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When All Else Fails: International Adjudication of Human Rights Abuse Claims, 1976-1999

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CDDRL was founded by a generous grant from the Bill and Flora Hewlett Foundation in October in 2002 as part of the Stanford Institute for International Studies at Stanford University. The Center supports analytic studies, policy relevant research, training and outreach activities to assist developing countries in the design and implementation of policies to foster growth, democracy, and the rule of law.

About the Author

Wade M. Cole is a doctoral candidate in the Department of Sociology at Stanford University. His areas of interest include political sociology, organizations, comparative and historical sociology, globalization, and education. His dissertation examines the worldwide emergence and institutionalization of postsecondary institutions established for and by indigenous peoples, with a focus on the incorporation of aboriginal cultures and epistemologies into higher education curricula.

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ABSTRACT

Although interest among sociologists in the consolidation and expansion of an international human rights regime has grown in recent years, little attention is accorded the formal procedures that allow individuals aggrieved by states to appeal directly to an international audience. Using data for 82 countries between 1976 and 1999, this article examines the political and cultural factors that affect the number and rate of individual human rights abuse claims filed with Human Rights Committee. Negative binomial and event history analyses indicate that a country's favorable human rights practices, political democracy, and membership in most non-Western civilizations significantly reduce the number and rate of claims emanating from a country. Conversely, extensive participation in international non-governmental organizations, membership in Western civilization, and intra-state diffusion processes increase the number and rate of claims filed against a country. Other factors, including post-communist regime changes, state participation in international governmental organizations, the World Human Rights Conference, and GDP per capita, have no impact. Results suggest that claims alleging state abuse of human rights (1) increase as a country's human rights practices worsen; (2) decline as effective means of recourse become available domestically; and (3) increase with the cultural empowerment of individuals.

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Between the idea
And the reality
Between the motion
And the act
Falls the Shadow

T. S. Eliot, *The Hollow Men*

The lofty idea that all individuals possess rights simply because they are human has gained widespread currency since World War II (Soysal 1994), but the unfortunate reality is that many states continue to abuse those rights. Affirming that rights are inalienable in principle does not thereby make them inviolable in practice. Given that rights increasingly originate outside the state, what measures are available to individuals aggrieved by state actions? This article focuses on one such means of recourse: the claims-making procedure established by the First Optional Protocol of the International Covenant on Civil and Political Rights (hereafter, “Optional Protocol” or “Protocol”). By enabling individuals to issue formal complaints alleging state abuse, the Optional Protocol illuminates the long shadow that sometimes falls between the idea and the reality of human rights.

Observers routinely acknowledge that the international human rights “regime” (Krasner 1982; Donnelly 1986), of which the Optional Protocol plays an integral part, infringes upon national sovereignty (e.g., Donnelly 1986; Sikkink 1993a, 1993b; Moravcsik 2000; Hathaway 2003).¹ Not all of the regime’s elements, however, are

equally invasive. Indeed, some countries' endorsement of human rights is purely symbolic, confined only to the ritualistic ratification of toothless declarations that allow governments to "decouple" rhetorical commitment from actual practice (Meyer, Boli, Thomas, and Ramirez 1997). Other countries commit themselves more extensively by joining well-monitored and strongly enforced treaties (Cole 2004). The Optional Protocol, as one of the most effectively monitored human rights treaties yet promulgated, quite explicitly tips the balance between rulers and ruled in favor of the latter. According to Donnelly (1986: 611), "[t]he Optional Protocol provides a genuine, if limited, instance of international monitoring, which in at least a few cases has altered state practice."

In recent years, a number of studies have investigated the emergence, expansion, and penetration of the international human rights regime, with multilateral treaties garnering much of the attention. Researchers have explored the "cause" and "effect" of treaty ratification: the factors that elevate or depress rates of treaty ratification among states (Cole 2004; Wotipka and Ramirez 2003; Tsutsui and Wotipka 2003), and the effectiveness—or rather, the ineffectiveness—of treaty ratification on the improvement of human rights practices (Hafner-Burton and Tsutsui, forthcoming; Hathaway 2002; Heyns and Viljoen 2001). Much less attention has focused on the ways in which human rights treaties are actually implemented, although Boyle and Thompson's (2001) analysis of human rights abuse cases adjudicated under the European Human Rights Convention is a notable exception. Because their research serves as a springboard for my own analysis of the Optional Protocol, it deserves brief mention.

Boyle and Thompson (2001: 339) found that "domestic political organization and the manner in which domestic systems link to the international system" both account for

cross-national variation in the number of human rights abuse claims brought before the European Commission on Human Rights. More specifically, countries with constitutionally “open” polities and numerous linkages to non-governmental organizations experience the greatest number of abuse claims, while state participation in intergovernmental organizations significantly reduces the number of claims. Boyle and Thompson (2001: 341) surmise that “the[ir] findings have implications outside of Europe,” although they lack empirical evidence for such a conclusion. My analysis of communications filed under Optional Protocol provides a more comprehensive—that is, global rather than regional—study of human rights abuse claims, and thereby permits us to evaluate the broader implications of Boyle and Thompson’s findings.²

In addition to expanding the geographical reach of Boyle and Thompson’s analysis, I also adjust and extend its temporal scope. Due to limitations in the availability of reliable cross-national data on human rights practices over time (Poe, Tate, and Keith 1999), Boyle and Thompson’s analysis is both left- and right-censored: it excludes thirty-one years’ worth of claims filed before and after the observation period of their study. Right-censoring does not pose much of a problem, but left-censoring, if uncorrected, can produce biased parameter estimates (Tuma and Hannan 1984: 116-154; Yamaguchi 1991: 3-9). My analysis circumvents this problem by aligning the Optional Protocol’s entry into force with the period for which data on key variables are available: it includes all communications filed under the Optional Protocol between 1976, when that treaty entered into force, and 1999. I also take advantage of statistical tools designed especially for analyzing longitudinal count data, and supplement an examination of the *volume* of

claims filed under the Optional Protocol with an event history analysis of their *rate* over time.

I proceed as follows. First, I describe the complaint procedure established by the Optional Protocol, and discuss the political and cultural features of nation-states that motivate its use. I then advance hypotheses informed by social movement perspectives (McAdam, McCarthy, and Zald 1996), sociological neo-institutionalism (Thomas, Meyer, Boli, and Ramirez 1987; Meyer, Boli, Thomas, and Ramirez 1997), and the clash of civilizations thesis (Huntington 1993a, 1993b, 1996), that seek to explain the number of communications filed, and the rate at which they are filed. Using longitudinal data on 82 countries between 1976 and 1999, I evaluate these hypotheses with corresponding negative binomial and event history analyses. I conclude with a discussion of results and thoughts about future research.

ENFORCING HUMAN RIGHTS UNDER THE OPTIONAL PROTOCOL

In 1948, the United Nations General Assembly unanimously approved the Universal Declaration of Human Rights, a definitive but legally ineffectual document whose preamble extols the “inherent dignity” and “inalienable rights of all members of the human family.” The International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), adopted concurrently by the U.N. in 1966, give effect to the Universal Declaration, which together comprise the so-called International Bill of Human Rights (see Table 1). Although ratification of each covenant incurs a legal obligation to implement its provisions, they differ in the extent to which compliance is monitored and enforced (see

Cole 2004). The ICESCR, for example, establishes rather weak surveillance and implementation mechanisms: it requires only that state parties disclose the measures they have taken to implement the Covenant by filing reports at five-year intervals with the Committee on Economic, Social and Cultural Rights. These reports, when they are submitted at all, are often facile and incomplete (Donnelly 2003).

[Table 1 about here]

The enforcement provisions established by the ICCPR are comparatively much stronger. Part IV of that Covenant creates the Human Rights Committee (HRC), an international body charged with implementing the ICCPR. The HRC consists of eighteen “persons of high moral character and recognized competence in the field of human rights, [with] consideration being given to ... persons having legal experience” (ICCPR, Article 28[2]). Only states that are party to the ICCPR may nominate and cast ballots for Committee members, who are elected to serve four-year terms. Although members participate in their personal and independent capacities rather than as state representatives, the ICCPR guards against partisanship by prohibiting co-nationals from serving in the HRC simultaneously.

The ICCPR provides for three implementation mechanisms: state reports, inter-state communications, and individual communications. First, Article 40 requires states to file periodic reports with the HRC. These reports—similar in design and intent to those submitted under the ICESCR, but with the same shortcomings—are solicited within one year of the Covenant’s entry into force and “thereafter when the [Human Rights] Committee so requests” (ICCPR, Article 40[1][b]). By convention, state parties submit reports every five years, although under special circumstances the HRC may request

reports outside of the usual five-year cycle. This was the case, for instance, when Rwanda and the former states of Yugoslavia were embroiled in their respective civil wars (United Nations n.d.).

Second, states that make a formal declaration under Article 41 of the ICCPR recognize the HRC's competence "to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant" (ICCPR, Article 41[1]). Inter-state communications are admissible only if both parties have made the Article 41 declaration. Moreover, a state that alleges treaty violation must first submit a written complaint directly to the offending state, and the HRC is authorized to consider a claim only if a resolution satisfactory to both parties is not reached independently after a period of six months. To date, the inter-state procedure has never been invoked.

Finally, states that ratify the ICCPR may also join that Covenant's Optional Protocol, an auxiliary treaty that empowers the "[Human Rights] Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the [ICCPR]" (Optional Protocol, Article 1). Figure 1 diagrams the process from the point of view of a "focal" nation-state. Article 2 of the Protocol stipulates that individuals aggrieved by states must first exhaust all possible domestic remedies (path 1) before petitioning the HRC (path 2). Once a communication is filed, the HRC determines its admissibility, assesses its merits, affords the claimant protection (if deemed necessary), and renders a decision (path 3). In addition to the domestic recourse provision, the HRC also considers the personal, territorial, temporal, and procedural jurisdiction of a case when evaluating

its admissibility (Joseph, Schultz, and Castan 2004: 22). First, claims must be filed on behalf of an actual and identifiable individual victim: “abstract” violations, claims filed on behalf of organizations, and anonymous petitions are inadmissible. Second, the claimant must have been subject to the offending state’s jurisdiction when the suspected violation took place, although he or she need not be a citizen of that state. Third, the alleged offense must have been perpetrated after the state’s ratification of the Protocol entered into force. Finally, the petition must not be adjudicated simultaneously by another international tribunal.

