Argentina's Law 26.390 from 2008 for instance establishes in its Article 5 that children cannot be offered lower salaries—unless they are learning the craft or have a reduced work schedule, derogating a provision that had been in place throughout the twentieth century that allowed wage discrimination.

adult workers were paid (Coster 2010), even though the practice was explicitly prohibited in national legislation.¹⁴ Further evidence of the wage differential between children and adults is the fact that the children who worked in public transport in the city of La Paz were fired *en masse* after government offices coordinated policies to make sure that adolescents were paid the same minimum wage as adults.¹⁵ In Argentina, children are paid so little that one rural employer said that if a labor inspector came to his farm and fined him, paying the fine would be cheaper than producing without using child labor (Colombres 2009). These examples suggest that it is often beneficial for employers to hire children instead of adults.

Employers within the same sector often have similar preferences regarding child labor, particularly in industries using low-skill labor or labor-intensive production processes where children might not be at a disadvantage compared to adult workers. Agricultural production in particular is known to bring together employers for the same product who might lobby lawmakers to stop the incorporation of treaties against child labor. In the United States, for instance, employers in the tobacco industry have lobbied against legislation that would raise the minimum age of employment. Currently, children of any age can work on small farms with parental permission, and children as young as twelve can work on tobacco farms—an activity considered hazardous by international standards. A Human Rights Watch advocate claimed that interest group pressure had prevented lawmakers from changing these regulations:

For years my colleagues at Human Rights Watch and other children’s advocates pushed for a bill in Congress to provide child farmworkers with the same protections as workers in other sectors, but the bill was never brought to a vote. In 2011, the U.S. Department of Labor introduced regulations that would have updated the decades-old list of hazardous occupations prohibited for children under sixteen working in agriculture, and banned all work by these children in tobacco farming. The proposal was withdrawn after it drew opposition from agricultural interest groups (Wurth 2015).

Further evidence of this sectorial dimension is the fact that many laws carve out exceptions that are specific to certain industries or sectors. For example, when in 1998 Costa Rica raised the minimum age of employment for light work to fifteen, it also adopted *Decision 349-98* that authorized children under fifteen from working in the coffee harvest under certain conditions. This loophole is meaningful because coffee is one of the main exports of the country, so the law carved out an exception exactly where the law was meant to have an impact.

¹⁴ Wage discrimination was prohibited at the time by Article 129 of the 1999 Child and Adolescent Code.

¹⁵ This action spurred protests in front of the Minor Commission of the legislature asking for lawmakers to retract the measure (CRC/C/3/Add.2 1992).

3.2 Adult Workers

Adult workers tend to oppose the legalization of child labor because they compete with children for jobs. Adult workers are often organized into labor unions, usually from the same industry or related occupations, that work to advance their collective interests. For workers, organizing themselves through a labor union increases their bargaining power vis-à-vis employers. This can help them push for higher wages, more benefits, and better working conditions.

Labor unions are an important interest group favoring incorporation of standards against child labor. There are two reasons why I contend that labor unions support the incorporation of treaties against child labor: first, because adult workers who are members of the unions compete for jobs with children; second, because labor unions are part of the ILO's tripartite structure and this makes labor unions natural allies in the fight against child labor.

Labor unions have an objective interest in combatting child labor because the presence of a large number of children in the labor force undermines the labor union's bargaining position and the extra supply of workers can push wages down. Of course, the availability of children to work would not be a problem if employers did not want to hire them, but for the reasons outlined above, employers might prefer hiring children over adults, especially in those jobs where adults do not have a comparative advantage at doing the work. Labor unions also see their quest for higher wages as a way to solve the child labor problem, because if parents' income was higher, they could better provide for their children and there would be no need for children to work.

The second reason why labor unions support child labor bans is that they support the ILO's more general goals. Importantly, labor unions are a key component of the ILO's tripartite structure, which includes governments, employers and workers, and is meant to guarantee that the standards adopted "have broad support from all ILO constituents."¹⁶ As part of the ILO, labor unions contribute to many of the goals of the organization, including the eradication of child labor. In fact, the ILO considers labor unions "vital partners" in the fight against child labor ([International Labour Organization 2016](#), 2).

Labor unions collaborate in the eradication efforts of the ILO by monitoring government compliance with international labor treaties. For instance, in 2016, the ILO Committee that supervises the implementation of standards against child labor received complaints about the Peruvian government from the Autonomous Workers' Confederation of Peru. The Committee's report "notes the allegations of the [Autonomous Workers' Confederation of Peru] that

¹⁶ ILO website, available here: <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/tripartite-consultation/lang--en/index.htm> (last accessed September 18, 2018). The website also states that "[t]he ILO is based on the principle of tripartism—dialogue and cooperation between governments, employers, and workers—in the formulation of standards and policies dealing with labour matters". Thus, for instance, the ILO has always stressed the need to have the three components participate when drafting conventions and national legislation that aims to improve international labor standards.

the Government has taken no real action to end child labour in mines” ([International Labour Organization CEACR 2016](#)). Also, in 2014, the Trade Union of Workers of Guatemala sent comments to the ILO criticizing the government’s enforcement of C138, particularly with regard to labor inspections in rural settings ([International Labour Organization CEACR 2015b](#)). That same year, the ILO Committee received complains about Bolivia’s new Child and Adolescent Code from the International Trade Union Confederation. These examples illustrate how labor unions contribute to the ILO’s mission to eradicate child labor by monitoring governments’ efforts to incorporate treaties and enforce them. For all these reasons, I argue that adult workers and labor unions oppose child labor and support the incorporation of treaties against child labor.

