

# Treaties, Tenure, and Torture: The Conflicting Domestic Effects of International Law

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*International human rights treaties are argued to increase both the likelihood of domestic mobilized dissent and judicial constraint. These pressures pull leaders in conflicting directions: mobilized challenges undermine a leader's position in power, increasing incentives to repress; courts raise the probability of litigation, decreasing incentives to repress. We argue authorities balance these pressures based on their job security. Politically insecure leaders, desperate to retain power, repress to control the destabilizing effects of dissent. Secure leaders are less likely to fall to citizen pressures, but the probability of facing an effective judiciary weighs heavily in their expected costs. Consequently, they repress less to avoid litigation. We find empirical support for the implications of our formal theory using data on commitment to the UN Convention Against Torture. Treaties have no effect on repression in states with insecure leaders but have a positive effect on rights protection in states headed by secure leaders.*

Can international human rights treaties (IHRTs) improve state human rights practices? Scholars argue commitment to IHRTs rarely leads to increased protections (Hafner-Burton and Tsutsui 2007; Hathaway 2002), and treaty-bound states have even been known to violate rights more than otherwise expected (Hill 2010; Vreeland 2008). Although committed states repress less than their uncommitted counterparts (Neumayer 2005), this finding is often attributed to the screening effect of IHRTs: states with good rights practices select into easy obligations (e.g., Hathaway 2007). Are there conditions under which IHRTs actually constrain repression?<sup>1</sup>

Commitment to international law alters domestic incentives to repress in two ways. Effective domestic courts *constrain* state repression (e.g., Keith 2002), and courts are enabled and emboldened to sanction violators in the wake of IHRT accession (Powell and Staton 2009; Sloss 2009). Treaty commitment also creates new opportunities for citizens to mobilize against the state (Simmons 2009; Vreeland 2008), but this shift may *incentivize* repression: when a population mobilizes to challenge the state, authorities frequently respond with increased rights violations (cf. Davenport 2007a). The domestic effects of IHRT obligations are thus at

odds: increasingly effective judiciaries constrain obligated states into *reducing* repression whereas increased mobilized challenges may incentivize *increasing* repression. When does IHRT commitment lead to improved rights practices, given the domestic incentives to repress?

We argue that state authorities respond to threats to their position of power differently depending on their job security. As leaders become increasingly likely to remain in power, they have more to lose and so repress more to control popular threats. The more authorities repress, the more costs they incur, particularly as they are increasingly likely to be brought to court. An international legal obligation to protect rights—which augments the probability the state will face costly litigation for repression—has the greatest impact when the leader faces the highest incentives to repress to remain in power and thus is subject to higher costs: commitment to an IHRT will lead to a reduction in repression when leaders are secure in power. By comparison, vulnerable leaders will do what they must to remain in power, repressing without consideration of the court's effectiveness or the impact of the international obligation.

We develop a formal theory of repression and mobilized dissent to examine the effects of IHRT obligations on government rights practices. Commitment to

<sup>1</sup>A supplementary appendix is available at <http://www.journals.cambridge.org/jop>. Data and supporting materials to reproduce the numerical results are available on the authors' websites. The authors contributed equally to this research.

an IHRT yields some benefit to the state, but it also increases the probability that a repressive leader will face costly domestic litigation. Given this potential constraint, state authorities and a group engage in a conflict over popular demands. Our theory yields novel expectations over the effect of IHRTs on state repression: *commitment to an IHRT has no effect on state repression when leaders are vulnerable to turnover, but it has a negative effect on repression when leaders are secure in power.* Using an empirical strategy aligned closely with the assumptions of our formal model and data on commitment to the United Nations Convention Against Torture (CAT) and the state's propensity to torture, we assess how domestic factors affect decisions to repress in IHRT-obligated states as compared to nonobligated states. We find support for our hypothesis: leaders who fear turnover respond to a mobilizing population regardless of institutional pressures, but secure leaders repress less than they otherwise would when committed to an IHRT.

This study is among the few to find empirical support that IHRTs can lead to improved human rights protections. Surprisingly, treaties have the greatest impact on reducing violations when repression is expected to be at its highest. Our work is also at the forefront of those investigating how political survival affects state decision making, suggesting that institutional pressures differ from societal pressures in their effects. We argue that insecure leaders, fearing turnover, prioritize the salience of behavioral pressures such as a mobilizing population and largely ignore even large costs from constraining institutions like the domestic judiciary. Secure leaders are more likely to feel the impact of institutional pressures and respond accordingly. A wealth of scholarship suggests that democracies and dictatorships differ in both state responses to international law and the decision to repress; our focus on leaders allows us to uncover variance on these outcomes both across and within regime type. In total, this project combines insights from international and domestic studies of human rights and contributes meaningful knowledge as to the conditions under which states will repress their citizens.

## Domestic Effects of International Treaties

Scholars have seldom found IHRTs to positively impact rights practices.<sup>2</sup> The ineffectiveness of IHRTs

results in large part from their lack of enforcement mechanisms (e.g., Hafner-Burton 2005; 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). But we should not be so quick to deem international law irrelevant: IHRTs may not constrain violations directly, but they can alter domestic politics in favor of rights protection (e.g., Simmons 2009). More specifically, IHRTs bolster the constraining role of domestic courts and may incentivize social mobilization.

Effective domestic courts consistently lead to increased human rights protections. Powell and Staton (2009, 154) define an effective judiciary as one that "constitutes a genuine constraint on state behavior," meaning one that is both willing and able to rule against state actors.<sup>3</sup> The *expectation* that the court can constrain the state is more important in changing state behavior than its actual rulings: victims are more likely to bring allegations before the court when they believe it to be effective (Powell and Staton 2009). Litigation is costly for accused authorities in resources and opportunity costs, even if they manage to avoid a negative ruling, and the potential costs deter those facing effective judiciaries from repressing (Cross 1999; Keith 2002).

