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The International Covenant on Civil and Political Rights and the strategic shift to forced disappearance

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ABSTRACT

Political leaders not only assess the costs and benefits of repression but also act strategically in their use of particular repression types. Choices amongst repression types depend partly upon leaders being held responsible for their particular actions. The codification of the international human rights regime indicated by broad ratification of the core International Covenant on Civil and Political Rights increases the likelihood of criminal responsibility, and political leaders who repress but want to avoid accountability for their actions respond strategically. These governments refrain from extrajudicial killing, which is easier to link to the government, relying instead on forced disappearances, a violation that is more difficult to tie to the incumbent regime. Using a sample of 194 countries from 1981 to 2009, we find that decreases in the use of extrajudicial killing in International Covenant on Civil and Political Rights member states are associated with increases in the use of forced disappearance. This indicates a substitution effect as governments attempt to maintain the benefits of repression while avoiding the costs of accountability. Our findings are robust to changes in measurement, sample size, and model specification.

Between 1990 and 1993, the small Himalayan Kingdom of Bhutan experienced mounting levels of antigovernment unrest. This unrest followed government measures including a nationality law resulting in the expulsion of several thousand ethnic Nepalese, a code of “Bhutanization,” and banning of the Bhutan Peoples Party comprised of ethnic Nepalese exiles demanding democratic reform (US Department of State 1994). The Bhutanese government highlighted its restraint, noting that the king ordered the police and armed forces not to use lethal force when dealing with dissidents. Meanwhile, the period saw a large rise in forced disappearances, beginning in September of 1990 with the police and army rounding up hundreds of men suspected of supporting the resistance movement (US Department of State 1992). The Peoples Forum for Human Rights, an organization of ethnic Nepali-Bhutanese, claimed that “hundreds of these men were never seen again after being taken away.” These claims, the US State Department noted, “could not be confirmed,

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 Data used in the study can be obtained for purposes of replication at: <https://dataverse.harvard.edu/dataverse/jhr>. Supplemental material for this article can be accessed on the [publisher's website](#).

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however, the consistency of stories among so many people, most of whom have fled Bhutan, lent credence to their charges” (1992: 1368).

The Bhutanese government’s actions are notable for three reasons. First, the government emphasized its restraint from utilizing extrajudicial killing (described as “killing” for the rest of the article). Second, its use of forced disappearance in place of killing is indicative of an *intentional* shift in its preferred means of maintaining control. Third, according to human rights reports, disappearance was not used in Bhutan prior to this 1990 threat to the king’s power. The government’s behavior is indicative of an intentional effort by the Bhutanese regime to substitute one type of repression for another in order to maintain political control.

These actions, and others like them, serve as a starting point for our inquiry. We address this question: Do political leaders act strategically in their choice of repression type to minimize the probability they will be held accountable for human rights violations?

In acting strategically to minimize their accountability, we argue that some political leaders will reduce their use of killing, which we posit is much easier to link to the choices of incumbent leaders, and will increase their use of forced disappearance. We argue that these strategic choices reflect a consequence of the institutionalization of the international human rights regime and proliferation of human rights norms, both of which increase legal accountability for some human rights violations.

We begin with a theoretical justification for our focus on these two particular human rights violations. We then explore the relevant literatures addressing the international human rights regime and the norms embodied therein. We situate forced disappearance within the broader framework of accountability for the behavior of political leaders and examine the changing effect of international mechanisms on this accountability. Next, we delineate our hypothesis and research design. We then present our findings and, finally, discuss the theoretical and policy implications of our work.

We find strong support for our arguments. The results from an analysis of 194 countries between 1981 and 2009 indicate that governments that have ratified the International Covenant on Civil and Political Rights (ICCPR) are more likely to substitute forced disappearance for extrajudicial killing. Our findings are robust to the use of single-stage and more complex instrumental variables analyses that control for endogeneity, changes in our key independent and dependent variables, as well as changes in our sample of countries.

The use of disappearance, as the example of Bhutan demonstrates, allows governments to achieve their goal of eliminating real or perceived threats to their power while minimizing the chance of international condemnation and criminal prosecution. We argue that the practices of some governments to use particular types of repression in place of others is to avoid both reputational and financial costs. These costs may include reductions in capital that investors and companies spend, aid that international governmental organizations (IGOs) and nongovernmental organizations (NGOs) give, and monies that partner governments devote to businesses and development projects.

Forced disappearance and extrajudicial killing

We begin with the assumption that leaders are rational, utility-maximizing individuals and argue that these leaders not only assess the costs and benefits of repression, as previous research indicates, but also act strategically in their choice of repression *type*. We believe proliferating human rights norms alter rulers’ repression calculus. In this article, we focus on one

manifestation of this change in the repression calculus—the shift of some governments from using killing to forced disappearances—for three main reasons: (1) Forced disappearance occurs much more frequently and in many more places and time periods than common wisdom suggests; (2) disappearance and killing achieve many of the same outcomes and are thus substitutable violations; and (3) while their benefits are similar, disappearance has fewer associated risks, which makes it a rational, cost-minimizing option for leaders.

First, despite conventional wisdom, forced disappearance is not uncommon nor is it restricted to a particular time and place. While disappearance is best known as a tactic utilized in Latin America throughout the 1970s and 1980s, there is mounting evidence that many governments employ forced disappearance, making it a global phenomenon (United Nations Human Rights Council 2006). The Nazis frequently used it during World War II, and disappearance as a tactic of coercion has proliferated throughout Europe, Asia, Africa, and the Middle East. At least 99 governments have utilized forced disappearance since systematic documentation of these crimes began in 1980 (United Nations Human Rights Council 19th Session 2012). For example, in the Western Balkans (Croatia, Kosovo, and Bosnia and Herzegovina) 14,000 people are missing, while 2,300 remain missing from the Northern Caucasus region of the Russian Federation, and nearly 2,000 people in Cyprus remain unaccounted for (Council of Europe 2011). Other countries that have used disappearance include Algeria, China, Egypt, India, Indonesia, Iran, Iraq, Kenya, Morocco, Nepal, Pakistan, Philippines, Sudan, Syria, Timor-Leste, Thailand, and Turkey (Amnesty International 1993; Scovazzi and Citroni 2007; Council of Europe 2011; United Nations Human Rights Council 2012).

As of November 2011, 53,778 cases of forced disappearances had been transmitted to the United Nations Working Group on Enforced or Involuntary Disappearances since its 1980 inception. Moreover, another 42,759 cases across 82 states remain unresolved and under active consideration (United Nations Human Rights Council 19th Session 2012). The 2007 United Nations International Convention for the Protection of All Persons from Forced Disappearance, which entered into force in December 2010, indicates forced disappearance remains a pervasive problem.

We also focus on the shift from killing to forced disappearance for two additional reasons. To begin with, we argue these two violations provide the clearest test of whether some governments have changed their behavior to maintain political control given the similar outcomes of each action. Killing results in the death of individuals or members of groups politically opposed to the government, and disappearance in almost all cases also serves to eliminate opponents of the regime. For example, in 1982 Eduardo Bleier disappeared in Uruguay; he was targeted due to his alleged association with the banned Communist Party (Scovazzi and Citroni 2007: 102–104). Katombe Tshishimbi disappeared in Zaire in 1995 because of his association with a party of political opposition to President Mobutu (Scovazzi and Citroni 2007: 111–112). Jegatheeswara Sarma disappeared in Sri Lanka in 2003; he was taken because he was a suspected member of the The Liberation Tigers of Tamil Eelam (LTTE) (Scovazzi and Citroni 2007: 123–125). Another, Salah Saker, missing since 1994, was likely disappeared because he was a member of the banned Islamic Salvation Front party in Algeria (Scovazzi and Citroni 2007: 127–129). Governments also disappear children, either through their murder or adoption, to prevent the future growth of an opposition. Disappearing both adults and children spreads fear and chills opposition to the government across large sections of society (Brysk 1994).

