

**The Domestic Mechanisms of Compliance with International Human Rights Law:
Case Studies from the Inter-American Human Rights System¹**

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Abstract: In their rulings, international human rights tribunals frequently ask states to engage in costly compliance measures, ranging from paying reparations to victims to changing domestic human rights laws and practices. The tribunals, however, have little enforcement or oversight capacity. The responsibility for compliance falls to domestic actors: executives, legislators and judiciaries. Through nuanced case studies of the compliance process in Argentina, Brazil and Colombia, this article suggests that compliance with the Inter-American human rights tribunals' rulings depends on executives' political will for compliance and their ability to build pro-compliance coalitions with judges and legislators.

I. Introduction

Amidst the rise of authoritarian regimes in the Americas in the 1950s, the Organization of American States (OAS) made a bold decision: to create a regional human rights watchdog, the Inter-American Commission on Human Rights (IACmHR/the Commission).ⁱⁱ For forty years this watchdog's bark was much bigger than its bite, as the Commission, and later, the Inter-American Court of Human Rights (IACtHR/the Court), were unable and largely unwilling to stop widespread human rights abuse in the region.ⁱⁱⁱ Today, however, the Inter-American Commission and Court of Human Rights occupy an increasingly significant role in the region as domestic political elites have begun to view compliance with the tribunals' rulings and recommendations as an important political tool.

This article examines the nexus between domestic politics and compliance with international human rights law by process tracing the politics of compliance with the Inter-American Commission and Court's rulings and recommendations in Argentina, Brazil and Colombia. This article aims to extend current theories on the role of domestic institutions in facilitating compliance with international law to the case of human rights tribunals. In particular, the research that follows suggests that the tribunals' rulings enable the executive to set the domestic human rights agenda and empower judges and legislators to form pro-compliance coalitions.^{iv}

This article proceeds as follows. Section II provides a brief overview of the Inter-American human rights tribunals and Section III discusses state- and international-level explanations of compliance. Section IV argues for a more nuanced approach to explaining compliance with international law and builds on domestic theories of compliance to create a theoretical framework for explaining compliance with human rights tribunals. Section V walks

through the methods and data used to apply this framework to the Inter-American human rights institutions and presents case studies from Argentina, Brazil and Colombia. Section VI concludes.

II. The Inter-American Human Rights System

The international adjudication of human rights in the Americas begins with an individual petition submitted to the Inter-American Commission on Human Rights. These petitions are complaints lodged by victims of human rights abuse and NGOs against member states.^v As a quasi-judicial body, the Inter-American Commission on Human Rights can investigate the claims in the petitions, host contentious case proceedings and issue recommendations to states found in violation of international human rights standards. These recommendations are usually specific and include instructions to provide financial reparations to the victims, issue apologies and admissions of wrong-doing and enact a series of structural measures to prevent similar abuses from happening again in the future. The Commission's authority largely ends there, however. If states do not abide by its recommendations, the Commission can hand cases over to the Inter-American Court of Human Rights, whose rulings are considered binding international law. As of 2009, the Commission found that states have complied fully with their recommendations in 16 (12.5 percent) of the cases, partially in 89 of the cases (69.5 percent) and not at all in the remaining 23 cases (18 percent).^{vi}

The Inter-American Court of Human Rights is a purely judicial institution with the power to rule on the admissibility, merits and reparations of the cases handed up to it by the Commission.^{vii} The Court's rulings are binding international legal obligations, entered into

voluntarily by those states that accept its jurisdiction, which currently number 25 of the OAS member states.^{viii}

To date, the Court has ruled on 211 contentious cases and is monitoring states' compliance with 114 of these cases.^{ix} Almost by definition, compliance requires changing the status quo. When the Court finds that a state violated the human rights of its constituent(s), the Court requires states to address the violation on multiple levels. Like the Commission, the Court asks states to: 1) provide financial reparations to victims; 2) engage in symbolic measures that honor the victim and provide the state an opportunity to address its culpability; 3) hold the perpetrators accountable; and 4) enact measures of non-repetition, which are legislative, judicial and political changes that would prevent such an abuse from recurring.^x

One of the fundamental challenges that the Inter-American Human Rights system faces is the enforcement of its rulings and recommendations. The Court and Commission provide nominal oversight through compliance reports and annual reports, which chart states' implementation of the tribunals' rulings and recommendations. The political organs of the OAS have maintained a hands-off approach with the human rights instruments, and member states rarely, if ever, speak out to promote compliance with the tribunals' rulings in other states in fear of retribution.^{xi} For all of the political and juridical advancements that the Inter-American Commission and Court of Human Rights have made over the past fifty years, the key to understanding compliance with their rulings still comes from domestic politics.

III. International- and State-Level Theories of Compliance

The dominant paradigms in international relations advance international- or state-level theories of compliance with international law.^{xii} Focusing on the distribution of power in the

international system, for example, structural realists suggest that compliance with international law is a function of coercion by a dominant hegemon. Through force, or the threat of force, dominant states can coerce and compel other states to comply with international law.^{xiii} Others look to the interaction between states to explain compliance. For instance, rational functionalists view compliance with international law as a strategy for achieving international cooperation.^{xiv} Compliance with international law is a way for states to preserve their international reputation,^{xv} overcome information asymmetries;^{xvi} manage interdependence,^{xvii} and more broadly, solve problems that have no clear domestic solution.^{xviii}

Other theories of compliance focus on state-level characteristics, such as regime type, or states' aggregate-level preferences.^{xix} For example, a long-standing argument in political science is that international law is epiphenomenal: states only join international regimes with which they are *ex ante* compliant or which they do not anticipate will be enforced.^{xx} This theory assumes states have a unified preference for compliance and/or a singular expectation about enforcement. Constructivists and managerialists, too, look to the state-level. They argue that compliance is the result of states' socialization into the international community and an overarching normative commitment to the principle of *pacta sunt servanda*. Again, they assume a state-level normative commitment to compliance.^{xxi}

By locating the unit of analysis on the international or state level, these theories can help to explain variations in compliance over time and across states, but they cannot adequately explain divergent compliance outcomes within a state. States have mixed compliance records. They frequently comply with parts, but not all, of the mandates issued within a single ruling handed down by a human rights tribunal, and the degree to which they comply with tribunals' rulings varies from case to case.^{xxii} Most critically, perhaps, international- and state-level

explanations for compliance cannot explain the compliance *process*.

Understanding how compliance unfolds on the domestic level is particularly important for human rights law, as contrary to other types of international law, human rights treaties and rulings do not govern the relationship between states but rather address the relationship between states and their constituents.^{xxiii} Thus, explanations based on inter-state strategy, the distribution of power in the international system or state preferences cannot fully address the relationship between states and citizens that human rights law seeks to govern. Instead, scholars and practitioners must look to the domestic politics of compliance, and by doing so they can derive a framework that helps to explain not only compliance with human rights tribunals' rulings but also compliance with international law more generally.

IV. The Micro-Processes of Compliance: Domestic Politics

While much of the earlier work on compliance with international law has focused on the state as a unitary actor, more recent scholarship has shifted focus from the state to sub-state actors, particularly judges and judicial systems, executives, legislatures, and NGOs and civil society. The literature on human rights law has emphasized the important gap that these domestic institutions fill: with international human rights bodies unable to enforce human rights law, domestic institutions are often the sole source of enforcement for human rights norms and treaties.^{xxiv} Domestic judiciaries, legislators and executives, as well as civil society, enforce international human rights law when international organizations fall short.