State commitment to an IHRT increases the probability that a repressive actor will incur litigation costs beyond those resulting from an effective judiciary alone. Ratifiers must adopt IHRT terms into domestic law 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 (Hill 2012; Simmons 2009).<sup>4</sup> IHRT ratification also focuses attention on state practices and increases legitimacy for rights-related cases, both of which make victims increasingly prone to litigate. A state that commits to international law is more likely to face costly litigation than one that does not commit, regardless of its initial level of domestic judicial effectiveness.

Leaders who want to remain in power must also consider threats from societal challenges. For our purposes, mobilization is a coordinated attempt by nonstate actors within the territorial jurisdiction of the state to use collectively controlled resources to influence political outcomes of any type (Tilly 1978).

<sup>2</sup>For a sample of studies of IHRTs and human rights with pessimistic conclusions, see Hafner-Burton and Tsutsui 2007; Hathaway 2002; Hill 2010; Neumayer 2005; and Vreeland 2008.

<sup>3</sup>Courts are effective when they are free from manipulation (e.g., Cross 1999), and when domestic actors are willing and able to punish noncompliance (e.g., Vanberg 2005).

<sup>4</sup>Even in states that do not implement treaty terms into domestic law, treaties can have similar indirect effects on litigation (Hill 2012).

Citizens can challenge the state through state sanctioned (institutional) and unsanctioned (mobilized protest) channels; we focus on noninstitutional challenges.<sup>5</sup> The action may be legal or illegal, violent or nonviolent, creating direct costs for the state, damaging infrastructure, or disrupting normal societal activities. Popular challenges also undermine authorities' legitimacy to rule, suggesting to observers that leaders cannot control the population.<sup>6</sup> To counter the threat from mobilized challenges, state authorities consistently turn to repression (Davenport 2007a, 7–8).<sup>7</sup> Repression undermines the group's will and capacity to mobilize against the state, whether by restricting their resources and abilities to organize or creating an atmosphere of fear that prevents action (Davenport 2007b).

IHRT obligations may influence the likelihood of social mobilization, and scholars have found both positive and negative treaty effects. The new, internationally legitimized standards and the increased focus on rights protections can lead citizens to form new or join existing movements to pressure the state for domestic changes (Hill 2012; Keck and Sikkink 1998; Simmons 2009). Even if the state does not intend to comply with the letter of an IHRT, groups may believe a ratifying state to be more likely to respond to demands (Vreeland 2008). Scholars have also found instances of *decreased* mobilization after a state commits to a treaty (e.g., Hollyer and Rosendorff 2011). In the next section, we model the effect of treaty commitment on the interaction between a group and the state, deriving rather than assuming the effect that the treaty has on mobilization, and consequently, on the incentive to repress.<sup>8</sup>

To summarize, state authorities consider conflicting costs from domestic institutions and societal pressures when they make decisions about repression, and international human rights treaties magnify those pressures. The increased probability of litigation in an IHRT-committed state makes repression more costly. But citizens may believe that there is increased probability of receiving their demands under IHRT obligations,

leading them to make threatening challenges. How do authorities balance these conflicting incentives?

## A Theory of Domestic Treaty Effects

We specify a formal model of domestic conflict between state authorities and a group of citizens under the incentives of an international legal obligation. This theory allows us to derive implications as to how state authorities navigate both domestic and international cross-cutting pressures in the choice of repression.

### Model Specification

We model an interaction between a Leader ( $L$ )<sup>9</sup> and a Group of citizens ( $G$ ). At the outset, the Leader decides whether to commit the state to a human rights treaty, with the expectation that doing so will amplify ( $\epsilon$ ) the extant probability he will experience costly litigation ( $\phi$ ) for a given level of repression. After committing to the treaty or not, the Group decides how much to mobilize ( $m$ ) around a demand, and the Leader simultaneously chooses how much to repress ( $r$ ), though both of these decisions entail resource costs ( $-m$  and  $-r$ ) that make the actors want to minimize their expenditures. Finally, their decisions condition the probability ( $\theta$ ) that the Leader remains in power at the end of the game. Equations (1) and (2) present the players' expected utility functions, and we discuss the notation below. The Leader's payoffs are:

$$U_L = \begin{cases} -r * \phi + (1 - \frac{m}{m+r}) * \theta + (\frac{m}{m+r}) * \frac{\theta}{\kappa} & \text{if uncommitted to IHRT} \\ -r * (\phi + \epsilon) + (1 - \frac{m}{m+r}) * \theta + (\frac{m}{m+r}) * \frac{\theta}{\kappa} + \mu & \text{if committed to IHRT} \end{cases} \quad (1)$$

and the Group's payoffs are:

$$U_G = -m + \left(1 - \frac{m}{m+r}\right) * (1 - \theta) + \left(\frac{m}{m+r}\right) * \left(1 - \frac{\theta}{\kappa}\right) \quad (2)$$

<sup>5</sup>Although mobilization can take institutional forms (e.g., litigation), we capture such costs separately from behavioral threats in our theoretical model and empirical estimation.

<sup>6</sup>Mobilization represents an increasing threat to the leader's position as it becomes wider in scope, more violent, or more directly threatening in the group's demands (Davenport 1995).

<sup>7</sup>Authorities are better able to control policy and maintain power by using coercive tactics against a mobilizing population (Gurr 1988).

<sup>8</sup>In other work, we investigate the effect of IHRT commitment on social mobilization.

<sup>9</sup>The leader represents an individual or group acting under authority of the state. Although most physical integrity violations entail a form of principal-agent problem (e.g., Conrad and Moore 2010), our model is appropriate to explain the effects of a treaty via its impact on the probability that the leader faces costly litigation for repression regardless of how it occurs.

