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TIME AND COMPLIANCE WITH INTERNATIONAL RULINGS: THE CASE OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS

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ABSTRACT

Most studies of international courts analyze state compliance with court rulings by looking at the status of legal cases at a particular point in time. This "snapshot" approach ignores two important features of the compliance process. First, states often take a long time to comply with court rulings. Therefore, we need metrics that reflect not only *if*, but also *when*, states satisfy court rulings. Second, the conditions that facilitate or hinder compliance change over time. To accommodate these analytic challenges, we introduce the concept of expected time to compliance (ETC), and show how to estimate this metric using discrete-time survival models. We illustrate the advantages of this approach with an analysis of all cases decided by the Inter-American Court of Human Rights between 1989 and 2018.

KEYWORDS:

human rights, compliance, Inter-American Court of Human Rights, ius constitutionale commune, statistical models, expected time to compliance

Time and Compliance with International Rulings:

The Case of the Inter-American Court of Human Rights

Aníbal Pérez-Liñán, Luis Schenoni, and Kelly Morrison*

This paper advances a strategy to analyze state compliance with international court rulings and illustrates this strategy with data from the Inter-American Court of Human Rights (IACtHR). Our approach integrates conceptual and methodological insights. At the conceptual level, we emphasize the importance of time (e.g., delays) in any assessment of compliance. Analysts must determine not only *whether* states comply with international court orders, but also *how long* they take to do so. We develop the idea of *expected time to compliance* (ETC) to capture this insight. At the methodological level, our proposal relies on discrete-time duration modeling—a well-known technique in the social sciences—to obtain estimates of ETC. The paper therefore has two purposes: to introduce the expected-time framework as an alternative to static understandings of state compliance with international norms, and to provide an intuitive approach to interpret the results of discrete-time models within this framework.

International courts interact with domestic legal systems to shape state behavior in crucial areas like human rights, territorial disputes, and trade (Mitchell and Powell 2011). Therefore, understanding why (and when) states abide by the decisions of international

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tribunals is crucial to grasp the transformative potential that lies at the intersection of international and domestic law (von Bogdandy et al. 2016).

We focus our analysis on what Roger Fisher (1981) called "second-order" compliance, that is, state acquiescence with authoritative decisions of third parties. By contrast to "first-order" compliance—i.e., state behavior in agreement with international norms and treaties—second-order compliance has an unambiguous temporal structure (Fisher 1981: 25; see also Simmons 1988). Questions about compliance begin with a tribunal ordering the state to fulfill an obligation. At this initial moment, the status-quo is of non-compliance. Observers must then determine if (and to what extent) the state conforms to this order; and how long it takes to do so. The structure of the problem is therefore similar to the analysis of compliance with domestic courts (e.g., Fix et al. 2017; Gauri et al. 2015; Hall 2013; Kapiszewski and Taylor 2013; Songer and Sheehan 1990).

In recent years, a spectacular increase in the number of international courts and use of litigation has offered scholars many opportunities to study second-order compliance (Alter et al 2018: 4; Carrubba and Gabel 2017; Hillebrecht 2014a; Von Staden 2018). Yet, although the literature concerned with the authority of international courts has grown substantively in recent decades (Alter et al 2018: 4), this literature has generally overlooked questions of temporality in compliance with court rulings.

Assessing the timing of compliance is crucial to understand the outcome of international court rulings as well as the causes of state behavior. States often honor international court rulings only after long delays. Deferrals in compliance postpone reparations and subject victims of human rights violations to additional outrage. Thus, from the point of view of legal outcomes, it is crucial to establish how much time states take to comply. In addition, the conditions that facilitate or hinder compliance change over

time. A dynamic understanding of compliance is crucial to formulate accurate explanations of this process.

The first part of this paper shows that time is central to the literature on compliance with international law. Questions about timing and delays have driven important debates in the literature about first-order compliance with treaties (Simmons 2000; von Stein 2005; Simmons and Hopkins 2005), and lie at the core of any analysis of second-order compliance with court decisions. We discuss alternative measures of second-order compliance and introduce the ETC as our preferred metric. The section concludes with a few simple examples that illustrate the limitations of prevalent "snapshot" approaches to compliance and explain the advantages of discrete-time approaches, including the estimation of ETC.

In the second part of the paper we turn to the IACtHR, a court that many fear is facing a crisis of compliance. Analyses of the IACtHR have mostly relied on the use of what we call a "snapshot" approach, devoid of temporal considerations. We employ a discrete-time duration estimator to analyze all decisions issued by the Inter-American Court by 2018. Our results allow us to reconstruct the life cycle of reparation measures ordered by the Court, showing that the probability of compliance increases soon after the court issues a ruling. Moreover, we document that the expected time to compliance is less than a decade for monetary reparations, and experiences long delays only for some types of measures. Overall, the evidence indicates that concerns about compliance with the IACtHR require a more nuanced assessment and greater conceptual development of expectations for different types of orders.

The conclusions discuss the advantages of the proposed approach. We are not the first scholars to use duration models in compliance studies, but much of the field continues

to rely on alternative, static measures. Moreover, the analytical proposal advanced in this paper emphasizes a substantive understanding of econometric results in the context of compliance studies, transcending the mere assessment of covariate effects.

Compliance in Time

To the extent that compliance requires an effective change in state behavior to conform to a norm (Von Stein 2013: 494; Young 1979: 104), the process necessarily involves a temporal dimension. In this section, we show that this temporal dimension involves two analytically distinct aspects. Time is relevant to identify delays, meaning that compliance should not only be conceptualized as a discrete outcome; it should also be measured *in time* (i.e., in time units). Moreover, time is relevant because the conditions that facilitate or hinder compliance change. Thus, compliance should be assessed *over time*. Taken together, those two aspects allow us to distinguish alternative metrics of state compliance with international court rulings. We propose a metric that is both able to reflect delays and changing historical conditions.

All theories of state compliance acknowledge the temporal dimension of compliance. The managerial school, for instance, anticipates an inevitable time lag between the rise of an obligation and effective compliance due to factors such as normative ambiguities, bad planning, and capacity limitations (Chayes and Chayes 1995; Raustiala and Victor 1998). For the enforcement school (e.g., Downes et al. 1996), mechanisms like retaliation, reciprocity, and reputation require iteration and the unfolding of events that build up pressure (Carrubba 2005, Keck and Sikkink 1998, Keohane 1984, Simmons 2009). Common metaphors about a "shadow of the future," "cascades," and "spirals" reflect the centrality of time (Risse et al 1999). Moreover, the constructivist school emphasizes slow-

moving mechanisms such as internalization (Checkel 2005: 802; Koh 1997) and acculturation (Goodman and Jinks 2004) as main causes of compliance.

It is therefore curious that, despite the central role time plays in theories of compliance, this element has received limited attention in quantitative studies.[1] As a recent review suggests, "the time dimension is crucial for compliance, and yet it is hardly addressed or incorporated in empirical studies" (Lutmar et al 2016: 560).