Recent work has sought to unpack the relationship between domestic political institutions and compliance by focusing on not just *if* domestic politics matter for compliance, but also *how*.^{xxv} Simmons (2009) proposes a domestic theory of compliance, suggesting that human

rights treaties empower domestic actors, particularly executives, judiciaries and constituents, to lobby for human rights. Simmons identifies three roles that international human rights law plays in domestic politics: 1) enabling the executive to set the national agenda on human rights; 2) providing an important, substantive source of law; and 3) empowering domestic constituents to mobilize for their rights.^{xxvi} Executives have particular incentives to use international human rights tribunals' rulings to set the domestic political agenda. Complying with the tribunals' rulings allows them to signal a commitment to human rights and lock-in human rights reforms. The rulings also provide a cover of legitimacy to their administration and their policies. Judges and legislators, too, can use international law to buttress their rulings and legislation, and civil society can mobilize around particular rights issues.

While international law can empower a range of domestic actors, from the executive to civil society, Sonia Cardenas (2007) warns, "which actor wins a domestic battle over state compliance may in the end have more to do with who has the greatest institutional power than who is committed most firmly to an international norm."^{xxvii} That is, while international law can be an impetus for action for a range of domestic actors, their relative power will affect who leverages the power of international law and to what effect.

In the case of the international human rights tribunals' rulings, as with international human rights law more generally, one individual actor cannot, legally or in practice, fully comply with the ruling. The rulings require changes in the country's jurisprudence, legislation and practice, involving actors from the executive branch, as well as the judiciary and legislature. What is needed, in short, is a compliance coalition.^{xxviii} Coalitions of domestic political elites, namely executives, judges and legislators, make the compliance process snowball, rendering small changes initiated by the executive into large-scale shifts in policies and in practice.

Conversely, however, strong opposition from the legislature or judiciary, or even from other vested interests like the military, can stop the compliance process in its tracks.^{xxix}

This article builds on this general framework and seeks to understand: 1) executives' incentives for compliance and the ways in which they use the tribunals' rulings to set the domestic political agenda; and 2) how and why pro-compliance coalitions form among political elites. Ultimately, this article suggests that international human rights tribunals' rulings and recommendations provide a legal mandate for compliance as well as a political lightning rod—a focal point around which to center time, energy and resources.^{xxx} Despite the normative importance of the human rights issues in question, however, compliance with the tribunals' rulings is still subject to domestic political maneuvering and the domestic balance of power.^{xxxi}

Executives, Agenda-Setting and the “Political Will” for Compliance

In Summer 2008, the author interviewed lawyers and activists working at and with the Inter-American human rights tribunals and asked them what they thought best explained compliance with the tribunals' rulings. Their nearly uniform answer was “political will.”^{xxxii} Political will is, of course, a slippery and ambiguous concept, but that was largely the point. Governments comply with the tribunals when it is convenient for them. What might give governments the political will to comply? How might executives leverage their interaction with the Inter-American Court of Human Rights to set and frame the domestic agenda?

Executives enjoy significant power as gatekeepers of the Inter-American Human Rights tribunals' rulings and recommendations. The executive branch staffs the country's offices at the Commission and Court, receives the rulings and recommendations from the tribunals and engages in an on-going dialogue with them. Once a ruling has been handed down, executives are

able to influence the rate and degree to which the Inter-American tribunals' cases enter the domestic sphere by either withholding support for compliance or by pushing the question of compliance onto the legislature's agenda and the judiciary's docket. While it only makes sense that these other actors are charged with the responsibility of handling compliance domestically, the tribunals' jurisprudence insists that the state is ultimately responsible for compliance and that domestic political disputes are not an excuse for non-compliance.^{xxxiii} This means that the executive branch exercises substantial control over the flow of cases, facilitating or hampering the delegation of compliance responsibility to other domestic actors. The more power the executive has vis-à-vis the legislature, judiciary and civil society, the more weight his/her preferences regarding compliance hold.

Executives face a range of incentives for accepting and even advocating for compliance with the tribunals' rulings, including: 1) fulfilling a personal commitment to a particular human rights norm or case; 2) leveraging compliance to set the human rights agenda; and 3) using compliance to frame the domestic human rights agenda with the goal of reaping reputational and material gains. The first incentive, fulfilling a personal commitment to a particular human rights norm or case, is difficult to evaluate or measure, as executives do not operate in a vacuum. Rather, they must follow their own moral compass while meeting the demands of their administration, party and country. In that way, normative commitments to human rights get folded into the strategic calculus of compliance.

Moravscik (2000) and Pevehouse (2002) find that new democracies join human rights tribunals and international organizations, respectively, in order to lock-in pro-human rights and pro-democratic reforms. International law and organizations serve as a safeguard to protect nascent human rights and democratic institutions by lending credibility, changing political elites'

strategic calculus and taking anti-democratic, anti-human rights policy options off the table.^{xxxiv}

In a similar way, the human rights tribunals' rulings can help governments focus their political and financial capital on a particular policy, lock-in human rights reform and set the trajectory of the country's human rights policy.

The tribunals' rulings lend legitimacy and credibility to human rights policy reform.^{xxxv} As Tomz (2007) finds, constituents are more likely to support domestic policies if they believe they are backed by international law.^{xxxvi} By leveraging the expertise of legal and substantive experts, expressing the international community's shared views on human rights, and introducing domestic audiences to international standards, the tribunals' rulings can, in turn, lend legitimacy, credibility and even urgency to human rights reforms.^{xxxvii} As such, executives should be more likely to comply with the tribunals' rulings when the demands of the rulings echo or advance executives' preferred human rights policy reforms. Executives can leverage the normative power of international law and exploit the legal mandate and focal point embodied in the tribunals' rulings and recommendations. This is not to suggest that the policies that executives pursue under the mantle of compliance with the tribunals' rulings are necessarily *legitimate* but rather that executives can use compliance *to legitimate* and advance their own agenda.

Compliance can also be an opportunity for executives to depict their human rights agendas as indicative of their broader commitments to human rights and the rule of law; such a commitment comes with very real material and reputational incentives.^{xxxviii} On the material side, states' human rights practices are increasingly tied to foreign aid and trade conditionality.^{xxxix} Lebovic and Voeten (2006), for example, find that resolutions from the UN Commission on Human Rights that critique states' human rights practices leads to a reduction in foreign aid, suggesting that international condemnation of human rights practices can have

real—and negative—consequences.^{xl} In the case of the Inter-American human rights tribunals, Canada, the United States, Spain, the United Nations and the European Commission are among the most important donors to the tribunals, as well as some of Latin America's most important trading partners, donors and allies. If censures before an international court have a negative effect on a government's international reputation, then Latin American governments would have a clear material incentive to comply with the tribunals' rulings.^{xli}

While executives have an incentive to signal the legitimacy of their human rights plans and policies to international audiences, they have a similar incentive to signal such commitment to human rights domestic constituents, as well. Constituents in Latin America increasingly find support for human rights to be critical for democracy, name improved economic rights and rights for the poor as the most pressing challenge for states, and identify national governments as the duty-bearers of human rights.^{xlii} The regular coverage of the Inter-American human rights tribunals' jurisprudence in local newspapers and the engagement of domestic civil society groups with the Commission and Court suggest that audiences at home are paying attention to how their elected officials respond to the tribunals' rulings. Constituents expect that political elites will uphold basic human rights, and they are willing to express their expectations in the media and in the voting booth. A reputation for respecting human rights and the rule of law can be an important source of political capital for an executive facing political challenges, at home or abroad, today or tomorrow.

While all of these incentives are important, complying with the tribunals' rulings also exacts costs on executives. The tribunals often ask governments to drastically change their human rights practices and policies, and in the process, executives risk alienating key political allies, removing policy options from their toolbox and changing course on their human rights

policies. Executives do not engage in compliance lightly, and they almost never do so without the support of a pro-compliance coalition.

