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Conflict Processes and Courts:
Repression, Dissent, and the Influence of Domestic Judicial Institutions

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An abstract of
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Abstract

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By Emily Hencken Ritter

Under what conditions will a state repress its citizens? Scholars have in large part turned to institutional studies to answer this question. However, we cannot evaluate how institutions affect state repression if we do not understand what would happen in the absence of these institutions. Unfortunately, the literature that examines the micro-foundations of rights violations is conflicted; scholars argue and find repression and dissent are interrelated, yet there is no consensus over exactly how. I develop a game theoretic model based on common assumptions from this literature to establish the underlying motivation for repression as a dynamic attempt to control dissent and remain in political power. Having done so, I extend the model to include a domestic court that varies in its autonomy and power in order to assess the conditions under which the court can come to effectively constrain state repression. I test the empirical implications of both the baseline and extended models on an international dataset for the years 1990 to 2004. The dissertation yields several important conclusions for our understanding of how institutions affect repression. First, the process by which the onset of repression is determined differs from that which determines its severity. This difference is highlighted by the effects of the probability of political survival on the likelihood and level of repression. Second, judicial "independence" alone will not protect citizens' rights. An autonomous court can only effectively constrain state behavior when the state authorities expect that someone will support the court and punish noncompliance. Third, institutions do not uniformly constrain rights violations; they act in the context of a conflict. Though they may make violations less likely, institutions may also induce states to opt for more severe actions, which is not equivalent to an overall reduction in abuse. Finally, institutions affect both rights violations and dissident behavior. When an institution can impose costs on the executive for repressing citizens, potential opposition groups will take advantage of this constraint and threaten more severe opposition. As such, institutions intended to constrain repressive behavior may in fact instigate it by opening opportunities for dissent.

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Chapter 1

Introduction

1.1 Introduction

Under what conditions will state authorities violate human rights? Scholars have investigated many institutional solutions to this question. Competitive elections and powerful checks and balances, particularly independent judiciaries, seem to provide the accountability that constrains leaders from violating rights (see, e.g., Davenport and Armstrong 2004, Howard and Carey 2004). Scholars remain skeptical of the utility of international human rights treaties, yet non-governmental organizations (NGOs) and domestic courts have been able to use international law to facilitate changes in human rights outcomes (see, e.g., Hathaway 2002, Keck and Sikkink 1998, Powell and Staton 2009, Simmons 2009). If these claims are true, we can advance human rights protection with strong democratic institutions, and international treaties will be effective when those institutions are in place.

However, these institutional studies do not consider the circumstances under which states come to repress without institutional constraints on authorities' behavior in their theories. Scholars assess whether and how institutions impose costs on or otherwise affect executive choices as if their choices were given. However, political violence scholars agree that states repress to curb or prevent dissent (Davenport 2007*a*). Put differently, authorities repress with a purpose, and though institutions can sometimes impose costs for violations, they may or may not alter the motivation for repressing in the first place. If repression and dissent are part of an interactive process, institutions are likely to affect the entire process and its parts. Without an understanding as to when repression occurs in the absence of institutions, there is no baseline to which we can compare in order to predict and assess their effects.[1] We should consider how the "treatment" of a given institution compares to the "control" baseline model of repression.

To do this, we must first understand what would happen in the absence of institutions. Rights violations are inexorably connected to dissent—they are intended to curb actual or prevent future opposition to the regime's rule. A number of scholars have studied repression and dissent, yet the literature is conflicted as to how these behaviors are interrelated. Scholars disagree about the precise relationship between repression and dissent, and even about the causal order. Empirical studies have provided support for many different relationships between these behaviors, and no widely accepted theory can account simultaneously for all of these varied results. Insofar as

[1] Moore (1995) makes a similar claim that we cannot understand the role of national attributes in human rights practices without understanding the underlying conflict process that leads to rights violations.

we have very divergent theoretical predictions and a mixed empirical record, we can conclude that repression and dissent are interrelated, but we cannot understand how. As a result, it is unclear what constitutes the baseline process of rights violations.

The repression-dissent scholarship does share some common assumptions about which there is little disagreement.[2] First, the choices to repress and to dissent are interrelated. Second, states and dissident groups are in conflict over some policy or good. Third, the consequences of the conflict over policy affect regime survival. Though they agree on these principles, scholars have not derived theoretical expectations consistent with modeling them as a strategic, interdependent process. As a result, they have examined pieces of the repression-dissent process without being able to tie them together.