3.3 Organizations of Working Children

Since the 1970s, organizations and social movements of working children have emerged in various parts of the Southern Hemisphere. These organizations operate like labor unions for children. In Latin America, some important national movements include the National Movement of Street Boys and Girls of Brazil, the National Movement of Organized Working Children and Adolescents of Peru, and the UNATSBO of Bolivia.¹⁷

Working children’s organizations evolved into national movements and then came together to form an international advocacy network. In Latin America, national organizations of working children met for the first time in late 1988 at a conference that included representatives from Argentina, Bolivia, Brazil, Chile, Paraguay and Peru. It was followed by another meeting in Argentina (1990) and many since. Today, the Latin American organizations are formally grouped in an umbrella organization known as the Latin American and Caribbean Movement of Working Children and Adolescents (*Movimiento Latinoamericano y del Caribe de Niñas, Niños y Adolescentes Trabajadores*, or MOLACNATS).¹⁸

Organizations of working children consist mainly of children between the ages of ten and sixteen ([Liebel 2004](#), 20). While their activities vary depending on the country they are in and the level of organization they have achieved, many of the children that are members of these groups work in large cities, in the informal sector of the economy, either on the streets or in domestic service. These organizations tend to have a flexible and democratic structure that emphasizes representation and participation ([Liebel 1994](#), 125); they hold elections to elect representatives that are in charge of different aspects of the advocacy efforts.

Despite their institutional heterogeneity, organizations of working children have similar goals. They argue that children have a right to work and demand that their contributions

¹⁷ Organizations of working children are not a Latin American phenomenon, however. In other parts of the world, influential groups of working children include the African Movement of Working Children and Youth in Senegal and the Bhima Sangha organization in the Indian state of Karnataka, to name a few.

¹⁸ The organization includes members from Argentina, Bolivia, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru and Venezuela. Their website can be accessed here: <http://molacnats.org/> (accessed September 12, 2018).

to family income and the country's economic well-being more generally be recognized. They want governments to take their views into account. In particular, they push governments to prevent situations where children are forced into exploitative work conditions.

Many of these goals contradict the objectives of organizations of the international community, such as the ILO. Organizations of working children tend to criticize the role of the ILO and its efforts to “eradicate” child labor. Thus, for example, UNATSBO members often point out that the recommendations against child labor are not culturally appropriate for a developing country like Bolivia where poverty pushes children into child labor. The following is a quote from Lourdes Cruz Sánchez, a representative from the child worker council from the Bolivian city of Potosí:

I wish to make an appeal to the organizations that cooperate with the ILO: before you create laws or social programs for countries, you need to know their reality. [...] To make programs you must know the situation in the country (Strak 2015, 41).

Despite having children as members, these organizations behave much like other interest groups. Working children engage in traditional labor union actions, including protests and strikes. They receive material support from humanitarian organizations (Liebel 2004, 20). For example, international non-governmental organizations such as *Terre Des Hommes* and Save the Children have given UNATSBO funding to organize meetings and to conduct research to further their advocacy goals. Like most interest groups, organizations of working children produce information that (1) helps them understand better what their policy objective should be and (2) can later be used in advocacy efforts to persuade lawmakers in government.¹⁹

To influence policy, organizations of working children rely on ‘outsider’ tactics aimed at influencing lawmakers’ decisions through the mediating effect of public opinion. In this way, some of their efforts are devoted to publicly protesting incorporation efforts. In November of 2017, for instance, MOLACNATS staged a number of events in response to the ILO’s IV Global Conference on the Sustained Eradication of Child Labour, held in Argentina. First, they sent a letter to the Committee that supervises the implementation of the CRC denouncing the ILO for not complying with the CRC’s Article 12, which establishes that children shall be “provided the opportunity to be heard in any judicial or administrative proceedings affecting [them]”, as they had been rejected from attending the conference for ‘security reasons’.²⁰ MOLACNATS then organized its own “anti-ILO” conference, to coincide exactly with the dates of the ILO

¹⁹ Pacosillo Mamani (2013), a former member of UNATSBO, interviewed 320 children and adolescents in the city of El Alto, the second-largest city in Bolivia and one of the poorest. His study, funded by the *Fundación Wiphala* and published in a small book that I obtained during my fieldwork, reviews the debate over child labor and presents descriptive statistics of children’s responses to the survey, including the percentage of children who work, their ages, their jobs, and whether they attend school.

²⁰ The letter can be accessed here <http://molacnats.org/wp-content/uploads/2017/11/Carta-Reclamo-Comite-DDNN.pdf> (last accessed February 1, 2017).

conference, as a sign of protest.

As organizations of working children face economic costs when child labor is banned, they are usually at odds with adult labor unions over policy. In fact, these two groups do not collaborate very much. During an interview with a former member of a working children organization in Bolivia, I asked about the relationship between the organizations of working children and the labor unions in the country. He said that the Bolivian Workers' Center (*Central Obrera Boliviana*)—the oldest labor union in the country, representing 2 million workers—had not helped them at all. In fact, he said that they work against UNATSBO and talk about “eradicating child labor”—terminology associated with the perspective that child labor should be abolished.²¹

3.4 Advocacy Groups

In this paper, I use the term ‘interest groups’ to refer to all the domestic groups that mobilize to influence child labor policy and reserve the term ‘advocacy groups’ for specific interest groups that, being non-governmental organizations and non-profits, have policy goals that are organized around ideas or values. Internationally, examples of these advocacy groups would be Amnesty International, CARE International, and Human Rights Watch. The role of advocacy groups in pushing the government to change its behavior has long been recognized as a powerful force in the fight for human rights. Their influence has increased since the end of the Cold War, spurred in part by the reduction in costs of organization and operation (Simmons 2009, 32). International relations scholars have shown that advocacy groups help keep governments accountable by pushing for the ratification of international human rights treaties, producing information about rights violations, and pressuring the government to change its policies through the use of advocacy networks and ‘naming and shaming’ tactics (e.g., Keck and Sikkink 1998, Hafner-Burton and Tsutsui 2005, Murdie and Davis 2012).

