

Individual Petition in Human Rights Treaties

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May 2018

Introduction

Why do some states, after ratifying human rights treaties, allow individuals access to these institutions, inviting complaints about their behavior? All core human rights treaties¹ provide a mechanism- optional protocol or declaration under a specific article- through which states can opt-in and voluntarily allow individual complaints about violations. Why would a state allow individuals to file against itself in international law, taking on additional scrutiny and sovereignty costs?

We have theories and supporting empirical evidence explaining why democracies and semi-democracies join these treaties and sometimes take on these additional sovereignty costs, but authoritarian regimes are puzzling. Authoritarian regimes may ratify human rights treaties because of international pressure (Wotipka and Ramirez 2008), material benefits (Hafner-Burton, Mansfield and Pevehouse 2015; Nielsen and Simmons 2015; Cole 2009; Hathaway 2007), domestic incentives despite no intent to comply (Hollyer and Rosendorff 2011; Vreeland 2008), but these reasons do not clearly extend to individual petition. Why do some authoritarian regimes invite their citizens to complain about human rights violations

¹The nine core UN human rights treaties are: International Covenant on Civil and Political Rights (ICCPR), Convention on Elimination of All Forms of Discrimination against Women (CEDAW), Convention against Torture and Other Cruel, Inhumane, or Degrading Punishment (CAT), International Covenant on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Rights of Persons with Disabilities (CRPD), International Convention for the Protection of All Persons from Enforced Disappearance (CED), International Covenant on Economic, Social, and Cultural Rights (ICESCR), Convention on the Rights of the Child (CRC), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICPRMW).

to an international legal institution?

To clarify, when a state allows individual petition in one UN human rights treaty, it allows any individual or group of individuals (regardless of citizenship or residence) that alleges to be victim of the state's actions in violation of the treaty to bring a complaint against it. For example, if Canada ratifies the First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) , any person may complain to the overseeing Committee if Canada has violated their human rights. The United States, on the other hand, has not ratified this protocol and thus does not allow communications about its behavior. An American, however, if victim of Canadian's behavior (perhaps while visiting Canada while on business or vacation), may bring a complaint against Canada. Simply, on a state-by-state basis, states make themselves vulnerable to individual complaints.

Table 1 shows the list of core human rights treaties along with each treaty's dates, individual petition mechanism, membership, and number of individual communications filed. This project focuses on the ICCPR because of its popular attention, large membership, time in effect, and consequently large number of individual petitions filed. Further, Figure 1 displays the variation in states that allow individual petitions, out of the nine possible treaties. An unsurprising handful of states, including the United States, China, India, Pakistan, and Israel, have not accepted any such procedure. Most countries that have accepted most procedures are established democracies, and there is quite a bit of variation in the middle.

The prospectus begins by exploring why authoritarian regimes invite individual complaints in the Human Rights Committee overseeing the ICCPR. I argue that authoritarian regimes face low costs of accepting this procedure and may benefit if the government is fragmented. Second, I analyze why individuals bring cases against these authoritarian states. Individuals, especially in repressive states, face high costs of confrontation. They may be able to over such costs if they complain against non-central regime elites, are assisted by civil society actors, or are a foreign national. The third section of this prospectus analyzes

Table 1: Human Rights Treaties

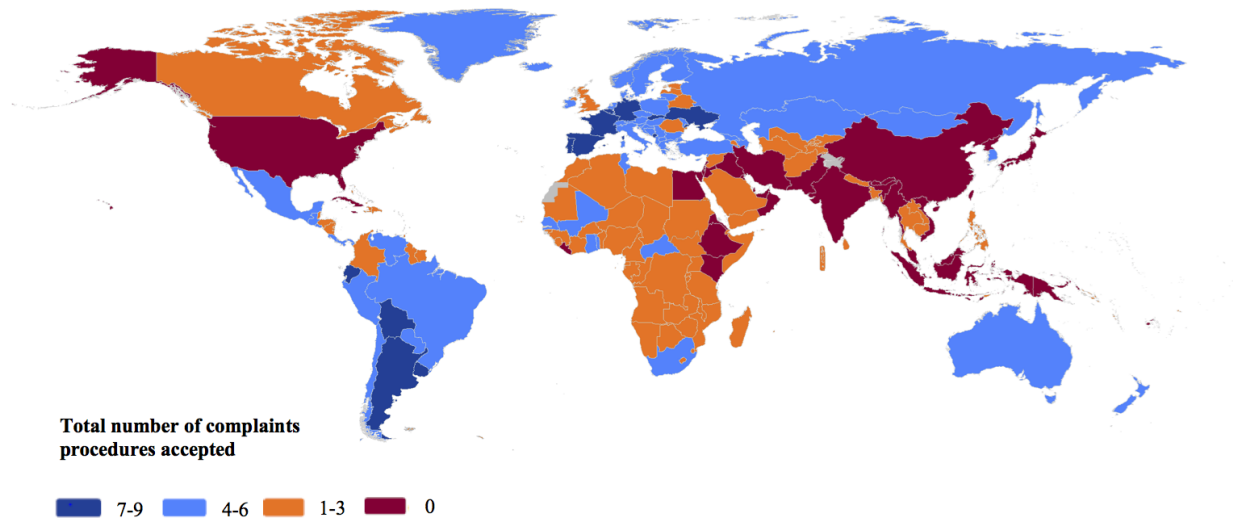
Treaty Name	Treaty Adopted, Effect	Individual Petition Mechanism	States Parties Individual Petition, Treaty	Individual Communications
International Covenant on Civil and Political Rights (ICCPR)	1966, 1976	optional protocol (1966)	116, 170	2756
Convention on Elimination of All Forms of Discrimination against Women (CEDAW)	1979, 1981	optional protocol (1999)	109, 189	67
Convention against Torture and Other Cruel, Inhuman or Degrading Punishment (CAT)	1984, 1987	article 22	28, 163	697
International Covenant on the Elimination of All Forms of Racial Discrimination (CERD)	1965, 1969	article 14	58, 179	55
Convention on the Rights of Persons with Disabilities (CRPD)	2006, 2008	optional protocol (2006)	91, 176	19
International Convention for the Protection of All Persons from Enforced Disappearance (CED)	2006, 2010	article 31	22, 58	1
International Covenant on Economic, Social, and Cultural Rights (ICESCR)	1966, 1976	optional protocol (2008)	23, 167	13
Convention on the Rights of the Child (CRC)	1989, 1990	optional protocol (2000)	37, 196	39
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICPRMW)	1990, 2003	article 77	Pending 51	(3), NA

Notes: Dates for individual petition denote when the optional protocol is first adopted (not into effect). For articles, dates correspond to the the treaty dates. ICPRMW is listed as “NA” because mechanism is not active until ten states accept (currently three).

Figure 1: Variation in Individual Communications Procedure



Acceptance of 9 Individual Complaints Procedures
Last Updated: 31 December 2017



Definition and meta-data: <http://www.ohchr.org/Documents/Issues/HRIndicators/MetadataIndividualCommunications.pdf>
Source: Database of the United Nations Office of the High Commissioner for Human Rights, [Treaty Bodies Database, December 2017](https://treaties.un.org)
For application of treaties to overseas, non-self-governing and other territories, shown here in grey, see <https://treaties.un.org>

Note: The boundaries and the names shown and the designations used on these maps do not imply official endorsement or acceptance by the United Nations.
Dotted line represents approximately the Line of Control in Jammu and Kashmir agreed upon by India and Pakistan. The final status of Jammu and Kashmir has not yet been agreed upon by the parties.