One prominent exception to this omission is a frequently cited exchange between Simmons (2000), von Stein (2005), and Simmons and Hopkins (2005) regarding first-order compliance with Article VIII of the International Monetary Fund's (IMF's) Articles of Agreement. A core issue in the debate is how the authors deal with time when estimating compliance after treaty accession. These authors debate strategies for dealing with temporal lags, temporal dependence between observations, and censoring, among other issues. Undergirding the debate is the "very real problem of selection bias" (Simmons and Hopkins 2005: 623), for treaty accession might reflect a previous willingness to comply on the part of the state, making it difficult to determine whether the treaty is really constraining (or simply screening) state behavior. Such concerns about endogenous self-selection are less relevant for studies of second-order compliance. When arbitration or adjudication takes place, it is clear that an obligation follows from the ruling. In such instances, the status quo is non-compliance, and states must conform their behavior to meet requirements decided by a third party.

The ruling of an international tribunal represents a "time zero;" the moment when an obligation arises and the benchmark to assess how long it takes a state to comply with its

[1] Across research on humanitarian law (Valentino et al 2006, Prorok and Appel 2014), international criminal law (Kelley 2007), territorial settlement (Huth et al 2011), and human rights agreements (Hafner-Burton and Tsutsui 2007; Lupu 2015) scholars either disregard or simply control for time.

obligations. Yet, despite this temporal structure, the fast-growing empirical literature on international courts has struggled to accommodate questions about timing. For example, in a study of the European Court of Human Rights (ECtHR) between 1960 and 2015, von Staden (2018) concludes that "the nontrivial number of judgements that have remained under […] supervision in excess of five, ten, and even more years indicates serious issues with respect to some states' commitment to ensuring, or their ability to achieve, effective and swift compliance with the Court's judgements" (p. 24).

An inspection of the literature indicates that time matters for second-order compliance in two related but analytically distinct ways. First, it takes time for states to comply with court rulings. This creates the need to account for *delays*. Second, domestic and international conditions vary over time. This creates the need to account for changes in the *context* for compliance. Conventional studies that simply compare rates of compliance across states or across reparation categories potentially ignore both aspects of the problem.

Delays. Because states need time to comply with court orders, rates of compliance may under-estimate state commitment to international norms (if states need additional time to comply) or over-estimate this commitment (if states comply only after long delays). This introduces two analytical challenges. On the one hand, it is possible that some states will appear in violation of recent court orders simply because they did not have enough time to adjust their behavior (Chayes and Chayes 1995: 17). For instance, when analyzing a database containing all the rulings of the International Court of Justice (ICJ), Vincent Tiffiny (2013: 77) finds that compliance has declined with cases adjudicated in recent decades. Yet, because he looks at compliance rates as of 2013, it is not clear whether compliance has really declined or states had less time to comply with later decisions. Empirical studies often acknowledge this problem in crude ways. González-Salsberg

(2013) includes in his analysis of the IACtHR only judgments issued by mid-2011, two years before the end of his study. Hillebrecht (2014a: 55) estimates the probability of compliance with rulings of the ECtHR and the IACtHR controlling for the number of years elapsed between the ruling and the year of data collection. On the other hand, and maybe most important, it is possible that states will comply with court orders only after long delays. Revisiting a naïve measure of compliance, Staton and Romero (2019) note that "if compliance followed a protracted period of delay, such a coding will miss what we believe is substantively meaningful defiance." To address this challenge, the authors create an alternative measure of "resistance" that reflects non-compliance as well as excessive delays with the IACtHR. Those studies suggest that measuring *if* states comply can be as important as measuring *when* they do so.

Changing Context. A second issue is that the conditions that drive compliance change over time. Unfortunately, it is difficult to assess the role of time-varying explanations when we observe a snapshot of court cases (or reparation measures) at a particular moment. Hillebrecht (2014a), as well as Staton and Romero (2019) estimate the probability of compliance with rulings of international courts using initial conditions at the time of the ruling as predictors for the outcome. Other studies, including research on compliance with WTO rulings (Spilker 2012 and Peritz 2015) and decisions of the European Court of Human Rights (Grewal and Voeten 2015; Helfer and Voeten 2014), have used empirical strategies that account for variation in the time to compliance as well as censoring of cases. Still, this research generally lacks a robust discussion of the time-varying factors that might affect a state's propensity to comply with international rulings, as well as the role of time itself in shaping states' ability and incentives to comply. More in

line with our proposal in the next section, Parente (2018) employs a discrete-time duration model to accommodate changes in domestic public opinion about court orders.

Concerns about delayed outcomes and about changing explanatory conditions come together when we consider the question of political will, and how political will shapes the life cycle of the compliance process (Hillebrecht 2012). State will to comply with international court rulings is not directly observable but, given a population of legal cases, it determines the typical life cycle for the compliance process. Consider a stylized situation in which (a) some states are willing to comply and others do not, and in which (b) the states eager to comply need some time to do so. Condition (b) means that state activity achieves full compliance only over a reasonable period. (What is "reasonable" may itself be disputed or unobservable.) Therefore, we should expect low rates of compliance in the immediate aftermath of court rulings (i.e., at $t = 0$), and observe the probability of compliance rising in the following years. At the same time, because unwilling states delay compliance of fail to comply altogether, the probability of compliance will drop after the "reasonable" period has ended, when only non-compliers or reluctant compliers are left to act. We show how to retrieve empirical estimates of this life cycle later in this paper.

The problem of delays suggests that we should measure compliance in time units (not simply as a dichotomous outcome), while the problem of evolving conditions suggests that we should assess changes in compliance over time. Taken together, the two criteria allow us to identify four metrics or indicators of second-order compliance, summarized in Table 1. The first two, in the top row, reflect the status of a "snapshot" of legal cases at a particular point in time. Assessments ignoring time (in the first column) simply report rates of compliance for a particular set of cases (e.g., González-Salsberg 2010), while those accounting for delays (in the second column) may report the average number of years

elapsed until states fulfill their obligations. The latter indicator is uncommon, however, because it confronts the problem of right-censoring. Because some cases have not met compliance yet (and other cases never will), a naïve average of time to compliance only reflects duration among states willing to fulfill their obligations.

Table 1. Four Metrics of Second-Order Compliance

Accounts for	Duration (delays)	
Changing conditions	No	Yes
No (snapshot)	*Rates of compliance* (across all cases)	*Time to compliance* (given compliance)
Yes (discrete-time)	*Yearly probability of compliance*	***Expected time to compliance* (ETC)**

The bottom row of Table 1 identifies two additional metrics of compliance, which are able to accommodate changing conditions. Both metrics are based on a discrete-time approach, described in the next section. The first measure reflects the probability of compliance for specific cases (or reparation measures) in particular years. For example, because public opinion toward security forces changes over time, facilitating or hindering compliance in human rights cases, Parente (2018) employs a complementary log-log model to estimate the probability of compliance in the years following an IACtHR decision. This measure implicitly accounts for delays, in the sense that the probability of compliance estimated for year t is conditional on non-compliance at $t - 1$ (if the state had complied at $t - 1$, the reparation measure would not be part of the sample of cases pending by the current year). However, estimates of the yearly probability of compliance do not explicitly account for the time elapsed unless properly interpreted.

