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The Effect of Transparency on the Inter-American Court of Human Rights' Compliance Rates

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Abstract

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Despite states' acceptance of the jurisdiction of the Inter-American Court of Human Rights within the Western Hemisphere, many states fail to comply fully with its judgments (Cavallaro and Brewer 2007). Thus, this thesis focuses on the Inter-American Court of Human Rights and seeks to understand the conditions in which states are more likely to implement judicial orders. A review of the literature on compliance tends to suggest that increased transparency can induce states to comply with judicial decisions (Vanberg 2005). This thesis tests this theory at the Inter-American Court using media coverage as a proxy for transparency. Specifically, I will evaluate whether increased media coverage is positively associated with compliance, especially as the level of democracy increases. If this theory is supported at the Inter-American Court, this will have profound implications for other human rights tribunals who may be able to use publicity as a means of inducing compliance.

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Chapter 1: Introduction

In the aftermath of World War II, many human rights institutions were created to ensure that atrocities similar to those that occurred during the war would never happen again (Tan 2008). As a result, the United Nations created the International Covenant on Civil and Political Rights and the International Covenant on Social, Economic, and Cultural Rights (Tan 2008, 247). Eventually, these covenants led to the creation of human rights treaties such as the American Convention on Human Rights and the European Convention on Human Rights.

Unfortunately, states often violate these treaties and ignore the standards they have agreed to uphold. Fortunately for human rights victims, these human rights treaties have mechanisms, such as human rights tribunals, built in to enforce their standards. When a state violates a provision of the treaties it agreed to obey, the state is taken to court, put on trial, and ordered to remedy the situation through a series of reparations. According to many scholars, states routinely comply with the judicial orders given (Henkin 1979 and Chayes and Chayes 1993 in Hawkins and Jacoby 2009).

However, many other scholars are skeptical of human rights institutions and their effectiveness at enforcing their standards. Cavallaro and Brewer (2008) state:

> While ideally the growth of human rights bodies with binding legal authority (and the expansion of these bodies' jurisprudence) should indeed translate into proportionately better human rights practices on the ground, evaluating the domestic impact of recent supranational decisions often reveals a vast gap between what regional courts order and what actually happens in a country (769).

According to these scholars, an increase in the number of human rights treaties has not lead to an increased respect for human rights. This is demonstrated by the Convention

Against Torture (CAT). While many states have signed onto this treaty and have agreed to uphold its standards, 81% of these states violate CAT in the year of ratification, and 42% of these states routinely violate CAT (Powell and Staton 2009).

However, the reality is much more complicated than many scholars believe. While states may not implement all judicial orders immediately, states do not always ignore all judicial orders either. Consider the case of Caracazo v. Venezuela from the Inter-American Court of Human Rights.

Caracazo v. Venezuela

In February 1989, the President of Venezuela, Carlos Andres Perez, began a series of structural adjustments to pay off the debt acquired through the International Monetary Fund. Unfortunately, these adjustments increased the cost of transportation significantly. In response, many of the poorest citizens of Venezuela began a series of uprisings starting in Garenas in the State of Miranda and spreading throughout metropolitan Caracas.

To deal with these uprisings which consisted of burning, looting, and destroying properties, President Perez ordered the military to send troops to the troubled areas and suspended numerous freedoms guaranteed in the Venezuelan Constitution. As a result of these declarations, the military ruled the region for 23 days, carrying out numerous operations to control the violence. A curfew was implemented, soldiers indiscriminately fired their weapons, and extrajudicial killings took place.

In order to deal with the large numbers of corpses, the Venezuelan government ordered the creation of mass graves. However, when the victims' next of kin approached

the state to claim the remains of their loved ones, the state denied the presence of the mass graves until the victim's next of kin were able to prove otherwise.

Eventually as a result of many domestic judicial obstacles to justice, the victims' next of kin presented the case of Caracazo to the Inter-American Commission of Human Rights on March 28, 1995. On June 7, 1999, the Inter-American Commission on Human Rights submitted the case of Caracazo v. Venezuela to the Inter-American Court of Human Rights alleging Venezuela had violated the American Convention on Human Rights.

On November 11, 1999 the Court ruled that Venezuela had indeed violated the following articles of the American Convention: "4.1 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8.1 (Right to Fair Trial), 25.1 and 25.2.a (Right to Judicial Protection), and 27.3 (Suspension of Guarantees)" (*Case of the Caracazo* v. *Venezuela* 1999, 13).

As a result, on August 29, 2002, the Court ordered a series of reparations to remedy the situation including: 1) Investigating the facts and punishing those responsible, 2) Finding, exhuming, and identifying the remains of the victims, 3) Paying for the burial of the victims, 4) Amending procedures to ensure non-recurrence, 5) Publishing the judgment, 6) Paying pecuniary damage, 8) Paying non-pecuniary damage, and 10) Paying legal costs and expenses (*Case of the Caracazo* v. *Venezuela* 2002).

However, at present, the Inter-American Court has only been able to obtain partial compliance with its judgment on reparations. Venezuela paid the pecuniary, non-pecuniary, and legal costs and expenses and published the judgment in a newspaper within the first two years after the judgment on reparations. Yet after nine years, the state

has yet to comply with the judicial orders requiring the state to investigate and punish those responsible and find and pay for the burial of the remains of the victims (*Case of the Caracazo* v. *Venezuela* September 2009).

Therefore, as demonstrated by the above case, the effectiveness of human rights institutions lies somewhere in the middle of the extreme views of very high compliance or very low compliance (Hawkins and Jacoby 2009). Thus, my thesis focuses on the Inter-American Court of Human Rights and seeks to understand the conditions in which states are more likely to comply with judicial orders. Specifically, I hypothesize that an increase in transparency can cause an increase in compliance. According to Vanberg (2005) since courts cannot enforce their own decisions they must rely on the public to monitor the actions of policymakers and punish them when they do not comply with judicial decisions. Given the electoral incentive policymakers have to listen to public preference, I feel that this is a plausible condition under which compliance will increase. It would be logical for state policymakers to feel more pressure to comply with a court's judicial orders if they are aware that their actions are being monitored by the public (Vanberg 2001).

This relationship between transparency and compliance is important to study given the benefits of compliance more generally. First, compliance in general is beneficial because it is a normative good. According to Joseph Raz (2009), rule of law incorporates two aspects: "(1) that people should be ruled by the law and obey it, and (2) that the law should be such that people will be able to be guided by it" (213). Establishing rule of law is important since it can be beneficial to states. States with a reputation for respecting for the rule of law are often rewarded through increased investment (Simmons

2000 in Hawkins and Jacoby 2009, 6-7). Additionally, the World Bank has identified rule of law as an indicator of good governance which leads to economic growth (Kaufman 2006, 1). Given the large benefits it can bring, countries should be concerned with maintaining a high degree of rule of law. One obvious violation of rule of law is noncompliance with judicial orders. Therefore, we must assume that compliance is the desirable option for states.

In addition to being normatively advantageous, compliance is also important because it vindicates human rights and redresses violations. Many human rights victims for years in their home countries are unable to receive redress for the violations they have suffered. International human rights tribunals often constitute the final opportunity for victims to receive just compensation for the tragedies they have experienced. Therefore, it is important for courts to ensure that states comply with their decisions.

A third benefit of compliance with judicial orders is that it legitimizes courts. "Public perceptions of judicial legitimacy and influence likely depend critically on the avoidance of defiance" (Carrubba 2005 cited in Staton and Vanberg 2008, 507). Defiance or noncompliance with a certain judgment is harmful to courts because it signals to future policymakers that the court's decisions do not have to be taken seriously. If this pattern continues, a court runs the risk of being completely delegitimized. Therefore, compliance is extremely important from an institutional legitimacy perspective (Staton and Vanberg 2008).

Thus, given the importance of compliance generally as well the importance of compliance for human rights institutions, in the following sections, I will investigate the relationship between transparency and compliance at the Inter-American Court of Human

Rights. In order to do so, I first review the prevailing theories of compliance. Then, based on this literature, I draw a series of hypotheses regarding this relationship and test my hypotheses through a combination of qualitative and quantitative research. Finally, I conclude with the implications of my research.

Chapter 2: Literature Review

In studying whether transparency increases compliance in the Inter-American Court of Human Rights, it is important to begin with a review of the prevailing literature of compliance theory. Not all these theories are useful in explaining the variance in compliance within the Inter-American Court of Human Rights; however, it is important address them and explain why they don't apply. Therefore, I begin with those theories that do not apply to the Inter-American Court of Human Rights and then move on to those that do apply to the Inter-American Court of Human Rights.

The first theory of compliance concerns "international enforcement" whereby states decide to comply based on penalties or rewards (Hawkins and Jacoby 2009, 6). While penalties or rewards can be both material and social, here I only address the material aspects, commenting later on the social in the self-interest theory section of my literature review. One scholar that takes this theoretical approach is Emilie M. Hafner-Burton (2005). She argues that human rights agreements that use persuasion alone will not be as effective in reducing repression as preferential trade agreements with human rights standards that utilize coercion (623-624). However, this theory is less useful in explaining compliance with the Inter-American Court of Human Rights due to the fact that the Organization of American States (OAS), the IACHR's parent organization, has yet to impose sanctions on any non-complying countries (Tan 2005, 18). Considering

that this fact is constant in all cases, this theory is unable to explain the variance in compliance we see across cases in the Inter-American system.

Another standard theory worth noting but not applicable to the Inter-American Court of Human Rights is the managerial model developed by Abram Chayes and Antonia Handler Chayes in their work *The New Sovereignty.* (Tan 2005, 18). According to this model countries decide whether or not to comply based on "the international rules and the capabilities of states" (Hawkins and Jacoby 2009, 8). Chayes and Chayes suggest that "states have a genuine interest in obeying the laws that they sign onto" but will sometimes not implement these laws because they lack the capacity to do so (McClendon 2009, 4). For example, a country may choose not to implement a judgment because the orders are too vague or because they lack the technology or time necessary to implement them (Hawkins and Jacoby 2009, 8). However, the managerial model may not be ideal for explaining compliance with the IACHR. The Court's compliance orders are very specific with each paragraph ordering a specific action be taken. Furthermore, timing would not be an issue in the IACHR because states are given ample time to implement compliance orders, even granting time extensions. Thus, considering that in all cases the Inter-American Court makes detailed judicial orders and allows the possibility for time extensions, this cannot account for the variance we see in the Inter-American system.

Thomas Franck in his book *Fairness in International Law and Institutions* offers another theory of compliance centering on the idea that "the fairness of the international rules themselves constitutes the linchpin of compliance" (Tan 2005, 19). In other words, a country will comply with their international obligations based on how fair they deem the procedures to be in arriving at a decision regardless of how fair or unfair they think

the decision is. John Thibaut and Laurens Walker elaborate on this idea of procedural justice arguing that “people define fair procedures as those in which they are given an opportunity to state their case before decisions are made” (Tyler 1990, 276). Tom Tyler in his research found “people valued the opportunity to speak to authorities and state their case, even when they did not think that their presentation would influence their outcome" (Tyler 1990, 276). Thus, officials of states may decide to comply with a judgment by the Inter-American Court of Human Rights based upon how more or less fair they believe the procedures are in deciding a case, and it will be necessary for me to consider this alternative theory of compliance when looking at my results.

