

Rights without Resources: The Impact of Constitutional Social Rights on Social Spending

Adam Chilton & Mila Versteeg

—Draft—

Abstract

Over the past decades, constitutions around the world have come to protect a growing number of social rights. This constitutionalization of social rights has generally been met with approval from academics, human rights activists, policy-makers, and development economists alike. But despite this widespread support, there is hardly any evidence on whether the inclusion of rights in constitutions actually changes how governments provide social services to their citizens. We take up this question by studying the effect of adopting the constitutional right to education and healthcare on government spending. Using data on 186 countries' constitutional rights, we employ a variety of empirical tests to examine if the rights to education and healthcare are associated with increases in government spending. Our results suggest that the adoption of these social rights is not associated with statistically significant or substantively meaningful increases in government spending on education or healthcare.

Key Words: Constitutional Rights; Constitutional Law; Comparative Law; Social Rights; Human Rights; Education Spending; Healthcare Spending.

1. INTRODUCTION

Few topics have attracted as much attention in the comparative law literature as the constitutionalization of social rights. Over the past decades, constitutions around the world have come to protect a growing number of social rights. As the cold war era ideological divide over social rights has waned, social rights have become mainstream constitutional features that are found in the West and Global South, autocracies and democracies, and common law and civil law systems alike. By 2012, no less than 81 percent of all constitutions included the right to education, 71 percent protected access to healthcare, 63 percent protected the right to social security, and 39 percent provided a right to housing.

What is more, these rights are increasingly enforced by courts, who have been formally empowered in many countries to scrutinize the political branches' social spending for compliance with their constitution's social rights protections (Gauri & Brinks 2008; Langford 2009). In countries as diverse as Germany, Colombia and Kenya, national courts are reportedly enforcing social rights (Langford 2009; Jung et al. 2015, Landau 2012). For instance, courts have ordered emergency care regardless of ability to pay in South Africa,¹ demanded increased government spending on education in Indonesia,² and limited school fees in India³ (Gauri & Brinks 2008 at 8-9). Even in the United States, long seen as a bulwark of libertarian values, social rights are enshrined in many state constitutions and have been enforced by state courts (Hershkoff 1999; Zackin 2013).

The constitutionalization of social rights has generally been met with approval from legal scholars, human rights activists, philosophers, and development economists (Sunstein 2000 at 123, 2001 at 221; Landau 2012 at 190). Legal scholars used to debate whether it is appropriate for courts to enforce social rights (Sunstein 1997, 2000, 2001; Cross 2001; Sen 2004; Davis 2008 at 1024), but a new wave of legal scholarship has now widely accepted that courts around the world are indeed in the business of social rights enforcement (Sunstein 2001; Langford 2008; Ray 2016). Political scientists, in the meantime, have started to use case studies to explore the impact of these decisions (Gauri & Brinks 2008; Hoffman & Bentes 2008; Landau 2012). Prominent philosophers, such as Amartya Sen and Martha Nussbaum, have argued that human capabilities should part of the definition of economic development (Nussbaum 2011), and that social rights are key to promoting human capabilities (Dixon & Nussbaum 2013; Jung et al. 2015). Development economists, too, have generally looked favorably upon the constitutionalization of social rights (World Bank 2006 at 3-4), because investments in human capital, through education or healthcare, are generally believed to be conducive to economic development (UNDP 1990 at 9). The World Bank has long held that, while its mandate excludes a focus on civil and political rights, it does seek to promote social rights (World Bank 2006 at 3-4). In short, as "the bottom billion" (Collier 2007) of the planet still lacks access to basic necessities, the adoption of social rights have been widely regarded as an important way to improve access to social services for the poor (World Bank 2006 at 8; Gauri & Brinks 2008; Davis 2008 at 687; Young 2012 at 2).⁴

¹ *Soobramoney v. Minister of Health, KwaZulu-Natal* 1998(1) SA765 (CC) (South Africa).

² *Judicial Review of the 2006 Budget Law Case Number: 026/PUU-III/ 2006* (Indonesia).

³ *Ankur Argawal v. Respondent: State of Madhya Pradesh and Others* 2000 (India).

⁴ Social rights have not only become stronger at the national level, but also at the international level. The social rights from the International Covenant on Economic, Social and Cultural Rights have formally been declared "indivisible, interdependent, and interrelated" with civil and political rights (Vienna Declaration 1993; Whelan

But despite this widespread support for including social rights in constitutions, little is known on a systematic basis about whether these rights actually change how governments provide social services to their citizens. A handful of papers have started to explore the impact of social rights. Existing studies found no impact of the right to education on test scores in a cross-section of 61 countries (Edwards & Marin 2014, at 10); found a negative correlation between the right to healthcare on infant mortality rights in a panel covering 157 countries from 1970-2007 (Matsuura 2013), and a negative correlation between legally enforceable social rights and poverty in a cross-section of 201 countries (Minkler & Prakash 2015). While these papers provide interesting insights, these correlations tell us little about whether social rights change government behavior. After all, the link between the constitution and slow-moving structural characteristics of a country, such as poverty and child mortality, is tenuous at best. Many of these characteristics take years, if not decades, to change, and are unlikely to be fully within a government's control.⁵ Since the constitution is first and foremost directed towards the government, the study of how social rights affect government behavior requires the use of a measure that directly captures government commitments, such as government social spending. Only one early study has done so, and explored the impact of education rights on education spending, albeit in a cross-section of 66 countries only (Ben-Bassat & Dahan 2008).⁶ Thus, till date, we still know little about how social rights change government behavior.

This paper takes up that task. We explore the impact of the constitutionalization of the right to education and the right to healthcare on government spending on education and healthcare in approximately 180 countries from 1970-2012. Doing so, allows us to test the impact of social rights on the government's commitment to fulfilling these rights directly, as spending is an important indication of government efforts to provide these rights. Using a variety of empirical techniques, including both matching and fixed-effects panel regressions, we find that the adoption of social rights is not associated with increases in government spending in these areas. In fact, we do not find any positive effects that achieve conventional levels of statistical significance and little evidence of effects that could be substantively meaningful. We also conduct additional analyses that explore whether the phrasing of social rights—as rights or policy goals—affects social spending, and whether the rights to housing and social security are associated with increased spending. Although we find a handful of positive results in these additional analyses, the results are largely consistent with our primary findings: adopting constitutional social rights does not appear to have an effect on government spending.

These findings make several important contributions. First, and most directly, they provide the most comprehensive evidence on the impact of constitutionalizing social rights on government commitments to fulfill these rights. While our analysis leaves open the possibility that social rights change the way that governments talk about rights, or change the distribution of resources without changing overall spending, it does establish that there is no overall effect on

2010; Davis 2012 at 1020; Young 2012 at 6). Moreover, with the entry into force of the ICESCR's first optional protocol, social rights are now enforceable by an international body, just like their civil and political counterparts.

⁵ None of the existing papers theorize the mechanisms through which the constitution would affect slow moving structural country characteristics like poverty or infant mortality rates. What is more, existing work largely relies on cross-sectional analysis and makes limited attempts to identify a causal effect. Finally, all these papers use legal origins as an instrumental variable for constitutional rights, which is highly problematic since legal origins have been shown to affect human rights outcomes as well as judicial enforcement directly, rather than merely through constitutional social rights.

⁶ The paper found no relationship between education rights and education spending. It also found no relationship between social rights and government size.

government spending. In general, it is hard to imagine the fulfillment of social rights without substantial resources being devoted towards these rights.

Second, our paper also contributes to the small set of papers that have explored the impact of social rights on broader outcomes, such as poverty or mortality rates. By focusing directly on government behavior, rather than deep structural factors that are only partly within the government's reach, our findings suggest that if there are indeed any reductions of poverty or child mortality, these come about without increases in government spending. While the possibility that constitutions lift people out of poverty without government intervention is intriguing indeed, it is also possible that these earlier results represent spurious relationships. Indeed, when we use our identification strategy to explore the impact of social rights on a range of outcome measures (such as life expectancy and school enrollment) we still find no impact of constitutionalizing social rights. While our analysis leaves numerous questions unanswered, our findings are sobering to those invested in improving social welfare through constitutionalizing social rights by requiring governments to step up their commitments.

