

Fix for the Future, Not for the Past: Democratic Accountability and Non-Compliance with International Law

Francesca Parente*

Abstract

Domestic public preferences often shape leaders' decisions to comply with international legal rulings. In the human rights realm, it is usually assumed that these preferences are in favor of enforcement and justice. However, just because the public supports human rights does not mean they universally support the remedies ordered by international human rights courts. What happens when leaders face competing compliance pressures from an international court and domestic public? I examine this question in the context of the Inter-American Court of Human Rights. I argue that the leader's decision to comply is a function of the proximity to next election, therefore necessitating responsiveness to the public's demands, and the public's attitudes toward the actor implicated by the international court. I test my argument on an original dataset of all Inter-American Court rulings implicating the military. I show that if the public does not trust the military, the probability of compliance increases closer to an election; however, if the public trusts the military, the probability of compliance decreases. This suggests the importance of incorporating the public's preferences into existing models of compliance with international law.

*Postdoctoral Research Associate, Niehaus Center for Globalization and Governance, Princeton University. Please do not circulate or cite without the author's permission.

1. Introduction

In 2010, the Inter-American Court of Human Rights ordered Brazil to overturn an amnesty law enacted during the military dictatorship in 1979. The amnesty law prevented cases against military officials, which limited victims' access to justice, but some feared that repealing the amnesty law would reopen wounds of the past. Ministers of the Brazilian Supreme Court, which had already ruled on the validity of the amnesty law, were divided over whether to reconsider their decision in light of the Inter-American Court's order. One Minister was adamantly opposed, arguing: "We need to put in our heads that amnesty is forgetting; turning the page; forgiveness in its largest sense for both sides. ... Let's fix Brazil for the future, not the past."¹

The long-standing presumption in human rights literature has been that international courts provide a good – justice – that is demanded by the public. But what happens when justice is *not* in demand? Justice for human rights violations often necessitates confronting the abuses of the past, which some voters would prefer to leave alone. Still, there are numerous examples of populations demanding justice for past abuses. Where domestic avenues are closed, victims of human rights abuses often try to get justice by appealing to international courts. These courts can find states responsible for violations of international human rights law and order remedies, but it is ultimately up to individual leaders whether to comply.

A wealth of previous scholarship has addressed various ways in which domestic politics can affect compliance. Notably, in study after study, the proposed mechanisms – persuasion, naming and shaming, coercion – assume that voters always want the leader to comply with rulings from human rights courts.² Non-compliance is thus the result of leaders being insufficiently persuaded, shamed, or incentivized to comply. With few exceptions (Búzás, 2017,

¹ "Brazilian Supreme Court Judges Disagree on Amnesty Law Validity," *BBC Monitoring Latin America*, 12 December 2014, accessed on LexisNexis.

² See, e.g., Keck and Sikkink (1998); Risse, Ropp and Sikkink (1999); Checkel (2001); and Goodman and Jinks (2004) on persuasion; Keck and Sikkink (1999); Drinan (2002); Hafner-Burton (2008); and Cole (2012) on shaming; and Dai (2005); Hafner-Burton (2005); Lebovic and Voeten (2009); Smith-Cannoy (2012); Conrad and Ritter (2013); Conant (2014); Follesdal (2016); and Hong and Uzonyi (2018) on coercion.

2018), the human rights literature has largely neglected cases in which non-compliance is the result of leaders responding to the public's preferences against compliance, rather than the result of leaders ignoring the public's demands for compliance.³

The presumption that the public always wants compliance is not warranted in all cases. In transitioning democracies in particular, compliance might implicate the previous regime, which in many cases is still quite popular. Newly democratic leaders who receive orders to punish a popular previous regime thus face a dilemma: do they comply with international law, or do they follow the public's preference against compliance?

I address this dilemma in the context of the Inter-American Court of Human Rights, a regional human rights court in Latin America with jurisdiction over 20 members of the Organization of American States. All but two of the Court's current members are newly transitioned democracies; 80% of them were under military rule at the time of the Court's creation in 1979.⁴ The recent history of military dictatorship, in which human rights abuses were widespread, not only informs much of the Court's present caseload, but also defines the political environment in which the Court must operate, as the military is the implicated actor in nearly 40% of judgments.

Despite the abuses committed by the military, the military as an institution still retains popularity in many states. As such, voters may not want to see the crimes re-litigated.⁵ Some voters are even nostalgic for the days when the military was in charge, as evidenced by the 2018 Brazilian presidential election. Even if voters do not wish for the military to govern, they may still recognize the important security functions played by the armed forces, and oppose punishment of the military for past abuses.

³Note that this is a different argument than that of "antipreneurs" (Bloomfield, 2016; Mills and Bloomfield, 2018). My argument is not that entrepreneurs change norms around compliance or human rights, but rather that domestic incentives for non-compliance might override these norms at particular moments.

⁴Here I use Moravcsik (2000)'s definition of mature democracy, which is democratic (Polity score above 6) for at least 30 years. Only Barbados and Costa Rica meet the definition of mature democracy using this metric.

⁵Many of these crimes are in fact covered by popular amnesty laws that shield offenders. Uruguay, for example, voted to maintain its amnesty law again in 2009, affirming the will of the majority against prosecuting crimes that took place during the military dictatorship.

I argue that attitudes toward the military shape the public’s preferences for compliance. These preferences matter because they determine the direction of the pressure on the leader — at times for more compliance, but at other times for less. Leaders who need the public’s support to remain in power will respond to the public’s preferences. In democracies, this domestic accountability increases around the time of elections, as the punishment for non-responsiveness to the public’s preferences is more proximate. Thus, closer to the election, the leader becomes more responsive to the public’s — as opposed to her own — preferences.

I test this argument using an original dataset of all judgments against the military from the Inter-American Court of Human Rights issued between 1989 and 2014. As most members are presidential democracies, election timing is fixed.⁶ To capture the public’s attitudes toward the military, I use the level of distrust of the military, as reported in AmericasBarometer surveys, under the assumption that as public distrust of the military increases, support for compliance goes up. I find that public support for compliance moderates the effect of proximity to election on compliance. In other words, as a presidential election nears, the leader becomes more responsive to the public’s preferences on compliance, but this does not mean that the leader will be more likely to comply. In particular, if the public distrusts the military (thus, supports compliance), the probability of compliance increases as the presidential election nears. However, if the public trusts the military (and thus, does not support compliance), the probability of compliance decreases.

This paper makes three contributions. The first is to challenge head-on the assumption that the public always wants the leader to comply with rulings from human rights courts. I show that although the crimes were committed by government actors, the public does not necessarily want these actors punished, particularly if the actors are trusted and popular. Instead of presuming that voters always support compliance, I model these preferences using the best-available public opinion data. This suggests that we ought to rethink the notion that non-compliance means only that the institution is ineffective; non-compliance may also imply

⁶The exceptions are Barbados and Suriname, which are both parliamentary systems.

that democracy is working. This is not to say that non-compliance is a normatively good outcome — democracies often make decisions that are unfair or unjust — but that it is one supported by the majority. My work thus points to a potential illiberal consequence of human rights rulings: a democratic public supporting an illiberal outcome (non-compliance).⁷

My second contribution is to address compliance in a previously understudied region – Latin America – where leaders are often asked to directly confront the abuses of the past regime.⁸ Although the European Court of Human Rights is similar in structure and purpose, the regime types of members within each institution are quite different; in particular, the history of military regime is much more recent in Latin America. Consequently, the rights violations heard by the Inter-American Court are quite different than those heard in its European counterpart. The European Court hears many more cases about violations of civil and political rights, such as freedom of religion and access to education, as opposed to violations of physical integrity rights, such as forced disappearance and extrajudicial execution. Rather than dismiss non-compliance outcomes as evidence that the Inter-American Court is an ineffective institution (Posner and Yoo, 2005), I instead consider the particular political conditions and incentives that democratic leaders have for non-compliance.

My third contribution is to identify a novel way of thinking about compliance by using the individual remedies within cases as the unit of analysis, rather than the case itself.⁹ The vast majority of cases at the Inter-American Court are in a state of partial compliance (Hawkins and Jacoby, 2010), as only 13% of all judgments against the state have been closed. However, this gives a false sense of the Inter-American Court’s (in)effectiveness: on

⁷This is similar to Huneus (2019) in that it addresses how human rights may lead to illiberal outcomes, although my argument is about public support for illiberal non-compliance rather than non-liberal regimes weaponizing human rights for illiberal ends.

⁸The work that has been done on the Inter-American Court tends to focus on qualitative process-tracing in a few select cases (e.g. Hillebrecht, 2012). While this is useful for understanding why the state complied in a particular instance, it does not necessarily help us understand variation in compliance across all member-states.

⁹An individual remedy is a specific task that the Court has ordered the state to undertake. For example, in a single case, the state may be asked to pay monetary reparations, publish the judgment, and issue a public apology. The process of distilling remedies from judgments is described in Section 3.2. This is also the approach taken by Naurin and Stiansen (2019) when examining dissent at the Inter-American Court because judges can dissent to particular remedies.

the level of individual remedies, the compliance rate is nearly 50%, with a high degree of variance based on the type of remedy ordered. Moreover, my approach allows me to control directly for capacity constraints on compliance because I can account for variation in the degree of difficulty involved in implementing any one type of remedy. Finally, because the Inter-American Court orders so many remedies in each case, my dataset has eight times as many orders as it does cases: the 64 judgments that implicate the military generate nearly 540 unique compliance orders.¹⁰

In the next section, I advance my theory to explain compliance in the Inter-American context. In Section 3, I introduce the Inter-American Court in more detail and present the results from my statistical analyses. The final section concludes.