Finally, we focus on the specific shift from killing to forced disappearance because the latter provides political leaders the same benefits as the former but at a *much lower risk* of political or criminal accountability for those involved. In the case of killing, deaths are often documented and linked to a specific government. After repressive governments lose power, they may also face criminal prosecution for their crimes. Sikkink (2011) demonstrates this in her work on the justice cascade. Importantly, she argues that there has been a shift over time in the norm from state-level responsibility to individual criminal accountability for past human rights violations, thus increasing pressure on individual leaders to improve their respect for human rights. She argues the public trials of leaders are evidence of citizens' growing ability to hold leaders legally accountable through the framework established as part of the international human rights regime. These trials also pressure other rulers to refrain from violating human rights to avoid the same fate. In contrast to Sikkink, we argue that some political leaders who wish to maintain the benefits of repression will respond with a shift in the coercive tactics employed by agents of the state in order for rulers to avoid criminal culpability.

While high-level prosecutions, as well as other sanctions, cause some leaders to curb violations of their citizens' rights (Sikkink 2011: 167), we argue some leaders will simply shift to forms of repression that are harder to prosecute given evidentiary requirements. Unlike killing, disappearance by its very nature significantly decreases, if not completely eliminates, evidence that could be used against those responsible (Berman and Clark 1982). Others note that disappearance is a deliberative strategy to "thwart human rights monitoring and evade accountability" including domestic and international legal obligations (Brysk 1994: 677; see also Berman and Clark 1982; Amnesty International 1993; Anderson 2006; and Scovazzi and Citroni 2007).

Sikkink's research notes the difficulties that prosecutors had in trying cases of forced disappearance (Sikkink 2011: 72). Many of these cases remain unresolved. For example, the Council of Europe reported that an estimated 40,000 people were disappeared in the conflicts that occurred in Croatia, Bosnia and Herzegovina, and Kosovo (Council of Europe 2011: 7). The UN Committee on Missing Persons has made progress, identifying 26,000 of the 40,000 missing persons, through the use of DNA evidence.¹ In Latin America, the UN-sponsored truth commission for Guatemala estimates up to 45,000 people were disappeared during the country's 36-year civil war. The majority of these disappearance cases remain unsolved, and those responsible remain unpunished because of the evidentiary requirements requiring the recovery of victims (Scovazzi and Citroni 2007: 13).

Strategic responses to human rights norms

Consistent with previous literature (e.g., Donnelly 2003; Landman 2005; Risse and Sikkink 1999; Sikkink 2011), we argue that states that ratify the ICCPR potentially face greater accountability than those states that do not ratify it. These states can be held accountable not only by institutions of the United Nations, as we describe below, but also by other state and nonstate actors more than they would be otherwise if they had not ratified the convention (Donnelly 2003; Landman 2005; Risse and Sikkink 1999; Sikkink 2011).

To be sure, there is disagreement within the existing research as to the *degree* to which the international human rights regime effectively holds political leaders accountable for their actions. Some research argues that the lack of accountability in the human rights covenants

leads states to ratify international human rights treaties with no intention of fulfilling their obligations (Hafner-Burton and Tsutsui 2007; Vreeland 2008; Hollyer and Rosendorff 2011). Other research, however, argues that the international human rights regime does in fact increase the costs of human rights violations through both formal enforcement mechanisms (Sikkink 2011) as well as governmental and nongovernmental action calling public attention to these violations through the tactics of naming and shaming (e.g., Hafner-Burton 2008). For political leaders who care about their international reputations, these accountability mechanisms make it more difficult for them to remain reticent about fulfilling their human rights obligations (Hafner-Burton and Tsutsui 2007). Indeed, there are considerable benefits for states to adopt human rights norms in order to establish their international credibility and to receive the rewards of “investment, trade, aid, and positive political relationships” (Goodliffe and Hawkins 2006: 361).

We argue that some of the mixed findings of previous work about the effectiveness of the human rights regime stems from research approaches that do not consider leaders making strategic choices amongst violation types. Most literature utilizes aggregate measures of human rights violations (e.g., Hafner-Burton and Tsutsui 2007), others focus on one type of human rights violation only (e.g., Hollyer and Rosendorff 2011; Vreeland 2008), while a few disaggregate violations (e.g., Abouharb and Cingranelli 2007; Hafner-Burton 2008). However, none of these approaches directly capture strategic differences amongst repression types. We argue that membership in the ICCPR has varying effects on the likelihood of different types of violations: Disappearances are more likely and killing is less likely. Aggregate measures do not allow us to observe these subtleties. Studying human rights violations in their aggregate obscures the possibility of improvement in one violation and a corresponding worsening in another. For example, an improvement in torture and a worsening in political imprisonment could empirically cancel one another out, thus concealing a more complex narrative about which human rights are being violated and under what conditions. Second, even when utilizing disaggregated data, challenges emerge. Those who examine the effect of the human rights regime (or one piece of international human rights legislation) on the level of one human rights violation still miss the possible strategic *change* between violations. In order to best capture these complex and strategic relationships, we rely on annual disaggregated human rights data in our quantitative analysis that enable us to examine whether or not changes in the governments’ use of extrajudicial killing are associated with changes in the use of forced disappearance. We present descriptive qualitative support for our arguments, which we discuss below before we move on to our quantitative analysis.

In contrast with much of the existing literature, we posit that repressive governments may respond strategically to international norms, which value apparent respect for and protection of human rights. We argue that, while enforcement capabilities are often viewed as weak, considerable uncertainty over which repressive acts will garner international action (or not) is the more likely driver of the choices political leaders make considering repression. Indeed, McCormick and Mitchell (1997: 514) argue that torture and killing are more likely to incur higher external costs for governments than simply disappearing victims.

While governments which violate human rights will *not always* be held accountable for their actions, these conventions mean that a legal framework is in place in the event that domestic or international actors are capable and willing to use it. This legal framework has been used in a variety of instances over time (Sikkink 2011). Perhaps most notable is the Special Court for Sierra Leone’s trial and conviction of former Liberian President Charles

Taylor for war crimes, a huge step for human rights law. Taylor was the first former head of state to be convicted by an international tribunal since the Nuremberg trials. Also noteworthy is the International Criminal Court's arrest warrant for President Bashir of Sudan—a sitting head of state—for gross human rights violations, including five counts of crimes against humanity (extermination, forcible transfer, torture, and rape) and two counts of war crimes.² This means that strategic leaders should account for the *possibility* of present and future legal action when deciding whether to repress and what types of repression to undertake, especially since some types of repression more readily lend themselves to condemnation and prosecution.

We posit ratification does, in fact, hold those states to a different standard than nonrati- fiers and creates potential domestic and international costs for a violating state. The ratifica- tion of the ICCPR incentivizes this strategic shift because ratifying states open themselves up to additional mechanisms of scrutiny. In particular, investigation by the Human Rights Committee, an 18-member body that monitors the International Covenant on Civil and Political Rights. In accordance with Article 40, all ratifying states are required to submit a status report on implementation of the ICCPR within one year of adoption and then at any point thereafter when the committee requests (United Nations General Assembly 1966), generally once every four years (United Nations Office of High Commissioner for Human Rights n.d.). If a country elects to not submit a report when requested, the committee has the right to consider the human rights situation in that country in the absence of the report (Human Rights Committee 2010). The Committee, in consultation with the UN Secretary General, may transmit reports to the specialized agencies that deal with pressing issues which fall within their field of competence. Additionally, interstate complaints can be filed under Article 41 of the Covenant; the state filing the complaint must first directly engage the accused state, but, if the matter is not resolved to their mutual satisfaction within six months, it can be referred to the Committee.³

The Human Rights Committee, which reports to the UN General Assembly and Secretariat, comprises independent experts from a diverse set of states and is viewed as less polit- ized and more effective than the preceding body, the Human Rights Council. The committee's work increases transparency—with their proceedings covered in an array of publications and in reference to a wide range of countries, from Syria to Yemen and Sudan to Australia—and opens states up to condemnation by the UN and other state parties.⁴ The Human Rights Committee also provides nonstate actors a legitimate forum to hold human rights violating governments accountable. Civil society organizations can file reports and recommendations for policy change where they see human rights violations occurring (United Nations Office of High Commissioner for Human Rights n.d.).