To offer an explicit metric for delays, we propose a fourth indicator, the Expected Time to Compliance (ETC). Estimates of ETC reflect the number of years predicted until compliance takes place. This expectation accommodates the fact that some states have not complied (yet?) by penalizing non-compliers with a longer expected time. We illustrate the logic of ETC and compare it with other measures in the next section.

An important point to keep in mind is that the yearly probability of compliance and the ETC are mathematically equivalent, allowing for flexible interpretation in terms of chances of compliance or expected delays, depending on the narrative context. For any yearly probability p_t, there is an equivalent ETC, $1/p_t$. The reason for this equivalence will become clear in the following section. However, it is important to keep in mind that different probability distributions, when averaged over time, may produce the same expected time to compliance, even the life cycle of the compliance process is quite different in each case.

Snapshot vs. Discrete-Time Approaches

To illustrate the limitations of "snapshot" measures such as overall rates of compliance, Figure 1 presents a hypothetical example with three states (A, B, and C) which are required by an international court to comply with two reparation measures each (labeled A1, A2; B1, B2; and C1, C2). State A receives the ruling in 2002, complying with the first measure in 2008 and the second measure in 2009. State B receives the ruling in 2003, complying with the first measure in 2009 and the second measure in 2015. State C receives the ruling in 2009, complying with the first measure in 2010 and with the second in 2012. Thus, State C responds to the court's requests promptly, State A complies after several years, and State B complies after a very long time.

Figure 1. Snapshot of Compliance in 2010

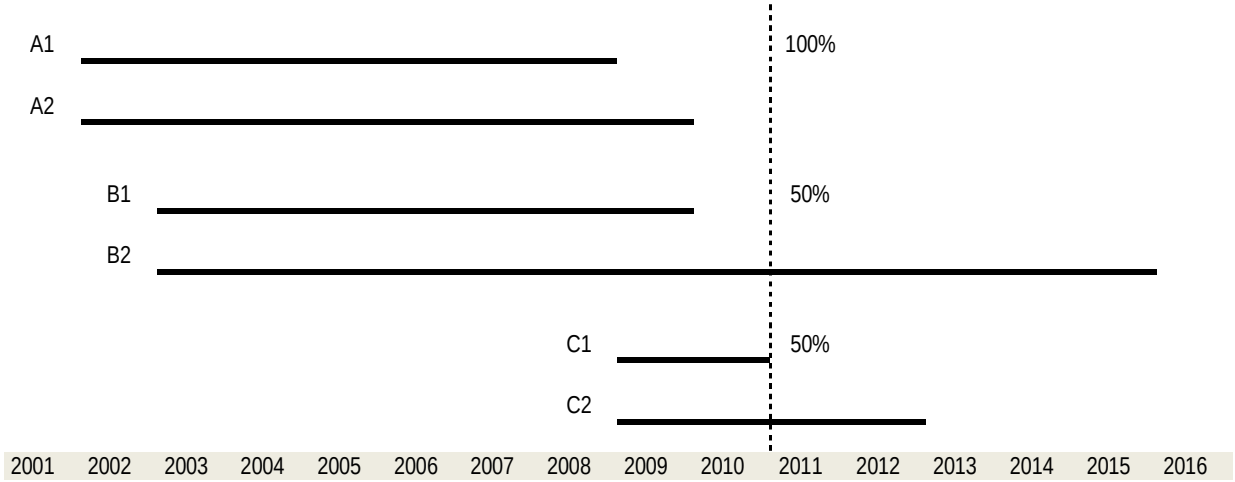
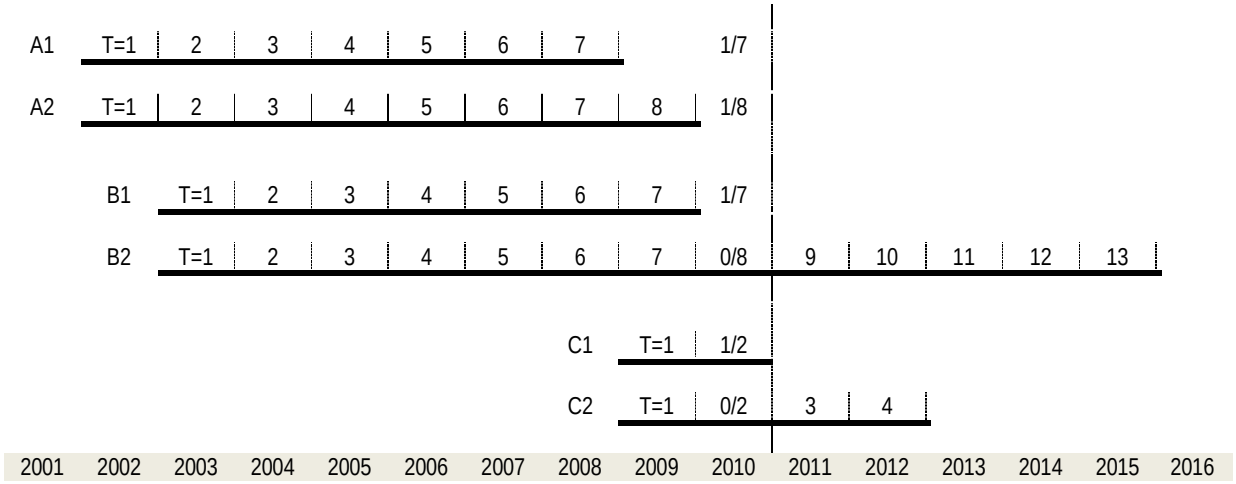


Figure 1 illustrates why the snapshot approach may generate misleading conclusions. Consider a study observing the status of all cases at the end of 2010. At this point, State A has complied with 100% of its reparation measures, State B has complied with 50%, and State C has complied with 50%. Thus, State A appears to be most committed to international norms, while C in fact outperforms the other two states. Alternatively, a study comparing time-to-compliance in the three cases would identify State C as the fastest complier (two years) vis-à-vis B (seven years) and A (seven and a half years on average). But this metric would underestimate time-to-compliance for B and C, by ignoring the information for right-censored reparation measures B2 and C2, that have not experienced compliance by 2010.

This example also suggests that low rates of compliance in any given snapshot in part reflect the time that states need to address court requests. This is not just a hypothetical measurement problem: of 930 reparation measures issued by the IACtHR in 1989-2010, states had complied with only 30% by the end of 2010. However, the rate of compliance

increases to 41% if we exclude measures ordered in the last three years of the period (2007-10).

Figure 2. Discrete-Time Approach by 2010



To address this important limitation, we propose an alternative approach, acknowledged by the bottom row in Table 1. This strategy allows us to calculate the probability of compliance in any given year during the lifetime of a reparation measure, and to retrieve the expected time-to-compliance based on this information. Figure 2 illustrates the implementation of this strategy by a researcher observing the same hypothetical examples at the end of 2010.