Advocacy groups are important drivers of the incorporation of international labor standards, usually working in conjunction to pressure the government to comply with international treaties. There are many human rights advocacy groups working to protect children from child labor. The EU-based “Stop Child Labour” campaign argues that all child labor should be abolished, and works instead to generate “child labor-free zones” in developing countries. In its mission statement, the organization asserts that

[e]very child has the right to education and protection against child labour. . . Stop Child Labour advocates an area-based approach involving all children who live in a certain area. Focusing only on children who work in certain sectors or on the worst forms of child labour does not bring lasting change. As long as some forms

²¹ He cited two brief moments of cooperation among children and adult labor unions—one in rural areas, one in Potosí, a mining region—but they were short-lived and insignificant.

of child labour are accepted, children will continue to work and they will continue to be denied the right to education ([Stop Child Labour 2017](#)).

There are many organizations like Stop Child Labour operating in Latin America as well. Even in Bolivia, where the Children and Adolescent Code was adopted in 2014, there are some local groups—such as the *Centro de Multiservicios Educativos* and the *Fundación Desarrollo y Autogestión*—that believe that child labor should be abolished ([Fontana and Grugel 2015](#), 69).

Although the majority of advocacy groups working to protect children aim to eradicate child labor, there is a small but growing group of organizations that take a different approach. In their view, prohibiting child labor does not solve the underlying problems that cause child labor and only pushes children into dangerous jobs in which they have no legal protections. This “critical” perspective on child labor agrees on the need to defend and promote children’s rights but believes that the best way to do so is to focus on preventing the exploitation of children in certain hazardous industries and not through the use of a blanket prohibition of child labor as the “abolitionist” perspective proposes ([Bourdillon et al. 2010](#), [Pacosillo Mamani 2013](#), 22-25). In Bolivia, UNATSBO’s legislative proposal for the new Child and Adolescent Code, for example, was drafted with the help of the national coordinators of Save the Children, *Terre des Hommes* Germany and *Terre des Hommes* Switzerland. As mentioned, these organizations provided financial support for UNATSBO and organized events where children met to discuss the views that would inspire their proposal.

A recent example helps illustrate the intensification of the debate between the abolitionist and the critical perspectives on child labor. In 2016, a letter signed by over fifty academics and practitioners was sent to the CRC Committee urging its members to avoid referencing the ILO’s Convention 138—which sets out minimum age standards—in a general comment that was being drafted about Article 32 of the CRC which relates to child labor. The letter states that “[t]he work that children and adolescents perform. . . can have positive as well as negative effects” and that the practitioners “have reservations about using ILO Convention 138 (Minimum Age Convention)” to prevent the exploitation of children. A few months later, Human Rights Watch responded with its own open letter to the CRC Committee arguing against all the points made in other letter. For instance, Human Rights Watch clarifies that C138 allows children aged fifteen and older to work if they are employed safely and have completed the mandatory schooling years.²² Human Rights Watch also criticizes the original letter because “[g]overnments should not be encouraged to cherry-pick international law.”

Despite the debate between these two perspectives on child labor, most international and local advocacy groups adopt the “abolitionist” view and believe that child labor should be eliminated. Consequently, they support the incorporation of treaties against child labor be-

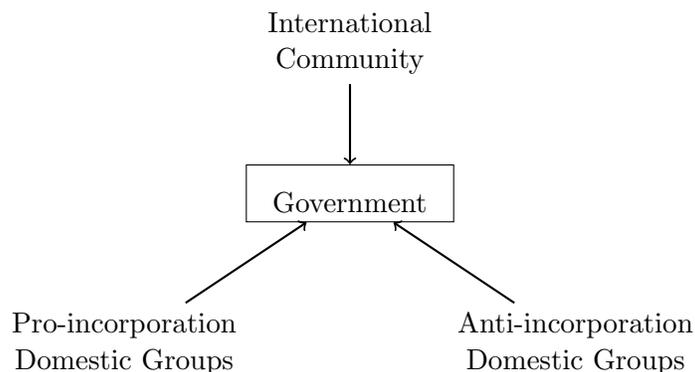
²² The response from Human Rights Watch can be accessed here: <https://www.hrw.org/news/2016/04/04/when-it-okay-children-work> (last accessed February 5, 2017).

cause they believe in the ideas and principles behind the eradication of this practice. In sum, most advocacy groups working to protect children are against child labor and in favor of treaty incorporation.

In addition to these interest groups that benefit or lose with child labor, the economics literature suggests that families have incentives for children to work. Families are not formally an interest group, so I do not include a section on them in this paper. But the household model of child labor argues that the entire household can benefit when children work (Basu and Van 1998), so household members should support child labor. The model argues that parents can benefit if children contribute to the household income, even if they are not completely selfish and instead only rely on this income to push the household above subsistence level. Children, as part of the household, also benefit if being employed pushes them above subsistence levels, even if working does not allow them to make long-term educational investments that will raise their future income levels (Cigno and Rosati 2005). Support for the household model comes from the fact that many children report giving their families most of their earned income (Pacosillo Mamani 2013).

In sum, this section has explored the distributional effects of human rights treaties. Employers, families, and organizations of working children all suffer costs when child labor bans are put in practice. In contrast, labor unions and most non-governmental organizations work to eradicate child labor and thus benefit when treaties against child labor are incorporated. The key take-away is that not all groups benefit from the incorporation of human rights treaties against child labor. Consequently, the government received pressure both in favor of and against treaty incorporation. Figure 2 illustrates the competing pressures that governments face when incorporating treaties.

Figure 2: Competing Pressures on Governments



On one hand, the government faces international pressure from Western powers, human rights international nongovernmental organizations to respect human rights treaties. On the other hand, the government faces pressure from domestic interest groups. Some groups support

incorporation and some oppose it. These are represented in the left and right sides of Figure 2. This configuration of different domestic players with different preferences leaves the government vulnerable to pressure both in favor of and against treaty incorporation.