The self-interest theory of compliance proposed by Jack Goldsmith and Eric Posner is another competing theory of compliance relevant to the Inter-American Court of Human Rights. According to Goldsmith and Posner, compliance is the “result of the convergence of a nation’s interest with the tenets of the law” (Moore quoted in Tan 2005, 22). Moore expands on the arguments of Goldsmith and Posner arguing that states weigh the costs and benefits when deciding whether or not to comply. According to Moore:

> “Respecting human rights tends to impose immediate costs—restraints on governments power or the costs of providing opportunities. Violating human rights provides, from the government’s perspective, the immediate benefits of unrestrained action, while risking future costs, such as stunted economic growth. Complying with human rights thus demonstrates a willingness to restrain present use of power for long-term benefits, while violating human rights preserves the full range of government power in the present at the expense of future gains” (Moore quoted in Tan 2005, 22-23).

Thus, states must balance their long term interests with their short term interests and decide accordingly whether or not to comply. While Moore (2003) may be referring to complying with human rights standards upfront, this argument is applicable to human rights tribunals, such as the Inter-American Court of Human Rights, because states must

weigh the costs and benefits of complying with unwelcome judgments on reparations. Thus, I hypothesize that within the Inter-American Court of Human Rights, states are more likely to implement those judicial orders that are bureaucratically easier to implement and less likely to implement those orders that require broader action (Hawkins and Jacoby 2009, 5). As the difficulty of a judicial order increases, the costs associated with complying become too high, and the country feels it is no longer in its self-interest to comply.

Another competing theory that seeks to explain compliance centers on the idea of "domestic 'cultures of compliance'" (Hawkins and Jacoby 2009, 10). Originally developed by Gerda Falker and Oliver Treib to explain variance in compliance for European Union countries, this theory posits that compliance can be explained by the type of compliance culture in each country (Hawkins and Jacoby 2009, 10). Beth Simmons (2000) found a similar pattern of compliance when trying to explain compliance variance for "international legal commitments" (819). Simmons (2000) states "regimes based on clear principles of the rule of law are far more likely to comply with their commitments" (832). Thus, in the IACHR, it is likely that countries with greater respect for rule of law will be more likely to comply with the Court's judicial orders. Therefore, it will be necessary to account for this theory.

An additional theory that may explain the variance in compliance within the Inter-American Court of Human Rights concerns the influence of third parties. Chayes and Chayes (1991) argue that third party participation can induce state compliance. Chayes and Chayes' work is further supported by the fact that third parties have been found to influence the decisions of the European Court of Justice as well as WTO dispute

settlements (Carrubba, Gabel, and Hankla 2008 and Busch and Reinhardt 2006). Carrubba, Gabel, and Hankla (2008) found that as the number of government observations for the plaintiff increased, the likelihood that the European Court of Justice would rule in favor of the plaintiff increased. Busch and Reinhardt (2006) found that in WTO disputes, third parties are likely to influence the direction of rulings "*conditional* on the fact that they push cases to a ruling in the first place" (475). Thus, third parties may play an influential role in inducing compliance within the Inter-American Court of Human Rights given their influence on the decisions rendered by ECJ and WTO panels. It is possible that by lobbying policymakers and/or disseminating information on a case, third parties increase the cost of noncompliance, making it more unlikely. Hence, I will need to control for the number of third parties involved in an IACHR case.

I propose that the game-theoretic approach by Georg Vanberg (2001) offers the best explanation for compliance in the IACHR. According to this theory, since courts for the most part do not have the ability to enforce their decisions, they must rely on the public to monitor the actions of politicians and punish officials when they do not comply with judicial decisions. Vanberg (2001) qualifies this relationship saying in order for transparency to act as "an (indirect) enforcement mechanism for judicial decisions" two conditions must be met: "(1) There must exist sufficient public support for the court generally (or for its particular decision) to make an attempt at noncompliance unattractive. (2) Voters must be able to monitor legislative responses to judicial rulings effectively and reliably" (347). Vanberg's approach is the best theoretical approach to take in explaining state compliance with the Inter-American Court of Human Rights because the Court has no way of coercing states to comply with its judgments; it is

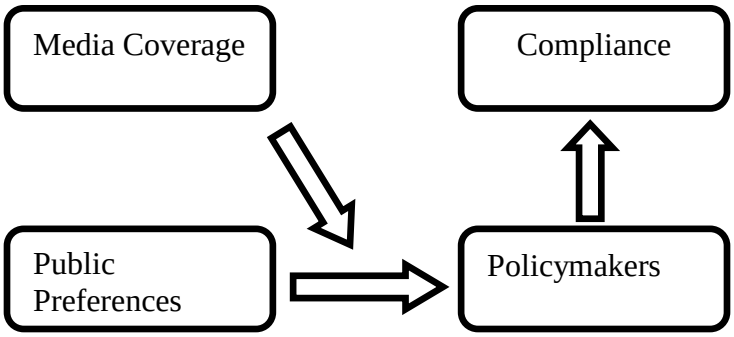
completely reliant on the executives and legislatures of the members states in the Inter-American system to implement its orders. Therefore, a theory that is to explain the variance in compliance at the Court must be able to explain what motivates policymakers to comply with judicial orders without overt coercion.

Xinyuan Dai (2005) echoes Vanberg's approach in his article "Why Comply? The Domestic Constituency Mechanism." In this article, Dai also uses a game theoretic model arguing that there are domestic sources of enforcement that can be utilized by international institutions to induce compliance. According to Dai (2005), since policymakers have an incentive to remain in office, they can be influenced by the policy preferences of their voters. He says a "government's compliance decision reflects the electoral leverage and informational status of domestic constituencies" (364). Therefore, as the number of supporters of compliance increases along with their informational status, the chance a state will comply will increase as well.

For my own research, I will test Vanberg (2001) and Dai's (2005) theory of compliance in the Inter-American Court of Human Rights using media coverage, specifically national newspaper articles, as a measure of transparency to see if increased media coverage can induce states to comply with judicial orders (Staton 2010). I predict that the more a case is covered in national newspaper articles, the higher voter interest and support for compliance with judicial orders will be in that particular case. This in turn will lead to a greater compliance by national politicians due to their sensitivity to voters' policy preferences and desire to remain in office[1] (See Figure 1).

[1] Not all scholars agree with this theory of compliance. Hawkins and Jacoby state that "few actors pay attention to the courts' rulings" and only "some powerful international actors might occasionally pay attention to court rulings and tie rewards and sanctions to compliance with those rulings" (7). Thus, if the

Figure 1:



However, this theory has some limitations because we are assuming that "the policymaker is concerned with how voters evaluate his performance on a given policy" (Dai 2005, 369). Therefore, this theory is probably more useful for democratic rather than non-democratic states where politicians have an electoral interest in considering the policy preferences of the public. I consequently predict that media coverage should matter more in democratic than in non-democratic states. I define a democratic state as encompassing both liberalization (public contestation) and inclusiveness (participation) (Dahl 1971).

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public is not informed on the activities of the court it will be impossible for them to pressure states to comply. Additionally, if voters are not rewarding or punishing politicians in elections for their compliance with international agreements, politicians may have no incentive to implement the Court's judgments.

Gwyneth McClendon also dismisses this theory arguing that if domestic actors were able to induce compliance, they would have already done so by the time the case reaches the IACHR: "the alarm on any given violation has already been sounded at home, and yet no one has been able to compel the government to change its behavior or provide remedies" (6). However, the problem with this rebuttable is that the public is punishing politicians for not complying with a judicial order not because they feel that the human rights violation should have been remedied.

A final criticism of this theory comes from Amy Dwyer (1990). According to Dwyer, publicity may not be an effective mode of compliance because other countries may not have an incentive to "intervene" in a human rights situation if they are economically dependent on the violating state or if they feared retaliation (163). However, this criticism is not pertinent to my research because I am looking at the effect of publicity on generating public support for compliance within the violating state.

Hypotheses

Table 1: Summary of Theories and Hypotheses

Theory	Hypothesis
Fairness	As fairness of the procedures increase compliance should increase.
Self-Interest	As the cost of complying increases, the less likely a state will comply.
Rule of Law	The more established the rule of law is in country the more likely it will comply.
Third Parties	As the number of third parties increases in favor of the plaintiff the more likely a state is to comply.
Transparency	The more transparent a conflict, the greater the chance a state will comply. This relationship should be stronger as the level of democracy increases.

Chapter 3: Background

Before moving on to the qualitative and quantitative analysis, it is important to describe the Inter-American system in which the Inter-American Court operates and how contentious cases are submitted and adjudicated in the IACHR. This information is essential to understanding the context in which my theory operates.

Organs of the Inter-American system

The Inter-American system for the protection and promotion of human rights arose as a result of the "international outrage to the atrocities of World War II" and was designed to prevent similar atrocities from ever occurring again (Tan 2008, 247). Before World War II, human rights was thought to be under the state's authority; however, after World War II "a major stream of thought and sentiment developed worldwide which held

that gross violations of human rights were matters of international concern-to the extent of impinging upon traditional notions of state sovereignty" (Tan 2008, 247). It was within this new international environment that the Inter-American system was created (Tan 2008, 247).

While the Inter-American system was originally established as the Union of American Republics in 1890, later being renamed the Pan American Union in 1910, it was not until after the post-war period in 1948 that the system received its modern name of the Organization of American States in Bogota, Colombia (Cerna 2004, 196) when the Ninth International Conference of American States adopted the OAS Charter (Shelton 1994, 334). It was also during this conference that that the member states of the OAS approved the American Declaration of the Rights and Duties of Man. Six months following this declaration, on December 10, 1948, the U.N. General Assembly adopted the Universal Declaration of Human Rights, and "the modern human rights movement was born" (Cerna 2004, 196).

The Organization of American States' Inter-American system for the protection and promotion of human rights is now composed of two major organs: the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The Inter-American Commission on Human Rights was created in 1959 in response to the Cuban Revolution (Padilla 1990, 396) "during the Fifth Meeting of Consultation of Ministers of Foreign Affairs with the purpose of investigating and reporting on the situation of human rights in OAS Member States" (Tittemore 2006, 435). At first the Commission carried out its mandate to monitor human rights in the region through on-site investigations and country reports (Tittemore 2006, 435). However

its role expanded considerably in the 1960s. In 1965, during the Second Special Inter-American Conference in Rio de Janeiro, the Commission gained the ability to receive individual petitions (Rescia and Seitles 2000, 600). In 1967 during the Third Special Inter-American Conference at Buenos Aires, the Commission became an official organ of the OAS through a Protocol approved through the OAS Charter (Rescia and Seitles 2000, 600). Finally, through the ratification of the American Convention in 1965 and its entry into force in 1979 along with its new Statute approved by the General Assembly the same year, the Commission solidified its expanded powers (Tittemore 2006, 435-436).