Third, our results contribute to the growing literature on the effectiveness of constitutional rights more generally (Boli-Bennet 1976; Pritchard 1986; Davenport 1996; Cross 1999; Keith 2002; Keith, Tate, & Poe 2009; Fox & Flores 2009; Keith 2012; Melton 2014). Although this literature has produced mixed results, our findings are consistent with recent findings suggesting that constitutional rights for individuals are less effective than rights that are granted to organizations, like unions or political parties (Chilton & Versteeg 2015, 2016).

Finally, our results also speak to the literature on international human rights. While there is a large empirical literature on the effectiveness of human rights treaties (see, e.g., Simmons 2009; Lupu 2013a, 2013b, 2015; Hafner-Burton 2012), this literature has almost entirely ignored the major treaties that provide for social rights. Our findings suggest that, if constitutional social rights have not had an effect, it may be reasonable to expect that international treaties on social rights may similarly have had little impact on government behavior.

2. THEORIES OF SOCIAL RIGHTS ENFORCEMENT

When social rights are constitutionalized, they are transformed from mere policy goals into constitutional obligations. Since constitutions tend to be the highest law within a legal system, social rights that are constitutionalized enjoy priority over competing goals that lack constitutional status (Davis 2012 at 1034). It also typically means that governments are legally required to take steps to realize these goals, and that failing to do so might amount to a constitutional violation.

The legal obligations entailed by social rights are usually considered to be three-fold (Eide 1987; Shue 1996; Henkin 2009). First, the political branches have to refrain from adopting laws and regulations that undermine access to social rights, a requirement commonly described as “the obligation to respect” (United Nations Committee on Economic, Social and Cultural Rights 2009 at 11-12). To illustrate, the government bulldozing down a neighborhood might constitute a violation of the right to housing.⁷ Second, the political branches have to take action to prevent rights violations from occurring, sometimes known as “the obligation to protect.” For example, if private citizens’ actions would deny housing to some, then the government’s failure to intervene might entail a violation of the right to housing. Third, the political branches have to

⁷ *Government of the Republic of S. Africa & Others v. Grootboom & Others*, 2000 (11) BCLR 1169 (CC).

take steps to gradually expand access to social services, sometimes known as “the obligation to fulfill.” For example, they will have to put in place policies to gradually offer more low-cost housing to a larger number of people. Under this tri-partite framework, governments generally have to take a range of steps to gradually move towards the goal of guaranteeing access to basic social services, such as education, healthcare, social security, and housing to all citizens (Sunstein 2001 at 235; Scheppele 2004; Young 2012). Moreover, while there is substantial discretion in how to gradually provide these rights, international bodies and some courts have suggested that there exist a “minimum core” of social rights that must always be guaranteed (Young 2008; United Nations Committee on Economic, Social and Cultural Rights General Comment 3, 2003). As one commentator notes, social rights “specify a threshold of resources that every individual should be entitled to[.]” (Bilchitz 2013, at 57).

Although this three-part framework is widely accepted, it is of course the case that the exact legal obligations entailed by social rights vary across countries and are dependent on the phrasing of the constitutional rights and their subsequent judicial interpretations. Yet, regardless of the exact form, the literature generally suggests that upholding these three obligations—and especially the obligation to fulfill—means that resources get redirected towards social rights (Sunstein 2000 at 124; Davis 2012, at 1025). A right to education, for example, is supposed to lead to increased government spending on education, which in turn should expand educational opportunities or improve educational quality. Regardless of whether increased government social spending ultimately improves outcomes, it signals government commitment to fulfil social rights.

2.1. Enforcement

For the fulfillment of constitutional social rights to become a reality, these rights must be implemented and enforced. The bulk of the literature has focused on courts as the primary means of guaranteeing the constitution’s social rights provisions (Sunstein 2000, 2001; Scheppele 2004; Dixon 2007; Gauri & Brinks 2008; Landau 2012). Most prominently, when the South African Constitutional Court ventured into the area of social rights enforcement in the mid-1990s, it became the backdrop for a heated debate over whether courts are the appropriate actors to enforce social rights (Sajo 1999 at 270; Sunstein 2001; Cross 2001; Dixon 2007; Tushnet 2008). The core concern that motivated the debate was that judges might be institutionally ill-equipped for the inherently political task of deciding how the political branches should allocate the national budget (Goldstone 2010 at vii). Commentators further worried that such social rights would be merely aspirational in nature, raising expectations without delivering, making them a “bitter mockery to the poor.” (O’Neill 1996, at 133; Bilchitz 2013, at 55).

By now, however, the normative debate has largely subsided and the fact that courts are enforcing their constitution’s social rights provisions is widely accepted (Landau 2012, at 190). Scholars are now studying judicial rulings enforcing social rights, their reasoning, and the legal obligations they impose (Young 2008; Langford 2009, Landau 2012). Political scientists, for their part, have started to conduct case studies to discern the beneficiaries and redistributive consequences of these judicial decisions (Gauri & Brinks 2008; Hoffman & Bentes 2008; Landau 2012).

Of course, direct judicial enforcement is not the only way in which constitutional social rights might matter. First, even when not directly enforced, social rights can inform interpretations in other areas of law. For example, Emily Zackin (2013) shows how in U.S.

states, constitution-makers constitutionalized social rights to pre-empt *Lochner*-like interpretations of the right to property. That is, the fact that the constitution includes social rights made it harder for courts to invalidate social welfare policies for violating the right to property.

Second, social rights can matter through the electoral process. Where social rights are enshrined in the constitution, they can serve as a focal point for groups that mobilize for the protection of social rights. When social policy goals are transformed into constitutional rights, this empowers individuals. Different groups can invoke the constitution to remind the government of its social rights promises, and try to hold it accountable in the next election (Zackin 2013; Versteeg & Zackin 2014). Indeed, this idea is consistent with the existing literature on human rights treaty effectiveness, which has found that for rights to become a reality, there need to be constituencies invested in the enforcement of the right. It is these groups, and their litigation, lobbying and staging of protests, that turn rights into a reality (Simmons 2009). Constitutional rights likewise give these groups a promise to point to when a government fails to provide basic necessities to its people, and help them to coordinate and mobilize against the government (Weingast 1997; Epp 1998; Chilton & Versteeg 2015).

Regardless of the exact mechanism through which these rights matter—direct judicial enforcement, indirect judicial enforcement, or enforcement through the electoral process—the constitutionalization of social rights is supposed to elevate the importance of social rights vis-à-vis other policy goals and to direct public resources towards their fulfillment. Thus, each of those mechanisms might bring about an increase in public spending on social rights relative to the policy goals that do not enjoy constitutional status.

2.2. *The Limits of Social Rights Enforcement*

Importantly, each of these enforcement mechanisms also has its limitations. Even where courts are rendering high-profile decisions that direct governments to allocate resources towards education and healthcare, there is no guarantee that these decisions are actually enforced. As Alexander Hamilton famously remarked, courts lack the power of the sword and the purse (Federalist 78). Especially where the judicial decisions are directed at the executive, the executive can refrain from fully implementing them. This might happen even in democracies that generally respect the rule of law. Gerald Rosenberg's (1991) well-known study shows that many high-profile decisions of the U.S. Supreme Court had limited impact or were simply ignored. And when courts persistently stand in the executive's way, they might be stripped of their powers, as recent events in Hungary, Poland, Romania, and Turkey show (Gardbaum 2015; Chilton & Versteeg 2017).

Aside from these general constraints, judges that enforce social rights are typically mindful of their institutional limitations, and tend to exercise substantial self-restraint. According to Landau, courts rarely dictate sweeping social rights policies (Landau 2012). Reviewing social rights jurisprudence in a large number of countries, Landau suggests that most courts focus on relief for individual plaintiffs without ordering system-wide reforms (Landau 2012, at 203-29). In addition to this "individualized enforcement model," some courts have issued "negative injunctions," which require governments not to reduce their level of social spending (Landau 2012, at 332-35). Only in rare cases have courts ordered "structural injunctions" that demand system-wide reforms and allow courts to issue sweeping social rights policies. These insights suggest that while courts commonly enforce social rights, they have been cautious not to depart

too far from the traditional judicial role.