4 The Incorporation Gap

How do the distributional effects of human rights treaties affect the incorporation of treaty standards against child labor? I argue that anti-incorporation groups can block or delay the adoption of international standards against child labor. To explore this question, it is necessary first to establish whether states have incorporated treaties. This requires reviewing domestic legislation in each state and comparing it to the treaties' standards. I construct an original dataset with information on all Latin American laws against child labor adopted between 1980 and 2016. The resulting dataset includes 666 country-year observations with information on the laws of eighteen countries over 37 years.²³

A cursory look at the data of the legal ages to work in the region would suggest that, on average, compliance with international labor standards has always been high. Since 1980, the average minimum age of employment in the region has only risen by 0.7 years. Similarly, the average legal age at which children can work in hazardous activities seems to have been high for the entire period. Specifically, in 1980, the average minimum age for hazardous work was 17.62. By 2014, all countries in the region had set the age at which children could work in hazardous activities at eighteen. In sum, states seem, at first look, to have had legislation reflecting international treaty standards for a long time.²⁴

However, the domestic laws adopted contain a number of loopholes or exceptions that effectively lower the minimum age to work in regular or hazardous activities. As these exceptions are not contemplated by the treaties, they violate international commitments. For the case of the general minimum age of employment, for instance, many states include exceptions that

²³ The coding process required identifying the relevant domestic legislation pertaining to the age of employment in each country. I consulted archival copies of Work Codes and occasionally I found national legislation in online repositories. I also relied on the reports states send to the committees that supervise the implementation of the CRC and the ILO conventions to identify relevant legislation. Once the laws have been identified, I codified their content according to the codebook I developed. The list of countries included are Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela. I follow the classification made by the statistical office of the United Nations. See <https://unstats.un.org/unsd/methodology/m49/> (last accessed March 7, 2018). This means that Caribbean and certain quasi-independent territories such as the Bouvet Island, Falkland Islands, French Guiana, and the South Georgia and the South Sandwich Islands are not included. Guyana and Suriname are excluded because they are usually considered Caribbean nations—as shown for instance by their classification as Small Island Developing States and their participation in organizations, such as the Association of Caribbean States.

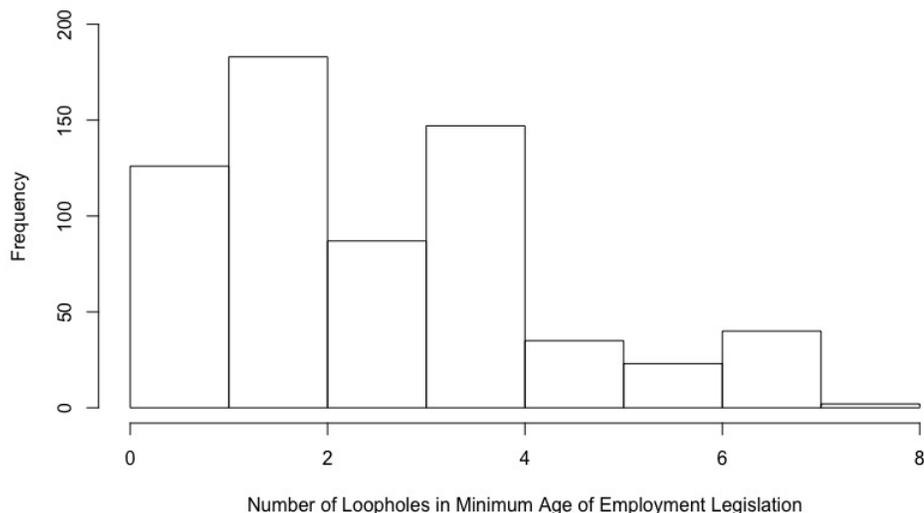
²⁴ For scholars of international relations, this is an important point, as it suggests that treaties such as the CRC and C182—entered into force in the 1990s—merely codified existing trends in the region and have not had an independent effect on human rights outcomes. A closer look at the data, however, shows that this interpretation would be incorrect.

go beyond the exceptions contemplated in the C138 for so-called ‘light’ work. For example, sometimes states allow the relevant government authority to allow the child to work if the family is poor. For example, Guatemala’s *Decreto 1441* from 1988 allowed minors under 14 to work if the family needed the child’s work for subsistence. Other times, domestic law makes exceptions if the child works under the supervision of a family member, even for businesses that are not family-owned. As there is no provision in international treaties allowing member states to include this exception, this loophole constitutes a violation of international law.

Another way in which states violate prohibitions against child labor is that sometimes the laws leave out entire categories of work that need not respect the minimum age to work. For instance, it is common in Latin America to set specific regimes for agricultural work where the age of employment is lower. This is problematic especially given that almost half of the children who work in the region are employed in agriculture.²⁵ While not all work in agriculture is hazardous, a lot of it is, which makes this figure worrisome to child protection advocates.

To provide a graphical representation of how pervasive these loopholes are, I counted the number of exceptions to the minimum age of employment in every country-year observation. Figure 3 shows the number of observations in the database by the number of loopholes.

Figure 3: Frequency of country-years observations by number of loopholes, Latin America, 1980-2016



²⁵ Globally, agriculture is also the sector with the largest concentration of child workers, with approximately 71% (108 million) of all child workers. In terms of the other sectors, the ILO estimates that, globally, 17% of children (26 million) are employed in the service sector and around 12% of children (18 million) work in industry ([International Labour Organization 2017, 34](#)).

These loopholes are not contemplated by international treaties against child labor and thus reflect the incorporation gap of labor standards. As can be seen in Figure 3, on average states have had three exceptions.

A similar incorporation gap exists for prohibitions against hazardous work. Compliance with international treaties against child labor requires specifying eighteen as the age under which no child can perform hazardous work. As mentioned earlier, Article 32 of the CRC explicitly mentions that member states commit to preventing children from working in hazardous occupations and agree to “take legislative... measures to ensure the implementation of the present article.” In practice, this obligation implies that states need to specify in their domestic legal system which industries or activities are considered hazardous. The ILO conventions similarly let states determine what these hazardous jobs are.