In this project, I develop a theory to address the relationship between repression and dissent based on these tenets. I present a formal model that endogenizes the decisions of any potential human rights violation: the setting of policy in a disputed policy space, the decision to dispute the chosen policy, and how much to repress and dissent in the effort to influence the final policy position and secure political power. This model not only accounts for the conflicting extant results but also suggests novel predictions regarding repression and dissent. For instance, I posit that once a dissident group chooses to dissent against a leader with a strong hold on power, it will use severe levels of dissent, despite its expectation that the strong leader will severely repress the group. Most importantly, I contend that the process by which the *onset* of repression

[2]For instance, see Gurr (1970), Lichbach (1987), Moore (1998), Poe et al. (2000), Rasler (1996) and Davenport (2007*a*).

is determined differs from that determining its *severity*,[3] even though the same exogenous indicators inform both decisions. Quantitative empirical tests support both of these results.

Once we understand the dynamic relationship between these behaviors, I extend the baseline model to observe how behavior would change with the introduction of domestic judicial institutions. I explore how the expectation of exogenous punishment and/or enforcement of decisions alters the way a judiciary behaves in the context of human rights violations, and whether such an institution is likely to alter the executive's repressive action in the context of dissent as established in the baseline theory.

In this chapter, I define the concepts around which the study revolves, namely repression and dissent. Next, I discuss the current state of institutional studies of human rights violations and the missing baseline necessary for comparison. I then turn to extant studies addressing repression as a conflict process with dissent and the many findings of this literature. This is followed by a clarification of the assumptions on which human rights scholars tend to agree and a discussion as to why these should be modeled simultaneously. Finally, I briefly outline how the model will form the baseline of a theory as to the effects of domestic and international legal institutions on these conflict behaviors.

[3] *Severity*, in this project, refers to a combination of the scope and intensity (type) of repression. See Chapter 3 for a description of the operationalization of this concept.

1.2 Defining Repression and Dissent

Repression is defined here as *coercive actions political authorities take to inhibit the will or capacity of people within their jurisdiction to influence political outcomes.*[4] Authorities can utilize focused fear tactics such as political arrests, torture, and extrajudicial killings to influence citizens' will to challenge the status quo. People who have the resources to dissent may choose not to do so when they fear state retribution. In contrast or in combination, authorities may restrict movement, organization, resources, etc. to inhibit popular capacity to mobilize against the state. For instance, it is more difficult for a group to recruit members and spread its message when the state controls the media or prohibits group assembly. States can violate the rights of anyone ranging from individuals who disagree with a single policy to the entire population. I use the terms human rights violations and repression interchangeably throughout this project.[5]

State authorities violate rights in order to suppress threats to the status quo and retain office. Davenport (2000, p. 1) writes, "Specifically, it is found that when threats are confronted, political authorities frequently use repression as a means to control [or] eliminate them and to establish/extend their tenure." If authorities can subdue

[4] For similar definitions, see Goldstein (1978) and Davenport (2000). In particular, the idea of inhibiting will or capacity comes from Davenport (2007*b*). This definition includes civil, political, and personal integrity rights violations but excludes economic and cultural rights as well as third-generation rights related to humans in the collective sense (cf. Davenport 2007*a*, p. 3).

[5] Granted, state repression and human rights violations are not precisely the same concept. Human rights violations are a subset of actions that fall under the overarching heading of state repression or state coercion. If state repression is the coercive actions authorities take to inhibit the will or capacity of the population to influence political outcomes, human rights violations are those coercive actions they take that are explicitly defined as protected by international human rights law (Davenport 2000). In this project, I am concerned with the overarching concept, which includes the more visible and commonly understood rights violations.

opponents' will and contain their ability to dissent, they can achieve quiescence. By controlling opposition to their actions, authorities have the freedom to do as they wish and reap the advantages of holding a powerful office. On the benefits of repression, Davenport (2007*a*, p. 7) writes, "Quiescence is a major benefit to political authorities, supporting the extraction of taxes, the creation of wealth, and a major part of their legitimacy as a protector." Once Saddam Hussein instilled fear into his citizens, for instance, he was able to reap the benefits of Iraq's natural resources to his political and personal advantage.

Repression is meant to control actual or potential dissent, defined here as *a coordinated attempt to influence political outcomes that is not organized by state authorities*. This definition of dissent excludes such state-organized methods of participation as voting or running for office, but it includes even legal forms of dissent, such as sit-ins or peaceful protests that are officially permissible in many states including the US.[6] Dissent can range from very peaceful actions, including organized letter-writing campaigns and peaceful marches, to very violent ones, including riots and violent attacks on persons and/or property. Additionally, the dissident group can be any group from among the population under the territorial jurisdiction of the executive. They can have any defining characteristics, whether united by political opinion, ethnicity, history, gender, etc., and they can have any level of organization.