Above figure taken from
http://www.ohchr.org/Documents/Issues/HRIndicators/IndividualCommunications_map.pdf

the effect of this opening access to individuals. What effect, if any, do individual petitions have on committee discourse and state behavior?

1 Allowing Access

Many states ratify international human rights treaties and subject themselves to a monitoring body which makes recommendations for state behavior based largely on state self-reports. Some states then make an increased commitment and take on additional sovereignty costs by allowing individual petition. Under each UN core human rights treaty, the state largely controls information flows to the committee, submitting state reports under a specified timeline (note that NGOs may also submit information). There is no enforcement, so states often submit reports late or not at all, and the content can be quite self-congratulatory (Heyns and Viljoen 2001). The monitoring body then responds to these state reports and published recommendations, with their mandated goal of increasing compliance. Some states, however, open themselves up to additional scrutiny and allow private individuals and groups to submit information via formal complaints to the committee. Why would a state invite this additional criticism of its behavior?

Human rights treaties have attracted much scholarly attention, and this research has focused on why states join these treaties and whether or not they have any impact on state behavior (Fariss 2016; Hafner-Burton, Mansfield and Pevehouse 2015; Nielsen and Simmons 2015; Hollyer and Rosendorff 2011; Simmons 2009; Cole 2009; Wotipka and Tsutsui 2008; Vreeland 2008; Hathaway 2007). Some of these studies have included the Optional Protocol to the ICCPR or Article 22 of the CAT in the analyses but the mechanism of individual petition is largely ignored and not considered separately from ratification (Cole 2012; Simmons 2009; Cole 2006, are notable exceptions). Some studies have looked at optional protocols allowing for individual petition but in the same context as treaty ratification. We have good theories supported by empirical evidence explaining why liberal democracies, new democracies, and transitioning countries ratify human rights treaties, but they fail to address authoritarian regimes ((Hollyer and Rosendorff 2011; Vreeland 2008, are notable exceptions and will be detailed later). The puzzle is not only why authoritarian regimes ratify hu-

man rights treaties but why some allow individual complaints. In fact, sixteen autocratic regimes² allow individuals to bring complaints against themselves in the Human Rights Committee (HRC) overseeing the International Covenant on Civil and Political Rights (ICCPR). I present a theory detailing why authoritarian regimes may, under certain circumstances, allow individual complaints in international treaties. These states face low costs given their domestic, oftentimes repressive environment, but individual complaints may bring benefits to the regime by acting as a fire alarm against other domestic actors or positive international press in the face of important bargains.

1.1 Existing Explanations: Treaty Ratification and Individual Petition

Before explaining why authoritarian states allow individual petition, we must first understand why some states select into treaty ratification. Current literature uses the same explanations for treaty ratification and individual petition, treating this institutional mechanism, because of higher levels of enforcement, as further sovereignty costs of ratification. Wotipka and Tsutsui (2008) claim that normative pressure causes states to seek legitimacy in the international community and thus encourages states to ratify human rights treaties.

Simmons (2009) distinguishes “sincere ratifiers” from “strategic ratifiers”. States weigh the costs and benefits of joining— joining for tangible benefits despite sovereignty costs— although the empirical evidence is mixed (Hafner-Burton, Mansfield and Pevehouse 2015; Nielsen and Simmons 2015; Cole 2009; Hathaway 2007). States may sincerely ratify and welcome international human rights treaties to help solve the time-inconsistency problem and allow states to lock in current, liberal policies (Hafner-Burton, Mansfield and Pevehouse 2015; Simmons and Danner 2010; Moravcsik 2000). Or, more simply, states design and ratify treaties that reflect behavior they intend to continue regardless of international commitments (Chapman and Chaudoin 2013; Downs, Rocke and Barsoom 1996). Others, however, are

²Autocratic regime here is operationalized by a Polity score of -6 or less using Jagers and Gurr (1995) the year that state allowed individual petition.

more skeptical and argue that states join to reduce pressure to implement real change and have no intent to improve human rights practices (Vreeland 2008; Hollyer and Rosendorff 2011). States that are not serious about complying may join for the possibility of tangible and intangible benefits, such as increased aid, economic agreements, or public praise agreements. Even if states do not see any of these benefits (as Nielsen and Simmons (2015) find), there is certainly a perception that benefits are likely. Many scholars suggest a diffusion mechanism by which states are more likely to join if their neighbors do, but the literature is unclear about which treaties this applies to and the interpretation of the findings (Hafner-Burton 2012; Simmons 2009; Wotipka and Ramirez 2008; Neumayer 2008; Wotipka and Tsutsui 2008; Goodliffe and Hawkins 2006).

A subset of this literature examines individual petition, examining why states incur this additional cost. Hafner-Burton, Mansfield and Pevehouse (2015) argue democratizing states stand to gain benefits for incurring these costs. Cole (2009) and Hathaway (2007) find that costs of treaty and optional protocol mechanisms explain the pattern of ratification, based on current respect for human rights, democratic governance, and domestic judicial institutions. These studies use optional protocols only to supplement their explanation of treaty ratification. Simmons (2009) finds that democracies are more likely to accept individual petition than non-democracies. Moreover, countries with common law are less likely to ratify, and regional agreements (with similar legal institutions) may actually undermine global ratification.

Existing theories do not explain why authoritarian regimes take the additional step of allowing individual petitions. As supported by the previously discussed empirical analyses, many more democracies allow individual petition, but still a suitable number of non-democracies invite private complaints regarding treaty compliance. Measured by Polity at the time of acceptance, 61 democracies, 25 anocracies, and 16 autocracies allowed individual petition (Jagers and Gurr 1995). Hollyer and Rosendorff (2011); Vreeland (2008) discuss why dictatorships ratify the Convention against Torture despite widespread torture prac-

tices. Vreeland (2008) finds that dictatorships that torture are more likely to sign CAT than dictatorships that do not torture because domestic opposition groups. Regimes with strong political, domestic opposition are both more likely to torture to maintain and strengthen their power and make policy concessions, one option of which is ratifying the CAT. These dictatorships, it is important to note, are likely to sign the CAT but do not accept Articles 21 and 22 allowing for individual petition. Similarly, Hollyer and Rosendorff (2011) argue that elites facing domestic threats may mitigate them by engaging in torture. The treaty, however, is not a policy concession but rather a way of increasing regime elites' costs of torture given the CAT's extradition rules.

Neither authoritarian theory directly addresses individual petition, which is in part due to the small number that opt-in to the CAT's private access mechanism. Further, neither theory logically extends explain why regime elites would invite criticism of their behavior in international law. I present a theory exploring this decision, analyzing the possible benefits to authoritarian regimes of individual petition.