2. Theory: Domestic Political Incentives for Non-Compliance

Why do leaders (fail to) comply? Most accounts of non-compliance presume a particular model of international law violations in which (1) the state violates international law and (2) the state and citizens within the state have opposite preferences on compliance. In this conceptual model, the state's underlying preference is for non-compliance and international courts are necessary to force leaders to meet the demands of a compliance constituency. It is assumed in large part, at least in the realm of human rights, that these are pro-compliance constituencies that "will often increase the probability of government compliance and encourage imposition of sanctions on other governments that violate legal commitments" (Kahler, 2000, pg. 675). As such, extant human rights scholarship that considers the role of these constituencies in leaders' compliance decisions generally focuses on pro-compliance constituencies, rather than anti-compliance constituencies (e.g. Tomz, 2008; Simmons, 2009; Alter, 2014; Chilton, 2014; Dai, 2014; Putnam and Shapiro, 2017).

I argue, however, that we need to consider and account for the role played by anti-compliance constituencies. Scholarship in international trade law has paid more attention

¹⁰These are the judgments of the Inter-American Court issued between 1989 and 2014.

to coalitions of voters who may prefer non-compliance (e.g. Downs and Rocke, 1995; Dai, 2006; Grieco, Gelpi and Warren, 2009; Chaudoin, 2014; Conrad, Hill Jr and Moore, 2018). Some human rights scholars have also begun considering anti-compliance constituencies; for example, Búzás (2017) and Búzás (2018) argue that states evade international law (comply in bad-faith) when the group that international law seeks to protect is politically unpopular.¹¹ I extend this idea to account for the popularity of the perpetrator in driving anti-compliance constituencies, rather than the (un)-popularity of the victim. Thus, I account for anti-compliance constituencies that exist not because people dislike the person or group that international human rights law seeks to protect, but because they like the perpetrator that international human rights courts are asking the state to punish.

Suppose that the Inter-American Court issues a judgment against the state, in which it finds that the state has committed several human rights violations. Along with finding the state responsible, the Court's judgment also includes a list of remedies the state must undertake to rectify the violation. The Court then transmits the judgment to the state. All states are obligated to comply with the Court's rulings under international law. However, because the international court's decisions cannot be enforced, compliance depends on leaders deciding to comply.¹²

All leaders enter office with underlying preferences for human rights and compliance. These preferences may reflect life experiences, party alignment, or personal preference. The leader can either implement compliance consistent with her own preferences, or choose of level of compliance that matches the public's preference. These two decisions could result in the same outcome if both the leader and the public have the same preference for compliance. However, these preferences do not necessarily match, which means we may sometimes observe leaders who are otherwise against compliance choosing compliance or leaders who support compliance choosing non-compliance.

¹¹Requiring states to protect unpopular groups is also a source of backlash against international courts; see Voeten (2018).

¹²For most leaders, the decision to join the institution was made before their term began in office. As such, I take as given that the leader's state is a member of the institution.

The public observes the leader's choice of compliance and subsequently chooses a level of support for the leader. As shown in experimental work, the public rewards (supports) leaders for choosing policies they like. This includes policies that violate international law (Wallace, 2013; Chilton and Versteeg, 2016; Kreps and Wallace, 2016; Lupu and Wallace, 2019). The public supports leaders who choose to match their preferences and opposes leaders who do not.

However, whether the leader needs the public's support to remain in office varies over time. In a democracy with elections, the leader's greatest need for the public's support occurs when she is running for office.¹³ Except for Barbados and Suriname, all members of the Inter-American Court of Human Rights are presidential democracies. This means that election timing is fixed and unrelated to the Court's judgments.¹⁴ The length of a presidential term varies across the region, but is between four and six years. Due in part to their history of dictatorship, most Latin American states have presidential term limits (Corrales and Penfold, 2014). In this case, one should think of the electoral incentive on the part of the incumbent political party, rather than the individual president.

The public supports the leader by voting for the incumbent (or incumbent's party). This is not to say that compliance decisions always become campaign issues. Rather, leaders when running for office would prefer to avoid making unpopular decisions – those that would not align with the public's preferences – that could be used against them by the opposition. This means that regardless of the leader's personal (possibly unobserved) preference for compliance, the leader is more likely to match the public's preference on compliance closer to an election.

The public's preferences for compliance, *per se*, are not necessarily observable. However, the public has opinions about actors implicated by compliance that are known.¹⁵ Al-

¹³Note that the theory assumes the leader must stand for election and cannot simply eliminate elections altogether. Recent challenges to elections have focused on eliminating presidential term limits, rather than eliminating elections as such. Thus, leaders recognize some need for elections to remain in office.

¹⁴There is no evidence to suggest the Court issues judgments strategically around elections. The Court's sessions are limited each year and their timing is fixed as well.

¹⁵One could imagine making the public's preferences for compliance directly observable using survey

though the judgment finds the state (as a unitary actor) responsible for violations of the American Convention on Human Rights, the ruling implicates a particular domestic actor that committed the violation. Public opinion about the implicated actor proxies for support for compliance through two possible mechanisms, one direct and one indirect. As a direct mechanism, one could imagine that because the public likes the implicated actor, voters do not want to see that actor or institution punished. Alternatively, and more indirectly, support for the implicated actor could mean that the public supports whatever that actor’s preferences are toward compliance. Because compliance implicates them, the implicated actor would prefer that leaders do not comply, so public support for the implicated actor thus correlates with public support for non-compliance.

Table 1: Distribution of implicated actors in cases before the Inter-American Court of Human Rights

Implicated Actor	Count	Percentage
Military	64	36%
Police	33	18.5%
Courts	27	15.2%
Ministry	12	6.7%
Private citizens	10	5.6%
Paramilitary	6	3.4%
Commission	6	3.4%
Cabinet members	5	2.8%
Other	15	8.4%

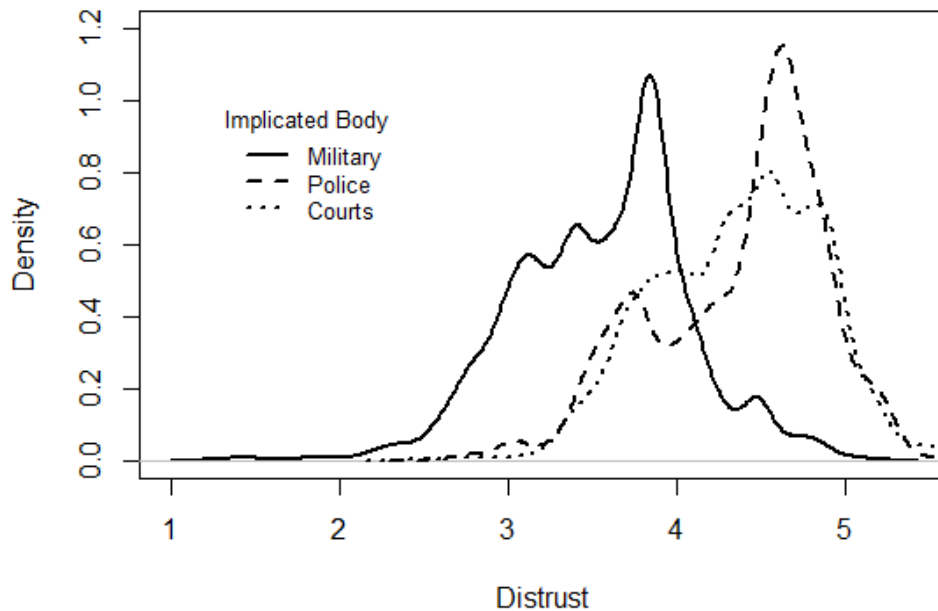
Note: “Other” includes actors implicated in fewer than five cases, including hospital doctors (3 cases), Congress (3 cases), and prison guards (2 cases). Percentage is of the 178 judgments issued against the state between 1989 and 2014.

As shown in Table 1, the three most frequently implicated actors are the military (36%), police (18%), and courts (15%), with the military implicated in twice as many cases as the police. Figure 1 shows the distribution of attitudes toward these three actors using AmericasBarometer survey data on the mean level of trust in the actor, here rescaled as dis-

methods. However, the leader may also use the public’s opinions about the implicated actor as a rough proxy for compliance preferences, so I am comfortable doing so here.

trust. The mean level of distrust in the military is 3.56 on a seven-point scale; conversely, the mean levels of distrust for the police and courts are 4.37 and 4.39, respectively. Additionally, the distribution of distrust is concentrated between 3 and 4 for the military, rather than 4 and 5 for the other two institutions. In terms of the public’s attitudes, Figure 1 shows both that the military is on average more trusted and also that opinions about the military are much more diverse, with some citizens holding a very high opinion of the military (distrust of 1) but none reporting such levels for the police or courts.

Figure 1: Citizens are more ambivalent about the military compared to police and courts



Note: Density plot of distrust of military, police, and courts. The mean level of distrust of the military is about one point lower than the mean level of distrust of the police and courts. Lower levels of distrust imply higher levels of trust.

Figure 1 implies that the public’s preferences should not be uniformly in favor of compliance when the military is implicated. Moreover, confronting the military’s past abuses is a polarizing issue in Latin America (de Brito, 2001; Achugar, 2007; Isaacs, 2010; D’Orsi, 2015). In a 2006 survey conducted in Guatemala, Isaacs (2010) found that 34% of victims also believed that forgetting was a key ingredient of reconciliation. This was a greater percentage than the 21.4% of civil society organizations the supported forgetting, suggesting

that even if human rights activists believe that remembering the past and confronting past abuses is necessary, the victims they represent do not always share this view. Some opinion polls have also shown that “the past is not a political or policy priority” (de Brito, 2001, pg. 157). All of this suggests variation in the public’s opinion of the military, and thus compliance, when the military is implicated.