Building a Compliance Coalition: Judges and Legislators as (Un)Willing Partners

While executives play an important role in setting the compliance agenda, compliance hinges on a broader spectrum of institutional support. This largely has to do with the nature of compliance itself. The tribunals ask a number of things of states, including apologizing to victims, paying financial reparations and, most significantly, holding perpetrators accountable and changing laws and legislation. The very nature of the rulings presupposes independent courts and legislatures that are able to rule against the executive and draft fair and democratically principled human rights laws. Indeed, the same political culture that undercuts democratic institutions also informs much of human rights norms and laws.^{xliii}

As with executives, individual legislators and judges might have personal commitments to comply with human rights tribunals' rulings or might seek to use compliance with the tribunals' rulings as a way to buttress and legitimate an existing human rights policy or proposed human rights policy reform. Judges might find recourse in international law, supporting their judicial scholarship and opinions and advancing their initiatives to hold the executive accountable for human rights abuses.^{xliv} Similarly, pro-human rights legislators might view the tribunals' ruling as a reason to advance human rights policy and believe that the international legal mandate embodied in the ruling will provide them protection from any political fallout that might result from taking a politically divisive decision regarding human rights.

For legislators and judges, international human rights tribunals' rulings can be, as Simmons (2009) suggests, an important substantive source of law.^{xlv} The tribunals' rulings

frequently ask states to change their existing human rights laws, requiring judges to overturn existing laws and legislators to propose new legislation on human rights. For judges, the integration of international law into their own jurisprudence can be empowering, allowing them to rule against the executive when supported with the weight and legitimacy of international law.^{xlvi} Research on the European Court of Human Rights (ECtHR) suggests that the domestic implementation of the Court's rulings is largely dependent on the willingness and ability of domestic courts to enforce the ECtHR's rulings domestically.^{xlvii} The more that domestic courts know and understand about the international tribunals, the more likely they are to advocate for and rule on compliance domestically.^{xlviii} Over time, international human rights tribunals' jurisprudence informs, complements and shapes domestic law.^{xlix}

The tribunals' rulings also can be an important source of law for legislators seeking to amend or overturn existing legislation and pass new human rights laws. Scribner and Slagter (2011) argue that legislators can use international tribunals' jurisprudence in legislative debates. Legislators, much like executives and judges, use the tribunals' jurisprudence as political cover, with international human rights acting as a shroud of legitimacy that empowers them to take potentially unpopular or difficult stances on human rights legislation. Alternatively, they can use the possibility of subjecting legislation to adjudication at the tribunals as a threat to keep opposition parties in line.¹ International human rights law, and the tribunals' rulings in particular, can pierce through stasis or human rights malaise in legislatures and force individual legislators to take action on human rights law and policy. In all of these ways, international human rights law, including the tribunals' rulings, can be an important and motivating source of law for legislators, inspiring them to push for compliance.

On the other hand, however, judges and legislators might have a lot to lose if they push for compliance with a human rights tribunal's ruling. Legislators might fear the effects of compliance for their own positions and their preferred policies. Judges might be threatened by the long reach of international law into their jurisprudence. *Any* of these political actors might simply have a preference for the status quo and disagree with the Inter-American tribunals' rulings. The legal mandate embodied in the tribunals' rulings and recommendations can sometimes be sufficient to overcome these challenges, but legislative and judicial reluctance to comply or to oversee the executive's handling of compliance can slow or stop the compliance process. Furthermore, even the most ardent advocates of compliance within the judiciary and legislature must be able to work with—or around—the executive. As with the executive, however, the relative weight of each of these actors, along with their preferences ultimately dictates the states' "political will" for compliance. That is, even if the judiciary and the legislature are willing to uphold the Inter-American Court's rulings but have little power vis-à-vis the executive, then compliance efforts will be untenable.

A Brief Word on Civil Society. Simmons argues that one of the main functions of international human rights law is that helps to mobilize domestic constituents.^{li} Constituents can mobilize around the human rights tribunals' rulings, too. In the interviews, archival work and statistical analysis conducted for this article and related projects, however, there has not been sufficient evidence to suggest that NGOs play a uniformly critical role in the compliance process. That is not to say that they are unimportant; quite the contrary. NGOs are instrumental for bringing human rights cases to the tribunals' and helping victims navigate the technical aspects of working with the Inter-American Human Rights tribunals. Furthermore, civil society

groups can pressure other domestic actors to address the tribunals' recommendations and rulings. In that way, civil society actors become endogenous to the preferences of executives, legislators and judges. This article brackets the role of civil society in order to focus on the role of political elites—executive, judges and legislators—in completing the heavy lifting of compliance.

Through an examination of the compliance process in Argentina, Brazil and Colombia, the empirical case studies that follow seek to explore: 1) the incentives executives have for compliance and how the international human rights tribunals empower executives to set and frame their human rights agendas; 2) how the tribunals' rulings are an important source of law for judges and legislators and the relative power configurations that facilitate or hamper the formation of compliance coalitions among political elites.

V. Empirical Analysis

Data and Methods

To examine the theoretical framework described above in the context of compliance with the Inter-American human rights tribunals, this article uses local news reports to trace the internal debates and negotiations over compliance with the Inter-American human rights institutions in three countries: Argentina, Brazil and Colombia. The case studies presented here look at compliance with the tribunals' rulings and recommendations concerning amnesty laws and pardons for the perpetrators of human rights abuse. This issue is an important and illustrative one. Holding perpetrators accountable has proven to be an exceedingly difficult process in new democracies, as it threatens to reopen old wounds, upend stability, implicate current office-holders and alarm the military.^{lii} By examining the relationship between domestic political actors while negotiating such a contentious issue, this article aims to develop a

theoretical framework that is generalizable to less controversial issue areas. Second, compliance with the rulings and recommendations on accountability for human rights abuse requires support from executives, legislatures and judiciaries and thus provides a rich empirical venue for understanding how compliance unfolds.

Within this issue of accountability, the three cases studies, Argentina, Brazil and Colombia, provide important variation on the key dimensions of the process of compliance, namely: executives' political will to comply with the tribunals' rulings and their ability to form compliance coalitions with legislators and judges. In Argentina, for example, both the Néstor and Cristina Fernández Kirchner administrations had an incentive to comply with the tribunals' rulings and recommendations on accountability in order to advance their preferred human rights policies and carve out a niche for the "new" Argentina. The Argentine legislature and judiciary were willing to follow suit.

The compliance process was more contentious in Colombia. While former president Álvaro Uribe faced significant pressure from international partners, Latin American neighbors and domestic constituents to improve the human rights situation in the country, he also faced the exigencies of improving Colombia's tenuous security situation. Moreover, Uribe and his allies in the legislature were implicated in some of the very accountability scandals at the root of the Inter-American tribunals' adverse judgments against the country, making full compliance with the tribunals' rulings difficult. Pro-compliance voices in the judiciary were lost amidst calls for non-compliance from the more powerful, more vocal legislature.

In contrast to Argentina and Colombia, Brazil has done very little to address the Inter-American human rights institutions' rulings and recommendations on accountability. This section concludes with a brief vignette of Brazil, where former president Lula da Silva had few

incentives to comply with the Inter-American tribunals' rulings and recommendations on accountability and therefore never sought to build a compliance coalition, rendering the debate over accountability moot.