NGOs are effective at curbing human rights abuses (Murdie 2009). Indeed, Forsythe (1985) argues NGO effectiveness was one of the main reasons the UN's record on human rights was better in the 1980s than in the decades that preceded. The UN and NGOs work in conjunction to hold states accountable for their human rights violations. “[I]t seems highly probable, but not proven in all cases, that various public groups draw some of the inspiration and legitimacy for their human rights activity from United Nations resolutions, declarations, and conventions” (Forsythe 1985: 263). Treaty ratification and the work by the Human Rights Committee legitimizes NGOs' attempts to force public and legal accountability on violating states.

Aside from NGOs taking their cues from the legal UN framework and holding actors accountable based on states' treaty commitments, NGO actions also alter the cost-benefit calculus of potential human rights violators. Poe argues that "campaigns by international non-governmental organizations such as Amnesty International, and coordinated efforts between groups and foreign governments in the form of transnational advocacy networks... may lead a regime to *perceive* an increase in the costs associated with repression, thus leading them to be more moderate in their actions than they would otherwise be" (2004: 26, emphasis added). Further research supports Poe's arguments indicating that foreign direct investment (FDI) flows into states which can avoid international nongovernmental organizations' (INGOs) "naming and shaming" (Barry, Clay, and Flynn 2013).

More generally, the work of INGOs, IGOs, and the news media to make human rights violators accountable for their actions by publicly naming and shaming them is crucial to what Debora Spar (1998) first characterized as the "spotlight phenomenon." The collective work of these actors bringing human rights violations to light should prevent governments from utilizing these practices. We propose that repressive governments will respond to this increased accountability strategically in their choice of repression in an effort to avoid the accountability of the spotlight regime. Our argument complements those made by others who note that governments that break their commitments threaten their own international credibility and reputation. They do so by violating international law they have committed to, in this case the ICCPR, and make it less likely that other states will trust them in any future commitments (Guzman 2008: 71).

Indeed, the political advantages of respecting human rights largely revolve around the notion of legitimacy. "Exactly because human rights norms are among the most legitimate standards in the world, subscribing to them has great legitimating value for nation-states" (Hafner-Burton, Tsutsui, and Meyer 2008: 116). Once states commit to human rights norms through treaty ratification and then break that commitment through rights violations, they threaten their very legitimacy in the international system (Cole 2012). Disappearance allows governments to deny responsibility for that particular violation of their citizens' rights, as no physical proof of the crime exists. As a parallel, Ron (1997) argues that a systematic shift in the behavior of the Israeli security agencies took place between 1991 and 1992 when they altered their interrogation techniques from torture methods that left marks to those that did not. They also reformed their public image by presenting a "sanitized" image of interrogations (Ron 1997: 276). Israeli security agencies continued torturing but made the violence much more difficult to link to them. The Israeli government changed its tactics to appear legitimate both domestically and internationally by not demonstrably violating its citizens' rights (Ron 1997; see also Rejali 2007). Next, we turn to our qualitative review of legal proceedings related to forced disappearances to see if governments try to hide their actions from prosecution.

Qualitative analysis of governments strategic use of forced disappearances

We draw on secondary sources and examine legal proceedings related to forced disappearance from the Human Rights Committee, the Inter-American Court of Human Rights, the European Court of Human Rights, and the Human Rights Chamber for Bosnia and Herzegovina. These cases provide us with substantial geographic and temporal breadth for our qualitative analysis. Two consistent themes emerge from our review of these secondary

sources. First, these cases provide evidence of the great lengths that governments go to in order to rid themselves of the bodies that tie them to their crimes (Scovazzi and Citroni 2007). Second, our review of these cases demonstrates governments' preferences for disappearance due to the tactical advantages it provides, even in the presence of relatively high costs. More specifically, political leaders go to extraordinary lengths, including the costly mobilization of paramilitaries and bureaucratic forces, to prevent detection of the crimes and identification of specific victims.

The first major theme as noted above is that states and agents of the state⁵ engage in human rights violations and make astonishing efforts to eliminate proof of their crimes. At the most basic level, agents of the state bury the bodies of the disappeared in mass, unmarked graves; Kenya between 2006 and 2009 and India between 1989 and 2009 are two examples (United Nations Human Rights Council 19th Session 2012). Moreover, long after the disappearances occur, governments simply prevent investigative action. For example, the Turkish military stations in Northern Cyprus still refuse to allow any search for, or opening of, possible burial sites that fall within their area of control almost 40 years after the Turkish invasion of Cyprus in 1975 (Council of Europe 2011).

Regimes also engage in the outright destruction of evidence. The Guatemalan government in the mid-1980s frequently ordered agents of that state to destroy all incriminating evidence of their repressive acts. *Blake v. Guatemala* (1998) illustrates these points well. In this particular court case, those agents were unsuccessful and the Inter-American Court of Human Rights uncovered evidence that an American journalist and an American photographer who visited Guatemala to report on the war were kidnapped, killed, and their bodies burned by a state-sponsored paramilitary organization. This information later uncovered by the court proved that, despite having knowledge of the victims' identity and what happened to them, the Guatemalan government refused to provide the families with any information, even after the local authorities solicited money from the families to do so (Scovazzi and Citroni 2007: 146). The court ruled that the burning of these two men's mortal remains, on the orders of a member of the army, was done in order to "destroy all traces that could reveal his [journalist Nicholas Blake] whereabouts" (Scovazzi and Citroni 2007: 149). Similarly, in the case of *Masacre de Pueblo Bello v. Colombia* (2006), a paramilitary group broke into the Pueblo Bello village, terrorized the population, kidnapped 43 men (including three minors) and then proceeded to kill those men, to chop them up, and to dispose of their bodies in the Sinú River or in common graves (Scovazzi and Citroni 2007: 178). Killing these men ridded the government of any potential security threat they posed. The extra time and effort dedicated to butchering 43 people was an attempt to eliminate potentially incriminating evidence that could be used by international or domestic groups against the government.

Efforts to conceal these deaths, effectively making them forced disappearances rather than extrajudicial killings, do not end here. Governments utilize a variety of methods to conceal the use of forced disappearances, many of which are extremely costly for the state. For instance, in *Trujillo Oroza v. Bolivia* (2000), the Inter-American Court of Human Rights found that the state made multiple and varied attempts to prevent the mother of a victim (who was extrajudicially killed) from discovering her son's body. After locating a body that could be that of her son, she petitioned for, and was refused, an order of exhumation. The commission investigating Oroza's disappearance also met with government resistance. The government first claimed no ties to the case, then it appealed to the statute of limitations, and finally the government argued that it was simply too complicated and costly to locate

his remains (Scovazzi and Citroni 2007: 153). The time and money spent by the state on fabricating these various defenses in denial of its involvement and responsibility in this case are evidence of a common trend we found in these cases where governments go to extraordinary lengths to avoid being tied to particular crimes.

Another important point—Oroza disappeared in 1972 and the court rendered its judgment in 2002, long after the government responsible for these actions could really be held accountable. Likewise, in the aforementioned *Masacre de Pueblo Bello v. Colombia* (2006) case, which took place 16 years after the massacre, only five of the more than 60 participants and none of the “intellectual authors” of the massacre have been sentenced for their crimes (Scovazzi and Citroni 2007: 179). These tactics to evade justice by using forced disappearance are quite effective.

The second major theme as noted above is the costliness of these cover-ups. Not only do governments take extensive measures to conceal their crimes but these actions can be extremely expensive and time consuming. The previously discussed case of *Trujillo Oroza v. Bolivia* (2000) illustrates this to a certain extent but not nearly as effectively as *Bámaca Velásquez v. Guatemala* (2000) (Scavazzi and Citroni 2007). Mr. Velásquez was ultimately (long after the fact) determined to have been abducted, tortured, and killed by the army. Following his disappearance, his widow petitioned the government for information regarding his status and whereabouts and even hired legal representation. The first lawyer hired by the widow fled the country with his family after continuous harassment and threats by the government. The second lawyer was killed. The widow finally located what she believed to be her husband’s grave. She paid public officials to allow the exhumation and had specialists oversee the process. More than 20 soldiers surrounded the grave, threatened the experts overseeing the process and prevented the exhumation from occurring. A second attempt to exhume the body led to the General Procurator of the Republic visiting the site via helicopter, stopping her efforts with bureaucratic pretexts. This case, as described by Scovazzi and Citroni (2007: 156) clearly illustrates how costly it can be for governments to ensure their crimes remain hidden and to avoid accountability for their actions. Rational actors would only go to these extraordinary and expensive efforts if the benefits of their actions outweighed the costs. Our discussion and argument leads us to the following core hypothesis that we will test in our quantitative analysis:

H1: In states that have ratified the ICCPR, strategic repressive leaders increase their use of forced disappearance when decreasing their use of extrajudicial killing.