[Figure 1 about here]

After the HRC rules a claim admissible, it evaluates the claim’s merits.³ The Committee may also afford the claimant protection while the merits of his or her claim are under review. At this stage, the HRC determines if a state’s actions against petitioner violates its obligations under the ICCPR. When a decision is reached, the HRC issues its opinion, called a “view,” and delivers it to both the state party and the individual claimant. Although views are not legally binding, the ICCPR is, and since “the HRC is the pre-eminent interpreter of the ICCPR,” its “decisions are therefore strong indicators of legal obligations, so rejection of those decisions is good evidence of a State’s bad faith attitude towards its ICCPR obligations” (Joseph, Schultz, and Castan 2004: 24). Consequently, HRC decisions in favor of individual claimants bring direct moral pressure to bear on states that continue to violate rights protected by the ICCPR (path 4). Failure to implement the HRC’s recommendations also becomes public record, which can damage a state’s reputation in international relations (path 5).⁴

Having described the Optional Protocol's individual complaint procedure, I next consider the factors that trigger its use, paying close attention to the endogenous political climate of states and the exogenous cultural and institutional environments in which they are embedded.

THE POLITICAL AND CULTURAL DETERMINANTS OF ABUSE CLAIMS

As depicted in Figure 1, the Optional Protocol institutionalizes what Keck and Sikkink (1998) call the “boomerang pattern,” the process in which domestic actors bypass a repressive or unresponsive government by addressing their grievances to an international audience. In Keck and Sikkink's account, these actors are the non-governmental organizations that disseminate information about a state's human rights abuses, while the actors in my analysis are the aggrieved individuals themselves. Intergovernmental organizations—in this case, the HRC—and sympathetic states then pressure the target state to change its human rights practices.⁵ My analysis directs attention to path 2 of the “boomerang” process illustrated in Figure 1: Under what conditions do individuals activate the complaint procedure of the Optional Protocol? The focus is on the political and cultural features of nation-states that prompt individuals to seek redress in the international system by addressing their grievances to the HRC.

In thinking about the internal political context from which individual communications to the HRC emerge, I draw on concepts developed by social movement theorists (see McAdam, McCarthy, and Zald [1996] for an overview). To set the complaint process into motion, an individual first experiences a real or perceived *grievance*: in particular, a state party to the Optional Protocol is alleged to have violated

its commitment under the ICCPR by abusing the individual's civil or political rights. As mandated in Article 2 of the Optional Protocol, the individual then addresses his or her complaint to the offending state using all appropriate domestic channels. Whether the grievance is resolved at this stage depends largely on the structure of *political opportunities* (Eisinger 1973; McAdam 1982, 1996; Kriesi et al. 1995; Tarrow 1998; Meyer 2004) within the state. I take political opportunities to mean “the capacity of the political system to convert demands into public policy” (Kitschelt 1986: 62).⁶ States that are responsive to challengers—those with “open” (Kitschelt 1986) or “inclusive” (Kriesi 1995) opportunity structures—are more likely to settle allegations of human rights abuse internally than states with “closed” or “exclusive” structures. Should domestic channels of recourse fail, individuals may then appeal to the HRC.⁷ Exhausting all domestic remedies that makes use of the Optional Protocol possible, however, is costly, as is the prosecution of claims internationally. Consequently, the amount of *resources* (McCarthy and Zald 1977) available to individual claimants also becomes important.⁸

The specific configuration of grievances, opportunities, and resources within states can be thought of as political “push” factors that impel individuals to submit communications with the HRC. States are also embedded in wider cultural environments, both global and civilizational, that under some conditions “pull” individuals into filing human rights abuse claims. Sociological neo-institutionalists (Thomas, Meyer, Boli, and Ramirez 1987; Meyer, Boli, Thomas, and Ramirez 1997), for instance, see “modern individuals, organizations, and nation-states by their construction [as] deeply embedded in a wider world society, polity, and rationalistic culture” (Meyer, Frank, Hironaka, Schofer, and Tuma 1997: 628). This rationalistic culture, which is now global in scope

but evolved historically out of the “Western cultural account” (Meyer, Boli, and Thomas 1987), is primarily constitutive, ontological, and cognitive in character: it defines “actors” and specifies their identities, purposes, and capacities (Jepperson and Swidler 1994; Meyer, Boli, Thomas, and Ramirez 1997; Boli and Lechner 2001).⁹ Postwar world-culture endows individuals—broadly conceived as souls, citizens, workers, consumers, and human beings—with tremendous amounts of moral worth and agency (Meyer and Jepperson 2000; Frank and Meyer 2002). It invests individuals with universal human rights, admonishes states to respect and protect those rights, and, when necessary, authorizes individuals to defend their rights against state infringement. World-cultural frameworks are exogenous to the states and individuals they constitute, and are therefore “constant” at any one point in time. What varies is the strength of a country’s linkage to, or the extent of individuals’ participation in, the organizational carriers of world-culture (Boli and Thomas 1997, 1999).

World-culture produces a great deal of ritualized structural isomorphism across national societies despite extensive political, cultural, and economic disparities between them (Meyer, Boli, Thomas, and Ramirez 1997). Civilizational cultures, on the other hand, differentiate communities of states on the basis of persistent, fundamentally different, and frequently opposing beliefs and values (Huntington 1993a, 1993b, 1996; Ingelhart and Baker 2000). Although individualism and human rights masquerade as universal principles, they are in fact quintessentially Western constructs (Donnelly 1982; Howard and Donnelly 1986; Huntington 1996). Most non-Western societies (and, for that matter, pre-modern Western societies) subsume individuals within larger collectivities, allocating different categories of rights to members of particular castes, religious

communities, kinship groups, or economic classes (Donnelly 2003). Human rights, however, are not contingent on group affiliations or even national citizenship; instead, they inhere in all individuals, simply by virtue of their common humanity. When non-Western societies adopt these values, they do so grudgingly and superficially, and then only after a great deal of prodding. “What is universalism to the West,” argues Huntington (1996: 184), “is imperialism to the rest.”

Contrary to Huntington’s belief about the incommensurability of civilizations, Donnelly (2003) contends that a broad “overlapping consensus” exists worldwide with respect to human rights. In support of his claim, Donnelly points out that countries everywhere have endorsed the framework established by the Universal Declaration of Human Rights, which was adopted unanimously. Recall, however, that the Universal Declaration is a purely normative statement and not a legally binding instrument, which allows for a great deal of “decoupling” between rhetorical and actual commitment. While Donnelly concedes that “[d]ifferences in implementations” exist, he ventures to guess that the enforcement of human rights treaties “seem[s] to have little to do with culture” (2003: 97). Though it is true that patterns of *ratification* for the ICESCR, ICCPR, and Optional Protocol are similar across civilizations (Cole 2004), we might expect to find, *pace* Donnelly, differences in the *implementation* of human rights treaties between civilizations, particularly for the Optional Protocol. Use of the Optional Protocol is contingent on the culturally constructed autonomy, authority, and empowerment of individuals, which varies across civilizations. Before filing a claim under the Optional Protocol, an individual must first acknowledge that he or she has certain rights against the state, that those rights are worth protecting, and that something can and should be

done to redress state abuse of those rights. Submitting a communication to the HRC therefore presumes a sense of moral worth and efficacy vis-à-vis the state that most Westerners take for granted.¹⁰

In what follows, I develop specific hypotheses based on the broad political, world-cultural, and civilizational approaches outlined above. It is important to recognize that these explanations need not be understood as mutually exclusive; indeed, political, institutional, and cultural processes frequently operate in tandem. Because global institutional culture emerges out of medieval Christendom (Meyer 1989), it articulates more closely with contemporary Western countries than with countries belonging to non-Western civilizations. Western states also tend to be democratic, and democratic countries usually have better human rights records (Poe and Tate 1994; Poe, Tate, and Keith 1999; Hafner-Burton and Tsutsui, forthcoming) and more linkages to the organizational carriers of world-culture (Paxton 2002) than states with autocratic regimes. And, of course, Western countries also command a disproportionate share of the world's wealth, and global economic stratification in turn produces cross-national disparities in the strength of global associational linkages: On average, wealthy countries belong to more international organizations than do poor ones (Beckfield 2003). These relationships should be borne in mind when evaluating results.

RESEARCH DESIGN

DEPENDENT VARIABLES

I analyze the annual number of individual petitions filed under the Optional Protocol between 1976 and 1999 for 82 countries, producing a matrix of 1,041 country-

year observations. I compile two dependent variables to examine respectively *how many* petitions are filed and *when* they are filed. First, a count variable, y_{it}^* , records the *total* number of cases brought against i th country under the Optional Protocol each year, t . I include communications that are ultimately ruled inadmissible, as well as those decided in favor of either the individual petitioner or the state party, as reported in Joseph, Schultz, and Castan (2004: 878-903).

Second, I derive a truncated discrete indicator from the count variable that receives a score of “1” if a country has *any* communication (i.e., at least one) brought against it during a given year, and “0” if no cases are filed. Instead of observing the total number of communications emanating from a country each year, y_{it}^* , we observe y_{it} , where

$$y_{it} = \begin{cases} 1 & \text{if } y_{it}^* \geq 1, \text{ and} \\ 0 & \text{if } y_{it}^* = 0. \end{cases}$$

Filing a petition with the HRC is a relatively rare event, as evidenced in Table 2. During any given calendar year, most countries do not have any communications lodged against them. In the data file, this amounts to 33 countries and approximately 77% of country-year observations. Of those countries that are formally charged with violating their commitment under the ICCPR by individual claimants, most—12.5% of country-year observations—have only one petition filed against them. Comparatively few countries (10.2% of country-year observations) have multiple claims filed against them in one year.