The procedure involves three steps:

1. *Split the life of a reparation measure into discrete time units (years)*. Beginning with the year of the ruling, each reparation measure is observed at regular (discrete) intervals. Every year elapsed until compliance adds one time unit to the duration count (the denominator listed for each reparation in 2010). For example, it takes

State A seven time units, including the year of the ruling, to comply with measure A1.

2. *Estimate the probability of compliance per year*. The probability of compliance may vary year after year, depending on external conditions (covariates). In the simplest example, assuming no covariates, the inverse of the number of years represents a uniform (average) probability of compliance over the history of the reparation. For instance, the annual probability of compliance for A1 is 1/7 (0.143) while the annual probability of compliance for A2 is 1/8 (0.125). Taken the two together, the average probability of compliance for State A, irrespective of the type of reparation, is 2/15 (0.133). In complex examples involving conditions that change over time, the yearly probability can be estimated with multivariate models, discussed below.
3. *Retrieve ETC from probability estimates*. The inverse of probability estimates allows us to retrieve the expected time to compliance, measured in years. Following the previous example, ETC for State A is, re-translated to time units, 7.5 years (1/0.133). This strategy is particularly useful when we use multivariate models to predict the yearly probability of compliance. The average probability for a set of years produces the ETC over the given time span.

Using this method, and assuming that we observe the situation of all cases in Figure 2 at the end of 2010, the probability of compliance is 0.133 (an ETC of 7.5 years) for State A, 0.067 (or 15 years) for State B, and 0.25 (4 years) for State C. In contrast to the snapshot approach, the discrete-time approach identifies State C as most inclined to honor its commitments, and State B as the least inclined to do so. Moreover, the estimates using incomplete information available in 2010 approximate quite reasonably the actual

performance of each state, as observed by 2015 (7.5 years on average for State A, 10 years on average for B, and 3 years for C).

Two features of this approach deserve special mention. First, the estimation of the probability of compliance for each reparation-year is the key task for statistical analysis. Although the illustration presented in Figure 2 only compares three hypothetical states and two types of reparation measures, scholars will be usually interested in estimating the yearly probability of compliance for hundreds of measures, controlling for several factors. They may also be interested in assessing the evolution of compliance over the life cycle of reparation measures. For example, only four measures (A1, A2, B1 and B2) last for more than six years in Figure 2, and two of them experience compliance in year 7. This means that, in this example, the rate of compliance for pending measures increases to 50% by year 7.

Second, the logic of the discrete-time approach allows us to report results in two equivalent formats: as the estimated probability of compliance per year, or as the expected time to compliance. The two quantities are equivalent because they represent the inverse of each other. An estimated probability of compliance of .50 per year yields an expected time to compliance of 2 years, and an estimated probability of .10 yields an expected time to compliance of 10 years. This equivalence rule has three important implications for the interpretation of ETC:

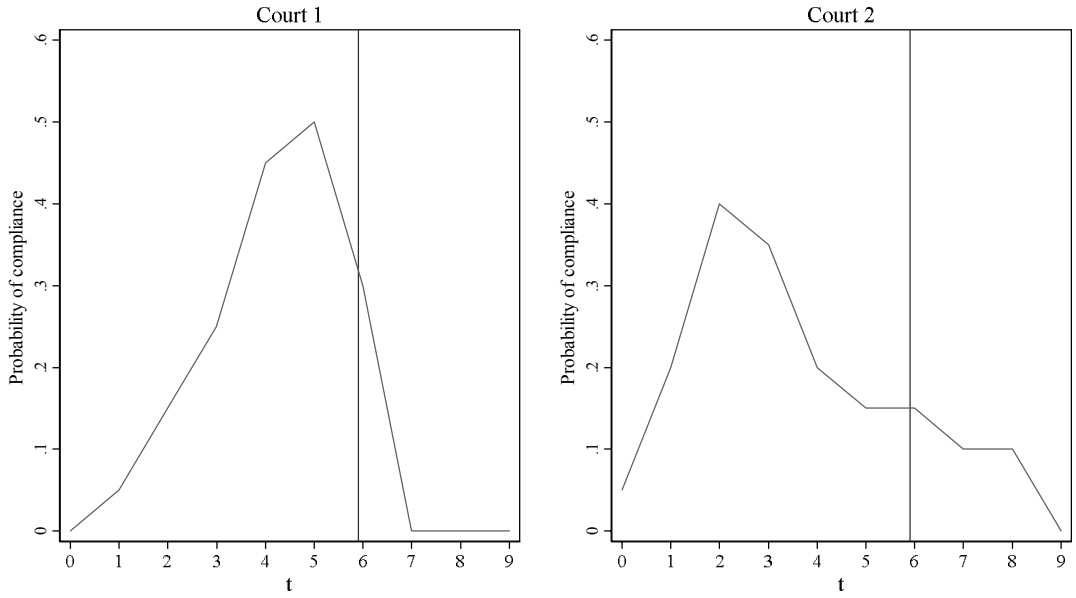
- Our estimates of expected time to compliance incorporate information for reparation measures that never experienced compliance. In this way, ETC penalizes non-compliant states with longer expected times. Consider reparation measures of type 2 (A2, B2, C2) in Figure 2. By 2010, only country A has complied with reparation A2. However, other reparations of the same type remain pending: B2 has been open for 8 years and C2 has

been open for 2 years. Thus, only one event has taken place in the 18 years observed. By 2010, the average yearly probability of compliance is 1/18, and ETC is 18 years.

- Unrealistic time estimates reflect situations in which adverse conditions generate very low probabilities. For example, a duration estimate of 100 years (!) would indicate that the probability of compliance under a particular set of conditions is just 0.01. Because all statistical estimates involve a margin of error, very low probabilities are often hard to distinguish from zero. Thus, very long time horizons must be interpreted as evidence of unlikely compliance within a reasonable period, not as precise estimates of time to compliance.[2]
- Two international tribunals with similar ETCs may confront cases with very different life cycles of compliance. Figure 3 below illustrates this fact with a stylized example of two courts. The vertical axis reflects the proportion of pending cases that meet compliance every year, in the years following a ruling. The average probability of compliance is .17 in both cases, yielding an ETC of approximately 6 years. However, the first court witnesses rates of compliance increasing until year 5, then dropping abruptly, while the second court sees rates of compliance rising in the first two years, then declining slowly.

[2] In the absence of any compliance events, i.e., $p_t = 0$, the ETC is non-retrievable (i.e., expected time to compliance is infinite).

