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

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## Abstract

Domestic public preferences often shape leaders' decisions to comply with international legal rulings. Human rights scholars usually assume these preferences favor enforcement and justice. However, just because the public supports human rights does not mean they universally support remedies ordered by international 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 compliance is a function of proximity to next election, therefore necessitating responsiveness to the public's demands, and the public's attitudes toward the actor implicated by the ruling. Using an original dataset of Inter-American Court rulings implicating the military, I show that the effect of proximity to next election is moderated by the public's level of trust in the military, suggesting the importance of incorporating the public's opinions on the implicated actor into models of compliance.

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# 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,

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[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.

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[3]Note that this is a different argument than that of "antipreneurs" (Bloomfield, 2016; Mills and Bloomfield, 2018) and of spoilers (Sanders, 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.

[4]Here 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.

[5]Many 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 two 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

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

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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]

Second, this work builds upon the increasing body of literature on the Inter-American Court in general and compliance in particular, including Huneeus (2011); Hillebrecht (2012, 2014); Staton and Romero (2019); Haglund (2020) and Naurin and Stiansen (2020).[8] While explanations for (non)-compliance have become more nuanced, my work is the first to address the role of the public's attitude toward the implicated actor on compliance. This is especially important given the vast number of cases that ask present governments to openly confront abuses committed by military regimes, and thus offers a fuller picture of the context in which compliance takes place.

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

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[7]This is similar to Huneeus (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.

[8]Notably, Haglund (2020) also argues for the significance of elections and the role of executive insecurity in promoting pro-human rights policies. My arguments complements but departs from hers in two ways. First, Haglund's quantitative analysis examines the impact of election proximity on measures of respect for human rights in general, not compliance with judgments. This distinction matters because the public may simultaneously be in favor of human rights protections but not in favor of compliance that results in punishment of popular actors. Second, by modeling public attitudes directly, my argument allows for the possibility that leaders may respond to preferences that result in non-compliance. I thus account for the case in which public preferences are not aligned with the international court's rulings.

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 to coalitions of voters who may prefer non-compliance (e.g. Downs and Rocke, 1995; Dai, 2006; Grieco, Gelpi and Warren, 2009; Chaudoin, 2014). 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.[9] 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.[10]

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. Most of these remedies are ones that are under the executive's direct control because they involve the cooperation of only executive or administrative

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[9]Requiring states to protect unpopular groups is also a source of backlash against international courts; see Voeten (2020).

[10]One could imagine extending this logic to human rights victims at the Inter-American Court as well. However, doing so here is beyond the scope of this paper.

agencies that answer to the president. Even the few remedies that do involve other branches of government – like orders to change legislation – can be affected by Latin American executives because of their strong legislative agenda-setting powers (Alemán and Tsebelis, 2005; Tsebelis and Alemán, 2005; Cheibub, Elkins and Ginsburg, 2010). 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.[11]

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.

The public observes the leader's choice of compliance and subsequently chooses a level of support for the leader.[12] 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; Conrad, Hill Jr. and Moore, 2018; Lupu and Wallace, 2019). The public supports leaders who choose to match their preferences and opposes leaders who do not. This is also supported by anecdotal evidence. For example, Haglund (2020) describes how Uruguay, Panama, and Ecuador all made human rights concessions prior to an election to garner political support.

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

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[11]For 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.

[12]As Hillebrecht (2014) explains, given the publicity around Inter-American Court judgments and the active engagement of human rights groups, it is not unreasonable to think that the public is at least aware of the ruling, and would subsequently be aware of the leader's decision on compliance.

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; as such, election timing is fixed. 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. Because the Court is not permanently in session and the handful of meetings it has per year are set well in advance, it is not able to strategically time the release of its judgments to correspond with elections.

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.[14] Although 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

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[13]Note 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.

[14]One could imagine making the public's preferences for compliance directly observable using survey 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.

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 distrust. 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 implies that the public's preferences should not be uniformly in favor of

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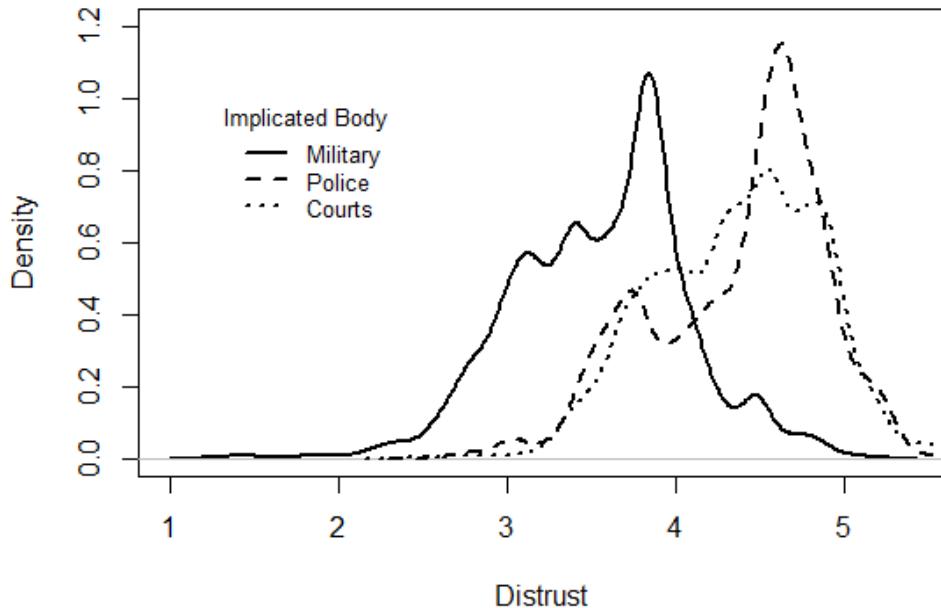


*Note:* Density plot of distrust of military, police, and courts. The mean level of distrust of the military is about one point lower than the mean level of distrust of the police and courts. Lower levels of distrust imply higher levels of trust.