Today the Commission is composed of seven members elected by the "General Assembly of the OAS from a list of candidates proposed by OAS Member States" (Tittemore 2006, 436). They serve on a "part-time basis and renumeration" for an elected term of four years and can be re-elected once (Tittemore 2006, 436). The Commission is located in Washington D.C. and usually meets for "two three-week-long regular session per year" and is staffed full-time by a Secretariat (Tittemore 2006, 436).

Due to the entry into force of the American Convention in 1978, the Commission now serves a "dual role" in the Americas (Medina 1990, 443). As an organ of the OAS, it is able to supervise human rights in all territories of the Organization of American States, and with the entry into force of the American Convention it is able to supervise human rights within the countries parties to the Convention (Medina 1990, 443). As a result, the Commission's responsibilities are expansive including:

> (1) promoting human rights in all OAS member states; (2) assisting in the drafting of human rights documents; (3) advising member states of the OAS; (4) preparing country reports, which usually include visits to the territories of these states; (5) mediating disputes over serious human rights problems; (6) handling individual complaints and initiating individual cases on its own motion, both with regard to

> states parties and states not parties to the Convention; and (7) participating in the handling of cases and advisory opinions before the Court (Medina 1990, 443).

The other organ that composes the Inter-American system for the protection and promotion of human rights is the Inter-American Court of Human Rights. The Inter-American Court of Human Rights was created through the adoption of the American Convention on Human Rights in 1969 by OAS member states at the Inter-American Specialized Conference on Human Rights in San Jose, Costa Rica (Tittemore 2006, 434). However, it did not actually take force until 1978 after the required number of member states of the Organization of American States (OAS) ratified the Convention (Guzman and Landsidle 2008, 24).

Today the Court is composed of seven judges "who are elected in an individual capacity 'from among jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions, in conformity with the law of the State of which they are nationals or of the State that proposes them as candidates" (2008 Report). While the Court only has jurisdiction over states that have ratified the American Convention, judges may be nominated from any member states of the OAS (Medina 1990, 444). Once the Secretary General of the OAS receives all the nominations from all the state parties to the Convention, up to three nominations per state, the judges are elected by a secret ballot with an absolute majority during the OAS General Assembly meeting "immediately before the expiry of the terms of the outgoing judges" (2008 Report).

Once elected, judges serve for six-year terms (2008 Report), usually meeting for "four regular meetings for two weeks each per year" (Cerna 2004, 197) with their primary functions being "(1) to decide individual cases and (2) to issue advisory

opinions" (Tan 2005, 8-9). The present composition of the court consists of: Leonardo A. Franco, Diego Garcia Sayan, Manuel E. Ventura Robles, Alberto Perez Perez, Margarette May Macaulay, Rhadys Abreu Blondet, and Educardo Vio Grossi (Composition of the Court).

Submitting a case to court

In order for the Court to hear a contentious case, either a member state of the OAS or the Inter-American Commission must submit a case to the Court. However, no state has yet to submit a case (Tan 2005, 7). Therefore, the Commission is the principal institution through which cases are submitted to the Court.

The Commission mostly receives complaints from individuals or non-governmental organizations (NGOs), the most prominent being the Center for Justice and International Law (CEJIL) (Tan 2005, 9). However, complaints may be submitted to the Commission from any "person, group of persons, or nongovernmental entity legally recognized in one or more of the OAS member states, regardless of whether the complainant is the victim of a human rights violation" (Medina 1990, 445). The Inter-American Commission has received over 1,300 complaints "annually since 2004 (increasing to 1,456 complaints in 2007 alone)" (Cavallaro and Brewer 2008, 779). However, the Commission is capable of resolving only a fraction of these complaints each year. "In 2007 the Commission published seventy-four reports in individual cases, sixty-five of which dealt with admissibility alone, and submitted fourteen cases to Court" (Cavallaro and Brewer 2008, 779).

Once complaints are filed with the Inter-American Commission on Human Rights, the Commission determines the admissibility of the complaint. In order for a compliant to be considered admissible all the following conditions must be met:

> (1) the communication alleges a violation of a right or rights protected by the Convention; (2) a communication on the same subject is not pending or has not previously been studied by the Commission or any other international organization; (3) the remedies under the state's domestic laws have been exhausted or the state does not respect the due process of law for the alleged violation; (4) the communication is brought in a timely manner (Medina 1990, 445).

However, "less than 20 percent of petitions have ever been declared inadmissible by the Inter-American Commission and usually for reasons of jurisdiction rather than non-exhaustion" (Farer, 1997 cited in McClendon 2009, 8). If the complaint is considered admissible, the investigation of the case begins. The Commission provides the state with the pertinent information from the petition and requests information from the state (Cosgrove 2000, 46). Usually the government is given a period of 90 days to respond to the request by the Court (Dwyer 1990, 137). However, a thirty-day extension may be granted to a state upon request (Cosgrove 2000, 46). If the government does not respond to the Commission within 180 days (Cosgrove 2000, 46), the Commission will assume the facts are true and investigate no further (Medina 1990, 445-446). "After the government response (or lack thereof), the replies and accompanying documents are then made known to the petitioner, who is given thirty days to submit observations and contrary evidence" (Cosgrove 2000, 46). Then the state is given another 30 days to respond to the petitioner's evidence. Therefore, the entire "initial processing" of a case can take up to 240 days to complete (Cosgrove 2000, 46).

After the completion of the "initial processing" phase, the Commission will reconsider the case during its next session. At this session, "the Commission may hold a hearing and request oral and written statements and any other pertinent information from the parties" (Cosgrove 2000, 46). The Commission is even granted the option of conducting an on-site investigation in the respondent state's territory (Cosgrove 2000, 47).

Any time during the consideration of a complaint, the Commission may attempt to negotiate a friendly settlement between the two parties. A friendly settlement is only possible when "(1) both parties to the dispute expressly agree to cooperate in the effort; and (2) the positions and allegation of the parties are sufficiently precise; and (3) in the judgment of the Commission, the dispute is susceptible to this settlement procedure (Medina 1990, 446). If a friendly settlement is reached, "the Commission issues a short report to that effect to the Secretary-General of the OAS" (Reisman 1995, 92). If no settlement is agreed upon, the Commission writes a report and sends it to the participating state (Tan 2005, 6-7). In these reports the Commission usually will state the facts of the case, its conclusions, and its recommendations (Reisman 1995, 92). "From the time report is sent, the parties are given three months to settle the matter, refer the case to the Court, request that the Commission submit the case to Court, or do nothing" (Dwyer 1990, 137).

After the three month period if the case has not been submitted to Court and if the case hasn't been settled, the Commission will draft a second report with the Commission's opinions and conclusions and send it to the parties, "but is may not be published" (Cosgrove 2000, 47). After the agreed-upon time period has passed for the

state to implement the Commission's recommendation in the second report, the Commission will determine if the state has met its obligations and whether or not to publish the report. The report may also be submitted to the OAS General Assembly for publication in the Commission's Annual Report (Cosgrove 2000, 47-48).

If the Commission so chooses, it may decide to submit the case to Court after the initial report is sent before the three month time period expires. However, the Commission may do so only if that state has accepted the Court's contentious jurisdiction (Pasqualucci 2002, 48). In order for the Court to have jurisdiction over a state, the state must have ratified the American Convention and have made a "separate declaration to the Secretary General of the OAS giving consent 'either unconditionally or on condition of reciprocity, for a specific period or for specific cases'" (Guzman and Landsidle 2008, 24). Once states have made this explicit declaration, decisions of the Court are binding on states (Guzman and Landsidle 2008, 24). So far 21 states have accepted the Court's compulsory jurisdiction of the Court (Pasqualucci 2002, 248).

Adjudication of a case

Once a case has reached the Court, "the Rules of Procedure establish several phases to the claim's adjudication" (Tan 2005, 11). During the first phase of the adjudication process, a state is allowed to raise preliminary objections and the Commission is allowed to respond (Tan 2005, 11). A common preliminary objection is the failure to exhaust domestic remedies (Rescia and Seitles 2000, 613). Preliminary objections may only be raised within the first two months after the notification of the application to hear a case reaches the Court and these objections may not delay the merits phase (Cosgrove 2000, 50). The Commission, state, and victims are allowed to respond to

these objection within 30 days from their receipt (Rules). Based on the reports, the Court then makes a judgment on the preliminary objections of a case.

The next phase in the adjudication process is the merits phase where the Commission or the state presents the case before the Court (Rescia and Seitles 2000, 613). "If the case meets all the requirements of Article 34 of the Rules of Procedure, then the Court issues a formal notification to the responding state" (Tan 11). Then the state is given four months to respond with a possibility for extensions (Tan 2005, 11). Once the state gives a response or the time period has elapsed, the parties can "request the Court's President to require further written presentations" (Rescia and Seitles 2000, 613).

Finally, the Court hears the case at a public hearing and listens to testimonies by witnesses and experts on the issue. During the final oral argument phase, "known as the 'final conclusions,' the parties in the case can propose what they want the court to consider" (Rescia and Seitles 2000, 614). Based on this information, the Court will issue a judgment on the merits of the case, which is binding (Tan 2005, 11).

If the Court decides that a violation has occurred, the Court may order reparations to the victim (Pasqualucci 2002, 248). While reparations can be ordered at the time of the decision on merits, usually the Court will reserve this for a later phase (Rescia and Seitles 2000, 614). According to Article 63(1) of the American Convention, the Court has the authority to order a wide variety of reparations. According to this provision:

> If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party (Pasqualucci 1996, 8-9).

It is important to note that the Court allows the Commission and the state a period of six months to come to an agreement regarding the reparations to be ordered in the case. However, in no case yet has the Commission and state come to a full agreement on reparations during the six month period (Pasqualucci 1996, 14). Once the period of six months has expired, the Court will schedule a public hearing on the reparations and request that the Commission, state, and victim's representatives to submit briefs on the reparations (Pasqualucci 1996, 15). Then at the public hearing, the Court hears the argument of all parties and then issues a decision on the reparations of a case (Pasqualucci 1996, 15). As reparation for most cases, the Court will usually order two types of remedies "(1) the trial and punishment of offenders with a state party along with changes in domestic law, and (2) monetary compensation for the complainant" (Posner and Yoo 2005, 43). At the end of each reparation decision, the Court will usually declare its authority to monitor the compliance with its judgment (Rescia and Seitles 2000, 614).

"From 2004 to 2007…the Court resolved approximately fourteen cases annually, including a total of seventeen in 2006" (Cavallaro and Brewer 2008, 782). However, considering that the Commission receives 1,300 complaints a year the percentage of cases that gets resolved each year by the Court is quite small. The percentage becomes even smaller if you take into account that "…thousands of individuals in the Americas continue to suffer human rights violations every year.." (Cavallaro and Brewer 2008, 782) and many of these victims may not end up submitting a complaint to the Commission.