Groups dissent in order to bring about change to the status quo. The status quo

[6]Of course, repression can also inhibit the will or capacity to take part in governance in events organized by the state, as when citizens are afraid to vote according to their true preferences, but I exclude state-organized actions from the definition of dissent in order to more clearly delineate dissent from commonplace behavior.

may be a policy with which a group of citizens disagrees. For instance, Pakistani lawyers protested the government's dismissal of the Supreme Court in 2007 (Masood 2007). It may be an allocation of resources that falls short of citizens' expectations (Gurr 1970). This occurred in Burma in the same year, when monks protested the cost of fuel and its effects on the poor (Pinheiro 2007). Groups also dissent against the regime or administration when they disagree with the regime's package of policies, as when Iranian dissident groups protested the reelection of the president in 2009 as the culmination of their disapproval of his policies. Ultimately, the goal of dissent is to move policy in line with a group's preferences, just as the executive represses in order to place the policy according to his preferences.

1.3 Institutions and Human Rights Violations

Human rights scholars have often investigated institutions as potential constraints on authorities' realized or potential repressive behavior. Almost all studies of regime type and repression find that democracies violate rights less than non-democracies for a variety of reasons (Bueno de Mesquita et al. 2005, Davenport and Armstrong 2004, Fein 1995, Poe and Tate 1994, Regan and Henderson 2002, von Stein 2006). Davenport (2007*b*) refers to the near law-like relationship as the "domestic democratic peace."

Scholars contend several mechanisms cause democracies to repress less than non-democracies. The electoral process increases the costs of repression because an unhappy population can vote repressive leaders out of office, holding them accountable for their actions (Bueno de Mesquita et al. 2005, Poe and Tate 1994). Democracies also

provide opportunities to express disagreement with policies outside of dissent that threatens the regime. These legitimate outlets for complaint make repression both less necessary and less justifiable from the government's point of view (Davenport 2007*b*, Eisinger 1973, Fein 1995, Muller 1985).

Additionally, the institutions that effectively "check and balance" government behavior constrain democratic authorities from violating rights as they might otherwise prefer to do (Davenport 2007*b*, Davenport and Armstrong 2004). One such institution that has received much scholarly attention with respect to human rights is the domestic judiciary. Scholars have found positive relationships between judicial independence and human rights records (Apodaca 2004, Blasi and Cingranelli 1996, Cross 1999, Howard and Carey 2004, Keith 2002). Strong domestic judiciaries also aid to establish and enforce international law at the domestic level. Independent judiciaries adjudicate claims and rule against violations in line with international obligations (Hathaway 2005, Simmons 2009). Powell and Staton (2009) contend domestic courts can enforce international treaties when citizens expect them to be effective and therefore litigate more cases of rights abuse.

However, the presence of judiciaries, even independent ones, does not clearly predict when they will act as effective constraints on rights violations. Some vulnerable courts rule against repressive authorities, as several of the the Argentine courts did from 1976 to 1999 (Helmke 2002, 2005). Other courts are free from political manipulation yet do not protect citizens from violation, as was the case in Chile during the Dirty Wars (Hilbink 2007). In short, the role of domestic courts in the protection or violation

of rights is still under debate.

To assess whether and how institutions (namely, domestic judiciaries) affect human rights practices, scholars attempt to compare cases in which there are institutions to cases in which there are not. In the language of the scientific method, we compare the treatment group to the control group. If rights violations are part of a complex process and scholars do not model that process explicitly, they may draw incorrect inferences as to the effects of institutions on that process. In short, without an understanding of the motivation for and the process of rights violations, scholars introduce institutions into the wrong baseline of repressive behavior.

1.4 Conflicts of Repression and Dissent

There is a body of literature that attempts to establish the foundations of repressive behavior. This scholarship identifies repression as an action intended to control or prevent threatening opposition, namely, dissent. However, scholars dispute how dissent affects repression and repression affects dissent.

Scholars often contend repression is a response to dissent. Political texts dating back to Machiavelli and Hobbes have argued for governments to respond to threats with authoritative coercion. Almost every statistical study of the behaviors has found that states repress in response to dissent. Davenport (2007*a*) refers to this regularity as the Law of Coercive Responsiveness.

However, not all dissent elicits repression, nor is the relationship invariant. The United States, for instance, violated rights more often and at a higher level after Septem-

ber 11, 2001, than it had immediately prior to that date. France allows frequent student protests but China does not. There is some consensus that more "threatening" dissent is more likely to lead to a repressive response, leading scholars to consider what constitutes higher levels of threat. States are more likely to repress when the dissidents' aim is a threat to regime stability (Gartner and Regan 1996, Regan and Henderson 2002). Authorities are quick to repress dissent when the state is involved in conflict, whether because the threat can be more damaging or because the regime enjoys unified support when confronting external threats (Davenport 2007*b*, Poe and Tate 1994). The degree of mobilization,as well as tactics used, increase the threat the dissent represents (Davenport 2000, Poe et al. 2000). In the end, systematic tests of the effects of "threat" on repression have been few (Poe et al. (2000) is a notable exception), and little is understood as to when a state will turn to repression in order to stave off dissent.