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 Janiero, the first time such intervention took place since the military dictatorship ended.[15] 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.

## 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

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[15] Ernesto Londoño and Shasta Darlington, "Brazil's Military is Put in Charge of Security in Rio de Janiero," *New York Times*, February 16, 2018.

concedes the violation, the case moves to the reparations stage.[16] 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; Huneeus, 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

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[16]Although the set of cases that reaches the Court is different than the set that remain at the Commission, this does not raise concerns about the analysis for three reasons. First, the sorting process that separates out cases with judgments at the Commission and cases with judgments at the Court is not driven by the same processes that explain compliance. The cases that remain at the Commission are all either outside of the Court's temporal jurisdiction, have petitioners that were absent or unwilling to continue litigation, or feature an agreement between the petitioner and the state. Second, although the Court's decision comes chronologically after the Commission's, the Court is not an appellate body. The Court rarely finds in favor of the state, and does not make easier demands; if anything, the demands are harder. To the extent that the Court does rule in the state's favor, it is not because the state did nothing wrong, but because the Court decided it did not have jurisdiction to hear the case. Thus, it is not a reasonable expectation for the Court to find no violation where the Commission found one, unless the state can make a strong case that the Court lacks jurisdiction. Even then, it has become harder to make these arguments, because the Commission has already altered its behavior to avoid referring cases to the Court that could fall outside of its temporal jurisdiction. Third, to the extent that the selection process does generate bias, the bias should be against finding an effect on any variables of interest. Since the state had and passed on the option to comply at the Commission, by the time the case reaches the Court, the state has already demonstrated its unwillingness to follow orders. Thus, the prior belief on compliance is that it should be less likely at the Court.

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
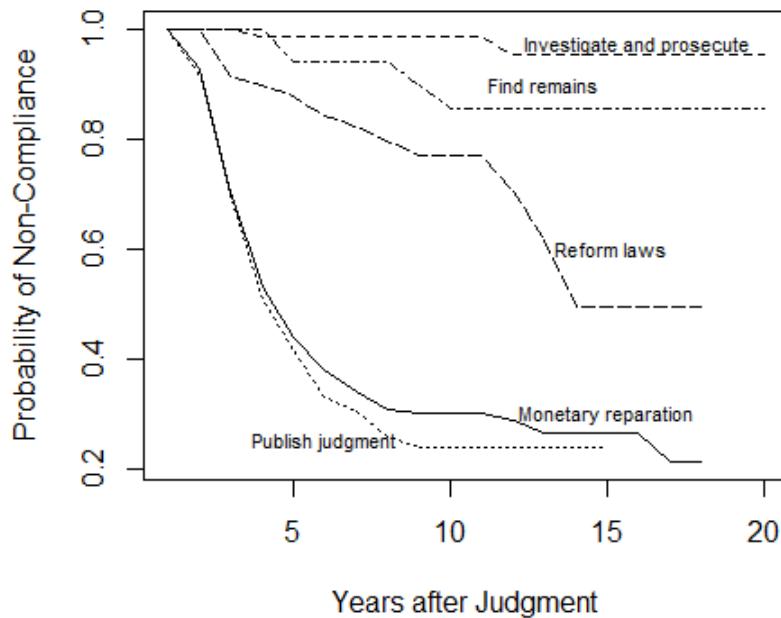


### 3.2. *Measuring Compliance*

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.

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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]

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

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

[18]While 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.

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. Again, this should not be surprising, given that the Court is not permanently in session and operates only a few weeks out of the year; as such, there is little ability to be strategic about releasing monitoring reports.

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 do 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 recommend particular remedies, the Court does not need to follow either side's recommendations and can (and does) recommend remedies that were not requested

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[19]See Table A1.

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

by either party. Moreover, the Court does not order remedies based on the probability of compliance. 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. Additional checks for whether the Court "learns" over time can be found in the Appendix.[21]

### 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.[22] 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.[23] 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 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

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[21]See Table A2 and Figure A1.

[22]This is survey question B12.

[23]As 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
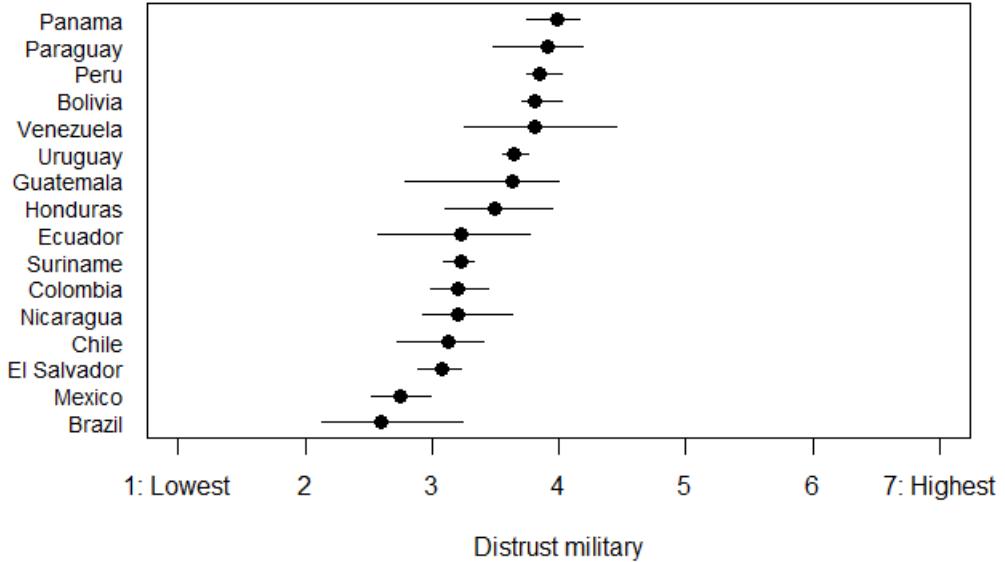


by the dataset (in which an election occurred while an order was pending compliance) is available in the Appendix.[24]

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.[25] 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 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

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[24]See Table A3. Some 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.