Compliance with a judgment

"According to Article 68.1 of the American Convention, state parties to the Convention are obliged to comply with all Court rulings in all cases in which they participate…Yet states conveniently left off any mechanism for monitoring state compliance, unlike the European system" (Hawkins and Jacoby 2009, 17). Thus, in 1996, the Court decided to take on the role of monitoring compliance itself. However, its authority to do so was challenged by the states. In response, in November 2003, the Court issued a ruling on the matter justifying its new role by stating: '"the effectiveness of the judgments depends on compliance with them"' (Hawkins and Jacoby 2009, 18).

The monitoring of compliance with a judgment of the Inter-American Court of Human Rights usually takes place through a series of written reports from the state, Commission, and victim's representatives. The Court can also gather data from other sources in order to evaluate compliance such as "expert opinions or reports" (Rules Article 69). If necessary, the Court can also order a hearing on compliance with a judgment where the state, victim's representatives, and Commission must attend. Once the Court has received all the pertinent information, "it shall determine the state of compliance with its decisions and issue the relevant orders" (Rules 69). The format of the compliance reports issued by the Court is generally standard. "In remarkable detail, the Court specifically reports whether or not the state has complied with each and every one of its compliance orders, paragraph by paragraph" (Hawkins and Jacoby 2009, 19).

Chapter 4: Empirics: Qualitative

In order to test my hypothesis that increased transparency of a case in the Inter-American Court of Human Rights leads to more compliance (Vanberg 2005), I used a combination between qualitative and quantitative research. For the qualitative part of my research, I conducted elite interviews in San Jose, Costa Rica at the Inter-American Court of Human Rights and at the NGO, CEJIL. For the quantitative part of my thesis, I used logistic regression techniques to see if transparency was correlated with an increase in compliance at the IACHR, holding constant other variables.

Those Interviewed

While in Costa Rica, I spoke with both staff attorneys and media relations officials at the Court and at CEJIL to test the major assumption of my theory, that officials at the Inter-American Court of Human Rights consider transparency important for inducing compliance. This portion of my thesis was useful because it allowed me to corroborate the explanations I was assigning to officials in theory with actual insider information (Vanberg 2005).

I chose to interview people from the NGO, CEJIL, upon a multiple recommendations by officials the Inter-American Court of Human Rights due to its close relationship with the Court and its relationship with the media. CEJIL is a regional organization founded in the 1990s by human rights defenders with the goal of taking advantage of the new protection mechanisms offered by the Inter-American system of human rights under the Organization of American States (CEJIL lawyer). Since the 1990s, the organization has worked closely with the Inter-American Court of Human Rights by representing victims “before the Commission and eventually before the Court”

(CEJIL lawyer). "The mission of the organization is to try to improve the protection of human rights in the entire American continent" (CEJIL lawyer). Despite its limited resources, the organization has been able to maintain "an important docket before the Commission and Court" through choosing cases that are examples of widespread problems in the region (CEJIL lawyer).

In order to protect the individuals I interviewed, I decided to establish some sort of anonymity so that the interviewees felt free to give more candid responses. Therefore, I made sure to inform all participants in my research that I would only be indentifying them in any published materials by their occupations such as "Staff Attorney 1."[2]

Questions asked

At the Inter-American Court of Human Rights, I first asked my interviewees to explain the general process of monitoring compliance with the Court's decisions to ensure I had a good understanding of the process. I then asked them to describe the sort of relationship they have with the media in countries that are parties to the American Convention. I also tried to find out what their goals were in terms of the dissemination of information given the fact that they issue press release and update their website regularly regarding the activities of the Court. I finally asked the officials at the Court questions about the public's opinion and general understanding of the Court.

At CEJIL, I followed a similar pattern of questioning. I first asked about their relationship with the Inter-American Court of Human Rights and what the goals of their

[2] Additionally, I will use the pronoun "he" for participants that are male or female so that participants cannot be distinguished by their gender. I further reassured my participants that their anonymity would be maintained by immediately destroying the tapes of their recorded interviews and keeping all codes that linked identifiers to research participants in a secure location in my advisor, Dr. Jeffrey Staton's office. The questionnaires that I used when interviewing officials at the Inter-American Court of Human Rights and CEJIL are attached at the end of this chapter.

organization were. I then asked them to describe their relationship with the media in countries parties to the American Convention and what they hope to achieve through disseminating information regarding their activities. Additionally, I asked them if they thought the Court did an adequate job of informing the public of its activities and whether or not the public has a good opinion of the Court.

Results

As a result of my qualitative research, I obtained support for two theories of compliance discussed in my literature review: the self-interest theory and the transparency theory.

Self Interest Theory:

During my interviews, I did acquire information that supports the self-interest theory of compliance. According to this theory by Goldsmith and Posner, a state will comply if they feel that it is in their self-interest. They weigh the costs and benefits of complying with human rights standards and act accordingly (Moore cited in Tan 2005). Thus, we would expect a state to comply with easier judicial orders by the Inter-American Court because as the difficulty of the judicial order increases, the state is less likely to think it is in their self-interest to comply.

Staff Attorney 2 commented on this phenomenon noting that the Court does realize that some measures may take longer to comply with: “There are measures that are very broad that require more time and obviously the Court will wait for states to comply with them.” He stated that normally the immaterial damages like publication of a sentence, public apologies, passing laws, medical and psychological services, and the investigation and punishment of violators usually take more time than material damages

because they are harder to implement (Staff Attorney 2). The media relations official at the Inter-American Court expanded on this point saying that obligation to investigation can sometimes be extremely challenging "because in some cases the facts are like 20-30 years ago. So how can you investigate that? That is very complex." However, the media relations official also stated that sometimes "the facts are not that far away but the people involved are politicians so sometimes the state is not very interested in investigating what really happened." Therefore, noncompliance with the judicial order to investigate and punish cannot always be attributed to difficulty in obtaining the facts.

Based on the comments of those I interviewed, the self-interest theory of compliance is supported. According to the officials at the Court, states do take more time to comply with judicial orders that are bureaucratically harder to implement. The cost of complying increases, and compliance decreases as a result.

Transparency

As a result of my interviews, I also obtained evidence to support the transparency theory. According to this theory, since courts cannot enforce their own decisions, they must rely on the public to monitor the actions of policymakers and punish them when they do not comply with judicial decisions (Vanberg 2001, Dai 2005, and Staton 2010). Vanberg (2001) qualifies this relationship saying that in order for transparency to act as an effective mechanism for compliance two conditions must be met: "(1) There must exist sufficient public support for the court generally (or for its particular decision) to make an attempt at noncompliance unattractive. (2) Voters must be able to monitor legislative responses to judicial rulings effectively and reliably" (347). Based on the

information provided by the officials at the Inter-American Court as well as at CEJIL, it appears that both conditions are met.

Public support

According to Staff Attorney 2 the public does have a good opinion of the Court: "This is reflected since 2005 [when the public has] celebrated extraordinary sessions outside [Costa Rica]" in different member states. According to Staff Attorney 2, the Court has received "quite a reception" and is considered "a legitimate organ." The lawyer at CEJIL seemed to agree that the Court is perceived to be a "legitimate organ" (CEJIL lawyer). He stated: "I think that in general the Court is perceived as a serious organ…and in very few occasions has it been rejected completely like in Peru...The Court has succeeded in maintaining a credibility that implies that the countries recognize its sentences not only formally by international law but also by support it has had with the acceptance of complying [with its decisions]."

However, despite being respected and having a good reputation, the media relations official at the Court brought up an important point that the public who has a good opinion of the Court "is not a sufficient public. Those who know of the Court are only a small group of people like lawyers, but we have lacked reaching the general public. We could say that the public has a good opinion of the Court but it is a reduced public" (Media relations). Even the lawyer at CEJIL emphasized this point: "The Inter-American system even though it is recognized more and more it still has a specialized recognition. The common people confuse it with other courts. There is a lot of confusion between the Commission and the Inter-American Court".

Despite the information provided by my interviewees in this section being a little different than what I expected initially, I believe the first condition for using transparency as an "enforcement mechanism for judicial decisions" was met (Vanberg 2001, 347). While it may not be the general public, there is an elite group of people composed of academics, lawyers, and government officials that not only have a good opinion of the Court but also are well-informed. Therefore, my theory still holds true, but it may be altered a little. It may be this small, elite, well-connected group of individuals pressing states to comply with the judgments of the Inter-American Court of Human Rights through disseminating information to the general public.

Dissemination of Information

In order to meet the second requirement, the public must "be able to monitor legislative responses to judicial rulings effectively and reliability" (Vanberg 2001, 347). One means of ensuring the public has the capacity to do so is through the dissemination of information regarding the Court's activities. Once again, I believe this requirement has been met.

At the Inter-American Court of Human Rights, the officials described three major ways in which it disseminated information: compliance reports, their website, and press releases. When asked why the Court emits compliance reports regarding the status of compliance of a case, Staff Attorney 2 responded that this mechanism is "a formula to put more attention [on a case/on the Court]." He stated that there is an international interest in knowing whether or not states are complying with the Inter-American Court's judgments because many states such as Norway give financial support to the Court (Staff Attorney 2).

Besides emitting compliance reports, the Court also updates its website regarding its activities on a regular basis in order to inform the public regarding its activities. According to Staff Attorney 2, "the website fulfills the obligation to inform" and "gives publicity to the tribunal regarding what it does." He emphasized the Court's belief that information regarding the Court is a right, and therefore, this information must be free and public to ensure that states that may benefit from the Court's decisions are informed of the Court's decisions (Staff Attorney 2). The media relations official added that the website also serves the purpose of "gaining a better and larger diffusion of the work of the Court." According to the media relations official, the Court encountered the problem many years ago that many people did not know what the Court did, and "therefore, [the Court] decided to include detailed information [on the website]" (Media relations).

However, Staff Attorney 1 admits that the website "is missing a lot." For example when the Court visits different countries, each country creates a website regarding the Court's visit, but not all this information is documented on the website (Staff Attorney 1). In addition to missing information, Staff Attorney 1 also is critical of the website because of its very technical nature with large documents that are inaccessible to people that are not lawyers or academics. (Staff Attorney 1). "Therefore, my position is that the website has had utility and is valuable and positive, but it is in a language that doesn't reach the people" (Staff Attorney 1). However, he notes that the obstacles the Court has encountered are immense (Staff Attorney 1). For example, while "[the Court] has presented various projects to get financial support for a search engine like the European Court of Human Rights has" in order to make searching through the large documents for

specific topics easier, Staff Attorney 1 says that “the idea of the search engine has lacked economic support” necessary for implementation (Staff Attorney 1).