Figure 3. Two Different Life Cycles with the Same ETC



The Case of the IACtHR

We illustrate the ETC framework with data for the Inter-American Court of Human Rights. Our goal in the rest of the paper is not to develop a theory of compliance with the IACtHR, but to show how to estimate and interpret the measures proposed in the previous sections.[3] There is an extensive body of work on the Inter-American Court, but with the exception of recent work by Parente (2018), studies of the IACtHR usually adopt

[3] Existing research emphasizes three types of factors to explain compliance: domestic factors, international factors, and case-specific factors. First, compliance with IACtHR decisions depends on characteristics of the state, including domestic institutions, the political will of domestic leaders, and the degree to which non-governmental organizations pressure governments to comply (Alvarez et al. 2007; Bailliet 2013; Coimbra 2013; Garavito and Kauffman 2016; Hawkins and Jacoby 2010; Huneeus 2011; Nuño 2016; Parente 2018; Parra Vera 2016; Sánchez 2013). Second, international actors, such as the General Assembly of the Organization of American States, international NGOs, or foreign governments, may pressure states, creating incentives to comply (Alvarez et al. 2007; Bailliet 2013; Hawkins and Jacoby 2010). Finally, compliance depends on the features of each case (Baluarte 2012, Basch et al. 2010, Calderón Gamboa 2014, Garavito and Kauffman 2016, González-Salzberg 2010, Hawkins and Jacoby 2010, Salazar and Cerqueira 2016). Among those features are the types of rights violated and the type of reparation measures requested.

"snapshot" approaches to assess compliance. The literature, for example, reports that "Suriname and Chile present a compliance rate of 50%" (Gonzalez-Salzberg 2013: 10) that "Mexico complied with 67% of orders" (Baillet 2013: 480), and that "Guatemala has implemented all but 2, which constitutes an implementation rate of approximately 89 per cent" (Baluarte 2012: 291).

Most studies of the IACtHR have examined the relationship between different types of reparations and the likelihood that governments will comply. The major finding across these works is that monetary indemnifications for victims of human rights violations and symbolic measures are more likely to result in compliance than orders that demand investigation of perpetrators or changes to legislation. For example, González-Salzberg (2010, 2013) finds rates of compliance between 63 and 80 percent for measures of monetary compensation, publicity of rulings, and acts of acknowledgement. In contrast, compliance ranges between 3 and 31 percent for measures that require prosecution or changes to legislation. Hawkins and Jacoby (2010) find rates of compliance between 40 and 43 percent for apologies and material reparations, but just 7 to 19 percent for legislative and investigative measures. Hillebrecht (2014a) finds compliance rates above 50 percent for symbolic reparations and only 14 percent for retrials and non-repetition measures. Basch et al. (2010) and Baluarte (2012) find similar patterns with different samples of cases, but only Parente (2018) offers an interpretation of this pattern in terms of time to compliance.

Between 1989 and 2018, the IACtHR ruled in 238 cases, ordering 1782 reparation measures.[4] Yet, only about a third of all reparation measures have met full compliance to this day. We developed a database covering all cases decided by the Court by the end of 2018, and dated the time of compliance for each reparation measure based on the Court's

[4] http://www.corteidh.or.cr/cf/jurisprudencia

supervision resolutions. The Court reports episodes of "partial" and "full" compliance. In the former, supervision remains open until states satisfy reparation measures in "full."

We focus our analysis on compliance with individual reparation measures, rather than with the overall court ruling, because states exercise compliance "à la carte", addressing some reparation measures while ignoring others (Hillebrecht 2014a). Cases vary significantly in the number of reparation measures ordered by the Court. For example, "Genie Lacayo vs. Nicaragua" involves a single reparation, while "López Soto y otros vs. Venezuela" includes 21 requests. About 80% of the rulings involve 10 measures or less, and the average case orders 7.5 reparations.[5]

A preliminary analysis of the data shows that a major transformation took place at the beginning of the 21st century. After 2000, the IACtHR decided on many more cases and ordered more reparation measures per case. However, the rate of compliance by states never caught up with the surge in the number of requests. The result has been an accumulation of pending reparation measures at supervision stage, creating rising concerns about a compliance crisis.

After the Inter-American Commission of Human Rights (which brings cases to the Court) adopted new procedures in 2000, the IACtHR began to process a larger number of cases. Figure 4 documents that, on average, the Court issued 1.3 decisions per year between 1989 and 2000, but 12.3 decisions per year between 2001 and 2018. Moreover, the number of reparations requested by the Court also expanded over time. Until 2000, the average case involved 3.2 reparations; in the contemporary period, the typical case has involved 7.8 measures.

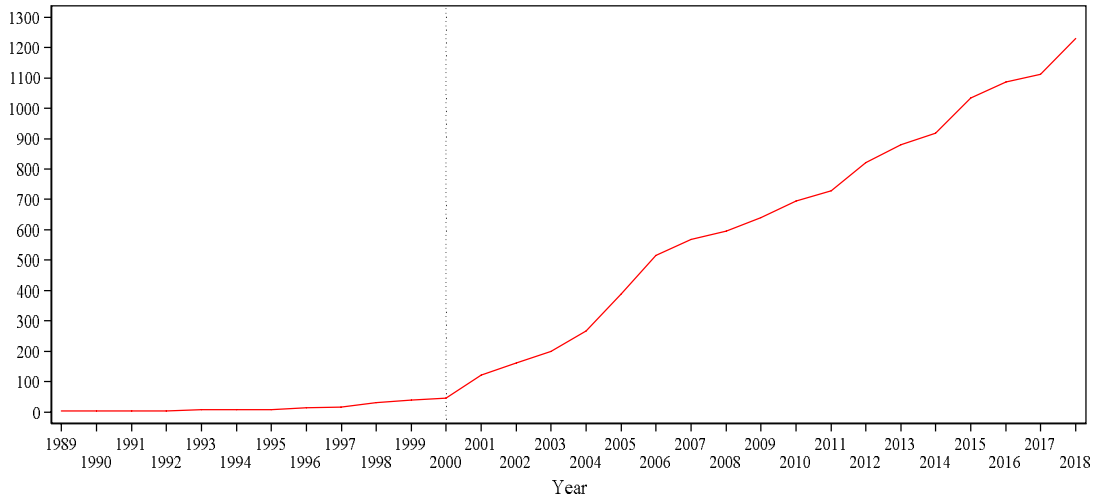
[5] Older cases often listed several measures involving monetary compensation (e.g., legal costs, damages, contributions to the Court's fund) under a single resolution point. Following the Court's monitoring procedures, we treated each measure as an individual reparation measure in our database.

Figure 4. Cases Decided by the IACtHR, per Year

Rates of compliance, however, never compensated for the growing number of pending court orders. Every year, with the exception of 2008, the number of new measures exceeded the number of closed reparations. This gap reflects in part that state responses in any given year correspond to (the smaller number of) measures ordered in earlier years. But the growing gap also reflects that reparation measures became more complex over time. Some 48% of all measures under supervision were monetary in nature in 2000, but this number had dropped to 26% by 2018.

The combination of more cases, more measures, and an inadequate rate of compliance, produced an accumulation of pending reparations under supervision. On average, the Court had just 15 measures under supervision in any year until 2000. Between 2001 and 2018, in contrast, the Court has supervised 664 measures per year on average. Figure 5 documents that the number of pending measures has increased tenfold in less than two decades, from 121 measures under supervision in 2001 to 1,229 in 2018. This trend explains the rising concerns about an ongoing crisis, and calls for a systematic analysis.