Given the military’s importance in Latin American society today, it is perhaps unsurprising that citizens are supportive, or at least ambivalent, toward the military. Domestic institutions are often perceived as weak or ineffective, so the public generally places more faith in the armed forces’ ability to protect human rights than the police’s (Pion-Berlin and Carreras, 2017). The military is also frequently used for domestic security purposes, including quelling crime and gang violence and providing security for major sports events like the World Cup and Olympics, hosted by Brazil in 2014 and 2016, respectively. Most recently, the Brazilian military took over security operations in Rio de Janeiro, the first time such intervention took place since the military dictatorship ended.¹⁶ Even citizens who otherwise support confronting past abuses might prefer to not antagonize the military, given the level of domestic security that the institution provides.

The main theoretical expectation is that *as an election draws nearer, leaders become more likely to match the public’s preferences on compliance*. That is, when the public dislikes the implicated actor, the leader is *more likely* to comply closer to an election; and when the public likes the implicated actor, the leader is *less likely* to comply. In this way, the public’s support for compliance, via its attitude toward the implicated actor, moderates the effect of election proximity on the probability of compliance.

¹⁶Ernesto Londoño and Shasta Darlington, “Brazil’s Military is Put in Charge of Security in Rio de Janeiro,” *New York Times*, February 16, 2018.

3. Empirical Analysis

3.1. *The Inter-American Court of Human Rights*

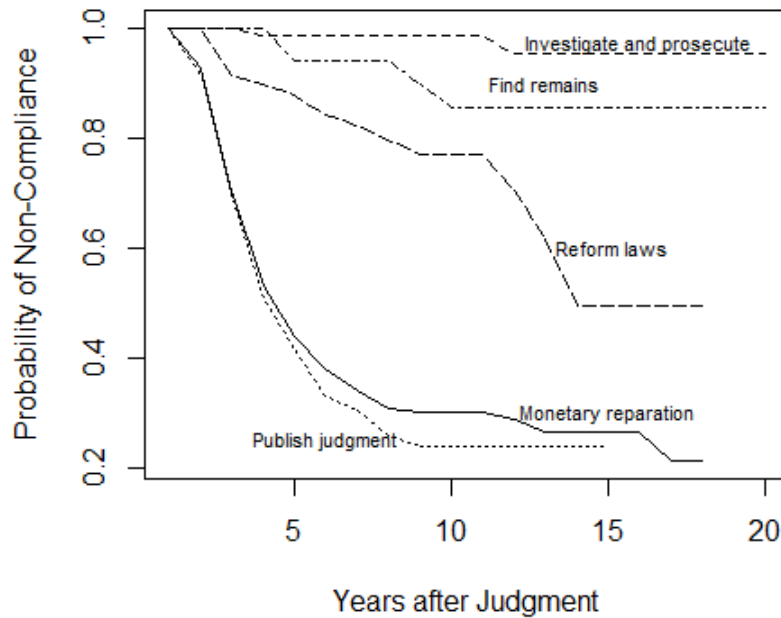
The Inter-American Court of Human Rights was founded in 1979 and began hearing contentious cases in the 1980s. Through 2017, it has issued around 220 judgments, and each member has been a defendant at least once. Cases reach the Inter-American Court after passing through the Inter-American Commission, which represents petitioners in all matters before the Court. Although the Court's proceedings come chronologically after the Commission's, it is important to understand the Court is *not* an appellate body. Rather, the process of adjudication begins anew in the Court. Unless the state fully accepts responsibility for the violation, the Court issues its own, separate ruling on the merits of the case; if the state concedes the violation, the case moves to the reparations stage. Given that the case has already been reviewed by the Commission, it is not surprising that the Court rarely finds in favor of the state: of the 223 judgments since 1989, only five have found no violations committed by the state.

Once the Court rules against the state, the case moves to the reparations and monitoring phase. The operative paragraphs of all Court judgments provide a list of specific remedies the state must undertake ("compliance orders") and reaffirm the Court's mandate to monitor the case until the orders have been fulfilled. On average, the Court issues seven compliance orders in each case. The Court believes it is part of its mandate to monitor compliance with its orders and to ensure full implementation with the judgment. The Court fulfills this duty by issuing periodic monitoring reports.

Previous scholarship on the Inter-American Court has shown that compliance varies by the degree of difficulty of the order. For example, it is relatively costless to provide monetary reparations but relatively costly to change domestic legislation (Beristain, 2009; Hawkins and Jacoby, 2010; Basch et al., 2011; Huneus, 2011; Bailliet, 2013). As seen in Figure 2, time to compliance varies greatly depending on the nature of the order. Five years

after the judgment, states have fulfilled nearly 60% of the orders to publish the judgment and pay monetary reparations (non-compliance rate of 40%), but have fulfilled only 10% of orders to reform laws, and none of the orders to investigate, prosecute, and punish offenders or to find the remains of victims. After 15 years, states have fulfilled around 80% of orders to publish the judgment and pay monetary reparations, around 50% of orders to reform laws, and 15% of orders to find remains. For political and practical reasons, orders to investigate, prosecute, and punish offenders are the hardest with which to comply, and that difficulty is reflected in the fact that after 20 years, less than 5% of these orders have been fulfilled. Because time to compliance varies so much by the particular order, any quantitative analysis must take this variation into account, in addition to time-varying covariates.

Figure 2: Duration of Non-Compliance Depends on the Difficulty of the Order



3.2. *Measuring Compliance*

To measure the dependent variable, I begin by identifying all compliance orders issued by the Inter-American Court in judgments that implicate the military through 2014. Although the military is not the only implicated actor, I choose to focus on these cases for two reasons. First, as shown in Table 1, the military is by far the most frequently implicated actor, and thus the most relevant. Second, and more importantly, there is sufficient variation on the public’s opinion about the military (as seen in Figure 1) such that leaders could match the public’s preferences for both compliance and non-compliance. When an actor is universally disliked, as the police and courts are, observing compliance is ambiguous. Specifically, it is unclear whether the leader is responding to public opinion about the actor, or some underlying pro-compliance inclination of the public that is unrelated to the actor, as implied by previous work on compliance.

Once cases implicating the military are identified, I distill the compliance orders from the operative paragraphs of the judgments (64) to generate a dataset containing about 540 unique compliance orders.¹⁷ Next, I code all Court-issued monitoring reports, in which the Court reviews each order given to the state and decides whether the state has fully complied, partially complied, or not complied based on information obtained from the victim and the state party. Through December 31, 2015, the Court has issued 131 compliance reports on judgments implicating the military. The average number of compliance reports per case is 2.04, although this number is biased downward, since about 17% of cases have had no monitoring report at all. Excluding cases that have never been monitored, the average number of compliance reports per case is 2.47. The unit of analysis is a compliance-order-year; the outcome (compliance) is coded as 1 if the state complied with the order in that year and 0 otherwise.¹⁸

¹⁷This represents roughly 36% of all judgments through 2014 and 40% of all compliance orders.

¹⁸While partial compliance with a particular order is also possible, this is a relatively rare outcome. As of December 2015, only 40 of the 540 compliance orders were in a state of partial compliance. This represents 7% of all orders, or 9% of all monitored compliance orders. Moreover, since the Court continues monitoring orders until full compliance is achieved, the relevant event is full compliance, not partial.

There are two potential sources of error for this method of measuring compliance. First, as previously stated, not all orders have monitoring reports associated with them. Qualitative interviews with attorneys who have argued before the Court have revealed that no one is quite sure why some cases are monitored more often than others. However, I have no reason to believe that excluding the unmonitored orders would systematically bias the results. The main difference between monitored and unmonitored orders is the judgment year; the Court tends to give states more time to implement rulings before the first monitoring report. All of the unmonitored orders came in judgments from 2012, 2013, and 2014. Only one case in that same period had been monitored by the end of 2015. A complete balance check is available in the Appendix.¹⁹

Crucially, there is no significant difference in monitoring based on election year. If the Court were more likely to monitor cases closer to elections, then any observed relationship might be due to the leader responding to the Court's impending monitoring report, rather than the public's preferences close to an election. To check for this source of bias, I ran a simple logistic regression of a binary variable indicating whether a monitoring report was issued in that year on a second binary variable indicating whether it was an election year. There is no relationship: the coefficient on election year is positive but insignificant ($p=0.68$).²⁰ I also checked whether reports were more likely closer to an election; the coefficient was negative, but also insignificant ($p=0.50$). Thus, timing of monitoring reports is not related to timing of elections, so any observed compliance closer to elections is not due to the Court simply being more likely to monitor cases closer to elections.

Second, some might be concerned that the orders themselves are endogenous to the probability of compliance because the Court might take into account what orders states are likely to or have the capacity to fulfill. However, there is no evidence that the Court takes into account either of these factors when issuing orders. While lawyers on both sides can

¹⁹See Table A1.

²⁰The p-values for logistic regression are based on corrected standard errors, where errors are clustered by case.

recommend particular remedies, the Court does not need to follow either side’s recommendations and can (and does) recommend remedies that were not requested by either party. Moreover, the Court does not order remedies based on the probability of compliance. My interviews revealed that, if anything, attorneys are skeptical about the burden the Court places on states with its compliance orders, and they themselves are not optimistic that the state will be able to fulfill all orders, particularly those involving crimes that took place decades ago. In fact, the particular orders that are associated with the case have much more to do with the case characteristics — namely, violations alleged and proven — than they do the state involved.