[25]I 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
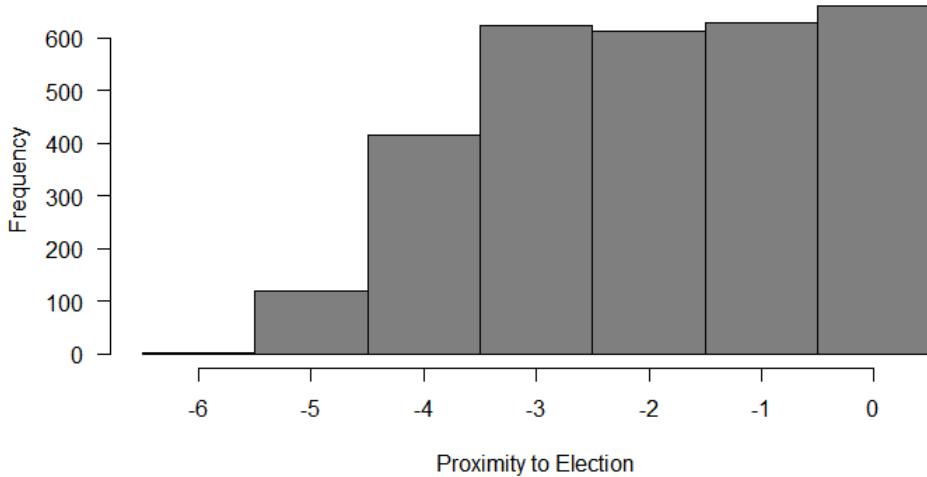


*Note:* 0 indicates that the election is this year; $-1$ indicates that the election is next year; and so forth.

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. 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 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 three more sets of control variables. First, I include fixed effects for each state. Fixed effects allow for different underlying probabilities of compliance driven by unobserved characteristics that are not captured by other control variables. Additionally, any preexisting differences between states that may also influence compliance, such as how they transitioned to democracy, that may also influence compliance are thus held constant. By including these fixed effects, I am focusing solely on the variation of distrust of the military within states over time, not between states. Second, I include indicator variables for the eight most commonly ordered remedies. This allows for the potential of different underlying probabilities of compliance with a particular order. The underlying probability of compliance with the order to investigate, prosecute, and punish may just be inherently different than that of paying monetary reparations, because the former is much more difficult and time-consuming, and may also invoke a stronger public response that hinders compliance. These indicator variables capture those differences.[26] Finally, I include fixed effects for the issue area of a case. 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. This also creates a more precise way of getting at whether a crime took place during the dictatorship. Certain offenses – like forced disappearance – are associated with dictatorial regimes, whereas others, like torture in detention, might not be. Any inherent,

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[26]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).

unobserved differences between military dictatorship-era crimes committed by the military and democratic-era crimes committed by the military, will be captured by the issue area fixed effects.

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-centered. The coefficient on the interaction term is positive and statistically significant in every model, as suggested by the theory.[27] The coefficient on the constituent term for distrust in the military is also positive and statistically significant, but it cannot be interpreted as an unconditional effect of distrust of the military on the probability of compliance (Brambor, Clark and Golder, 2006). Rather, it suggests that the effect of distrust of the military is even greater prior to an election. To see this effect more clearly, I illustrate the interaction effect using predicted probabilities generated from Model (1) in Figure 5.

Figure 5 shows that as proximity to the election increases, the leader grows more responsive to the public's attitudes toward the military. However, whether increased responsiveness 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), measured as one standard deviation below the mean level of trust, the probability of compliance increases the closer the leader gets to the election. The rate of increase is also increasing in the year before and year of the election, as suggested by the positive constituent term on distrust of the military. This is what conventional models of compliance predict: if we assume that voters want compliance, then leaders should be more likely to comply when they need the public's support in order to remain in office.

The right panel of Figure 5 complicates this picture by illustrating what happens if trust in the military is high, measured as one standard deviation above the mean level

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[27]All combinations of control variables are available in Table A5 in the Appendix.