Based on the discussion in the previous section, we make the following assumptions:

- Repression ( $r \geq 0$ ) requires resources, represented by  $-r$  in both utilities in equation (1). The more the state represses (or the more severe its action), the more resources it expends.
- Mobilization ( $m \geq 0$ ) requires resources, represented by  $-m$  in equation (2). The more the Group mobilizes (or the more severe its action), the more resources it expends.
- The chosen levels of repression and mobilization affect the probability the Group receives its demanded policy or good allocation  $\left(\frac{m}{m+r}\right)$ . This demand can be any policy or allocation and need not be limited to rights-related concerns. Using this relational specification, we capture the idea that the Group is more likely to receive its demands as mobilization increases and less likely as repression increases.<sup>10</sup>
- If the Group does not receive its demand, the Leader remains in power (with benefits equaling 1) with probability  $0 \leq \theta \leq 1$ , which represents the leader's baseline or *a priori* job security. If, instead, the Leader gives in to the Group's demands, the leader remains in power with a lower probability:  $\frac{\theta}{\kappa}$ , such that  $\kappa > 1$ .  $\kappa$  can represent the scope of the accommodation; the more the Leader gives in—costing him resources or legitimacy—the more he risks his position of power. He is  $\kappa$  more vulnerable to turnover if he loses the conflict (which he does with probability  $\frac{m}{m+r}$ ). And if he loses office,  $L$  receives 0. Although the baseline probability of remaining in office is exogenous, both the Group's and the Leader's conflict decisions condition the *ex post* probability  $L$  will lose office.
- The Leader's costs for repression also include the probability ( $0 < \phi \leq 1$ ) of incurring litigation-related costs (valued at 1). The probability of being brought to court is a function of judicial effectiveness: if citizens believe the court is a viable place to find redress from state abuse, they will be more likely to litigate.
- Committing to an IHRT makes the Leader a small amount ( $\epsilon$ , such that  $0 < \epsilon < 1 - \phi$ ) more likely to incur court-related costs. The increased probability of litigation may be due to new laws,

heightened focus on state abuses, increased NGO activity, etc.

- The Leader receives a benefit—economic or political, domestic or international, physical or reputational—for committing to an IHRT, represented by the term  $\mu > 0$ .<sup>11</sup>

This model allows us to derive predictions as to how state authorities respond to the domestic political effects of IHRT commitment. We assume that the treaty's only direct impact is to increase the probability the leader could experience litigation by a small amount, but this effect changes the way citizens expect leaders to act regarding repression. The domestic actors adjust their conflict behavior to account for these expectations. How does the Leader balance the increased pressure from the court against incentives to control the Group's demands?

### Equilibrium Analysis

The model solution is a unique Subgame Perfect Equilibrium, such that there is one optimal choice for any given combination of parameter values. Proposition 1 states the equilibrium solution; proofs can be found in the Supplementary Appendix available online.

**Proposition 1.** *The following strategies constitute the Subgame Perfect Equilibrium: (1) when  $L$  does not commit to an IHRT,  $G$  mobilizes at level  $m_U$  and  $L$  represses at level  $r_U$ , defined as*

$$m_U \equiv \frac{(\kappa - 1)\theta\phi}{\kappa(1 + \phi)^2} \quad \text{and} \quad r_U \equiv \frac{(\kappa - 1)\theta}{\kappa(1 + \phi)^2};$$

*(2) when  $L$  commits to an IHRT,  $G$  mobilizes at level  $m_C$  and  $L$  represses at level  $r_C$ , defined as*

$$m_C \equiv -\frac{(\kappa - 1)\theta(\epsilon + \phi)}{\kappa(1 + \epsilon + \phi)^2} \quad \text{and} \quad r_C \equiv \frac{(\kappa - 1)\theta}{\kappa(1 + \epsilon + \phi)^2};$$

*and (3)  $L$  commits when*

$$\mu > \frac{\theta}{2\kappa} \left( -1 + \frac{2(\kappa - 1)}{(1 + \phi)^2} + \frac{2}{1 + \phi} - \frac{2(\kappa - 1)}{(1 + \epsilon + \phi)^2} \right).$$

Whether or not the state commits to the treaty, the leader and group engage in conflict simultaneously, conditioning their choices on what each expects

<sup>10</sup>The government could accommodate a group's demands rather than repressing. Our specification allows the leader to choose a level of  $r = 0$ , which ensures the group receives its demands  $\left(\frac{m}{m+0} = 1\right)$ . That being said, the theory primarily speaks to situations in which repression is a possible choice for the leader, which is most often the case.

<sup>11</sup>For scholarship considering normative, material, and strategic incentives to commit to IHRTs, see Hathaway 2003; Hollyer and Rosendorff 2011; Moravcsik 2000; and Vreeland 2008.

the other to do. The more a group mobilizes, the more damage it causes to state authorities, and the more likely it will be to receive its demands. However, higher levels of mobilization require more resources. This means the group tries to mobilize just enough to have a strong chance of receiving its demands while minimizing resource costs. Similarly, the leader can best control the group and keep it from changing the status quo by repressing severely and widely, but the costs of doing so limit state authorities to repressing only what they can afford.