Quantitative research design

This study uses a cross-national, annual time-series dataset that includes all countries with a population of at least 500,000 in 1981. The data span the time period of 1981 to 2009. We examine the effect of ICCPR ratification on strategic shifts from killing to forced disappearance.

First, we run single-stage models that examine the link between our key variables of interest. For this, we use an ordered logistic regression. We then build upon Simmons’ (2009) analysis and use more complex instrumental variables models that control for the endogenous process of why countries ratify the ICCPR, as this may also be associated with changing likelihoods of human rights repression.

We use an instrumental-variables two-stage least squares model (TSLS). Given the variety of estimators that would be appropriate for examining our question, we follow Baum, Schaffer, and Stillman's (2007) advice and present results in our supplemental material from Generalized Methods of Moments Models (GMM), and Limited Information Maximum Likelihood Models (LIML). To ensure the robustness of our findings, we also estimate our models using a bivariate ordered probit estimation technique. While the bivariate ordered probit model is more appropriate for our ordered dependent variable, it does not allow tests of the strength of our instruments (Sajaia 2011). Consistent findings across these different estimators provide us with greater confidence that our results are robust.

For the instrumental variables analyses, we utilize a number of diagnostic tests to establish (1) that our key independent variable of theoretical interest (ICCPR ratification) is endogenous to forced disappearances, (2) that our instruments are relevant, and (3) that our instruments are strongly correlated with the endogenous variable.⁶ We treat our measure of ICCPR ratification as our endogenous regressor. In the model specification, it is important to have one or more additional variables (*excluded* exogenous variables) that are correlated with our measure of ICCPR ratification but do not directly affect changes in forced disappearance (the dependent variable in the second equation). Work by Simmons (2009) highlights that increasing regional membership of a particular covenant— in this case the regional level of ICCPR membership— also makes individual governments more likely to join. Regional ICCPR membership is our instrument that we use to predict ratification of the ICCPR and, in the language of instrumental regression analyses, is our *excluded* exogenous variable.

Our control variables, which we discuss in detail below, are included in the second stage of our equation. In instrumental variables analysis, they are our "*included* exogenous variables" and form the basis of our second-stage regression equation. These variables directly affect our physical-integrity rights outcome and are automatically included as instruments (StataCorp 2009: 745). We limit the effects of heteroskedasticity and autocorrelation by clustering our analysis by country and using robust standard errors. We also include a year measure to control for any possible general trends over time towards better or worsened protection from forced disappearance. Finally, we also include a lagged dependent variable because extant research indicates that previous levels of government human rights violations are a strong predictor of subsequent violations. Before presenting the results of our analysis, we elaborate some of the operationalization procedures to allow for replication.

Dependent variables

To better ensure the robustness of our results we use two variants of our dependent variable. The first is the *Level* of Forced Disappearances. This measure ranges from 0–2. A "0" indicates that 50+ or "frequent" violations of forced disappearance occurred in that country in the given year. A "1" indicates that 1–49 or "occasional" violations of forced disappearance occurred in that country in the given year. A "2" indicates that 0 or "no" violations of forced disappearance occurred in that country in the given year.

The second variant we utilize in our models is the *Change* in Forced Disappearance. This measure ranges from –2 to +2. A "–2" indicates change from full respect (0 violations) to frequent violations (50+ violations), which we characterize as "major worsening." A "–1" indicates a change from no violations to some violations (1–49 violations) or from some

violations to frequent violations, considered “minor worsening.” A “+1” indicates a change from frequent violations to occasional violations, or occasional violations to no violations, characterized as “minor improvement.” A “+2” indicates change from frequent violations to no violations, characterized as “major improvement.”

As with the measure of killing described below, both measures come from the CIRI Human Rights Dataset (Cingranelli, Richards, and Clay 2014). The CIRI dataset is the only comprehensive dataset that disaggregates physical-integrity rights enabling comparisons between them. The sources of information used to develop this dataset were the annual US State Department *Country Reports on Human Rights Practices* and the Amnesty International *Annual Reports*. Previous research indicates that there is no systematic bias in the data that sources from State Department and Amnesty International Human Rights Reports (Poe, Carey, and Vasquez 2001). The careful coding of the CIRI data provides greater assurance that they are distinctly measuring the concepts of forced disappearance and extrajudicial killing.

Most importantly, the CIRI coding guide indicates that coders update a violation initially labeled as a forced disappearance to one of torture, political imprisonment, or extrajudicial killing if further evidence emerges about the individual in question. The dataset then only reflects an individual’s ultimate fate based upon the existing information available. Thus, the change measures we generate accurately reflect changes in government behavior rather than double counting a single violation.

The second aspect of CIRI’s coding pertains to government intentionality behind a particular violation. CIRI’s coding takes careful account of when governments prosecute human rights violations. Thus, an errant act of violence by a member of the armed services that violated someone’s physical-integrity rights not sanctioned by the state is much more likely to be prosecuted. When states *choose* not to punish these individuals, it provides stronger evidence that the state sanctioned this violence. To be sure, the approach of the CIRI coders cannot capture every machination of particularly devious states like the infamous Borgias who used their armed forces against opponents and subsequently punished them for their crimes in renaissance Italy (see Mitchell 2004). Some may also argue that governments may not prosecute violations simply because they do not have the capacity to do so. However, when reading many of the cases coded by CIRI, it is often clear where police and other agents of the state choose not to apprehend and prosecute violators and when, in other cases, they simply do not have the capacity to do so. To better rule out the possibility that states did not prosecute violations due to a lack of capacity, we include additional controls that proxy state capacity in our robustness tests. These additional controls result in the loss of about 60% of our cases. Yet our core findings remain significant, providing us with greater confidence that the choices amongst repression types reflect the preferences and intentional actions of the incumbent government.

Measuring government violations of human rights is fraught with well-known difficulties (e.g., Goldstein 1992; Lopez and Stohl 1992; Landman and Carvalho 2009). The paucity of fine-grained human rights data that systematically cover different types of human rights violations over time has two consequences for our research question. The first is that our ability to test these subtle changes in government behavior (i.e., strategically choosing between extrajudicial killing and the use of forced disappearance) will be quite coarse given the ordinal nature of the data available. Our findings will be significant only if there have been large enough changes in behavior to reflect changes in these human rights metrics. The second is

that the tripartite nature of our human rights data means categorization as a frequent abuser of rights begins with 50 cases and has no upper limit. For example, a government worsening its record on forced disappearances from 50 to 100 cases would be given the same value as a government that did not increase its use of forced disappearance beyond 50 cases in that same time period. That being said, the CIRI data remain the most comprehensive and nuanced dataset and are the only source of data that permits analysis across different types of violations.

Another limitation of our measure is that it is annual data rather than “real time” daily data. Thus, it is possible that our analysis could pick up unrelated events where the reduction in extrajudicial killing and an increase in forced disappearance do not reflect the strategic choices of a particular government but perhaps some other sources of violations. While our sample undoubtedly contains such noise, if anything this would weaken our findings rather than artificially strengthen them.

Independent variable

Our key measure is the interaction of the following two measures: the change in killing and ratification of the ICCPR. We explain the constituent terms first.

Change in extrajudicial killing

Our measure of change in killing comes from the CIRI human rights dataset (Cingranelli et al. 2014). The original measure is also coded on a three-part scale between 0 and 2 where “0” indicates frequent violations of the right (50 or more), “1” represents some violations (1–49), and “2” indicates no violations. Again, we focus on the annual change in this violation, which is generated in the same way as the change in the forced disappearance measure.

