International Treaties and Conflicting Incentives to Repress[*]

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Abstract

State commitment to international human rights treaties (IHRTs) sometimes leads to improved rights practices but sometimes leads to increased repression. We argue that IHRT ratification creates domestic political consequences that pull state authorities in conflicting directions with regard to human rights. IHRTs create focal points that facilitate and legitimize mobilization against the regime, which *increases* state incentives to repress. In contrast, citizens are more likely to bring accusations of rights violations before domestic courts once the IHRT establishes new laws and raises support and legitimacy for the court. In this way, IHRTs *decrease* state incentives to repress. Under what conditions will an internationally obligated state increase repression in response to a mobilizing population? When will it decrease repression to avoid the negative sanction of the strengthened domestic court? We argue that authorities balance these conflicting pressures as a function of their security in office. Post-commitment, leaders vulnerable to turnover increase repression to control the destabilizing effects of increased mobilization. Conversely, secure leaders decrease repression to avoid potential court costs. We find support for our theory using data on commitment to the United Nations Convention Against Torture (CAT) and the state's propensity to torture.

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1 Introduction

Although international human rights treaties (IHRTs) are sometimes associated with increased rights protections, many ratifying states continue to repress, and some states even *increase* repression after acceding to the international regime.[1] New international obligations alter domestic politics in ways that put cross-pressures on states deciding whether to violate human rights. Effective domestic courts, one mechanism by which international treaties are enforced in sovereign states, constrain state repression (Keith 2002) and are often emboldened to negatively sanction violators in the wake of IHRT accession (Hathaway 2007, Powell and Staton 2009, Simmons 2009). However, treaty commitment also creates new opportunities and incentives for citizens to mobilize against the state. Groups view commitment as the state's willingness to grant concessions (Vreeland 2008), and citizens are more likely to mobilize against the state once it has ratified a treaty (Keck and Sikkink 1998, Simmons 2009). However, when a population mobilizes explicitly to punish repressive states, states very often respond to increased dissent with repression (e.g., Davenport 2007*a*, Lichbach 1987, Moore 2000). Thus, domestic treaty effects conflict: increasingly effective institutions constrain obligated states into *reducing* repression whereas increased citizen dissent *incentivizes* state repression. How do states navigate these cross-pressures? Under what conditions will an internationally obligated state respond to the court's pressure to decrease repression versus the incentive to control popular mobilization with increased repression?

State authorities are motivated by a desire to remain in power (see, e.g., Bueno de Mesquita et al. 2003). Executives pursue a myriad of policies, potentially including repression, to extend their tenure in office. Following treaty commitment, domestic courts and popular dissent impose costs on the leader, threatening his ability to stay in power. However, institutional pressures differ from popular pressures in their salience, and we argue leaders will prioritize one over the other as a function of their expecta-

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[1]See, for example, Goodliffe and Hawkins (2006), Hafner-Burton and Tsutsui (2007), Hathaway (2002), Hill (2010), Keith (1999), Neumayer (2005), Powell and Staton (2009), Simmons (2009), von Stein (2006), Vreeland (2008).

tions about political survival. A leader vulnerable to political turnover is primarily concerned with the immediate costs of dissent from a mobilized population and so represses to control that threat. This is true even though it is more likely he will be held accountable for these actions in a domestic court. Conversely, leaders sitting securely in power expect the potential risks of judicial sanctions to accumulate into the future, potentially even strengthening the domestic court. Thus, secure leaders decrease repression, avoiding the risk of litigation even when this means allowing the population to openly oppose the state. In short, leaders with concerns about losing power in the near future respond to dissent, while executives expecting to be in power long-term try to avoid damaging institutional punishment.

Our theory results in a novel implication: IHRTs are more likely to improve human rights in countries where leaders sit securely in power. Secure leaders with a longer view of the future repress less after commitment to international human rights law than leaders who must violate human rights to survive in the short term. This implication runs contrary to the view that autocratic regimes do not adhere to their international obligations. Democracies may be comparatively more likely to repress after committing to an IHRT, particularly if the leader is facing turnover for other reasons. Furthermore, opposition groups may be more likely to garner improvements in human rights if they focus on encouraging the development of domestic courts rather than taking their demands to the streets.

We begin by discussing extant literature on the domestic effects of international human rights law. We then present a theory to explain how IHRTs affect state repression based on their domestic effects and executive tenure considerations. Following a description of our sample and measures, we test the empirical implications of our theoretical model using a selection model by von Stein (2006). The model allows us to determine the effect of IHRT commitment on state repression, as well as to assess how domestic factors affect decisions to repress in IHRT-signatory states as compared to states that have refrained from ratification. We conclude with a discussion of our empirical results, finding support for our theory that the effects of IHRT commitment on repression are conditional on executive political survival.

2   Domestic Effects of International Treaties

International human rights treaties (IHRTs) rarely lead to improved rights protections (Hafner-Burton and Tsutsui 2007, Hathaway 2002, Keith 1999, Neumayer 2005), and committed states have even been known to violate rights more than otherwise expected (Hill 2010, Neumayer 2005, Vreeland 2008). The ineffectiveness of international treaties result in large part from their lack of enforcement mechanisms (Forsythe 1985, Ramcharan 1989), and foreign states are rarely willing to take coercive action on behalf of repressed citizens (e.g., Lebovic and Voeten 2009, Neumayer 2003). In short, IHRTs alone are not a panacea for state repression. But we should not be so quick to deem them irrelevant: IHRTs can affect human rights practices by altering domestic politics. Simmons (2009) argues that IHRT obligations affect domestic respect for human rights in three ways: by shifting a state's agenda to prioritize rights, by legitimizing laws regarding rights protection and increasing the effectiveness of domestic courts, and by creating focal points that facilitate social mobilization against the state.

Effective domestic courts have consistently been found to lead to increased rights protections (Apodaca 2004, Blasi and Cingranelli 1996, Cross 1999, Hathaway 2007, Howard and Carey 2004, Keith 2002).[2] State authorities facing effective judiciaries are more likely than those facing ineffective courts to incur costs from litigation under domestic law for two reasons. First, victims are more likely to bring allegations of violations before the court when they believe the judiciary to be effective (Powell and Staton 2009). Second, increasingly effective judiciaries are more likely to turn litigation into costs either because violating leaders comply voluntarily with the court's stated remedy, or because the court enjoys sufficient support to punish noncompliant executives (Gibson, Caldeira and Baird 1998, Vanberg 2005). These potential costs often deter states with effective judicial institutions from repressing citizens (Blasi

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[2]Powell and Staton (2009, 154) define an *effective* judiciary as one that "constitutes a genuine constraint on state behavior." Courts are effective when they are free from state manipulation (i.e., independent or autonomous) (e.g., Cross 1999, Howard and Carey 2004, Kornhauser 2002), and when other domestic actors are willing and able to punish noncompliant executives (e.g., Gibson, Caldeira and Baird 1998, Staton 2006, Vanberg 2005). See Staton and Moore (Forthcoming) and Ríos-Figueroa and Staton (2009) for more discussion of these concepts. In short, as courts become more effective, they become both more willing and better able to identify and punish state transgressions of human rights.

and Cingranelli 1996, Cross 1999, Keith 2002), even absent international law.