The actors also consider the probability that authorities will incur judicial costs, regardless of commitment status. Victims are more likely to bring authorities to court for rights violations when they believe that the domestic judiciary is effective. As stated in equation (1), repression becomes more costly as both the level of repression ( $r$ ) and the probability of litigation ( $\phi$ ) increase. To counter the increased probability of being brought to court, authorities can repress less and avoid the potential for institutional punishment. The leader must therefore decide whether to increase repression to maintain the status quo or decrease it to avoid litigation.<sup>12</sup>

Authorities condition repressive decisions on their ability to remain in power. The actors have an *ex ante* or baseline expectation of the probability the leader will remain in power based on aspects such as the leader's time in office, institutional means of removal, and policy outcomes. When a leader submits to a challenge and accommodates the group's demands, he loses the policy itself as well as undermining his legitimacy, both of which subvert his job security. Leaders who want to remain in power thus have to prioritize potential threats to their removal. The more secure a leader is in power, the more he represses to protect that position from increasing mobilized dissent. Recall from equation (1) that the Group "wins" its demands with probability  $\frac{m}{m+r}$ , such that the Leader will remain in power with the *ex post* probability  $\frac{\theta}{\kappa}$ . The greater the leader's baseline job security ( $\theta$ ) is, the

more the leader stands to lose as mobilization increases. Therefore, as the leader's baseline job security increases, the leader represses more in equilibrium.

However, this willingness to engage in increasingly severe repression as the leader becomes more secure also makes the leader more vulnerable to costly litigation. The more authorities repress, the more likely they are to be subject to legal costs—there are more victims to bring suit, there is more evidence that the state is in violation that could result in a trial, and attention is more likely to be drawn to the abuse. If the leader is likely to be brought to trial for violating rights, increasing the violations will leave the leader even worse off. Formally, the probability a repressive leader will be brought to court ( $\phi$ ) is multiplied by the negative level of repression; as repression increases, litigation has a greater negative impact on the leader. Since leaders repress more as their baseline job security increases, they will also respond with a greater reduction in repression under the expectation of judicial effectiveness when they are more secure in power.

What, then, is the effect of IHRT commitment on respect for human rights? In order to properly derive predictions of state abuse, we endogenize both repression and dissent (cf. Pierskalla 2010; Ritter 2013). While we can derive comparative statics over the effects of IHRT obligations on both state and group behavior, we present only the implications for repression here and those for mobilization in a distinct paper.<sup>13</sup> In our model, the only direct effect of commitment on the choice of repression is the increase in the probability a repressive leader faces litigation,  $\epsilon$ . The international obligation can lead to new or adapted laws, increases in NGO aid to victims bringing suit, an increased belief in the legitimacy of a case or a law, etc. Hence, a state obligated to international human rights law is  $\epsilon$  more likely to experience negative costs for violating it, which constrains authorities to repress less in expectation of these consequences.

Surprisingly, this effect of treaty obligations only constrains authorities from rights violations *when they are secure in power*. While all states can experience the legal effects of commitment to an IHRT, these changes impact vulnerable and secure leaders differently. Secure leaders are willing to repress severely to maintain their valuable position of power, and the severe mobilization they are likely to face incentivizes them to do so. This makes them increasingly subject to costly litigation, and all the more so as the citizenry

<sup>12</sup>In the model, we assume the probability that repression will involve court-related costs to be exogenous. By doing so, we assume that the leader and citizens have a common expectation about the judiciary's effectiveness. However, in many cases, authorities can and do exercise control over the judiciary, such that they can influence this probability of litigation. If we were to allow  $L$  to set or influence  $\phi$ , we assume the leader would set it as low as possible to minimize his risk. In such a case, we would be far less likely to see the judiciary constraining state repression. As long as there are empirical instances of the judiciary constraining the state rather than the state constraining the judiciary, however, our theory can be used to explain state behavior.

<sup>13</sup>Figures illustrating comparative statics of the equilibrium level of repression across the possible range of political survival are available in our supplementary appendix.

believes the judiciary to be increasingly effective. It is under these conditions, when the leader would otherwise repress so severely as to have very high attendant costs, when treaty commitment can have the greatest impact. Boosting the probability of costly litigation will be most damaging to the leader when the leader would otherwise repress the most—and this is when the leader is most secure in power.<sup>14</sup>

Politically *insecure* leaders, by comparison, do not respond to the effects of the treaty when considering repression. Such leaders face a higher probability of litigation if they are committed to an IHRT, but this difference is minor considering the low amount of repression an insecure leader is likely to use. In equilibrium, when  $\theta$  (job security) is relatively low, the group will not engage in much mobilized dissent, since doing so requires resources that are not necessary when the leader is already likely to lose office. The leader represses minimally to counter the group's action. At these low levels, the possibility of litigation is not a compelling threat, *and neither is the boost from the international legal obligation*. Insecure leaders repress as necessary to stay in power, and their decision depends little on treaty commitment status.

From this theory, we derive the following hypothesis:

*H1: IHRT commitment has no effect on repression when job security is low. As job security increases, the effect of IHRT commitment on repression becomes negative.*

## Empirical Analysis

We estimate the state's propensity to repress as a function of commitment to the United Nations Convention Against Torture (CAT), using data on state torture practices in 148 countries from 1984, when the CAT opened for signatories, until 2004. Investigating the effect of CAT commitment on state torture is an appropriate manner by which to test our theory for several reasons. First, torture is an action specifically intended to undermine citizens' capacity and willingness to dissent (Rejali 2007) as we conceptualize repression does in our theory. Second, torture is a prevalent repressive tactic, and authorities commonly justify it as a necessary evil for the maintenance of order (Rejali 2007). It thus constitutes a

difficult test of the influence of constraints on state respect for human rights. Third, the CAT focuses on improving human rights for a single type of violation. We prefer a clear measurement link between IHRT mandates and abuses, and the tight linkage between the CAT and torture meets this criterion.

To estimate the conditions under which state leaders torture, we need a measure that represents the state's chosen pattern of abuse. Based on content analysis of Amnesty International (AI) and U.S. State Department torture allegations, Cingranelli and Richards (2010) (CIRI) code a state's annual environment of torture, accounting for whether the state generally tortures a lot, some, or not at all in a given year. Because the conceptualization of repression in our theory is continuous, we collapse CIRI's trichotomous measure of torture incidence to create a measure of Systemic Torture, coded 1 if a government is reported to have engaged in "a lot" of torture and 0 otherwise.<sup>15</sup> Estimating the likelihood of Systemic Torture thus approximates the continuous concept. CAT Commitment is coded 1 in the year in which a country ratifies (or accedes to) the CAT and 1 every year thereafter.