The data shows that there is great variation in how states have regulated children’s hazardous work. Some have prohibited the hazardous work of children by stating that those under eighteen cannot do that work but have not adopted any sort of list or guidance as to what these jobs might be. If the government does not require children to obtain a work permit, moreover, this means that children’s work in hazardous industries is completely unregulated. Other states have adopted a simple paragraph mentioning certain jobs—such as mining or selling alcoholic beverages—that children are not allowed to do, leaving many other jobs that hurt children’s safety and well-being out. Finally, some states have produced a detailed and comprehensive list that outlines many different types of work that they consider hazardous. Table 1 shows the percentage of country-year observations in the data for which countries had no, minimal, or comprehensive lists of hazardous jobs.²⁶ Only in about 35% of the country-year observations are children protected against hazardous work in a detailed list as mandated by treaties against child labor. Most states only have a minimal list that defines what hazardous work is and states that children should not engage in it. This means that for those country-year observations, the treaty was not easily enforceable because the government had not determined which hazardous activities were prohibited for children, as required by international law.

Table 1: Percentage of Country-year Observations with Detailed Lists of Hazardous Jobs

	Percentage (%)
No list	2
Minimal list	63
Comprehensive list	35

Not having a detailed list of hazardous activities is a violation of international standards.

But even that list might not be enough to protect children from hazardous work, as states

²⁶ Minimal lists include legislation that merely restates that children cannot work in activities that hurt them physically or only provide protections against the worst forms of child labor, such as sexual exploitation or slavery.

sometimes include loopholes to these regulations. In 2011, El Salvador adopted *Acuerdo 241* which listed the hazardous occupations for children. In Salvadorean legislation, children are not allowed to work in hazardous work if they are under eighteen. However, after establishing a long list of activities that are prohibited in Article 1 and specifying that children cannot perform these activities in Article 2, Article 3 establishes that the authorities may authorize the work of children in the sugar cane, coffee, and fishery industries for those sixteen and older. This is problematic because coffee and sugar cane are two industries known to hire children in the country (US Department of Labor 2018). Consequently, this loophole effectively takes away the treaty protections precisely in the industries that are more likely to require them.

In sum, while at first glance Latin American countries seem to be complying with international treaties against child labor, a closer examination reveals that while the states have adopted prohibitions against child labor, legal loopholes render those protections weak or ineffective. The data reveals the existence of an incorporation gap, showing that the translation of international standards to domestic laws is not an automatic process.

5 How Distributional Considerations Influence Legislation: Evidence from Brazil

In this paper, I argue that the incorporation of international labor standards is affected by the material effects that child labor bans have in civil society. An observable implication of this argument is that legislators whose constituents favor (oppose) these standards will be more (less) likely to vote in favor of incorporating laws. In other words, if a legislator's district relies on child labor, they are less likely to vote in favor of a child labor ban. As child labor bans are less likely to be supported by legislators when they hurt the material wellbeing of influential groups in their electorate, I expect that the more a constituency produces goods that rely on child labor, the less likely it is that a legislator of that state will support raising the minimum age of employment.

In this section, I examine how agricultural interests influenced the voting of the *Emenda Constitucional 20* (EC 20), a bill adopted in 1998 that raised the age to work from fourteen to sixteen in Brazil. Focusing on Brazil allows me to study legislative activity, a task usually complicated by the lack of data in Latin America given that most countries do not normally record the votes in the legislature. Unlike other systems like the United States, roll call in Latin America is a rare event. It can be mandatory in certain exceptional situations (for instance, to change the constitution) or can be requested by legislators specifically, but in general, these records do not exist for most countries. Brazil is one of the few countries that has been recording votes for over twenty years and, as a result, offers a unique opportunity

to observe voting patterns in the legislature in 1998.²⁷ Moreover, I focus on the agricultural sector because most of the children in Brazil—and around the world—work in this sector.

5.1 Child Labor in Brazil

Brazil is a federal republic with 26 states and a federal district in Brasília. The head of state is the President, who can serve up to a maximum of two four-year terms. The legislature is a bicameral national Congress with two chambers. The first, the Chamber of Deputies, has 513 members elected directly by citizens for four-year terms. The second chamber is the Senate, with 81 members directly elected for a term of eight years.²⁸

Brazil leads in the production of a number of crops, such as sugar, soybeans and coffee, among others. Child labor in Brazil is most frequent in the agricultural sector, although a considerable number of children work in industry and the service economy. In 1998, when the EC 20 was adopted, this was the case as well. In 2001, a special section on child labor was added to the *Pesquisa Nacional por Amostra de Domicílios* (PNAD), a nationally-representative survey conducted yearly. The survey found that at the time, there were more than 3 million children between the ages of 5 and 15 working in Brazil. Table 2 shows the breakdown of child labor by occupation and age group. It shows that children under fourteen were more likely to work in agriculture. As they grew older, children became more likely to work in non-agricultural sectors like service and commerce.²⁹

Table 2: Percentage of Child Labor by Occupation, 5–17 years, 2001

Age Group	Agriculture (%)	Non-Agriculture (%)
5 to 9 years	76	24
10 to 14 years	56	44
15 years	41	59
16 to 17 years	30	70

Source: PNAD 2001

The illegal nature of child labor makes it hard to know how many children work in each industry. The US Department of Labor has collected since 2001 information about the use

²⁷ See Carey (2009, 55-65) for a detailed explanation of which votes are recorded in each country.

²⁸ Throughout much of the twentieth century, the country was under authoritarian rule. With the return to democracy in 1985, a multi-party system was re-established. In comparison to their counterparts in some developed economies, Brazilian political parties are considerably weaker, to the point that some scholars argue that the legislature in Brazil operates as an agent of the executive (Figueiredo and Limongi 1999). Parties are weak because they are relatively new, because there is a high turnover for members of Congress (particularly in the lower chamber), and because the proportional electoral system “facilitates the election of many legislators representing special interest from agriculture to business to various trade unions” (Oliveira Gozetto and Thomas 2014, 215).