In the other causal direction, scholars also find repression affects dissent, though theory and empirical evidence vary as to the direction of the effect. Some scholars argue rights violations suppress dissent as intended. Repression negatively affects group resources and opportunities to dissent (Tilly 1978).[7] Others argue that repression spurs further dissent by creating new grievances to which groups react (Gurr 1970, Hibbs 1973). Some scholars have found dissent alternatively increases and decreases, adapting in response to the previous moves (Lichbach 1987, Moore 1995, 1998).

Conventional wisdom also supports the "inverted-U hypothesis" that repression and dissent have a non-linear relationship, though empirical support is unclear. States that are the most willing to violate rights ("closed" societies) rarely need to do so be-

[7] See also Muller (1985, p. 48) and Davenport (2007*b*).

Prediction		Source
Dissent leads to	increased repression	Law of Coercive Responsiveness
	varied responses	threat hypotheses
Repression leads to	increased dissent	Fransisco 1996; Gurr 1970; Hibbs 1973
	decreased dissent	Muller 1985; Tilly 1978
Response to previous moves (or reciprocity)		Lichbach 1984; Moore 1995; Moore 1998, 2000
Inverted-U relationship		Gartner & Regan 1996; Regan & Henderson 2002; Fein 1995; Muller 1985

Table 1.1: Existing Theoretical and Empirical Relationships Between Repression and Dissent

cause the state restricts the ability to dissent and establishes an expectation of severely repressive response. In other words, such states rarely see opposition, so repression rarely actualizes. "Open" societies create outlets for and even encourage dissent, which delegitimizes the use of rights violations in kind. Mixed regimes between these two poles are states in which elements of democracy are in place, such that dissidents have opportunities to dissent. However, these elements are not yet institutionalized, such that the state still has the incentives and capacity to repress opposition. According to the inverted-U or "more murder in the middle" argument, we should see the most repression in these mixed institutional contexts (Fein 1995, Gartner and Regan 1996, Gupta, Singh and Sprague 1993, Muller 1985, Regan and Henderson 2002). Stylized facts seem to support the bell-shaped relationship—rights violations are more frequent in Turkey than in either Burma or Denmark—but empirical tests have yielded mixed results (Fransisco 1996, Lee, Maline and Moore 2000, Moore 1998).

Table 1.1 summarizes the variety of findings described in this section. Scholarship has identified many relationships between human rights violations and dissent, but

without a comprehensive explanation that encompasses them. No broadly accepted extant theory can account for all of these competing and conflicting relationships. We still lack an overall picture of when and to what extent authorities violate rights.

1.5 The First Principles of Repression-Dissent Dynamics

While scholars disagree as to how repression and dissent are related, they do agree on a few principles that drive state and dissident behavior. First, the actors are in conflict over some policy or good. Second, the dispute over this policy affects the executive's hold on political power. Third, dissent affects repression, and repression affects dissent. In this section, I discuss each of these principles in turn and how they derive from scholarly knowledge of rights violations.

Scholars contend authorities repress and groups dissent as an extension of a disagreement over some good or policy. The government sets a policy (or an allocation of goods) within a policy space. The chosen policy may be closer to the government's ideal point (Chechnya as a part of and governed by Russia) or the opposition's ideal point (Chechnya as an independent state).[8] Groups dissent in order to influence the policy outcome; dissent imposes resource and legitimacy costs on the government, and groups hope authorities will accommodate their demands to avoid incurring these

[8]States and groups can disagree over a wide variety of policies, whether of rights violations, as when Palestinians attack Israeli property to protest the restriction of their movement in Gaza, or some other type of policy, as when US groups demonstrated against the second US war in Iraq. There may be opposition to an allocation of goods, as when groups disagree over territory (Chechens fighting for independence from Russia) or a distribution of resources (Burmese monks protesting economic disparity). It could also be a package of policies; South African groups protested against not just a single policy of oppression but the entire system of apartheid. In any case, a group dissents to change the policy and state authorities repress to defend it.

costs. Leaders can either accommodate the group, offering a policy closer to its ideal point, or repress the dissent and maintain the state's preferred policy status quo.