A measure of Judicial Effectiveness must account for two concepts. First, it should indicate whether judges are free to rule as they see fit and whether their rulings are translated into political outcomes (Ríos-Figueroa and Staton 2013, Staton and Moore 2011). Second, the measure should reflect 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). To measure judicial effectiveness, we use a new indicator from Linzer and Staton (2012).<sup>16</sup> Recognizing that extant measures are indicators of an underlying concept, Linzer and Staton (2012) use a heteroskedastic-graded response item response theory (IRT) model to combine information from eight existing measures to create a latent measure of Judicial Effectiveness. The final continuous measure included in our models ranges from 0 to 1, where higher values on the scale indicate higher levels of effectiveness.<sup>17</sup>

<sup>15</sup>Our results are robust to using a binary measure of *Any Torture* coded "1" if there is even a single violation in a given country-year.

<sup>16</sup>For a discussion of measuring judicial effectiveness, see Ríos-Figueroa and Staton (2013).

<sup>17</sup>Our results are robust to several alternative measures of judicial effectiveness and the inclusion of a measure of elections from Cheibub, Gandhi, and Vreeland (2010).

<sup>14</sup>The constraining effect creates incentives not to commit to the IHRT in the first place, yet the short- and long-term benefits lead even these states to do so theoretically and empirically.

We require information on the willingness and ability of nonstate actors within the state's territory to engage in mobilized dissent against the government. Various measures of internal conflict are available cross-nationally for our temporal domain and may seem appropriate as a measure of dissent. Unfortunately, these measures typically include information on state repression, making them inappropriate for our purposes. Therefore, we turn to the Cross-National Time-Series (CNTS) Data Archive (Banks 2010), which captures opposition acts against the government, but does not include information on state responses. This data captures low-intensity actions against the state, enabling us to study the effects of even minor anti-government mobilization. Mobilization is coded "1" in a given year if a state experiences at least one anti-government demonstration, general strike, riot, revolution, or act of guerilla warfare.<sup>18</sup>

We argue that executives make decisions about torture based on their expectations about remaining in office. Although it is difficult to measure leaders' *actual* beliefs about job security, we follow Cheibub (1998), who argues that political and economic factors affect the executive's probability of remaining in power.<sup>19</sup> To represent the executive's probability of political survival, Cheibub (1998) uses parametric survival models to create empirical measures of job insecurity based on the leader's time in office, previous trends in leadership change, and annual economic growth. Because Cheibub's (1998) measure is limited geographically and temporally, we create our own estimate of the executive's likelihood of remaining in office using data from Goemans, Gleditsch, and Chiozza (2009).<sup>20</sup> The resultant measure ranges from

0 to 1 (highest probability of leadership turnover). We reverse the scale to create our final measure of Job Security.<sup>21</sup>

### Empirical Model Specification

CAT commitment is determined in part by the covariates predicting torture (Hill 2010; Powell and Staton 2009; Vreeland 2008). If states commit to the CAT only when they face certain combinations of domestic judicial effectiveness, popular mobilization, and executive job security, 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 (cf. Przeworski and Vreeland 2000; von Stein 2005). As such, selection into IHRTs like the CAT is likely to be nonrandom; the elements of the torture decision for which we do not account are likely to be correlated with the errors of the commitment decision.

An estimator must account for the lack of independence across the decisions to commit to the CAT and torture. The most common solution to this problem is to use a selection model. In a standard Heckman (1979) model, the selection stage (here, commitment to the CAT) determines membership in the outcome stage (systemic torture) because data for nonselected units are typically unobserved. This characteristic prevents us from comparing the effects of institutions in committed states to those in uncommitted states. However, we argue that domestic conflict happens in both committed and uncommitted states in our theory, and we observe the outcome of interest (repression) in both types of states in our data. We therefore face an interesting observability problem: it is impossible to observe (1) the level of repression that *would have occurred* in nonsignatory states had they committed to an IHRT, and (2) the level of repression that *would have occurred* in signatory states had they failed to commit.

We use a treatment model written by von Stein (2005), which allows us to examine the effect of CAT commitment on torture, as well as the effect of domestic institutions on state torture in committed *and* noncommitted states. The estimator is similar to a traditional selection model in that it accounts for observed factors that affect the commitment decision

<sup>18</sup>Approximately 40% of the state-years in our data experience mobilization. Our results are robust to a count of these events, changes in this conceptualization (e.g., omitting demonstrations or riots), and an alternative measure of the number of human rights naming and shaming events (i.e., allegations of abuse) in a given country year from Bhasin and Murdie (2011).

<sup>19</sup>We assume that estimates of Job Security track with leaders' beliefs about their tenure. The factors used in the creation of the measure represent latent expectations about job security and are independent of the behavioral threats captured in our measures of mobilization.

<sup>20</sup>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.

<sup>21</sup>Because state leaders face a low probability of losing office, the data are right-skewed. Using estimates as an independent variable introduces the measure's own error structure into the primary model. To adjust the variance-covariance matrix, we bootstrap our standard errors.