The data for these case studies were drawn from a sample of nearly 3000 newspaper articles in English, Spanish and Portuguese. This sample was taken from an exhaustive search using the terms "Inter-American Commission of Human Rights" and "Inter-American Court of Human Rights," in the archives of Lexis-Nexis and the countries' main news outlets between 2000 and 2008. These include Argentina's *La Nación* (in Spanish), Colombia's *El Tiempo* (in Spanish) and Brazil's *O Globo* (in Portuguese). The lower bound of the search was set at 2000 to ensure access to on-line archives, and the data collection took place in 2008. After collecting the news articles, the details of each country's experiences with the Inter-American tribunals were arranged in timelines, tracing the relationship among domestic political actors and between the government and the tribunals. Primary source documents from the tribunals, the governments and NGOs and an array of secondary sources supplement the news articles. This approach allows for tracing the complex and nuanced process of compliance, which is presented in the following three case studies.

The Kirchners' Argentina (2003-Present)

Although pressure to seek accountability for crimes committed during Argentina's military regime in the 1970s and 1980s existed long before 2000, a series of domestic cases in that year reintroduced the issue of impunity in Argentina. The cases in 2000 struck a particular nerve: they were aimed at finding out the fate of the infants and children the military had stolen from political opponents and subsequently given up for adoption to military families.^{liii} When

the first cases emerged, the military and the defense ministry spoke out against them, requesting that the cases not proceed. The civilian government initially acquiesced, giving way to the still powerful military establishment.^{liv} The Inter-American Commission on Human Rights had pressured Argentina to try the perpetrators of human rights abuses under the military regime since 1992, and they expressed increased concern over the civilian government's bending to the military's demands in 2000. NGOs followed suit, and in 2000, prodded by the Inter-American Commission and domestic civil society groups, the Argentine Supreme Court rose to the occasion and encouraged these early proceedings to continue.^{lv}

The following year, 2001, brought with it two important changes. First, in Argentina, it saw the collapse of the peso and subsequently, the government. Second, that same year the Inter-American Court of Human Rights ruled in the case of *Barrios Altos v. Peru* that amnesty laws "are invalid, have no judicial effect and cannot impede in the investigation, judgment and punishment of the those responsible."^{lvi} In a region in which amnesty agreements and pardons were the linchpin to democratization and in which the military continues to be an important player, the *Barrios Altos v. Peru* ruling represented a major challenge to the status quo, especially as all states are responsible for complying with the IACtHR's jurisprudence. The *Barrios Altos* ruling was energizing for the executive, judicial and legislative branches in Argentina. Both the Néstor Kirchner (2003-2007) and Cristina Fernández Kirchner (2007-present) administrations leveraged the *Barrios Altos* ruling to advance their domestic human rights policy goals and forge a new reputation for Argentina in the 21st century. Meanwhile, judges and legislators willingly converged into a compliance coalition, fulfilling their respective obligations surrounding compliance.

Setting the Agenda and Forming Compliance Coalitions. Only months after the transition to Argentina's new government and the *Barrios Altos v. Peru* ruling, political elites in Argentina—namely, the executive and the judiciary—began debating the issues of amnesty and asking what place, if any, they had in the “new” Argentina. The *Barrios Altos* rulings served as a focal point for domestic discussions about accountability and empowered Argentine political elites, particularly the legal community, to pursue justice at home. Six months after the IACtHR's ruling, the Argentine Federal Chamber ruled that the amnesty laws were illegal, and in 2002, the Attorney General's Office agreed that Argentina's two main amnesty laws—the obedience law and the full stop law—were unlawful.^{lvii} The military, less powerful in the new century than ever before, continued to contest any movement to annul or amend the laws but the judiciary and political institutions held fast. Meanwhile, the newly inaugurated Néstor Kirchner administration began to set its human rights agenda and vowed to put an end to the impunity of the military regime. “There can be no impunity in Argentina,” Kirchner pledged. “A society without justice or memory does not have a destiny.”^{lviii}

Emboldened by these developments, in 2003 the Kirchner government sent a note to the Inter-American Commission confirming that it would comply with a 1992 IACmHR recommendation to repeal its amnesty laws.^{lix} Relying on the Commission's recommendations gave legitimacy to the Kirchner administration's domestic initiatives and accelerated domestic policy change. Once the executive branch firmly indicated its intention to follow through with these changes, the reform of Argentina's policies regarding impunity snowballed as other domestic institutions quickly followed along.

The Inter-American Court's rulings and the IACmHR's recommendations provided an important substantive source of law for judges and legislatures. In September 2003, the

Argentine Congress took the dramatic step of annulling its amnesty laws.^{lx} In an audience with the Inter-American Commission the following year in Washington, D.C., the government agreed to change and ultimately annul the military code of justice. Then, in 2005, the Supreme Court did the unthinkable. It rescinded the pardons that former President Carlos Menem granted to six military leaders during the transition to civilian rule.^{lxi} In 2008, the Argentine Congress followed through with a 2004 IACmHR friendly settlement agreement and annulled the military code of justice once and for all.^{lxii}

The tribunals' rulings provided a focal point around which domestic political actors—namely the executive and judiciary, as well as the legislature, were able to mobilize. The executive had a vested interest in signaling its commitment to human rights, and compliance was one way to accomplish this goal. Moreover, the ruling provided a substantively and symbolically important source of law for judges and legislators looking to overturn Argentina's existing amnesty laws, repeal pardons of perpetrators and annul the military code of justice. Although the Argentine executive historically has been more powerful than the judicial and legislative branches, the Kirchners' incentives to comply with the tribunals' rulings facilitated, rather than hindered, the formation of a compliance coalition.

In an editorial in the Argentine daily, *La Nación*, on December 10, 2003, Foreign Minister Jorge Taiana argued that Argentina is an important symbol for the protection of human rights. He stressed the importance of maintaining this role for being regarded as a “serious country,” and outlined the Kirchner administration's plans for strengthening this position. The steps included: 1) incorporating new international legal instruments into domestic jurisprudence; 2) providing leadership and coordination of human rights policies from the Foreign Minister's

Office and 3) reserving a special place for new laws that derogate obstacles to justice. This project was critical, he said, for Argentina's leadership position:

“To consolidate Argentina's leadership in the realm of human rights and to incorporate human rights as a theme of interest in our bilateral and multilateral diplomacy will transform us into a valid and respected interlocutor on a theme that is vital for the international agenda in the 21st century and will improve the quality of life for Argentines, as we incorporate the international standards to realize the triptych of democracy, human rights and development. It is about constructing a foreign policy of a serious country.”^{lxiii}

Moreover, complying with the rulings and recommendations strengthened the Kirchner administrations' larger pro-democratic policy platforms. As President Fernández Kirchner remarked in a press conference held at the Council of Foreign Relations in Washington, D.C., in 2008, “Our commitment—and I think here again, we may be an example—we should always be accountable for our actions, and it is true that until the administration of President Néstor Kirchner, impunity had prevailed in Argentina.” She continued to say,

“When the state itself institutes, punishes and legislates for impunity, it's a pre-democratic state, you know. So I think that the progress in the field of human rights made in Argentina, which has been recognized around the world, and these instruments I have referred to and any other actions we may undertake will help us along.”^{lxiv}

Complying with the Inter-American tribunals' rulings strengthened domestic initiatives to hold perpetrators of human rights abuse accountable and fortified a larger initiative to improve human rights practices and democratic institutions. Compliance also helped the Kirchner administrations signal their commitment to human rights to domestic and international audiences. Indeed, their message was generally well-received.