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

*Dependent variable: probability of compliance*

| | (1) | (2) | (3) | (4) | (5) | (6) |
|---|---|---|---|---|---|---|
| Distrust of military | 1.34*** | 1.34*** | 1.17*** | 1.61*** | 1.20*** | 1.34*** |
| | (0.39) | (0.40) | (0.41) | (0.41) | (0.39) | (0.44) |
| Proximity to election | −0.02 | −0.00 | −0.02 | −0.02 | 0.01 | 0.04 |
| | (0.08) | (0.08) | (0.08) | (0.08) | (0.09) | (0.09) |
| Distrust of military × | 0.39*** | 0.38*** | 0.38*** | 0.39*** | 0.36*** | 0.39*** |
|  Proximity to election | (0.13) | (0.13) | (0.13) | (0.13) | (0.13) | (0.12) |
| Multilateral debt | | 0.01 | | | | −0.02 |
| | | (0.02) | | | | (0.02) |
| DAC aid (log) | | 0.34 | | | | 0.26 |
| | | (0.32) | | | | (0.26) |
| GDP/capita (log) | | | −2.43 | | | −4.94* |
| | | | (1.50) | | | (2.97) |
| Unemployment | | | 0.00 | | | −0.08 |
| | | | (0.12) | | | (0.12) |
| Rule of law | | | | 2.10** | | 1.87 |
| | | | | (1.00) | | (1.31) |
| Voices and accountability | | | | 1.22 | | 1.70 |
| | | | | (1.14) | | (1.46) |
| Left government | | | | | −0.59* | −0.32 |
| | | | | | (0.33) | (0.34) |
| Years since transition | | | | | −0.09** | 0.00 |
| | | | | | (0.04) | (0.08) |
| Polity score | | | | | 0.22* | 0.10 |
| | | | | | (0.13) | (0.16) |
| Publicly accept responsibility | 1.81*** | 1.83*** | 1.88*** | 1.73*** | 1.82*** | 1.81*** |
| | (0.33) | (0.33) | (0.33) | (0.33) | (0.34) | (0.33) |
| Publish the judgment | 1.48*** | 1.51*** | 1.53*** | 1.43*** | 1.46*** | 1.47*** |
| | (0.29) | (0.28) | (0.28) | (0.29) | (0.29) | (0.28) |
| Monetary reparation | 1.50*** | 1.53*** | 1.49*** | 1.48*** | 1.46*** | 1.48*** |
| | (0.32) | (0.32) | (0.32) | (0.32) | (0.33) | (0.32) |
| Provide training in human rights | −0.05 | −0.07 | 0.00 | 0.02 | 0.07 | 0.11 |
| | (0.55) | (0.58) | (0.55) | (0.55) | (0.54) | (0.57) |
| Reform legislation | −0.56 | −0.55 | −0.56 | −0.64 | −0.63 | −0.63 |
| | (0.45) | (0.44) | (0.49) | (0.45) | (0.50) | (0.49) |
| Provide medical care | −0.97* | −0.93* | −0.90* | −1.00** | −0.94* | −0.87* |
| | (0.50) | (0.50) | (0.43) | (0.51) | (0.43) | (0.42) |
| Recover victims' remains | −1.70** | −1.76** | −1.79** | −1.70** | −1.76** | −1.88** |
| | (0.85) | (0.87) | (0.88) | (0.84) | (0.87) | (0.89) |
| Investigate; prosecute; punish | −3.23*** | −3.25*** | −3.27*** | −3.25*** | −3.27*** | −3.34*** |
| | (1.03) | (1.03) | (1.05) | (1.03) | (1.04) | (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 A4).

of trust. Here, the probability of compliance is *decreasing* as proximity to the election increases. This suggests that the leader is more responsive to the public's attitudes closer to

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

<div style="text-align:center">

**(a)** Low trust of military                                       **(b)** High trust of military

</div>
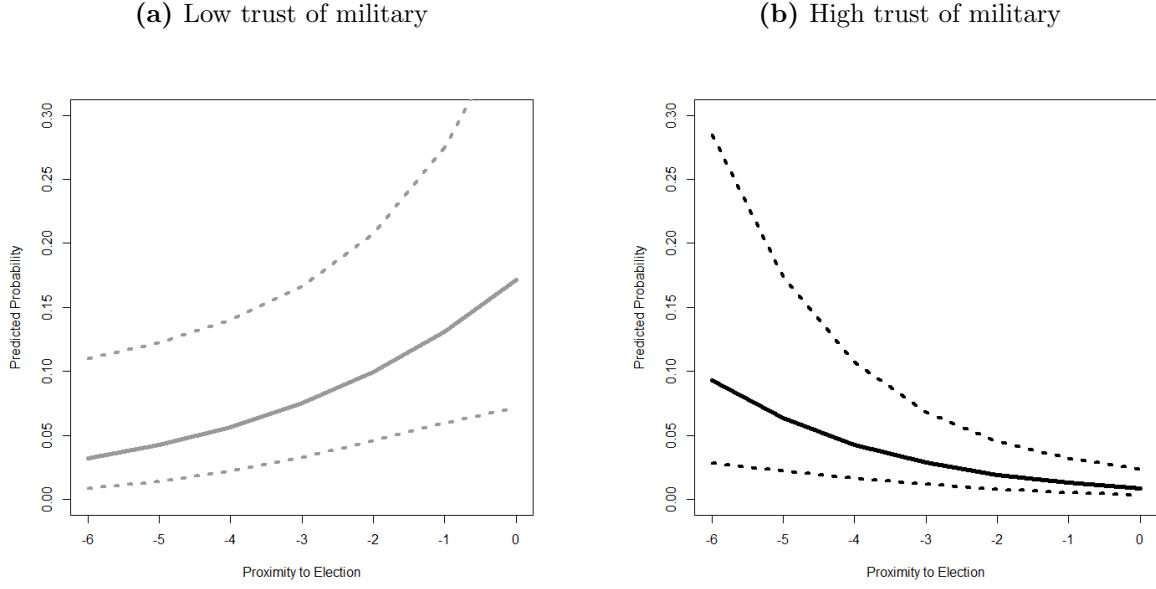


***Note:*** Distrust of military proxies support for compliance. I posit that citizens are more supportive of compliance in cases that implicate the military when trust in the military is low. Predicted probability is the probability of compliance in the fourth year post-judgment, for a case involving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

an election, but again shows that responsiveness does not always mean compliance. While other explanations for compliance may generally be true – like demonstrating commitment to human rights norms – my findings suggest that in this specific instance, they do not seem to be driving compliance. Rather, the need to be responsive to the public's attitudes, and most importantly, what those attitudes *are* drives changes in the probability of compliance.

None of the coefficients on 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.