Figure 5. Pending Reparation Measures under Supervision



Data

While a snapshot analysis can be easily implemented by tabulating information on compliance available in any given year, the discrete-time approach requires restructuring the data to create yearly records for each reparation measure. We created annual records for each of the 1,782 reparation measures ordered by the IACtHR, starting on the year of the ruling through the year of full compliance (or 2019, for pending measures). This process generated 13,327 observations at the reparation-year level.

To identify events of compliance, we registered the year when the IACtHR declared that states had complied in part or in full with particular reparation measures. For example, a yearly observation in our database reflects the status of the Military Justice Code reform, one of the 11 measures required in *Radilla Pacheco v. México* (2009), as of 2013. By the end of 2013, no resolution had yet reported compliance with this measure. Thus, although we discuss the results as estimates of time-to-compliance, it would be more accurate to interpret them as estimates of the time until the Court *declares* compliance in a supervision

resolution. We are working to pinpoint the exact year of compliance in the next stage of this project.

Table 2 compares countries in terms of the two measures listed at the bottom of Table 1: the average probability of compliance and the expected time to compliance. Both indicators are estimated for the first indication of compliance (partial of full) and for strictly full compliance. The states with the best record are Ecuador (6 years to first indication of compliance on average), Bolivia (7 years), and Chile (8 years). At the other end of the spectrum, some countries present extremely low probabilities, and thus unrealistic time estimates: the Dominican Republic (87 years) and Venezuela (240 years). Haiti and Trinidad and Tobago have not complied with any reparation measures to this day, thus the observed probability is zero.

Table 2. Expected Time-to-Compliance, by Country

Country	Probability of any compliance	Probability of full compliance	Time to any compliance	Time to full compliance
Argentina	0.11	0.07	9	15
Bolivia	0.15	0.12	7	9
Brazil	0.09	0.05	12	19
Barbados	0.06	0.03	16	32
Chile	0.12	0.11	8	9
Colombia	0.07	0.04	15	24
Costa Rica	0.11	0.06	9	16
Dominican Republic	0.01	0.01	87	87
Ecuador	0.17	0.11	6	9
Guatemala	0.08	0.05	13	19
Honduras	0.05	0.04	20	23
Haiti*	0.00	0.00	-	-
Mexico	0.09	0.07	11	14
Nicaragua	0.07	0.04	14	25
Panama	0.08	0.08	12	13
Peru	0.05	0.03	21	32
Paraguay	0.06	0.02	18	41
El Salvador	0.06	0.05	17	21
Suriname	0.05	0.04	20	24
Trinidad and Tobago*	0.00	0.00	-	-
Uruguay	0.10	0.05	10	19
Venezuela**	0.00	0.00	240	240

Notes: Estimates do not control for any other factors (e.g., different types of reparations confronted by different countries).
* No estimation of time if possible because no episodes of compliance ever took place.
** Probability estimate is 0.004, including years after denunciation of the Convention in 2012

Table 2 offers more accurate information than a conventional "snapshot" comparison of compliance rates by country. However, the table still relies on a single descriptive criterion (the target states), ignoring other possible explanations. The comparison in Table 2 implicitly assumes that the Court ordered similar reparation measures for all countries, around the same time, but these assumptions may not hold. For

example, 80% of reparation measures ordered to Barbados were monetary in nature, while only 54% of the reparations ordered to Ecuador were so. Similarly, the Court ordered most reparation measures to Paraguay before 2007, but ordered most reparation measures to Brazil after 2015. Differences in the number of requests and their timing matter because a single measure open for 10 years will affect the average probability of compliance for a country as much as 10 measures ordered last year.[6] In both cases, the overall denominator used to calculate the country's probability will increase in 10 time units; however, in the latter example the country barely had any time to comply.

Estimation

To accommodate these differences, we estimate a statistical model that accounts simultaneously for the type of reparation and for the number of years elapsed since the ruling. The statistical model also accounts for the fact that different countries have different propensities to comply (as illustrated by Table 2), and for the fact that some legal cases may involve easier conditions for compliance.

We estimate the probability of compliance for each reparation-year using a discrete-time duration model, which includes frailties by country and by legal case. Given the purpose of this paper, we employ a minimalist specification. Besides the type of reparation measure (the most common predictor in the literature), the model includes a polynomial for the time elapsed since the ruling. This polynomial accounts for duration dependence and, from a substantive point of view, maps the life cycle of compliance. The structure of this baseline model is:

[6] The oldest measures in our sample have remained open for 23 years (*Neira Alegría* and *El Amparo*).

[1] $$Y_{ict} = b_{0c} + b_x * Type_x + b_z * T^z + \varepsilon_{it}$$

where Y_{ict} is a linear transformation of the probability of compliance for reparation measure *i* in legal case *c*, in year *t*. Following Parente (2018), we employ a complementary log-log link to transform the probability of compliance into a linear function, but alternative links (e.g., a logistic function) produced equivalent results. In Equation 1, b_{0c} represents the latent probability of compliance for all reparation measures in case *c*, reflecting that legal cases involve distinct facts and national conditions affecting the outcome. This term is a frailty determined by

[2] $$b_{0c} = b_{00} + b_{01}c + b_{02j}$$

where b_{00} is a constant for the whole sample, $b_{01}c$ is a random effect adjusting the constant for each legal case, and b_{02j} is a random effect by country, capturing disparities in Table 1.

In turn, b_x represents the coefficients for eight types of reparation measures. We coded reparation measures following the classification scheme used by the IACtHR, where x indicates restitution, rehabilitation, satisfaction, guarantees of no repetition, obligation to investigate, indemnification, refund of legal costs, or contributions to the victims' assistance fund. (The reference category in all models is restitution.)

Coefficients b_z estimate changes in the hazard function according to the number of years elapsed since the time of the ruling (see Figure 3). Although it is common to employ a cubic polynomial (z = 3) or similarly use cubic splines by default (Carter and Signorino 2010), we have a substantive interest in the hazard function. There is no reason to believe that the life cycle of reparation measures necessarily follows a cubic specification. We performed likelihood ratio tests for polynomials of order 2 through 7 (not shown) to identify the optimal specification, and concluded that a higher-order polynomial (z = 6) offers a more accurate representation of the life cycle of compliance.

Results

Our analysis 13,327 reparation-years indicates that, on average, it takes about 8 years from the time of the ruling until the Court identifies the first form of compliance (partial or full). The expected probability compliance (based on model 3.1) is about 13% per year on average. Moreover, it takes about 11 years from the time of the ruling until the Court identifies *full* compliance (the average probability of full compliance is about 9% per year). Table 3 reports the coefficients for the models yielding these estimates.