An important byproduct of the focus on individualized enforcement is that it directs resources to higher income groups rather than the poor. Landau's study of the Colombian Constitutional Court shows that, judicial enforcement of social rights tends to direct resources towards those who can afford to go to court and use the *tutela* system in their favor (Landau 2012). Another study on Brazil notes that most judicial decisions enforcing social welfare rights involve the direct provision of goods towards the litigants who bring cases, instead of broad distributional change for the poorest for the poor (Hoffman & Bentes 2008 at 117). These decisions therefore tend to address middle class concerns, such as the infamous Brazilian court decision that ordered a penile reconstruction at the expense of the state (Hoffman & Bentes 2008). While such cases might increase overall social spending, they may not redirect resources to those most in need.

Social mobilization, likewise, cannot be taken for granted. Even though people protesting and demanding their rights is potentially one of the most powerful tools to remind the political branches of the constitution's promises, such mobilization is fraught with collective action problems. To mobilize for the protection of rights, disconnected citizens have to coordinate their actions and incur the costs associated with doing so (Olson 1965; McCarthy & Zald 1973). As the literature on social mobilization has suggested, overcoming such collective action problems requires the presence of entrepreneurial individuals motivated by career benefits or the presence of actual grievances (Hardin 1982). Chilton & Versteeg (2016) theorize that such collective action problems are easier overcome for some rights than others. Specifically, they suggest that for rights practiced in organizations, such as the right to unionize or the right to form political parties, a forum exists through which disaffected individuals can coordinate their actions and have tools at their disposal to resist rights encroachment. Chilton & Versteeg (2016) find empirical support for this theory: constitutional protection of the right to form political parties and the right to unionize leads to increased protection of these rights, while individual rights, such as the freedom of expression or the freedom of movement, appear to not make a difference.

Social rights are also individual rights. They are individual entitlements that are not typically enjoyed in groups. The right to education, for example, entitles individuals to have access to schooling (in some cases, free of charge). The right to healthcare likewise grants individuals a right to access basic types of healthcare. While schools and hospitals are organizations that are potentially able to organize to protect the right to education and healthcare, it is not clear that they always benefit from broadening access. Providing services to those without the ability to pay may end up being costly. What is more, to the extent schools and hospitals are funded by the government, they may be reluctant to protest the government. For that reason, it is not clear that social rights are accompanied by organizations with the incentives and means to promote the fulfillment of these rights.

Perhaps more importantly, the growing availability of judicial remedies might hurt social mobilization. One study of Argentina notes that the availability of individual relief in court might come at the expense of social mobilization (Smulovitz, 2006). That is, rather than organizing and mobilizing to persuade the government to provide social rights, individuals might simply go to court to ensure the delivery of certain services to themselves. Thus, judicial enforcement of social rights might aggravate collective action problems.

Considering these inherent limitations to social rights enforcement, it is not clear, on theoretical grounds, what impact the constitutionalization of social rights may have. The near-universal consensus that these rights are normatively desirable is no guarantee that they actually

shift government behavior in some way. The remainder of this paper empirically tests whether these social rights translates into increased social spending.

3. DATA

3.1. *Constitutional Rights Data*

To analyze the effect of constitutional rights on de facto respect for rights in practice, we rely on original data on constitutional rights based on the hand-coding of all the written constitutions from 186 countries in place from 1946-2012.⁸ For each constitution, we have data on whether it includes a range of constitutional rights. The dataset was first introduced and explained in [omitted for review]. From this dataset, we selected two social rights to focus on: (1) the right to education and (2) the right to healthcare.⁹ Although there are several reasons to focus on these rights, we primarily did so because corresponding measures of government spending on these issues are available. In our robustness analysis, we further explore the impact of (3) the right to social security, and (4) the right to housing, albeit for a smaller group of countries, because the relevant spending data for these rights has more limited availability.

Figure 1 presents the prevalence of those rights in the world's constitutions over time. As Figure 1 shows, 81% of countries had a right to education and 71% of countries had a right to healthcare in their constitution by 2012. Figure 2 depicts the countries that had these rights in their constitutions as of 2012 and reveals that the overwhelming majority of constitutions include at least one of the two rights. By 2012, of the 186 countries in our dataset, 21 had a constitutional right to education, 2 had a constitutional right to healthcare, and 130 had both a right to education and a right to healthcare in their constitution.

Figure 1: Countries with a Constitutional Right to Education & Healthcare Over Time

⁸ Part 1 of the Supplementary Materials provides more information on our constitutional rights data.

⁹ Part 2 of the Supplementary Materials provides more information on social rights studied in this paper.

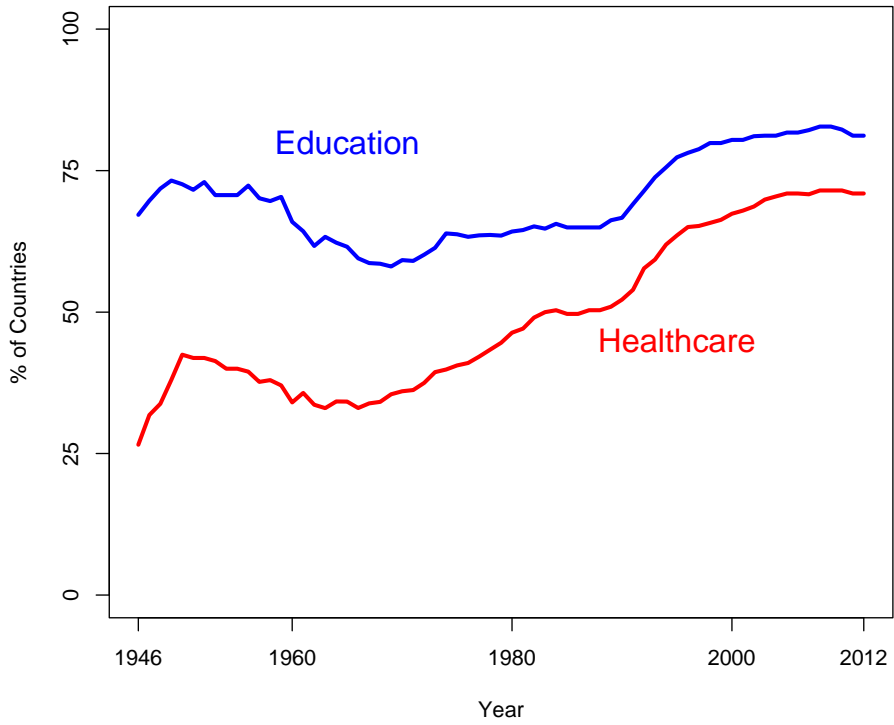
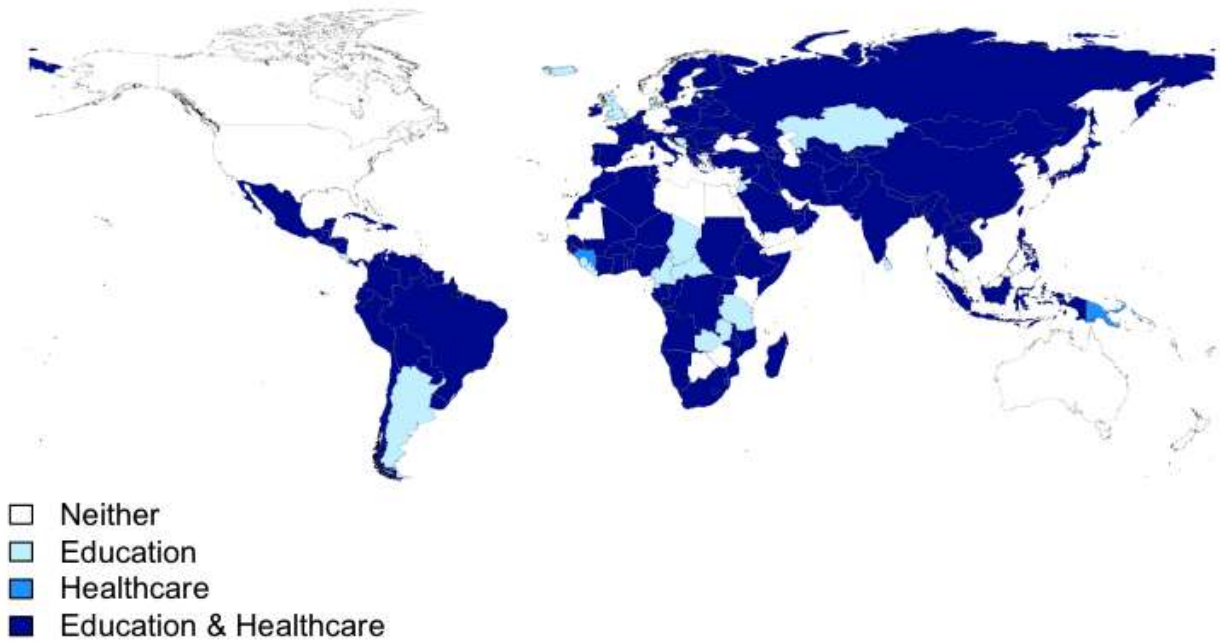


