

Treaties-Bad

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[Editor's Note: no added ellipses; added brackets are italic, original brackets are not.]

See also: State Control Better (*pagenum*) for evidence on how decentralization of policies is good.

TABLE OF CONTENTS

1. SOLVENCY.....	1
1.1. Fail.....	1
1.2. Lack enforcement.....	2
1.3. Underfunded.....	2
1.4. Other nations don't have enough money.....	2
1.5. Lessening U.S. influence on treaty adoption (example: Kyoto).....	2
2. DISADVANTAGES - NATIONAL SOVEREIGNTY.....	3
2.1. Link: Treaties are the supreme law.....	3
2.2. Link Extension: Treaties can even override the Bill of Rights.....	3
2.3. Link: Environmental treaties erode sovereignty.....	3
2.4. Brink: Ceding sovereignty leads to bigger cessions.....	4
2.5. Impact: Slippery slope to international control.....	4
2.6. Extension Link: Sovereignty upholds democracy.....	4
2.7. Extension Impact: Democracy = Peace.....	5
2.8. Response: Nowadays, treaties CAN take over domestic policy.....	5
3. SOVEREIGNTY IMPORTANT.....	5
3.1. Inalienable right.....	5
3.2. Promotes peace & democracy.....	5
3.3. Sovereign nations best environmental regulators.....	6
4. UNFAIR COMMITMENT.....	6
4.1. Link: Other nations don't uphold treaties.....	6
4.2. Link: U.S. is constitutionally required to uphold treaties.....	6
4.3. Impact: U.S. unfairly forced to do stuff other nations ignore.....	6
5. MISCELANEOUS.....	7
5.1. Large participation no guarantee of success.....	7
5.2. U.S. required to spend more than other nations.....	7

SOLVENCY

Fail

Scott Barrett (PhD in economics, professor of political science at Johns Hopkins University), 2005, "Environment and statecraft", <http://books.google.com/books?id=uqrey86neSIC>

Unfortunately, most treaties - and I list or discuss over 300 treaties in this book - fail to alter state behavior appreciably.

Treaties-Bad

Lack enforcement

Arun Agrawal (PhD in political science, professor of natural resources and environment at the University of Michigan) and Maria Carmen Lemos (PhD, associate professor of natural resources and environment at the University of Michigan), 2006, Annual Review of Resources and Environment, "Environmental Governance", http://www-personal.umich.edu/~arunagra/publications/2006.Maria_Carmen_Lemos_and_Arun_Agrawal_Environmental_Governance.pdf

Most international environmental agreements lack effective enforcement, especially when the more binding provisions in an agreement are at stake.

Underfunded

March 13, 2009, New York Times, "Poor data, weak agencies hamstring U.N. environmental oversight", <http://www.nytimes.com/gwire/2009/03/13/13greenwire-poor-data-weak-agencies-hamstring-environmenta-10122.html?pagewanted=3>

Ongoing government cash-flow troubles, now made worse by a severe global economic recession, mean many of these proliferating MEA [Multilateral Environmental Agreement] secretariats are poorly funded and have little ability to monitor compliance or take any possible enforcement actions when rules are broken.

Other nations don't have enough money

Arun Agrawal (PhD in political science, professor of natural resources and environment at the University of Michigan) and Maria Carmen Lemos (PhD, associate professor of natural resources and environment at the University of Michigan), 2006, Annual Review of Resources and Environment, "Environmental Governance", http://www-personal.umich.edu/~arunagra/publications/2006.Maria_Carmen_Lemos_and_Arun_Agrawal_Environmental_Governance.pdf

Economic pressures on states, resulting both from greater integration of economic activities across national boundaries and a decline in aid flows, have been supplemented by fiscal crises in many developing countries. Many nation states no longer have the resources to manage their environments.

Lessening U.S. influence on treaty adoption (example: Kyoto)

Nigel Purvis (visiting scholar at the Brookings Institution, graduate of Harvard Law School), December 15, 2004, Brookings Institution, "The Real Importance of the Kyoto Treaty", http://www.brookings.edu/opinions/2004/1215energy_purvis.aspx

Kyoto demonstrates that America's allies are increasingly shaping the international agenda without it. When the Bush administration rejected Kyoto in 2001, it assumed that other nations would follow suit, but more than 120 nations have ratified it.

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DISADVANTAGES - NATIONAL SOVEREIGNTY

Link: Treaties are the supreme law

United States Constitution, Article VI

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

Link Extension: Treaties can even override the Bill of Rights

James Burnham (PhD, professor of philosophy at New York University), 2003, "Congress and the American tradition", <http://books.google.com/books?id=z9hqlf1HIZIC>

In April 1952, the year before he became himself an officer in the executive apparatus, John Foster Dulles summed up the present status of the treaty power in a speech delivered at Louisville, Ky.:

"The treaty-making power is an extraordinary power liable to abuse. Treaties make international law and also they make domestic law. Under our Constitution treaties become the supreme law of the land. They are indeed more supreme than ordinary laws, for congressional laws are invalid if they do not conform to the Constitution, whereas treaty laws can override the Constitution. Treaties, for example, can take powers away from Congress and give them to the President; they can take powers from the states and give them to the federal government or to some international body and they can cut across the rights given the people by the constitutional Bill of Rights."

