BOOK REVIEW

Charting the Reaches of International Law and Treaty Design

REVIEW BY DAVID LARSSON GEBRE-MEDHIN
Department of Peace and Conflict Research, Uppsala University


The Continent of International Law (COIL) offers the most recent and complete version of the rational institutionalist framework—one that sees international law as the outcome of rational cooperation between states. Positioned at the intersection of International Relations and International Law, Koremenos argues that states craft treaties as a rational and functional response to an anarchic international environment. States will therefore design agreements differently (e.g., including escape clauses, monitoring, rewards, and/or rules for decision-making), depending on the contracting parties’ aggregate characteristics (e.g., their number, heterogeneity, and power asymmetries) and what underlying cooperation problems they idiosyncratically need to address (e.g., enforcement problems, coordination problems, or uncertainty about preferences).

The book further develops, tests, and uncovers support for the Rational (Agreement) Design (RD) framework that Koremenos and her colleagues pioneered at the turn of the century (Koremenos, Lipson, and Snidal 2001). Staying true to the original framework’s structure, the book yields two main contributions: (i) a further disaggregated, yet coherent, framework for rationalist hypotheses about treaty design and (ii) an original dataset that allows for the first test of these rationalist hypotheses across issue areas. On the first contribution, the volume aptly brings together fifteen years’ worth of scholarly efforts to refine the original RD project. Its most recent iteration adds three new cooperation problems as independent variables (i.e., coordination problems, commitment problems, and norm exportation), the removal of an original dependent variable (i.e., membership rules), and a reworked list of treaty design “conjectures.”

The breadth of variables and conjectures included in the framework, however, comes at the expense of theoretical justification of the assumptions that underpin the rationalist approach and specification of the causal processes that would flesh out the conjectures. In short, Koremenos develops and presents more precise hypotheses about institutional design, but does not elaborate on the theoretical foundations of or justifications for these hypotheses. When presenting the redefined list of conjectures in the theoretical chapter, for example, Koremenos refers readers to the earlier work on which the conjectures are based (Koremenos, Lipson, and Snidal 2001). This results in a volume that speaks best to readers who are already familiar with and buy into the existing RD framework.
On the second, empirical contribution, Koremenos collects an impressive array of data. The new COIL dataset consists of 234 agreements, randomly drawn from 200,000 United Nations Treaty Series agreements that cover four broad issue areas: economics, the environment, human rights, and security (p. 68–9). The sample includes agreements (i) possessing 2–165 contracting parties (ii) from all regions of the world (iii) during the time period 1925–2004. A coding instrument with over 500 questions then turns these agreements into a dataset that combines detail with unprecedented generalizability. This is a major empirical contribution for the research community, for although the field extensively uses large-N studies to explain patterns in the four issue areas that Koremenos studies, COIL now allows one to investigate patterns across issue areas without selecting on particular intergovernmental organizations (p. 98). Indeed, Koremenos does just that; she manages to test nuanced hypotheses—such as those developed in the contributions to the 2001 International Organization special issue—with a large corpus of international treaties.

Leveraging the reworked theoretical framework and the COIL dataset, Koremenos embarks to test and confirm the applicability of the conjectures to explain the design provisions of duration, escape, and withdrawal clauses; (im)precision and reservations; dispute resolution mechanisms; punishment and monitoring provisions; and asymmetries in voting and power within institutions. Statistical analysis, supplemented with illustrative case studies of specific treaties, works towards this ambitious goal. Her efforts result in seven empirical chapters—distributed across the concepts of “flexibility, centralization, scope, and control”—that both cover her conjectures thoroughly and uncover strong, consistent support for the core argument.

Some of the book’s most noteworthy findings open opportunities for future research with the COIL dataset. In an empirical chapter on imprecision and reservations in treaty design, for example, Koremenos connects to constructivist theories of norm exportation (Finnemore and Sikkink 1998) and highlights how the life cycle of treaties may suggest an interactive relationship between the rationalist and constructivist approaches. Human rights treaties illustrate the point; Koremenos argues that imprecision and reservations in this issue area do not signal the weakness and irrelevancy of such treaties, but instead serve as rational solutions that indicate states expect the treaties to have actual constraining effects. As norms diffuse and develop, contracting states may revise such treaties to increase their precision and drop initial reservations (p. 188–9). The COIL dataset allows us not only to further examine that proposition generally, but also to begin identifying the general characteristics or specific agreements to be further investigated using alternative theoretical frameworks.

Although a tour de force for rationalist accounts, Koremenos’ focus comes at a price: less treatment of alternative explanations or frameworks. Koremenos primarily situates her study within the literature and theoretical debates of the first decade of the twenty first century—namely, the rationalist studies that are rather pessimistic about the impact and effectiveness of international law (e.g., Goldsmith and Posner 2005). In doing so, it adopts the rationalist, state-centered, unitary actor perspective. This leaves the book less able to speak to the burgeoning literature on alternative approaches to institutional design and development (e.g., concerning the importance of domestic politics or non-governmental actors; see Keck and Sikkink 1998; Dai 2007; Simmons 2009; Avant, Finnemore, and Sell 2010). Symptomatically, Koremenos acknowledges non-rationalist or non-unitary-actor alternative approaches in the introduction and thematic chapters; yet the concluding discussions almost exclusively engage with rationalist literature. Similarly, Koremenos at times includes issue-specific variables that go beyond the core variables of her rationalist framework, but makes little effort to test alternative approaches systematically or directly. Critical readers may consequently be less convinced about the treaty design role that the book indirectly bestows to, for instance, non-governmental actors and
norms. Despite this quibble, one book cannot achieve everything, and what the study lacks in its treatment of alternative explanations is overshadowed by the depth and thoroughness it gives to the RD framework. As such, the book undoubtedly situates itself as a core reading for anyone interested in explaining institutional design and provides an excellent bridge between International Relations and International Law.

References