As Gastón Chillier, the head of the Center for Legal and Social Studies argued about the law that abolished the Military Code of Justice, “This law brings the military within the scope of the constitution. It's a big step forward for the democratization of the armed forces and for the

justice system in general...It is cutting edge reform in Latin America.”^{lxv} In an editorial essay in *La Nación* in 2007, Argentine lawyer and Executive Secretary of the Inter-American Commission on Human Rights, Santiago Canton, echoed the degree of commitment inherent in Argentina’s decisions to nullify the amnesty laws. Canton argued, “This has possibly been the most important decision for the strengthening of the rule of law in Argentina and in all of the region.”^{lxvi}

The tribunals’ rulings and recommendations on amnesty laws played two main roles in Argentina. First, the Kirchner administrations were able to use their compliance with the Inter-American Commission and Court’s rulings to legitimate and advance domestic, pro-rights policies and to signal their commitment to human rights to domestic and international audiences. Furthermore, the Inter-American human rights institutions’ rulings and recommendations were importance sources of law that facilitated the coalescence of a pro-compliance alliance, bringing together ready partners in the legislature and judiciary. Thus, in the particular instance of accountability in Argentina from 2000-2008, international human rights tribunals’ rulings and recommendations had a tremendous effect: empowering the executive to pursue domestic policy reform alongside a willing coalition of legislators and judges in order to end impunity for human rights abuse once and for all.

Uribe’s Colombia (2002-2010)

Securing compliance with the tribunals’ rulings and recommendations on accountability has been more difficult in Colombia. Colombia has been the subject of 10 contentious cases at the Inter-American Court of Human Rights, all of which pertain to the massacre of civilians at the hands of paramilitary troops with the Colombian armed forces’ assistance or acquiescence.

The Inter-American Court has repeatedly asked the government of former president Álvaro Uribe to hold perpetrators accountable and provide justice to the victims and their families.^{lxvii} Colombia has complied with the rulings in part, complying readily with some of the easier-to-accomplish mandates, such as financial reparations for victims and their families, while leaving un-touched more difficult obligations, such as holding perpetrators accountable and changing the country's human rights laws. This à la carte compliance can be explained by a combination of two factors: 1) the Uribe administration's incentives to signal a commitment to human rights and to leverage international law to support his domestic demobilization process; and 2) the preponderance of power focused in the presidency and legislature, and Uribe's reluctance to delegate authority over compliance to the judiciary.

One of the most daunting challenges former president Álvaro Uribe faced during his tenure was taming the violence that engulfed much of the countryside at the hands of rebel groups on the one side and paramilitary forces on the other. Uribe's predecessor, Andrés Pastrana, focused on the rebels, and he struggled unsuccessfully to negotiate with and demobilize groups like the FARC. Pastrana's policy ultimately led him to cede a swath of territory the size of Switzerland to the FARC in exchange for negotiations. The plan went awry and the forced removal of the FARC in the so-called "demilitarized" zone opened the way for a power vacuum that paramilitary forces were very willing to fill.^{lxviii} By the time he came to office, Uribe was fighting parallel battles—with the FARC and with the paramilitary forces. Uribe turned his attention to the paramilitary forces and pushed a controversial demobilization plan for the main paramilitary group, the United Auto-Defense Forces of Colombia (UAC).

Uribe's demobilization efforts have centered on an exchange of arms for amnesty.^{lxix} The demobilization process was codified in the 2005 Justice and Peace Law (JPL) and has prompted

over 30,000 AUC paramilitary fighters to demobilize.^{lxx} Despite the number of individuals who have laid down arms, however, the JPL has garnered a great deal of scrutiny and criticism. Human rights observers suggest that the JPL does not provide victims with appropriate legal recourse and perpetuates a culture of impunity among AUC fighters; others are concerned that AUC members will take up arms under a new name. Others still contend that the JPL simply has not been implemented and that the delay in implementation has been driven by electoral concerns.^{lxxi}

Since demobilization began in 2003, Colombian cases have appeared more often than ever on the dockets of the Inter-American Court and Commission. While most of these cases concern the role of paramilitary fighters operating in conjunction with the military, they also deal with alleged rights violations that transpired long before the JPL entered into effect in 2005. These censures from the Commission and Court have served two roles. While on the one hand they have reinforced the public's perceptions of the human rights problems and the weaknesses of democracy in Colombia, compliance with parts of the tribunals' rulings have provided a platform from which Uribe professed his administration's commitment to human rights and its dedication to demobilization. Moreover, the tribunals' rulings and recommendations provided a focal point around which to gather momentum for the JPL, and the perceived legitimacy of the Inter-American Court and its rulings has helped to assuage concerns over the JPL process. The challenge has been for the Uribe administration to leverage its compliance with the rulings and recommendations to further the JPL process and enhance its credibility while dealing with demands of security, political stability, and some would say, his own immunity from prosecution.

Empowering the Executive to Set the Human Rights Agenda. In 2004, the Inter-American Court of Human Rights ruled that Colombia was responsible for the death of 19 “tradesmen,” or artisans, killed in a military/paramilitary massacre in 1987. While non-state agents—the paramilitaries—carried out the massacre, the Inter-American Court found the state responsible for colluding with the paramilitary and obstructing the judicial procedures necessary to bring the perpetrators to justice.^{lxxii} The Court ordered the state to pay a total of 6.5 million USD in compensation, punish the perpetrators, issue a public apology and locate the remains of the dead.^{lxxiii} This ruling, which underscored the impunity with which the military and paramilitary operated, was labeled as a tremendous embarrassment for Uribe.^{lxxiv} It undermined the Uribe administration’s arguments for exchanging amnesty for information, which was at the core of the demobilization process and the JPL, and inspired criticism about the way in which he handled Colombia’s cases before international tribunals. Skeptics of the Inter-American institutions contended that Colombia was particularly vulnerable vis-à-vis the Inter-American human rights institutions and claimed that Uribe should not yield to the tribunals’ rulings and recommendations.^{lxxv} Understanding the importance of signaling his government’s commitment to human rights and the rule of law in the face of such devastating judgments at the Inter-American Court, Uribe responded to the ruling by saying, “We are a country based on the rule of law, and we respect court decisions.” When he announced the payment of reparations to the victims, Uribe also declared, “Colombia will honor its international obligations,” stressing the ways in which paying the reparations symbolized his and Colombia’s commitment to human rights and international law.^{lxxvi} The Court’s ruling allowed Uribe to set the tone and direction of Colombia’s policies regarding amnesties for those responsible for human rights abuse.

Consistent with that statement, the Uribe administration conducted a public apology and disbursed 90 percent of the reparations. The government also commenced building a commemorative monument, began investigating and trying those responsible and tried to locate the mortal remains of the victims.^{lxxvii} In the year following the ruling, the Attorney General, at the behest of the Foreign Minister, requested the Supreme Court review its earlier decision on the 19 Tradesmen case, indicating support from the upper echelons of the government for compliance.^{lxxviii}

The administration went even further in 2006, when Uribe announced changes to the Justice and Peace Law that the IACmHR identified as consistent with Colombia's international legal obligations and its own recommendations.^{lxxix} In October 2007, following a visit by the Inter-American Court to Colombia, the government made another substantial change to the Justice and Peace Law, thereby allowing victims to receive compensation before the accused perpetrators were tried. This change in particular was consistent with Inter-American Commission's recommendations, which previously insisted that the military courts did not satisfy their recommendations to investigate and try those responsible.^{lxxx} The Inter-American Commission and Court's rulings and recommendations provided a mantle of legitimacy for the Uribe government in two ways. First, Uribe was able to use his government's compliance with the rulings as a symbol of his administration's commitment to human rights and the rule of law. Second, he was able to use the normative power of international law embodied in the rulings to convince domestic and international naysayers that the JPL process was legitimate and necessary.