Figure 2: Countries with a Constitutional Right to Education & Healthcare in 2012



3.2. Social Spending Data

To test the impact of social rights, we use measures from the World Development Indicators (WDI) that capture relevant public spending.¹⁰ Following the practice in the literature (Avelino, Brown, & Hunter 2005; Stasavage 2005; Doyle 2015), our measure of education spending is the annual public education expenditure as a percentage of a country's GDP. This data is available from 1970 to 2012 for up to 178 countries. Our measure of healthcare spending is the annual public healthcare expenditure as a percentage of a country's GDP. This data is available from 1995 to 2012 for up to 182 countries. In further analyses, we also test the impact of social rights using two additional sources: (1) data from the Global Development Network Growth Database on the percentage of the GDP spent on housing and social security; and (2) data from the WDI on health and education outcomes.

Our choice to use social spending by the government as our primary dependent variables requires some explanation. Most importantly, social spending does not guarantee that social rights will actually be fulfilled. A government may increase its spending on education, and yet, at least for the time being, many may remain illiterate. Our measures thus capture government efforts to make progress on realizing a right, rather than social outcomes.

To gauge how spending measures contrast with other possible indicators, it is useful to consult the classification of human rights indicators provided by the Office of the High Commissioner on Human Rights (2008) ("OHCHR"). The OHCHR's 2008 report on human rights indicators distinguishes between "structural indicators," "process indicators," and "outcome indicators." Structural indicators capture "basic institutional mechanisms deemed necessary for facilitating realization of a human right," such as whether domestic constitutional law protects a right (OHCHR 2008 at 11). Process indicators, by contrast, capture government action towards the final fulfillment of a right (OHCHR 2008 at 11). Social spending measures are an example of process indicators. Finally, outcome indicators capture the final realization of a right, such as life expectancy or literacy rates (OHCHR 2008 at 12).

We believe that, when it comes to measuring the impact of social rights obligations, process indicators are more suitable than outcome indicators. In this respect, social rights may be different from civil and political rights, which are usually evaluated using outcome indicators. This is because civil and political rights are negative rights: large steps towards their fulfillment can be made by simply not violating them. Indeed, an important step towards fulfilling the prohibition of torture is a government refraining from torture.¹¹ The fulfillment of social rights, by contrast, is a long-term process that is affected by many factors beyond a government's control. This reality is acknowledged in the ICESCR, which demands that each party "undertakes to take steps," "to the maximum of its available resources . . . with a view to achieving progressively the full realization of the rights" (art 2.1). In other words, measures of government spending are more likely to pick up constitutionally induced changes in government behavior than slow-moving outcome variables. Considering the nature of social rights, we thus believe that it is more appropriate to use measures that capture government efforts rather than ultimate outcomes. That said, despite this belief, as part of the additional analyses in Part 6, we

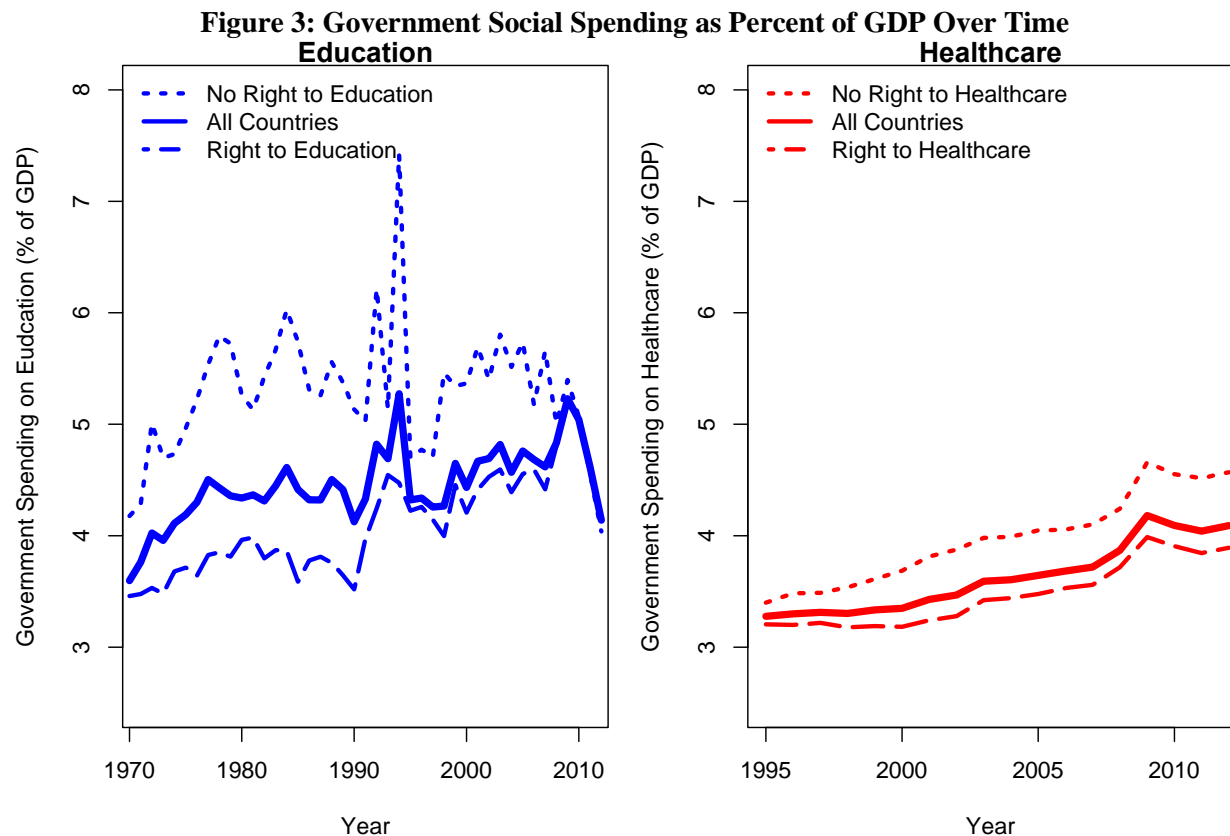
¹⁰ We specifically use the October 2015 edition of the WDI. For education expenditure we use the variable "SE.XPD.TOTLGD.ZS" that captures public education spending as a percentage of GDP. For health expenditure we use the variable "SH.XPD.PUBL.ZS" that captures public healthcare spending as a percentage of GDP.

¹¹ Of course, this binary distinction is problematic as "negative" rights like the prohibition of torture also require government action (Posner 2014).

also report results using education and healthcare outcomes as our dependent variable.