(von Stein 2005, 617). Unlike a typical Heckman (1979) model, which estimates separate selection and outcome equations, the treatment model allows for the estimation of *three* equations—an equation predicting selection into the CAT, an equation predicting Systemic Torture in signatory states, and an equation predicting Systemic Torture in nonsignatory states. Consequently, we are able to test our hypothesis 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.<sup>22</sup>

The factors that lead states to commit to IHRTs often lead them to repress, so we include measures of Judicial Effectiveness, Mobilization, and Job Security in the selection stage to determine the effect of CAT Commitment on Systemic Torture. To meet the exclusion restriction of the selection model (Sartori 2003, 112), we include a variable known to affect CAT commitment but not torture. Our instrumental variable is the number of intergovernmental organization (IO) memberships a state maintains during a given year, including NATO, the European Union, etc. (Ulfelder 2011). Commitments in one area of international relations (e.g., trade or conflict) capture a state's affinity for international interdependence; we expect states will be more likely to commit to other areas of international law, including human rights law, as this count of memberships increases (Mansfield and Pevehouse 2006, 149). Importantly, however, we do not expect *compliance* in one of these areas to be connected to compliance in another. The incentive structures of alliances or trade agreements, for example, are generally not available to state parties of human rights agreements. Indeed, while allies comply with their obligations most of the time (Leeds 2003), states rarely comply with IHRT obligations (Hathaway 2002).<sup>23</sup>

Finally, our hypothesis about the likelihood of repression is conditional, requiring the inclusion of interaction and constituent terms in the selection and outcome equations of our models. We predicted that Job Security will interact with IHRT Membership in

its effects on Systemic Torture, as a function of the levels of Judicial Effectiveness already present in the state.<sup>24</sup> The treatment model accounts for CAT Commitment in the selection stage, leaving us to interact the two concepts that are exogenous in our theory in both the outcome and selection equations: Judicial Effectiveness and Job Security.

## Empirical Results and Discussion

Our hypothesis centers on how authorities respond to the IHRT's effects on domestic politics, particularly as compared to what they would have done absent commitment. Table 1 presents estimates of the effects of the independent variables on Systemic Torture using the von Stein (2005) estimator. The first column of Table 1 lists our results for CAT-signatory states and the second column for nonsignatory states. The parameter  $\rho$  measures the extent to which unobservable factors not captured in the selection stage affect the likelihood of Systemic Torture in both signatory and nonsignatory states.<sup>25</sup> We present the results of the selection stage in the bottom half of Table 1, but focus our discussion on the results in the outcome equation estimating the probability of Systemic Torture.<sup>26</sup>

The treatment model allows us to examine the effects of our independent variables on IHRT-obligated and nonobligated states. It is impossible to observe in our data the level of Systemic Torture that would have occurred in uncommitted states had they chosen to commit to an IHRT, as well as the level of Systemic Torture that would have occurred in IHRT-obligated states had they remained outside the treaty. To determine the effect of CAT commitment, we must imagine two counterfactuals: one in which all countries that have not committed to the CAT are forced to ratify, and one in which all countries that ratified the CAT were

<sup>22</sup>Selection models are sensitive to model specification; as shown in our Supplemental Appendix, our results are robust to a myriad of model specifications, as well as the inclusion of cubic splines and a counter of prior failures (Beck, Katz, and Tucker 1998) or a third-order polynomial time counter (Carter and Signorino 2010) to control for temporal dependence.

<sup>23</sup>Because international treaty commitment is argued to be in part driven by regional and global norms (Goodliffe and Hawkins 2006), we check the robustness of our results by also including in our selection equation two measures from Powell and Staton (2009) indicating the percentage of states in the region and the world that have committed to the CAT in a given year.

<sup>24</sup>Although the direction of our prediction for state repression does not differ across judicial effectiveness, the magnitude of the effect does. Because of this, and to follow as closely as possible to our theoretical model, we include the interaction term in our empirical models.

<sup>25</sup>Likelihood ratio tests of  $\rho$  for committed compared to uncommitted states lead us to reject the null hypothesis that their joint effect is zero ( $p = 0.000$ ), which indicates selection effects.

<sup>26</sup>Our theory suggests that states in which IHRTs are likely to have the largest effects are unlikely to commit. Yet a significant number of states with secure leaders are obligated to IHRTs, either because they elected to do so for short-term benefits or because they came to office with the obligation already in place. Thus, we are able to draw inferences about treaty effects having modeled the endogeneity of the treatment.



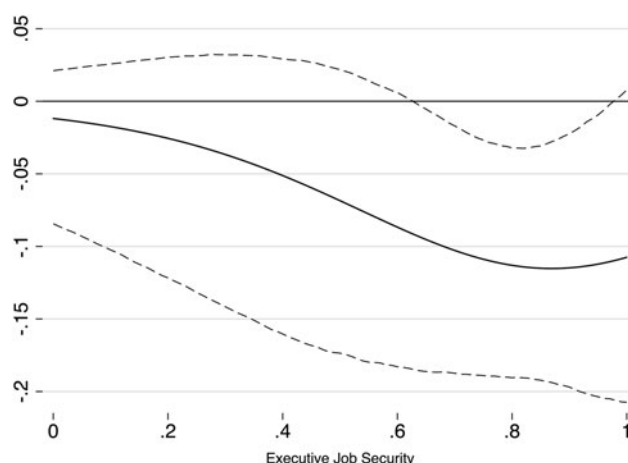
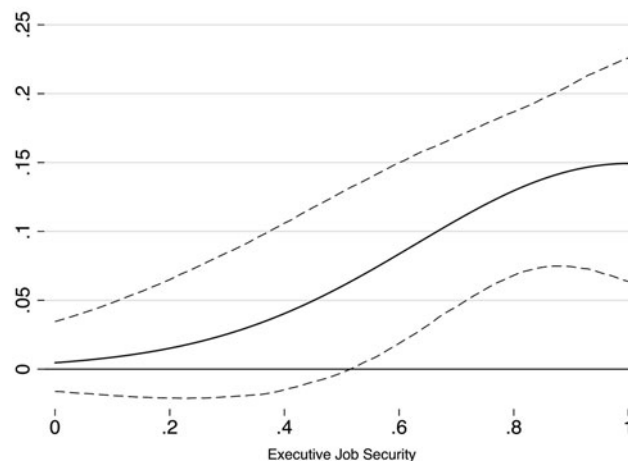
**TABLE 1** Effect of CAT Commitment on Systemic Torture