Ratification of the ICCPR

Our second constituent term is the ratification of the ICCPR. It takes on a value of “1” when countries have ratified the covenant and a value of “0” otherwise. The data come from the United Nations Conventions Database that records the status of state parties signing or ratifying various conventions including the International Covenant on Civil and Political Rights. We chose this covenant because its ratification is clearly the best operationalization of our argument. Not only is the covenant most comprehensive of all of the human rights treaties and serves as the core of the human rights regime legal framework but it is also the only covenant that *explicitly* obligates states to refrain from extrajudicially killing their citizens.⁷

Interaction of ICCPR ratification and changes in extrajudicial killing

Our key measure is an interaction term of ICCPR ratification and the change in extrajudicial killing. We use an interaction term because this provides the clearest test of our argument: That state membership in the ICCPR changes the cost-benefit calculus of some states intent on repression to change their use of killing to forced disappearance. If we are correct then it is the presence of both ICCPR ratification *and* an overall decrease in killing that will correlate with worsened levels of forced disappearance.

Control variables

To assess the extent to which governments substitute the use of forced disappearance instead of killing, it is important to control for a number of existing explanations of physical-integrity-rights abuse. Other studies (e.g., Mitchell and McCormick 1988; Henderson 1991; Davenport 1995, 1996, 1999; Poe, Tate, and Camp Keith 1999; Apodaca 2001; Richards, Gelleny, and Sacko 2001; Poe 2004; Blanton and Blanton 2007; Abouharb and Cingranelli 2007, 2009) have demonstrated that wealthier countries, those with growing economies, more democratic countries, and countries that trade more tend to respect physical-integrity rights more. Countries with relatively large populations, high levels of domestic conflict, and involvement in interstate war tend to respect those same rights less. Research also indicates that governments which violate some physical-integrity rights are also likely to violate others (Cingranelli and Richards 1999) so it is important to account for other human rights violations taking place within the state. Recent evidence indicates that greater levels of de facto judicial independence improve government records on physical-integrity rights (Camp Keith 2011; Abouharb, Moyer, and Schmidt 2013). There is reason to believe that the presence of nongovernmental organizations should moderate governments' human rights violations (Murdie 2009). Extant research also indicates that a strong predictor of government records on human rights is their record on these rights in the previous year (Poe et al. 1999). We control for each of these factors in our analysis.

Pairwise correlations amongst our independent variables indicate no problems of multicollinearity; the highest is .55 between our measure of democracy and the level of de facto judicial independence. We also ran Variance Inflation Factor (VIF) tests amongst the independent variables. These results also indicate no problems of multicollinearity with the measure of democracy recording the highest value of 2.52 (see Baum 2006). Table 1 provides a summary of the operationalization of variables used in the analysis. Appendices A and B (see supplemental material) present our descriptive statistics and the pairwise correlations amongst our variables, respectively.

Results

We display our results in Tables 2 and 3. Table 2 presents the *level* of forced disappearance results, and Table 3 presents the *change* in forced disappearance results. In both tables, we utilize increasingly stringent tests of our hypothesis. The first five columns in each table present single-stage ordered logit models. Column 1 excludes all controls from the analysis, Column 2 adds human rights controls, Column 3 adds domestic political controls, Column 4 adds economic controls, and Column 5 presents a full single-stage analysis. The sixth column in each table presents a full two-stage least squares instrumental variables analysis. The .05 level of confidence utilizing two-tailed tests provides the threshold for significant results unless otherwise noted.

Across all five columns in Table 2 the single-stage analysis provides strong support for our argument. Each of our model specifications indicates that ICCPR member state governments are significantly more likely to substitute extrajudicial killing for forced disappearance. In particular, the evidence we present here indicates that improving records of killing increases the likelihood of forced disappearance amongst ICCPR member states. We argue that this shift in behavior allows repressive governments to maintain the benefits of

Table 1. Operationalization of variables.

Variables	Indicator	Source
<i>Dependent Variables</i>		
Level of Disappearances	Range = 0–+2; 0 = 50+ violations described as “frequent” violations, 1 = 1–49 violations, described as “occasional” violations, 2 = 0 violations described as “no” violations.	Cingranelli et al. (2014)
Change in Disappearances	Range = –2–+2; –2 = Change from full respect to frequent violations; +2 = Change from frequent violations to full respect; +1 = Improvement from frequent to occasional or occasional to no violations; –1 = Worsen from no violations to some or from some violations to frequent violations.	Cingranelli et al. (2014)
<i>Independent Variables</i>		
Change in Killing* Ratification of ICCPR	Range = –2–+2; –2 = Change from full respect to frequent violations and ratified ICCPR. –1 = Worsen from no violations to some or from some violations to frequent and ratified ICCPR; +1 = Improvement from frequent to occasional or occasional to no violations and ratified ICCPR; +2 = Change from frequent violations to full respect and ratified ICCPR.	Constructed
Change in Killing	Range = –2–+2; –2 = Change from full respect to frequent violations; –1 = Worsen from no violations to some or from some violations to frequent violations; +1 = Improvement from frequent to occasional or occasional to no violations; +2 = Change from frequent violations to full respect.	Constructed
ICCPR Ratification	0–1 measure; 0 = not signed; 1 = signed and ratified.	Constructed
<i>Control Variables</i>		
Level of Torture/Political Imprisonment	Range = 0–+2; 0 = 50+ violations described as “frequent” violations; 1 = 1–49 violations, described as “occasional” violations; 2 = 0 violations described as “no” violations.	Cingranelli et al. (2014)
Level of Democracy	0–10 democracy measure	POLITY IV (Marshall and Jaggers 2010)
De Facto Judicial Independence	Level of de facto judicial independence. Range = 0 – +2; 0 = Not independent; 1 = Partially independent; 2 = Fully independent	Camp Keith (2011)
Number of INGOs present in country	Annual count of INGOs present by country	Landman (2005)
Number of IGOs Joined	Annual count of IGOs joined by country	Pevehouse et al. (2004); Wallace and Singer (1970)
Log GDP Per Capita	Log GDP per capita current US\$ (PPP)	Penn World Tables 7.0 (Heston, Summers, and Aten 2011)
Percentage Change in GDP Per Capita	Percentage change in GDP per capita current US\$ (PPP)	Constructed
Log of Population	Logged midyear country population	US Dept. of Commerce Census Bureau (2006)
Trade % GDP	International trade % of GDP	Penn World Tables 7.0 (Heston et al. 2011)
Incidence of Interstate War	0 = No interstate war; 1 = 1000 or more battle deaths	Gleditsch et al. (2002)
Incidence of Civil War	Incidence of civil war: 0 = No civil war; 1 = 25 or more battle deaths	Gleditsch et al. (2002)
<i>First-Stage Dependent Variable</i>		
Ratification of ICCPR	Dichotomous: 1 = ICCPR ratified; 0 = Not ratified	Constructed from UN Sources
<i>Independent Variable</i>		
Level of Regional ICCPR Ratification	Number of countries in each region that have ratified the ICCPR using World Bank region definitions	Constructed

repression whilst evading responsibility and avoiding domestic and international condemnation as well as the associated costs described previously.

While our single-stage models provide strong and consistent support for our arguments, these models do not control for any possible endogeneity concerning why countries ratify the International Covenant on Civil and Political Rights. To account for this possibility, we turn to our instrumental variables analysis. We briefly present a nontechnical discussion of our first-stage diagnostic tests presented in the lower portion of [Table 2](#) with a full discussion found in [Appendix C](#) (see supplemental material). The results from the first-stage diagnostic tests indicate that endogeneity exists between ICCPR ratification and government use of forced disappearances (the significant Durbin-Wu-Hausman test) and means that instrumental variables analysis provides a better test of the relationship than a single-stage model (Davidson and MacKinnon 2004: 338–342). The results from the tests also indicate that our equations are properly identified and the instrument relevant (indicated by the significant Kleibergen-Paap-rk LM statistic). The results from the tests also indicate that our model is strongly identified (indicated by the Kleibergen-Paap Wald F statistics above the value of 10). The comprehensive nature of these diagnostic tests gives us confidence that our specifications properly instrument the endogeneity of ICCPR ratification.