[Table 2 about here]

Figure 2 displays the total number of communications filed with the HRC annually, aggregated across countries, from the time the Optional Protocol entered into force in 1976 through 2000. The solid line plots the number of communications filed under the Optional Protocol each year along the primary axis, and the dashed line records the cumulative number of Optional Protocol ratifications against the secondary axis. The number of state parties to the Protocol grew steadily until the early 1990s, when the fall of communism produced a flurry of newly independent states that ratified. Yearly ratifications tapered off to their previous levels later in the decade. Between 1977 and 1986, the HRC received an average of 14 communications each year. The number of petitions increased precipitously in 1987, reaching an apex of 63 in 1988. Thereafter, the number of communications averaged about 40 per year, with another large spike in 1997.¹¹

[Figure 2 about here]

Figure 3 charts the number of communications emanating from each country that had at least one claim filed against it through 1999, with the total number of years for which the Protocol was in force during the observation period given in parentheses next to the country's name. Communications may only be brought against a country while its ratification of the Protocol is in force, so two countries that ratify the Protocol at the same time should, all else being equal, experience the same number of claims. This clearly is not the case, and the trends are somewhat startling. The largest number of complaints over the observation period ($N = 150$) have emanated from Jamaica, prompting it to denounce the Optional Protocol in 1997. Most of these communications were submitted by death row prisoners appealing their sentences (Joseph, Schultz, and Castan 2004: 28).

Uruguay is also responsible for a sizable number of communications, due in large part to the military government's use of torture, arbitrary imprisonment, and "disappearances" during the 1970s and early 1980s. Several established democratic countries, including the Netherlands, Canada, France, Australia, and Finland, also post higher than average numbers of communications. A list of all the countries that have ratified the Optional Protocol, together with the total number of communications filed against each during the observation period and as a ratio to the number of years the Protocol was in force, is given in Appendix A.

[Figure 3 about here]

HYPOTHESES AND EXPLANATORY VARIABLES

I am interested in the properties of states that prompt individuals to file claims alleging abuse of human rights. Therefore, states, rather than individual claimants, comprise the unit of analysis and measurement. Explanatory variables are measured at yearly intervals for all state parties to the Optional Protocol for which data are available.¹² I first consider the affect of a state's political climate on the number of human rights abuse claims filed against it, and the rate at which those claims are filed. I direct attention specifically to a state's human rights practices, its degree of commitment to democracy, and post-communist regime changes.

Human rights practices. I expect that a country's level of human rights abuse is rather straightforwardly related to the number and rate of claims brought against it—all else being equal, more abuse produces more claims.

Hypothesis 1: The greater the level of human rights abuses in a country, the greater the number and rate of claims brought against it under the Optional Protocol.

A measure of human rights practices is gleaned from annual human rights reports issued by the Bureau of Democracy, Human Rights, and Labor at the U.S. Department of State (see Poe and Tate 1994; Boyle and Thompson 2001; Hafner-Burton and Tsutsui, forthcoming). The variable ranges from 1 to 5 on an ordinal scale, with higher scores indicating better human rights practices. A score of “5” describes countries that are under secure rule of law, and where imprisonment, torture, and murder are extremely rare. A score of “1” is reserved for states where the rule of law is completely absent, and where state-sponsored terror afflicts the entire population. Intervening scores are assigned to countries for which repression is “limited” (4), “widespread” (3), or “extensive” (2).

Democracy. The HRC is an arbiter of last resort. For a communication to be admissible, the petitioner is required to have first exhausted all available means of recourse domestically. In general, democratic countries have more, and more effective, mechanisms for redressing individual grievances than non-democratic countries, thus obviating the need for international enforcement of the ICCPR. The availability of political opportunity structures within democratic states (Kriesi 1995; Kitschelt 1986) renders the use of transnational opportunity structures (Smith 1995) unnecessary, which consequently reduces the number of claims filed. Democracy should also delay the submission of communications that ultimately do make it to the HRC, as individuals

must first prosecute their claims through the many channels available to them within the state.

Hypothesis 2: Democratic countries have fewer communications filed against them under the Optional Protocol than autocratic countries, and the rate at which claims are filed is lower for democratic than for autocratic countries.¹³

The extent of a country's commitment to democracy is tapped using the *Polity IV* composite institutionalized polity score (Marshall and Jaggers 2002), with values ranging from -10 (extreme autocracy) to 10 (full democracy). Three features characterize full democracies: (1) the existence of routine procedures that enable citizens to express preferences for policies and leadership; (2) institutionalized constraints on executive power; and (3) universal guarantees and enforcement of basic civil liberties. Conversely, autocracies place few institutional restrictions on power, restrict or repress competitive political participation, and violate civil liberties.

Post-communism. After the collapse of communism during the early 1990s, newly democratic regimes emerged throughout eastern Europe and the former Soviet Union. Not coincidentally, this period also corresponds with an appreciable increase in the rate of Optional Protocol ratifications (see Figure 2). To affirm and entrench their new commitment to democracy, many formerly communist countries acceded to the Optional Protocol not long after regime change (Moravcsik 2000), enabling citizens to file communications with the HRC for the first time. Although liberal reforms have enfranchised citizens throughout the former Soviet bloc, civil and political rights often remain tenuous during the transition to democracy. The persistence of dubious human

rights practices, coupled with the increased sense of individual empowerment and entitlement that accompanies the democratic transition, produces an environment ripe for the proliferation of abuse claims.

Hypothesis 3: The number and rate of petitions filed with the HRC

increases significantly during the post-communist transition to democracy.

I construct a dummy variable set equal to “1” for the first three years following regime change from communism to democracy, and “0” otherwise. I identify a country as communist based on information reported in Perrett and Hogg (1989) and CIA (2002).

In addition to the endogenous political climate of states, the extent of their (and their citizens’) participation in the global polity is also expected to influence the number and rate of claims lodged against them. So, too, are elaborately staged international events, such as conferences, designed to draw the world’s attention to human rights.

International organizations. International non-governmental (INGO) and governmental (IGO) organizations tap different dimensions of a state’s embeddedness in the world polity. INGOs constitute a global “civil society,” catering predominantly to individuals, experts, professionals, and associations. They embody and disseminate the world-cultural values of universalism, individualism, voluntarism, and world citizenship (Boli and Thomas 1997, 1999). These principles combine to produce highly purposive members who are not only informed about their universal rights, but are culturally authorized as “small gods” (Meyer 2000) to defend them (see also Meyer and Jepperson 2000). INGOs also play a variety of important roles with respect to the implementation of human rights accords: they monitor state behavior, gather and disseminate information about human rights violations, and educate publics about their fundamental rights (Keck

and Sikkink 1998). INGOs therefore promote greater awareness of human rights and an enhanced sense of personal efficacy. Membership in INGOs also makes individuals adept at negotiating world society more generally, which should expedite the complaint process once the decision is made to file a claim.

Hypothesis 4: As the number of INGO memberships in a country increases, the number and rate of petitions filed against that country increases.

Whereas INGOs operate in and organize global civil society, IGOs undergird a state-centric world polity. Not surprisingly, IGOs tend to privilege state interests. Since the complaint procedure formalized under the Optional Protocol directly challenges internal sovereignty by subjecting a state's treatment of its citizens to external review, state participation in IGOs should therefore discourage the submission of individual claims to the HRC. In the European case, Boyle and Thompson (2001: 330) also suggest that IGOs "provide formal alternatives to claims-making" and thereby "channel, and even redirect, dissent" in ways that reduce the number of claims filed under human rights treaty regimes.

Hypothesis 5: As the number of IGOs to which a country belongs increases, the number and rate of petitions filed against it decreases.

Membership data for both INGOs and IGOs come from the *Yearbook of International Organizations* (UIA, various years), which reports nation-state memberships in 1976, 1978, and annually from 1982 onward. Yearly memberships for the period 1977–1981 are substituted with data from 1978. The civil society measure sums all the INGOs within a country that count at least one national as a member, and is logged (after adding a

constant of “1” to account for countries with no memberships) to reduce extreme skew in its distribution. The world polity measure records the number of IGOs to which a state belongs each year, and is untransformed.

World Human Rights Conference. International conferences heighten awareness about, and mobilize people and resources around, highly legitimated world-cultural principles. In June 1993, the World Human Rights Conference at Vienna, the only global human rights conference convened since the Optional Protocol entered into force, drew the world’s attention to human rights.¹⁴ Approximately 7,000 individuals representing 171 countries and over 800 non-governmental organizations were in attendance, although I suspect that the Vienna conference inspired *all* individuals, participants and non-participants alike, to initiate or renew their commitment to the protection of human rights. This expectation highlights both the direct and indirect socializing effects of world conferences, as well as the diffuse impact of the norms they celebrate.

Hypothesis 6: The Vienna Conference is associated with an increase in the number and rate of petitions filed under the Optional Protocol.

I assess this hypothesis with a dummy variable set equal to “1” for the year of the conference and the period directly following it (1993, 1994, and 1995).

Civilizational membership. Turning to the expressive dimensions of culture, I examine the influence of a state’s membership in one of the world’s major civilizations on the number and rate of communications filed against it with the HRC. I expect to find that Western culture’s extreme valorization of the individual empowers people to use the Optional Protocol’s complaint procedure more frequently than individuals in countries that submerge individuals within larger groups.

Hypothesis 7: The number and rate of human rights abuse claims emanating from Western states is greater than the number and rate filed against non-Western countries.