Link: Environmental treaties erode sovereignty

Iain Murray (Senior Fellow at CEI), February 28, 2009, Competitive Enterprise Institute, "Threats to Our National Sovereignty", <http://cei.org/smappearances/2009/02/28/threats-our-national-sovereignty>

There are many other environmental treaties sitting there like traps, just waiting for an environmentally-friendly administration to walk right into them. The Law of the Sea Treaty, for instance, will cede sovereignty to our seabed resources. The Stockholm Convention on Persistent Organic Pollutants still awaits ratification, but because of the way it works - chemicals to be banned are listed on a schedule to the treaty that can be altered by bureaucrats - it could easily ban the manufacture and use of the chemicals that have made our lives wealthier and healthier, all in the name of the environment.

Treaties-Bad

Brink: Ceding sovereignty leads to bigger cessions

Jeremy Rabkin (PhD, professor of Government at Cornell University), April 16, 1999, Competitive Enterprise Institute, "The Sovereignty Implications of the Kyoto Protocol", <http://cei.org/gencon/014,01649.cfm>

Running behind all this is the notion that sovereignty is just a sort of crotchet of old-fashioned people. It's just not worth fussing about. What's behind that is the notion that being responsible to particular people is not important. Who says "global governance" says "forget about borders, forget about constitutions, forget about what makes countries different. We're all in this together." That is of course an ideal which is very appealing to environmentalists. Everything is connected to everything. We're all here on the same big blue marble in space. That's an ideology which has a lot of appeal to such people. But when you think it through, you'll see that if you let that get loose, if you let that build momentum, if you let that become the cornerstone of international law, you start by eroding constitutional governance at home, and you end by really marginalizing it all together.

Impact: Slippery slope to international control

Iain Murray (Senior Fellow at CEI), February 28, 2009, Competitive Enterprise Institute, "Threats to Our National Sovereignty", <http://cei.org/smappearances/2009/02/28/threats-our-national-sovereignty>

Together, these might seem irritants, but the transnationalists will not stop there. French officials have floated the idea of a World Environment Organization, and British foreign secretary David Miliband has explicitly called for the European Union to become the Environmental Union, echoing Al Gore's sentiment in *Earth in the Balance*, that environmental protection should become the central organizing principle of mankind.

It is therefore not too outlandish to suggest that some form of international body, set up to unify and harmonize the fluffy-sounding environmental treaties we seem all too willing to rush to sign in this new era of hope and change, could become America's version of European Union. A few more treaties and it is possible to see permits for new power plants not being decided by governors, but by international bureaucrats. The environment is such a catch-all that it is possible to see responsibility for all sorts of areas of policy being transferred to this new organization: environment and energy obviously, increasing amounts of economic policy via mechanisms such as carbon taxes, agricultural and fisheries policy will be next. What about education, to ensure every child is aware of their responsibilities to the planet? Labor policy, to regulate "green jobs," of course. Defense policy, because of the environmental impact of war. And so on.

Extension Link: Sovereignty upholds democracy

Geoffrey de Q Walker (Emeritus Professor of Law at the University of Queensland), Summer 2002, National Observer, "Why sovereignty matters: the erosion of democracy", http://findarticles.com/p/articles/mi_hb6559/is_2002_Summer/ai_n28895780/

The other great role of national sovereignty stems from its close links with democracy. The national borders so derided by globalisers serve a vital purpose by identifying the groups of people entitled to participate in the government of particular land areas. They define the political entity and are the source of the individual's democratic rights.

Treaties-Bad

Extension Impact: Democracy = Peace

Geoffrey de Q Walker (Emeritus Professor of Law at the University of Queensland), Summer 2002, National Observer, "Why sovereignty matters: the erosion of democracy", http://findarticles.com/p/articles/mi_hb6559/is_2002_Summer/ai_n28895780/

It is now accepted, as Gareth Evans himself has pointed out, that democracies are unwarlike. History shows a disinclination for established democracies to go to war against each other. Democracies share a fundamental principle of legitimacy that results in peace. Under popular government, strident nationalism is confined to the sporting field.

Response: Nowadays, treaties CAN take over domestic policy

Jeremy Rabkin (PhD, professor of Government at Cornell University), April 16, 1999, Competitive Enterprise Institute, "The Sovereignty Implications of the Kyoto Protocol", <http://cei.org/gencon/014,01649.cfm>

Until very recently, understandings of the United States Constitution presumed a certain view about what the United States could commit itself to internationally. The accepted restrictions on the treaty power are very parallel to these elements of liberty that I was just speaking about. As we think liberty has certain core components which shouldn't be up for grabs, which shouldn't be available to the government, the treaty power was assumed to be only about external affairs, not about internal matters.