Another way the Court tries to disseminate information is through press releases with the goal being “basic information about the issues in discussion” available (Staff Attorney 1). Before the press releases “were very occasional” usually only two or three per year; however, “since 2001, [the Court] issues press releases in a constant form at the beginning of each session regarding what will take place at each session and at the end of each session regarding what the Court decided,” with usually 20 or 25 issued each year (Media relations). In order to issue these press releases, the head of media relations maintains a mailing list “that has approximately 3,000 addresses,” composed of “students, academics interested in the system” and the media.

Before the issuance of press release, the Court would hold “press conferences and the Secretary [of the Court] would read the whole [judgment],”but “Today with cases now being around 100 pages, this would be complicated” (Staff Attorney 1). Yet, Staff Attorney 1 says that he believes that “there is value in itself having the Secretary and President of the Court like the Inter-American Commission have the opportunity to respond” to questions at the press conference so that the technical language of the Court can have translated into a language “for the common people about what the Court is doing…The people have diverse, inexact ideas about what the Inter-American Court is and a better, official explanation of what the Court does would have a valuable role” (Staff Attorney 1).

A possible explanation for why so many people have inexact ideas of what the Court does is that the press releases like the website are too technical for the common

people to understand (Staff Attorney 1). The media relations official also touched on this topic stating that "for the people who are not experts, we need these press releases, but it is not sufficient." Recently, the Court has tried to address this problem by changing the nature of the press releases to make them shorter (Media relations official). However, the media relations official adds "this has not been easy" given the difficult nature of many of the cases. "However, the idea would be to have press releases of two or three pages. Today we have press releases with 30 pages, and because journalists normally don't have much time, they don't read them" (Media relations official). Therefore, a trade-off occurs; as press releases are shortened and simplified, they become less able to explain the technical nature of the cases.

The length of the press releases being too long could also be contributing to the many errors in the press. According to the media relations official, the press will often confuse the Inter-American Court with the Inter-American Commission or mix up case names or countries. "What has the Court done? We intend everyday to issue press releases that are clear and explicit" (Media relations official). Another way the Court is combating the errors in the press is through responding to questions by journalist by email so that "they can do a copy and paste and there isn't as much margin of error" (Media relations). However, error in the news is still a problem.

Thus, while the Inter-American Court of Human Rights has encountered problems in their efforts to disseminate information regarding their activities. It is evident that they do value transparency and actively try to keep the public informed.

However, the Court is not the only organization involved in disseminating information regarding the Court's activities. According to the officials I spoke with at

CEJIL, their organization is also interested in keeping the public informed in order to "to call attention to the themes that we work with" and to gain more political awareness to compel states to comply with resolutions (CEJIL media relations). The media relations official stated that CEJIL will even "call the press of the country" when a judgment is going to be issued by the Inter-American Court of Human Rights (CEJIL media relations). The lawyer at CEJIL echoed the media relations official's point stating: "We try on one hand to disseminate a little information that is relevant that springs forth from the positions or decisions of the organs of protection like the Commission and the Court."

However, despite the common goal of informing the public of the Court's activities, the representatives at CEJIL differed from the staff attorneys and the media relations official at the Inter-American Court in that they emphasized that they had an agenda with their dissemination mechanisms as representatives of victims of human rights violations. The lawyer at CEJIL stated, "With the press releases we try always to take a position. There is a position and it is a position in line with the standards that have been developed by the organs [of the OAS]." For example, he mentioned that sometimes the press releases may be used to express satisfaction for a good human rights practice or "rejection of a violation of human rights." The media relations official also expanded on this point stating that CEJIL often uses specific "strategies with the media." The CEJIL lawyer added to this topic by stating that different strategies may be used when dealing with topics that are unpopular:

> "There are topics in some countries that we work in that are not particularly popular like the death penalty in Guatemala. The majority of the people support the death penalty…When the states ratify the American Convention they promise that if they don't have the death penalty to not implement it and if they do have it to not expand it. The objective of this press release is going to be different

> specifically because the opinion of the public isn't favorable to this topic" (CEJIL lawyer).

He concludes with this topic stating that there are some "topics that are very cliché like the rights of the children that are very popular. Almost nobody is going to be against better protection of the children…this alters our strategy a little" (CEJIL lawyer). The CEJIL lawyer states: "Therefore, we have to consider what is the impact that we want and what population to we want to reach." However, the CEJIL lawyer was quick to stress that just because topics may be unpopular that does not mean that CEJIL does not address them, but rather that they may alter the language of a press release or only stress minimal standards so that they don't "fall into argumentation." He emphasized the only goal is to make sure "a topic is discussed by someone" (CEJIL lawyer).

In addition to altering their strategies with press releases to obtain their goals, CEJIL also alters the medium of communication to reach different audiences. The media relations official stated that in addition to using press releases they also do phone interviews, letters to executive and judicial staff members, and "public letters to defend a position." The CEJIL lawyer added "We try to reach different publics with the letters and press releases...interviews also that can have distinct goals." One situation that especially may alter the medium used to reach a public is once again when a topic is unpopular in a country. The CEJIL lawyer states, "There are occasions where our niche is specifically a group of decision makers-congressmen" due to the rest of the population being in opposition to the topic. Therefore, he said CEJIL will restrict their communication to diplomats instead of the general public through individual letters since the topic is so unpopular (CEJIL lawyer). The media relations official added that in some countries like Venezuela "we almost don't release press releases…politically it is complicated."

Therefore, CEJIL considers what sort of government is in power "friends or enemies" and decides accordingly what strategy to use (Media relations official).

Therefore, instead of taking the detached, formal route the Court seems to take with its dissemination of information, the NGO, CEJIL, seems to be open about their agenda of using the media in order to "propel good [human rights] practices" and altering their strategies accordingly (CEJIL lawyer). The CEJIL lawyer concluded stating "Through the dissemination of information and the news as well we think that we can create better access to the protection mechanisms [of the OAS]…Definitely information is a large component but also the pressure and the effect is also a component…There are topics where the international community or certain groups of organizations of human rights could create an alliance to push for compliance with [the Court's] resolutions." This position taken by CEJIL is in sharp contrast to the position taken by the Inter-American Court of Human Rights. The CEJIL lawyer stated: "The Court is strictly a tribunal…the press releases inform the public…They are absolutely informative; there is never a position." The media relations official at CEJIL added, "I think that the Court has a distance." Thus, the Court and CEJIL both seem to play an important role in the dissemination of information to the public; however, the Court appears to be holding back a little, never taking positions in order to maintain its reputation as a purely judicial organ.

Hence, the transparency theory is supported based on the information given at both the Inter-American Court of Human Rights and at CEJIL. At both organizations, the officials I spoke with not only thought the general public had a good opinion of the Court

but also took an active role in ensuring the public was well-informed of the activities at the Court.

Drawbacks to transparency

However in addition to providing evidence for the theory of transparency, the officials at the Inter-American Court of Human Rights also provided evidence of possible drawbacks to transparency in their discussion of the private versus public meetings debate.

In December 2007, a new mechanism was added to the process of monitoring compliance: private meetings. During these meetings, the parties come before the Court and "meet face to face to determine the problems of compliance" (Staff Attorney 2). "Usually these meetings are very brief-an hour or 40 minutes" (Media relations official). During these short meetings, the parties present information regarding how things are progressing "what is complied with, what is pending and where the problems are" (Staff Attorney 1).

According to Staff Attorney 2, this process has increased compliance considerably: "Experience and statistics have shown that compliance has increased a lot due to these audiences." He attributes this increase in compliance due to miscommunication in earlier [written] reports (Staff Attorney 2). Staff Attorney 1 echoed what Staff Attorney 2 said, stating that these private meetings have advanced the process of compliance "because before the information presented [in written reports] was incomplete and missing information." According to Staff Attorney 1, what the private meetings have allowed is an area where parties can meet to agree on "more concrete compromises" and have "a better supervision [of compliance]."

However, while all these meetings have been private, recently the Court has held public meetings (Staff Attorney 2). “Now we have had meetings about provisional measures and the supervision of compliance with public audiences” (Staff Attorney 2). At these meetings, the Court determines if a state is complying with both the provisional measures and judgments. “However when the meeting is only for supervision of compliance, normally it is private” (Media Relations). “They are private so that the parties from the state can explain openly why they have not complied with the judgments” (Media Relations official). If these meetings were public perhaps states would be less likely to admit that they have not complied with certain judicial orders of the IACHR, and therefore, many of the misunderstandings that are resolved during these private meetings that result in more compliance may not occur.

However, Staff Attorney 1 does admit that the private vs. public meeting is an ongoing debate in the academic community with experts such as James Cavallaro and Stephanie Brewer of the opinion that these meetings should be public to allow for more dissemination of information to the public. Staff Attorney 1 emphasized that “it is a gradual process-before it was a written process, then the Court came up with the [idea of] private audiences,” a creative move by the Court that demonstrates the judicial activism of the Court (Staff Attorney 1). According to Staff Attorney 1, “the truth is, in my opinion, that [the Court] consults with other parts” (Staff Attorney 1) regarding these decisions. “When something is public it is very common that the parties concentrate on having a show” because there is more pressure to have a good public opinion (Staff Attorney 1). “It is much more relaxed to gain better agreements in the private form” (Staff Attorney 1). Thus, once again Staff Attorney 1 is concerned with the drawbacks of

more transparency in the system. He fears that if these meetings regarding compliance become public, states will be more concerned with displaying a positive image than actually resolving the issues of compliance.

Thus, while transparency may be a good mechanism for allowing the public to monitor and punish the actions of policymakers (Vanberg 2001); there may be some unforeseen drawbacks to compliance if transparency is too great within the Inter-American system.

Chapter 5: Empirics-Quantitative Research

Due to the time constraints of the honors program, I decided to use a sample of countries from the Inter-American system. To address my hypothesis that transparency should work as a better enforcement mechanism for compliance in democracies than non-democracies, because in democracies policymakers have more of an incentive to listen to the preferences of the public, I decided to select countries from both regimes types.

In order to choose which democracies or non-democracies to use, I looked at the Polity IV scores of all the member states of the Inter-American system. The polity scores of countries are based on a "21-point scale ranging from -10 (hereditary monarchy) to +10 (consolidated democracy)" ("Polity IV Project: Home Page"). A country with a polity score of -10 to -6 is normally considered to be an autocracy while a country with a polity score of 6-10 is considered to be a democracy ("Polity IV Project: Home Page"). Those countries receiving polity scores in between from -5 to 5 or receiving the special values of -66, -77, and -88 are considered anocracies ("Polity IV Project: Home Page").

In order to determine the polity scores of each country, experts are asked to rate each country, based on a particular scale, on the four components of democracy

(Kellstedt and Whitten 2009, 97). Experts consider whether or not the executive is selected in an open and competitive manner, whether or not there are restraints on the executive's powers, and whether or not political participation is competitive (Marshall and Jaggers). From this information, the type of regime in a certain country is determined.