²⁹ The latest data collected in 2014 shows that children are still more likely to be employed in agriculture. In fact, nearly one in three children work in agriculture in the country Fórum Nacional de Prevenção e Erradicação do Trabalho Infantil (2016).

of child labor in each country from the US embassies around the world. The results are published annually. Given that Brazil is the world's biggest producer of sugar,³⁰ it is perhaps not a surprise that since 2001, the US Department of Labor has reported that children are hired in sugar cane production. This is especially problematic because sugar cane harvesting is usually considered an especially dangerous activity given the application of agrochemicals and the use of machetes to cut the cane (ILO 2017, v). The first report available from Brazil for 2001 also reports the use of child labor in footwear production and in domestic service, along with other 'worst forms' of child labor, such as prostitution and sexual exploitation (US Department of Labor 2001).

5.2 Brazil's Efforts to Incorporate Child Labor Prohibitions

Over the years, the Brazilian government has ratified international treaties against child labor and introduced a number of laws that regulate different aspects of children's involvement in the workforce, such as the minimum age of employment, the activities that they can perform, and the hours in which they can perform the work. On January 26th, 1990, Brazil signed the CRC treaty, just a few months after the UN's General Assembly adopted the treaty and opened it for signature. A few months later, Brazil adopted the Child and Adolescent Code (*Lei 8.069*) which, in the words of the Brazilian government, is "a juridical instrument which transposes to the national plane the rights set forth in the Convention on the Rights of the Child" (CRC/C/3/Add.65 2003). Then, on September 24th, 1990, the country formalized its commitment to the international standards contained within the treaty by ratifying the CRC.³¹

During the 1990s, the Brazilian government began a collaboration with the ILO that led to the implementation of a number of local programs. For example, in 1992 Brazil became one of the six original countries to participate in the International Programme on the Elimination of Child Labour (IPEC), an operational program of the ILO that funds technical cooperation projects with governments to strengthen their capacity to fight child labor.

In 1995, Fernando Henrique Cardoso became Brazil's 34th President. That same year, on March 28th, the government introduced the *Proposta de Emenda à Constituição* (PEC) 33/1995 with the objective of reforming a number of constitutional provisions protecting workers. The proposal aimed, among other reforms, to change Article 7 (33) of the Constitution, which at the time read:

prohibition of night, dangerous or unhealthy work for minors under eighteen years of age, and of any work for minors under fourteen years of age, except as an apprentice;

³⁰ Brazil produces about 36 million tons annually. Source: https://www.commoditybasis.com/sugar_prices (accessed May 31, 2018).

³¹ Unlike other countries, did not attach any reservations, declarations or understandings that qualified this commitment to the treaty.

The wording of this article, dating from the 1988 Constitution, thus established a minimum age of employment starting at fourteen, a minimum age for hazardous work set at eighteen, and a special apprenticeship regime for those between twelve and fourteen years old.

Debate over the proposed bill began in the Chamber of Deputies in 1995, but voting did not commence until 1996. Finally, in December 1998, PEC 33/1995 was adopted as a constitutional amendment, formally known as *Emenda Constitucional 20* (EC 20). This law raised the minimum age of employment from fourteen to sixteen years. It maintained an exception for apprenticeships that was present in the previous legislation, but only for those between fourteen and sixteen years old.

Convention 182 (C182), which protects children against the worst forms of child labor, was adopted in 1999 in Geneva at the organization's meeting in June. A few months later, on December 14th, 1999, Brazil ratified conventions 182 and 138 through the *Decretos Legislativos* 178 & 179, respectively.

5.3 Data

This section describes the data used to test the proposition that legislators from constituencies where children are engaged in child labor are less likely to support raising the minimum age of employment. Specifically, I focus on how legislators voted for a proposal to raise the minimum age of employment in Brazil.

5.3.1 Dependent variable: Vote

The dependent variable is the vote cast by an individual legislator of the Chamber of Deputies. The data comes from the *Núcleo de Estudos Comparados e Internacionais* (NECI), a research center in São Paulo that collects different types of Brazilian legislative data. As there were multiple votes across the years associated with the constitutional amendment, I consider the first vote on substantive matters regarding the minimum age of employment, which took place on February 11th, 1998.³²

The original data has information on how each legislator voted. The data show whether a legislator voted in favor, against, was absent or abstained. Table 3 shows the frequency breakdown for each of these categories of the dependent variable.

During this vote, there were a total of 513 legislators in the lower chamber. In total, less than 3% of legislators were absent or abstained. Excluding the sixteen legislators who were absent or abstained from voting, a total of 497 votes were cast expressing support for or opposition to the bill. In the analysis that follows, I construct a dummy variable that considers only votes cast in favor of and against the law.

³² The data can be accessed here <http://neci.fflch.usp.br/node/506> (accessed June 4, 2017). The ID of the vote considered is 1998017. I thank Andréa Junqueira for her assistance in obtaining this data.

Table 3: Descriptive Statistics for Votes Cast

Original Coding	Condition	Frequency
A	Abstain	3
F	Absent	13
N	Against	152
S	In Favor	345
	Total	513

5.3.2 Independent variable: Agricultural Interests

To examine how agricultural interests affect legislative action, I use data on agricultural land use to approximate the importance that certain industries have in each Brazilian state. As legislators are elected at the state level, my expectation is that the more important an industry that hires child labor is in that state, the more likely it is that a legislator of that state will oppose an increase in the minimum age of employment.

I follow [Dias et al. \(2016\)](#) and use government information from the Municipal Agricultural Survey on agricultural land use for three crops: sugar cane, maize and soy. Together, these crops represent 72% of the crop area in Brazil and about 90% of the production of temporary crops in the country ([Dias et al. 2016](#), 2894). I use the data aggregated at the state level, as this is the relevant political unit in the legislature. This variable measures the number of hectares planted of each crop by state. As the number of hectares dedicated to agriculture may vary by state, I control for this possibility by using the percentage of land dedicated to each crop over the number of hectares planted per state. This variable thus gives a sense of the relative importance that each crop has for legislators of that state.