1.2 Theory

Existing theories present many possible reasons why authoritarian states first ratify human rights treaties: perceived benefits from the international community (both intangible such as legitimacy and tangible such as increased aid), and domestic opposition appeasement. Why then, do some of these states, take on additional sovereignty costs and invite individuals to file complaints to an international legal body? I argue that this institution is of low cost to authoritarian regimes and may, under certain circumstances, bring benefits to the regime.

First, I argue that authoritarian regimes face low costs of individual complaints in human rights treaties. At first glance, this seems like a costly institutional mechanism for states, being called out for international law violations. It is costly, but these costs are associated with democracies, democratizing states, and those "middle" countries that use electoral institutions strategically, operating under a partial guise of democracy. The international community is operating under no illusion that repressive, authoritarian states respect human

rights treaties, despite ratification (which is, for strategic international and/or domestic reasons). So, when individuals file complaints against an authoritarian state, the international community does not change its behavior, which involves previous condemnation of its practices. Furthermore, the regime is able to manipulate costs of individuals bringing complaints if it would like to prevent any negative press. As detailed in the next section exploring the decision to file petitions, individuals face costs of coming forward, especially in repressive states which may be able and willing to retaliate. Individuals may fear confronting the state, and it is able to manipulate this fear. The regime is able to retaliate, targeting the victims and their families. The regime may directly threaten and/or harm the individuals or make their lives incredibly difficult by blocking opportunities for work, migration, travel, etc. Alternatively, private individuals may simply live in an environment of fear and oppression making them hesitant to speak out and come forward. Levels of repression vary among authoritarian regimes, and the more repressive states face lower costs. However, authoritarian countries face lower costs in general than democracies and semi-democracies. In sum, repressive states face low costs of individual petition internationally and are able to manipulate individuals' decision to file a complaint to avoid them if desired.

Second, individual petitions may bring benefits to some authoritarian regimes. Disaggregating the state, the national regime may want to call out other sub-national, bureaucratic, or military actors. It is important to clarify that all individual petitions must be against governmental actors, excluding non-state actors such as rebel and terrorist organizations. These petitions may act as a fire alarm as private actors are able to complain against certain governmental actors, voicing grievances (McCubbins and Schwartz 1984). The regime would allow such complaints when it is able to scapegoat other actors that aren't closely associated with the regime. Why would the state not handle these cases domestically and instead invite an international legal institution to hear these complaints? Authoritarian regimes may strategically use the international, impartial court to hear cases against distant governmental actors for an outside, more objective ruling. Domestic rulings against regime

enemies would not be taken seriously given lack of judicial independence in authoritarian regimes. A targeted, international signal serves as a credible signal of domestic wrongdoings, but in this case only of desired scapegoats. The regime is able to blame poor human rights practices on others.

Individual petitions may serve a strategic purpose in authoritarian regimes, as a way to scapegoat certain domestic actors and creating a targeted discourse of blame. Does this process also serve an international purpose? Many states sign onto human rights treaties to gain legitimacy amid pressure from INGOs and advocate states. Although signing this institution may at first glance look good internationally, others are unlikely to take this as a sincere step in improving human rights because policy change is unlikely. This is viewed as a perhaps confusing and/or strategic move by repressive states and an empty promise.

This theory leads to the following **hypothesis**: Authoritarian regimes allow individual petition when government is fragmented. Perhaps the civilian regime does not have full control over the military and thus allows complaints against the military. Or, against rogue local officials or local police.

Alternate, but related, hypothesis from the literature: Authoritarian regimes allow individual petition with domestic opposition as an appeasement mechanism. I argue that authoritarians may ratify these treaties to appease domestic opposition but unlikely to incur additional costs. While this may be hard to distinguish at first glance because both theories focus on non-regime domestic actors, this alternate theory includes non-state actors, who are left out of my proposed theory. Qualitative evidence may be able to distinguish this, examining who is pushing for individual petition. Further, these have clear implications for who will be targeted in the communications (which will be detailed in the next section).

I explore this theory analyzing the first step, why some authoritarian states ratify the First Optional Protocol to the International Covenant on Civil and Political Rights. Here, I present some basic descriptive information and statistics as a first step. The next section, then, explores why individuals use this mechanism in authoritarian regimes, extending this

theory.

1.3 Research Design

I present some basic information and statistics exploring which states allow individual petition in the ICCPR. This section does not yet test the theory because the theory is new and evolving. First, I list autocratic countries that allow individual petition in the ICCPR. States are categorized using their polity score (-6 or less on a scale from -10 to 10) the year that state allowed individual petition. (Jagers and Gurr 1995). This list also includes the number of individual petitions against each state, which will be explored more in the next section ³.

- Panama, 13
- Azerbaijan, 7
- Equatorial Guinea, 4
- Niger, 0
- Cote d'Ivoire , 0
- Togo, 5
- Cameroon, 14
- Central African Republic, 2
- Congo, 0
- Democratic Republic of the Congo, 29
- Somalia, 0
- Zambia, 18
- Libya, 21
- Turkmenistan, 22
- Uzbekistan, 103
- Kazakhstan, 73

I then explore correlations showing which countries allow individual petition, among those that have ratified the ICCPR. Figure 2 displays the correlation of state polity and

³Note: these numbers include pending cases which are reflected in the UN's statistical survey of the HRC.

acceptance of individual petition. All circles represent a state that has ratified the ICCPR and thus able to ratify the First Optional Protocol. The figure only captures one year for each state: for states that have only ratified the ICCPR but not the First Optional Protocol, I use the polity score from ratification; for states that allow individual petition, I use the polity score from the year of this acceptances (Jagers and Gurr 1995). Figure 2 shows that most “middle” anocracies do allow individual petition, supporting the credible commitment theory. Many democracies do also allow individuals access although a good number do not (this includes the US, so this group may be driven by the US’ leadership). The correlational plot also shows that autocracies are relatively split: several do not allow individuals access but a good number do. It is this variation I seek to explore.

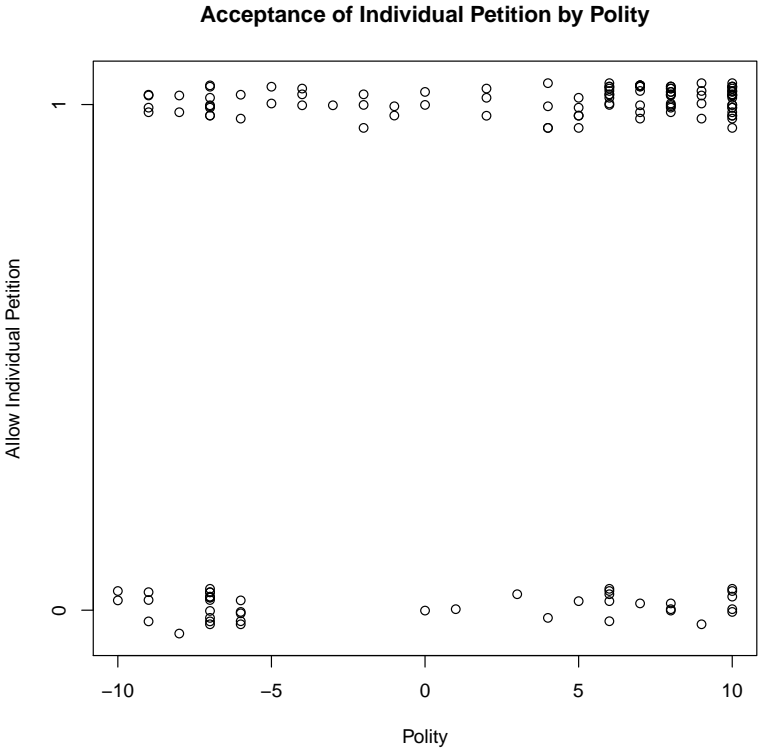


Figure 2

Figure 3 shows human rights scores which reflect a subset of treaty compliance, using both CIRI physical integrity rights and Fariss’ measure of latent respect which includes changing standards of accountability Fariss (2016); Schnakenberg and Fariss (2014); Cin-

granelli, Richards and Clay (2014).