In order to account for the fact that the polity scores changed from year to year in each country in the Inter-American system, I recorded each polity score given for the year in which a case was adjudicated at the Inter-American Court. I then averaged these scores across all cases for each country and used this average as the average polity score for a country to determine regime type. Because some countries had multiple cases submitted to the Court in a given year and I did not want to over represent one year, I only used one of these polity scores when determining the average polity score. I also only included countries that had more than two cases adjudicated at the Inter-American Court of Human Rights after 1996, when the Inter-American Court began issuing compliance reports to make sure I would have enough cases in my sample. Table 2 summarizes the results.

Of the countries with more than two cases adjudicated after 1996, the three countries with the highest polity scores were Chile with an average polity score of 9.33, Guatemala with a polity score of 8, and Argentina with an average polity score of 7.67. I chose to use Chile and Argentina in my research for democracies instead of Guatemala because they had higher free press ratings based on the Reporters Without Borders' free press ratings. Chile ranked 4th, Argentina ranked 6th, and Guatemala ranked 17th out of the 21 member states of the Inter-American system ("Press Freedom Index 2009"). I

chose to consider the freedom of the press in making my decision regarding which states to include in my sample because if my theory is to work anywhere, it should work in countries that have a relatively free press that is able to cover cases of human rights violations perpetrated by the national government.

The four countries with the lowest polity scores were Peru with an average polity score of 5.8, Venezuela with an average polity score of 6.25, Colombia with an average polity score of 7, and Honduras with an average polity score of 7. I chose Peru and Venezuela for my research because they had higher freedom of the press rating than Colombia or Honduras. Peru ranked 14th, Venezuela ranked 18th, Colombia ranked 19th, and Honduras ranked 20th ("Press Freedom Index 2009"). Once again I considered freedom of the press because even in non-democracies my theory is more likely to hold true in countries that have the ability to cover cases of human rights violations by the government.

However, despite my preference for collecting data on two non-democracies, Peru and Venezuela, I was only able to collect data for Venezuela given the time constraints of my research and the obstacles I encountered when trying to collect the media coverage data from Peruvian newspapers. Therefore, Venezuela is the only non-democracy included in my sample, and based on the classification recommended by the Polity IV creators, it should technically be a democracy. Nevertheless, I decided to use it in my research as representative of non-democracies because it had the lowest polity score besides Peru in the Inter-American system. Because the only country representative of non-democracies in my sample was Venezuela, which is technically a democracy, this

means that I will be less likely to find a significant difference between how media coverage affects democracies and non-democracies.

Table 2: Average Polity Scores

Average Polity Score	Country
7.67	**Argentina**
9.33	**Chile**
7	**Colombia**
7.25	**Ecuador**
8	**Guatemala**
7	**Honduras**
5.8	**Peru**
6.25	**Venezuela**

Dependent Variable-Compliance

In order to measure my dependent variable, compliance, I generated a list the compliance orders the Court gave in each case in my sample. The IACHR "exercises checklist compliance where it orders a series of clear, specific steps and then observes whether states in fact comply with those measures" (Hawkins and Jacoby 2009, 4). Thus, my unit of analysis for my research will be each compliance order given by the Court. While other scholars have used the individual cases as their unit of analysis such as Posner and Yoo in their article "Judicial independence in international tribunals," this way of organizing data often masks certain aspects of compliance. Within the Inter-American system much of the variance in compliance occurs at the case level with states complying with one judicial order but not another in the same case (Hawkins and Jacoby 2009, 27).

After generating a list of the orders issued by the Court in each case, I used the Court's own compliance reports on each case to determine which judicial orders were

complied with by a state. The Court in these compliance reports makes it explicit whether an order has been complied with fulfilled fully, partially, or not at all so determining which category an order fell into was not an issue. Based on these compliance reports, I then coded each judicial order as being complied with fully or not. I decided not to split the compliance variable into the three categories of fully, partially, or not at all due to the limited number of judicial orders that were deemed to be complied with only partially.

Independent variables

Once I collected all my data on my dependent variable, I began collecting the data on my independent variables. The first independent variable, I looked at was fairness. According to Thomas Franck, states comply or not based on how fair they deem the international rules to be (Tan 2005, 19). John Thibaut and Laurens Walker expands on this idea stating that people are more likely to think the proceedings to be fair if they are given a chance to state their case regardless of whether or not the outcome is how they desired (Tyler 1990).

To create a proxy for how fair countries perceive the proceedings to be I used the number of days that public hearings were held combined with the number of witnesses presented in each case. See Table 3. I believe that this measure reflects the idea that the greater the opportunity one is given to state their case, the more likely they are to consider the proceedings fair.

Table 3: Fairness of Proceedings

Case Name	Public Hearings	Witnesses	Total
Bulacio v. Argentina	2	3	5
Cantos v. Argentina	1	2	3
Garrido and Baigorria v. Argentina	1	0	1
Claude Reyes v. Chile	1	5	6
The Last Temptation of Christ v. Chile	1	5	6
Palamara Iribarne v. Chile	1	2	3
Blanco Romero v. Venezuela	1	4	5
Caracazo v. Venezuela	1	0	1
El Amparo v. Venezuela	0	0	0
Montero Aranguren v. Venezuela	1	3	4

The second independent variable I considered was the cost associated with complying with a judicial order. According to the self-interest theory by Goldsmith and Posner, states comply when they feel it is in their interest. Since most human rights standards "impose immediate costs-restraints on governments power or the costs of providing opportunities" while perhaps hindering long term interests of the state like economic growth or reputation (Moore quoted in Tan 2005, 22-23), logically states may weigh the costs and benefits when deciding whether or not to comply.

To account for this phenomenon in the IACHR, I ranked all the judicial orders given by the Court on a scale of 1-5 from least costly to most costly. See Table 4. I denoted less costly orders as those bureaucratically easier to implement such as paying lump sums of money or publishing a judgment in a newspaper. Those orders that I considered more costly were those orders that involved amending laws or punishing perpetrators of human rights. I hypothesized that a state was more likely to comply with

an easier order rather than an order that required broader action (Hawkins and Jacoby 2009, 5).

Table 4: Difficulty of Compliance

Judicial Orders	Difficulty
Pay money Publish judgment	1
Acknowledge liability Provide information to victims Allow publication of book	2
Provide Training	3
Overturn conviction Lift measures against victim Allow minor departure from state	4
Investigate and punish Amend laws Search for next of kin Find remains	5

The third variable I considered was rule of law. According to Galker and Treib, variance in compliance can be explained by the type of compliance culture in each country (Hawkins and Jacoby 2009, 10). Simmons (2000) found evidence to support this theory stating "regimes based on clear principles of the rule of law are far more likely to comply with their commitments" (832). Thus, those countries with greater rule of law in the Inter-American system should be more likely to comply with the judicial orders given by the Inter-American Court.

To measure rule of law in a country, I used the International Country Risk Guide (ICRG) rating system provided by the Political Risk Services (PRS) Group. This dataset provides annual ratings from 1984-2008 on twelve different political risk components including law and order ("Governance and Institutional Quality-Sources for 'Risk' Data"). I used the law and order measure as a proxy for rule of law. The law and order component of the dataset is measured based on two sub-components: law and order. "The Law sub-component is an assessment of the strength and impartiality of the legal system, while the Order sub-component is an assessment of popular observance of the law" ("ICRG Methodology"). Each of these variables is rated on a scale of 0-3 and then the two variable are averaged together in order to create the law and order component of the dataset. To use this data for my sample of countries I selected, I averaged the law and order ratings from when the first judgment on reparations was issued for a country until 2008, the last year data was available by this source. I did this to account for the fact that law and order may have fluctuated during the time in which the countries were being asked to comply with the IACHR's judgments.

The next independent variable I considered was the number of third parties involved in a dispute. According to Chayes and Chayes (1991) third party participation can influence states to comply, and the evidence presented by Carrubba, Gabel, and Hankla (2008) as well as Busch and Reinhardt (2006) support this theory. In the article by Carrubba, Gabel, and Hankla (2008), it is found that as the number of government observations for the plaintiff increase, the likelihood that the European Court of Justice would rule in favor of the plaintiff increased. In the article by Busch and Reinhardt (2006) it was found that in WTO disputes third parties are likely to influence the

direction of rulings "*conditional'* on the fact that they push cases to a ruling in the first place" (475). Thus, in the IACHR as the number of third parties increases in favor of the plaintiff, the chance a state will comply may increase as well due to the extra pressure third parties can exert on policymakers either through contacting them directly or through disseminating information to the public.

To measure the number of third parties involved in a dispute, I used the information provided by the Inter-American Court of Human Rights. In all judgments, the Court lists what third parties were involved in the process of submitting a petition regarding a human rights violation to the Inter-American Commission of Human Rights. Usually, these third parties consist of human rights NGOs, government officials, and academic groups. I used the information provided in these judgments as a count of the number of third parties involved in a case.

Table 5: Third Party Participation in favor of plaintiff

Court Case	Number of Third Parties
Bulacio v. Argentina	3
Cantos v. Argentina	1
Garrido and Baigorria v. Argentina	0
Claude Reyes v. Chile	11
The Last Temptation of Christ v. Chile	2
Palamara Iribarne v. Chile	1
Blanco Romero v. Venezuela	3
Caracazo v. Venezuela	2
El Amparo v. Venezuela	4
Montero Aranguren v. Venezuela	2

Finally, I considered the theory presented by Vanberg (2001). According to this theory since courts cannot enforce their own decisions, they must rely on the public to monitor the actions of policymakers and punish them when they do not comply with their decisions. However, in order for the public to be able to carry out their function, the proceeding and decisions of the court must be transparent. Thus, transparency can increase the chance a state will comply by increasing the "informational status of domestic constituencies" (Dai 2005, 364).

In order to operationalize the concept of transparency, I used media coverage as a proxy (Staton 2006). I feel that media coverage is an accurate measure of the transparency because it is through the media that general public receives a majority of its information regarding the activities of courts. Another reason why media coverage is a good proxy for transparency is because it is through the information the media disseminates, that the public is able to hold politicians responsible. Media coverage makes it easier for the public to tell whether or not policymakers are properly implementing judicial orders, and therefore, increases the costs of noncompliance for policymakers (Staton 2006). If policymakers are found to not be complying with a judicial order given by a respected judicial institution, they risk public backlash in elections (Staton and Vanberg 2008, 504).

Measuring media coverage

To measure the amount of media coverage each case received, I compiled a list of all the major newspapers in Chile, Argentina, and Venezuela. From this list, I tried to choose two major newspapers for each country that had large circulation rates and online archives dating back to when the decisions on reparations were rendered. However, this

was only possible for Chile and Argentina because only one newspaper had online archives for Venezuela. Therefore, I was only able to use one major newspaper for Venezuela.

From the circulation data I could find on Chilean newspapers, the newspapers that had the largest circulation data were the following: El Mercurio: 112,000 circulation (*Editor and Publisher*) 300,000 circulation (*Benn's Media: World*), La Tercera: 180,000 circulation (*Editor and Publisher*), Las Ultimas Noticias: 120,000 (*Editor and Publisher*) 200,000 (*Benn's Media: World*), and Diario La Nacion: 120,000 (*Benn's Media: World*). From these major newspapers in Chile, I chose El Mercurio and Diario La Nacion. I chose El Mercurio and Diario La Nacion for my research because they both had online archives dating back to when the judgments at the Inter-American Court were rendered while the other major newspapers did not.