Huntington (1996) carves the world into nine civilizations, but only seven are represented among parties to the Optional Protocol: African, Hindu, Islamic, Latin American, Sinic, Slavic-Orthodox, and Western.¹⁵ I indicate each state's predominant civilizational "affiliation" using classifications by Russett, Oneal, and Cox (2000) and Henderson and Tucker (2001). With these data, I compare the number and rate of claims filed against states belonging to each non-Western civilization relative to the West. I also consider Huntington's "West versus the rest" thesis, which suggests that the most salient post-cold war cleavage is between Western and non-Western countries.

Diffusion effects. So far, I have considered the properties of states, civilizations, and the world that generate human rights abuse claims. One might also expect that claims-making simply feeds on itself over time—that claims filed at time $t-1$ inspire individuals to file claims at time t . To this end, I investigate the impact of national, civilizational, and global diffusion processes on the number and rate of abuse claims filed with the HRC. Prior research has demonstrated that practices diffuse most readily among geographically proximate actors (e.g., Knoke 1982; Land, Deane, and Blau 1991; Ramirez, Soysal, and Shanahan 1997; Simmons 2000). Since the diffusion of claims-making seems contingent on an individual's awareness of and identification with previous claimants, I expect its influence to be strongest among nationals. Diffusion within states is further enhanced by the grievances that nationals presumably share by virtue of their common political environment. The visibility of claims is reduced at the

level of civilizations, but perceived cultural similarities may nevertheless foster imitation of those claims that do become publicized. Finally, global diffusion is facilitated by the isomorphic forces at work in the world polity. According to Strang and Meyer (1994: 103), cross-national “diffusion within the world system ... seems grounded in the way contemporary nation-states are culturally constructed as formally equivalent.” The same is true, *mutatis mutandis*, of individuals: like nation-states, world-culture constitutes formally equal individuals and endows them with similar competencies and rights vis-à-vis the state. This allows an individual’s allegation of abuse in one part of the world to serve as a model for subsequent claims in another region.

Hypothesis 8: The number and rate of human rights abuse claims increases as the number of claims filed in the previous year increases, but with diminishing effects for national, civilizational, and global diffusion.

To study these effects, I include three variables measuring the number of communications filed under the Optional Protocol during the previous year, aggregated to the level of nation-states, civilizations, and the world.

Control variables. Finally, I control for the confounding effects of economic development and population size by including measures of gross domestic product per capita (World Bank 2002) and national population (Banks 1999). There are several reasons to suspect that more claims emanate from wealthy as opposed to poor countries. Drawing again on social movement theory, one reason follows from a basic resource dependence argument (McCarthy and Zald 1977): Although the HRC has determined that individuals need not exhaust prohibitively costly domestic remedies before making an appeal under the Optional Protocol (Joseph, Schultz, and Castan 2004: 126-28), resources

are still necessary to prosecute claims. Another reason is based on a presumed “hierarchy of needs.” Individuals in poor countries may be more concerned with securing fundamental economic or social rights, rather than the civil and political rights protected by the Optional Protocol (Smith 1995). The citizens of wealthy countries, whose basic needs for survival have been met, are therefore more likely to advance claims rooted in “post-materialist” values (Inglehart 1971, 1990). On the other hand, the empirically high correlation between favorable human rights practices and economic development (Lipset 1959; Jackman 1973; Bollen and Jackman 1985; Burkhart and Lewis-Beck 1994; Helliwell 1994) suggests an inverse relationship between per capita GDP and the number of abuse claims. By including a measure of population, I control for the simple fact that countries with more individuals are at greater risk of having claims filed against them. Both variables are logged to reduce skew. Appendix B describes all dependent, independent, and control variables employed in analyses, and reports correlations between them.

ESTIMATION TECHNIQUES: MODELING COUNTS AND RATES

Only those countries “at risk” of having a case brought against them under the Optional Protocol enter the analyses. A country enters the analysis the year its ratification of the Optional Protocol becomes effective, and exits only if it formally withdraws from the Protocol. To date, only three countries—Guyana, Trinidad and Tobago, and Jamaica—have renounced the Protocol.¹⁶

I conduct two sets of analyses, one corresponding to each of the dependent variables described previously. The first variable, which measures the number of

petitions filed against each country per year, y_{it}^* , exhibits three properties that dictate the choice of modeling strategy: it is a (1) count variable that is (2) overdispersed and (3) longitudinal. Approaches based on the Poisson distribution are appropriate for analyzing count data. However, since the variance of the number of petitions filed under the Optional Protocol exceeds the mean of petitions, the negative binomial regression model—a generalization of the Poisson distribution that adjusts for overdispersion—is favored over the standard Poisson model. The longitudinal format of the data further complicates the analytical design, as the independence assumption of conventional negative binomial models is violated (Long 1997). Problems with autocorrelation and heteroscedasticity result, producing spuriously low standard error estimates and inflated statistical significance tests. Random-effects overdispersion models for cross-sectional time-series data (e.g., Guo 1996) have been developed to account for these issues (for recent applications, see Benner and Tushman [2002] and Beer and Mitchell [2004]). I use a random- rather than fixed-effects design for two reasons. First, the parameters of time-invariant covariates, such as the civilizational indicators, are difficult to estimate with a fixed-effect approach. Second, countries with all “0” outcomes—countries without any petitions filed against them during the observation period—are dropped from fixed-effects analyses, resulting in the attrition of 32 countries. Random-effects models retain these countries in analyses. Negative binomial models are estimated using the “xtnbreg” function in STATA 8.0, with standard error estimates adjusted for clustering within countries (StataCorp 2003: 141-49).

I model the discrete variable, y_{it} , with an event history framework (Allison 1984; Tuma and Hannan 1984; Yamaguchi 1991) describing the instantaneous probability

that—or more precisely, the *rate* at which—country i has at least one claim filed against it during a given year, t . I use the exponential (“constant-rate”) model, which assumes that the “hazard rate” is conditional on changes in the value of covariates over time, rather than a function of historical time itself. Since filing a petition under the Optional Protocol is a repeatable event (i.e., a country can be charged with violating its commitment to the ICCPR more than once over time), countries are at risk of having a claim filed against them as long as their ratification of the Protocol is in force. Therefore, countries remain in the analysis until (1) they renounce the Protocol, or (2) the end of the observation period in 1999. To account for the clustering of petitions within countries, I produce tests of statistical significance using robust standard error estimates.

RESULTS

Table 3 presents results from cross-sectional time-series negative binomial regression analyses of petition *counts* (Models 1–5), and Table 4 reports exponential event history analyses of the *rate* at which petitions are filed (Models 6–10). Models 1 and 6 adduce the effect of a country’s membership in each of seven non-Western civilizations on the number and rate of petitions filed relative to the West, net of political, world-cultural, and control variables. Models 2 and 7 test the “West versus the rest” thesis by replacing the non-Western indicators with a single Western civilization dummy. To evaluate the effects of diffusion at different levels of analysis, Models 3, 4, and 5 respectively enter lagged petition counts within states, civilizations, and the world. This logic is mimicked in Models 8, 9, and 10 for event history analyses of the rate of claims. Event history analyses also include an additional control variable set equal to “1” when

multiple communications are filed against a country in a given year, and “0” when only one or no communications are filed. Raw coefficients reported in Tables 3 and 4 give the direction, magnitude, and statistical significance of effects, but are otherwise difficult to interpret. The antilog of a parameter estimate yields the net effect of a one-unit change in its corresponding covariate on the predicted *number* of petitions brought against a country (for negative binomial analyses reported in Table 3), or the *rate* at which petitions are filed (for event history analyses summarized in Table 4).

[Tables 3 and 4 about here]

First, consider the political conditions that give rise to individual communications filed under the Optional Protocol. Democratic countries, and countries with favorable human rights records, have fewer claims leveled against them relative to countries with autocratic or repressive regimes (see Models 1–5). For instance, results from Model 1 suggest that a one-unit increase in the autocracy/democracy scale reduces the annual number of claims filed against a country by an estimated 8.4% ($= 100[\exp(-.088) - 1]$), while a one-unit improvement in a country’s human rights practices decreases the predicted number of claims by a factor of .77 ($= \exp[-.262]$). Likewise, political democracy and liberal human rights practices consistently reduce the rate at which claims are filed (Models 6–10). Although the estimated effect of democracy on the rate of claims fails to attain statistical significance in Model 7—it is eclipsed by the effect of Western civilization—the sign remains in the predicted negative direction. The coefficient reverts to significance in subsequent models, after the Western indicator is removed (as reported in Appendix B, democracy and Western civilization are correlated at .83). That proviso notwithstanding, Hypotheses 1 and 2 find consistent support in both analyses.

Conversely, Hypothesis 3 is incontrovertibly refuted by the data: post-communist regime changes do not significantly affect either the volume or the rate of communications submitted to the HRC. Nor, it bears mentioning, do the two control variables, population size and national wealth as measured by per capita GDP.

The impact of global cultural and associational processes on individuals' use of the Optional Protocol is also mixed. Clearly, participation in global civil society is important: As the number of INGOs to which a country's nationals belong increases, the number and rate of petitions filed against it also increases, confirming Hypothesis 4. This effect is robust across models, although it falls just shy of statistical significance ($p = .054$) in Model 3. On the other hand, the extent of a state's participation in global governance regimes (as measured by IGO memberships) does not significantly influence either the volume or rate of petitions filed, although it is noteworthy that coefficient estimates are uniformly negative. State sovereignty norms embodied in and championed by IGOs apparently do not discourage individuals from filing claims with the HRC. More pessimistically, neither do IGOs offer individuals with alternative ways of resolving their disputes with states, as suggested by Boyle and Thompson (2001). Hypothesis 5 is not supported.