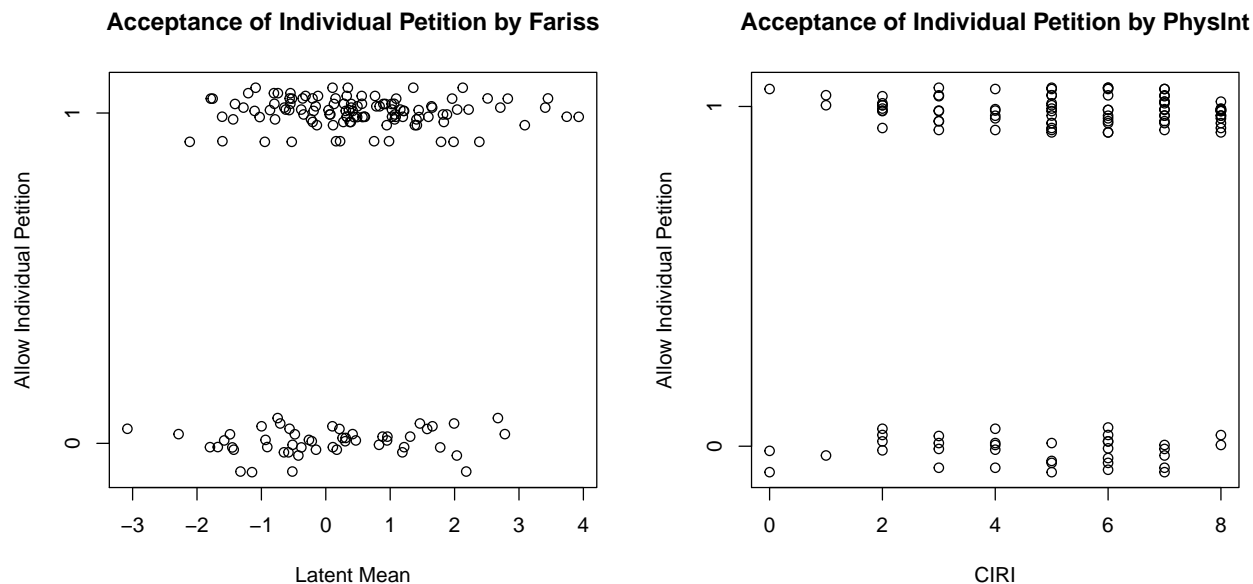


Figure 3: Human Rights

Next, I show the distributions for only states that allow individual petition. This information is included in the previous graphs, but the following distributions are clearer. Figures 4 and 5 show, respectively, the polity and human rights of each state the year it accepted individual petition.

1.3.1 Testing the Theory

To test the theory, I need to establish both low costs and possible benefits for authoritarian regimes. First, I would establish low costs of authoritarian regimes by examining publicity of filings and rulings, and the likelihood of policy change. Next, I will explore the benefits side of the theory, focused on the structure of the government. Fragmented government would mean looking at the state regime, military, federal bureaucracy, and local government. There are rich data I can draw upon here focused on different types of authoritarian regimes, namely from Geddes and Weeks (Weeks 2012). Not only with this data be helpful, but I need to engage with the authoritarian literature more in this theory.

Further, I would expect to see cases filed in the Human Rights Committee (overseeing

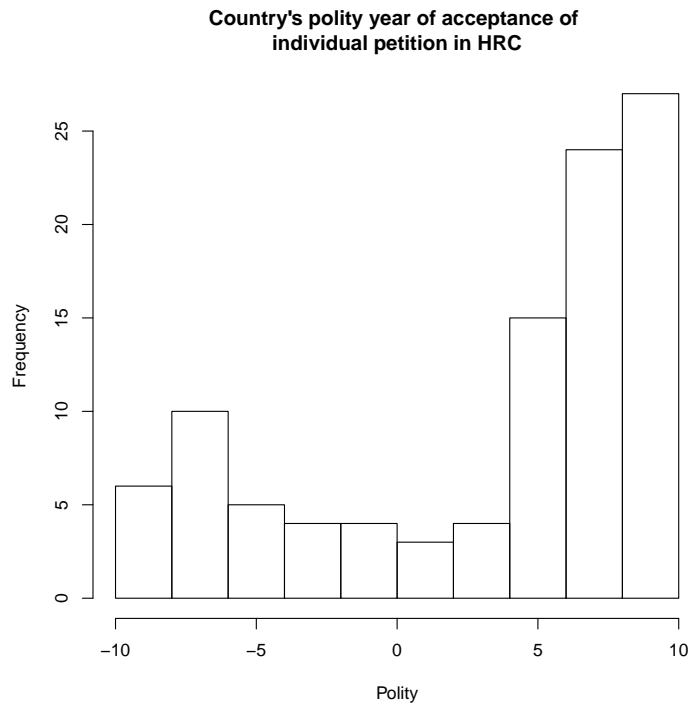


Figure 4



Figure 5: Human Rights

the ICCPR) to be focused on such peripheral, distant governmental actors. This leads into the second part of the prospectus, examining individual petitions in authoritarian regimes.

2 Individuals Petitions in Authoritarian Regimes

The first section addresses why authoritarian regimes invite individual complaints to international human rights treaties, and here I discuss why individuals use this mechanism and complain about authoritarian states. As mentioned in the previous section, there is quite bit of variation in how many individuals file petitions across these authoritarian states. Individuals face high costs of coming forward and a low probability of success because the government is unlikely to care and feel pressure to change their behavior. How do individuals overcome these high costs and file complaints in human rights treaties?

This section extends the previous argument, focused on fragmented government, and introduces costs for the individual of coming forward and potential subsidies. I argue that individuals bring complaints against autocratic regimes when (1) the regime allows/welcomes these complaints against other governmental actors and thus minimizes the costs of the individual or (2) individuals costs are high yet subsidized by external actors such as foreign governments or non-governmental organizations. I begin my drawing upon the human rights mobilization literature to situate my argument then present my theory of subsidized costs. Finally, I discuss possible research designs and data collection.

2.1 Existing Explanations: Individual Filings

There is an extensive literature on human rights mobilization exploring why individuals mobilize against their governments to demand better protections. NGOs play a crucial role by putting human rights on the agenda and advocating improved government practices. Advocacy NGOs can act as important norm entrepreneurs, pushing for new norms (?) and forming important transnational advocacy networks that can improve human rights through the boomerang effect (Keck and Sikkink 1998). International human rights NGOs in particular have been shown to inform citizens in repressive regimes of government practices (Davis, Murdie and Steinmetz 2012) and improve these practices under certain conditions such as autocratic regimes (Hendrix and Wong 2013).