3.3. *Measuring Support for Compliance and Election Proximity*

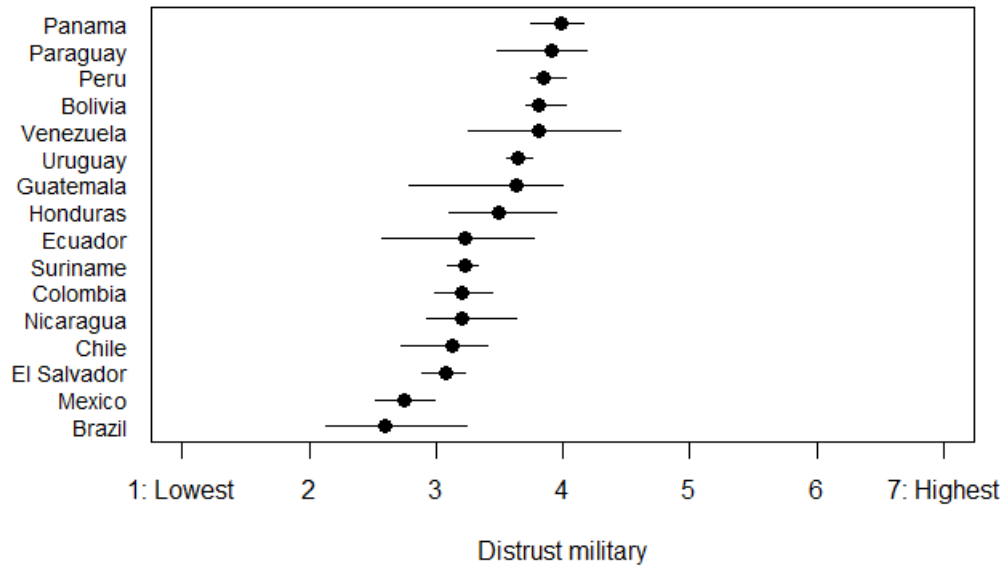
I measure support for compliance based on respondents’ level of distrust of the military, under the assumption that support for compliance is higher when the military is less trusted. Although this is a proxy for support for compliance, it should at least be correlated in the correct direction with public distrust of the military. I take this measure from Americas-Barometer surveys. With the exception of Colombia, these surveys are conducted every two years. Missing values for survey-less years were imputed using Amelia (Honaker, King and Blackwell, 2011). Distrust is measured on a seven-point scale where (7) indicates the respondent strongly distrusts the government body and (1) indicates the respondent strongly trusts the government body.²¹ To illustrate the variation between states and over time, I plot the average level of distrust for each state and the distribution of values over the entire period in Figure 3.

To measure election proximity, I create a variable to measure the proximity to the next executive election.²² Presidential elections occur every four, five, or six years, depending on the state. Figure 4 shows the distribution of the proximity to election variable. Proximity is

²¹This is survey question B12.

²²As most states in Latin America are presidential democracies, election timing is fixed and exogenous. Barbados and Suriname, as parliamentary systems, are excluded from this analysis, although this only eliminates three cases (all from Suriname; Barbados does not have any cases that implicate the military).

Figure 3: Mean and distribution of distrust measures from AmericasBarometer, 2004–2014



coded so that 0 indicates an election year; -1 indicates that the election is next year; and -2 indicates the election is in two years. The distribution is roughly uniform from -3 to 0 , with only a few states having a five or six year election cycle. A table of election years covered by the dataset (in which an election occurred while an order was pending compliance) is available in the appendix.²³

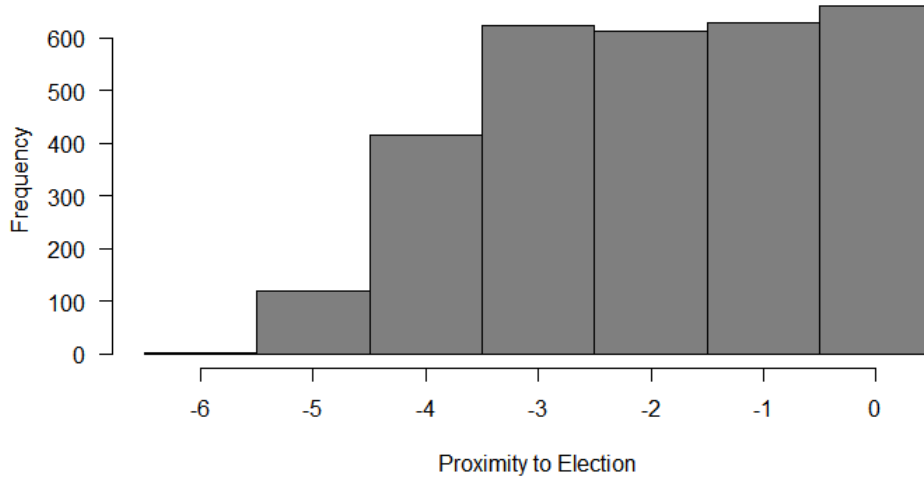
3.4. Models and Controls

Because there is one observation per year for each order, I conduct a discrete time event history analysis that models the time until full compliance with an order.²⁴ I construct a binary response model with dummy variables for each year post-judgment to capture duration dependence. I use the complementary log-log function because of the zero-inflated data, making compliance a relatively rare event (Baetschmann and Winkelmann, 2013; Hardin and

²³Some might wonder whether these elections are truly competitive. By the measures in Hyde and Marinov (2012), 77% of the elections covered in the dataset are ones in which the incumbent was uncertain of the outcome. However, only 12% of compliance events occurred in the shadow of the non-competitive elections. Thus, I am reasonably confident that this measure captures potential ouster in a competitive elections. Even if we assume that proximity to non-competitive elections had no effect on the leader's probability of compliance, that would still leave 88% of the compliance outcomes to explain.

²⁴I use full compliance as the event because the Court continues monitoring orders that are in partial compliance.

Figure 4: Distribution of the proximity to election variable



Note: 0 indicates that the election is this year; -1 indicates that the election is next year; and so forth.

Hilbe, 2014). Coefficients can be interpreted as the probability of compliance in the current period, conditional on survival (non-compliance) in all previous periods and covariates. Observations are right-censored because many states are still working on compliance with the orders. The dependent variable is time to compliance, measured in years post-judgment. I compare the date of compliance, as measured by the monitoring reports, to the date that the Court issued its judgment and ordered remedies. To avoid overinflating the data with zeroes by coding unmonitored orders as ones with which the state has not complied, I only include orders in the model that have been monitored at least once. This leaves me with 450 unique compliance orders.

I include several controls for possible alternative explanations. First, I include controls that are meant to proxy whether compliance is about poor states being bullied by richer and more powerful states. As one lawyer arguing before the Court has told me, Ecuador is his [favorite state] because “they’re poor and they sign everything.”²⁵ States that are vulnerable to outside pressure because they are reliant on foreign aid may be more likely to comply. To capture this vulnerability, I use two measures: *DAC aid* (the logged amount of aid in constant

²⁵Personal interview with author, October 27, 2015. “Favorite state” is a euphemism.

USD that a country receives from all Development Assistance Countries donors each year) and *Multilateral debt* (the percentage of total external debt owed to multilateral lenders each year). Second, I include a set of controls to account for state capacity to comply: *GDP/capita* and *Unemployment* (Duckett and Hussain, 2008). Third, I account for the possibility of norms influencing the state’s compliance decision (Simmons, 2000) by including *Rule of law* and *Voices and accountability* from the Worldwide Governance Indicators dataset. Fourth, I include three controls for state characteristics that might affect compliance: *Left government* (coded 1 if the government is classified as Left by the Database of Political Institutions), which is meant to capture the government’s underlying inclination toward human rights; *Years since transition* (measured as the number of years since transition to democracy, as determined by Geddes, Wright and Frantz (2014)); and *Polity* score.

Finally, in all models, I include indicator variables for the most commonly ordered remedies, as well as fixed effects for state and issue area. Given that states have different underlying probabilities of compliance, it is important to account for this source of variation in the statistical models. Additionally, there are different probabilities of compliance associated with ordered remedies, based on the degree of difficulty. The most commonly ordered remedies in the 64 cases that implicate the military are: monetary reparations (n=64), investigate, prosecute, and punish (n=52), publish the judgment (n=50), provide medical care (n=35), publicly accept responsibility (n=34), pay for the victim’s burial and/or find and locate remains (n=27), reform laws (n=25), and provide training in human rights (n=22). Issue area is a description of the crime that led to a human rights violation; for example, “forced disappearance”, “prison conditions”, or “murder of civilians”. This is meant to capture any differences that might exist based on the type of case.²⁶

Table 2: Distrust of military moderates the effect of proximity to election on the probability of compliance