[later, in the same context, still talking about the same issue:]

Now, all of these understandings about how international law is supposed to work, and in particular what our Constitution allows the United States to participate in, all of these have been seriously eroded.

SOVEREIGNTY IMPORTANT

Inalienable right

Jeremy Rabkin (PhD, professor of Government at Cornell University), 2004, "The case for sovereignty", <http://books.google.com/books?id=bxKXWs1E9AUC>

The opening sentence of the Declaration of Independence appealed to "the laws of Nature and Nature's God", which "entitle" independent states "to a separate and equal station ... among the powers of the earth." National sovereignty, according to this doctrine, has the same moral claim as the "unalienable rights" of individuals, founded on the same enlightened understanding of natural law.

Promotes peace & democracy

Jeremy Rabkin (PhD, professor of Government at Cornell University), 2004, "The case for sovereignty", <http://books.google.com/books?id=bxKXWs1E9AUC>

Sovereignty does more than just promote peace among states. A world of sovereign states can help to promote both liberty and democracy within states.

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Sovereign nations best environmental regulators

Milan Ilhnyckyj (MA in international relations), November 21, 2003, "Sovereignty and Environmental Protection: Not Incompatible Values", <http://www.sindark.com/NonBlog/Articles/SovEnv.pdf>

The sovereign state has many features that recommend it as the best agent to serve as environmental regulator. States have a moral claim to legal and physical authority within their borders. They are capable of creating and enforcing binding laws and of holding both individuals and companies responsible for their actions in a non-arbitrary way. States are continuous, accessible institutions that can be contacted by other states and international organization, and taken to task for their mistakes.

[note: "state" here refers to nations]

UNFAIR COMMITMENT

Link: Other nations don't uphold treaties

Iain Murray (Senior Fellow at CEI), October 17, 2007, Competitive Enterprise Institute, "Why America Doesn't Ratify Treaties", <http://cei.org/gencon/019,06203.cfm>

In most countries, treaties are ratified by a vote of Parliament or by an executive decision. They then supposedly have the force of law, but few countries have means of citizen enforcement of such law, which is why they can be safely ignored when convenient. Thus, the western European nations are mostly quite happily failing to get anywhere near on target for their Kyoto Protocol commitments, with a couple of nations resting on the laurels of structural changes made before Kyoto was signed. The only thing that citizens can do to get the nations to meet the targets is the imposition of political pressure, which is likely to dissipate once the true costs of meeting the targets reveal themselves.

Link: U.S. is constitutionally required to uphold treaties

Iain Murray (Senior Fellow at CEI), October 17, 2007, Competitive Enterprise Institute, "Why America Doesn't Ratify Treaties", <http://cei.org/gencon/019,06203.cfm>

Secondly, and more importantly, treaties trump national law, having the same status as the [United States] Constitution. This means that activists can take the US Government to court and have national law quashed on the basis of a treaty commitment. Judges can also instruct the Federal Government to take steps to meet treaty commitments.

Impact: U.S. unfairly forced to do stuff other nations ignore

Iain Murray (Senior Fellow at CEI), October 17, 2007, Competitive Enterprise Institute, "Why America Doesn't Ratify Treaties", <http://cei.org/gencon/019,06203.cfm>

It is sad that the United States gets blamed for failing to play along with the rest of the world on such treaties. The main reason why it does not is because, as in Kyoto's case, other nations don't play by the rules of the game, whereas the US is forced to.

MISCELANEOUS

Large participation no guarantee of success

Ekko van Ierland (PhD, professor of environmental economics, Wageningen University), Juan-Carlos Altamirano-Cabrera (PhD, Wageningen University), and Michael Finus (PhD, professor of economics, University of Stirling), July 2005, Public Choice, "The Effect of Membership Rules and Voting Schemes on the Success of International Climate Agreements", Vol. 125, Issue 1, <http://www-sekon.slu.se/~bkr/ulv03Altamirano-Cabrera.pdf>

Fourth, large stable coalitions may prove to be inferior compared to small stable coalitions both in economic and environmental terms. This suggests that a high participation in an IEA [*International Environmental Agreement*] does not necessarily imply its success, as frequently publicized by politicians and the media.

U.S. required to spend more than other nations

Daniel C. Esty (PhD, professor of Environmental Law and Policy, Yale) and Maria Ivanova (PhD, assistant professor of government and environment at the College of William and Mary), Summer-Fall 2008, SAIS Review, "Reclaiming U.S. Leadership in Global Environmental Governance", Vol. 28, No. 2, <http://mxivan.people.wm.edu/Ivanova&Esty-SAIS Review-2008.pdf>

Since the United States is expected to contribute a larger percentage financially to the treaty secretariats than most other countries, there is a growing apprehension of signing into any new agreements.