<b>Outcome DV:</b>		
<b>Systemic Torture</b>	<b>Signatories</b>	<b>Nonsignatories</b>
<i>Judicial Effectiveness<sub>t</sub></i>	-3.461* (1.969)	-4.719* (2.387)
<i>Job Security<sub>t</sub></i>	-2.898 (1.556)	-4.503* (1.491)
<i>Judicial Effectiveness<sub>t</sub> x Job Security<sub>t</sub></i>	1.259 (2.372)	4.987 (2.827)
<i>Mobilization<sub>t</sub></i>	0.606* (0.082)	0.565* (0.072)
<i>Constant</i>	3.004* (1.321)	4.089* (1.235)
<b>Selection DV: CAT Commitment</b>		
<i>Judicial Effectiveness<sub>t</sub></i>		4.597* (1.426)
<i>Job Security<sub>t</sub></i>		0.432 (1.080)
<i>Judicial Effectiveness<sub>t</sub> x Job Security<sub>t</sub></i>		-4.699* (1.745)
<i>Mobilization<sub>t</sub></i>		0.071 (0.052)
<i>IO Membership<sub>t</sub></i>		0.124* (0.013)
<i>Constant</i>		-1.296* (0.892)
<i>ρ</i>	0.324 (0.203)	0.900* (0.269)
<i>Pseudo Log-Likelihood</i>		-3127.412
<i>N</i>		2644

Note: \* Significant within 95% CI. Sample size: 148 countries from 1984 to 2004.  $\rho$  ranges from -1 to 1 and estimates correlation between the error terms of the selection and outcome equations.

forced *not* to ratify. We can estimate the difference in the likelihood of Systemic Torture across these outcomes to illustrate the effect of commitment to the CAT regardless of selection status (von Stein 2005, 619).

Figure 1 shows the effect of CAT Commitment on the probability of Systemic Torture across the range of Executive Job Security for each of these counterfactuals. To create these graphs, we compared the predicted probabilities of Systemic Torture for the observed values of our variables to the predicted probabilities that would have occurred had a committed state failed to commit and a noncommitted state been forced to commit. For Figure 1(a), we followed the technique described in Brambor, Clark, and Golder (2006) and estimated the predicted probability of a state engaging in Systemic Torture using the parameters estimated for uncommitted states, with

**FIGURE 1** Effect of CAT Commitment on the Probability of Systemic Torture as Job Security Increases**(a) Average Treatment Effect for the Controls****(b) Average Treatment Effect for the Treated**

the values of our independent variables set at the means from the uncommitted subsample of states. We then used the estimated parameters from the subsample of states that *did* commit to the CAT to predict what the uncommitted states would have done with the same mean values of the independent variables but a different treatment. Figure 1(a) plots the difference in these predicted probabilities between committed and uncommitted states across the observed range of Job Security. This difference is known as the Average Treatment Effect for the Controls (ATC). By estimating the probability with which a state would engage in Systemic Torture by varying only one dimension—its commitment status—we can illustrate the predicted effect that committing to the CAT would have had on a nonobligated state.

Figure 1(b) shows the opposite counterfactual: the predicted probability of Systemic Torture using the estimated parameters for committed states with the

values of the independent variables set at the means of that subsample. After estimating the probability of Systemic Torture that would have occurred had committed states failed to commit to the CAT, we plotted the difference in these values across the range of Job Security. In short, Figure 1(b) shows what would happen if we forced all CAT-committed states to renege on their commitment, representing the Average Treatment Effect of the Treated (ATT).

Thus, as we do when deriving predictions from our theoretical model, these figures illustrate how the choice to repress by a given state (represented by its values of the independent variables) differs depending on whether it is committed to the treaty. In both Figures 1(a) and 1(b), the solid lines plot the predicted effect of CAT Commitment on the probability of Systemic Torture for each level of Job Security across its observed range. The estimated effects are statistically significant when the upper and lower bounds of the ninety-five percent confidence intervals (shown with dashed lines) do not encompass the horizontal zero lines.

Our theory suggests CAT commitment will have a variable effect on repression as a function of job security. When a leader is politically insecure, that leader will repress as needed and will be neither deterred nor encouraged by any domestic effects of an IHRT. As a leader's job security increases, however, commitment to a treaty can result in higher prospects for costly litigation that will lead the executive to repress less than would otherwise occur. Figure 1 supports these predictions. Consider the Average Treatment Effect of committing to the CAT for uncommitted states depicted in Figure 1(a). When job security is relatively low, the dashed lines of the estimated change in the probability of systemic torture resulting from commitment surround the zero line of no effect, suggesting that commitment has no effect on whatever torture decision authorities make when they are vulnerable to removal. As we move from left to right and executive job security increases, state authorities become significantly less likely to engage in systemic torture as a result of the domestic effects of CAT commitment. Otherwise put, the average uncommitted state in which the leader has a strong hold on power would repress less if it were committed to the CAT. More precisely, CAT Commitment decreases the likelihood of Systemic Torture by nearly ten percent. This is a very large substantive effect, particularly given the notable absence of positive effects on human rights practices in previous IHRT studies.

The ATT in Figure 1(b) also supports our predictions. This figure represents the change in the probability of Systemic Torture if a committed state were not committed to the CAT. For leaders vulnerable

to turnover, such a change would have no effect, suggesting leaders of this type are not considering the domestic political effects of the treaty in their torture decisions. As leaders become more secure, however, not being committed to the treaty leads to a statistically and substantively significant increase in the likelihood of engaging in Systemic Torture as compared to what the authorities would do under the international obligation.