State commitment to an IHRT increases the likelihood that a state will incur litigation costs for repressing. Almost all international treaties require that ratifiers adopt their terms into domestic law.[3] Ratification requires states to adopt domestic laws if they do not already exist, refine extant laws so that they align with the international obligation, and in common law systems, appropriate international precedents developed through court cases around the world (Simmons 2009). Following its signing of the UN Convention Against Torture (CAT), for instance, the United States legislature passed the Torture Victims Protection Act,[4] which allows victims of torture to file suit against state perpetrators in civil court. Although intended to serve victims of torture by *foreign* governments, the Act has also been cited in court cases against the United States government.[5]

IHRT ratification also focuses attention on repression and increases legitimacy for rights-related grievances, both of which make victims increasingly prone to litigate. The Association for the Prevention of Torture (APT), a Geneva-based NGO, conducts regular training workshops for domestic judges and attorneys in CAT-signatory countries. These training sessions, part of APT's strategy to promote CAT implementation, are intended to educate legal professionals on the use of the CAT in domestic adjudication.[6] APT also works toward the implementation of the CAT's required National Preventive Measures (NPMs), which often support victims in their attempts to bring allegations of human rights violations before domestic courts.[7] In other words, a state that commits to international obligations will be more likely to face litigation than one that does not, regardless of its starting level of domestic judicial effec-

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[3]For example, Article 4 of the United Nations Convention Against Torture (CAT) states, "(1) Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. (2) Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature."

[4]Torture Victim Protection Act of 1991, Pub. L. No. 102-256, 106 Stat. 73 (1992).

[5]See, for example, *Meshal v. Higgenbotham*, 09-cv-2178, 32 (filed D.D.C. Nov. 10, 2009).

[6]Recently, the APT initiated a three-year campaign in Thailand intended to build judicial capacity by training judges and human rights lawyers following Thailand's commitment to the CAT. For more details on this campaign, visit URL http://www.apt.ch/index.php?option=com_k2&view=item&id=874%3Athailand-implementing-the-un-convention-against-torture&lang=en.

[7]For more details on the NPMs, visit URL http://www.apt.ch/index.php?option=com_docman&task=cat_view&gid=41&Itemid=59&lang=en.

tiveness. And litigation is costly. It requires the state to dedicate resources to the case, brings negative attention to its repressive practices, and can end in rulings that the state has violated its obligations and must comply with a potentially costly remedy (Powell and Staton 2009). States thus prefer to avoid being brought before an effective court, and the surest way to avoid the court is to avoid repression.

But international obligations also create new opportunities and incentives for individuals and groups to mobilize when they disagree with state policy (Simmons 2009). International treaties represent focal points around which actors can rally (Keck and Sikkink 1998), helping dissidents to coordinate their standards as to what constitutes a transgression of their rights (Weingast 1997). Further, groups are likely to believe treaty ratification is a signal of the state's intentions regarding rights protection. Even if the state does not intend to comply with the letter of an IHRT, groups may believe the state will be more likely to respond to their rights-related demands, increasing their willingness to mobilize around their demands (Vreeland 2008). The combination of the new legal standard and the state's willingness to ratify leads NGOs to heighten their activities, circulating information and taking action that would be daunting without the international obligation. Although states typically self-report their human rights records under the CAT, international and domestic NGOs also often submit "shadow" reports on domestic violations under the CAT. The Kurdish Human Rights Project (KHRP), for example, submitted a shadow report under the CAT condemning Syria for violations under the terms of the treaty in April 2010 (Kurdish Human Rights Project 2010). When a state has formally accepted the international obligation not to torture, groups have all the more incentive to examine and publicize noncompliant practices post-ratification.

The new, internationally legitimized standards and the increased focus on rights protections lead citizens to form new movements to pressure for domestic changes and existing groups become more likely to mobilize against the state (Simmons 2009). In the United States, NGOs like the Center for Justice and Accountability (CJA) originated following the US decision to sign the CAT.[8] A senior member of CJA's

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[8]The Center for Justice and Accountability (CJA) is a human rights organization based in San Francisco, California that uses civil litigation to hold violators of human rights (especially torturers) individually accountable under two US laws: the Alien

staff highlights the importance of commitment for both the origination of their organization and their current work: "After the United States became a signatory to the Convention Against Torture, it began implementing domestic legislation like the Torture Victims Protection Act. Such legislation helps give rise to organizations like CJA and likely would not have occurred without [international commitment]."[9]

Although Keck and Sikkink (1998) and Simmons (2009) argue that treaty-related mobilization pressures the state to reduce rights violations, a vast literature suggests that the state is more likely to respond with *increased* repression.[10] Davenport (2007*a*, 7-8) refers to this consistent finding as the Law of Coercive Responsiveness: "When challenges to the status quo take place, authorities employ some form of repressive action to counter or eliminate the behavioral threat...The consistency of this finding is quite astonishing in a discipline where very few relationships withstand close scrutiny" (Davenport 2007*a*, 7-8). Domestic challenges to the regime threaten to undermine authorities' position of power, so the state faces incentives to repress. Rather than assuming dissent leads to decreased repression, we build on the Law of Coercive Responsiveness and argue that mobilization is likely to lead to increased repression.

In sum, IHRTs increase the likelihood a state will be brought to the domestic judiciary *and* facilitate popular mobilization against the state, and these consequences place cross-cutting pressures on state authorities. The desire to avoid litigation creates incentives for leaders to repress *less* in the wake of international commitment. However, citizens are prone to mobilize in the shadow of IHRT obligations, so the state faces incentives to repress *more*. How do state authorities balance these conflicting incentives?

3   Executive Job Security and the Salience of Cross-Cutting Pressures

State leaders are primarily motivated by a desire to remain in power. Political authority is valuable because it allows leaders to set policies according to their preferences and extract rents from the populace

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Tort Statute (ATS) and the Torture Victim Protection Act (TVPA).

[9] Personal interview. 4 October 2010.

[10] For a review of this literature, see Davenport (2007*a*).

([Bueno de Mesquita et al. 2003](#)). Given this value, those who hold power (state authorities) have substantial incentives to continue holding it, and those who do not hold power (citizen groups) have incentives to attain it. Put differently, states and groups have largely opposing preferences when it comes to power, and repression and dissent strongly influence the domestic allocation of power.