Table 3. Discrete-Time Models of Compliance with the IACtHR

	(3.1) First indication		(3.2) Full compliance	
Type of Reparation				
Rehabilitation	-1.05*	(-3.71)	-1.42*	(-3.97)
Satisfaction	0.80*	(4.56)	0.89*	(4.49)
Non-Repetition	-0.63*	(-3.10)	-0.82*	(-3.47)
Prosecutions	-1.36*	(-5.67)	-2.28*	(-6.53)
Indemnifications	1.43*	(8.02)	1.06*	(5.21)
Legal costs	1.39*	(7.56)	1.31*	(6.34)
Victims fund	1.89*	(6.55)	1.81*	(5.83)
Years from ruling	5.39*	(10.54)	4.91*	(8.95)
Years from ruling^2	-1.68*	(-7.42)	-1.57*	(-6.34)
Years from ruling^3	0.25*	(5.41)	0.24*	(4.67)
Years from ruling^4	-0.02*	(-4.17)	-0.02*	(-3.68)
Years from ruling^5	0.00*	(3.36)	0.00*	(3.04)
Years from ruling^6	-0.00*	(-2.79)	-0.00*	(-2.60)
Intercept b_{00}	-9.11*	(-16.73)	-8.65*	(-15.48)
Var(Countries)	1.94*	(2.41)	1.58*	(2.39)
Var(Cases)	2.66*	(6.53)	2.27*	(6.18)
Countries	22		22	
Legal cases	238		238	
Reparation-years	12,268		13,327	

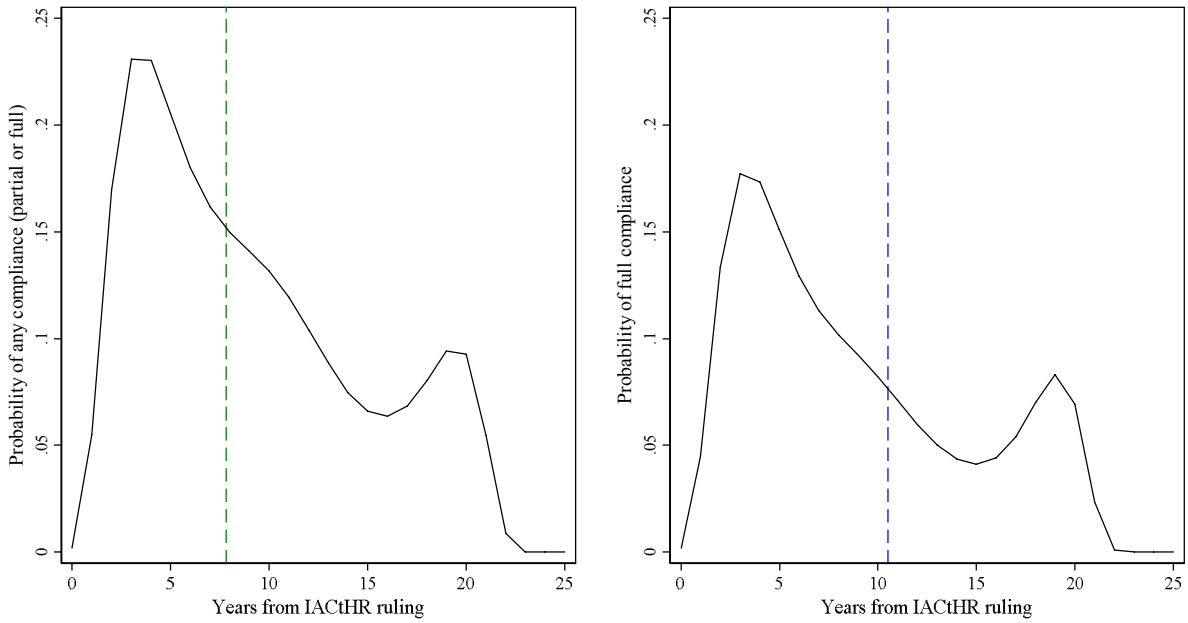
Estimates are coefficients for complementary log-log multilevel model (z statistics in parentheses)
* $p<0.05$

General estimates, however, hide considerable heterogeneity in the probability of compliance, both over time and across types of reparation measures. Figure 6 depicts the expected probability of compliance as time elapses from the Court's initial ruling. The left panel displays estimates for the first indication of compliance (partial or full), while the right panel presents more demanding estimates for full compliance. The vertical dotted lines mark the ETC (8 years and 11 years, respectively).

States are most likely to comply in the third year after the decision (reaching a yearly rate close to 23% for any form of compliance, and 18% for full compliance). After year four, the probability of compliance declines progressively. A decade after the ruling, the expected rate of compliance is around 13% for full or partial compliance and 8% for full compliance. Thus, there is a window of opportunity to elicit compliance during the first decade. Compliance with "difficult" reparations appears to improve about two decades after the ruling, but this estimate reflects the experience of very few cases (*Castillo Petruzzi vs. Perú*; *Garrido y Baigorria vs. Argentina*; and *Suárez Rosero vs. Ecuador*) and thus it is highly uncertain.

Although Figure 6 presents the pattern for the average reparation measure, the expected time to compliance also presents great heterogeneity across reparation types. Because—as noted above—prior studies have documented consistent differences across reparation types, this variable offers an opportunity to validate our approach.

Figure 6. Expected Probability of Compliance, by Time Elapsed from the Ruling



Following the Court's criteria, we classified reparation measures into seven categories: restitution, rehabilitation, satisfaction, guarantees of no repetition, obligation to investigate and sanction (i.e., prosecute) perpetrators, indemnification, and the refund of legal costs and expenses. As an eighth category—albeit technically not a form of reparation—we include orders to reimburse the Court victims' assistance fund. The most common types are measures of satisfaction (26%), followed by indemnifications (17%), guarantees of non-repetition (16%), orders to cover legal costs (13%), requests to investigate or prosecute (11%), restitution (8%), rehabilitation (6%), and reimbursements to the victims' assistance fund (3%).