Furthermore, the consciousness-raising activities of the Vienna Conference evidently did not promote use of the Optional Protocol, contradicting Hypothesis 6. In fact, coefficient estimates, although not statistically reliable, are consistently negative across models in both analyses. Perhaps the Vienna Conference prompted states to improve their human rights practices, thus eliminating the need for individuals to issue formal claims alleging abuse. While it is beyond the scope of this study to evaluate the

accuracy of that claim, a negative and statistically insignificant interaction effect (not reported here) between the conference dummy and the State Department human rights index suggests its implausibility.

Although the impact of world-culture on use of the Optional Protocol is mixed, a country's civilizational context profoundly affects both the number and rate of abuse claims filed against it. This finding contrasts sharply with the null effect of civilizational membership on the ratification of human rights instruments (Cole 2004). Countries belonging to non-Western civilizations are universally less likely than Western states to have claims filed against them in the HRC, although not all of the coefficient estimates surpass conventional thresholds of statistical reliability ($p = .05$). Individuals in Islamic, Latin American, and Slavic-Orthodox countries file significantly fewer claims against their respective governments than do their counterparts in the West (Models 1 and 3–5). The rate of petitions emanating from these countries is also lower relative to Western states (Models 6 and 8–10). The rate of claims originating from Sinic countries is also lower than the West, but the number of claims leveled against Sinic countries is not reliably different (cf. Tables 3 and 4). African and Hindu countries post negative but statistically insignificant results for both the number and rate of petitions filed.

Models 2 and 7 indicate that the “West versus the rest” thesis also holds: the number and rate of human rights abuse claims is greater in the West compared with non-Western civilizations in the aggregate. In fact, Model 2 demonstrates that Western countries account for an estimated 3.9 times as many claims as non-Western countries ($= \exp[1.362]$), holding other factors constant. This is true even though human rights practices in the West (mean = 4.76) are significantly better, on average, than non-

Western practices (mean = 3.45; $t = -23.43$, $p < .001$). Of course, Western countries also account for fully 40% of country-year observations (see Appendix B), which suggests that they are more willing than non-Western states to subject their human rights practices to external evaluation and monitoring. Nevertheless, on balance, Hypothesis 7 withstands scrutiny.¹⁷

As for the effects of diffusion (Models 3–5 and 8–10), results indicate that only intra-state diffusion processes affect the subsequent number and rate of claims filed (Models 3 and 8). The number of communications filed during the previous year at the level of civilizations (Models 4 and 9) and the world at large (Models 5 and 10) has no demonstrable impact on future claims. Individuals apparently look only to their compatriots for cues about filing abuse claims. Alternatively, the national-level effect could be interpreted to mean that complaints filed at time t are triggered by the same (or broadly similar) political conditions that obtained at time $t - 1$, and suggests that a state's human rights practices are stable over short periods of time. Either way, Hypothesis 8 is only partially affirmed.¹⁸

Finally, a note on the stability of models. In my discussion of theory, I cautioned against thinking about political, world-cultural, and civilizational approaches as competing explanations for the number and rate of petitions filed with the HRC. Many of the moderate to high intercorrelations among variables reported in Appendix B—especially between autocracy/democracy, human rights practices, international organization memberships, the West, and GDP per capita—bear this admonishment out. While these relationships certainly mesh with a commonsense understanding of the world, they may confound multivariate analyses. I noted, for instance, that the diminished

effect of democracy on the rate of communications in Model 7 is the result of its collinearity with Western civilization. By and large, however, the estimates obtained from multivariate analyses are remarkably robust: the magnitude, direction, and statistical reliability of coefficients are extremely stable across models.¹⁹

CONCLUSION

Four factors—the existence of grievances, the availability of domestic opportunity structures, the cultural empowerment of individuals, and intra-state diffusion processes—overwhelmingly account for the number and rate of Optional Protocol communications. These results largely corroborate Boyle and Thompson’s (2001) analysis of the European Convention System at the global, rather than regional, level. They find for Europe, as I do for the world, that state openness (i.e., democracy), human rights abuses, and country-level INGO memberships all contribute to the number of human rights abuse claims filed against countries. In addition, I uncover civilization effects that Boyle and Thompson were unable to assess, given the regional scope of their analysis.

In explicating the political, cultural, and institutional conditions that promote use of the Optional Protocol’s individual complaint procedure, I contribute to an extant human rights literature that focuses almost exclusively on the efforts of non-governmental organizations as third-party champions of human rights (e.g., Keck and Sikkink 1998; Risse, Thomas, and Sikkink 1999; Tsutsui and Wotipka, forthcoming). Indispensable as (I)NGOs are to the protection of human rights, focusing our attention too narrowly on them overlooks those features of the international human rights regime

that encourage and empower the direct participation of individuals. As my analysis makes clear, the number and rate of human rights abuse claims submitted to the HRC vary with the extent to which global and civilizational cultural forces constitute, empower, and valorize individuals. The “myth” of the purposive individual, which originates in the West and continues to be strongest there, is real in its effects. Individuals from Western countries allege state abuse much more frequently than do most of their non-Western counterparts, even though differences in human rights records between the West and “the rest” would seem to predict otherwise. Whether or not the presumed “clash of civilizations” is real (e.g., Russett, Oneal, and Cox 2000; Henderson and Tucker 2001), I conclude that broad cultural cleavages certainly matter so far as individuals’ use of the Optional Protocol is concerned.

This is despite the fact that rates of Optional Protocol ratification, as well as ratification of the International Human Rights Covenants, do not differ between civilizations (Cole 2004). Donnelly (2003), then, is only partially correct when he argues for the existence of an “overlapping consensus” on international human rights. Symbolic or expressive endorsement of human rights *by states* in the form of treaty ratification transcends broad civilizational divides, but the effects of human rights norms on the actual practices *of individuals* are much slower to penetrate cultural barriers. As my analysis demonstrates, culture matters for the implementation of the Optional Protocol, although the precise reasons for this are less clear. It may be that the liberal ideology suffusing human rights discourse simply does not articulate with non-Western worldviews. Or, perhaps non-Western individuals are missing the sense of efficacy needed to defend human rights against state abuse. Even after holding individual attitudes

“constant,” it could be that non-Western individuals simply lack access to normative, associational, and legal networks that support the prosecution of abuse claims—indeed, these networks may even actively *discourage* individual action. An individual who wishes to file a claim with the HRC will find it difficult to do so if he or she faces resistance from friends, family, and the community, or lacks the support of associations and legal counsel.²⁰ These questions remain unanswered, and await evaluation.

Despite the continued salience of civilizations with respect to use of the Optional Protocol, a model of society that builds a cult around the individual has, since at least World War II, transcended its Western origins and diffused widely across the globe. Nevertheless, the degree to which countries are linked into this global model influences the extent of its penetration. As carriers of world-cultural models, INGOs transmit notions of the empowered and enfranchised individual around the world, and countries whose citizens participate most extensively in these organizations not coincidentally experience the greatest number and rate of human rights abuse claims.

Although world-cultural frameworks are increasingly universal in scope as well as in pretension, they nevertheless remain anchored historically and culturally in Western moorings, and therefore resonate more fully with Western countries than with non-Western states. In a world with some other—perhaps Islamic—cultural hegemon, the ontological standing and priority of individuals would most certainly be different, as would notions about their rights. All the same, countries from each of the world’s major civilizations currently subscribe to human rights in some form, and future work might compare more systematically than I have been able to do the use of individual complaint procedures established by regional human rights treaties in Europe, the Americas, and

Africa. Regional human rights commissions established by these treaties collectively receive many more communications each year than the HRC, suggesting that regional human rights regimes are indeed more effective than international ones (e.g., Hathaway 2002).

More than ever, individuals live in imbricated political, cultural, and jurisdictional environments, many of which provide for or encourage the protection of human rights. In addition to regional (i.e., transnational) and global human rights regimes examined here and in Boyle and Thompson (2001), for example, sub-national governments in Australia, Canada, and the United States have enacted human rights legislation, as have national legislatures in Canada, India, New Zealand, and the United Kingdom. Still unknown is whether subsidiarity is a principle that extends to the enforcement of human rights norms: Are individuals best served by national governments, regional institutions, or international treaties? Until this question is adequately addressed, I conclude that when all else fails, individuals whose rights have been violated by states can, and under certain conditions *do*, take advantage of “last resort” mechanisms when those options are available to them.

NOTES

¹ By “sovereignty” is usually meant “Westphalian” or “Vattelien” sovereignty (Krasner 1999, 2001), which refers to a state’s ability to exclude external actors from its internal affairs.

² The Optional Protocol adopts the diplomatically value-neutral term “communication” in referring to formal allegations of treaty violation submitted to the HRC. Throughout my discussion, I use *communications*, *cases*, *claims*, and *petitions* interchangeably.

³ Prior to 1997, the admissibility and merits of a communication were evaluated separately: if the HRC determined a claim admissible, it then proceeded to assess the claim’s merits. Due to the increased volume of petitions, since 1997 admissibility and merits may be considered simultaneously.

⁴ In 1990, the HRC appointed a Special Rapporteur for the Follow-up on Views, who collects and distributes information to determine whether states have taken appropriate steps to remedy human rights violations.

⁵ Keck and Sikkink (1998) acknowledge that the boomerang pattern is effective only if the target state is concerned with its reputation.

⁶ I focus on the outcome or “output” rather than process or “input” dimensions of political opportunities (Kitschelt 1986) because I am interested in the properties of states that facilitate the resolution of human rights abuse claims internally, not the factors that spur social movement mobilization externally (for more on the latter, see Tsutsui and Wotipka [forthcoming]).

⁷ My use of the term “appeal” should not be understood in a strict juridical sense. The HRC “does not operate as an appellate court to which appeals may be taken from a State’s highest domestic court” (Joseph, Schultz, and Castan 2004: 22).