A mobilized challenge undermines authorities' political survival in an immediate and salient manner. Mobilized dissent can damage state property, costing the state resources; require regime attention, creating opportunity costs; and undermine the state's sheen of legitimacy to rule. In effect, dissent reduces the state's resources or its authority, subverting the leader's political security. Mobilization represents a particularly dangerous threat to the ruling regime because it can snowball quickly into an even more threatening phenomenon. Dissatisfaction is common in most societies, even if dormant, and citizens are often just waiting for others to make the first move before joining such movements ([Kuran 1991](#)). Mobilized challenges to the state, then, are not only costly for state authorities, but they also represent a threat that can quickly undermine leaders in power.

Authorities face strong incentives to stop popular mobilization in its early stages, and repression is an efficient method to achieve that goal. Repression undermines groups' willingness and capacity to mobilize and challenge the state, either by reducing resources available to the group or intimidating them into silence ([Davenport 2007*b*](#)). State torture is an especially useful tactic in this endeavor ([Rejali 2007, Wantchekon and Healy 1999](#)). Authorities often use torture to elicit information about potentially harmful dissent ([Rejali 2007](#)), subverting groups' capacity to oppose the regime. Prevalent torture also adds to an environment of terror that attenuates citizens' will to dissent in the first place ([Wantchekon and Healy 1999](#)). Due to its advantages as a tactic and the salience of mobilization, scholars have found that state authorities will use torture in the context of violent dissent, even if domestic institutions would otherwise prevent them from doing so ([Conrad and Moore 2010, Davenport, Moore and Armstrong 2007](#)).

Nevertheless, significant costs can prevent authorities from torturing and groups from mobilizing

whenever the opportunity presents itself. Mobilization requires organization, expertise, and resources, and it comes with an oftentimes high risk of increased state repression. Likewise, states need arms, soldiers, and police to commit violations. They also face opportunity costs for focusing on repression rather than other policies. Higher levels of torture and dissent (e.g., in scope, coercion, disruption, and/or violence) are more costly to the leader and the group, respectively, than less severe actions.

Further, the state can incur costs from effective domestic institutions, like the judiciary. As discussed above, citizens are more likely to bring state authorities to court for rights violations when they believe that the domestic judiciary is effective. Further, an effective judiciary—or one that expects compliance with its decisions—will be more likely to rule against the state, so that the state incurs costs in terms of its reputation and in complying with the court's remedy. These resource and institutional costs are such that both authorities and groups prefer to get what they want—either policy or power—while avoiding costly repression and mobilization.[11]

How do state authorities mediate these conflicting incentives? To answer this, we return to their desire to retain power. While all regimes prefer to stay in power, some are more vulnerable to turnover than others. Political security is a function of economic outcomes, involvement in international crises, regime type, and a leader's individual characteristics (Chiozza and Goemans 2004, Geddes 1999). Leaders who are at higher risk of turnover choose policies (Chiozza and Goemans 2003) and are targeted by other states (Wolford 2007) differently than more secure leaders. This dynamic also holds true in the context of state repression: as the probability of executive political survival decreases, leaders are more likely both to experience dissent and to engage in repressive acts (Ritter 2010).

We argue state authorities' expectation of job security mitigates which IHRT-related pressure influences their repression decision. As recently seen in Tunisia, Egypt, and Libya, the pressure a regime feels from a mobilized population is highly identifiable and salient. Because even low levels of mobilization

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[11]This is a similar dynamic to that described in bargaining models of international conflict (e.g., Fearon 1995).

can be sufficiently costly to remove vulnerable leaders from power, potential court costs may seem less pressing. Judicial costs are distant and uncertain, while the costs of mobilization are present and clear. State authorities who are *vulnerable to turnover* expect to have short time horizons and discount the future significantly. Consequently, a vulnerable leader will repress to control the threatening mobilized challenges that arise after IHRT ratification, regardless of the effectiveness of the judiciary.

In contrast, a leader who is *secure* in office will be concerned with the long-term costs of a judiciary that becomes more effective after commitment to an IHRT. Domestic courts impose costs on the executive after the fact, if at all. States may be able to keep a stream of mobilizing groups at bay, but the court represents a constant threat over time. For the court to rule, a victim must litigate, and cases often take months and even years to travel through the judicial system. Although the process itself is costly, these costs are borne over time. Even in highly effective systems many victims do not bring suit against the state for repression, so these costs are probabilistic. Further, courts becomes more effective over time: when a court successfully causes impacts outcomes, its perceived legitimacy—and thus its power to change outcomes—increases (Carrubba 2009). The consistency of the court and the propensity for it to become increasingly powerful over time makes it an important threat to state authorities who expect to remain in power into the future. To minimize the potential for future litigation and increasing judicial effectiveness, a secure leader will repress less, even when facing a mobilized population. Therefore, in states facing mobilization, we predict that judicial effectiveness will decrease state repression only when executives expect to be in office well into the future.

In sum, extant scholarship leads us to expect states who ratify an IHRT to experience increases in both popular mobilization and judicial effectiveness. We argue that these consequences of ratification create conflicting incentives with respect to repression, which authorities balance based on expectations about job security. We predict the following hypotheses, based on when this tension is at its highest:

Hypothesis 1. *When a state has ratified an IHRT and the judiciary is effective, we predict the following:*

(a) When job security is low, mobilization will have a positive effect on the likelihood of repression.

(b) When job security is high, mobilization will have no effect on the likelihood of repression.

Hypothesis 2. *When a state has ratified an IHRT and the population is mobilized, we predict the following:*

(a) When job security is low, judicial effectiveness will have no effect on the likelihood of repression.

(b) When job security is high, judicial effectiveness will have negative effect on the likelihood of repression.

What, then, is the effect of IHRT commitment on human rights? Do IHRTs have an effect on human rights practices that is distinguishable from the domestic factors that led them to commit in the first place? That is, do IHRTs "constrain" or "screen" (Von Stein 2005)? To speak to the effect of commitment on the propensity to repress, consider the type of state where the tension is most prominent—that in which the citizenry is already mobilized against the incumbent regime and the domestic judiciary is relatively effective. Following prominent scholars of international legal institutions and advocacy,[12] we expect states that ratify an IHRT to experience domestic political change. Dissatisfied citizens will be more likely to join social movements against the state, and judiciaries will have new standards and legitimacy with which to bring the state to task for human rights violations. However, as argued above, authorities will prioritize the increased mobilization when they are vulnerable and the more effective court when they are secure. Consequently, ratifying an IHRT will have different effects depending on leaders' expectations of their job security.

Hypothesis 3. *When the judiciary is effective and the population is mobilized, we predict the following:*

(a) When job security is low, IHRT commitment will have a positive effect on the likelihood of repression.

(b) When job security is high, IHRT commitment will have a negative effect on the likelihood of repression.

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[12]See, e.g., Finnemore and Sikkink (1998), Hathaway (2007), Keck and Sikkink (1998), Powell and Staton (2009) and Simmons (2009).