(Simmons 2009) details domestic human rights mobilization and distinguishes two key elements necessary for individual mobilization: (1) the value they place on the demands and potential for improvement, and (2) the probability they will be successful in their demands. This is a helpful framework to situate authoritarian regimes. In these repressive states, the value individuals place on these demands are likely higher since they focus on more fundamental freedoms and rights such as torture, imprisonment, and freedom of thought rather than more legalistic issues such as chain of evidence of court documents. The probability of success is likely lower in these countries as well because they are less likely to change behavior given an individual complaint.

Individual petition in human rights treaties is understudied, and two key articles take a first look at this mechanism. Lutz and Sikkink (2000) examine widespread torture in Paraguay and Uruguay in the 1970s when only Uruguay ratified the ICCPR and its optional protocol. Before the dictatorship, Uruguayan victims were accustomed to domestic mobilization through legal institutions and when these institutions were no longer effective they transferred focus to the Human Rights Committee. They filed numerous petitions against the Uruguayan government, and the committee repeatedly found the government in violation and ultimately called for the release of political prisoners and provision of compensation. Lutz and Sikkink (2000) argue that this international legal intervention contributed to the demise of the torturous dictatorship in Uruguay. Paraguay, on the other hand, had not ratified any international human rights treaties. This lack of international recourse for its citizens, along with domestic norms, contributed to the government's longer-lasting repression. Additionally, Cole (2006) presents the first systematic analysis of individual complaints in the Human Rights Committee (overseeing the ICCPR) from 1976 to 1999. He finds that individuals file complaints when human rights practices worsen, in poor domestic opportunity structures, and when individuals are culturally empowered.

2.2 Theory

I present a theory explaining why individuals in authoritarian regimes may file international complaints against their government given several options. I begin with two assumptions: (1) individuals are ignorant of international legal options to bring complaints against their state, and (2) filing such petitions are costly, especially in authoritarian regimes. I discuss circumstances under which individuals' costs are subsidized and thus are sufficiently low that they may bring cases.

Individuals are ignorant of international (both regional and global) legal fora to bring complaints against their state. These are not well-known and understood institutions. Other actors, especially non-governmental organizations (NGOs), inform victims of human rights violations about international legal institutions and encourage them to bring complaints. These organizations are also able to subsidize the costs of individuals coming forward, shielding them from potential government retaliation.

Filing individual petitions are costly. First, individuals must fill out the actual petition which takes time and effort, detailing the situation and presenting evidence in your favor. The petition template is readily available online today and easy to access, but this was surely more difficult before widespread internet usage. This cost is relatively stable across countries at the same time, holding technology advancements constant (despite technological access differences across countries), Second, specific to authoritarian regimes, individuals may fear confronting a repressive state because the regime is able to retaliate, targeting the victims and their families⁴. This threat may or may not be explicit given the domestic environment of repression. As discussed earlier, the regime is able to manipulate the costs of individuals coming forward, so it may heighten costs under some circumstances. Further, specific to authoritarian regimes, there is a low probability of success in (Simmons 2009) framework. I consider probability of success both a "violation" ruling in the Committee and

⁴There are some circumstances in non-authoritarian countries where individuals would fear confronting the state. Perhaps discriminated minority groups and migrants. This, however, is much more specific to individual circumstances and will be detailed in the next section

a positive government response, which could be a policy change and/or monetary reparations. Authoritarian regimes are unlikely to be phased by a negative international ruling in a human rights treaties and will continue to violate human rights.

How, then, do individuals overcome these barriers to filing? They may face high costs of confronting the state with a low probability of success. There are two ways these costs are decreased. First, drawing upon the previous theory of allowing access, individuals are able to confront lower-level and indirect regime elites encouraged by the state. The regime would lower the costs of individuals coming forward and not target these people. Second, outside, non-regime actors play a key role in subsidizing these costs in various ways which I detail below.

I must clearly define what I mean by “outside, non-regime actors.” I hesitate to use “non-governmental actors” or “civil society” because I include foreign governments in this category. To clarify, I define these “outside, non-regime actors” as actors (including states, organizations, and firms) that are not associated with the authoritarian regime under scrutiny, being criticized for its human rights treaty violations. Human rights advocacy NGOs come to mind easily, especially large, international organizations such as Amnesty International and Human Rights Watch. Legal firms and foreign states may also play a role in subsidizing costs, as detailed below.

Human rights advocacy NGOs and humanitarian-oriented legal firms can inform individuals of their international options, encourage them to file, and assist them throughout the process. Legal firms often represent these individuals in these proceedings, and is specified on the communication. These groups (or any third party more generally) may file on behalf of individuals if they have given their written consent. In certain cases such as imprisonment without access to the outside world or enforced disappearance, a third party may bring a case without such consent.⁵ Why would such a group expend the resources to assist victims of human rights abuses? These advocacy, humanitarian focused NGOs are concerned with

⁵<http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx>

individual human rights. Their mission is to advocate for victims, improve their well-being, and change policy in order to better protect individuals. They may decrease the costs by bringing attention to these individuals by publicizing their names and situations, raising the costs of the government to retaliate against these specific individuals (which may cause more of an international backlash and poor press).

I note here that I have researched the involvement of NGOs in the Human Rights Committee. Do they use individual petitions strategically to assist their mission, filing on behalf of individuals with their written consent, or without, under circumstances such as imprisoned without access. I have looked into associations between Amnesty International and Human Rights Watch with the Human Rights Committee. They submit briefings to the HRC often about alleged human rights violations in countries, relaying their primary concerns to the committee and specifying the specific articles of the treaty they believe the country has violated. So far, with fairly simple internet searches, I have found no connection between these two groups and individual filings.

Foreign governments may also play a role in lowering the costs of individual confrontation of authoritarian regimes by providing shelter. A foreign national may bring a case against a repressive regime after her temporary stay or visit to the country after returning to her home country. Alternatively, a former national of the authoritarian regime may be a new citizen in another country. This outside country again provides shelter to the individual, shielding them from retaliatory actions and thus decreasing their fear of confrontation.

This theory of subsidies of filing costs leads to the following **hypotheses**: Individuals in authoritarian regimes are more likely to file international human rights petitions if:

1. the complaint focuses on a non-central regime elite or organization
2. repression is low
3. NGO presence is high

4. the individual is a foreign national

2.3 Research Design

The previous section includes the list of countries considered authoritarian regimes at the time of Optional Protocol acceptance and the number of filings- I do not repeat the list here, please see page 10. There is quite a bit of variation on the dependent variable: individual petitions by state-year. Some countries are rarely complained against in the HRC while others, mainly in Central Asia, face many individual complaints. Here, I present some background information and statistics on the pattern of filings in the HRC. This important to consider for this section focused on authoritarian regimes as well as the following section on (semi-) democracies. I first discuss the data I use here and the raw data I plan to collect.