Given that the US Department of Labor reports the use of child workers only in the sugar cane industry in 2001 (the closest year available to the year of the vote), my expectation is that the more a state relies on sugar cane production, the less likely it is that a legislator will vote in favor of the bill. I do not expect the agricultural use of maize and soy to have a similar effect on support for EC 20.

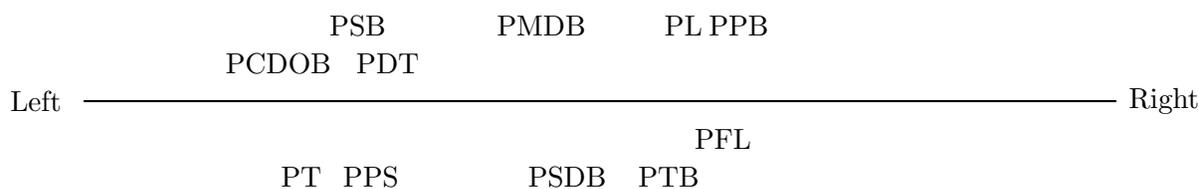
5.3.3 Control Variables

To control for possible confounders, I include a number of control variables that could affect legislators' votes and are unrelated to the influence of agricultural interest groups. This section explains the data used for these control variables in detail.

Ideology: To control for how the ideology of the party might affect a legislator's vote, I use estimates of the ideology of Brazilian legislative parties constructed by [Power and Zucco Jr. \(2009\)](#). These authors have conducted multiple surveys of legislators in Brazil's two chambers. Specifically, they ask legislators to place themselves and other parties on

an ideological scale where 1 is “left” and 10 is “right.” Their data is rescaled to account for variation in how legislators use this scale (for instance, some legislators cluster parties together while others use the whole scale) and other idiosyncrasies in their responses. To examine the effect on ideology on the vote in February 1998, I look at information from the 1997 survey, which is the only survey fielded during the legislative term in which the Members of Congress debated PEC 33/1995.³³ The authors report that the survey had 162 respondents, presumably from both chambers in the legislature, although the exact distribution of members of Congress and senators for this year is not reported.³⁴ With the information provided, I have plotted the values for each party on a scale from 1 to 10:

Figure 4: Ideology of Brazilian Political Parties, 1997.



Source: [Power and Zucco Jr. \(2009\)](#)

Government coalition: Another factor that might affect voting on the bill is whether the party belonged to the government coalition or not. This is important given that Latin American presidents typically have significant agenda power and might expect legislators from their parties to pass the legislation they want. The information for this variable comes from the roll call information collected by the *Núcleo de Estudos Comparados e Internacionais* (NECI). It is a dummy variable that scores 1 if the party was a member of the coalition and 0 if it was not. For the particular vote under examination, the parties that are marked as being part of the governing coalition are PFL, PSDB, PMDB, PPB and PTB. Together, these parties had 394 legislators in the Chamber of Deputies (77%). In the opposition, there were 119 legislators, and most of them belonged to the PT. Table 5 in the appendix shows the exact number of legislators in the Chamber of Deputies by party.

Rural Population: I also control for the possibility that it is the ‘ruralness’ of a state, and not the area dedicated to a certain crop, that affected the legislative vote in 1998. I use government information from the *Instituto de Pesquisa Econômica Aplicada* (IPEA) on the absolute numbers of people living in rural areas (as defined by the government). In

³³ The surveys were fielded in 1990, 1993, 1997, 2001 and 2005.

³⁴ Ideally, I would be able to obtain information on the ideology of each individual legislator, but this information has not been made available in an effort to preserve their anonymity. Thus, the information is clustered by party.

the analysis, I use the information from 1996, a few years before the vote on the *Emenda* took place, as data for 1997 or 1998 are unavailable.

5.4 Results

Given that the dependent variable is a dummy variable measuring whether a legislator cast a vote in favor or not of the proposed bill, I run the analysis using logistic regression. The results are presented in Table 4. The results suggest that the number of hectares planted with sugar cane is related to the voting patterns for the EC 20, even after controlling for a number of potential confounders. Specifically, the higher the percentage of crop land dedicated to sugar cane, the less likely are legislators from those states to vote to raise the minimum age of employment, while holding other variables—such as party ideology and government coalition—fixed. Substantively, moving the independent variable by one standard deviation decreases the probability of a legislator voting in favor of the bill by 15%.

Importantly, the coefficients for the percentage of crop land where maize and soy were planted are not statistically significant, suggesting that there is not enough evidence that these crops affect a legislator’s propensity to vote in favor of the bill. This supports the hypothesis that it is not just any agricultural interest, but specifically those that benefit from child labor, that are affected by child labor bans.

As expected, a party’s ideology and membership in the government coalition affect the likelihood that a legislator will vote in favor of the bill. The association is positive: being part of the government coalition makes it more likely that the legislator will vote in favor of the bill. This coefficient is large and statistically significant. This is not surprising, given that it was the government that first proposed the amendment that resulted in the EC 20. In terms of party ideology, the results suggest that parties towards the right of the spectrum were more likely to vote in favor of the bill. The coefficient for rural population is not statistically significant, so there is not enough evidence to suggest that it is an important factor explaining variation in support for the bill.

In sum, the results support the argument that legislators from states with a large percentage of crop land dedicated to sugar cane are less likely to vote in favor of a law banning child labor than those that are not. This result holds even when other important controls are included, such as whether the legislators are from a party that is in the ruling coalition and ideology.³⁵ This result is important because if human rights treaties did not have distributional effects, material considerations would not influence how legislators vote over child labor policy.