3.3. Graphical Exploration

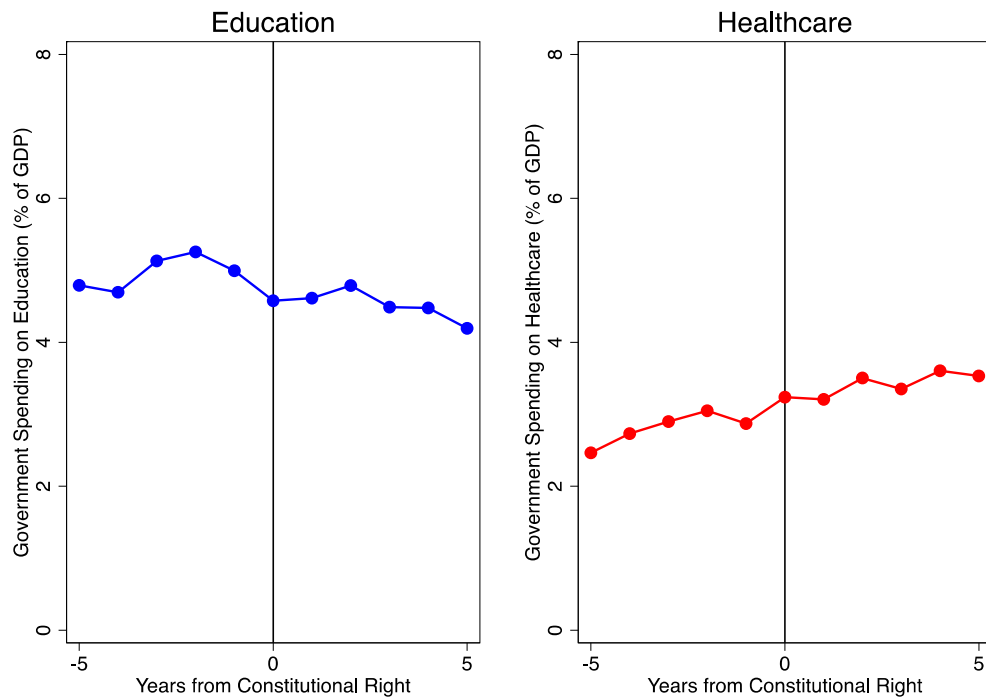
Before turning to our primary empirical analysis, an initial exploration of the relationship between social rights and social spending suggests that social rights might not be associated with increases in social spending. Figure 3 depicts the data on government spending on education and healthcare over time. The bold lines present the average spending for all countries in the sample, the dotted lines present the average spending for countries without a constitutional right, and the dashed line present the same for countries with the right to education and healthcare, respectively. As Figure 3 shows, countries have constitutionalized education or healthcare spend a lower percentage of their GDP on education and healthcare than countries without these rights.



Of course, even though countries with constitutional rights to education and healthcare spend less on education and healthcare overall than countries without these rights, it could still be the case that individual countries increase their spending after constitutionalizing these rights. To examine this, Figure 4 depicts a subset of countries that added the right to education or healthcare to their constitution for the period for which we have social spending data. It depicts the average score for the five years before and after the constitutional right was adopted. Figure 4 provides little evidence that the constitutional right to education or healthcare shift government spending. There is a slight decrease in public spending on education and a slightly increase in public spending on healthcare, but both of these trends appear to pre-date the adoption of the

constitutional right. Although Figure 4 does not take account of confounding factors, the raw data provides little evidence that social rights impact social spending.

Figure 4: Government Spending Before & After Adoption of Constitutional Social Right



4. RESEARCH DESIGN

4.1. Empirical Approach

Isolating the effect of constitutional rights on government behavior is not an easy task. The primary difficulty is that there may be factors that influence both the decision to incorporate a right into a constitution and the later protection of that right. This selection problem biases any naïve analysis of the impact of a constitutional right. This problem is similar to the selection problem faced by the literature on human rights treaty effectiveness. Over the past decades, scholars in this field have used a variety of methods to address this problem, including Heckman selection models (Neumayer 2005) and instrumental variable regressions (Simmons 2009).

The most common technique that has been used, however, is “matching” (Simmons & Hopkins 2005; Hill 2010; Lupu 2013a, 2013b, 2015; Nielsen & Simmons 2014; Furhmann & Lupu 2016). The goal of matching is to reduce significant differences between the treatment and control groups by pairing observations that are as similar in as many relevant ways as possible, except that one has received the treatment while the other has not. If the observations are similar along all relevant dimensions except that one has received the treatment, then observed differences in the dependent variable can be attributed to the treatment.

An important shortcoming of matching is that it relies on conditioning exclusively on observable variables. It is possible, therefore, that there are unobserved variables influencing both the treatment and outcome. When these are not included in the matching, the impact of the un-observables might be mistakenly attributed to the treatment. In the human rights context, a major concern has been that there are unobserved differences in states' preferences for treaty commitments that are related to human rights practices. To address this problem, Yonatan Lupu (2013a, 2013b, 2015) developed a method to measure a state's preferences for treaty commitment. The method is to estimate the treaty "ideal point" for countries based on their existing treaty ratification record, and then calculate the probability that a state would have ratified a particular agreement. To do so, Lupu uses the W-NOMINATE algorithm that was developed to explain the ideological preferences of legislators (Poole & Rosenthal 1997).

Under this approach, the decision to ratify a human rights treaty is modeled as specific points in n-dimensional policy space (Lupu 2013a, 2013b, 2015). The ideal points of every state in every year are then calculated as specific points in the same n-dimensional policy space based on previous ratification decisions. The assumption is that the closer a state's ideal point is to the point estimated for a particular treaty, the more likely it is that a state will ratify that treaty. After calculating the probabilities of treaty ratification in this way, Lupu includes them in matching algorithms, thus accounting for an important unobservable determinant of treaty ratification.

In recent work, Chilton & Versteeg (2015, 2016) use the same approach to estimate the effect of constitutional rights on government behavior. Specifically, they use ideal point estimation to approximate every country's constitutional "ideal point", and use this to calculate the probability that a country would adopt a specific right. They subsequently match on these probabilities and a set of standard observable variables. In this paper, we follow their approach.

4.2. Implementation

Following Lupu (2013a, 2013b, 2015) and Chilton & Versteeg (2015, 2016) our analysis involves three stages: (1) ideal point estimation; (2) matching; and (3) regression analysis.

4.2.1. Ideal point Estimation

In the first stage, we estimate every country's constitutional ideal point. Following Chilton & Versteeg (2015, 2016), we do so based on 87 rights that are commonly found in national constitutions. Specifically, we estimate a two dimensional model using the W-NOMINATE algorithm for the R programming language (Poole et al. 2011). This analysis yields annual constitutional ideal points along two dimensions for 186 countries from 1946 to 2012.

With these ideal points, we next estimate the probability that a country would have included the right to education or healthcare in its constitution by calculating the distance between the country's ideal point and the ideal point of that specific right. Doing so produces an estimate of the probability between 0 and 1 that a country would have a specific right protected by its constitution in every year. Intuitively, these estimates capture the probability that a country will adopt a right based on its general preference for rights commitment as revealed by its other constitutional choices.

4.2.2. Matching

In the second stage, we match country-year observations where the country’s constitution had the relevant constitutional right to country-year observations where the country did not have the relevant right. Our matching procedure uses both the probabilities calculated in the first stage of our analysis and a number of observable variables that are commonly used in the literature on social spending (Avelino, Brown, & Hunter 2005 at 631-32; Doyle 2015 at 795-96).¹²

First, we control for the *Urban Population* (as a percentage of the total population). We do so because urbanization tends to be associated with industrialization and organized workers, which, in turn, might leads to stronger demands for social spending (Bates 1981). Second, we control for the *Population Over 65* (as percentage of total population), since a higher number of elderly often leads to more social spending. Third, we control for *Economic Growth*, as captured by the annual percentage growth in GDP per capita, because economic volatility can affect social spending. Fourth, we control for *Inflation*, since high inflation suggests that the government may be spending more than it receives. All these variables are taken from the WDI.¹³ Fifth, we control for GDP per capita, taken from the Penn World Tables, since wealthier countries spend more on social welfare (a principle known as “Wagner’s law”).