2.3.1 Data: Individual Petitions

The data I use here are taken from Bayefsky.com which draws upon UN data and tries to make it easier to access and navigate. It has a section on jurisprudence for all UN core human rights treaties. For now, I am using these data which contain the individual, state party, and articles under contention (many are left empty) as well as the links to the pdf document. These data, however, are somewhat problematic. They do not fit perfectly with some aggregate, official UN data I have from the UN and contain some minor errors such as spellings. They are generally accurate though and are suitable for this exploratory first cut given the accessibility, but I do not want to test any theory and center my dissertation around these data. I plan to scrape relevant information directly from the UN website, hopefully over this summer, but I will need to know exactly what information I want to extract. I contacted the UN, and unfortunately these data are not available on a file they can send me, only on the interactive online database which is annoying to use. When I create my own data set, I plan to use two different UN websites, one that contain a summary and one that contains the full document. The variables I plan to extract now, dependent on theory include:

- Individual

- Representation by legal firm?
- Filed on behalf of (alleged) victim?
- Date of communication
- State Party
- Articles under consideration
- Issue under consideration
- Nationality of complainant (national of relevant State Party?)
- Governmental actors mentioned

2.3.2 DV: Variation in Filings

Here, I describe the variation in filings among countries and over time. I do not subset to authoritarian countries yet, as the first part of my exploration centers on general trends and exploration of the dependent variable. This analysis speaks to both this section and the following on democracies and semi-democracies. To test this theory, I will need to look at only variation between autocratic states. First, I describe the variation in filings over time. Communications may vary over time for a number of reasons including technological advances especially the internet which made the process much easier to access and file, number of members over time, and geopolitical events such as the end of the Cold War and collapse of the Soviet Union. I do not test these possible mechanisms but rather look at the time trend. Figure 6a shows the number of individual communications to the Human Rights Committee over time. There is a general linear increase over time with the dip in the last few years due to pending communications (submitted yet no committee decision) that are not included in this data set. Similarly, Figure 6b shows a similar trend for the Convention against Torture.

Figure 6: Temporal Variation



(a) HRC Communications over Time

(b) CAT Communications over Time

Next, I look at cross-section variation, examining the differences between states. Figure 7 displays the panel data, distinguishing countries by different colors. This figure is messy, but it does show heterogeneity in countries over time.

While I do not include the exhaustive list of all countries here for brevity, I list selected countries and the total number of communications against each to show the variation: Jamaica 178, Canada 129, Spain 115, Australia 77, DRC 21, Turkmenistan 17, Philippines 17, Chile 7, Ireland 6, South Africa 2, Mexico 1, Sierra Leone 1.

2.3.3 Correlations

Next, I explore whether individual communication submissions are correlated with possible variables of interest: democracy and human rights practices. Unlike the previous list of authoritarian countries on page 10, these correlations capture state characteristics at the year level, capturing changes over time for a single country. As Figure 8 shows, there is not a clear correlation between human rights practices and number of individual communications (using the state-year as the unit of analysis) (Fariss 2016; Schnakenberg and Fariss 2014; Cingranelli, Richards and Clay 2014). Figure 9 shows the correlation

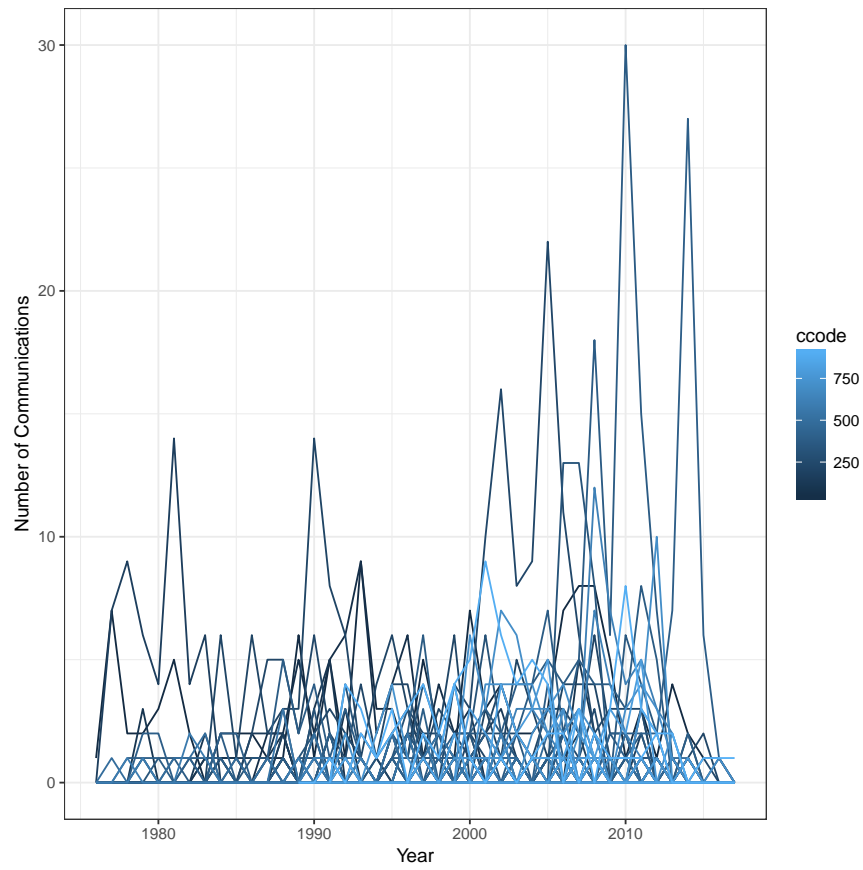
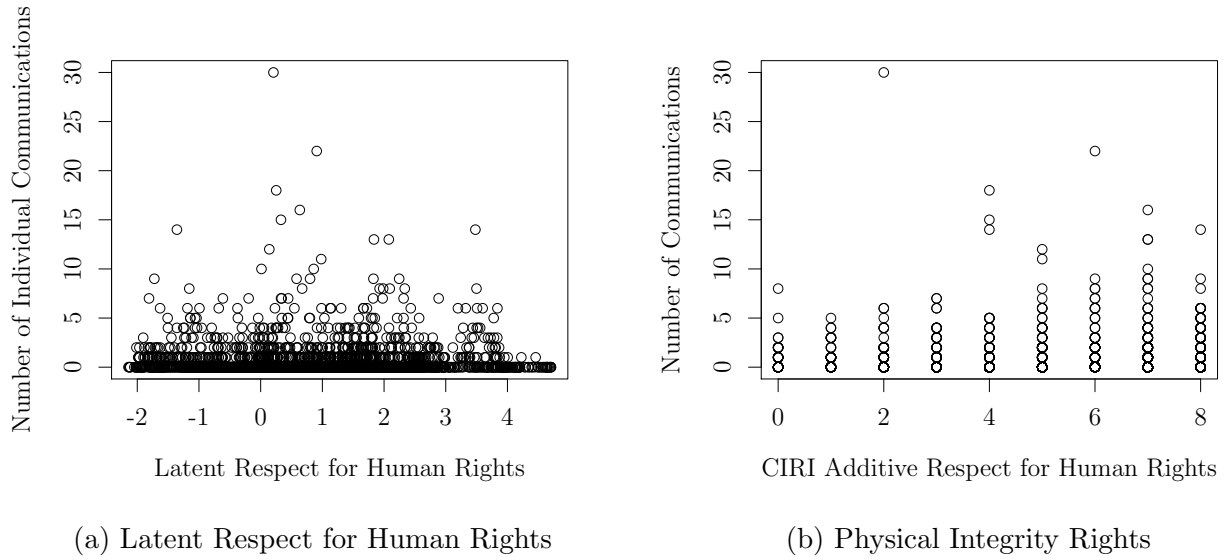