⁸ The HRC has determined that individuals need not exhaust prohibitively costly remedies before filing complaints, however. Nor must they resort to “futile” or “unreasonably” lengthy remedies (see Joseph, Schultz, and Castan 2004: 103-138).

⁹ I place “actors” in quotes to underscore the idea that agency is a culturally constructed rather than natural feature of both states and individuals. See Meyer (1999) and Meyer and Jepperson (2000).

¹⁰ According to the contractarian tradition of Hobbes, Locke, and Rousseau, self-determining individuals are prior to and constitutive of the state, which itself exists only to defend their natural-law rights. Western political culture therefore encourages the sort of initiative that empowers individuals to file abuse claims. This contrasts sharply with non-Western societies (and again, most pre-Enlightenment societies in the West), where individuals are submerged within states that derive their authority from above rather than from below. Governments that rule under divine right, the sanction of religious law (e.g., the Shari’a), or the “mandate of heaven” are not only morally superior to individuals, but also by implication infallible, and thus buffer themselves from charges of impropriety leveled endogenously.

¹¹ Communications filed against Jamaica are responsible for much of the dramatic increase in the late 1980s, with 25 claims issued in 1987 and 30 in 1988. Conversely, the sudden decline in 1998 is probably an artifact of lagged data reporting procedures rather

than a real decrease in the number of claims filed (i.e., a lag exists between the time a communication is filed and when it is reported).

¹² Of the 96 countries that were party to the Optional Protocol at any time between 1976 and 1999, my sample includes 82.

¹³ The hypothesized inverse effect of democracy on the number and rate of claims may be attenuated, since data include cases ultimately ruled inadmissible because petitioners did not first seek out all available domestic remedies, and are ultimately ruled.

¹⁴ The International Conference on Human Rights was held in Tehran in 1968, eight years before the Optional Protocol's entry into force. Other conferences have addressed the domain-specific or issue-based rights of, *inter alia*, minorities, women, and indigenous peoples, but my interest in this article is with venues that focus on human rights as a *comprehensive* issue.

¹⁵ The remaining two civilizations not accounted for here are Buddhist and Japanese.

¹⁶ Jamaica renounced the Protocol in 1997. Trinidad and Tobago withdrew in 1998, immediately re-ratified with a new reservation prohibiting death row inmates from petitioning the HRC, and again withdrew in 2000. Guyana rescinded in 1999 and subsequently rejoined with a reservation similar to that of Trinidad and Tobago.

¹⁷ To determine if Jamaica, which accounts for nearly one-quarter (22.5%) of all communications filed with the HRC during the observation period, exerts a disproportionate influence on the results obtained in Tables 3 and 4, I conducted two sets of supplementary analyses. First, I included a dummy variable set equal to "1" for Jamaica, which failed to achieve statistical significance in any of the analyses, and did

not alter the effects of other variables. Second, I re-estimated models after excluding Jamaica, which also did not change the substantive interpretation of findings. The results of these analyses are available upon request.

¹⁸ In addition to entering *lagged* counts as a measure of diffusion, I also estimated models with *cumulative* counts at the national, civilizational, and global levels. These variables sum the total number of communications emanating from each level over the entire preceding period, and yielded results similar to those obtained in Tables 3 and 4. Further, I disaggregated the lagged civilization count variable into seven individual measures, one for each civilization (i.e., I computed interaction effects between the aggregated lagged civilization count variable and each of the civilizational dummy variables). None of these disaggregated counts produced statistically significant effects.

¹⁹ As a more rigorous diagnosis of multicollinearity, I regressed the number of communications on political, world-cultural, civilizational, and control variables using an ordinary least-squares approach, which permits estimation of variance inflation factor (VIF) scores (Belsley, Kuh, and Welsch 1980). I found that multicollinearity was not a significant problem for my analyses: The mean VIF for both equations fell below 2.60, and none of the individual VIF scores corresponding to each covariate exceeded 6.03 (by convention, a value of 10.0 or higher indicates collinearity).

²⁰ I am grateful to John Meyer for suggesting this point.

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Table 1. Rights articulated in the International Bill of Human Rights

<i>Right protected</i>	<i>Human rights instrument</i>		
	UDHR	ICESCR	ICCPR
Equality of rights without discrimination	✓	✓	✓
Life	✓		✓
Liberty and security of person	✓		✓
Protection against slavery	✓		✓
Protection against torture and cruel and inhuman punishment	✓		✓
Recognition as a person before the law	✓		✓
Equal protection under the law	✓		✓
Access to legal remedies for rights violations	✓		✓
Protection against arbitrary arrest or detention	✓		✓
Hearing before an independent and impartial judiciary	✓		✓
Presumption of innocence	✓		✓
Protection against ex post facto laws	✓		✓
Protection of privacy, family, and home	✓		✓
Freedom of movement and residence	✓		✓
Seek asylum from persecution	✓		
Nationality	✓		
Marry and found a family	✓	✓	✓
Own property	✓		
Freedom of thought, conscience, and religion	✓		✓
Freedom of opinion, expression, and the press	✓		✓
Freedom of assembly and association	✓		✓
Political participation	✓		✓
Social security	✓	✓	
Work, under favorable conditions	✓	✓	
Free trade unions	✓	✓	✓
Rest and leisure	✓	✓	
Food, clothing, and housing	✓	✓	
Health care and social services	✓	✓	
Special protections for children	✓	✓	✓
Education	✓	✓	
Participation in cultural life	✓	✓	
A social and international order needed to realize rights	✓		
Self-determination		✓	✓
Humane treatment when detained or imprisoned			✓
Protection against debtor's prison			✓
Protection against arbitrary expulsion of aliens			✓
Protection against advocacy of racial or religious hatred			✓
Protection of minority culture			✓

Source: Adapted from Donnelly (2003: 24, Table 2.1).

Note: UDHR = Universal Declaration of Human Rights; ICESCR = International Covenant on Economic, Social and Cultural Rights; ICCPR = International Covenant on Civil and Political Rights.

Table 2. Frequency distribution of petitions filed under the Optional Protocol, 1976-1999

Petitions per year	Frequency	Percent	Cumulative percent
0	925	77.34	77.34
1	149	12.46	89.80
2	56	4.68	94.48
3	23	1.92	96.40
4	11	.92	97.32
5	11	.92	98.24
6	7	.59	98.83
7	2	.17	99.00
8	1	.08	99.08
9	1	.08	99.16
10	1	.08	99.25
11	1	.08	99.33
13	3	.25	99.58
14	1	.08	99.67
16	1	.08	99.75
19	1	.08	99.83
25	1	.08	99.92
30	1	.08	100.00

Note: “Frequency” gives the number of country-year observations.

Table 3. Cross-sectional time-series negative binomial analyses of the volume of communications filed under the Optional Protocol, 1976-1999

<i>Variables</i>	<i>Model</i>				
	1	2	3	4	5
<i>Control variables</i>					
GDP per capita (logged)	.225 (.177)	.164 (.154)	.252 (.169)	.235 (.178)	.222 (.179)
Population (logged)	.154 (.133)	.128 (.130)	.186 (.125)	.173 (.135)	.151 (.137)
<i>Political context</i>					
Human rights practices	-.262* (.104)	-.270** (.102)	-.245* (.102)	-.260* (.104)	-.263* (.105)
Autocracy/Democracy	-.088*** (.021)	-.085*** (.020)	-.078*** (.020)	-.085*** (.022)	-.088*** (.021)
Post-communist	.084 (.709)	.084 (.695)	-.065 (.731)	.029 (.719)	.093 (.713)
<i>World-cultural context</i>					
INGO memberships (logged)	.658** (.242)	.711** (.236)	.455† (.236)	.568* (.272)	.674* (.279)
IGO memberships	-.008 (.009)	-.008 (.009)	-.003 (.008)	-.006 (.009)	-.008 (.009)
World Human Rights Conf.	-.186 (.159)	-.189 (.158)	-.162 (.157)	-.198 (.159)	-.186 (.159)
<i>Civilizational context</i>					
African	-.855 (.530)	—	-.720 (.514)	-.798 (.536)	-.849 (.533)
Hindu	-.181 (1.082)	—	-.089 (1.027)	-.106 (1.087)	-.177 (1.083)
Islamic	-3.908*** (1.171)	—	-3.726*** (1.148)	-3.845*** (1.172)	-3.898*** (1.174)
Latin American	-1.203*** (.349)	—	-1.007** (.341)	-1.132** (.364)	-1.203*** (.349)
Sinic	-1.129 (1.132)	—	-.951 (1.049)	-1.048 (1.134)	-1.121 (1.134)
Slavic-Orthodox	-1.776** (.633)	—	-1.498* (.603)	-1.667* (.650)	-1.776** (.634)
Western	—	1.362*** (.327)	—	—	—
<i>Lagged diffusion effects</i>					
Cases per country (t – 1)	—	—	.078*** (.014)	—	—
Total cases, civilization (t – 1)	—	—	—	.004 (.006)	—
Total cases, world (t – 1)	—	—	—	—	-.001 (.004)
Intercept	-6.226***	-6.920***	-6.231***	-6.194**	-6.221**
Wald χ^2 (vs. null)	86.82***	83.58***	122.15***	88.18***	86.73***
<i>df</i>	14	9	15	15	15

Notes: *N* of communications = 666; *N* of countries = 82; *N* of country-year spells = 1,041. Standard error estimates, in parentheses, are adjusted for clustering within countries.