4   Testing the Theory

To test the implications of our theory, we estimate the state's propensity for repression as a function of commitment to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), using time-series cross-sectional (TSCS) data on torture practices in 196 countries from 1987 until 2004. Investigating the effect of CAT commitment on torture is an appropriate test of our hypotheses for several reasons. First, torture is representative of the larger category of state repression of physical integrity rights. It is an action specifically intended to undermine the capacity and willingness of potential dissidents (Rejali 2007). As a result, scholars commonly predict torture as a representative category of rights violations (e.g., Conrad 2011, Hathaway 2002, Powell and Staton 2009, Simmons 2009, Vreeland 2008). Second, because torture is a prevalent and commonly used tactic, it constitutes a difficult test of the influence of IHRT commitment on human rights. Almost all states torture in any given year, and authorities commonly justify it as a necessary evil for the maintenance of order (Rejali 2007). States that ratify the CAT rarely reduce their levels of torture post-ratification and sometimes increase violations (Hathaway 2002, Vreeland 2008). Third, to our knowledge, the CAT is the only IHRT that focuses exclusively on improving rights records for a single type of human rights violation. Consider the International Covenant on Civil and Political Rights (ICCPR). Because the ICCPR requires states to respect and/or improve a wide variety of rights, it is difficult to parse out compliance with the treaty. For example, if the ICCPR leads to poorer implementation of due process but increasingly free elections, is a state "compliant" with the terms of the treaty? We prefer a clear measurement link between IHRT mandates and abuses; the tight linkage between the CAT and torture meets this criterion.

4.1   Data and Error Structure

To estimate the conditions under which leaders engage in torture, we require a measure that represents the state's chosen pattern of abuse. Based on content analysis of Amnesty International (AI) torture alle-

gations, Cingranelli and Richards (2010) code a state's annual overall environment of torture, accounting for whether the state generally tortures a lot, some, or not at all in a given year.[13] In order to create an indicator of torture that reflects its dichotomous specification in our theory, we collapse CIRI's trichotomous measure of torture incidence to create *Systemic Torture*, coded "1" if a government is reported to have engaged in "some" or "a lot" of torture in a given year and "0" otherwise.

In our empirical models, *CAT Commitment* is a dichotomous measure, coded "1" in the year in which a county ratifies (or accedes to) the United Nations Convention Against Torture and "1" every year thereafter.[14] We argue that CAT commitment changes domestic politics in two ways: by heightening the ability of the domestic court to rule against the incumbant regime and by inciting domestic mobilization against its policies. Accordingly, our models also include measures of both judicial effectiveness and mobilization against the incumbent regime.

A measure of *Judicial Effectiveness* must account for several underlying concepts. First, the measure should indicate whether judges are free to rule as they see fit (independent) and whether their rulings are translated into political outcomes (powerful) (Cameron 2002, Ríos-Figueroa and Staton 2009, Staton and Moore Forthcoming). Second, it should account for the extent to which the population *believes* the court to be effective in its ability to rule against the state; this captures the idea that individuals are more likely to bring litigation to an effective court (Powell and Staton 2009). We employ a measure of judicial effectiveness from Tate and Keith (2007), who code information on judical independence using U.S. State Department annual human rights reports. Rather than measure the independence only of the high court within a given country (e.g., Howard and Carey 2004), the measure looks at the entire judicial system as a whole and reports information on independence as well as the extent to which judges' rulings are trans-

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[13]Like all measures of state repression, the CIRI measure is an undercount of state torture because the state has incentives to hide repressive behavior. This means our results should be biased toward null findings (King, Keohane and Verba 1994).Furthermore, the sources from which CIRI codes torture allegations, AI and the UN State Department, are strategic actors that may face incentives to report more (or less) against certain countries. As a result, our measure of torture is not actually a measure of "true" torture, but of torture *allegations* by AI and the US State Department (Conrad and Moore 2011).

[14]Because we are interested in the effect of CAT commitment on torture (and because governments have the opportunity to renege on their commitment to international human rights law), states do not drop out of our sample when they ratify the CAT.

lated into policy (Powell and Staton 2009). For consistency with our theoretical model, we dichotomize the measure, such that a "0" represents a state with a relatively ineffective domestic judicial system and a "1" represents a state with a relatively effective system of courts.

To check the robustness of our results, we also measure judicial effectiveness using contract intensive money (CIM). CIM ranges from 0 to 1,[15] and it reports the "ratio of non-currency money to the total money supply (Clague et al. 1999, 188)." Clague et al. (1999) argue that citizens with low confidence in domestic political institutions do not expect contracts to be honored and so prefer currency for monetary transactions, whereas people with more trust in contract enforcement will be more willing to invest their money in banks. Although CIM was created as a measure of the extent to which people expect economic contracts to be enforced by government institutions, recent literature argues that it is appropriate as a measure of judicial effectiveness (Conrad 2011, Powell and Staton 2009, Ríos-Figueroa and Staton 2009). Unlike other measures of judicial independence or rule of law, CIM provides information on the behavioral consequences of judicial effectiveness. CIM is positively correlated with alternative measures of the rule of law and judicial independence, and it is available over a larger spatial and temporal range than other more traditional measures of judicial independence (Ríos-Figueroa and Staton 2009).

We also require information on the willingness and ability of non-state actors within the state's territory to mobilize against the government. Various measures of internal conflict are available cross-nationally for our temporal domain and may seem appropriate as a measure of opposition dissent. Unfortunately, these measures typically include information on state repression as well as opposition dissent, making them inappropriate for our purposes.[16] Instead, we turn to the Cross-National Time-Series (CNTS) Data Archive (Banks 2010), which captures opposition acts against the domestic government, but does not include information on state responses to such acts. The data include the num-

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[15]In our data, CIM ranges from 0.058 to 1.

[16]The commonly used Political Risk Service's indicator of Internal Conflict and the World Governance Indicators' measure of Political Stability and the Absence of Violence both include coders' perceptions of not only dissent but also the governments' realized or likely repressive response.

ber of anti-government demonstrations, general strikes, riots, and revolutions in a given country-year.[17] This data captures low-intensity actions against the state, enabling us to study the effects of even minor anti-government mobilization. Because our theoretical conceptualization of mobilization is binary, *Mobilization* is coded "1" in a given year if a state experiences at least one anti-government demonstration, general strike, riot, or revolution. Approximately 40% of the country-years in our data are coded as experiencing mobilization.

Faced with changing domestic politics as a result of CAT commitment, we predict that executives make decisions about torture based on their expectations about remaining in office. To represent the executive's probability of political survival, we follow Cheibub (1998), who uses parametric survival models to create empirical measures of job insecurity based on time in office, previous trends in leadership change, and economic growth. Because Cheibub's (1998) measure is limited geographically and temporally, we follow (Young 2008) and created our own estimate of the executive's likelihood of remaining in office using data from Bueno de Mesquita et al. (2003). Our main measure of job insecurity is an estimated function of time-to-date in office, previous trends in leadership change, and economic growth.[18] The resultant measure of job insecurity ranges from 0 (lowest probability of leadership turnover) to 1 (highest probability of leadership turnover). We reverse the scale to create the measure of *Executive Job Security* used in our empirical models. Because, on average, state leaders face a low probability of losing office in any given year, the data are highly right-skewed.[19]

Although we do not specifically predict when a state will ratify the CAT, commitment is determined in part by the determinants of torture (Hill 2010, Powell and Staton 2009, Von Stein 2005, Vreeland 2008).