A brief illustration highlights the processes we find in our more generalized cross-national study. Contrast the use of torture by Côte d'Ivoire with that of Bolivia following their respective commitments to the CAT. Côte d'Ivoire ratified the Convention in 1995 under Henri Konan Bedie, who was relatively secure in office.<sup>27</sup> High levels of torture in 1995 fell in the two years following CAT commitment and increased only in the year before Bedie lost power in a military coup. This suggests authorities' willingness to reduce torture under the obligation while Bedie's office was secure, even under a fairly ineffective judiciary (Côte d'Ivoire averages a low 0.270 in the Linzer and Staton (2012) scale of judicial effectiveness). By comparison, Bolivia ratified the CAT under Hugo Banzer Suarez, a comparatively insecure leader.<sup>28</sup> Middling levels of torture in 1999 increased slightly in 2000, returning to pre-2000 levels in the following years. In other words, commitment to the treaty seemed to do little to alter torture decisions in Bolivia. Although not a systematic case study, this vignette supports our theory: secure leaders torture less under obligations to the CAT, while insecure leaders fail to respond to the treaty.<sup>29</sup>

## Conclusion and Implications

In this article, we examine how state authorities navigate conflicting domestic and international pressures when deciding how much to repress. States repress to control mobilized challenges, but authorities must consider the constraining potential of the domestic

<sup>27</sup> According to our data, Executive Job Security equalled 0.905 in Côte d'Ivoire in 1995.

<sup>28</sup> Our measure of Executive Job Security is coded 0.557 for Bolivia in 1999.

<sup>29</sup> Although Bolivia has more effective domestic courts than the Ivory Coast (Bolivia is coded 0.652 on the Linzer and Staton (2012) measure of judicial effectiveness, while Côte d'Ivoire averages a low 0.270.), there is little change in judicial effectiveness over time in either state. Thus, the cross-national difference in job security suggests that the treaty is responsible for these differences in human rights practices.

judiciary on which IHRTs have a small but meaningful effect. 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 likely they will be held accountable for their actions in a domestic court. Conversely, leaders sitting securely in power will repress less in light of their treaty commitments to avoid potential court costs. We find that IHRT commitment has no effect on the state's decision to repress when leaders are vulnerable to removal but leads to lower levels of repression as leaders become increasingly secure in power.

Following Pierskalla (2010), we present a theory that endogenizes repression and dissent for committed and uncommitted states to yield predictions as to how treaties affect the incentives to repress *under the expectation that changes will also impact the decisions of groups to mobilize*. If the expectation of costs resulting from the international obligation will constrain leaders from violating rights, this alters citizens' incentives to mobilize, which in turn effects repression choices. Treaties thus impact not only human rights practices but the *conflict* of repression and dissent as a whole. Although we focus our empirical predictions and tests on the implications of the theory for repression, these implications are drawn from this dynamic theory. Future work will focus on its implications for the effects of treaty commitment on mobilization.

Unlike the dominant trend of scholarship on international human rights law, we find that IHRTs have a *positive* effect on rights protections when leaders are secure in office. Scholars have found that domestic institutions decrease repression, but there has been very little support that international institutions do so. Many scholars have explicitly found treaties to have either no effect on rights practices or even to lead to an increase in violations. In contrast, we find that, even if international law has a small impact on domestic politics, these effects can yield a substantively meaningful reduction in rights violations when leaders are secure in office.

We also contribute to the scholarly understanding of the role of political survival on domestic political processes. Tenure considerations affect the state's willingness to repress (Ritter 2013; Young 2009), as well as its tactics. However, to our knowledge, scholars are only beginning to examine how job insecurity mediates the effect of institutions on state action. Our theory implies that job security has a mitigating effect on the ability of domestic institutions to constrain authorities. In particular, we argue and find that institutional constraints differ in salience from behavioral pressures.

Authorities must prioritize one over the other as a function of the threat each type of influence represents to his position in power.

Interestingly, authorities who sit securely in power are more likely to respond to the prospect of institutional constraint than more vulnerable leaders. Insecure leaders will repress to control dangerous mobilization in order to stay in power and international treaty obligations cannot deter vulnerable leaders from this response of self-preservation. Although secure leaders will be comparatively prone to high levels of repression, these are the conditions under which treaties are most likely to have an effect, such that actors are able to develop domestic and international constraints to a point of effectiveness in a more stable environment for change. In fact, the effect of the treaty is greater in magnitude in states with weak courts; increasing the probability of litigation via international commitment has greater substantive effect when the judiciary is ineffective than the same international boost when the domestic court is already effective.

Although we focus on the effect of domestic courts in constraining repression, executives should also consider the potential for international adjudication. If effective international courts begin to systematically try violators of international human rights law, executives may be dissuaded to violate rights even if their domestic courts are relatively ineffective. Under the CAT's universal jurisdiction clause, for example, executives may also need to consider domestic court costs in states other than their own. In February 2011, former U.S. President George W. Bush cancelled a trip to Switzerland, an action that may have occurred over concerns about being arrested in Geneva for alleged torture in Guantanamo Bay.<sup>30</sup> If states anticipate the international costs of violations resulting from their obligations to protect rights—some of which may be borne even after their removal from office—they may be less likely to engage in repression.

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<sup>30</sup>Bush Cancels Visit to Switzerland Due to Threat of Torture Prosecution, Rights Groups Say." *Huffington Post* 5 February 2011. Available from URL: [http://www.huffingtonpost.com/2011/02/05/bush-switzerland-torture\\_n\\_819175.html](http://www.huffingtonpost.com/2011/02/05/bush-switzerland-torture_n_819175.html).

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