³⁵ The results of Table 4 hold also when I exclude the variable for soy. I run this robustness check because the soy variable has 138 missing observations and including this variable could bias the results. Table 6 in the appendix presents the results of the logistic regression that includes information for the percentage of land dedicated to soy in a state. This analysis now includes 474 observations as missing observations are not dropped from the analysis. The effect of sugar cane on the probability of voting in favor of the bill is still negative and statistically significant.

Table 4: The Effect of Agricultural Crop Use on Votes

	<i>Dependent variable:</i>
	Vote
Sugar	-0.027*** (0.010)
Maize	-0.002 (0.023)
Soy	-0.006 (0.012)
Government Coalition	2.632*** (0.597)
Ideology	0.921*** (0.215)
Rural Population	0.000 (0.000)
Constant	-5.060*** (1.401)
Observations	348
<i>Note:</i>	*p<0.1; **p<0.05; ***p<0.01

6 Discussion

In this paper, I argue that human rights treaties can activate distributive conflicts within societies. Most research in political science emphasizes how civil society advocates use human rights treaties to hold governments accountable for rights violations. In this conventional view, treaties are violated because governments are either unwilling or unable to comply with international commitments. Instead, I argue that far from being uncontentious, human rights treaties pit different interest groups within society against each other in the pursuit of different policy objectives. This is because the implementation of human rights treaties, instead of benefitting all members of society, creates winners and losers.

To illustrate this argument, I focus on child labor and describe why child labor bans, far from garnering broad support, are highly contentious. I consider the way child labor bans affect material incentives to explain why certain groups oppose the incorporation of human rights treaties. For example, employers lose when they can not hire children. Perhaps more surprisingly, opposition to child labor bans also comes from organizations of working children who argue that children have a right to work, which raises important questions about the legitimacy of these treaties. Instead, adult workers, labor unions, and most non-governmental organizations lobby the government in favor of incorporation.

I test an observable implication of this argument related to the preferences of employers regarding the incorporation of standards against child labor. I show that legislators have different preferences about the eradication of child labor. Part of these preferences are related to whether their constituencies are negatively affected by the adoption of restrictions on when children can be employed. I argue that the more a constituency produces goods that rely on child labor, the less likely it is that a legislator of that constituency will support a ban on the use of child labor. I show that this was the case for states that grew sugar cane—a crop known to use child labor—during the voting for the EC 20 in Brazil. Substantively, varying the percentage of hectares dedicated to sugar cane by one standard deviation decreases the probability of a legislator voting in favor of increasing the minimum age to work to sixteen by 15%. I argue that this happens because legislators whose constituents rely on the work of children are more sensitive to the costs that a ban on child labor would have on people in their state. Consequently, they are less likely to adopt restrictions on the minimum age of employment.

The Brazilian case shows how states might move towards the elimination of the incorporation gap that exists in many states. It also shows more broadly that domestic politics influences the incorporation of human rights treaties, which means that child labor bans are fragile and vulnerable to internal power shifts among stakeholders. Nothing prevents legislators from adopting another law dismantling protections against child labor, and, in fact, proposals like these currently circulate in the Brazilian legislature. Since the adoption of EC 20, a number of legislative proposals have been presented in Congress to revert the minimum age

of employment back to fourteen. For example, in 2011, congressman Dilceu João Sperafico—a key member of the *bancada ruralista*—introduced a proposal in the Brazilian legislature that would allow children aged fourteen to work (PEC 18/2011).³⁶ Similarly, the Bolivian case described at the start of the paper shows how laws against child labor may backslide when interest groups oppose treaty incorporation.

The theory presented here has implications beyond the issue of child labor, however. Human rights treaties aspire to establish rights that we enjoy because of our shared humanity and, in principle, garner broad support. But when these rights are translated into domestic laws, disagreements arise much like they do for other domestic issues. Students of international political economy have emphasized the domestic costs of international cooperation. A free trade agreement, for example, might disproportionately affect a domestic industry that was protected by tariffs. This paper shows that the implementation of human rights treaties also creates domestic winners and losers, but, so far, the contentious translation of human rights norms into domestic law has been relatively unexplored in the discipline.

In this way, this paper contributes to our understanding of how domestic politics affects compliance with human rights treaties. Most human rights scholars argue that formal accession to international legal norms is the starting point of a long implementation process that, through the mediating effect of domestic politics, links international law to human rights outcomes, as depicted in Figure 1. For example, [Simmons \(2009\)](#) argues that treaty ratification can, under certain conditions, encourage compliance by influencing legislative agendas, encouraging litigation in courts, and mobilizing domestic human rights advocates who push the government to change its behavior. I build on these important contributions by examining how groups that *oppose* human rights standards affect this implementation process. By focusing on how distributive conflicts prevent the incorporation of human rights standards into domestic law, I suggest another reason why compliance with human rights treaties might be low.

³⁶ More recently, the Senate debated PLS 231/2015, which aims to allow children who work in the arts or sports to work even if they have not attained the minimum age of employment if they have the consent of their parents or legal guardians. The proposal has been criticized by advocacy groups working to protect children's rights because it does not require the authorization of a judge and consequently violates Brazil's international commitments.

Appendix

Table 5: Number of Legislators in the Government Coalition by Party

Party	Number of Legislators	Government Coalition
PFL	111	yes
PSDB	95	yes
PMDB	88	yes
PPB	78	yes
PTB	22	yes
PT	50	no
PDT	23	no
PSB	14	no
PL	10	no
PCdoB	9	no
PPS	6	no
PSD	3	no
PMN	1	no
PRONA	1	no
PSTU	1	no
PV1	1	no
Total	513	

Table 6: The Effect of Agricultural Crop Use on Votes Excluding Soy

	<i>Dependent variable:</i>
	Vote
Sugar Cane	-0.016** (0.008)
Maize	-0.015 (0.019)
Government Coalition	3.328*** (0.553)
Ideology	0.682*** (0.180)
Rural Population	0.000 (0.000)
Constant	-4.462*** (1.045)
Observations	474
<i>Note:</i>	*p<0.1; **p<0.05; ***p<0.01

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