In addition, we include several standard control variables from the literature on government repression (Poe & Tate 1994; Poe, Tate, & Keith 1999). Specifically, since democratic countries are generally more respectful of human rights and engage in higher rates of social spending (Avelino, Brown, & Hunter 2005), we also match on each country’s *Polity Score* as a measure of democracy.¹⁴ Moreover, we match on whether a country is engaged in an *Interstate War* or *Civil War* (from the Uppsala Conflict Data Program¹⁵), as wars tend to affect a country’s rights performance, which might include social rights. Given the evidence that simply deleting observations with missing variables biases results (Lall 2016), we follow the practice in the human rights literature of using Amelia to input missing values for our control variables (Lupu 2013a, 2013b, 2015; Chilton & Versteeg 215, 2016). Additionally, following Lupu (2016) we include a lagged dependent variable and a linear time trend in our matching process.

Table 1: Matching Results

	Education		Healthcare	
	Full Sample	Matched Sample	Full Sample	Matched Sample
Sample Size	2,356	540	3,045	886
Treatment Units	1,792	270	2,095	443
Control Units	564	270	950	443
Mean Distance – Treatment Group	0.893	0.688	0.850	0.608
Mean Distance – Control Group	0.341	0.573	0.331	0.520
Improvement in Balance	79%		83%	

¹² Part 3 of the Supplementary Materials provides summary statistics for all of the variables used in our analysis.

¹³ We use the October 2015 edition of the World Development Indicators. To capture Urban Population, we used variable “SP.URB.TOTL.IN.ZS”; to capture Population Ages 65 and above (% of total) we used “SP.POP.65UP.TO.ZS”; to capture total Unemployment, we used “SL.UEM.TOTL.ZS”; to capture Inflation, we used “NY.GDP.DEFL.KD.ZG”; to capture GDP per capita growth (annual %), we used “NY.GDP.PCAP.KD.ZG”.

¹⁴ This is the “polity2” variable from the Polity IV Project.

¹⁵ Yearly Conflict Dataset from the Uppsala Conflict Data Program: www.ucdp.uu.se/database.

We selected to use propensity score matching (Honaker, King, & Blackwell 2011).¹⁶ While there are other matching methods available, this method is both advocated by Lupu (2013a) and has been the primary method used in the international law literature (Simmons & Hopkins 2005; Hill 2010). Using this approach, we created two different matched datasets—one for the right to education and one of the right to healthcare. As Table 1 shows, doing so dramatically improves the balance for each of our two matched samples: the balance for the education sample improved by 79% and the balance for healthcare sample improved by 83%.¹⁷

4.2.3. Multivariate Regression Analysis

In the third stage, we use our two matched datasets to test the impact of social rights on social spending using regression analysis. We do so because the treatment and control group are not perfectly balanced after the matching process. Specifically, we estimate an OLS model that includes all the variables that we matched on, as well as a set of year fixed-effects (see Lupu 2013a, 2013b, 2015; Chilton & Versteeg 2015; Furhmann & Lupu 2016). We address potential serial correlation by calculating robust standard errors clustered at the country level.

5. PRIMARY RESULTS

5.1. Baseline Specification

Our baseline results are presented in Table 2. Column (1) presents our baseline estimate of the effect of having a constitutional right to education on public spending on education as a percent of GDP, and column (2) presents our baseline estimate of the effect of having a constitutional right to health on public spending on healthcare as a percent of GDP. The results in Table 2 suggest that the effects of both rights are positive, but statistically insignificant and substantively small. In other words, they suggest that constitutionalizing these social rights does not produce a statistically significant increase the amount of money that the government spends on these rights. In additional analysis reported in Part 5 of the Supplemental Materials, we find the same results when use spending data that capture public spending on education and healthcare as a percentage of total social spending.¹⁸ Taken together, these results are consistent with the graphical evidence presented in Part 3 of this paper.

¹⁶ Following Chilton & Versteeg (2015), we use nearest neighbor matching with a caliper of 0.5 to ensure that the matched pairs improve the balance within the sample.

¹⁷ Part 4 of the Supplementary Materials provides more information on the samples our matching process produced.

¹⁸ We use public spending as a percent of GDP as our primary dependent variable, but we use the percent of total social spending as a robustness check is consistent with the practice of other research on social spending (Avelino, Brown, & Hunter 2005; Doyle 2015).

Table 2: Effect of Constitutional Social Rights on Social Spending – Baseline Specifications

	(1) Education	(2) Healthcare
Right	0.031 (0.056)	0.023 (0.030)
Probability of Right	-0.045 (0.056)	-0.066* (0.037)
Urban Population	-0.001 (0.001)	0.001 (0.001)
Population Over 65	-0.007 (0.009)	0.004 (0.005)
Inflation	0.000 (0.000)	-0.000** (0.000)
GDP Per Capita (ln)	0.073 (0.051)	-0.017 (0.020)
GDP Growth	-0.012** (0.006)	-0.010*** (0.003)
Polity Score	0.012** (0.006)	0.004 (0.003)
Interstate War	0.320** (0.149)	-0.049 (0.057)
Civil War	-0.367* (0.210)	-0.115 (0.071)
Spending _{t-1}	0.934*** (0.016)	0.986*** (0.009)
Year	-0.003 (0.004)	0.002 (0.007)
Observations	540	886
R-squared	0.930	0.962

- Robust standard errors in parentheses.
- All models include year fixed effects.
- *** p<0.01, ** p<0.05, * p<0.1

5.2. Alternative Specifications

Our primary results are not dependent on the specifics of our empirical strategy. Instead, we find the same results even when not using each of the key elements of our empirical approach. To demonstrate this, Table 3 reports regressions that remove one element of our empirical strategy at a time until we are left with panel regressions with only fixed effects.¹⁹

¹⁹ The results reported in Tables 3 – 6 only report the coefficients for the relevant constitutional right variable and omit the coefficients for the control variables. Part 6 of the Supplementary Materials reports the complete regression results for all of the regressions reported in the body of the paper.

Table 3: Effect of Constitutional Social Rights on Social Spending – Alternative Specifications

	(1)	(2)
	Education	Healthcare
A. Baseline Specification	0.031 (0.056)	0.023 (0.030)
Observations	540	886
R-squared	0.930	0.962
B. Without Matching	0.028 (0.037)	0.025 (0.025)
Observations	2,356	3,045
R-squared	0.909	0.960
C. Without Nominate	-0.000 (0.031)	-0.021 (0.016)
Observations	2,356	3,045
R-squared	0.909	0.960
D. Without Amelia	-0.015 (0.032)	-0.027 (0.018)
Observations	2,104	2,264
R-squared	0.913	0.963
E. Without Controls	-0.076 (0.280)	0.162 (0.115)
Observations	3,042	3,227
R-squared	0.762	0.958

- Robust standard errors clustered by country in parentheses.
- *** p<0.01, ** p<0.05, * p<0.1

As a baseline, Panel A reproduces the primary specification presented in Table 2. Panel B then reports regressions that include all the same variables as our baseline specifications, but the data was not first pre-processed with matching. Panel C reports regressions that also do not pre-process the data with matching and additionally do not include our estimate of the probability that a country includes the right in its constitution as obtained through the W-Nominate procedure. Panel D reports regressions that are not pre-processed with matching, do not include our estimated probability that a country would adopt a constitutional right, and also does not use Amelia to input missing values for our control variables. Finally, Panel E goes a step further and reports regressions that do not using matching, the W-Nominate probabilities, the Amelia imputation procedure, or any control variables. Instead it merely includes year fixed-effects, country fixed-effects, and country specific time trends. In not a single one of the five Panels are there any results that are positive and statistically significant. Taken together, the results in Table 3 suggest that including these social rights in a constitution is not associated with a statistically significant increase in relevant spending.