The disagreement over policy is an important foundation for any theory of rights violations because it is a catalyst for dissent and repression. Groups and states do not simply fight; repression and dissent are not inherent. They are in a dispute *over something*—otherwise there would be no conflict. Relative deprivation studies argue groups rebel when there is a difference between what they expect from the state and what they receive (e.g., Gurr 1970), but they will not do so otherwise. Moore (2000, pp. 112-114) argues a leader will set a policy as a function of his expectations of repression and dissent in order to minimize the possibility and potential costs of conflict with a group. Cetinyan (2002) includes a policy stage in his model and argues the ability to reach an agreement at the outset makes domestic conflict less likely to occur. All in all, scholars contend that the ability (or inability) to agree on a policy or allocation affects the likelihood of repression and dissent, but we do not yet fully understand how.

In addition to policy outcomes, the consequences of the dispute over policy are connected to regime survival. Holding political office yields significant benefits to government officials, such as influence over policy decisions and the distribution of rents to one's advantage (Bueno de Mesquita et al. 2003). Dissent constitutes a threat to the executive's hold on power and its attendant benefits. It destabilizes governmental control over policy outcomes and threatens his legitimacy to rule. Winning coalitions, or those people whose support is necessary for the executive to remain in power, prefer leaders who can control resources and policy allocation in their favor. If members

of the coalition come to believe the executive cannot control policy outcomes or effectively rule the population, they may be less likely to support his position in office, shifting to support a challenger.[9] Therefore, leaders repress to control dissent and policy outcomes in order to please the winning coalition and remain in power. In sum, opposition groups often dissent in order to weaken the tenure of leaders of whom they do not approve, and leaders repress in order to subjugate destabilizing dissent.

However, leaders do not repress *all* threats to their tenure, because repression may not always be advantageous. Many scholars contend executives who can be easily replaced through competitive elections will be less likely to repress, arguing populations will replace leaders who violate rights (e.g., Davenport 2007*b*, Fein 1995, Poe and Tate 1994). In addition, Shellman (2006) finds state authorities will adapt their repression strategy, sometimes lowering repression levels or accommodating demands, in order to balance the necessity to control the situation against the costs expended doing so. In this way, leaders maximize the probability they will remain in power. In sum, executives do not always repress to extend their tenure, and sometimes accommodate in order to preserve themselves in office. The linkage between rights violations and executive tenure may not be as straightforward as most scholars assume, and this linkage should be explored further.

Finally, dissent leads to repression, and repression influences dissent. As established in the previous section, scholars have posited theories as to repression's effect on dissent and dissent's effect on repression, with empirical evidence to support each direction. As Poe et al. (2000, p. 30) write, "...repression and dissent are inextricably

[9] The behavior of winning coalitions is discussed at length by Bueno de Mesquita et al. (2003).

linked; it would be impossible to fully understand the impact of threat on repression without also considering the question, 'what is the impact of repression on threat?'" In short, each actor's decision affects what the other chooses to do. If this is true, both state authorities and dissident groups are strategic in their decision-making. A strategic actor makes a decision based on what she expects her opponent to do with the understanding her decision may affect her opponent's choice as well (Morton 1999, p. 77). As an example, Moore (1995, p. 140) describes the conflict between African dissidents and Rhodesians during the "Rhodesian Problem" as interdependent: "As the Zimbabwe nationalists are concerned with Rhodesia's behavior toward them, Rhodesia is concerned with the nationalist's behavior when formulating its behavior toward the nationalists."

Despite the strategic nature of this relationship, most theories of repression and/or dissent are decision-theoretic in nature.[10] Decision-theoretic models consider the implications on predictable behavior when one actor makes decisions and the other's actions are held constant (Tsebelis 1989), as when a researcher is concerned only with dissent and how it changes in the context of repression, or vice versa. Such theories do not account for the interdependence of decisions, or strategic decision-making. Using

[10] A few scholars have looked at repression and dissent as a strategic process. Moore (1995) argues state authorities and dissident groups respond to one another's actions and anticipate future responses, just as states do in international conflict. He finds support for this claim in a statistical study of repression and dissent behavior in Rhodesia from 1957 to 1979. Shellman (2006) recognizes the strategic nature of repression and dissent in his theory of leaders attempting to remain in power over both the state and the dissident group. However, in this particular work he derives his hypotheses from scenarios in which one actor's move is held constant. Cetinyan (2002) uses a game theoretic model to examine the interaction between a dissident group, the state, and a potential intervener on the group's behalf, but his focus is on the effects of intervention on the other actors' behavior, rather than on how dissent affects repression and vice versa. Though these scholars agree repression and dissent are a process of causal interdependence, there is room for many more strategic assessments of these behaviors.

decision-theoretic approaches when behavior is actually strategic commonly leads to incorrect conclusions.[11] Theories that treat either repression or dissent as decisions that are given miss the strategic aspect of this interdependent relationship that scholars recognize to exist, an omission that is likely to lead to inconsistent predictions at best, as seen in the existing body of scholarship.