† $p \leq .10$ * $p \leq .05$ ** $p \leq .01$ *** $p \leq .001$ (two-tailed tests)

Table 4. Exponential event history analyses of the rate of communications filed, 1976-1999

Variables	Model				
	6	7	8	9	10
<i>Control variables</i>					
GDP per capita (logged)	.013 (.104)	.033 (.088)	.027 (.104)	.002 (.104)	-.008 (.105)
Population (logged)	.090 (.071)	.091 (.070)	.101 (.073)	.079 (.074)	.073 (.073)
Multiple claims filed	1.509*** (.160)	1.527*** (.162)	1.442*** (.173)	1.518*** (.158)	1.516 (.158)
<i>Political context</i>					
Human rights practices	-.168* (.084)	-.189* (.092)	-.163† (.085)	-.168* (.084)	-.176* (.085)
Autocracy/Democracy	-.030* (.014)	-.025 (.016)	-.030* (.014)	-.031* (.015)	-.028* (.014)
Post-communist	-.706 (.703)	-.724 (.699)	-.653 (.713)	-.691 (.692)	-.672 (.682)
<i>World-cultural context</i>					
INGO memberships (logged)	.311* (.127)	.330** (.125)	.312* (.129)	.364** (.142)	.389** (.143)
IGO memberships	-.004 (.005)	-.006 (.005)	-.004 (.005)	-.005 (.005)	-.005 (.005)
World Human Rights Conf.	-.073 (.111)	-.102 (.111)	-.082 (.110)	-.055 (.112)	-.065 (.112)
<i>Civilizational context</i>					
African	-.545 (.362)	—	-.474 (.364)	-.624† (.370)	-.514 (.358)
Hindu	-.680 (.898)	—	-.594 (.911)	-.778 (.899)	-.662 (.901)
Islamic	-3.092*** (.884)	—	-3.029*** (.884)	-3.170*** (.881)	-3.032*** (.865)
Latin American	-.612*** (.188)	—	-.576** (.188)	-.686*** (.199)	-.618*** (.185)
Sinic	-.374* (.177)	—	-.359* (.173)	-.463** (.180)	-.337† (.177)
Slavic-Orthodox	-1.064** (.400)	—	-1.011* (.401)	-1.163** (.399)	-1.050** (.401)
Western	—	.716*** (.195)	—	—	—
<i>Lagged diffusion effects</i>					
Cases per country (t – 1)	—	—	.022* (.011)	—	—
Total cases, civilization (t – 1)	—	—	—	-.004 (.004)	—
Total cases, world (t – 1)	—	—	—	—	-.004 (.003)
Intercept	-3.954***	-4.784***	-4.301***	-3.884***	-3.819***
Wald χ^2 (vs. null)	258.09***	304.79***	393.61***	297.52***	297.79***
df	15	10	16	16	16

Notes: N of “failures” = 257; N of countries = 82; N of country-year spells = 1,041. Robust standard error estimates in parentheses.

† $p \leq .10$ * $p \leq .05$ ** $p \leq .01$ *** $p \leq .001$ (two-tailed tests)

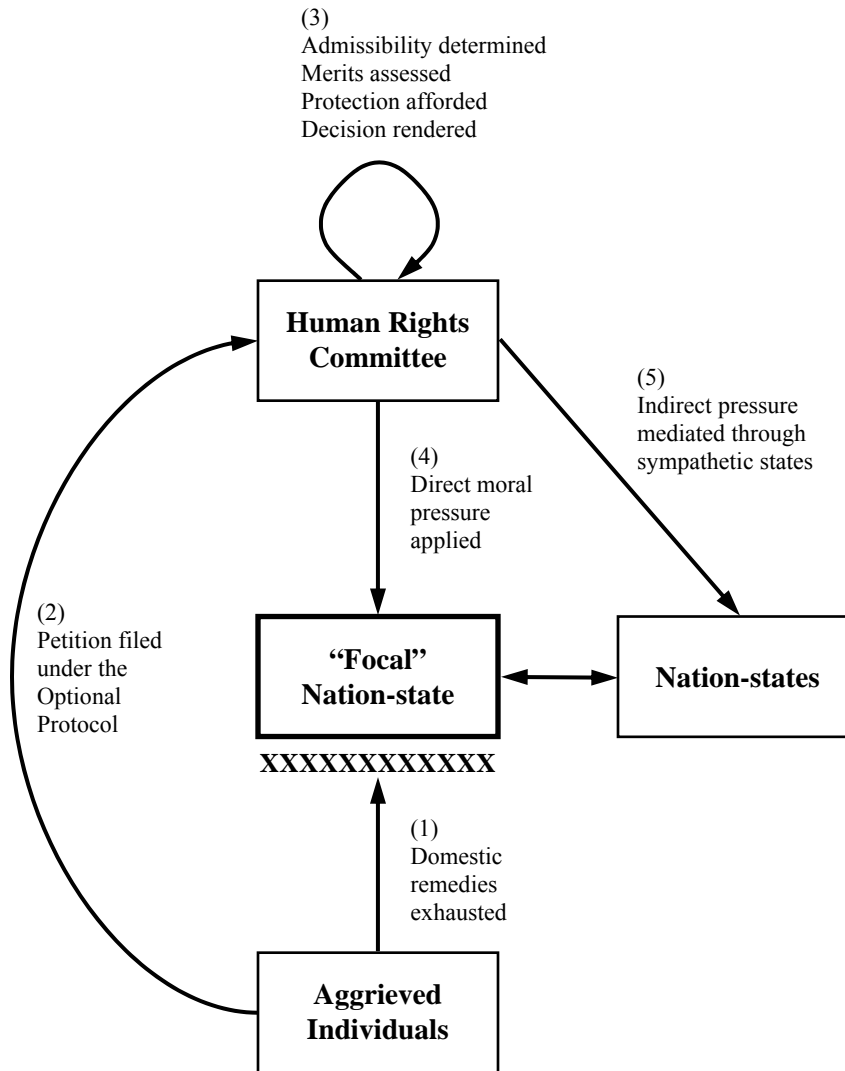
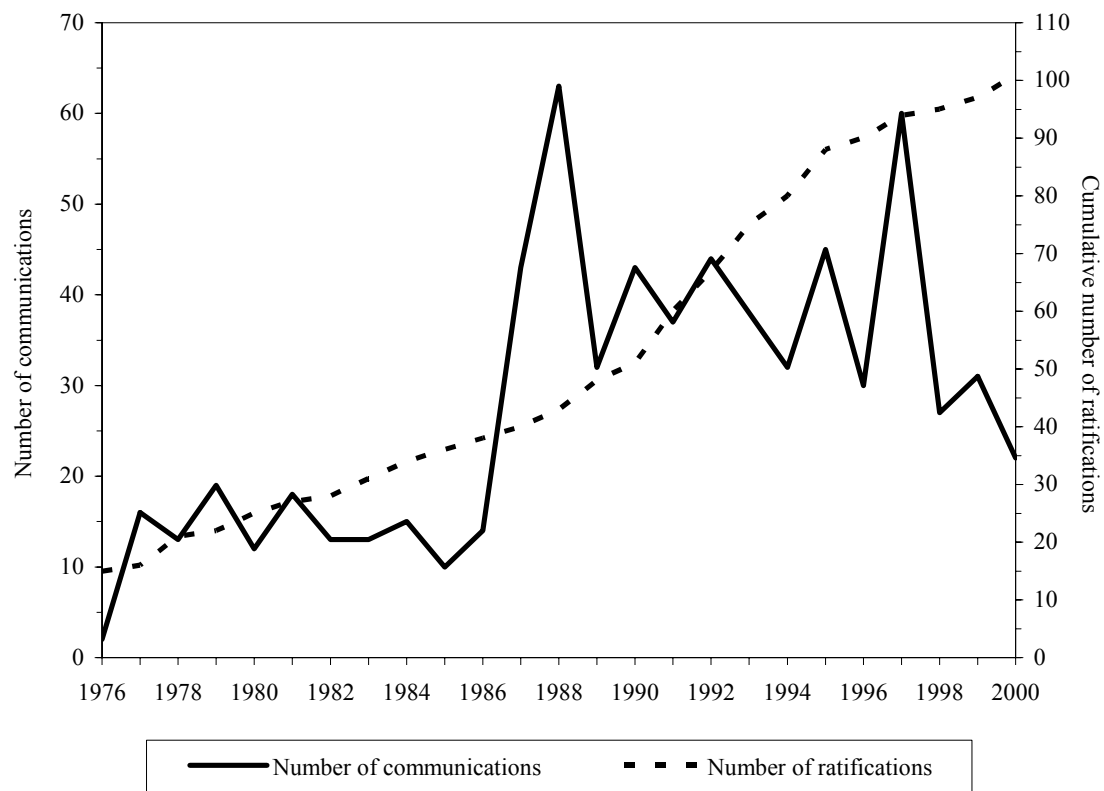
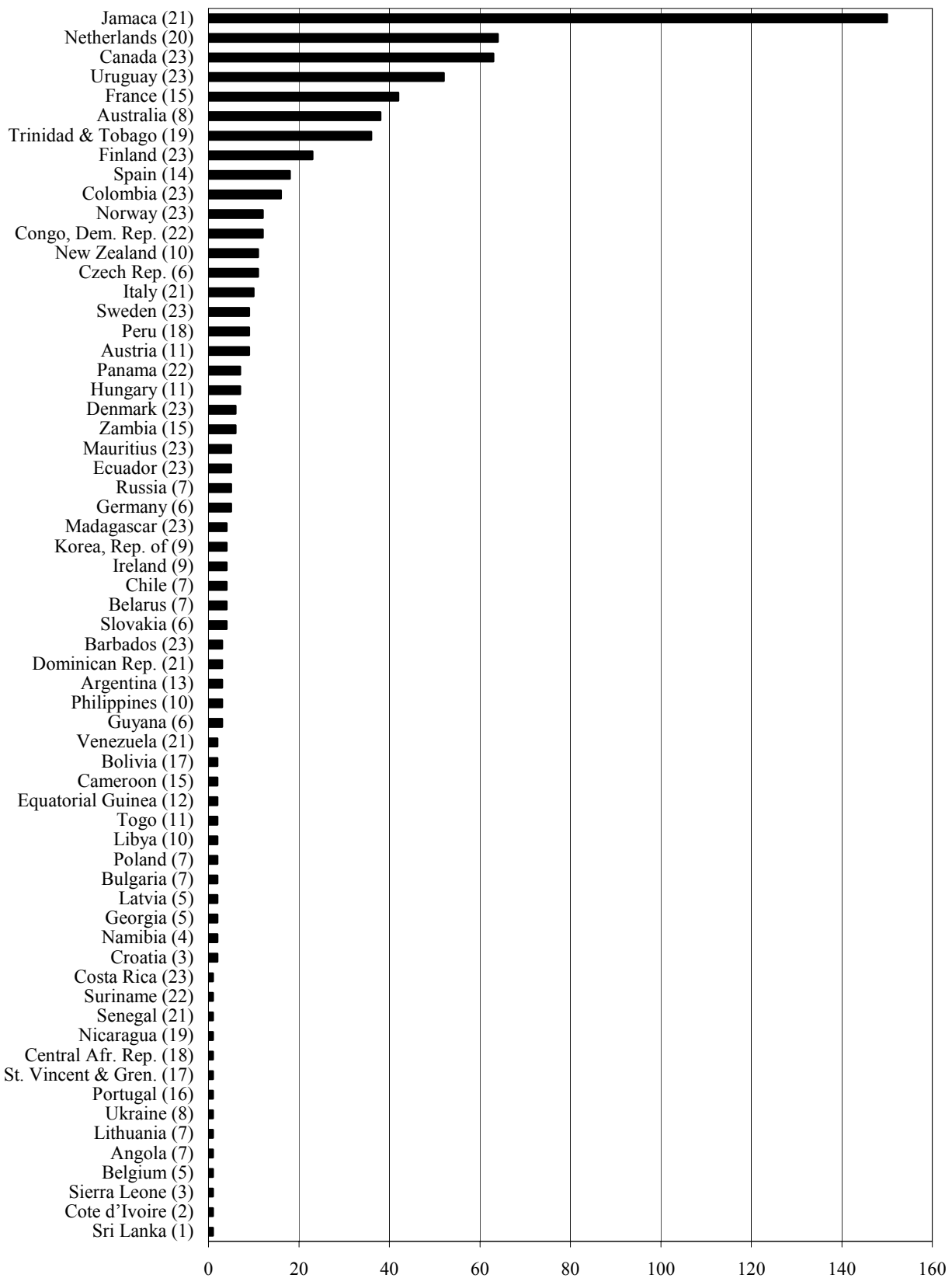