The result from our more stringent TSLS model, which accounts for endogeneity, provides continued support for our argument indicating a substitution effect in ICCPR member states. Repressive ICCPR member-state governments act strategically so as to avoid accountability for their actions. They are significantly more likely to increase their use of forced disappearance, a covert human rights violation, while decreasing their use of extrajudicial killing. [Appendix D](#) (see supplemental material) presents results from the other three instrumental variables analyses. The results from the LIML, GMM, and bivariate ordered probit models provide consistent support for our arguments and the results presented in [Table 2](#).

The results from our control variables in the full TSLS instrumental variables analysis provide consistent support for previous research. The constituent ICCPR ratification term reflects one of the more traditional arguments in the literature that ratifying the ICCPR improves government records on physical-integrity rights. However, the ICCPR ratification constituent term alone cannot assess whether ICCPR member states that repress make strategic choices *amongst* their repression types. The findings for the physical-integrity rights components indicate that governments with better records on torture and extrajudicial killing also have better records on forced disappearance. However, these results also do not assess whether repressive governments acted strategically in their choice of repression types. Countries with higher levels of de facto judicial independence and wealthier states have better records on forced disappearance, but only at the .10 level of confidence. Likewise, our results indicate that states with larger populations tend to have worse records on forced disappearance, as do those involved in civil wars. Finally, our lagged dependent variable indicates that the level of forced disappearance in the previous year is a significant predictor of forced disappearance in the following year.

Next, we turn to our alternate specification where we examine the effect of our key interaction term on the *change* in forced disappearances. The results of this analysis presented in [Table 3](#) provide strong and consistent support across all the models that states that have ratified the ICCPR and demonstrate improving records on killing are more likely to worsen their record on forced disappearances. We note from the first-

Table 2. Ratification of the International Covenant on Civil and Political Rights and the substitution of killing on the level of forced disappearance (1981–2009) for all countries.

	Ordered Logit Excludes Controls	Ordered Logit Adds Human Rights Controls	Ordered Logit Adds Domestic Political Controls	Ordered Logit Adds Economic Controls	Ordered Logit Full Model	Two Stage Least Squares Full Model
Change in Killing	-0.463*	-0.472*	-0.495*	-0.554*	-0.547*	-0.0931**
*Ratification of ICCPR Controls	(0.214)	(0.202)	(0.212)	(0.221)	(0.225)	(0.0322)
<i>Constituent Terms</i>						
ICCPR Ratification	-0.0428	-0.0827	-0.0911	-0.145	-0.174	0.116*
	(0.143)	(0.133)	(0.145)	(0.145)	(0.134)	(0.0586)
Change in Killing	0.285	0.277	0.278	0.368^	0.380^	0.0676*
	(0.192)	(0.178)	(0.188)	(0.202)	(0.208)	(0.0282)
<i>Human Rights</i>						
Torture		0.671*	0.631***	0.530***	0.504***	0.0383**
		(0.0921)	(0.0961)	(0.101)	(0.110)	(0.0118)
Political Imprisonment		0.582*	0.485***	0.381***	0.210*	0.0200
		(0.0778)	(0.0893)	(0.0894)	(0.0920)	(0.0124)
<i>Political Factors</i>						
Level of Democracy			0.0126	0.00203	0.0234	-0.00339
			(0.0228)	(0.0228)	(0.0237)	(0.00357)
De-Facto Judicial Independence			0.128	0.0876	0.183^	0.0237^
			(0.0877)	(0.0863)	(0.0953)	(0.0125)
Number of INGOS in Country			-4.10e-05	-2.85e-05	3.88e-05	1.14e-05
			(0.000106)	(0.000109)	(0.000125)	(9.13e-06)
Number of IGOS Joined			0.00421	0.00479	0.00231	-8.94e-05
			(0.00310)	(0.00357)	(0.00471)	(0.000631)
<i>Economic Factors</i>						
Log GDP Per Capita				0.207***	0.135*	0.0132^
				(0.0542)	(0.0666)	(0.00726)
Percentage Change GDP Per Capita				0.000408	-0.000708	3.96e-05
				(0.00593)	(0.00630)	(0.00107)
Log of Population				-0.206***	-0.171***	-0.0228***
				(0.0494)	(0.0494)	(0.00665)
Trade % GDP				-0.000488	-0.00186	-0.000197
				(0.00179)	(0.00166)	(0.000172)
<i>Conflict Factors</i>						
Incidence of Interstate War					-0.0139	-0.0609
					(0.373)	(0.0744)
Incidence of Civil War					-1.455***	-0.407***
					(0.164)	(0.0358)
Year					0.00657	-0.00111
					(0.0111)	(0.00145)
Lagged Dependent Variable	2.523***	2.086*	2.107***	2.042***	1.833***	0.518***
	(0.118)	(0.117)	(0.121)	(0.120)	(0.119)	(0.0213)
<i>N</i>	4,069	4,066	3,650	3,548	3,548	3,548
<i>R</i> -Squared	0.31	0.35	0.34	0.35	0.37	0.53
<i>First Stage Results</i>						
Under identification test						
Kleibergen-Paap rk LM statistic						183.651***
Weak identification test						
Kleibergen-Paap rk Wald F statistic						268.568
Stock-Yogo weak ID test critical values						
Two stage least squares 10%						16.38
Maximal IV relative bias						
Maximal IV size distortion 20%						6.66
Test for endogeneity						
Durbin-Wu-Hausman test						6.014*

Note. All models estimated with two-tailed significant tests. Robust standard errors in parentheses.

^ $p > .10$. * $p > .05$. ** $p > .01$. *** $p > .001$.

Table 3. Ratification of the International Covenant on Civil and Political Rights and the substitution of killing on the change in forced disappearance (1981–2009) for all countries.

	Ordered Logit Excludes Controls	Ordered Logit Adds Human Rights Controls	Ordered Logit Adds Domestic Political Controls	Ordered Logit Adds Economic Controls	Ordered Logit Full Model	Two Stage Least Squares Full Model
Change in Killing* Ratification of ICCPR Controls	-0.603** (0.225)	-0.629** (0.216)	-0.653** (0.226)	-0.691** (0.242)	-0.693** (0.247)	-0.0931** (0.0322)
<i>Constituent Terms</i>						
ICCPR Ratification	-0.0231 (0.134)	-0.114 (0.136)	-0.0929 (0.154)	-0.109 (0.152)	-0.121 (0.139)	0.116* (0.0586)
Change in Killing	0.348^ (0.204)	0.353^ (0.193)	0.354^ (0.203)	0.425^ (0.222)	0.457* (0.226)	0.0676* (0.0282)
<i>Human Rights</i>						
Torture		0.391*** (0.0610)	0.388*** (0.0666)	0.302*** (0.0719)	0.253** (0.0830)	0.0383** (0.0118)
Political Imprisonment		0.492*** (0.0751)	0.462*** (0.0895)	0.385*** (0.0897)	0.156 (0.0950)	0.0200 (0.0124)
<i>Political Factors</i>						
Level of Democracy			-0.00866 (0.0214)	-0.0179 (0.0215)	0.00890 (0.0218)	-0.00339 (0.00357)
De-Facto Judicial Independence			0.0659 (0.0786)	0.0210 (0.0785)	0.119 (0.0847)	0.0237^ (0.0125)
Number of INGOS in Country			-3.03e-05 (9.02e-05)	-2.21e-05 (9.74e-05)	6.53e-05 (0.000117)	1.14e-05 (9.13e-06)
Number of IGOS Joined			0.00192 (0.00279)	0.00230 (0.00312)	-0.000214 (0.00419)	-8.94e-05 (0.000631)
<i>Economic Factors</i>						
Log GDP Per Capita				0.157** (0.0543)	0.0856 (0.0623)	0.0132^ (0.00726)
Percentage Change GDP Per Capita				0.000670 (0.00608)	-0.000663 (0.00655)	3.96e-05 (0.00107)
Log of Population				-0.197*** (0.0466)	-0.154** (0.0487)	-0.0228*** (0.00665)
Trade % GDP				-0.00140 (0.00168)	-0.00253 (0.00162)	-0.000197 (0.000172)
<i>Conflict Factors</i>						
Incidence of Interstate War					-0.273 (0.425)	-0.0609 (0.0744)
Incidence of Civil War					-2.154*** (0.267)	-0.407*** (0.0358)
Year					0.00219 (0.00994)	-0.00111 (0.00145)
Lagged Dependent Variable	-1.640*** (0.144)	-2.131*** (0.162)	-2.068*** (0.166)	-2.249*** (0.186)	-2.824*** (0.184)	-0.482*** (0.0213)
N	4,069	4,066	3,650	3,548	3,548	3,548
R-Squared	0.12	0.15	0.14	0.16	0.21	0.25
<i>First Stage Results</i>						
Under identification test						
Kleibergen-Paap rk LM statistic						183.651***
Weak identification test						
Kleibergen-Paap rk Wald F statistic						268.568
Stock-Yogo weak ID test critical values						
Two stage least squares 10%						16.38
Maximal IV relative bias						
Maximal IV size distortion 20%						6.66
Test for endogeneity						
Durbin-Wu-Hausman test						6.014*