1.6 A Baseline Model of Interdependent Decisions

As discussed above, research that has looked directly at these three underlying principles indicates they have important implications for the prediction of rights violations. First, the policy-setting stage is a critical part of the entire conflict process. The ability to reach an agreement makes dissent and repression less likely. If authorities and dissidents have foresight, they should be able to avoid a conflict entirely, or even enter it when it is likely to be advantageous. Second, authorities wanting to protect their hold on power sometimes violate rights to do so, but not under all conditions. Strategic actors should be able to predict when a leader will be more accommodating to opposition, or when he may be free to repress as he desires. Finally, modeling repression and dissent as interrelated and strategic is likely to lead to different predictions of repression and dissent than decision-theoretic models.

Nevertheless, social scientists are not modeling these tenets simultaneously and thus not deriving predictions consistent with all three principles. Cetinyan (2002), for

[11] Tsebelis (1989) refers to this problem as the Robinson Crusoe fallacy. Crusoe acted as if he were the only person on the island until he realized there were others and began to act in anticipation of their behavior.

instance, includes a policy allocation in a strategic model, but this is a model of dissent without explicit implications for rights violations, and it does not model the desire for the executive to retain power. Shellman (2006) models repression and dissent in the effort to extend the leader's tenure, but he leaves out the disagreement over policy, which leads to the dispute in the first place.

In this project, I develop a theoretical model of policy allocation in the shadow of potential conflict and its consequences for executive political survival. I endogenize the central choices of any rights violation: the choices over a policy-setting stage and the dispute involving repression and dissent. It is a strategic model in which the executive's choice of repression is dependent upon the group's choice of dissent, the group's choice is dependent upon on the executive's choice, and both actors' decisions affect the outcomes of policy allocation and executive reappointment. I seek to answer several questions with this theory:

- On which policies will authorities and groups agree? When will a policy allocation lead to conflict?
- Under what conditions is dissent likely be destabilizing to an incumbent? When will an executive repress to retain office, and when will he accommodate instead?
- How are repression and dissent related? Under what conditions is repression likely to suppress dissent? Is it possible for opposition groups to decrease rights violations using dissent?

The formal model I develop accounts for many of the conflicting relationships found

in the literature. An executive will repress less when the marginal cost of expending the resources to do so is high, and the group will similarly dissent less when the action is marginally costly. However, the executive will take advantage of the group if he expects his own costs to be low and the group's marginal costs to be high. The combination of these findings predict several of the linear relationships found in extant literature. The actors make decisions not only within the constraints of resource and opportunity costs, but they also act in strategic anticipation of their opponent's decisions. As such, the competing findings of the extant literature are not in conflict with one another, but compliment one another, and we can determine the conditions under which we should observe each directional relationship.

The theory also yields novel predictions, particularly over the dissident group's strategic choices. For instance, the model results indicate situations in which repression decreases even as dissent increases, a relationship unexamined in the literature (see Davenport 2007*a*, p. 9). Dissident groups will use higher levels of dissent when the executive is forced to keep his costs low in order to remain in office. In addition, I predict a novel relationship between dissent and the executive's position in office. As widely suggested in the literature, as the executive has a stronger hold on power, the executive will use more severe levels of repression. However, since scholars tend not to examine the relationship between dissent and these variables of office, we do not know much about what to expect with respect to dissent. Surprisingly, the model results imply the dissident group should also use higher levels of dissent as the executive becomes more stable in office. This is because once the group decides it is worth it to be involved in

conflict, it must use high levels of dissent in order to have a chance at success. Therefore, though groups will be less likely to dissent against a leader it expects to use a high level of repression, groups engaged in conflict against such leaders will use high levels of dissent.

Finally, the theory implies that state authorities and groups use different decisional processes when deciding *when* to repress and dissent and *how severe* those actions will be. This is true despite determining the optimal choice based on the same independent variables, namely the probability of executive political survival and the efficiency the actors repress and dissent, for both processes. In short, there is an important theoretical difference between the *likelihood* of repression or dissent and the *levels* of these behaviors that has not previously been explored. In a given context, a state authority will use higher levels of repression, but will be more likely to accommodate the group rather than enter the conflict in the first place. Potential dissident groups make a similar decision calculus. This implication not only accounts for some of the conflicts in extant literature but also suggests scholars should reconsider the way in which we approach studies of repression.

1.7 Examining Institutions and Rights Violations

In general, dissent will not curb repression. Under the baseline equilibrium behavior, we only observe decreasing repression in the presence of increasing dissent when the marginal costs of repression are very high or the executive has a very low probability of political survival. In short, under a broad range of conditions, we observe non-trivial

amounts of repression. So what can reduce human rights violations?