Figure 1. The Optional Protocol “boomerang”



Source : Joseph, Schultz, and Castan (2004: 878-903).

Figure 2. Number of communications received under the First Optional Protocol, 1976-2000



Note: Number in parentheses indicates the number of years for which the Optional Protocol was in force during the observation period.
Source: Joseph, Schultz, and Castan (2004: 878-903).

Figure 3. Number of communications filed by country through 1999

Appendix A. Date of entry into force and number of cases brought against states under the Optional Protocol, 1976-1999

Country	(1)	(2)	(3)	Country	(1)	(2)	(3)	Country	(1)	(2)	(3)
Costa Rica	1976	1	.04	Zambia	1984	6	.32	Russia	1992	5	.45
Barbados	1976	3	.11	France	1984	42	2.21	Armenia	1993	0	.00
Madagascar	1976	4	.15	Spain	1985	18	1.00	Guinea	1993	0	.00
Ecuador	1976	5	.19	Niger	1986	0	.00	Chile	1992	4	.36
Mauritius	1976	5	.19	San Marino	1986	0	.00	Romania	1993	0	.00
Denmark	1976	6	.22	Argentina	1986	3	.18	Slovenia	1993	0	.00
Sweden	1976	9	.33	Equatorial Guinea	1987	2	.13	Guyana	1993	3	.30
Norway	1976	12	.44	Gambia	1988	0	.00	Slovakia	1993	4	.40
Colombia	1976	16	.59	Togo	1988	2	.13	Germany	1993	5	.50
Finland	1976	23	.85	Hungary	1988	7	.47	Czech Republic	1993	11	1.00
Uruguay	1976	52	1.93	Austria	1988	9	.60	Kyrgyzstan	1994	0	.00
Canada	1976	63	2.33	Algeria	1989	0	.00	Belgium	1994	1	.11
Jamaica	1976	150	6.52	Libya	1989	2	.14	Georgia	1994	2	.22
Suriname	1977	1	.04	Philippines	1989	3	.21	Latvia	1994	2	.22
Panama	1977	7	.27	New Zealand	1989	11	.79	Bosnia-Herzegovina	1995	0	.00
Congo, Dem. Republic of	1977	12	.48	Malta	1990	0	.00	Chad	1995	0	.00
Senegal	1978	1	.04	Somalia	1990	0	.00	El Salvador	1995	0	.00
Venezuela	1978	2	.08	Ireland	1990	4	.31	Macedonia, TFYR of	1995	0	.00
Dominican Republic	1978	3	.12	Korea, Republic of	1990	4	.31	Paraguay	1995	0	.00
Italy	1978	10	.40	Mongolia	1991	0	.00	Uzbekistan	1995	0	.00
Iceland	1979	0	.00	Nepal	1991	0	.00	Namibia	1995	2	.25
Netherlands	1979	64	2.37	Ukraine	1991	1	.08	Malawi	1996	0	.00
Nicaragua	1980	1	.04	Australia	1991	38	3.17	Uganda	1996	0	.00
Trinidad and Tobago	1980	36	1.57	Benin	1992	0	.00	Sierra Leone	1996	1	.14
Central African Republic	1981	1	.05	Cyprus	1992	0	.00	Croatia	1996	2	.29
Peru	1981	9	.41	Estonia	1992	0	.00	Greece	1997	0	.00
St. Vincent/Grenadines	1982	1	.05	Seychelles	1992	0	.00	Turkmenistan	1997	0	.00
Bolivia	1982	2	.10	Angola	1992	1	.09	Cote d'Ivoire	1997	1	.17
Luxembourg	1983	0	.00	Lithuania	1992	1	.09	Sri Lanka	1998	1	.20
Portugal	1983	1	.05	Bulgaria	1992	2	.18	Burkina Faso	1999	0	.00
Congo	1984	0	.00	Poland	1992	2	.18	Liechtenstein	1999	0	.00
Cameroon	1984	2	.11	Belarus	1992	4	.36	Tajikistan	1999	0	.00

Notes: (1) Date of entry into force; (2) Number of cases brought against a country from date of entry to 1999; (3) Ratio of total cases to number of years at risk. Countries are sorted first by column 1, then by column 2. The Optional Protocol entered into force for Ghana and Lesotho in 2000; for Guatemala and Serbia and Montenegro in 2001; and for Azerbaijan, Mali, and Mexico in 2002. These countries are not included in analyses due to right-censoring.

Appendix B. Descriptive statistics and correlations for variables used in the analyses

Variables	Mean	S.D.	Min.	Max.	Correlations					
					(1)	(2)	(3)	(4)	(5)	(6)
(1) Petitions filed	.56	1.88	0	30	1.00	—	—	—	—	—
(2) Human rights practices	3.97	1.13	1	5	.05	1.00	—	—	—	—
(3) Autocracy/Democracy	5.29	6.21	−9	10	.09	.52	1.00	—	—	—
(4) Post-communist	.03	.17	0	1	−.04	.06	.06	1.00	—	—
(5) INGO memberships (logged)	6.28	.98	2.20	8.17	.13	.36	.56	−.20	1.00	—
(6) IGO memberships	49.52	17.87	0	101	.08	.30	.32	−.26	.76	1.00
(7) World H.R. Conference	.20	.40	0	1	−.01	−.04	.08	.15	.01	−.10
(8) African	.19	.39	0	1	−.11	−.27	−.51	−.08	−.43	−.24
(9) Hindu	.01	.11	0	1	−.03	−.06	.00	−.02	−.09	−.15
(10) Islamic	.10	.29	0	1	−.09	−.16	−.37	−.05	−.27	−.07
(11) Latin American	.23	.42	0	1	−.06	−.25	.07	−.09	−.04	−.11
(12) Sinic	.01	.09	0	1	−.01	−.01	.02	−.02	.06	−.03
(13) Slavic-Orthodox	.06	.23	0	1	−.06	−.04	.02	.20	−.07	−.22
(14) Western	.40	.49	0	1	.23	.57	.53	.05	.60	.50
(15) GDP per capita (logged)	8.00	1.57	4.61	10.88	.14	.60	.64	−.06	.76	.63
(16) Population (logged)	15.42	1.63	10.00	18.82	.03	−.26	.00	−.01	.39	.29
(17) Multiple cases filed	.10	.30	0	1	.65	.12	.14	−.04	.23	.18

Variables	Correlations									
	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
(7) World H.R. Conference	1.00	—	—	—	—	—	—	—	—	—
(8) African	−.02	1.00	—	—	—	—	—	—	—	—
(9) Hindu	.06	−.06	1.00	—	—	—	—	—	—	—
(10) Islamic	.01	−.15	−.04	1.00	—	—	—	—	—	—
(11) Latin American	−.06	−.28	−.07	−.17	1.00	—	—	—	—	—
(12) Sinic	.03	−.05	−.01	−.03	−.06	1.00	—	—	—	—
(13) Slavic-Orthodox	.08	−.12	−.03	−.07	−.14	−.02	1.00	—	—	—
(14) Western	.00	−.39	−.10	−.24	−.45	−.08	−.19	1.00	—	—
(15) GDP per capita (logged)	−.04	−.53	−.15	−.33	−.03	.08	−.06	.72	1.00	—
(16) Population (logged)	.02	−.10	−.03	.00	.07	.15	.01	.00	−.01	1.00
(17) Multiple cases filed	−.05	−.14	−.02	−.11	−.07	−.00	−.06	.28	.24	.11