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[17]Our results are robust to modified versions of this measure, as well as to Murdie's (2009) indicator of NGO activity within a state's territory.

[18]Following Young (2008), we also created two additional measures of job insecurity. Because leadership change in democracies is arguably different than leadership change in autocracies, our first alternative measure of job insecurity accounts for previous trends in irregular leader change, the age of the leader, and the level of democracy of the state. Our second alternative measure of job insecurity accounts for the Cheibub (1998) covariates, as well as previous trends in irregular leader change, the age of the leader, and the level of democracy of the state. Our results are robust to the use of these alternative measures.

[19]In our data, *Job Security* ranges from 0.750 to 0.993).

If states commit to the CAT only when they face certain combinations of domestic judicial effectiveness and mobilization, traditional probit models make it difficult to determine whether CAT-committed states lessen (or heighten) torture as a result of international commitment or as a result of the domestic conditions that led them to commit in the first place (cf. Downs, Rocke and Barsoom 1996, Przeworski and Vreeland 2000, Von Stein 2005). As such, selection into IHRTs like the CAT is likely to be non-random, and the elements of the torture decision for which we do not account with the above concepts and measures are likely to be correlated with the errors of the commitment decision.

An estimator that reflects the error structure specified in our theory (Morton 1999, Signorino 1999) must consequently account for the lack of independence in the decisions to commit to the CAT and engage in high levels of state torture. The most obvious solution to this problem is to use a selection model (Heckman 1979).[20] However, in a standard Heckman selection model, the selection stage (here, commitment to the CAT) determines the membership of the outcome stage (here, systemic torture), allowing us to examine the effect of domestic mobilization and judicial effectiveness only in states that have ratified the international treaty. This characteristic prevents us from comparing the effects of commitment in signatory states to states that have not ratified the CAT because data for non-selected units are typically unobserved. But the observability problem in studying international treaty compliance does not occur because we only observe the outcome of interest for the selected group; it occurs because it is impossible to observe (1) the level of repression that would have occurred in non-signatory states had they chosen to commit to an IHRT, and (2) the level of repression that would have occurred in IHRT signatory states had they failed to commit.

Instead, we use a selection model written by Von Stein (2005). The estimator is similar to a traditional selection model in that it accounts for observed factors that affect the commitment decision. For our purposes, it is superior to the traditional model because it also accounts for *unobserved* factors affecting

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[20]These models assume that the errors in the models of the dependent variables are correlated. The errors are not correlated whenever ρ is insignificant.

the commitment decision and "estimates the outcome equations for signatories and non-signatories separately... [and] does not assume that the independent variables affect the restriction behavior of the two groups in the same manner" (Von Stein 2005, 617). As a result, we are able to test our hypotheses about the effect of domestic mobilization and judicial effectiveness in all states, comparing across those that have—and those that have not—ratified the CAT. We are also able to test our hypotheses about the effect of CAT commitment on the likelihood of repression, accounting for both the observed and unobserved factors that affect state decisions to ratify international human rights law.[21]

Because the factors that lead states to commit to IHRTs are often the same factors that lead them to repress, we include measures of *Judicial Effectiveness*, *Mobilization*, and *Job Security* in the selection stage of our model.[22] Following Powell and Staton (2009), we also include several additional variables known to affect international treaty commitment. Importantly, several of these factors are not known to affect state repression (Sartori 2003, 112). First, we include a control for *Democracy*, which is typically argued to be positively related to IHRT commitment (Landman 2005, Poe and Tate 1994). Our binary, minimalist measure of democracy comes from the Democracy-Dictatorship data (Cheibub, Gandhi and Vreeland 2010); it is coded "1" for democratic states (i.e., those with contested elections) and "0" otherwise. Powell and Staton (2009) include in their empirical model of commitment a measure of the number of international NGOs to which citizens are members within a given country-year (Hafner-Burton and Tsutsui 2005). INGOs are expected to have a positive effect on the likelihood of IHRT commitment and a negative effect on state repression. In part because this measure limits the temporal domain of our analyses and in part because it is related to the state's compliance decision, we instead include a measure of the number of intergovernmental organization memberships a state maintains during a given year.

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[21] Models in which the dependent variable is dichotomous produce inefficient estimates if there is temporal dependence within the units (Beck, Katz and Tucker 1998). Our results are robust to the inclusion of either cubic splines and a counter of prior failures, as recommended by Beck, Katz and Tucker (1998), or a third order polynomial time counter, as recommended by Carter and Signorino (2010), to control for temporal dependence.

[22] We do not include interaction terms (discussed below) in the selection stage because we have no theoretical reason to expect the effect of these factors to be conditional on each other.

The measure, *IO,* comes from the Intergovernmental Organizations (IO) Data Set and ranges from one to ten (Ulfelder 2011). Finally, international treaty commitment is argued to be in part driven by regional and global norms (Goodliffe and Hawkins 2006, Simmons 2000), we include two measures from Powell and Staton (2009) indicating the percentage of states in the region (*Regional Rate*) and the world (*Global Rate*) that have committed to the CAT in a given year. We do not expect these measures to be related to state decisions about whether or not to engage in torture.

Finally, our hypotheses about the likelihood of state repression are conditional, requiring the inclusion of a variety of interaction terms and constituent terms in the outcome equations of our models. We predicted that job security will interact with IHRT membership in its effects on torture, as a function of the levels of judicial effectiveness and mobilization already present in the state. Because the Von Stein (2005) selection model accounts for CAT commitment in the selection stage, we interact three concepts in the outcome equation: *Judicial Effectiveness * Mobilization * Job Security.* We follow the recommendations of Brambor, Clark and Golder (2006) and include the constituent two-way interaction terms in our outcome equations.

4.2 Empirical Results & Discussion

Table 1 presents estimates of the effect of our independent variables on the probability of systemic torture. The first two columns of Table 1 show our results for CAT-signatory states, using two measures of judicial effectiveness, *Tate & Keith* and *CIM*. Columns 3 and 4 show the effect of judicial effectiveness and mobilization on systemic torture for non-signatory states. ρ measures the extent to which unobservable factors not captured in the selection stage affect the likelihood of state torture. Likelihood ratio (LR) tests of ρ for signatory states compared to nonsignatory states allows us to reject the null hypothesis that their joint effect is zero (p=0.000), which indicates the presence of selection effects.[23] Although we

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[23]In our results for CAT signatory states (Columns 1 and 2) the positive and significant ρ indicates that the unobserved factors that lead countries to commit to the CAT make them more likely to engage in systematic torture. Columns 3 and 4 show our results for non-signatory states. Here, the positive and significant ρ indicates that the unobserved factors that lead states not

show results for the selection stage in the bottom half of Table 1, we focus our discussion on the results

estimating the probability of systematic torture.