Studies connecting judicial institutions to human rights have generally analyzed the conditions under which these institutions constrain or prevent rights violations. Courts are designed to identify when the state has violated standards the state has agreed to uphold, whether that be a domestic bill of rights or agreement to protect citizens or an international human rights treaty obligation. Most scholars believe sufficiently independent institutions enable courts to rule against powerful executives freely and thereby increase the executive's costs for violating rights (Apodaca 2004, Blasi and Cingranelli 1996, Cross 1999). Keith (2002) finds adoption of *de jure* provisions protecting court autonomy leads to an improvement in state human rights records. Though *de jure* independence does not generally mean courts are able to rule against the government in practice, Howard and Carey (2004) find that domestic judiciaries that are *de facto* independent foster better rights records in their societies.

However, we observe cases in which independent courts do not rule to protect rights and other cases in which manipulable or vulnerable courts do manage to successfully curb executive violations. The Chilean judiciary upheld rights violations more often than it ruled against them during the Pinochet years, despite the fact that it was well-insulated from government manipulation of advancement, salary, etc. (Hilbink 2007). In contrast, the Argentine courts have protected rights in rulings against state authorities, even though judges are very easily and often removed from their positions of power (Helmke 2005).

So when can courts constrain repression? To answer this question in light of this

empirical puzzle, I unpack two ideas that are usually conflated in studies of courts and human rights. I differentiate between how much the court is punished for opposing the executive (autonomy, related to the traditional idea of independence) and the extent to which noncompliance with the court's decision meets with punishment (power). In doing so, I derive implications that autonomy is neither necessary nor sufficient to curb human rights violations. Non-independent domestic courts can still constrain executive behavior when they have expectations of external enforcement.[12]

I argue courts attempt to constrain government behavior in the context of repression and dissent as a conflict process. In other words, courts are added to the baseline model, and as such, court actions affect the overall process. Judiciaries thus affect the onset and level of repression differently, decreasing the likelihood of onset but increasing the severity of observed rights violations. Finally, courts affect repression *and dissent*, which influences the authorities' choices throughout the process. Even powerful courts will be less effective when conflict conditions with the dissident group necessitate repression. If the executive expects to face high levels or frequent instances of dissent, whether because he has a strong hold on power or the group dissents with great efficiency, these threats will induce him to repress (and to use high levels) in spite of the court's imposed costs. The court would have to be extremely powerful and be able to impose significant costs through an external source of enforcement in order to constrain behavior under conditions so otherwise amenable to repression.

[12]Though courts cannot enforce their own rulings, they rely on others to do so. The enforcers may be a military, an elite group, the population at large, etc. This is discussed at length in Chapter 4.

1.8 Plan of the Dissertation

In the following chapter, I present the formal baseline model of endogenous repression and dissent. I discuss how the structure of the model derives explicitly from the three core assumptions I have presented here. I then present the equilibrium behavior of the model and discuss the empirical implications for repression and dissent.

Chapter 3 begins with a review of the testable hypotheses based on the baseline theory and an intuitive discussion as to how an analysis based on the model's theoretical tenets should proceed. I test the hypotheses using international event data to develop a dataset of repressive and dissent events for all states from 1990 to 2004, aggregated at the state-year unit of observation. I code the events according to the Taylor et al. (1999) Conflict-Cooperation Scale, which is an index of intrastate conflict behavior designed to code how coercive, disruptive, and violent events are. In this way, I am able to assess both levels and likelihood of rights violations and dissent. Using observable independent variables in line with the exogenous conditions proposed in Chapter 2, I assess the likelihood that the baseline model is representative of the true data-generating process that is the conflict process of repression. I find evidence consistent with the baseline model's core implication that the process by which the onset of repression and dissent is determined differs from that which determines its severity.

Once the central dynamic relationship between repression and dissent is established both theoretically and empirically, I extend the baseline model in Chapter 4 to assess the conditions under which a court can effectively constrain violations of human rights. Considering the role of a court in the context of the repressive process

enables us to consider how the process does or does not change in the presence of a potentially constraining institution. I argue a court will only rule against the executive when it expects some sort of external enforcement of that ruling. In addition, this action is less likely to constrain the executive in practice when the environmental conditions are such that repression will be an effective tactic for the state in yielding the leader's preferred policy and tenure.

I evaluate the implications of this model in Chapter 5. I extend the baseline dataset to include data on the autonomy and power of domestic courts and test the hypotheses derived from the extended model. I find support for the disaggregation of the concept of judicial independence into autonomy and power, as well as evidence that the court affects the onset and level of repression in opposing directions. Finally, I discuss the contributions of this project, the mysteries it fails to solve, and the new questions it raises in the concluding chapter.