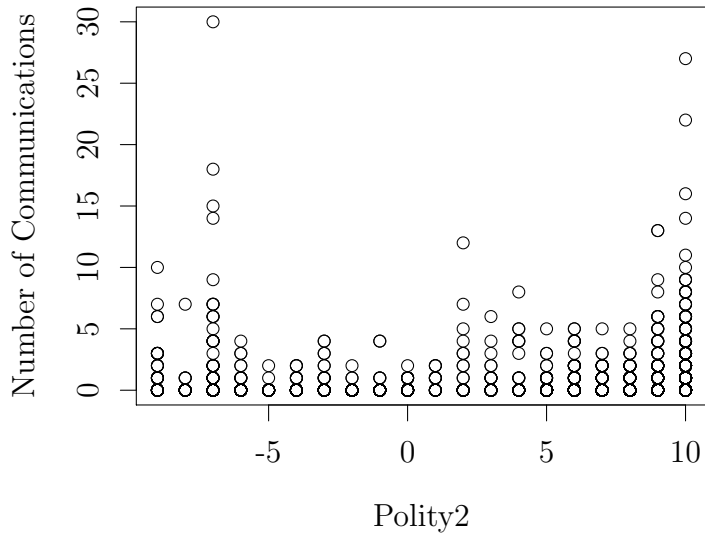
Figure 7: HRC Communications by State

Figure 8: Correlation Plots



between polity (democracy) and individual communications, suggesting a (weak) U-shaped relationship (Jagers and Gurr 1995).

Figure 9: Polity



2.3.4 Turkmenistan

I read through numerous individual petitions to understand more about the process and what these communications are about. I looked at Turkmenistan in the HRC as an example of a repressive regime allowing individual petition Individuals have filed 17 cases against Turkmenistan, all of which have resulted in state violation rulings. Most are by Turkmen nationals but some are by visiting people for business. The majority of these cases, specifically 10/17, have been the same issue: Jehovah's Witnesses' religious persecution (involving lack of a fair trial, arbitrary arrest and detention, freedom of movement, and torture) following conscientious objection to mandatory military service.

This aligns with my theory. The ten cases brought by Jehovah's Witnesses were supported through the religious organization, which is clearly a type of NGO. In fact, the JW website discusses these cases at length, detailing the "prisoners of conscience...imprisoned for their faith."⁶ It also discusses the prospects for change given the several "violation" rulings against Turkmenistan⁷. From this preliminary information, it is not clear how involved, if at all, the religious organization was in the legal process. Perhaps the individuals felt more secure because they were part of an organization that had a voice and could potentially protect them, lowering the costs even without direct involvement.

2.3.5 Testing the Theory

Seeking to explain the pattern of individual petitions we see, I can collect information about each specific communication itself which captures only part of the story (selection on the dependent variable, where it is present). Several individuals are captured in the petition itself: nationality of the individual, representation by legal firm, filing on behalf of the (alleged) victim, and governmental actors specified. These can help explain why these petitions happened but do not get at the absence of any complaint, which I'll need to think more about. I may be able to match individual filings to INGO activity, seeing if any

⁶<https://www.jw.org/en/news/legal/by-region/turkmenistan/jehovahs-witnesses-in-prison/>

⁷<https://www.jw.org/en/news/legal/by-region/turkmenistan/will-turkmenistan-implement-un-human-rights-decisions/>

individuals match to those named as victims by major groups such as Amnesty International or Human Rights Watch. I also need to be able to explain the lack of petitions. One simple way is to measure civil society presence in countries over time.

2.3.6 Lifting the Hood: Looking inside a Country

The discussion thus far has explained variation across countries, and I also plan to look at variation within a single country. This will help solidify the theory-testing and get at the causal mechanism. I will examine human rights violations within a country, establishing the scope of possible complaints. Examining which ones are brought to the committee and why will be useful.

3 A Look Inside: Effects of Individual Petitions in the Human Rights Committee

The final section of the project looks at the effects of individual petition on state and committee behavior. What are the consequences of this institutional design mechanism? Why would a state ever change its behavior in response to an individual petition being filed and found in violation? There is a large literature on compliance, seeking to understand why states comply with international agreements even in the absence of enforcement. I expand on this literature, linking it to human rights and institutional design of treaties and monitoring bodies.

3.1 Literature Review

State compliance with international law is puzzling. Why do states follow international rules at all when there is often (specifically in the human rights realm) little to no enforcement? Perhaps states only design and agree to behavioral regulations that they would otherwise follow in the absence of the agreement (Downs, Rocke and Barsoom 1996). International legal agreements create a clear expectation of behavior, creating reputational costs of renegeing on commitments (Simmons 2000). States, seeking to avoid these reputational costs, were more likely to comply with their IMF commitments when their regional neighbors did.

Legalization of human rights may improve government respect for human rights under certain circumstances. Tying human rights principles to material benefits of economic integration increases compliance through coercion and changing incentives (Hafner-Burton 2005). Neumayer (2005) finds that treaties and their optional protocols improve respect in democracies and civil society and have no effect in autocracies. Fariss (2016), using a new measure of human rights given the changing standard of accountability over time, finds a robust positive relationship between human rights treaty ratification and compliance. Indi-

vidual petitions, more specifically, sometimes do result in changed behavior and improved compliance (Heyns and Viljoen 2001). The state may redress the issue at hand including victim compensation, prisoner release, or reduced sentencing. Others, the government institutes reform such as legislative amendments or administrative policies. In some cases, however, there is no government response to the international complaint.

Scholars have recently begun looking inside these human rights monitoring committees, analyzing the self-reporting mechanism. States often do not submit their reports on time, if at all. In a study of 20 countries through 1999, no one country submitted their reports on time and were, on average, two years late (Heyns and Viljoen 2001). States cited various reasons for these delays including “lack of political will” and the difficult, intensive process. When submitted, reports are more self-congratulatory than self-critical. Self-reporting in the Committee against Torture (overseeing the Convention against Torture) is highly dependent on neighboring countries in addition to a government’s own commitment to human rights and institutional capacity (Creamer and Simmons 2015). This self-reporting does, in fact, reduce incidence of torture as domestic media attention spikes around this time (Creamer and Simmons 2016).

3.2 Theory

TBD.

I have thought about this at large, but this may only focus on authoritarian regimes which needs more theorizing. Under what circumstances, if any, do individual petitions affect discourse in the Human Rights Committee and state behavior?