As additional robustness checks, I ran the models again using a standardized measure of distrust (Appendix Table A4). Here, I standardized the distrust measure against other distrust measures in AmericasBarometer surveys, including distrust of the executive, police, and courts. The results are unchanged. I also subset the data to just those cases from after 2004, to avoid back-imputing trust measures for AmericasBarometer (Appendix Table A6). The results are again unchanged, and in fact the substantive size of the coefficient on the interaction term is even larger. Finally, as a placebo test, I ran the models on the subset of cases implicating the police and courts, respectively (recall from Table 1 that these two institutions were the next most frequently implicated actors after the military). The results (Appendix Tables A7 and A8) show that the interaction effect is unique to the military. Given that the police and courts are uniformly distrusted by the public, it should not be surprising that there is no interaction effect: leaders are just always more likely to comply. This suggests that it is easier for leaders to comply when the implicated actor is distrusted by the public. The leader only faces a dilemma of choosing responsiveness to the international court and to the public's attitudes when the implicated actor is trusted by the public, as is the case (sometimes) for the military.

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.

**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.

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).[28] Brazilians have a high level of trust, on 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

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

32% three years prior to the election to 39% in an election year.[29] 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.

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

| Proximity to election | Brazil High trust | El Salvador Med trust | Guatemala 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.

## 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 punishments 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

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[29]Note 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.

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 international 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).[30] 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

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

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.

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# Appendix

**Table A1:** Logistic regression of covariates on monitoring status

| Variable | Coefficient | Clustered SE | p-value |
|---|---|---|---|
| **Time-invariant covariates** | | | |
| 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 |
| | | | |
| **Time-varying covariates** | | | |
| 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:** Regression of year on prevalence of order

| Compliance Order | Coefficient | Standard error | p-value |
|---|---|---|---|
| **No relationship** | | | |
| Publicly accept responsibility | 0.47 | 1.61 | 0.78 |
| Reform legislation | −0.87 | 1.80 | 0.64 |
| Recover victims' remains | −1.63 | 1.62 | 0.33 |
| | | | |
| **Possible relationship** | | | |
| Provide training in human rights | 3.66 | 1.47 | 0.03 |
| Provide medical care | 4.54 | 1.54 | 0.01 |

To check whether the Inter-American Court is "learning" over time and changes the way it orders remedies, I first regressed year (2000–2014) on the prevalence of each order. By prevalence, I mean the percentage of all cases (against the military) adjudicated in each year which feature that order. If the Court is more or less likely to order a particular order over time, this could be evidence of learning. I excluded the orders to pay monetary reparation; investigate, prosecute and punish; and publish the judgment because they are each ordered in nearly 80% of all cases (100% in the case of monetary reparations).

Orders to train officers in human rights and provide ongoing medical care to the victim appear to be time-dependent: the Court was more likely to order these remedies in later cases. This is only problematic for inferential purposes if the Court was ordering these remedies because it had evidence that states were complying with these orders, or were more able to comply.

To assess this possibility, I plotted the prevalence of each order (percentage of judgments in that year in which the Court included that order) against compliance with that order (Figure A1). The compliance percentage indicates the percentage of all orders of a particular type that have been fulfilled.