<i>Dependent variable: probability of compliance</i>						
	(1)	(2)	(3)	(4)	(5)	(6)
Distrust of military	1.34*** (0.39)	1.34*** (0.40)	1.17*** (0.41)	1.61*** (0.41)	1.20*** (0.39)	1.34*** (0.44)
Proximity to election	-0.02 (0.08)	-0.00 (0.08)	-0.02 (0.08)	-0.02 (0.08)	0.01 (0.09)	0.04 (0.09)
Distrust of military × Proximity to election	0.39*** (0.13)	0.38*** (0.13)	0.38*** (0.13)	0.39*** (0.13)	0.36*** (0.13)	0.39*** (0.12)
Multilateral debt		0.01 (0.02)				-0.02 (0.02)
DAC aid (log)		0.34 (0.32)				0.26 (0.26)
GDP/capita (log)			-2.43 (1.50)			-4.94* (2.97)
Unemployment			0.00 (0.12)			-0.08 (0.12)
Rule of law				2.10** (1.00)		1.87 (1.31)
Voices and accountability				1.22 (1.14)		1.70 (1.46)
Left government					-0.59* (0.33)	-0.32 (0.34)
Years since transition					-0.09** (0.04)	0.00 (0.08)
Polity score					0.22* (0.13)	0.10 (0.16)
Publicly accept responsibility	1.81*** (0.33)	1.83*** (0.33)	1.88*** (0.33)	1.73*** (0.33)	1.82*** (0.34)	1.81*** (0.33)
Publish the judgment	1.48*** (0.29)	1.51*** (0.28)	1.53*** (0.28)	1.43*** (0.29)	1.46*** (0.29)	1.47*** (0.28)
Monetary reparation	1.50*** (0.32)	1.53*** (0.32)	1.49*** (0.32)	1.48*** (0.32)	1.46*** (0.33)	1.48*** (0.32)
Provide training in human rights	-0.05 (0.55)	-0.07 (0.58)	0.00 (0.55)	0.02 (0.55)	0.07 (0.54)	0.11 (0.57)
Reform legislation	-0.56 (0.45)	-0.55 (0.44)	-0.56 (0.49)	-0.64 (0.45)	-0.63 (0.50)	-0.63 (0.49)
Provide medical care	-0.97* (0.50)	-0.93* (0.50)	-0.90* (0.43)	-1.00** (0.51)	-0.94* (0.43)	-0.87* (0.42)
Recover victims' remains	-1.70** (0.85)	-1.76** (0.87)	-1.79** (0.88)	-1.70** (0.84)	-1.76** (0.87)	-1.88** (0.89)
Investigate; prosecute; punish	-3.23*** (1.03)	-3.25*** (1.03)	-3.27*** (1.05)	-3.25*** (1.03)	-3.27*** (1.04)	-3.34*** (1.05)
Num. obs.	3149	3149	3149	3149	3149	3149
Num. events	201	201	201	201	201	201
State FE	Yes	Yes	Yes	Yes	Yes	Yes
Issue FE	Yes	Yes	Yes	Yes	Yes	Yes
Clustered SE	Case	Case	Case	Case	Case	Case

*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$

Note: Result also holds when standardizing the measure of distrust, relative to distrust in other institutions like the executive, judiciary, and police. Full table available in the appendix (Table A3).

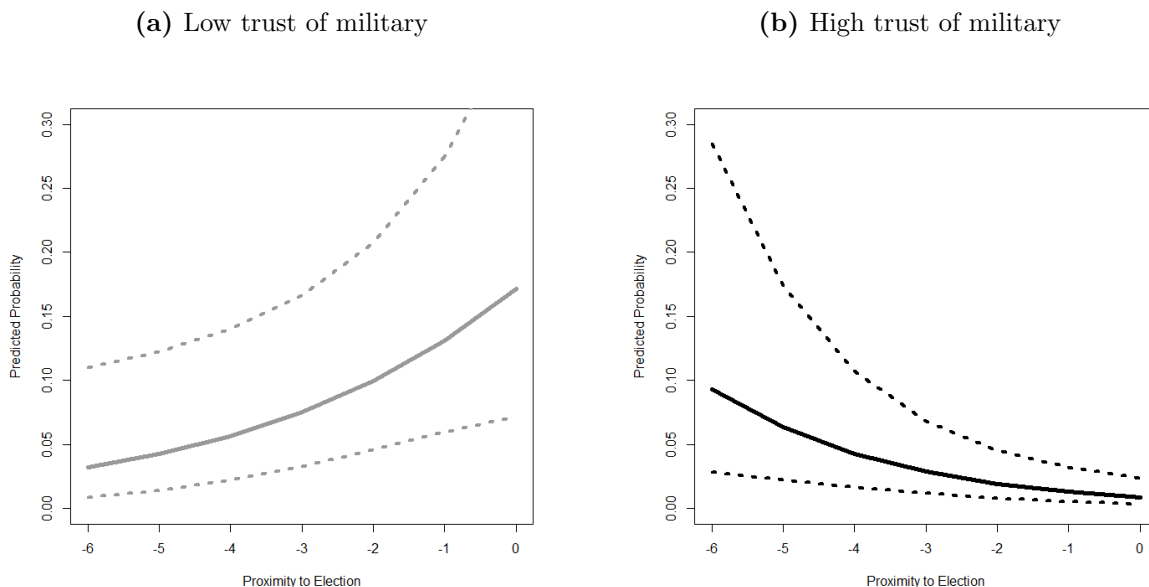
3.5. Results

The results in Table 2 illustrate how distrust of the military moderates the effect of proximity to election on compliance. For ease of interpretation, distrust of the military is mean-

²⁶One can also think of this as a more precise way of getting at whether a crime took place during the

centered. The coefficients for distrust of the military and the interaction term are positive and significant in every model, as predicted.²⁷ Because coefficients in an interaction model can be difficult to interpret on their own, Figure 5 illustrates the interaction effect using predicted probabilities generated from Model (1). As proximity to the election increases, the leader grows more responsive to the public’s attitudes toward the military; whether this increases the probability of compliance or non-compliance depends on what the public’s attitudes are. When trust in the military is low (grey line, left panel), the probability of compliance increases the closer the leader gets to the election. If trust in the military is high (black line, right panel), however, the probability of compliance decreases the closer the leader gets to the election.²⁸

Figure 5: As proximity to the election increases, the leader becomes more responsive to the public’s preferences



Note: Distrust of military proxies support for compliance. I posit that citizens are more supportive of compliance in cases that implicate the military when trust in the military is low. Predicted probability is the probability of compliance in the fourth year post-judgment, for a case involving murder of civilians (issue fixed effect), for the average state and average compliance order.

dictatorship. Certain offenses – like forced disappearance – are associated with dictatorial regimes, whereas others, like torture in detention, might not be.

²⁷All combinations of control variables are available in Table A4 in the Appendix.

²⁸Low trust is measured as one standard deviation above the mean level of distrust. High trust is measured at one standard deviation below the mean level of distrust.

None of the variables for alternative explanations are consistently statistically significant. There is no evidence to support economic factors influencing leaders' compliance decisions, nor does it appear to be about state capacity. Although the coefficient on *GDP/capita* is statistically significant in Model (6), it is negative. A positive coefficient would have implied that states with greater capacity are more likely to comply. A negative coefficient perhaps suggests that GDP per capita may here be capturing some element of international pressure that states feel to comply. Poorer states may be susceptible to carrots dangled by richer and powerful states, which might lend some support to a story about coercion as an explanation for compliance. However, including this control variable barely changes the size of the interaction effect. In Model (4), the coefficient on *Rule of law* is statistically significant, which is in line with previous literature (Simmons, 2000), but the coefficient loses significance when other controls are included. The coefficients for state characteristics are all significant in Model (5), but their effects are eliminated when other controls are included.

To illustrate the substantive importance of these results, I used the model to generate predicted probabilities of compliance under various conditions. First, consider the predicted probabilities of compliance for various ordered remedies in Table 3. As anticipated, there is a great deal of variation in the underlying probability of compliance that varies by compliance order. The probability that the average state complies with the order to publicly accept responsibility in the fourth year after the judgment is 19%, while the probability of complying with the order to provide training in human rights is 4%, and the probability of complying with the order to recover victims' remains is only 1%. These results correspond to what previous scholarship has found about prolonged duration of non-compliance in the case of more difficult orders.

Next, to illustrate the interaction between distrust of the military and proximity to election, I generated predicted probabilities of compliance in three different judgments, one each from Brazil, El Salvador, and Guatemala (Table 4).²⁹ Brazilians have a high level of trust, on

²⁹These cases are *Gomes Lund v. Brazil*, *Serrano Cruz Sisters v. El Salvador*, and *Bamaca Velasquez v. Guatemala*.

Table 3: Predicted probabilities of compliance for the eight most commonly ordered remedies in cases that implicate the military.

Order	Predicted probability	95% C.I.
Publicly accept responsibility	19%	[11%, 30%]
Publish judgment	15%	[9%, 22%]
Monetary reparation	15%	[10%, 21%]
Provide training in human rights	4%	[1%, 9%]
Reform legislation	2%	[1%, 5%]
Provide medical care	1%	[1%, 4%]
Recover victims' remains	1%	[0%, 3%]
Investigate; prosecute; punish	0%	[0%, 1%]

Note: Predictions were generated using fixed effects from Model (1) in Table 2, for the average state in the fourth year after the judgment, all else equal, for each of the following orders. Here I use the issue of forced disappearance, because all of the following remedies have been ordered at least once in a case of forced disappearance.

average, in their military; Salvadorans have a medium level of trust; and Guatemalans have a low level of trust. Holding constant the level of distrust of the military, I used the model to generate predicted probabilities of compliance for each year while increasing the proximity to election. For Brazil, where trust in the military is relatively high, the probability of compliance decreases from 19% three years before the election to 9% in an election year. In Guatemala, where trust in the military is lower, the probability of compliance increases from 32% three years prior to the election to 39% in an election year.³⁰ Finally, in El Salvador, where citizens have a medium level of distrust in the military, the probability of compliance declines from 37% three years prior to the election to 29% in an election year.

4. Conclusion

The extant literature on enforcement with international human rights law assumes that inducements or punishments change a state's cost-benefit calculation such that rational actors would choose compliance. I have shown, however, that the same inducements and punish-

³⁰Note that these probabilities and the rate at which they change are affected by the level of distrust of the military that I set. To get a larger shift in predicted probability, one could set the level of distrust at its minimum or maximum for each state.