5.3. Substantive Effects

While the results reported thus far suggest that constitutionalizing social rights is not associated with statistically significant increases in social spending, we have not yet considered the size of the effect. Specifically, it is possible that a constitutional right has a substantively large effect that is not statistically significant because the model is imprecisely estimated.

To address this concern, Rainey (2014) developed an approach to evaluate whether null results are actually the same as evidence that a given variable has no effect. The approach requires first defining the smallest effect that could be considered substantively meaningful (denoted as m), and then defining a reject region from $-m$ to m . A variable is then considered to have no effect when the 90% confidence interval for a coefficient does not cross $-m$ or m . This approach is easy to implement in a standard regression framework and has also already been used in the human rights literature (Nielsen & Simmons 2014; Chilton & Versteeg 2015).

This approach does, however, require researchers to subjectively define the size of m . When studying the relationship between democratization on social spending, Avelino, Brown, & Hunter (2005) argue that a 0.5 percentage point increase in social spending as a percent of GDP is a substantively meaningful effect. Although it is admittedly subjective, we thus decided to define m as 0.5. In other words, we decided that a 0.5 percentage point change in government spending would be large enough to be considered substantively meaningful.

Figure 5: Substantive Effects (estimated coefficients and 90% confidence intervals)

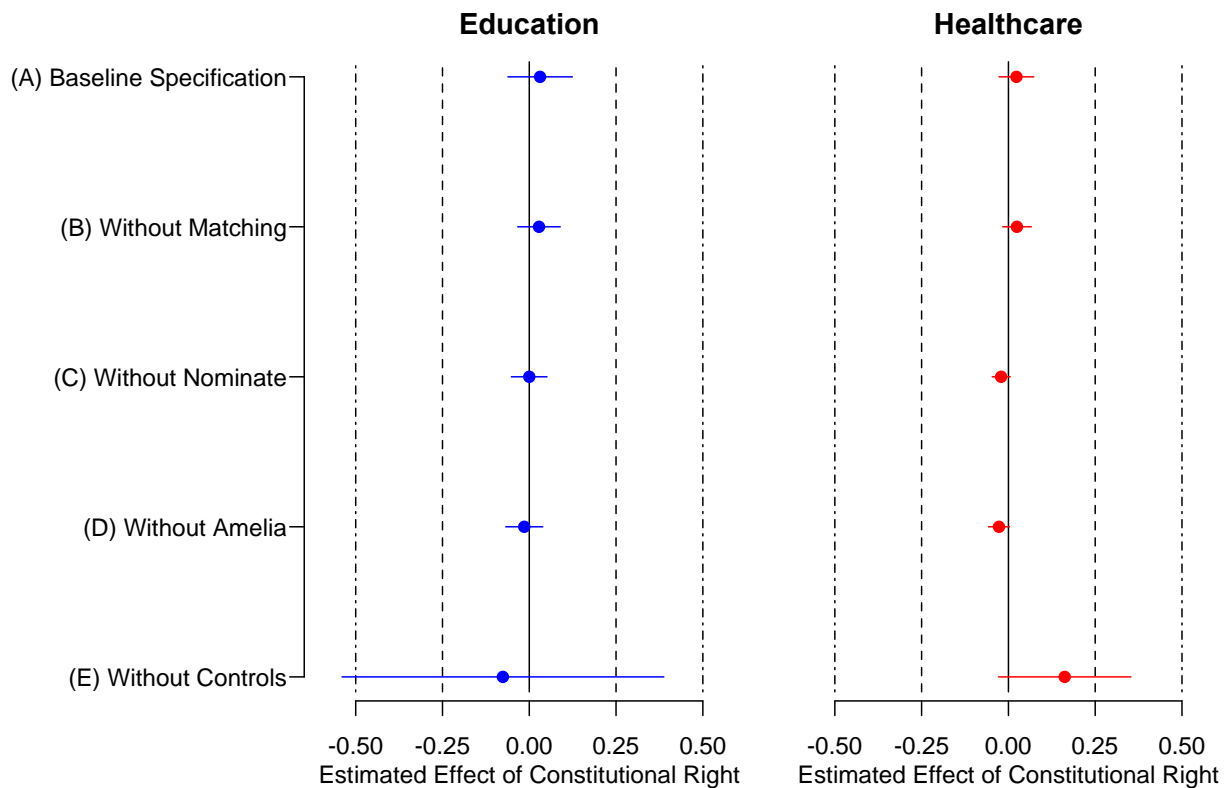


Figure 5 shows the point estimate and the 90 confidence intervals for the models

presented in Tables 3 that estimate the effect of the right to education and healthcare on government spending. As the left side panel of Figure 5 shows, the confidence intervals for the right to education does not cross 0.5 for any of the regressions. It does, however, cross -0.5 in Model E—which is the model that does not include any control variables, and is thus likely imprecisely estimated. As the right panel of Figure 5 shows, the confidence intervals for the right to Healthcare also does not cross 0.5 for any of the regressions. The results in Figure 5 thus reveal not only that the effect of the constitutional right to education and healthcare is not statistically significant, but also that there is no evidence that the results might nonetheless be substantively meaningful.

6. ALTERNATIVE ANALYSES

Our primary results suggested that constitutional rights to education or healthcare is not associated with higher government spending on education or healthcare. To further explore the impact of constitutionalizing social rights, we next examine the impact of alternative formulations of the rights that countries used in their constitutions, the effect of other social rights, and the effect of the right to education and healthcare on social outcomes.

6.1. Testing the Effect of Alternative Formulations of Constitutional Social Rights

Not all constitutional education and healthcare rights are the same. Indeed, there are important variance in the way that countries formulate these rights. We therefore coded three different ways these rights are provided in constitutions and explore whether these affect the impact of these rights on social spending. First, we coded whether they were drafted as rights for citizens (e.g., “everyone has a right to an education”) or whether they were drafted as goal for the government (e.g., “the government shall ensure that everyone has access to education”). While the difference may be mere semantics, it is possible that granting explicit rights is more empowering for individuals that seek to enforce their rights. We thus coded a version of our key independent variable for the right to education and healthcare that excludes countries that merely phrased these rights as a government goal. In columns (1) and (2) of Table 4 we recreate all the model specifications presented in Table 3 while using this alternative constitutional rights coding. Although the regression in Panel A does find a small statistically significant effect for the right to education, this result is not robust to our alternative model specifications. The rest of the results are consistent with our baseline results, suggesting no impact.

Table 4: Effect of Constitutional Social Rights on Social Spending – Alternative Formulations

	Excluding Policy Goals		Excluding Non-Judiciable Rights		Including Guarantees of Free Services	
	(1) Education	(2) Healthcare	(3) Education	(4) Healthcare	(5) Education	(6) Healthcare
A. Baseline Specification	0.060* (0.033)	0.003 (0.022)	0.054* (0.032)	0.006 (0.023)	0.018 (0.036)	-0.023 (0.022)
Observations	1,204	1,418	1,010	1,148	1,050	1,184
R-squared	0.916	0.960	0.921	0.973	0.921	0.950
B. Without Matching	0.035 (0.026)	-0.007 (0.019)	0.029 (0.022)	-0.009 (0.020)	0.013 (0.027)	-0.028** (0.014)
Observations	2,356	3,045	2,356	3,045	2,356	3,045
R-squared	0.909	0.960	0.909	0.960	0.909	0.960
C. Without Nominate	0.025 (0.026)	-0.022 (0.015)	0.018 (0.023)	-0.028* (0.015)	0.004 (0.025)	-0.024 (0.015)
Observations	2,356	3,045	2,356	3,045	2,356	3,045
R-squared	0.909	0.960	0.909	0.960	0.909	0.960
D. Without Amelia	0.010 (0.024)	-0.037** (0.015)	-0.003 (0.024)	-0.043** (0.017)	-0.005 (0.023)	-0.038*** (0.015)
Observations	2,104	2,264	2,104	2,264	2,104	2,264
R-squared	0.913	0.963	0.913	0.963	0.913	0.963
E. Without Controls	0.053 (0.225)	0.148 (0.096)	-0.300 (0.292)	0.055 (0.128)	0.043 (0.267)	0.001 (0.178)
Observations	3,042	3,227	3,042	3,227	3,042	3,227
R-squared	0.762	0.958	0.763	0.958	0.762	0.958

- Robust standard errors clustered by country in parentheses.