<div align="center">Table 1 about here.</div>

Although the coefficients on our interaction terms (and many of their constituent parts) are insignif-

icant in our models, this does not paint a clear picture as to how the interactions affect state torture (cf.

Brambor, Clark and Golder 2006). To evaluate the mediating effect of job security on the relationship

between judicial effectiveness and high levels of torture in CAT-committed states facing mobilization,

we plot the marginal effect of *Judicial Effectiveness* on the probability of *Systemic Torture* at different lev-

els of *Job Security* in Figure 1.[24] The solid lines illustrate the marginal effect of judicial effectiveness on

the probability of *Systemic Torture* .[25] The estimated effect is only statistically significant when the up-

per and lower bounds of the ninety-five percent confidence intervals (shown with dashed lines) do not

encompass the zero line.

The results shown in Figure 1 largely support our predictions about the effects of judicial effective-

ness on state torture, conditional on CAT status, mobilization, and job security. In CAT-committed states

facing mobilization, judicial effectiveness has no effect on the likelihood of systemic torture when exec-

utive job security is low. This is consistent with our expectation as outlined in Hypothesis 1: When CAT-

committed executives face mobilization but maintain only a tenuous hold on power, they are unlikely to

consider increases in judicial effectiveness when making decisions about compliance with international

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avoid CAT commitment make them less likely to engage in systemic torture.

[24]We created Figure 1 using the *Tate & Keith* measure of judicial effectiveness. Figures using *CIM* as our measure of judicial effectiveness are substantively similar. In order to produce the figures, we follow Brambor, Clark and Golder (2006) and use Stata's `drawnorm` command to simulate one thousand values of the model's parameters. We then used the simulated parameters to calculate the predicted probability of each value of *Systemic Torture* with *Tate & Keith* and *Job Security* set at 0.9 (since *Job Security* is heavily skewed right; over 90% of observations are greater than 0.9) and other independent variables in the model set at their means. Next, we calculated the predicted probability of each value of *Systemic Torture* when *Tate & Keith* is increased from its minimum in-sample value (0) to its maximum value (1), holding *Job Security* at zero and all other independent variables constant. We subtracted the first calculated predicted probability from the second predicted probability and repeated this process at each 0.01 interval of *Job Security* up to a value of 1.0 (its maximum possible value) and graphed the first difference across the observed range of *Job Security*.

[25]These substantive effects were calculated using results from Column 1 in Table 1.
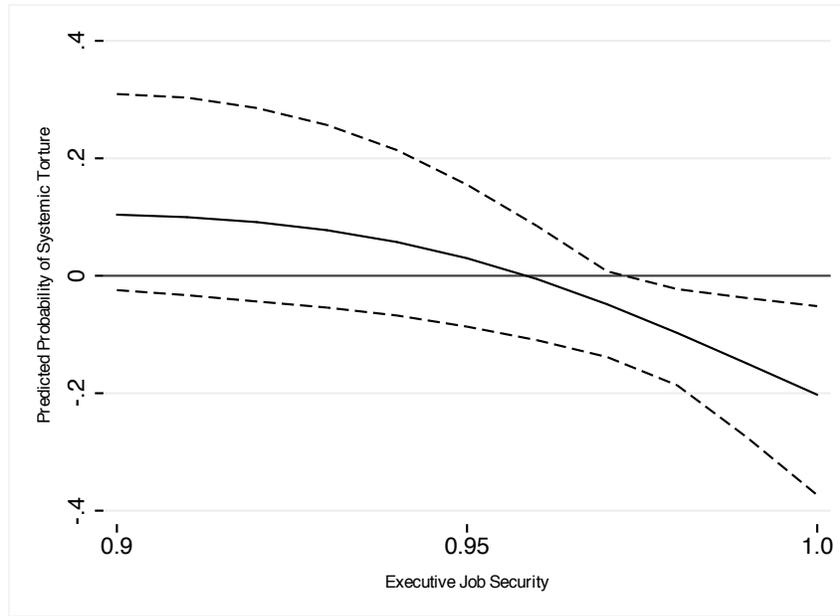
Figure 1: Effect of Judicial Effectiveness on Pr(Systemic Torture) in CAT-Committed Countries Facing Mobilization as Executive Job Security Increases

human rights law. For leaders concerned about retaining power, the benefits that accrue from the use of torture in the face of a mobilized opposition far outweigh the far-off costs associated with the domestic judiciary. As executives become more secure in their ability to hold onto power, however, increases in judicial effectiveness significantly decrease the likelihood of systemic state torture. At high levels of executive job security, an increase in judicial effectiveness significantly *decreases* the likelihood of systemic torture. Executives who expect to be in office well into the future are likely to worry about the potential for litigation and its associated costs. This is especially likely to be the case in states that have ratified the CAT and expect it to boost the court's overall level of effectiveness.

We also predicted that mobilization would not lead to increases in state repression in CAT-committed states with effective domestic courts and secure executives (Hypothesis 2). As above, it is difficult to evaluate this hypothesis only by looking at Table 1. Therefore, we plot the marginal effect of *Mobilization* on the probability of *Systemic Torture* at different levels of *Job Security* in Figure 2 below.[26] The solid

[26]In order to produce Figure 2, we follow Brambor, Clark and Golder (2006) and use Stata's `drawnorm` command to simulate one thousand values of the model's parameters. We then used the simulated parameters to calculate the predicted probability of each value of *Systematic Torture* with *Mobilization* and *Job Security* set at 0.9 and other independent variables in the model set

line in Figure 2 shows the marginal effect of mobilization on the probability of systemic torture in CAT-committed states facing relatively high judicial effectiveness at different levels of executive job security. As above, the effect is only statistically significant when the upper and lower bounds of the ninety-five percent confidence interval (shown with dashed lines) do not encompass the zero line.
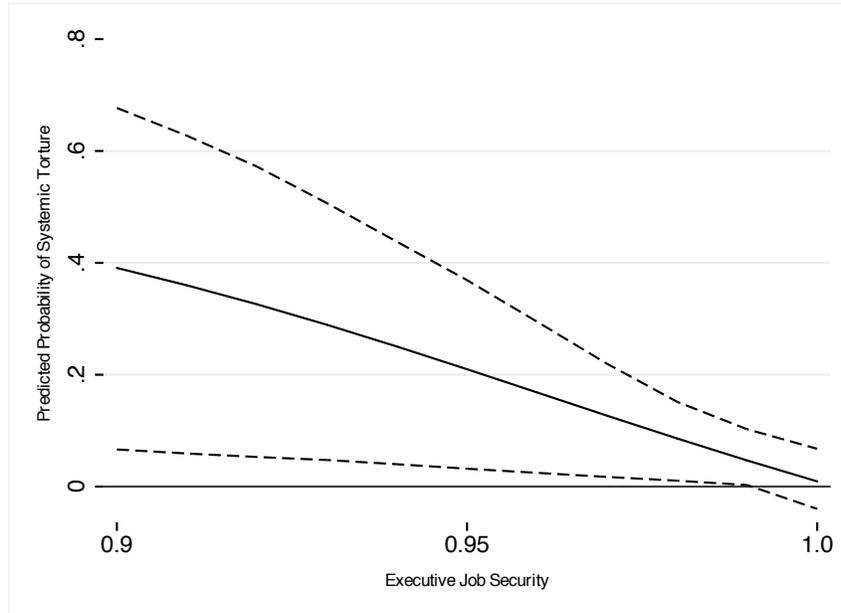