3.3 Research Design

3.3.1 Dependent Variables

There are two main dependent variables: (1) discourse/rhetoric within the committee documents, and (2) behavior/treaty compliance. Committee documents include state self-reports and committee reports on state behavior. I plan to analyze the text of these documents for their level of detail and criticism (including length and content). State behavior can be

measured with standard, aggregate measures of human rights focused on civil and political rights pertaining to the treaty. I can also look at more specific policies as relevant to the fillings.

3.3.2 Explanatory Variables

The explanatory variable is individual petition, of varying levels: acceptance of individual petition mechanism, presence of individual complaint, number of individual complaints, and the committee rulings (when a state is found in violation). This information is easily coded, drawing on aggregations of my data work necessary for the first two sections.

3.3.3 Analysis

I will code the dependent variables for the institutional documents, creating an original data set. I will scrape the UN website to download these documents and extract relevant information to create meaningful variables. I will analyze state self-reports and committee documents. For self-reports: how long are they, how critical, and when are they submitted (on time?). The committee produces both responses to state reports (specifically targeted to each state) and broad, annual reports. Based on the theory, I will narrow down what documents exactly I want to parse and analyze and which variables to create. I plan to use textual analysis for this paper, including sentiment analysis to measure negativity and how critical actors are. Previous studies have used similar methods to produce data sets on different institutions, helpful as a comparison baseline (Creamer and Simmons 2015).

References

- Chapman, Terrence L. and Stephen Chaudoin. 2013. "Ratification Patterns and the International Criminal Court." *International Studies Quarterly* 57(2):400–409.
- Cingranelli, David L., David L. Richards and K. Chad Clay. 2014. "The Cingranelli - Richards (CIRI) Human Rights Dataset." (Version 2014.04.14).
URL: <http://www.humanrightsdata.com>
- Cole, Wade M. 2006. "When All Else fails: International Adjudication of Human Rights Abuse Claims, 1976-1999." *Social Forces* 84(4):1909–1935.
- Cole, Wade M. 2009. "Hard and Soft Commitments to Human Rights Treaties." *Sociological Forum* 24(3):563–588.
- Cole, Wade M. 2012. "Institutionalizing shame: The effect of Human Rights Committee rulings on abuse, 1981-2007." *Social Science Research* 41(3):539–554.
- Creamer, Cosette D. and Beth A. Simmons. 2015. "Ratification, Reporting, and Rights: Quality of Participation in the Convention against Torture." *Human Rights Quarterly* 37(3):579–608.
- Creamer, Cosette D. and Beth A. Simmons. 2016. "Do Self-Reporting Regimes Matter ? Evidence from the Convention against Torture."
- Davis, David R., Amanda Murdie and Coty Garnett Steinmetz. 2012. "'Makers and Shapers': Human Rights INGOs and Public Opinion." *Human Rights Quarterly* 34(1):199–224.
- Downs, George W., David M. Rocke and Peter N. Barsoom. 1996. "Is the Good News about Compliance Good News about Cooperation?" *International Organization* 50(3):379–406.
- Fariss, Christopher J. 2016. "The Changing Standard of Accountability and the Positive Relationship between Human Rights Treaty Ratification and Compliance." *British Journal of Political Science* 48(1):239–271.
- Goodliffe, Jay and Darren G. Hawkins. 2006. "Explaining commitment: States and the Convention Against Torture." *Journal of Politics* 68(2):358–371.
- Hafner-Burton, Emilie M. 2005. *Trading Human Rights: How Preferential Trade Agreements Influence Government Repression*. Vol. 59.
- Hafner-Burton, Emilie M. 2012. "International Regimes for Human Rights." *Annual Review of Political Science* 15(1):265–286.
- Hafner-Burton, Emilie M., Edward D. Mansfield and Jon C. Pevehouse. 2015. "Human Rights Institutions, Sovereignty Costs and Democratization." *British Journal of Political Science* 45(01):1–27.

- Hathaway, Oona A. 2007. "Why Do Countries Commit to Human Rights Treaties?" *Journal of Conflict Resolution* 51(4):588–621.
- Hendrix, Cullen S. and Wendy H. Wong. 2013. "When is the pen truly mighty? Regime type and the efficacy of naming and shaming in curbing human rights abuses." *British Journal of Political Science* 43(3):651–672.
- Heyns, Chrisof and Frans Viljoen. 2001. "The impact of the United Nations human rights treaties on the domestic level." *Human Rights Quarterly* 23(3):483–535.
- Hollyer, James R. and B. Peter Rosendorff. 2011. "Why Do Authoritarian Regimes Sign the Convention Against Torture? Signaling, Domestic Politics and Non-Compliance." *Quarterly Journal of Political Science* 6(3-4):275–327.
- Jagers, Keith and Ted Robert Gurr. 1995. "Tracking Democracy's Third Wave with the Polity III Data." *Journal of Peace Research* 32(4):469–482.
- Keck, Margaret E. and Kathryn Sikkink. 1998. *Activists beyond borders: Advocacy networks in international politics*. Cornell University Press.
- Lutz, Ellen L and Kathryn Sikkink. 2000. "International Human Rights Law and Practice in Latin America." *International Organization* 54(3):633–659.
- McCubbins, Mathew D. and Thomas Schwartz. 1984. "Congressional Oversight Overlooked: Police Patrols versus Fire Alarms." *American Journal of Political Science* 28(1):165–179.
- Moravcsik, Andrew. 2000. "The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe." *International Organization* 54(2):217–252.
- Neumayer, Eric. 2005. "Do International Human Rights Treaties Improve Respect for Human Rights?" *The Journal of Conflict Resolution* 49(6):925–953.
URL: <http://www.jstor.org/stable/30045143>
- Neumayer, Eric. 2008. "Death Penalty Abolition and the Ratification of the Second Optional Protocol." *The International Journal of Human Rights* 12(1):3–21.
- Nielsen, Richard A. and Beth A. Simmons. 2015. "Rewards for Ratification: Payoffs for Participating in the International Human Rights Regime?" *International Studies Quarterly* 59(2):197–208.
- Schnakenberg, Keith E. and Christopher J. Fariss. 2014. "Dynamic Patterns of Human Rights Practices." *Political Science Research and Methods* 2(1):1–31.
- Simmons, Beth A. 2000. "The Legalization of International Monetary Affairs." *International Organization* 54(3):573–602.
- Simmons, Beth A. 2009. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge University Press.

- Simmons, Beth A. and Allison Danner. 2010. "Credible Commitments and the International Criminal Court." *International Organization* 64(2):225–256.
- Vreeland, James Raymond. 2008. "Political Institutions and Human Rights: Why Dictatorships Enter into the United Nations Convention Against Torture." *International Organization* 62(01):65–101.
- Weeks, Jessica L. 2012. "Strongmen and Straw Men: Authoritarian Regimes and the Initiation of International Conflict." *American Political Science Review* 106(2):326–347.
- Wotipka, Christine Min and Francisco O Ramirez. 2008. "World society and human rights: an event history analysis of the convention on the elimination of all forms of discrimination against women." *The Global Diffusion of Markets and Democracy* 3096:303–343.
- Wotipka, Christine Min and Kiyoteru Tsutsui. 2008. "Global Human Rights and State Sovereignty: State Ratification of International Human Rights Treaties, 1965-20011." *Sociological Forum* 23(4):724–754.