Table 4: Predicted probabilities of compliance for three different states, at hypothetical proximity to the next election

Proximity to election	Brazil	El Salvador	Guatemala
	High trust	Med trust	Low trust
3 years	19%	37%	32%
2 years	15%	34%	35%
1 year	11%	32%	37%
Election year	9%	29%	39%

Note: Predictions were generated using Model (1) in Table 2 setting issue to forced disappearance and order to publicly accept responsibility. Distrust of military is set at the 75th percentile for each state. The probabilities can be interpreted as the probability of compliance in the fourth year after judgment for each of these states, for a given proximity to the election.

ments can lead to non-compliance. This occurs when voters have a favorable opinion of the actor implicated by compliance and the leader must follow the voters’ – as opposed to her own – preferences in order to remain in power. Thus, the leader’s decision is based on her need to match the public’s preferences, as derived from their attitudes toward the implicated actor, and what these attitudes are. I show that the leader is more likely to match the public’s preferences closer to an election; however, whether this results in compliance depends on the public’s attitudes. When the public has a negative attitude toward the implicated actor, the probability of compliance increases closer to an election, but when the public has a positive attitude toward the actor, the probability of compliance decreases.

In the case of the Inter-American Court, I have argued that voters may not support compliance when the judgment implicates the military and their trust in the military is high. The military has the highest level of trust, on average, among institutions in Latin America, second only to the Catholic Church, and is often used for domestic security purposes. Even so, it is implicated in over one-third of all Inter-American Court judgments because of both ongoing abuses and abuses in the past dictatorial regimes. The ambivalent attitudes of citizens toward the military help explain variation in compliance in cases implicating the military over time and across states.

Although I have focused on the military, the theory may apply to other institutions

about which citizens have strong and varied attitudes. In Latin America, there are no other institutions that meet these criteria. In other regions, a different actor might hold this privileged position. In Poland, for example, “the public has expressed a nostalgia for the communist past” through public opinion surveys and in voting for former communist party members in presidential elections (Curry, 2007, pg. 69); one could imagine the Polish government facing domestic opposition to compliance if the European Court of Human Rights asked Poland to confront abuses committed by the Communist regime. The uniqueness of the military as implicated actor in Inter-American Court judgments has less to do with the military as such, and more to do with the role the military plays as the present-day manifestation of a previous regime.

While commitment to human rights norms may help consolidate liberal democratic reforms (Moravcsik, 2000; Zschirnt and Menaldo, 2014; Hafner-Burton, Mansfield and Pevehouse, 2015), it is less clear what to make of the relationship between democracy and remedying human rights violations. The transitional justice literature itself is ambivalent on whether accountability for past violations, amnesty, both, or neither are necessary for democratic consolidation (Olsen, Payne and Reiter, 2010; Nalepa and Powell, 2016). Nevertheless, human rights institutions in general, and the Inter-American Court in particular, have come down on the side of accountability (Contesse, 2019). In doing so, the Court has taken a position on an issue that has not been definitively settled by scholars, activists, or – most importantly – victims of human rights abuses.

But the Court’s position in favor of accountability may not be sustainable, given the constraints placed by a voting public on its democratically elected leaders. Even if it was known that accountability for past human rights abuses was the best way to consolidate democracy, international courts would still face the additional challenge of contending with voters who do not believe accountability is the necessary or even desirable way to move forward. Mature democracies might prioritize the rule of law and compliance over the public’s preferences (Helfer and Voeten, 2014), particularly when they can shift blame to an interna-

tional court (Allee and Huth, 2006). However, in less mature democracies, like those of the Inter-American Court, leaders may simply opt for non-compliance instead of justifying an unpopular decision as one mandated from an outside institution. When the public's preferences are aligned with the international court's, there is no issue. But when the preferences are not aligned – that is, when a court is on the side of compliance, but the public is not – it is not necessarily clear that a democratically-elected leader should choose to follow the international court's recommendation over the demands of her own citizens.

More worryingly, continuing to ask states to face judgments against the military that force them to confront the past may increase the likelihood of backlash and exit. Non-compliance may be one form of resistance to international courts (Madsen, Cebulak and Wiebusch, 2018), but it is not the only one. Resistance to compliance in these cases has not yet reached the level of backlash – no state has exited the Inter-American Court over the rulings against the military (Sandholtz, Bei and Caldwell, 2018; Soley and Steininger, 2018).³¹ However, if the costs of membership in the institution continue to rise because of the Court's insistence on remedies that even the public does not support, withdrawal may become a more attractive option.

While international human rights courts can help facilitate leaders' domestic responsiveness to citizens by consolidating information and legitimizing demands for reform, this only works when the aims of the human rights court and public are the same. Moving forward, we have to allow for the possibility that the public's preferences can shift. In other words, voters may no longer demand human rights, or may not demand compliance with rulings in every instance. This incongruity of preferences presents international courts with yet another challenge to navigate when it comes to enforcement. This is not to say that courts should give in to the preferences of an illiberally inclined democratic public, but rather to acknowledge another factor that may delay – or even outright deny – the provision of justice to victims of human rights abuses.

³¹However, it is well-documented that overlegalization has prompted withdrawal at other international courts (Helfer, 2002; Alter, Gathii and Helfer, 2016).

References

- Achugar, Mariana. 2007. "Between Remembering and Forgetting: Uruguayan Military Discourse about Human Rights (1976—2004)." *Discourse & Society* 18(5):521–547.
- Allee, Todd L. and Paul K. Huth. 2006. "Legitimizing Dispute Settlement: International Legal Rulings as Domestic Political Cover." *American Political Science Review* 100(2):219–234.
- Alter, Karen J. 2014. *The New Terrain of International Law: Courts, Politics, Rights*. Princeton University Press.
- Alter, Karen J., James T. Gathii and Laurence R Helfer. 2016. "Backlash against International Courts in West, East and Southern Africa: Causes and Consequences." *European Journal of International Law* 27(2):293–328.
- Baetschmann, Gregori and Rainer Winkelmann. 2013. "Modeling Zero-inflated Count Data when Exposure Varies: With an Application to Tumor Counts." *Biometrical Journal* 55(5):679–686.
- Bailliet, Cecilia. 2013. "Measuring Compliance with the Inter-American Court of Human Rights: The Ongoing Challenge of Judicial Independence in Latin America." *Nordic Journal of Human Rights* 31(4):477–495.
- Basch, Fernando, Leonardo Filippini, Ana Laya, Mariano Nino, Felicitas Rossi and Barbara Schreiber. 2011. "The Effectiveness of the Inter-American System of Human Rights Protection: A Quantitative Approach to its Functioning and Compliance with Its Decisions." *Sur* 7(12):9–35.
- Beristain, Carlos Martín. 2009. *Dialogues sobre la reparacion*. Instituto Interamericano de Derechos Humanos.
- Bloomfield, Alan. 2016. "Norm Antipreneurs and Theorising Resistance to Normative Change." *Review of International Studies* 42(2):310–333.
- Búzás, Zoltán I. 2017. "Evading International Law: How Agents Comply with the Letter of the Law but Violate its Purpose." *European Journal of International Relations* 23(4):857–883.
- Búzás, Zoltán I. 2018. "Is the Good News About Law Compliance Good News About Norm Compliance? The Case of Racial Equality." *International Organization* 72(2):351–385.
- Chaudoin, Stephen. 2014. "Promises or Policies? An Experimental Analysis of International Agreements and Audience Reactions." *International Organization* 68(1):235–256.
- Checkel, Jeffrey. 2001. "Why Comply? Social Learning and European Identity Change." *International Organization* 55(3):553–588.

- Chilton, Adam. 2014. "The Influence of International Human Rights Agreements on Public Opinion: An Experimental Approach." *Chicago Journal of International Law* 15(1):110–137.
- Chilton, Adam S. and Mila Versteeg. 2016. "International Law, Constitutional law, and Public Support for Torture." *Research & Politics* 3(1):1–9.
- Cole, Wade M. 2012. "Institutionalizing Shame: The Effect of Human Rights Committee Rulings on Abuse, 1981–2007." *Social Science Research* 41(3):539–554.
- Conant, Lisa. 2014. "Compelling Criteria? Human Rights in the European Union." *Journal of European Public Policy* 21(5):713–729.
- Conrad, Courtenay R., Daniel W. Hill Jr and Will H Moore. 2018. "Torture and the Limits of Democratic Institutions." *Journal of Peace Research* 55(1):3–17.
- Conrad, Courtenay R. and Emily Hencken Ritter. 2013. "Treaties, Tenure, and Torture: The Conflicting Domestic Effects of International Law." *Journal of Politics* 75(2):397–409.
- Contesse, Jorge. 2019. "Resisting the Inter-American Human Rights System." *Yale Journal of International Law* 44:179–237.
- Corrales, Javier and Michael Penfold. 2014. "Manipulating Term Limits in Latin America." *Journal of Democracy* 25(4):157–168.
- Curry, Jane L. 2007. "When an Authoritarian State Victimized the Nation: Transitional Justice, Collective Memory, and Political Divides." *International Journal of Sociology* 37(1):58–73.
- Dai, Xinyuan. 2005. "Why Comply? The Domestic Constituency Mechanism." *International Organization* 59(2):363–398.
- Dai, Xinyuan. 2006. "The Conditional Nature of Democratic Compliance." *Journal of Conflict Resolution* 50(5):690–713.
- Dai, Xinyuan. 2014. "The Conditional Effects of International Human Rights Institutions." *Human Rights Quarterly* 36:569–589.
- de Brito, Alexandra Barahona. 2001. Truth, Justice, Memory, and Democratization in the Southern Cone. In *The Politics of Memory and Democratization*, ed. Alexandra Barahona de Brito, Carmen González Enríquez and Paloma Aguilar. Oxford University Press.
- D'Orsi, Lorenzo. 2015. "Trauma and the Politics of Memory of the Uruguayan Dictatorship." *Latin American Perspectives* 42(3):162–179.
- Downs, George W. and David M. Rocke. 1995. *Optimal Imperfection?: Domestic Uncertainty and Institutions in International Relations*. Princeton University Press.
- Drinan, Robert. 2002. *The Mobilization of Shame: A World View of Human Rights*. Yale University Press.