The Challenges of Forming a Compliance Coalition. While these efforts have played an important role in mitigating some of the damning critiques of Uribe, the Uribe administration never fully delegated authority for compliance to other domestic actors and was unable to form a strong compliance coalition. Dissent within the administration served to exacerbate this problem. In March 2007, for example, during a period of heavy activity at the Inter-American Commission and the Court, the Colombian Minister of Justice, Dionisio Araújo, said that the Commission should not interfere with the state's dealings with military, as it did not have jurisdiction over this relationship.^{lxxxix} Araújo also has expressed a larger concern that "...the entire Colombian judicial system is at risk of being replaced by the Inter-American Court."^{lxxxii}

Perhaps the greatest impediment to compliance, however, has been the number of legislators who are implicated in the cases heard at the Inter-American Commission and Court. Nearly 70 Uribe allies in the legislature were arrested or are under investigation for collaborating with the paramilitary forces. This roster includes President Uribe's own cousin and former legislator, Mario Uribe.^{lxxxiii} As the former government minister and head of the Institute for Peace and Development, Camilo González Posso, argued,

"The government coalition is made up of parties whose leadership has been implicated in the parapolitics scandal. The parties' presidents are under prosecution and between 30 and 70 percent of the votes the parties won are compromised because the legislators are either on trial or in jail...[This is] "a governing coalition that has won power by the use of violence. They share the responsibility for the appalling crimes for which the paramilitaries are being tried."^{lxxxiv}

While playing the role of gatekeeper allowed Uribe to maintain control over the compliance process, it also cast doubt on his policies and promises. This was particularly true as Colombia's judiciary tried to pursue compliance, but was consistently undermined by the much more powerful executive branch. The Americas Director of Human Rights Watch, José Miguel

Vivanco, suggested: “Colombia’s justice institutions have made enormous progress in investigating paramilitaries and their powerful friends. But the Uribe administration keeps taking steps that could sabotage these investigations.”^{lxxxv} Indeed, Colombia’s highest court sought to comply with the tribunals’ rulings, but the legislature and the executive overpowered it. Not only did this domestic power imbalance preclude the possibility of a compliance coalition, but it also left Uribe in a tenuous position, complying with the parts of the tribunals’ rulings in order to dampen criticism of Colombia’s human rights records and bolster support for the demobilization process, while simultaneously undermining the compliance process in order to protect his political goals and allies.

Non-Compliance: Lula’s Brazil (2003-2011)

In stark contrast to the Argentine and Colombian examples, in which the Inter-American tribunals have provided a mechanism for advancing domestic policies on amnesties and military tribunals, Brazil sought to distance itself from the Inter-American tribunals’ rulings. The administration of former President Luiz Inácio Lula da Silva (Lula) had few incentives to pursue compliance with the Inter-American Commission and Court’s jurisprudence on accountability. Lula’s reputation was tied up with his success in building the Brazilian economy and projecting Brazil’s stature as a rising global hegemon. Moreover, there were few domestic initiatives to promote accountability for human rights perpetrators. In fact, the issue of accountability was so contentious domestically that even the Minister of the Supreme Federal Tribunal, who introduced the possibility of prosecuting perpetrators of human rights abuse from the dictatorship in the 1960s-1980s, retracted his support and said that it was not for him to change the existing amnesty laws.^{lxxxvi} It was not until 2009 that the Lula administration actively sought to deal with

the issues of rescinding amnesties for human rights perpetrators.^{lxxxvii}

While the tribunals' rulings and recommendations on accountability could have invested Lula with significant agenda-setting power, that power presupposes an interest on the executive's part to change the status quo. And in Brazil under Lula, that political will simply was not there. As a result the Inter-American human rights tribunals have had little effect on Brazil's approach toward accountability, although recommendations from the Commission have played an important role in other issues, such as women's rights, where they served to focus time, attention and support for on-going policy reform initiatives.^{lxxxviii} The case of non-compliance in Brazil is just as illustrative as the cases of partial compliance in Argentina and Colombia. The first step of the domestic compliance process is political will on the part of the executive, and without that, compliance often never takes off.

In November 2010, the Inter-American Court of Human Rights handed down the case of *Gomes Lund and Others v. Brazil*, explicitly ordering Brazil to dismantle its policies of providing amnesties for perpetrators of human rights abuse during the dictatorship.^{lxxxix} How Dilma Roussef, Lula's successor, will approach the issue of accountability and compliance with the Inter-American Court of Human Rights, remains to be seen.^{xc} Whether or not she is willing and able to bring together a coalition of judges and legislators will make the difference between impunity in perpetuity and justice.

VI. Conclusion

The case studies discussed above present three very different pictures of how compliance with international human rights tribunals unfolds on the domestic level. While these cases tell the story of compliance in three South American countries with the rulings and recommendations

issued from the Inter-American human rights institutions, the experiences of Argentina, Brazil and Colombia have implications for understanding compliance with international law more broadly. First, these cases suggest that compliance is a fundamentally domestic and inherently political process. Understanding compliance with human rights law requires delving into the relationships among domestic political actors and parsing out their motivations, capacities and institutional strengths.

Second, this article suggests that the tribunals' rulings and recommendations invest executives with particular agenda-setting powers, allowing executives to serve as gatekeepers.^{xci} From that position, executives can push for compliance when: 1) they have a normative commitment to upholding particular human rights norms; 2) the tribunals' rulings provide an opportunity to focus resources and attention on human rights reforms and legitimate the executive's preferred human rights policies; and/or 3) compliance would bring reputational and material benefits. While the executive is in a privileged position with respect to compliance, he/she depends on support from other domestic institutions, such as the legislature and judiciary. When an executive has sufficient political will for compliance, as well as institutional support from judges and legislators, as in the case of rescinding amnesties and pardons in Argentina, compliance with the Inter-American tribunals' rulings and recommendations can have a powerful effect on human rights. Power imbalance and competing demands on the executive, however, can grind compliance to a halt, as the case of Colombia suggests.

This research presents a number of avenues for future investigation, both with respect to these particular cases and compliance more generally. This article outlines the incentives that executives have for signaling a commitment to human rights and using compliance with the human rights tribunals' rulings to advance their preferred human rights policies. Yet, as the case

study of Colombia demonstrates, resistance from other domestic actors can derail the compliance process. This begs a number of questions. What are the institutional and political arrangements that are best able to generate the “political will” for compliance? Are they the same for the parliamentary systems of Europe and Africa as the presidential systems of Latin America? Are there differences between consolidating and established democracies? These questions are important for academics and policy-makers alike. For scholars of international relations and international law, getting a clearer grasp on the political and normative utility of compliance with international law can help us add action and agency to accounts of compliance and arrive at more nuanced and testable hypotheses about compliance. Practitioners already know that “political will” is the key to compliance. What they do not know, however, is what “political will” is. An investigation into domestic political incentives can help to clarify this important but vague term and provide guidance for academics, activists and policymakers looking to better utilize their limited time and resources to facilitate compliance and improve human rights.

As the human rights tribunals’ rulings and recommendations become increasingly important parts of international and domestic human rights law, it is critical that academics and practitioners alike understand the conditions under which international human rights tribunals can affect human rights change. Only by understanding the domestic politics of compliance can we begin to understand how and when international law effectively protects human rights.

Endnotes

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ⁱⁱ INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, BASIC DOCUMENTS PERTAINING TO HUMAN RIGHTS IN THE INTER-AMERICAN SYSTEM (2007).

ⁱⁱⁱ Tom Farer, *The Rise of the Inter-American Human Rights Regime: No Longer a Unicorn, Not Yet an Ox*, 19 HUMAN RIGHTS QUARTERLY 510-546 (1997); David Forsythe, *Human Rights, the United States and the Organization of American States*, 13 HUMAN RIGHTS QUARTERLY 66-98 (1991); JO M. PASQUALUCCI, THE PRACTICE AND PROCEDURE OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS (2003).

^{iv} BETH A. SIMMONS, MOBILIZING FOR HUMAN RIGHTS: INTERNATIONAL LAW IN DOMESTIC POLITICS (2009).