**Figure A1:** There is no relationship between compliance and the probability of the Court-ordered remedy

**(a)** Provide medical care



**(b)** Provide training in human rights
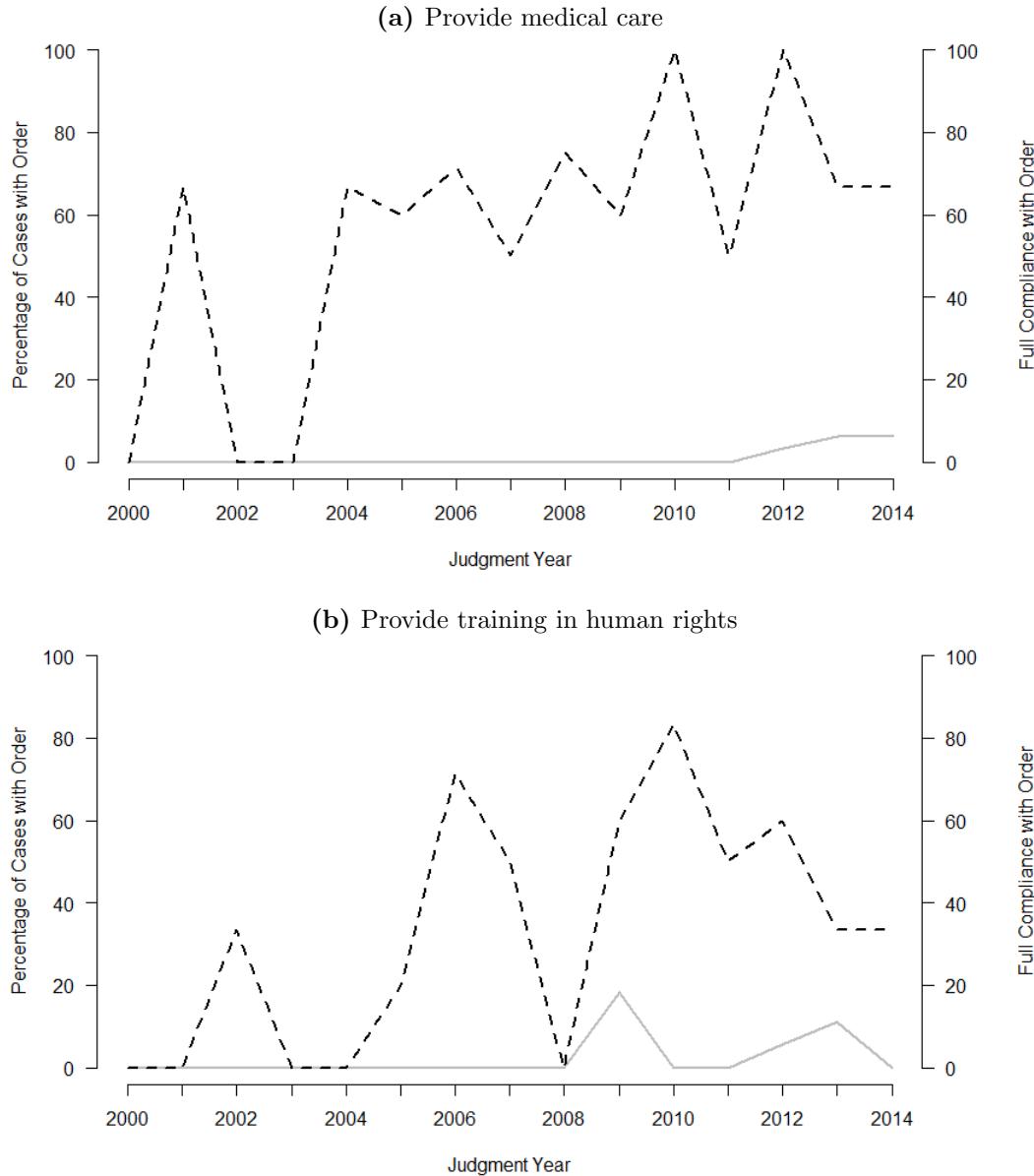


As shown by Figure A1, while the Court is more likely to order the remedies of provide medical care and training in human rights in more recent years (dashed black line), this does not at all track compliance (solid grey line). The first time a state complied with the order to provide medical care was 2012; it was 2009 for training in human rights. Thus, the time-dependency here reflects more of the Court gaining confidence in specifying very particular forms of reparation than it does any belief that these orders are ones with which states would readily comply.

**Table A3:** 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 |

* Suriname has also had cases brought against the military, but is a parliamentary democracy. As such, it is excluded.

† 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 A4:** 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*** | 0.66*** | 0.58*** | 0.80*** | 0.60*** | 0.67*** |
|  | (0.19) | (0.20) | (0.20) | (0.20) | (0.19) | (0.22) |
| Proximity to election | 0.19* | 0.20* | 0.18* | 0.19* | 0.20* | 0.25** |
|  | (0.11) | (0.11) | (0.11) | (0.11) | (0.11) | (0.11) |
| Distrust of military × | 0.19*** | 0.19*** | 0.19*** | 0.19*** | 0.18*** | 0.19*** |
| Proximity to election | (0.07) | (0.07) | (0.06) | (0.06) | (0.06) | (0.06) |
| Multilateral debt |  | 0.01 |  |  |  | −0.02 |
|  |  | (0.02) |  |  |  | (0.02) |
| DAC aid (log) |  | 0.34 |  |  |  | 0.26 |
|  |  | (0.32) |  |  |  | (0.26) |
| GDP/capita (log) |  |  | −2.43 |  |  | −4.94* |
|  |  |  | (1.50) |  |  | (2.97) |
| Unemployment |  |  | 0.00 |  |  | −0.08 |
|  |  |  | (0.12) |  |  | (0.12) |
| Rule of law |  |  |  | 2.10** |  | 1.87 |
|  |  |  |  | (1.00) |  | (1.31) |
| Voices and accountability |  |  |  | 1.22 |  | 1.70 |
|  |  |  |  | (1.14) |  | (1.46) |
| Left government |  |  |  |  | −0.59* | −0.32 |
|  |  |  |  |  | (0.33) | (0.34) |
| Years since transition |  |  |  |  | −0.09** | 0.00 |
|  |  |  |  |  | (0.04) | (0.08) |
| Polity score |  |  |  |  | 0.22* | 0.10 |
|  |  |  |  |  | (0.13) | (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 A5:** Results hold for different combinations of control variables