- Duckett, Jane and Athar Hussain. 2008. "Tackling Unemployment in China: State Capacity and Governance Issues." *The Pacific Review* 21(2):211–229.
- Follesdal, Andreas. 2016. "Building Democracy at the Bar: The European Court of Human Rights as an Agent of Transitional Cosmopolitanism." *Transnational Legal Theory* 7(1):95–113.
- Geddes, Barbara, Joseph Wright and Erica Frantz. 2014. "Autocratic Breakdown and Regime Transitions: A New Data Set." *Perspectives on Politics* 12(2):313–331.
- Goodman, Ryan and Derek Jinks. 2004. "How to Influence States: Socialization and International Human Rights Law." *Duke Law Journal* 54(3):621–704.
- Grieco, Joseph M., Christopher F. Gelpi and T. Camber Warren. 2009. "When Preferences and Commitments Collide: The Effect of Relative Partisan Shifts on International Treaty Compliance." *International Organization* 63(2):341–355.
- Hafner-Burton, Emilie. 2005. "Trading Human Rights: How Preferential Trade Agreements Influence Government Repression." *International Organization* 59(3):593–629.
- Hafner-Burton, Emilie. 2008. "Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem." *International Organization* 62(4):689–716.
- Hafner-Burton, Emilie, Edward Mansfield and Jon C.W. Pevehouse. 2015. "Human Rights Institutions, Sovereignty Costs, and Democratization." *British Journal of Political Science* 45(1):1–27.
- Hardin, James W. and Joseph M. Hilbe. 2014. "Estimation and Testing of Binomial and Beta-binomial Regression Models with and without Zero Inflation." *The Stata Journal* 14(2):292–303.
- Hawkins, Darron and Wade Jacoby. 2010. "Partial Compliance: A Comparison of the European and Inter-American Courts of Human Rights." *Journal of International Law and International Relations* 6(1):35–85.
- Helfer, Laurence R. 2002. "Overlegalizing Human Rights: International Relations Theory and the Commonwealth Caribbean Backlash against Human Rights Regimes." *Columbia Law Review* pp. 1832–1911.
- Helfer, Laurence R. and Erik Voeten. 2014. "International Courts as Agents of Legal Change: Evidence from LGBT Rights in Europe." *International Organization* 68(1):77–110.
- Hillebrecht, Courtney. 2012. "The Domestic Mechanisms of Compliance with International Human Rights Law: Case Studies from the Inter-American Human Rights System." *Human Rights Quarterly* 34:959–985.
- Honaker, James, Gary King and Matthew Blackwell. 2011. "Amelia II: A Program for Missing Data." *Journal of Statistical Software* 45(7):1–47.

- Hong, Mi Hwa and Gary Uzonyi. 2018. "Deeper Commitment to Human Rights Treaties: Signaling and Investment Risk Perception." *International Interactions* 44(6):1040–1064.
- Huneus, Alexandra. 2011. "Courts Resisting Courts: Lessons from the Inter-American Court's Struggle to Enforce Human Rights." *Cornell International Law Journal* 44:493–534.
- Huneus, Alexandra. 2019. "When Illiberals Embrace Human Rights." *AJIL Unbound* 113:380–384.
- Hyde, Susan D. and Nikolay Marinov. 2012. "Which Elections Can Be Lost?" *Political Analysis* 20(2):191–210.
- Isaacs, Anita. 2010. "At War with the Past? The Politics of Truth Seeking in Guatemala." *International Journal of Transitional Justice* 4(2):251–274.
- Kahler, Miles. 2000. "Conclusion: The Causes and Consequences of Legalization." *International Organization* 54(3):661–683.
- Keck, Margaret and Kathryn Sikkink. 1998. *Activists Beyond Borders: Advocacy Networks in International Politics*. Cornell University Press.
- Keck, Margaret and Kathryn Sikkink. 1999. "Transnational Advocacy Networks in International and Regional Politics." *International Social Science Journal* 159, UNESCO:89–101.
- Kreps, Sarah E. and Geoffrey P.R. Wallace. 2016. "International Law, Military Effectiveness, and Public Support for Drone Strikes." *Journal of Peace Research* 53(6):830–844.
- Lebovic, James and Erik Voeten. 2009. "The Cost of Shame: International Organizations and Foreign Aid in the Punishing of Human Rights Violators." *Journal of Peace Research* 46(1):79–97.
- Lupu, Yonatan and Geoffrey P.R. Wallace. 2019. "Violence, Nonviolence, and the Effects of International Human Rights Law." *American Journal of Political Science* 63(2):411–426.
- Madsen, Mikael Rask, Pola Cebulak and Micha Wiebusch. 2018. "Backlash against International Courts: Explaining the Forms and Patterns of Resistance to International Courts." *International Journal of Law in Context* 14(2):197–220.
- Mills, Kurt and Alan Bloomfield. 2018. "African Resistance to the International Criminal Court: Halting the Advance of the Anti-Impunity Norm." *Review of International Studies* 44(1):101–127.
- Moravcsik, Andrew. 2000. "The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe." *International Organization* 54(2):217–252.
- Nalepa, Monika and Emilia Justyna Powell. 2016. "The Role of Domestic Opposition and International Justice Regimes in Peaceful Transitions of Power." *Journal of Conflict Resolution* 60(7):1191–1218.

- Naurin, Daniel and Øyvind Stiansen. 2019. “The Dilemma of Dissent: Split Judicial Decisions and Compliance With Judgments From the International Human Rights Judiciary.” *Comparative Political Studies* p. 0010414019879944.
- Olsen, Tricia D., Leigh A. Payne and Andrew G. Reiter. 2010. “The Justice Balance: When Transitional Justice Improves Human Rights and Democracy.” *Human Rights Quarterly* 32:980–1007.
- Pion-Berlin, David and Miguel Carreras. 2017. “Armed Forces, Police and Crime-fighting in Latin America.” *Journal of Politics in Latin America* 9(3):3–26.
- Posner, Eric A. and John C Yoo. 2005. “Judicial Independence in international tribunals.” *California Law Review* 93:1–74.
- Putnam, Tonya L. and Jacob N. Shapiro. 2017. “International Law and Voter Preferences: the Case of Foreign Human Rights Violations.” *Human Rights Review* 18(3):243–262.
- Risse, Thomas, Stephen Ropp and Kathryn Sikkink, eds. 1999. *The Power of Human Rights: International Norms and Domestic Change*. Cambridge University Press.
- Sandholtz, Wayne, Yining Bei and Kayla Caldwell. 2018. Backlash and International Human Rights Courts. In *Contracting Human Rights: Crisis, Accountability, and Opportunity*, ed. Alison Brysk and Michael Stohl. Edward Elgar Publishing pp. 159–178.
- Simmons, Beth A. 2000. “International Law and State Behavior: Commitment and Compliance in International Monetary Affairs.” *American Political Science Review* 94(4):819–835.
- Simmons, Beth A. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge University Press.
- Smith-Cannoy, Heather. 2012. *Insincere Commitments: Human Rights Treaties, Abusive States, and Citizen Activism*. Georgetown University Press.
- Soley, Ximena and Silvia Steininger. 2018. “Parting Ways or Lashing Back? Withdrawals, Backlash and the Inter-American Court of Human Rights.” *International Journal of Law in Context* 14(2):237–257.
- Tomz, Michael. 2008. “Reputation and the Effect of International Law on Preferences and Beliefs.” Working Paper.
- Voeten, Erik. 2018. “Populism and Backlashes against International Courts.” *Perspectives on Politics* pp. 1–16.
- Wallace, Geoffrey P.R. 2013. “International Law and Public Attitudes toward Torture: An Experimental Study.” *International Organization* 67(1):105–140.
- Zschirnt, Simon and Mark Menaldo. 2014. “International Insurance? Democratic Consolidation and Support for International Human Rights Regimes.” *International Journal of Transitional Justice* 8(3):452–475.

Appendix

Table A1: Logistic regression of covariates on monitoring status

Variable	Coefficient	Clustered SE	p-value
<u>Time-invariant covariates</u>			
Judgment year	-0.05	0.01	0.00
Provide medical care	-0.10	0.03	0.00
Publish judgment	-0.04	0.02	0.07
Provide training in human rights	-0.06	0.06	0.28
Investigate, prosecute & punish	0.01	0.01	0.36
Recover victims' remains	0.02	0.05	0.73
Publicly accept responsibility	-0.01	0.04	0.78
Reform legislation	0.01	0.05	0.82
Monetary reparation	0.00	0.02	0.96
<u>Time-varying covariates</u>			
DAC aid (log)	0.01	0.00	0.00
Years post-judgment	0.01	0.00	0.20
Unemployment	-0.01	0.01	0.33
Left government	0.01	0.04	0.82
GDP per capita (log)	0.01	0.04	0.89
Multilateral debt	0.00	0.00	0.98

Note: Standard errors are clustered by case.

Table A2: Presidential Election Years by State

State*	Cycle	Observed Proximate Election Year(s) [†]
Argentina	4 years	2015
Bolivia	4 years	2005, 2009, 2014, 2019
Brazil	4 years	2010, 2014, 2018
Chile	4 years	2009, 2013, 2017
Colombia	4 years	1998, 2002, 2006, 2010, 2014, 2018
Dominican Republic	4 years	2016
Ecuador	4 years	2009, 2013, 2017
El Salvador	5 years	2009, 2014, 2019
Guatemala	4 years	2003, 2007, 2011, 2015
Honduras	4 years	1989, 1993, 1997, 2005, 2009, 2013, 2017
Mexico	6 years	2012, 2018
Nicaragua	5 years	2001
Panama	5 years	2009, 2014, 2019
Paraguay	5 years	2008, 2013, 2018
Peru	5 years	2001, 2006, 2011, 2016
Uruguay	5 years	2014, 2019
Venezuela	6 years	2000, 2006, 2012, 2018

* Barbados and Suriname have also had cases brought against the military, but are parliamentary democracies. As such, neither is included in these analyses.