- *** p<0.01, ** p<0.05, * p<0.1

Second, we coded whether the social rights provisions in the constitution were explicitly made non-justiciable. While uncommon, some countries grant social rights a different constitutional status than other rights.²⁰ We thus re-coded our primary variables so that countries that explicitly ban the judicial enforcement education or healthcare rights are considered not to protect these rights. The estimates using this alternative coding are presented in columns (3) and (4) of Table 4. Although the results in Panel A again provide some evidence that including a

²⁰ One example is the constitution of India, which states that “[t]he provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws” (Constitution of India, art. 37).

non-judiciable right to Education may be associated with statistically significant higher spending, the result is not robust to alternative model specifications and is substantively small.

Third, we coded whether the constitution requires education and healthcare to be provided free of charge. As it turns out, 63 percent of the countries that provide a right to education specifically stipulate that education should be available free of charge, while 23 percent of the countries that provide a right to healthcare do the same. If anything, we may expect that when the constitution requires health and education to be provided free of charge, the impact on government spending will be larger. We thus recoded our key rights variables so that only countries with constitutions that guarantee the right to Education or Health are available free are coded as having the right. The results using this alternative coding are presented in columns (5) and (6) of Table 4. Like with our baseline specifications, these estimates do not provide evidence that the constitutional right is associated with increased government spending.

6.2. Testing the Effect of Other Social Rights

Our analyses thus far have relied on social spending data from the WDI. An alternative data source that has been used to study social spending is the Global Development Network Growth Database. Although this data has less coverage than the WDI, it includes data on government spending on housing and social security as a percent of GDP.²¹ This allows us to include two additional constitutional rights: the right to housing and the right to social security.

²¹ This data is available at <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/0,,contentMDK:20701055~pagePK:64214825~piPK:64214943~theSitePK:469382,00.html>. The variables we use are 82.E “Social Security and Welfare” and 82.F “Housing & Community Amenities.”

Table 5: Effect of Constitutional Social Rights on Social Spending – Housing and Social Security

	(1) Housing	(2) Social Security
A. Baseline Specification	0.002 (0.029)	0.051 (0.058)
Observations	598	610
R-squared	0.741	0.986
B. Without Matching	-0.003 (0.025)	-0.041 (0.060)
Observations	1,560	1,548
R-squared	0.757	0.982
C. Without Nominate	-0.038 (0.024)	-0.008 (0.045)
Observations	1,560	1,548
R-squared	0.757	0.982
D. Without Amelia	-0.027 (0.021)	-0.009 (0.050)
Education	1,339 0.772	1,322 0.983
E. Without Controls	0.197 (0.213)	0.525 (0.433)
Observations	1,716	1,695
R-squared	0.706	0.970
- Robust standard errors clustered by country in parentheses.		
- *** p<0.01, ** p<0.05, * p<0.1		

In Table 5 we test the effectiveness of these rights using the same specifications introduced in Table 3. The results reported in Table 5 do not provide any evidence that countries that have included the right to Housing or Social Security have higher spending on housing or social security. Instead, the results are substantively small and not statistically significant.

6.3. The Effect of Social Rights on Education and Health Outcomes

We have thus far focused on testing whether including social rights in constitutions increased government spending on the relevant social services. It is theoretically possible, however, that countries could improve the provision of a given social service—for example, by improving efficiency—without increasing government spending.

Table 6: Effect of Constitutional Social Rights on Education and Health Outcomes

	Educational Outcomes			Health Outcomes		
	(1) Education Intake	(2) Education Persistence	(3) Youth Literacy	(4) Total Physicians	(5) Hospital Beds	(6) Life Expectancy
A. Baseline Specification	0.052 (0.520)	-0.404 (0.592)	--- ---	-0.006 (0.020)	0.104 (0.099)	0.004 (0.040)
Observations	630	332	---	290	232	2,404
R-squared	0.936	0.962	---	0.984	0.986	0.999
B. Without Matching	0.127 (0.315)	0.109 (0.308)	0.327 (0.529)	-0.010 (0.010)	0.060 (0.068)	0.001 (0.036)
Observations	3,429	2,111	95	1,683	1,405	7,778
R-squared	0.907	0.955	0.993	0.982	0.989	0.999
C. Without Nominate	0.302 (0.273)	0.061 (0.259)	0.388 (0.237)	0.001 (0.008)	0.050 (0.031)	0.069*** (0.024)
Observations	3,429	2,111	95	1,683	1,405	7,778
R-squared	0.907	0.955	0.993	0.982	0.989	0.999
D. Without Amelia	0.229 (0.297)	0.042 (0.268)	0.435 (0.314)	0.004 (0.009)	0.071* (0.036)	0.078*** (0.025)
Observations	2,691	1,820	80	1,474	1,220	5,702
R-squared	0.913	0.957	0.993	0.981	0.989	0.999
E. Without Controls	2.318 (4.239)	2.200 (2.188)	4.825 (3.517)	-0.087* (0.045)	-0.179 (0.158)	0.496 (0.548)
Observations	4,042	2,749	568	3,096	2,505	7,980
R-squared	0.834	0.945	0.991	0.948	0.960	0.979

- Robust standard errors clustered by country in parentheses.

- *** p<0.01, ** p<0.05, * p<0.1

To test this possibility, we also collected data from the World Development Indicators on Educational and Healthcare outcomes. We collected information on three educational outcomes: (1) *Education Intake*, that is, the gross intake ratio in first grade of primary education, as a % of the relevant age group, (2) *Education Persistence*, that is, persistence to last grade of primary education, as a % of the cohort, and (3) *Youth Literacy*, that is, the % of people ages 15-24 that

are literate. (Note: the *Youth Literacy* data has extremely limited coverage, and, as a result, we do not think much weight should be put on those results). We also collected data on three health outcomes: (4) the number of *Physicians* per 1000 people, (5) the number of *Hospital Beds* per 1000 people, and (6) the *Life Expectancy* rate.

In Table 6 we report the results from the same specifications as reported in Table 3, but using these outcome measures as our dependent variables. For the regressions testing the effect of the right to education—which are reported in columns (1) to (3)—we do not find any positive and statistically significant effects. For the regressions testing the right to healthcare, we do find evidence of a positive effect on Hospital Beds in Panel D and Life Expectancy in Panel C and D. Obviously, if the constitutional right to healthcare did improve outcomes in these ways, it would be incredibly important. Since there has been a general linear increase in life expectancy over time and these findings are not robust to alternative specifications, however, we are hesitant to make much of the results. We do think that they suggest the need for future research to build on our project and investigate the effect on health outcomes in more depth.

7. CONCLUSION

While social rights have generally been met with great enthusiasm in both academic and policy circles, we find that they do not appear to shift government behavior. More specifically, we find that the adoption of the right to education or the right to healthcare is not associated with increased public spending on education or healthcare. We also do not find positive results when testing alternative ways countries formulate their rights, other social rights, and when using social outcomes data instead of social spending data as our dependent variable.

It is possible, of course, that constitutional social rights may still have important effects. For example, although our evidence suggests constitutional social rights do not have an effect in general, it may be the case that they do have an effect in certain conditions—like in countries with independent judiciaries or particularly strong social movements. Additionally, the constitutionalization of social rights may influence outcomes in other ways. For instance, it might change the way politicians talk about social justice, or the way that judges decide cases in other realms. Moreover, adopting social rights may have distributive consequences not captured by overall social spending data. Future research should explore these possibilities.

Although future research might reveal other benefits of social rights not captured by our analysis, our findings show that placing these rights into a constitution do not lead to increased government spending towards the fulfillment of those rights. This is an important insight for those dedicated to increasing access to healthcare and education, as it suggests that they might want to focus their efforts on areas other than the constitution.

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