Figure 2: Effect of Mobilization on Pr(Systemic Torture) in CAT-Committed Countries Facing Relatively High Judicial Effectivness as Executive Job Security Increases

Figure 2 provides support for our second hypothesis. At low levels of *Job Security*, *Mobilization* has a positive and significant effect on the probability that CAT-committed leaders facing effective domestic courts engage in high levels of torture. when leaders are worried about their tenure in office, mobilization positively affects the propensity for a state to adopt systemic torture policies, even when it has committed not to do so under international law. This lends support to the idea that mobilized dissent induces repression (e.g., Davenport, Moore and Armstrong 2007), rather than reducing it (e.g., Simmons 2009). But this effect is conditional on executive expectations about job security; as *Job Security* increases, the

at their means. Next, we calculated the predicted probability of each value of *Systematic Torture* when *Mobilization* is increased from its minimum value (0) to its maximum value (1), holding *Job Security* at 0.9 and all other independent variables constant. We subtracted the first calculated predicted probability from the second predicted probability and repeated this process at each 0.01 interval of *Job Security* up to a value of 1.0 (its maximum possible value) and graphed the first difference across the observed range of *Job Security*.

marginal effect of mobilization on the likelihood of systemic torture decreases in magnitude, becoming insignificant when executives feel most secure in office. When leaders expect to be in office well into the future, they are forced to consider judicial costs that can accrue if they respond to mobilization with torture and are then held accountable in a domestic court.

The results presented above show the effect of judicial effectiveness and mobilization on torture in CAT-committed states, but our research question centers on the state's choice of repression when commitment to an IHRT intensifies these tensions. In other words, how do authorities mitigate the conflicting effects of an IHRT obligation? To speak to the effect of commitment to international prohibitions on the propensity to repress, we must determine the marginal effect of CAT commitment on torture in states where the tension between domestic factors is most prominent—those with a mobilized population and an effective court. Unfortunately, it is impossible to observe in our data the level of repression that would have occurred in non-signatory states had they chosen to commit to an IHRT, as well as the level of repression that would have occurred in IHRT signatory states had they failed to commit to the international treaty. In order to determine the effect of CAT commitment on state torture, then, we must imagine a counterfactual in which all countries that have failed to commit to the CAT in our data are forced to sign and look at the difference in their repression behavior across these outcomes.[27]

Figure 3 shows the the effect of CAT commitment on the probability of systemic torture across the range of executive job security. In order to create the figure, we first estimated the predicted probability of systemic torture for a non-signatory state (using the selection equation and the nonsignatory outcome equation) with the values of our independent variables set at their means across the range of executive job security. Next, we used the same values of our independent variables (the mean values for a non-signatory to the CAT) and estimated the predicted probability of systemic torture that *would have occurred* had that state ratified the CAT (as predicted by the selection equation and the signatory

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[27]See Von Stein (2005).

outcome equation). Although the second type country does not exist in our observable data, we can now observe the effect of the CAT across two states that only differ on one dimenstion—their commitment status. Figure 3 plots the difference in these values between signatory state and non-signatory states across the range of *Job Security*. This difference "yields the marginal effect of... commitment, independent of selection" (Von Stein 2005, 619). This marginal effect of CAT commitment is significant across the range of executive job security whenever the ninety-five percent confidence intervals to not encompass the zero line.
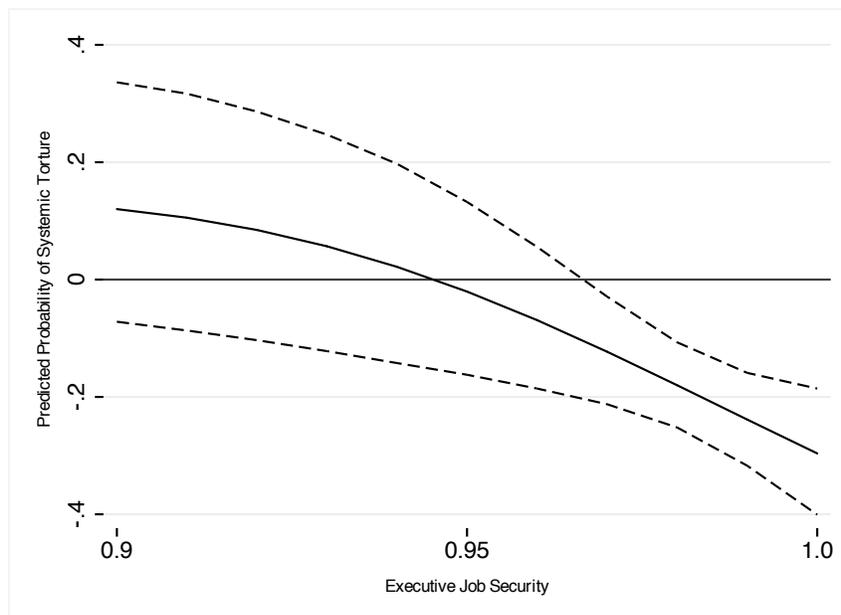

Figure 3: Effect of CAT Commitment on Pr(Systemic Torture) Countries Facing Mobilization and Relatively High Judicial Effectiveness as Executive Job Security Increases

When the population is mobilized and the court is effective, state authorities are pulled in opposing directions in terms of repression. If they respond to the population's challenges, litigation will likely ensue and cost legitimacy and resources. If they avoid the threat of the judiciary, the population can damage their position of power. When do states torture, given that ratifying the CAT intensifies these tensions? As we predicted in Hypothesis 3, the state predicates its torture decision on the stability of the executive's hold on power. CAT commitment is not associated with a statistically significant increase

in the likelihood of systemic torture when executive job security is relatively low. When vulnerable to removal, state authorities must consider whether or not to control the most immediate threat to their position—mobilization. As job security increases, however, leaders become increasingly worried about costs associated with the domestic court; as a result, CAT has a dwindling effect on the probability of systemic torture as leaders become more assuted in their ability to retain power. At the highest levels of executive job security in states facing mobilization and relatively effective courts, CAT commitment leads to a significant (statistical and substantive) decrease in the likelihood of systemic state torture.