† Only election years that appear in the dataset are included. If the state did not have a compliance order pending in a particular election cycle, that election year is excluded. For example, Argentina held presidential elections in 2007 and 2011, in addition to 2015. However, the only case in the dataset, *Arguelles v. Argentina*, was judged in 2014, so only 2015 appears as an observed election year.

Table A3: Robustness: results for proximity to election hold when standardizing distrust of military

Dependent variable: probability of compliance

	(A1)	(A2)	(A3)	(A4)	(A5)	(A6)
Distrust of military	0.66*** (0.19)	0.66*** (0.20)	0.58*** (0.20)	0.80*** (0.20)	0.60*** (0.19)	0.67*** (0.22)
Proximity to election	0.19* (0.11)	0.20* (0.11)	0.18* (0.11)	0.19* (0.11)	0.20* (0.11)	0.25** (0.11)
Distrust of military × Proximity to election	0.19*** (0.07)	0.19*** (0.07)	0.19*** (0.06)	0.19*** (0.06)	0.18*** (0.06)	0.19*** (0.06)
Multilateral debt		0.01 (0.02)				-0.02 (0.02)
DAC aid (log)		0.34 (0.32)				0.26 (0.26)
GDP/capita (log)			-2.43 (1.50)			-4.94* (2.97)
Unemployment			0.00 (0.12)			-0.08 (0.12)
Rule of law				2.10** (1.00)		1.87 (1.31)
Voices and accountability				1.22 (1.14)		1.70 (1.46)
Left government					-0.59* (0.33)	-0.32 (0.34)
Years since transition					-0.09** (0.04)	0.00 (0.08)
Polity score					0.22* (0.13)	0.10 (0.16)
Num. obs.	3149	3149	3149	3149	3149	3149
Num. events	201	201	201	201	201	201
State FE	Yes	Yes	Yes	Yes	Yes	Yes
Issue FE	Yes	Yes	Yes	Yes	Yes	Yes
Order indicators	Yes	Yes	Yes	Yes	Yes	Yes
Clustered SE	Case	Case	Case	Case	Case	Case

*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$

Table A4: Results hold for different combinations of control variables

	<i>Dependent variable: probability of compliance</i>									
	(A7)	(A8)	(A9)	(A10)	(A11)	(A12)	(A13)	(A14)	(A15)	(A16)
Distrust of military	1.18*** (0.42)	1.57*** (0.41)	1.20*** (0.40)	1.40*** (0.44)	1.18*** (0.40)	1.37*** (0.42)	1.36*** (0.45)	1.17*** (0.41)	1.34*** (0.43)	1.39*** (0.44)
Proximity to election	-0.00 (0.08)	0.00 (0.08)	0.04 (0.09)	-0.00 (0.08)	0.01 (0.09)	0.00 (0.09)	0.023 (0.08)	0.04 (0.09)	0.03 (0.09)	0.01 (0.09)
Distrust of military × Proximity to election	0.38*** (0.13)	0.38*** (0.13)	0.36*** (0.13)	0.39*** (0.13)	0.37*** (0.13)	0.36*** (0.13)	0.40*** (0.13)	0.37*** (0.13)	0.36*** (0.12)	0.39*** (0.12)
Multilateral debt	-0.00 (0.02)	0.01 (0.02)	-0.01 (0.02)				-0.02 (0.02)	-0.01 (0.02)	-0.01 (0.02)	
DAC aid (log)	0.37 (0.36)	0.27 (0.27)	0.38 (0.37)				0.25 (0.26)	0.26 (0.34)	0.31 (0.33)	
GDP/capita (log)	-2.37 (1.66)			-4.24*** (1.56)	-1.78 (2.49)		-4.56*** (1.65)	-2.15 (2.81)		-4.48* (2.59)
Unemployment	-0.00 (0.12)			-0.03 (0.10)	-0.03 (0.11)		-0.05 (0.11)	-0.05 (0.12)		-0.04 (0.10)
Rule of law		1.85 (1.19)		1.78* (1.06)		1.48 (1.18)	2.03* (1.20)		1.52 (1.24)	1.63 (1.20)
Voices and accountability		1.19 (1.29)		2.51** (1.25)		1.52 (1.36)	2.15 (1.35)		1.08 (1.53)	2.36* (1.31)
Left government			-0.58* (0.32)		-0.56* (0.32)	-0.41 (0.34)		-0.56* (0.32)	0.43 (0.33)	-0.26 (0.33)
Years since transition			-0.10** (0.04)		-0.05 (0.06)	-0.10** (0.04)		-0.05 (0.07)	-0.10** (0.04)	0.01 (0.07)
Polity score			0.23* (0.13)		0.23 (0.15)	0.06 (0.13)		0.25 (0.18)	0.09 (0.15)	0.03 (0.13)
Publicly accept responsibility	1.89*** (0.33)	1.76*** (0.33)	1.85*** (0.34)	1.80*** (0.34)	1.83*** (0.33)	1.78*** (0.34)	1.81*** (0.34)	1.86*** (0.33)	1.81*** (0.34)	1.80*** (0.33)
Publish the judgment	1.54*** (0.28)	1.45*** (0.28)	1.47*** (0.28)	1.48*** (0.28)	1.47*** (0.29)	1.44*** (0.29)	1.49*** (0.28)	1.48*** (0.28)	1.45*** (0.28)	1.47*** (0.28)
Monetary reparation	1.52*** (0.32)	1.50*** (0.31)	1.48*** (0.33)	1.48*** (0.32)	1.47*** (0.32)	1.46*** (0.32)	1.49*** (0.32)	1.49*** (0.32)	1.47*** (0.32)	1.48*** (0.32)
Provide training in human rights	-0.04 (0.59)	0.01 (0.56)	0.03 (0.57)	0.12 (0.55)	0.07 (0.55)	0.10 (0.55)	0.10 (0.57)	0.04 (0.58)	0.08 (0.57)	0.13 (0.55)
Reform legislation	-0.54 (0.42)	-0.61 (0.44)	-0.60 (0.42)	-0.66 (0.43)	-0.62 (0.42)	-0.67 (0.44)	-0.62 (0.42)	-0.58 (0.41)	-0.64 (0.43)	-0.66 (0.42)
Provide medical care	-0.86* (0.49)	-0.97* (0.51)	-0.90* (0.50)	-0.91* (0.49)	-0.90* (0.50)	-0.96* (0.50)	-0.88* (0.49)	-0.87* (0.50)	-0.93* (0.50)	-0.89* (0.49)
Recover victims' remains	-1.84** (0.89)	-1.74** (0.86)	-1.80** (0.87)	-1.88** (0.89)	-1.78** (0.88)	-1.77** (0.87)	-1.90** (0.89)	-1.82** (0.88)	-1.80** (0.87)	-1.87** (0.89)
Investigate; prosecute; punish	-3.28*** (1.04)	-3.25*** (1.03)	-3.27*** (1.04)	-3.36*** (1.05)	-3.27*** (1.04)	-3.30*** (1.04)	-3.35*** (1.05)	-3.28*** (1.04)	-3.29*** (1.04)	-3.35*** (1.05)
Num. obs.	3149	3149	3149	3149	3149	3149	3149	3149	3149	3149
Num. events	201	201	201	201	201	201	201	201	201	201
State FE	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Issue FE	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Clustered SE	Case	Case	Case	Case	Case	Case	Case	Case	Case	Case

*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$

Table A5: Robustness: results for proximity to election hold when subsetting data to 2004 and later

<i>Dependent variable: probability of compliance</i>						
	(A17)	(A18)	(A19)	(A20)	(A21)	(A22)
Distrust of military	1.38*** (0.43)	1.35*** (0.44)	1.28*** (0.46)	1.55*** (0.48)	1.29*** (0.43)	1.33*** (0.49)
Proximity to election	-0.00 (0.09)	0.02 (0.10)	-0.01 (0.10)	-0.01 (0.09)	0.00 (0.10)	0.03 (0.11)
Distrust of military × Proximity to election	0.47*** (0.15)	0.46*** (0.14)	0.47*** (0.15)	0.46*** (0.14)	0.45*** (0.15)	0.43*** (0.16)
Multilateral debt		-0.02 (0.04)				-0.04 (0.05)
DAC aid (log)		0.30 (0.30)				0.29 (0.31)
GDP/capita (log)			-3.43 (2.26)			-3.47 (5.16)
Unemployment			-0.01 (0.16)			-0.17 (0.18)
Rule of law				1.84 (1.76)		3.60* (2.11)
Voices and accountability				-0.27 (2.00)		0.67 (2.69)
Left government					-0.39 (0.38)	-0.54 (0.47)
Years since transition					-0.18*** (0.07)	-0.20 (0.18)
Polity score					0.04 (0.10)	-0.05 (0.16)
Num. obs.	2753	2753	2753	2753	2753	2753
Num. events	177	177	177	177	177	177
State FE	Yes	Yes	Yes	Yes	Yes	Yes
Issue FE	Yes	Yes	Yes	Yes	Yes	Yes
Order indicators	Yes	Yes	Yes	Yes	Yes	Yes
Clustered SE	Case	Case	Case	Case	Case	Case

*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$