Note. All models estimated with two-tailed significant tests. Robust standard errors in parentheses. ^p > .10. *p > .05. **p > .01. ***p > .001.

stage diagnostics that accounting for endogeneity does *not* significantly matter when trying to understand annual changes in government use of forced disappearance and that our single-stage models are sufficient. Nevertheless, the skeptical reader should be reassured by the fact that our results remain significant and in the expected direction even in the more stringent instrumental variables analyses presented in [Table 3](#) and Appendix D (see supplemental material).

Again, the significant control variables from our single-stage full-ordered logit model in [Table 3](#) provide strong support for previous research. The findings for the physical-integrity rights components display a positive relationship as we also found in [Table 2](#). Governments with better records on torture and extrajudicial killing also have better records on forced disappearance. But, as before, these results say nothing about the choices repressive governments make between the types of violations they commit. The results also indicate in line with previous research that states with larger populations have poorer records on forced disappearance, as do states in civil wars. Finally, our lagged dependent variable indicates that forced disappearance in the previous year is a significant predictor of forced disappearance in the subsequent year. To be sure, most of our controls remain insignificant. There is a paucity of research that explains *changes* in human rights violations since most research examines *levels* of human rights violations. We drew upon that literature for our models but clearly the existing research is limited in explaining *changes* in forced disappearance.

Next, we examine the substantive nature of the relationship through the use of model predictions using the full single-stage ordered logit model displayed in [Table 3](#) as the basis for our predictions. [Figure 1](#) shows how changes in the frequency of killing in ICCPR member states alter the likelihood of forced disappearances. In [Figure 1](#), the x-axis displays the changing level of extrajudicial killing. From left to right, the first column indicates “major worsening” in killing: a situation where a state goes from no violations (0) to frequent violations (50+) of killing in a year. The second column indicates “minor worsening” in killing: a situation where a state goes from either no violations (0) to some violations (1–49) or from some violations (1–49) to frequent violations (50+). The third column features “minor improvements” in killing: a situation where a state goes from either frequent violations (50+) to some violations (1–49) or some violations (1–49) to no violations (0). The fourth column indicates “major improvements” in killing: a situation where a state goes from frequent violations (50+) to no violations (0).

In [Figure 1](#), the y-axis indicates the probability of *more* disappearances. We use two different cut-points to examine how changes in the frequency of killing affect the frequency of forced disappearances. The first is to examine how changes in the frequency of killing change the likelihood of a “minor worsening” in forced disappearance, which indicates a worsening from no violations (0) to some violations (1–49) or from some violations (1–49) to frequent violations (50+) in a year. The second is to examine how changes in the frequency of killing change the likelihood of a “major worsening” in forced disappearance, which indicates a worsening from no violations (0) to frequent forced disappearances (50+) in a given year.

[Figure 1](#) confirms our argument that, *when a government that has ratified the ICCPR kills fewer of its citizens, they will disappear more of them instead*. [Figure 1](#)⁸ indicates that, when a country moves from a major worsening of killing to a major improvement of killing, the likelihood that there will be a “minor worsening” in forced disappearance increases by over 1209% (from .0126 to .165). We also find that if a state moves from a major worsening of killing to a major improvement of killing they are 16,650% more

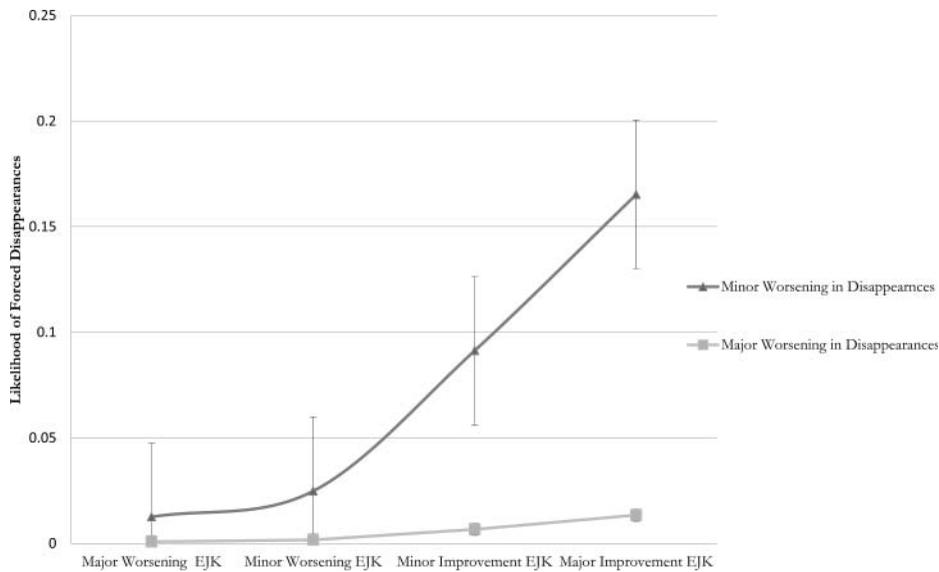


Figure 1. The effects of different levels of extrajudicial killing (EJK) on the likelihood of forced disappearance, all countries 1981–2009.

likely to have a *major worsening* in forced disappearance (from .0008 to .0134). Relative to other types of violations, forced disappearance remains less frequent and is likely to be underreported. Thus, the overall probability that governments frequently violate this right is quite low. We, therefore, argue that the percentage change in these probabilities is most important and best allows us to determine the extent of the substitution of forced disappearance for extrajudicial killing.

To summarize, the results for both the minor and major worsening of forced disappearances indicate a complementary and disturbing relationship. As a government improves its record on killing, it is more likely to increase its use of forced disappearance. Some governments appear to be shying away from the use of killing, instead preferring to forcibly disappear their citizens in order to maintain political control and to avoid the potential of domestic or international prosecution and/or condemnation.

To ensure the robustness of our findings, we undertook several additional analyses using alternate model specifications, which we present in Appendices F–K (see supplemental material). In the first round of alternate specifications, we analyze whether or not membership in the International Criminal Court (ICC) constrains governments' uses of forced disappearance due to the possibility of prosecution. The Rome Statute of the ICC entered into force in 2002 and in 2009, the last year of our analysis, had 109 signatories. We find that membership in the ICC improves records on the level of forced disappearance across all five model specifications (ordered logit, TSLS, LIML, GMM, and bivariate ordered probit). Our core results remain significant across all our model specifications indicating that ICCPR member states are more likely to substitute their use of forced disappearance instead of extrajudicial killing. In the second alternate specification, we exclude Latin American countries from our sample. We wanted to make sure that our findings were not driven by the frequent use of forced disappearance in many Latin American countries in the 1970s and 1980s. Our findings remain

robust to the exclusion of Latin American countries across four of the five model specifications at the .05 level of confidence, and the fifth at the .10 level of confidence.