*Dependent variable: probability of compliance*

| | (A7) | (A8) | (A9) | (A10) | (A11) | (A12) | (A13) | (A14) | (A15) | (A16) |
|---|---|---|---|---|---|---|---|---|---|---|
| Distrust of military | 1.18*** | 1.57*** | 1.20*** | 1.40*** | 1.18*** | 1.37*** | 1.36*** | 1.17*** | 1.34*** | 1.39*** |
| | (0.42) | (0.41) | (0.40) | (0.44) | (0.40) | (0.42) | (0.45) | (0.41) | (0.43) | (0.44) |
| Proximity to election | −0.00 | 0.00 | 0.04 | −0.00 | 0.01 | 0.00 | 0.023 | 0.04 | 0.03 | 0.01 |
| | (0.08) | (0.08) | (0.09) | (0.08) | (0.09) | (0.09) | (0.08) | (0.09) | (0.09) | (0.09) |
| Distrust of military × | 0.38*** | 0.38*** | 0.36*** | 0.39*** | 0.37*** | 0.36*** | 0.40*** | 0.37*** | 0.36*** | 0.39*** |
| Proximity to election | (0.13) | (0.13) | (0.13) | (0.13) | (0.13) | (0.13) | (0.13) | (0.13) | (0.12) | (0.12) |
| Multilateral debt | −0.00 | 0.01 | −0.01 | | | | −0.02 | −0.01 | −0.01 | |
| | (0.02) | (0.02) | (0.02) | | | | (0.02) | (0.02) | (0.02) | |
| DAC aid (log) | 0.37 | 0.27 | 0.38 | | | | 0.25 | 0.26 | 0.31 | |
| | (0.36) | (0.27) | (0.37) | | | | (0.26) | (0.34) | (0.33) | |
| GDP/capita (log) | −2.37 | | | −4.24*** | −1.78 | | −4.56*** | −2.15 | | −4.48* |
| | (1.66) | | | (1.56) | (2.49) | | (1.65) | (2.81) | | (2.59) |
| Unemployment | −0.00 | | | −0.03 | −0.03 | | −0.05 | −0.05 | | −0.04 |
| | (0.12) | | | (0.10) | (0.11) | | (0.11) | (0.12) | | (0.10) |
| Rule of law | | 1.85 | | 1.78* | | 1.48 | 2.03* | | 1.52 | 1.63 |
| | | (1.19) | | (1.06) | | (1.18) | (1.20) | | (1.24) | (1.20) |
| Voices and accountability | | 1.19 | | 2.51** | | 1.52 | 2.15 | | 1.08 | 2.36* |
| | | (1.29) | | (1.25) | | (1.36) | (1.35) | | (1.53) | (1.31) |
| Left government | | | −0.58* | | −0.56* | −0.41 | | −0.56* | 0.43 | −0.26 |
| | | | (0.32) | | (0.32) | (0.34) | | (0.32) | (0.33) | (0.33) |
| Years since transition | | | −0.10** | | −0.05 | −0.10** | | −0.05 | −0.10** | 0.01 |
| | | | (0.04) | | (0.06) | (0.04) | | (0.07) | (0.04) | (0.07) |
| Polity score | | | 0.23* | | 0.23 | 0.06 | | 0.25 | 0.09 | 0.03 |
| | | | (0.13) | | (0.15) | (0.13) | | (0.18) | (0.15) | (0.13) |
| Publicly accept responsibility | 1.89*** | 1.76*** | 1.85*** | 1.80*** | 1.83*** | 1.78*** | 1.81*** | 1.86*** | 1.81*** | 1.80*** |
| | (0.33) | (0.33) | (0.34) | (0.34) | (0.33) | (0.34) | (0.34) | (0.33) | (0.34) | (0.33) |
| Publish the judgment | 1.54*** | 1.45*** | 1.47*** | 1.48*** | 1.47*** | 1.44*** | 1.49*** | 1.48*** | 1.45*** | 1.47*** |
| | (0.28) | (0.28) | (0.28) | (0.28) | (0.29) | (0.29) | (0.28) | (0.28) | (0.28) | (0.28) |
| Monetary reparation | 1.52*** | 1.50*** | 1.48*** | 1.48*** | 1.47*** | 1.46*** | 1.49*** | 1.49*** | 1.47*** | 1.48*** |
| | (0.32) | (0.31) | (0.33) | (0.32) | (0.32) | (0.32) | (0.32) | (0.32) | (0.32) | (0.32) |
| Provide training in human rights | −0.04 | 0.01 | 0.03 | 0.12 | 0.07 | 0.10 | 0.10 | 0.04 | 0.08 | 0.13 |
| | (0.59) | (0.56) | (0.57) | (0.55) | (0.55) | (0.55) | (0.57) | (0.58) | (0.57) | (0.55) |
| Reform legislation | −0.54 | −0.61 | −0.60 | −0.66 | −0.62 | −0.67 | −0.62 | −0.58 | −0.64 | −0.66 |
| | (0.42) | (0.44) | (0.42) | (0.43) | (0.42) | (0.44) | (0.42) | (0.41) | (0.43) | (0.42) |
| Provide medical care | −0.86* | −0.97* | −0.90* | −0.91* | −0.90* | −0.96* | −0.88* | −0.87* | −0.93* | −0.89* |
| | (0.49) | (0.51) | (0.50) | (0.49) | (0.50) | (0.50) | (0.49) | (0.50) | (0.50) | (0.49) |
| Recover victims' remains | −1.84** | −1.74** | −1.80** | −1.88** | −1.78** | −1.77** | −1.90** | −1.82** | −1.80** | −1.87** |
| | (0.89) | (0.86) | (0.87) | (0.89) | (0.88) | (0.87) | (0.89) | (0.88) | (0.87) | (0.89) |
| Investigate; prosecute; punish | −3.28*** | −3.25*** | −3.27*** | −3.36*** | −3.27*** | −3.30*** | −3.35*** | −3.28*** | −3.29*** | −3.35*** |
| | (1.04) | (1.03) | (1.04) | (1.05) | (1.04) | (1.04) | (1.05) | (1.04) | (1.04) | (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 A6:** Robustness: results for proximity to election hold when subsetting data to 2004 and later

*Dependent variable: probability of compliance*

| | (A17) | (A18) | (A19) | (A20) | (A21) | (A22) |
|---|---|---|---|---|---|---|
| Distrust of military | 1.38*** | 1.35*** | 1.28*** | 1.55*** | 1.29*** | 1.33*** |
| | (0.43) | (0.44) | (0.46) | (0.48) | (0.43) | (0.49) |
| Proximity to election | −0.00 | 0.02 | −0.01 | −0.01 | 0.00 | 0.03 |
| | (0.09) | (0.10) | (0.10) | (0.09) | (0.10) | (0.11) |
| Distrust of military × | 0.47*** | 0.46*** | 0.47*** | 0.46*** | 0.45*** | 0.43*** |
| Proximity to election | (0.15) | (0.14) | (0.15) | (0.14) | (0.15) | (0.16) |
| Multilateral debt | | −0.02 | | | | −0.04 |
| | | (0.04) | | | | (0.05) |
| DAC aid (log) | | 0.30 | | | | 0.29 |
| | | (0.30) | | | | (0.31) |
| GDP/capita (log) | | | −3.43 | | | −3.47 |
| | | | (2.26) | | | (5.16) |
| Unemployment | | | −0.01 | | | −0.17 |
| | | | (0.16) | | | (0.18) |
| Rule of law | | | | 1.84 | | 3.60* |
| | | | | (1.76) | | (2.11) |
| Voices and accountability | | | | −0.27 | | 0.67 |
| | | | | (2.00) | | (2.69) |
| Left government | | | | | −0.39 | −0.54 |
| | | | | | (0.38) | (0.47) |
| Years since transition | | | | | −0.18*** | −0.20 |
| | | | | | (0.07) | (0.18) |
| Polity score | | | | | 0.04 | −0.05 |
| | | | | | (0.10) | (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 |