For Argentina, the newspapers that had the largest circulation data were the following: Diario Cronica: 330,000 (m), 450,000 (s) 190,000 (e) (*Editor and Publisher*), Diario La Nacion: 250,000 (*Editor and Publisher*) 161, 172 (*Benn's Media: World*), Diario Clarin: 418, 338 (*Benn's Media: World*), and Diario Popular: 145,000 (*Editor and Publisher*) 150,000 (*Benn's Media: World*). From these major newspapers in Argentina, I chose Diario La Nacion and Diario Clarin because they were the newspapers with the largest circulation with online archives dating back to when the judgments at the Inter-American Court were rendered.

In Venezuela the newspapers with the largest circulation were the following: El Universal: 165,000 (*Benn's Media: World*), El Norte: 133,872 (*Benn's Media: World*), and Panorama: 120,000 (*Editor and Publisher*). I chose to only use El Universal for my

research because El Norte and Panorama did not have online archives dating back to when the cases against Venezuela were rendered at the Inter-American Court.

Once I identified the newspapers I was going to be using, I then went to the online archives of these newspapers and counted the number of articles written on each case 14 days before and 14 days after a judgment on reparations was rendered. I chose to focus on this time period surrounding when the judgment on reparations was rendered because I assumed that if the media was going to publicize the decisions of the Inter-American Court of Human Rights it was most likely going to be leading up to the judgment and after the judgment was rendered. Based on the preliminary research I did on the media coverage of these cases, I noticed that there was a lag in media coverage regarding a case for about a week after a judgment was rendered. Therefore, I decided to expand the period I was looking at to 14 days before and 20 days after a judgment on reparations was rendered to get a better idea of the exposure each case was receiving by the national newspapers.

After I collected the data on the number of articles written on each case during this time period, I averaged the number of articles written during this period across all newspapers in a country and used this number as a measure of the amount of publicity each case received. See Table 6.

Table 6: Media Coverage Distribution

Media Coverage	Frequency
0	28
0.5	4
1	20
3	10
5	3
16	2
Total:	67

Statistical Analysis

My first hypothesis was that states were more likely to comply in democratic regimes than in non-democratic regimes. Consider Table 7, a cross-tabulation of compliance with judicial orders and regime type. This table shows us that democracies were more likely to comply with the Inter-American Court of Human Rights' judicial orders than non-democracies. Democracies complied fully with judicial orders 74% of the time while non-democracies only complied fully 30% of the time. Thus, the type of regime does appear to have an influence over whether a state is more or less likely to comply. Thus, it was important that I included both democracies and non-democracies in my sample. This is even more interesting considering that Venezuela, the only country representative of non-democracies in my sample, was technically a democracy, making it less likely that I would find a difference between compliance rates based on different regime types.

Table 7: Cross tabulation of compliance and regime type

Compliance	Democracies	Non-democracies	Percent
Non-compliance	74.2	30.6	50.8
Compliance	25.8	69.4	49.2

My next hypothesis was the more transparent a conflict, the greater the chance a state will comply, and this relationship should be stronger as the level of democracy increases. As a proxy for transparency of a Court case, I used media coverage because it is through the media that the majority of the public receives information regarding the Court's activities, and it is through the media that the public is able to hold politicians accountable for noncompliance. I hypothesized that media coverage should matter more in democracies than in non-democracies because in democracies policymakers have more of an incentive to listen to the policy preferences of the public. In order to test this hypothesis I created an interaction variable "Democracy*Media Coverage." I then regressed it with both the variables for democracy and media coverage. See Table 8.

Table 8: Interaction between democracy and media coverage

	ß	p
Democracy	2.351	0.064
Media Coverage	0.592	0.010
Democracy*Media Coverage	-0.367	0.153
n=67 Wald X2 (3)=12.20 Prob> X2 =0.01		

Based on this logistic regression, it does not appear that my conditional hypothesis, that the effect of media coverage is conditioned by whether or not a state is democratic, is supported by the data. The "Democracy*Media Coverage" variable's p-value is 0.153, which means that we cannot reject the null hypothesis that the effect of media coverage on compliance is changing.

In order to further look at the relationship between regime type and media coverage, I calculated the predicted probabilities of compliance given different values of media coverage and democracy. Table 9 summarizes the results. If we calculate the difference in the probability of compliance in democracies as media changes from 4 to 0 and then calculate the difference in the probability of compliance in non-democracies as media coverage changes from 4 to 0 and subtract these values, we get the difference in the probability of compliance based on media coverage conditioned on regime type. The value of this difference is -0.320. Since this value is negative and close to zero, it appears that regime type doesn't condition the effect of media coverage. If regime type had conditioned the effect of media coverage, we would expect this value to be positive and significantly so.

Table 9: Predicted probabilities of compliance

	Media Coverage=4	Media Coverage=0	Δ
Democracy	0.810	0.633	0.1763
Non-democracy	0.638	0.141	0.4963

Since it does not appear that media coverage matters more under democracy than non-democracies, I decided to test my hypothesis that media coverage influences

compliance without taking into account regime type. When doing so, I made sure to cluster my data using the "case number" variable because although I am using the judicial orders as my unit of analysis, these judicial orders are also part of individual cases. For example, in the case Bulacio v. Argentina, the judicial order to investigate and punish human rights violators is not independent of the judicial order to publish the IACHR's judgment.

Table 10: Compliance with IACHR judicial orders

	Model 1		Model 2	
	ß	p	ß	p
Democracy	2.362	0.079	3.490	0.004
Fairness	-1.095	0.160	-0.713	0.100
Difficulty of compliance	-1.806	0.274	-1.057	0.004
Law and Order	3.410	0.389		
Third Parties	2.077	0.220	0.999	0.045
Media Coverage	0.303	0.063	0.338	0.032
n	67		67	
Wald X2 (6)	11.74		21.57	
Prob> X2	0.07		0.00	

Table 10, summarizes the results from my logistic regression models. For each model, I present the independent variables thought to influence compliance and their corresponding coefficients, ß, and p-values, p.[3]

As you can see in Table 10, Model 1 includes all the independent variables theoretically thought to influence compliance: democracy, fairness, difficulty of compliance, law and order, and media coverage. However, based on this logistic regression none of the variables pass the threshold for statistical significance since none of the p-values are smaller than 0.05. Therefore, based on Model 1, we cannot reject the null hypothesis that there is no relationship between these independent variables and the dependent variable, compliance.

However, since the variables democracy and law and order are highly correlated at 0.695, it is possible they are influencing the logistic model. See Table 11. Therefore, in the next regression I ran, I decided to use only one of the two variables. Since Table 7, a cross tabulation of compliance and regime type, seems to suggest that democracy influences compliance in a significant way, I dropped law and order and kept democracy in Model 2.

[3] Coefficients tell us the direction and to what extent independent variables influence the dependent variable, compliance. In addition to coefficients, Table 5 also presents p-values. A p-value represents the probability of observing a test statistic as extreme or more extreme than the test statistic observed (Kellstedt and Whitten 2009). A small p-value shows us that it is unlikely that we would observe a test statistic like what we observed if the null hypothesis was true. In most cases, the null hypothesis is that there is no relationship between the two variables. Usually the p-value of 0.05 is the threshold for rejecting or failing to reject a null hypothesis. If the p-value is less than 0.05 we are able to reject the null hypothesis, if it is greater than 0.05, we fail to reject the null hypothesis.

Table 11: Independent Variable Correlations

	Democracy	Fairness	Difficulty	Law and order	Third parties	Media Coverage
Democracy	1.000					
Fairness	0.262	1.000				
Difficulty	-0.154	0.031	1.000			
Law and order	0.695	0.270	0.001	1.000		
Third parties	0.073	0.487	0.044	0.280	1.000	
Media Coverage	0.113	0.172	-0.034	0.097	-0.010	1.000

Based on Model 2, independently of regime type, it does appear that media coverage influences compliance. Its coefficient is positive at 0.338 and its p-value is below the 0.05 threshold to allow us to reject the null hypothesis that there is no relationship between media coverage and compliance. Therefore, Model 2 supports my hypothesis that media coverage increases the chance a state will comply with a judicial order.

Although, it appears that my main hypothesis that media coverage influences compliance in a positive and significant way is supported, it is also important to test the other competing theories of compliance such as democracy, fairness, difficulty of compliance, law and order, and the influence of third parties.

Looking at Model 2, democracy appears to have a positive and significant influence on compliance. Its coefficient is quite large at 3.490 and its p-value is 0.004 below the 0.05 threshold to reject the null hypothesis that there is no relationship between democracy and compliance. Therefore, the theory that democracy is a significant influence on compliance at the IACHR is supported.

Moving on to the next competing theory of compliance, fairness, based on Model 2 it does not appear that the fairness of the judicial proceeding increases the chance that a state will comply with the IACHR's judicial orders. Its coefficient is negative and its p-value is 0.100 above the 0.05 threshold to reject the null hypothesis that there is no relationship between fairness and compliance. Considering that its coefficient is negative, this seems to even suggest that the fairness of the proceeding actually decreases the chance a state will comply with the IACHR's judicial orders; however, this may be because the method I used to measure fairness is not accurate. Therefore, Model 2 does not support the theory that fairness increases the chance a state will comply.

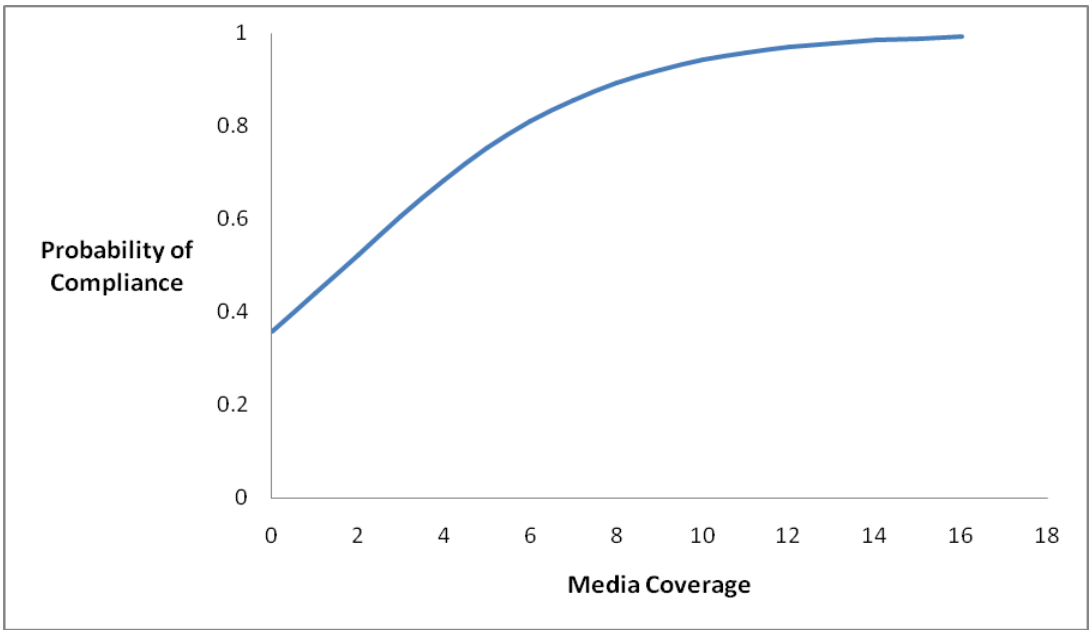
The next competing theory of compliance is the self-interest theory. According to this theory, as the cost of complying increases, the less likely a state will comply. Therefore, we should observe as the difficulty of compliance increases the less likely a state will comply with a judicial order. Based on Model 2, it does appear that there is a negative and significant relationship between the difficulty of compliance and compliance. The coefficient is negative at -1.057, and its p-value is 0.004, below the 0.05 threshold to reject the null hypothesis that there is no relationship between the difficulty of compliance and whether or not a state decides to comply. Therefore, the self-interest theory of compliance is supported by the data; it appears as the cost of complying increases the less likely a state is to implement the Court's judicial orders.