Next, we included measures of state capacity in our models to account for arguments concerning the ability of the government to control its agents (e.g., Mitchell 2004; Englehart 2009). States with limited capacity have particular difficulty in controlling their agents (Englehart 2009). Thus, both governments that wish to violate their citizens' rights and those that wish their agents to refrain from those violations but have limited state capacity to prevent these acts should have more frequent violations.

Including measures of state capacity better ensures our measure of government human rights violations actually reflects the preferences of its political leaders. State capacity measures have limited availability and reduce our N by about 60%. We present the results from two measures of state capacity highlighted in Hendrix's (2010) research. In Appendix H (see supplemental material), we present a measure of bureaucratic quality and, in Appendix I (see supplemental material), a measure of tax ratio. In Appendix H, our core findings remain robust to the addition of a bureaucratic quality measure with our independent variable significant in three of the models at the .05 level of confidence and .10 in the other two models. In Appendix I, our core findings are robust to the addition of a tax ratio measure significant in three of the models at the .05 level of confidence and .10 in one additional model. While both higher levels of bureaucratic quality and a larger tax ratio are positively associated with better government records on forced disappearances, they are statistically insignificant.

In Appendix J (see supplemental material), we account for the strength of the ICCPR. We include a measure of the numbers of countries that have ratified the ICCPR as a proxy for the strength of the covenant.⁹ Our core findings remain robust to the addition of the ICCPR measure and are significant across all five models. While the strength of the ICCPR measure is positively associated with better government records on forced disappearances, it is statistically insignificant.

Finally, in Appendix K (see supplemental material), we examine ratification of the ICCPR first Optional Protocol. The Optional Protocol allows individual complaints to be heard by the UN Human Rights Committee when all domestic remedies have been exhausted. Replacing our core ICCPR ratification measure with the optional protocol is a particularly tough robustness test. Both the ICCPR and the optional protocol entered into force in 1976. In 2009, the last year of our analysis, the optional protocol had only 112 signatories in comparison to 164 signatories to the ICCPR. The results from our analysis continue to support our core findings presented in Table 2. Across each of our model specifications, state parties to the optional protocol are significantly more likely to substitute extrajudicial killing for forced disappearance. In particular, the evidence we present here indicates that improving records of killing increases the likelihood of forced disappearance amongst member states that have ratified the optional protocol.

Conclusions

An important component of the international human rights regime enables domestic and international, nongovernmental and governmental organizations to criticize repressive governments for violating their citizens' human rights. Over time, there has also been a marked

shift in norms making political leaders criminally liable for their past human rights violations (Sikkink 2011). We argue that these changes in the human rights regime have altered the cost-benefit calculus of political leaders considering the use of repression as a tool to maintain political control. Governments that wish to violate their citizens' rights are more likely to alter the *types* of repression they use from those that are more easily linked to the state to those that are not. To be sure, our results probably underestimate the magnitude of the relationships found, as the nature of forced disappearance makes it difficult to discover these cases.

The theoretical importance of our work is to stress that the increased, but as yet limited, ability of the international human rights regime to hold rulers accountable for their actions may actually lead to unexpected outcomes due to strategic shifts by repressive leaders. Most monitoring of human rights violations comes from the panoply of domestic and international nongovernmental organizations, the United States Department of State, and the United Nations. Monitors have limited ability to arrive unannounced and to investigate the repressive behavior of states. Likewise, international bodies like the United Nations also have limited ability to sanction governments for their violations of human rights (United Nations Human Rights Council 19th Session 2012). Perpetrators of forced disappearance, especially, remain remarkably immune from justice. Only a small minority of those involved in disappearances have even been tried in court with very few convictions for such violations (Scovazzi and Citroni 2007). While the human rights regime has become more effective over time, it may not have yet reached the stage where it reduces violations of *all types* of rights.

Additionally, our work informs Hafner-Burton's (2008) puzzling finding that some governments respond to the international human rights regime by repressing more and others by repressing less. Our research also complements other scholarship that offers alternative explanations for the inconsistent effects of naming and shaming (e.g., Franklin 2008; Murdie 2009; Hendrix and Wong 2013). Our findings indicate governments may strategically improve their records on extrajudicial killing while worsening their records on forced disappearances. They do so to maximize their benefits from appearing to respect human rights while also capitalizing on the advantages of repression by utilizing violations that allow them to plausibly deny any involvement.

For those in the human rights community engaged in monitoring of human rights violations, our results indicate that they should pay attention to certain *types* of government actions like an improved record on extrajudicial killing. In some cases, these apparent improvements in human rights respect simply represent a shift in tactics to more covert forms of repression.

The opening for signature in 2007 of the International Convention for the Protection of All Persons from Enforced Disappearance may be the first step in limiting this unintended consequence of the human rights regime. Initially adopted by the UN General Assembly in 1992, the convention provisions actually establish a relatively strong enforcement mechanism. All states that ratify the convention commit to submit regular reports on the status of this particular right to the Committee on Enforced Disappearances. States are meant to faithfully investigate and locate cases of disappeared persons and prosecute those responsible (Amnesty International 2010). The committee, comprising independent experts, is responsible for monitoring the implementation of the convention in member states. Perhaps most importantly, individual citizens can directly

lodge complaints with the committee. Despite the fact that comparatively few states have ratified the treaty, international nongovernmental organizations remain somewhat optimistic about the convention's potential (e.g., International Committee of the Red Cross 2006; Amnesty International 2010). The convention's entry into law presents those interested in this topic with potential research avenues to analyze its effectiveness in reducing the use of forced disappearances.

Notes

1. Advances in highly specialized techniques for recovering DNA information have led to the identification of many missing persons. Despite the increasing numbers of missing people who can now be identified, apportioning blame for their disappearances remains very difficult, with the perpetrators of those crimes often remaining immune from justice.
2. The first arrest warrant also charged al-Bashir with three counts of genocide but, upon further consideration, the ICC dropped these charges in the absence of sufficient evidence.
3. Up until this point, no official interstate complaints have been filed. The bulk of the committee's work comes from reports submitted by the states themselves as well as individual complaints, which are made possible under the First Optional Protocol. That being said, states use the forum provided by the Human Rights Committee to publicly critique other states' violations.
4. The Human Rights Committee has significantly altered the reporting practice of states. Rather than simply relying on states to determine issues discussed in their reports, the committee now provides countries with a list of specific issues to be included in their reports. This seems to be part of a larger attempt to strengthen the power of the committee and is evidence of the growing power of the human rights regime. We expect the influence of the committee to increase with this change.
5. To be sure, states do not have complete control over all their agents, and states with low state capacity are especially prone to this problem (Englehart 2009). That being said, we argue that, despite the occasional inability to exert control, many governments actively order their agents to engage in specific human rights violations and ensure those agents follow through. Robustness tests that include measures of state capacity confirm this.
6. Since our models include only one instrument, they are exactly identified and are by definition not overidentified, meaning that a Hansen J-statistic indicating whether a model is overidentified is unnecessary in these analyses. TSLS are appropriate with the use of one instrument (STATA-Corp 2009).
7. Some might argue an effective ICCPR treaty would also lead to an overall decrease in enforced disappearance. We do not hold that view. While the ICCPR is interpreted as indirectly prohibiting states from disappearing their citizens (Part III, Articles 9, 10, 14, 16 and 19), it does not explicitly do so, thus leaving crucial loopholes. The creation of the International Convention for the Protection of All Persons from Enforced Disappearance supports the need for additional international legislation to address this particular human rights violation. Discussions by the United Nations Commission on Human Rights (2006) illustrate this view, as does the Parliamentary Assembly of the Council of Europe's Resolution 1463 (2005), which argues that, "Unfortunately, a number of important gaps still exist in the international legal framework, regarding, *inter alia*, the definition of enforced disappearance, the precise extent of states' obligations to prevent, investigate and sanction such crimes, and the status of the victims and their relatives" (para. 8, emphasis added).
8. We include standard errors in our predictions using box plots.
9. In Appendix J (see supplemental material), we note that pairwise correlations and VIF tests indicated a problem of multicollinearity between our measure of the number of countries that have ratified the ICCPR and IGO membership with a pairwise correlation of .96 and a VIF score of 12.95 for IGO membership. We removed IGO membership from the analysis presented in Appendix J.

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