^v Inter-American Commission on Human Rights 2007.

^{vi} INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, ANNUAL REPORT OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (2009), <http://www.cidh.oas.org/annualrep/2009eng/TOC.htm>.

^{vii} The Inter-American Court of Human Rights does not receive petitions directly; all petitions alleging human rights abuse must first go to the Commission.

^{viii} INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, *supra* note 5; PASQUALUCCI, *supra* note 3; INTER-AMERICAN COURT OF HUMAN RIGHTS, ANNUAL REPORT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS (2009); INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, *supra* note 2.

^{ix} INTER-AMERICAN COURT OF HUMAN RIGHTS, *supra* note 8. It is not necessarily the case that states have fully complied with the remaining cases. Rather, the Court does not always monitor compliance with each and every case.

^x Darren Hawkins & Wade Jacoby, *Partial Compliance: A Comparison of the European and Inter-American Courts for Human Rights*, 6 JOURNAL OF INTERNATIONAL LAW AND INTERNATIONAL RELATIONS 35-85 (2010); Courtney Hillebrecht, *Rethinking Compliance: The*

Challenges and Prospects of Measuring Compliance with International Human Rights Tribunals, 1 JOURNAL OF HUMAN RIGHTS PRACTICE 362-379 (2009).

^{xi} Tom Farer, *The Rise of the Inter-American Human Rights Regime: No Longer a Unicorn, Not Yet an Ox*, 19 HUMAN RIGHTS QUARTERLY 510-546 (1997); Lynda E. Frost, *The Evolution of the Inter-American Court of Human Rights: Reflections of Present and Former Judges*, 14 HUMAN RIGHTS QUARTERLY 171-205 (1992); Viviana Krsticevic, *Implementación de las Decisiones del Sistema Interamericano de Derechos Humanos: Jurisprudencia, Normativa y Experiencias Nacionales*, 15-113 (Viviana Krsticevic & Liliana Tojo eds., 2007); PASQUALUCCI, *supra* note 3.

^{xii} Beth Simmons, *Compliance with International Agreements*, ANNUAL REVIEW OF POLITICAL SCIENCE 75-93 (1998); Beth Simmons, *Treaty Compliance and Violation*, 13 ANNUAL REVIEW OF POLITICAL SCIENCE 273-296 (2010).

^{xiii} Ronald Krebs, *Perverse Institutionalism: NATO and the Greco-Turkish Conflict*, 53 INTERNATIONAL ORGANIZATION 343-378 (1999); LLOYD GRUBER, *RULING THE WORLD: POWER POLITICS AND THE RISE OF THE SUPRANATIONAL INSTITUTIONS* (2000); G. JOHN IKENBERRY, *AFTER VICTORY: INSTITUTIONS, STRATEGIC RESTRAINT, AND THE REBUILDING OF ORDER AFTER MAJOR WARS* (2001); KENNETH WALTZ, *NEOREALISM AND ITS CRITICS* (1985).

^{xiv} Simmons 1998; Kenneth W Abbott & Duncan Snidal, *Why States Act Through Formal International Organizations*, 42 JOURNAL OF CONFLICT RESOLUTION 3-32 (1998).; Robert O Keohane, *Neoliberal Institutionalism: A Perspective on World Politics*, in INTERNATIONAL INSTITUTIONS AND STATE POWER 1-20 (1989); Ronald B Mitchell, *Regime Design Matters: Intentional Oil Pollution and Treaty Compliance*, 48 INTERNATIONAL ORGANIZATION 425-458 (1994).

^{xv} ANDREW GUZMAN, *HOW INTERNATIONAL LAW WORKS* (2008).

^{xvi} LILIANA BOTCHEVEVA, DAVID SANGER & LISA MARTIN, *THE EFFECTS OF INTERNATIONAL INSTITUTIONS: AN ANOTATED BIBLIOGRAPHY* (1999); Robert Keohane & Lisa Martin, *The Promise of Institutional Theory*, 20 INTERNATIONAL SECURITY 39-51 (1995).

^{xvii} ROBERT KEOHANE & JOSEPH NYE, *POWER AND INTERDEPENDENCE* (1977).

^{xviii} Judith Goldstein et al., *Introduction: Legalization and World Politics*, 54 INTERNATIONAL ORGANIZATION 385-399 (2000); Miles Kahler, *Conclusion: The Causes and Consequences of Legalization*, 54 INTERNATIONAL ORGANIZATION 549-571 (2000); Barbara Koremenos, *Contracting Around International Uncertainty*, 99 AMERICAN POLITICAL SCIENCE REVIEW 549-565 (2005).

^{xix} Edward Mansfield et. al. *Why Democracies Cooperate More: Electoral Control and International Trade Agreements*, 56 INTERNATIONAL ORGANIZATION 477-514 (2002).

^{xx} George W. Downs, David M. Roake & Peter N. Barsoom, *Is the Good News about Compliance Good News about Cooperation?*, 50 INTERNATIONAL ORGANIZATION 379-406 (1996); James Fearon, *Bargaining, Enforcement and International Cooperation*, 52 INTERNATIONAL ORGANIZATION 296-305 (1998); Oona A. Hathaway, *Why Do Countries Commit to Human Rights Treaties?*, 51 JOURNAL OF CONFLICT RESOLUTION 588-621 (2007); Jana Von Stein, *Do Treaties Constrain or Screen? Selection Bias and Treaty Compliance*, 99 AMERICAN POLITICAL SCIENCE REVIEW 611-622 (2005).

^{xxi} Abram Chayes & Antonia Handler Chayes, *On Compliance*, 47 INTERNATIONAL ORGANIZATION 175-205 (1993); LOUIS HENKIN, INTERNATIONAL LAW: POLITICS AND VALUES (1995).

^{xxii} Hillebrecht, *supra* note 10.

^{xxiii} HANNAH ARENDT, THE ORIGINS OF TOTALITARIANISM (1973); DAVID FORSYTHE, HUMAN RIGHTS IN INTERNATIONAL RELATIONS (2000); James D. Ingram, "What is a 'Right to Have Rights'?" *Three Images of the Politics of Human Rights*, 102 AMERICAN POLITICAL SCIENCE REVIEW 401-415 (2008); SIMMONS, *supra* note 12.

^{xxiv} Oona Hathaway, *Do Human Rights Treaties Make a Difference*, 111 YALE LAW JOURNAL 1935-2041 (2002); Oona Hathaway, *The Promise and Limits of the International Law of Torture*, in TORTURE: A COLLECTION 199-212 (Sandford Levinson ed., 2004); Eric Neumayer, *Do International Human Rights Treaties Improve Respect for Human Rights?*, 49 JOURNAL OF CONFLICT RESOLUTION 925-953 (2005); SIMMONS, *supra* note 4; James Vreeland, *Political Institutions and Human Rights: Why Dictatorships Enter into the United Nations Convention Against Torture*, 62 INTERNATIONAL ORGANIZATION 65-101 (2008).

^{xxv} Jean Grugel & Enrique Peruzzotti, *The Domestic Politics of International Human Rights Law: Implementing the Convention on the Rights of the Child in Ecuador, Chile and Argentina*, 34 HUMAN RIGHTS QUARTERLY (178-198); Andrew Cortell & James Davis, *How Do International Institutions Matter? The Domestic Impact of International Rules and Norms*, 40 INTERNATIONAL STUDIES QUARTERLY 451-78 (1996); Lisa Martin, *Interests, Power and Multilateralism*, in INTERNATIONAL INSTITUTIONS: AN INTERNATIONAL ORGANIZATION READER (Lisa Martin & Beth Simmons eds., 2001); JON C. PEVEHOUSE, DEMOCRACY FROM ABOVE: REGIONAL ORGANIZATIONS AND DEMOCRATIZATIONS (2005); Peter Rosendorff & Helen V. Milner, *Stability and Rigidity: Politics and Design of the WTO's Dispute Settlement Procedure*, 99 AMERICAN POLITICAL SCIENCE REVIEW 389-400 (2005); Simmons, *supra* note 4; Michael Tomz, *Domestic Audience Costs in International Relations: An Experimental Approach*, 61 INTERNATIONAL ORGANIZATION 821-840 (2007).