5   Conclusion & Implications

In this paper, we examine how international legal obligations affect state repression in the face of conflicting domestic conditions. Commitment to an IHRT has two domestic consequences: First, the new, seemingly legitimate standard can facilitate increased mobilization against the state. This increases pressure on a state to repress. Second, IHRT ratification increases the domestic court's ability to rule against the state on issues of human rights, discouraging repression. We argue that authorities balance these incentives depending on their *job security*: leaders vulnerable to turnover will respond to increased mobilization with increased repression, even though it is more likely they will be held accountable for their actions in a domestic court. Conversely, leaders sitting securely in power will repress less to avoid the court costs associated with international treaty obligations.

Our theory and findings suggest several important implications. First, we contribute to the scholarly understanding of the role of executive political survival on domestic political processes. Executive tenure considerations have been found to affect the state's willingness to repress (Ritter 2010, Young 2009), as well as its tactics (Ritter 2010). However, the repression literature, and to our knowledge the larger literature on international relations, has yet to look at how job insecurity mediates the effect of institutions on executive action. Our theory implies that executive job security has a mitigating effect on the ability of

domestic institutions to constrain the executive. In particular, an effective judiciary will have a stronger constraining effect when the leader expects to be in power long enough to feel the court's adverse effects. Although a large body of work argues that effective judiciaries constrain human rights violations and lead to other positive political outcomes, our findings suggest that leaders may ignore potential court costs if they do not expect to be in power long enough to see them come to fruition. Leaders who are secure in power, however, will be more likely to consider the likelihood of being held accountable by a domestic court when they make decisions about whether to engage in human rights abuses.

For policy-makers, this conditionality suggests international treaties may actually lead to worse rights practices in states with insecure leaders. When insecure, the treaty's boost to domestic challenges will lead to increased repression. Those interested in improving rights practices in such states may be better served by building public support for the domestic judiciary and thereby increasing its legitimacy in the state than pushing states to ratify IHRTs. Once the judiciary has been established, building support for ratification is more likely to be a fruitful endeavor.

Interestingly, authorities who commit to IHRTs and sit securely in power are less likely to repress than more vulnerable leaders. Treaty ratification may be successful at deterring a secure leader from repression if effective judiciaries are in place, raising the potential costs of litigation. As a result, "propping up" obligated dictators may actually improve domestic respect for human rights—but only if they face domestic courts that are sufficiently effective to threaten them with costs. Although counter-intuitive, supporting leader tenure may actually decrease repression, but only in states with courts that are able to hold the executive accountable for violations.

Although we focus on the effect of domestic courts in constraining repression, other institutional mechanisms may also limit human rights violations post-IHRT commitment. First, IHRT commitment may also refocus the legislative agenda (Simmons 2009), leading to changes in domestic laws and institutions to hold violators accountable. Second, executives should also consider the potential for adjudi-

cation outside their own domestic courts when they make decisions about repression. If increasingly effective international courts begin to systematically try violators of international human rights law—and then hold them accountable—executives may be dissuaded to violate rights even if their domestic courts are relatively ineffective. Under the CAT's universal jurisdiction clause, executives considering repression may also need to consider potential domestic court costs in states other than their own. In February 2011, for example, human rights groups alleged that former US President George W. Bush cancelled a trip to Switzerland over concerns about being held accountable in Geneva for alleged torture in Guantanamo Bay (*Bush Cancels Visit To Switzerland Due To Threat Of Torture Prosecution, Rights Groups Say* 2011). If state leaders begin to anticipate the domestic and international costs of human rights violations—some of which may be born even after their removal from office—they will be less likely to engage in repression, even when faced with popular mobilization.

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Table 1: Effect of CAT Commitment, Judicial Effectiveness, and Mobilization on Systemic Torture

Outcome DV: Systemic Torture	Selection Model Signatories		Selection Model Non-Signatories	
$Mobilization_t$	-17.333	0.381	-5.268	263.155**
	(25.905)	(99.092)	(24.020)	(117.610)
$Judicial\ Effectiveness\ (Tate\ \&\ Keith)_t$	-14.697	–	-0.555	–
	(22.098)		(22.555)	
$Judicial\ Effectiveness\ (CIM)_t$	–	44.179	–	-117.537
		(85.130)		(96.078)
$Job\ Security_t$	-3.272	60.718	-1.638	-111.582
	(21.956)	(77.156)	(19.136)	(81.984)
$Mobilization_t * Judicial\ Effectiveness_t * Job\ Security_t$	-41.430*	-28.926	2.705	334.381**
	(27.184)	(112.757)	(29.607)	(140.367)
$Mobilization_t * Judicial\ Effectiveness_t$	41.085*	29.487	-2.722	-328.972**
	(26.776)	(110.968)	(29.134)	(138.249)
$Mobilization_t * Job\ Security_t$	17.873	-0.632	6.202	-266.631**
	(26.288)	(100.663)	(24.404)	(119.400)
$Judicial\ Effectiveness_t * Job\ Security_t$	13.913	-47.108	0.095	118.148
	(22.402)	(86.493)	(22.887)	(97.491)
Selection DV:				
$Mobilization_t$	-0.055	0.007	-0.055	0.007
	(0.064)	(0.062)	(0.064)	(0.062)
$Judicial\ Effectiveness\ (Tate\ \&\ Keith)_t$	-0.026	–	-0.026	–
	(0.071)		(0.071)	
$Judicial\ Effectiveness\ (CIM)_t$	–	0.207	–	0.207
		(0.215)		(0.215)
$Job\ Security_t$	-8.340***	-8.383***	-8.340***	-8.383***
	(2.933)	(2.783)	(2.933)	(2.783)
$Democracy_t$	0.513***	0.525***	0.513***	0.525***
	(0.071)	(0.072)	(0.071)	(0.072)
IO_t	0.129***	0.139***	0.129***	0.139***
	(0.016)	(0.016)	(0.016)	(0.016)
$Regional\ Rate_t$	1.322***	0.885***	1.322***	0.885***
	(0.235)	(0.239)	(0.235)	(0.239)
$Global\ Rate_t$	1.125***	1.861***	1.125***	1.861***
	(0.422)	(0.470)	(0.422)	(0.470)
ρ	0.651***	0.499***	0.457***	0.456***
	(0.000)	(0.003)	(0.004)	(0.002)
$Log-pseudo\ likelihood$	-2189.689	-2380.618	-2189.689	-2380.618
N	1874	2008	1874	2008

NOTES: * $p < 0.10$ ** $p < 0.05$; *** $p < 0.01$; (two-tailed). Robust standard errors in parentheses. Coefficients on constants not reported. Sample size: 196 countries from 1990 to 2004. Results are robust to the inclusion of third order polynomial time counters or cublic splines to account for temporal dependence. ρ measures sample selection and can range from -1 to 1.