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

**Table A7:** Placebo Test: Police and Courts (with interaction)

*Dependent variable: probability of compliance*

| Implicated actor | (A23) Police | (A24) Police | (A25) Courts | (A26) Courts |
|---|---|---|---|---|
| Distrust of police | 1.28 | 0.81 | | |
| | (0.79) | (0.76) | | |
| Distrust of courts | | | 1.65 | 2.99* |
| | | | (1.21) | (1.63) |
| Proximity to election | 0.07 | 0.04 | 0.22 | 0.05 |
| | (0.18) | (0.22) | (0.26) | (0.38) |
| Distrust of police × | −0.09 | −0.15 | | |
| Proximity to election | (0.38) | (0.31) | | |
| Distrust of courts × | | | 0.16 | −0.11 |
| Proximity to election | | | (0.52) | (0.50) |
| Multilateral debt | | 0.01 | | −0.03 |
| | | (0.05) | | (0.07) |
| DAC aid (log) | | −0.08 | | −0.09 |
| | | (0.07) | | (0.13) |
| GDP/capita (log) | | 4.21 | | −2.11 |
| | | (3.98) | | (2.72) |
| Unemployment | | 0.34 | | 0.69 |
| | | (0.28) | | (0.59) |
| Rule of law | | −2.93 | | 4.18 |
| | | (1.99) | | (2.81) |
| Voices and accountability | | 3.54 | | |
| | | (3.09) | | |
| Left government | | 0.51 | | 0.75 |
| | | (1.02) | | (1.77) |
| Years since transition | | 0.05 | | −0.11* |
| | | (0.15) | | (0.06) |
| Polity score | | 0.00 | | 0.60 |
| | | (0.30) | | (0.71) |
| Num. obs. | 1077 | 1077 | 488 | 488 |
| Num. events | 88 | 88 | 59 | 59 |
| State FE | Yes | Yes | No | No |
| Issue FE | Yes | Yes | Yes | Yes |
| Order indicators | Yes | Yes | Yes | Yes |
| Clustered SE | Case | Case | Case | Case |

$^{***}p < 0.01$, $^{**}p < 0.05$, $^{*}p < 0.1$

The models in Table A7 use the same specifications as reported in Table 2 in the main text, with minor alternations. First, distrust of the military is replaced by distrust of police and distrust of courts, respectively. Second, the subset of cases in the model reflect those in which the police and courts, respectively, are the implicated actor. Third, because of the

small sample size, the models for courts exclude state fixed effects and the measure of voices and accountability.

As seen in Table A7, there is no interaction effect of distrust with police or distrust of courts with elections. This is as the theory would predict: because the police and courts are nearly uniformly disliked (recall Figure 1), the probability of compliance goes in one direction and is not affected by the election. Recall also that the constituent terms for distrust of police and distrust of courts cannot be interpreted unconditionally (Brambor, Clark and Golder, 2006). Thus, in order to know the unconditional (i.e., not dependent on proximity to election) effect of distrust in these institutions on the probability of compliance, I ran the models again without the interaction term (Table A8).

In these models, the coefficient on the unconditional effect of distrust of police or courts is positive in all models and statistically significant in three of the four models (in Model A28, the p-value is 0.12). The positive and significant coefficient is also predicted by the theory: leaders are more likely to comply when the implicated actor is distrusted. Again, because there is little variation in terms of the level of distrust for the police and courts, there is no interaction effect with proximity to election. In other words, regardless of when the election is, leaders are always more likely to comply with these rulings as distrust of the implicated actor increases.

**Table A8:** Placebo Test: Police and Courts (without interaction)

*Dependent variable: probability of compliance*

| Implicated actor | (A27) Police | (A28) Police | (A29) Courts | (A30) Courts |
|---|---|---|---|---|
| Distrust of police | 1.41** | 1.03 | | |
| | (0.69) | (0.66) | | |
| Distrust of courts | | | 1.39** | 3.09** |
| | | | (0.62) | (1.37) |
| Proximity to election | 0.07 | 0.05 | 0.26 | 0.00 |
| | (0.17) | (0.22) | (0.22) | (0.29) |
| Multilateral debt | | 0.01 | | −0.03 |
| | | (0.05) | | (0.07) |
| DAC aid (log) | | −0.08 | | −0.09 |
| | | (0.07) | | (0.13) |
| GDP/capita (log) | | 4.23 | | −2.08 |
| | | (3.96) | | (2.77) |
| Unemployment | | 0.35 | | 0.73 |
| | | (0.29) | | (0.56) |
| Rule of law | | −3.00 | | 4.35 |
| | | (2.09) | | (2.88) |
| Voices and accountability | | 3.48 | | |
| | | (3.04) | | |
| Left government | | 0.42 | | 0.94 |
| | | (0.98) | | (1.27) |
| Years since transition | | 0.04 | | −0.12* |
| | | (0.16) | | (0.07) |
| Polity score | | −0.02 | | 0.57 |
| | | (0.31) | | (0.72) |
| Num. obs. | 1077 | 1077 | 488 | 488 |
| Num. events | 88 | 88 | 59 | 59 |
| State FE | Yes | Yes | No | No |
| Issue FE | Yes | Yes | Yes | Yes |
| Order indicators | Yes | Yes | Yes | Yes |
| Clustered SE | Case | Case | Case | Case |

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