^{xxvi} SIMMONS, *supra* note 4.

^{xxvii} SONIA CARDENAS, CONFLICT AND COMPLIANCE: STATE RESPONSES TO INTERNATIONAL HUMAN RIGHTS PRESSURE (2007).

^{xxviii} DAI, INTERNATIONAL INSTITUTIONS AND NATIONAL POLICIES (2007) suggests that compliance is contingent on the formation of a core group of constituents (compliance constituencies) who are willing and able to lobby for compliance and hold political elites accountable for their compliance obligations.

^{xxix} CARDENAS, *supra* note 28.

^{xxx} Jeffrey Checkel, *Why Comply? Social Learning and European Identity Change*, 55 INTERNATIONAL ORGANIZATION 553-88 (2001); Martha Finnemore, *International Organizations as Teachers of Norms: The United Nations Educational, Scientific, and Cultural Organization and Science Policy*, 47 INTERNATIONAL ORGANIZATION 565-97 (1993); Martha Finnemore & Kathryn Sikkink, *International Norm Dynamics and Political Change*, in EXPLORATION AND CONTESTATION IN WORLD POLITICS 247-78 (Keohane Katzenstein & Krasner eds., 1999); Tomz, *supra* note 26.

^{xxxi} CARDENAS, *supra* note 28.

^{xxxii} Interview 428.97, (2008); Interview 834.74, (2008); Interview 994.18, (2008). Interview subjects names redacted and replaced with random number. All interview subjects were officials at either the IACmHR or the IACtHR.

^{xxxiii} Maria da Penha Maia Fernandes v. Brazil, Report N^o 54/01, 12.051 (Inter-American Commission on Human Rights 2001).

^{xxxiv} Andrew Moravcsik, *The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe*, 54 INTERNATIONAL ORGANIZATION 217-252 (2000); Jon C. Pevehouse, *Democracy from the Outside-In? International Organizations and Democratization*, 56 INTERNATIONAL ORGANIZATION 515-550 (2002); PEVEHOUSE, *supra* note 26.

^{xxxv} Checkel, *supra* note 31; Finnemore, *supra* note 31; Finnemore and Sikkink, *supra* note 31; Tomz, *supra* note 26.

^{xxxvi} Tomz, *supra* note 26.

^{xxxvii} Michael Barnett & Raymond Duvall, *Power in Global Governance*, in POWER IN GLOBAL GOVERNANCE (Michael Barnett Duvall & Raymond eds., 2005); Michael Barnett & Martha Finnemore, *The Politics, Power and Pathologies of International Organizations*, 53 INTERNATIONAL ORGANIZATION 699-32 (1999); MICHAEL BARNETT & MARTHA FINNEMORE, RULES FOR THE WORLD: INTERNATIONAL ORGANIZATIONS AND GLOBAL POLITICS (2004); John Boli & George Thomas, *World Culture in World Polity: A Century of International Non-Governmental Organization*, 62 AMERICAN SOCIOLOGICAL REVIEW 171-190 (1997); INTERNATIONAL INSTITUTIONS AND SOCIALIZATION IN EUROPE, (Jeffrey Checkel ed., 2007); Ryan Goodman & Derek Jinks, *Incomplete Internalization and Compliance with Human Rights Law*, 19 EUROPEAN JOURNAL OF INTERNATIONAL LAW 725 -748 (2008); Ryan Goodman & Derek Jinks, *How to Influence States: Socialization and International Human Rights Law*, 54 DUKE

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^{xxxviii} GUZMAN, *supra* note 15; Laurence R. Helfer & Anne-Marie Slaughter, *Toward a Theory of Effective Supranational Adjudication*, SSRN ELIBRARY (2005), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=131409; SIMMONS, *supra* note 4; Anne-Marie Slaughter & William Burke-White, *The Future of International Law is Domestic (or, the European Way of Law)*, in NEW PERSPECTIVES ON THE DIVIDE BETWEEN INTERNATIONAL AND NATIONAL LAW 110-133 (Andre Nolkaemper & Janne Nijman eds., 2007).

^{xxxix} David L. Cingranelli & Thomas E. Pasquarello, *Human Rights Practices and the Distribution of U.S. Foreign Aid to Latin American Countries*, 29 AMERICAN JOURNAL OF POLITICAL SCIENCE 539-563 (1985); David P. Forsythe, *Human Rights and US Foreign Policy: Two Levels, Two Worlds*, 43 POLITICAL STUDIES 111-130 (1995); EMILIE HAFNER-BURTON, FORCED TO BE GOOD: WHY TRADE AGREEMENTS BOOST HUMAN RIGHTS (2009); Emilie Hafner-Burton & Kiyoteru Tsutsui, *Human Rights in a Globalizing World: The Paradox of Empty Promises*, 110 AMERICAN JOURNAL OF SOCIOLOGY 1373-1411 (2004); Kathryn Sikkink, *Human Rights, Principled Issue-Networks, and Sovereignty in Latin America*, 47 INTERNATIONAL ORGANIZATION 411-441 (1993); KATHRYN SIKKINK, MIXED SIGNALS: U.S. HUMAN RIGHTS POLICY AND LATIN AMERICA (2004).

^{xl} James Lebovic and Erik Voeten, *The Politics of Shame: The Condemnation of Country Human Rights Practices in the UNCHR*, 50 INTERNATIONAL STUDIES QUARTERLY 861-888 (2006).

^{xli} GUZMAN, *supra* note 15.

^{xlii} WORLD VALUES SURVEY ONLINE DATA ANALYSIS TOOL, (2005), <http://www.wvsevsdb.com/wvs/WVSAnalyzeStudy.jsp>. Consider the following. Over 66 percent of respondents in Argentina said that the protection of civil rights was an essential characteristic of democratic governance. Meanwhile, 63 percent of Brazilians and 73 percent of Argentines say that dealing with poverty and need is the most pressing problem their governments face. Argentines and Brazilians alike name national governments as being the responsible for human rights policies, with the United Nations coming in a close second.

^{xliii} PAUL GORDON LAUREN, THE EVOLUTION OF INTERNATIONAL HUMAN RIGHTS: VISIONS SEEN (2003).

^{xliv} JAVIER COUSO, ALEXANDRA HUNEEUS & RACHEL SIEDER, CULTURES OF LEGALITY: JUDICIALIZATION AND POLITICAL ACTIVISM IN LATIN AMERICA (2010); Victor Ferreres Comella, *El Juez Nacional ante los Derechos Fundamentales Europeos: Algunas Reflexiones en torno a las Idea de Dialogo*, in INTEGRACION EUROPEA Y PODER JUDICIAL: PONENCIAS PRESENTADAS A LAS JORNADA CELEBRADAS EN BILBAO LOS DIAS 23, 24, 25 DE FEBRERO DE 2005 231-269 (Alejandro Saiz Arnaiz & Maite Zelaia Garagarza eds., 2006); Alex Stone Sweet & Helen Keller, *The Reception of the ECHR in National Legal Orders*, in A EUROPE OF RIGHTS: THE IMPACT OF THE ECHR ON NATIONAL LEGAL SYSTEMS 3-26 (2008).

^{xlv} SIMMONS, *supra* note 4.

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