Figure 7. Expected Time to Compliance, by Type of Reparation Measure

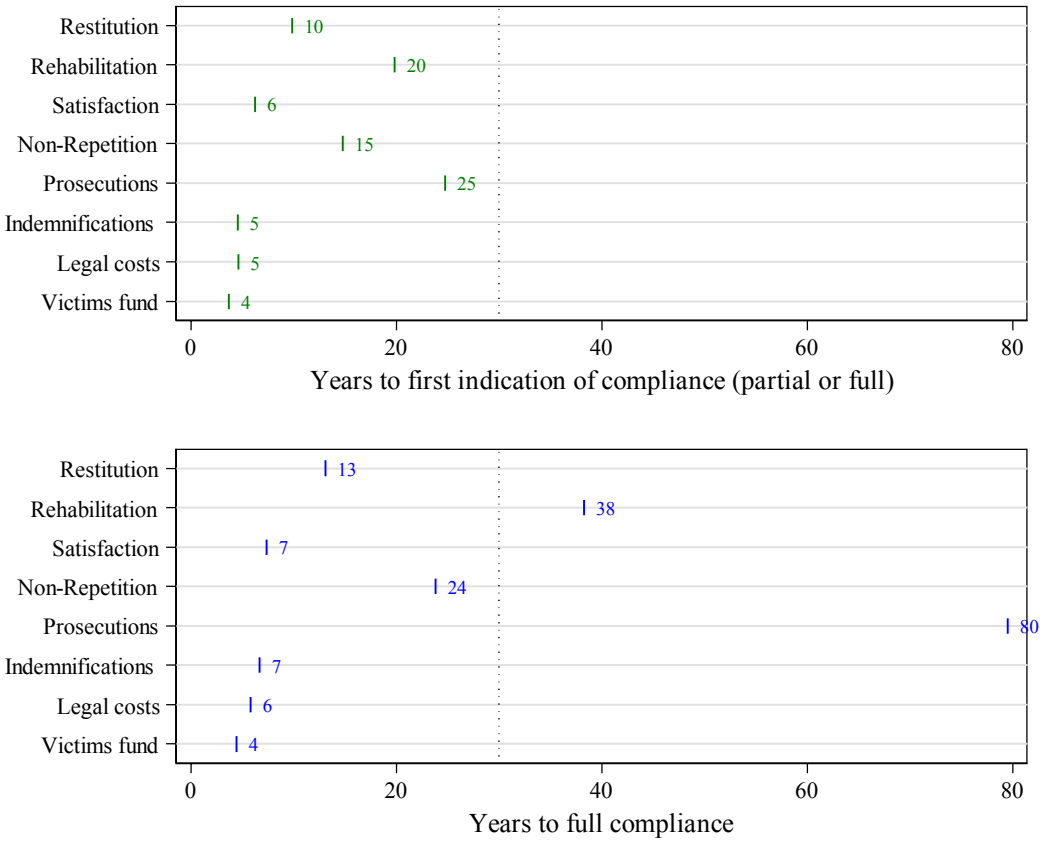


Figure 7 compares the ETC until the first indication of compliance (top panel) or until full compliance (in the bottom panel), across types of reparations. The vertical dotted line, included for reference, reflects the time elapsed since the Court's first ruling (1989), which sets a historical boundary for interpretation of duration estimates.

Expected time to initial compliance is, on average, four years for contributions to victims' funds, five years for indemnifications and compensation for legal costs, six years for measures of satisfaction, and ten years for measures of restitution. Upon first indication

of compliance, each of these five reparation types typically secure full compliance in the subsequent two years.

However, measures of rehabilitation, non-repetition, and the prosecution of perpetrators present very low probabilities of compliance, and thus very long ETCs. The top panel suggests that we should expect partial compliance for these categories within 15-25 years but, due to the low probabilities involved, these statistical estimates are too uncertain to be reliable. The bottom panel shows that we cannot expect full compliance in any reasonable period—thus the unrealistic ETCs, which reach eight decades in the case of investigations and prosecutions.

Discussion and Conclusions

The previous pages illustrated the advantages of an expected-time framework to analyze compliance with international court rulings. Most quantitative evaluations of second-order compliance continue to analyze whether states adapt their behavior to court rulings, but overlook the time elapsed until compliance and the determinants of this lag. This has led to potential misrepresentations regarding what is (and what is not) a reasonable delay, which actors comply more willingly, and the general conditions that favor compliance, among other issues. For example, in his study of the European Court of Justice (ECJ), Beach concludes Greece is a serial non-complier (Beach 2005: 136). Yet, while the study bases its conclusion on a snapshot of non-compliance rates by 2001, a look at the whole time series would put Germany more squarely in the black list (Beach 2005: 117, 121). Studies have relied on "snapshot" approaches to assess compliance with the International Court of Justice (Paulson 2004; Tiffiny 2013), the European Court of Justice (Beach 2005, Martinsen 2015), the European Court of Human Rights (Hillebrecht 2014b,

von Staden 2018), the Law of the Sea Tribunal (Phan 2019), and the World Trade Organization's dispute settlement mechanisms (Reinhardt 2001; Wilson 2007).

To overcome the limitations of static analyses, we emphasize the advantages of a discrete-time approach. The study of compliance at repeated points in time offers important analytical advantages. For instance, courts may take action to address non-compliance at critical moments, including on-site visits to monitor state progress, releasing reports to publicize non-compliance, issuing press releases to the media, and holding public hearings (Garavito and Kauffman 2016: 253). An evaluation of those strategies requires research designs sensitive to changes in compliance over time. In addition, scholars may be interested in shifting domestic phenomena such as government changes, public opinion, or economic growth, which might affect the state's willingness or capacity to comply (Dai 2005; Parente 2018; von Stein 2015).

Our study is not the first to employ duration models to understand second-order compliance, but while most studies relying on duration models focus on the analysis of covariates, we advance a broader interpretation consistent with a substantive reading of the results. This interpretive framework emphasizes two results of interest. The first one is the evolution of the compliance life cycle, determined by the shape of the latent hazard rate. The second one is the expected time to compliance (ETC), an intuitive metric expressed in years. Because ETC maps into the inverse of the predicted probability, it is easy to retrieve and compatible with any discrete-time estimation strategy.

We documented the advantages of this approach with a study of all rulings of the Inter-American Court of Human Rights between 1989 and 2018. Because the goal of this study was to test our analytical strategy, we purposefully avoided the inclusion of a large number of covariates. Although observers of the Inter-American System have expressed

increasing concerns about an impending crisis of compliance, the evidence suggests a more nuanced situation. The typical reparation measure ordered by the IACtHR experiences a growing probability of compliance in the first three years after a ruling, reaching a rate of compliance close to 20% by year 3. Most reparation measures experience a first indication of compliance within a decade following the Court's ruling. However, as the previous literature has shown, expected time to compliance varies widely across reparation types. The ETC is less than a decade for monetary reparations and measures of satisfaction, and it is about 13 years for measures of restitution. Although more comparative research is needed, anecdotal evidence suggests that this record may not differ much from the European Court of Human Rights. However, measures of non-repetition, rehabilitation, and especially orders to investigate and sanction perpetrators confront enormous delays. Future studies will need to develop conceptual innovations to distinguish types of reparations that intrinsically require long processes of state transformation to meet compliance (e.g., non-repetition measures involving comprehensive policy change) from reparations orders that experience long delays because the state is unable or unwilling to comply (e.g., prosecution of perpetrators).

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"Essential to our concept was the establishment of a connection to the work and objectives of the institute. In view of the diversity of the research tasks concerned, we have attempted to highlight an overarching idea that can be understood as the institute's mission. We see this as the ideal of peaceful relations between peoples on the basis of an internationally validated notion of justice.... The depicted sculpture...[symbolizes] an imbalanced world in which some peoples are oppressed while others lay claim to dominance and power. The honeycomb form of the circular disks denotes the [international] state structure. Glass parts ... [represent] the individual states .... [The division] of the figure ... into two parts [can] be interpreted as the separation of the earth into two unequal worlds. The scissors-shaped base, on the one hand, makes the gap between them clear, on the other hand, a converging movement of the disks is conceivable.... The sculpture [aims] at what is imagined – the possibility of the rapprochement of the two worlds." [transl. by S. Less]

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