The final competing theory of compliance is based on the number of third parties involved in bringing a case to the Inter-American Court of Human Rights. According to this theory, as the number of third parties increases in favor of the plaintiff the more likely a state is to comply. Based on Model 2, it does appear that the number of third

parties involved has a positive and significant effect on compliance since it has a coefficient of 0.999 and a p-value of 0.045. Therefore, according to Model 4 the third party theory is supported.

Thus, based on Table 10 the theories regarding democracy, difficulty of compliance, third parties, and media coverage are all supported based on the logistic regressions I ran. However, most importantly for my research, media coverage was shown to be positive and significantly associated with compliance with the IACHR's judicial orders. To further corroborate my research I calculated the predicted probabilities of compliance based on the amount of media coverage. See Figure 2. As you can see, as media coverage increases the probability that a state will comply with the IACHR's judicial orders also increases with the other variables being held at their means. As media coverage moves from 0 to 16, the probability that a state will comply with the IACHR's judicial orders increases from 0.358 to 0.992. Thus, there is clear support for my theory that media coverage increases compliance.

Figure 2: Predicted Probability of Compliance



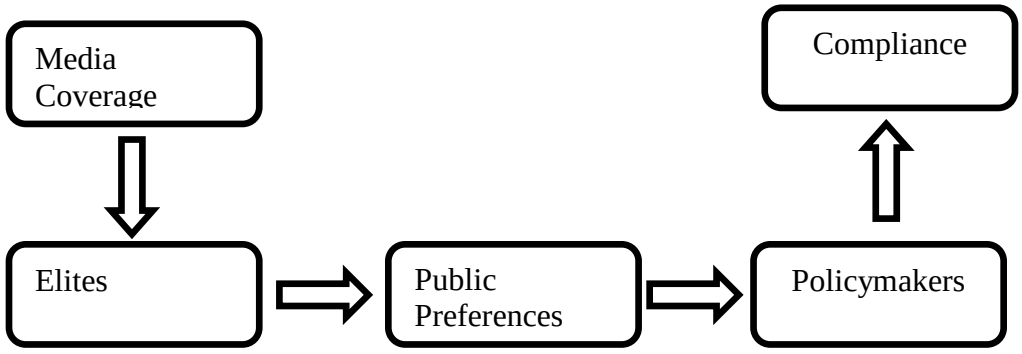
Chapter 6: Conclusion

Thus my central argument that media coverage influences compliance with IACHR's judicial orders is supported from the above qualitative and quantitative analysis.

However, two modifications of my theory had to be made. First, I had to modify the causal flow of my argument. From the elite interviews I conducted both at the IACHR and at the NGO, CEJIL, it was apparent that while the Court tried its hardest to disseminate information regarding its activities, it was only reaching a limited and elite audience. I found out that while an average person in the member states of the IACHR would not be well-informed regarding the Court's activities, the elite members of society such as lawyers, academics, and diplomats would be. Therefore, I modified the causal flow of my argument to take into account this fact. See Figure 3. According to this figure, the elite serve as an intermediate step in the dissemination of the information to the

general public. The Court disseminates information to the elites; then, in turn, the elites disseminate this information to the general public who is able to pressure policymakers to comply with the Court's decisions.

Figure 3



The second modification I made to my theory was regarding the effect of a state's regime type. I first hypothesized that media coverage should matter more in a democratic rather than in a non-democratic state. However, based on my quantitative analysis I found that while regime type mattered in terms of the probability that a state would comply with the IACHR's judicial orders, regime type did not have an effect on whether or not media coverage influenced a member state to comply. According to my quantitative analysis, the amount of media coverage influenced the probability a state would comply in both democratic and non-democratic states.

Despite the modifications in my theory, the results of my analysis are positive for my theory. Media coverage does influence the likelihood of compliance in the Inter-American system, and this has important implications for the not only the Inter-American system but other international institutions as well.

Because media coverage has been found to influence whether or not a state decides to comply with judicial orders, international institutions can now use this information to "facilitate national compliance by increasing the electoral leverage and improving the informational status of pro-compliance constituencies" (Dai 2005, 366) through actively engaging with the media (Staton 2006). For example, if an international institution is having trouble obtaining compliance with its orders, it can try to create more media coverage through issuing press release, holding press conferences, and contacting journalists of local newspapers. These efforts to increase media coverage then in turn can improve the "informational status" of elite public interested in their activities so they can then pressure policymakers to comply with the institution's orders. In other words, because media coverage does increase the likelihood that a state will comply, institutions can now strategically use this information to attain compliance.

However, international tribunals may be limited in their capacity to do so by the traditional role of judiciaries: "the legitimacy of unelected judges is presumed to depend on their isolation from daily political life. In light of this difference between a judge and a politician, judges likely face an important tradeoff when considering whether to pursue public relations, an inherently political activity" (Staton 2006, 111). Thus, even though it has been found that international tribunals can increase the chance a state will comply with a judgment by generating media coverage; tribunals in the future will have to consider the costs and benefits of implementing a public relations campaign. They may increase the chance their compliance orders will be followed initially, but in the long term they may lose public support because of "an image of a politicized court" (Staton

2006, 111), which was a major concern of the Inter-American Court when I spoke to both the Staff Attorneys and media relations official.

Another consideration when discussing policy implications is the generalizability of the results, considering the theory was only tested on the Inter-American Court of Human Rights. Specific characteristics of this region such as the history of military governments and gross human rights violations may be limiting when applying the results to other human rights tribunals such as the European Court of Human Rights or the African Court on Human and People's Rights. Furthermore, my results may be even more limited considering I had to use a sample of countries within the Inter-American system. Thus, specific characteristics of these countries may also hamper the generalizability of my results. Those who wish to further expand on my research to obtain more conclusive results would need to expand the focus of their research to all countries in the Inter-American system to see if the pattern I found is characteristic of the entire system.

However, the concern regarding the generalizability of my results to other human rights tribunals, like the European Court of Human Rights and the African Court of Human and People's Rights, may be less of a concern than at first apparent. One of the major arguments for why the European Court of Human Rights has experienced such a high rate of compliance has been that the Court has "exercised jurisdiction over a relatively homogenous group of Western European states in which democratic governance and the rule of law were already well established" (Cavallaro and Brewer 2008, 772). However with the integration of new countries into the European Union from East Europe, the system is now more diverse than ever and having to having to deal with

"large-scale or violent human rights violations" similar to those that have occurred in the IACHR (Cavallaro and Brewer 2008, 774). Therefore, my results now more than ever may be able to be generalized to the European Court of Human Rights.

Additionally, the African Court of Human and People's Rights also shares similarities with the Inter-American system that may make my results more generalizable. Like Latin America, Africa has had a history of military coups, dictatorships, corrupt governments, and gross human rights violations. Additionally, like the Inter-American system, the African Commission on Human and Peoples' Rights has already had trouble with noncompliance with its "determinations" (Cavallaro and Brewer 2008, 775). Therefore, my theory that media coverage increases the chance a state will comply may not only be useful in the IACHR but also in the European Court of Human Rights and the African Court of Human and People's Rights.

My research can be extended even further to other courts outside of the human rights realm. Since media coverage induces compliance at the IACHR, it is plausible that increased media coverage could work similarly in other court systems. These courts then could use publicity as a means of pressuring states to comply with their decisions, increasing respect for rule of law within their jurisdiction. Then perhaps countries within the jurisdiction of these courts could enjoy the benefits that have been proven to be associated with rule of law such as increased investment and economic growth (Simmons 2000 in Hawkins and Jacoby 2009, Kaufman 2006). While more research is needed on the subject, the results of my research are promising for courts struggling with non-compliance both inside and outside of the human rights realm.

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Appendix A:
Questionnaire at the Inter-American Court of Human Rights:

1. Could you explain the process of monitoring compliance with the Inter-American Court of Human Rights' judicial orders?

2. IACHR began monitoring compliance in 1996 through issuing compliance reports (Hawkins and Jacoby 2009, 17). How often does the Court issue compliance reports?

3. Why did the Court decide to begin issuing these reports?

4. In the case of the indigenous community Sawhoyamaxa v. Paraguay in the compliance report dating May 20, 2009, the Court decided to hold a public hearing to determine whether or not the state of Paraguay had complied with all of the reparations in the case. Why did the Court decide to make the hearing public when before in cases such as Claude Reyes v. Chile, these hearings were private?

5. Your website is extremely detailed regarding the activities of the Court. Why did you decide to create a website that followed the activities of the Court so precisely?

6. On your website, I notice that you issue press releases regularly. When did you begin to issue press releases? Why did you decide to do so?

7. During the year 2006, I noticed that the Court published four issues of a gazette regarding the Court's activities. Why did you decide to begin this publication and why was it discontinued?

8. Do you think the public of is well informed on the Court's activities and

   judgments?

9. What do you think the public's opinion is of the Court and its judgments?

Appendix B:
Questionnaire at CEJIL:

1. Could you explain the relationship your organization has with the Inter-American Court of Human Rights and what the goals are of your organization?
2. An official at the Inter-American Court of Human Rights told me that your organization issues press releases regularly. When did you begin to issue these press release and why?
3. Recently the Inter-American Court of Human Rights decided to hold public audiences instead of private audiences when supervising compliance with its judgments. What is your opinion on this new mechanism of the Court?
4. Do you think the Court disseminates information about its activities sufficiently?
5. Do you think the public is informed about the activities of the Court?
6. Do you think the public has a good opinion of the Court?
7. Some cases of the Inter-American Court of Human Rights receive a lot of publicity while others don't. Why do you think this is?