Chapter 2

Baseline Model: Strategic Repression and Dissent

In this chapter, I present the baseline theoretical model of repression and dissent and its implications in order to determine how and under what conditions repression occurs. The theory is based on the assumptions that (1) rights violations and dissent are part of a bargaining process over some policy or good, (2) the consequences of the dispute affect the executive's probability of political survival, and (3) repression and dissent are interrelated. It takes the form of a take-it-or-leave it bargaining game in which two actors, the executive and a dissident group, are in a dispute over the division of some good, the outcome of which has consequences for executive political survival.

In the following sections, I outline the specification of the formal model, describing how the model structure is informed by the central principles on which scholars generally agree. After this, I present the equilibrium behavior, followed by a more intuitive

discussion of the implications derived from a model based on these ideas.

2.1 The Strategic Setting

The assumptions outlined in the previous chapter lend themselves to structural tenets of a game theoretic model. In this way, I can derive predictions over repression and dissent directly from these precepts.

Assumption 2.1. *State authorities and dissident groups disagree over some allocation of a good or policy.*

The repression-dissent conflict is an extension of bargaining over a good or policy. Much like bargaining models of international war, the state sets the policy (or makes an offer) at the outset of the game and the group either accepts that policy, ending the game, or rejects it, leading to a costly conflict (which in this case involves repression and dissent). As such, the status quo is peace, which is disturbed if a group does not agree with the state or the state is concerned about future threats from a group based on the policy position.[1] This structure allows me to examine the activation or onset of the conflict as a result of the disagreement. Put differently, my theory will not be limited to interactions that have already begun but will be able to speak to repression or dissent that is likely to begin. From a bargaining model with a policy-setting stage, I can derive implications predicting levels of rights violations and dissent as well as the

[1] I refer to the status quo as peace for the sake of clarity, but this is unrealistic in empirical terms. Each state has an equilibrium state of rights violations at which it exists. This model captures the decision to enter into any new act of violence or dissent. As such, it captures the choice to enter in any new equilibrium state from an existing one.

likelihood these behaviors occur in the first place.

Assumption 2.2. *The consequences of the dispute over policy are connected to executive political survival.*

State authorities care about protecting their tenure from threats to the status quo, and dissent over policy can threaten that tenure. This implies that both actors have preferences over the reassignment of political office, and that the consequences of the policy allocation affect this reassignment. The leader's winning coalition has a policy preference, which the leader cannot meet when the group dissents and imposes costs he must consider in the policy-setting stage. The coalition does not approve when the executive loses ground, policy, or goods to a dissident group that could otherwise be allocated among its members, and it are less likely to support leaders who do so. Consequently, the executive's probability of political survival decreases if he loses ground to the group in a dispute or accommodates the group's demands in the bargaining stage. Both repression and dissent affect how much of the policy or good allocation is conceded to the group, and thus they affect the tenure outcome controlled by the winning coalition. In this way (specified formally below), I explicitly model Assumption 2.2 such that authorities desire to protect their tenure and dissent threatens it.

Assumption 2.3. *Repression and dissent are causally interrelated.*

I use a model of simultaneous decision-making to represent repression as a function of dissent and vice versa. In simultaneous decision-making, each actor does not know the contemporaneous actions of the opponent, which is a structure that replicates the strategic anticipation state authorities and dissident groups undertake when

deciding when and how much to repress and dissent. In this way, the predictions are not derived as if one player's actions were exogenous. The structure also eliminates a first-mover benefit. If the model were a sequence of moves, the first-mover would have the advantage of setting the conditions that bind the second mover.[2] If state authorities and dissident groups are strategic, such that each makes its decision expecting the other to anticipate his decision, and they act in a setting of continuous repression and dissent across time, a first-mover benefit would introduce advantage where there is none in reality. This is in addition to the difficulty of deciding "which came first," or causal ordering.[3]

The interdependence of the repression and dissent decisions is modeled explicitly in the probability of "winning" the dispute. Rights violations impede a group's will or capacity to actively oppose the state's policies, making it increasingly difficult to continue fighting. On the other hand, dissent damages state resources and challenges the regime's legitimacy, negatively effecting its capacity to maintain itself. Put differently, an executive must anticipate how much the group will dissent in order to estimate his own chances of success, as must the group anticipate repression to estimate its chances. In this way, the state's utility equation for repression includes the amount of dissent, and the group's utility equation for dissent includes the amount of repression.

Finally, I assume repression and dissent are costly behaviors, in that they require

[2] As seen in standard Rubenstein bargaining models, particularly as the actors prefer to settle quickly (Kreps 1990, 557-560).

[3] I did solve this model sequentially, solving first for the state's ideal level of repression, substituting that into the group's function for dissent, maximizing the function with respect to dissent, and then resolving for the ideal level of repression. This method does not alter the equilibrium relationships of the model.

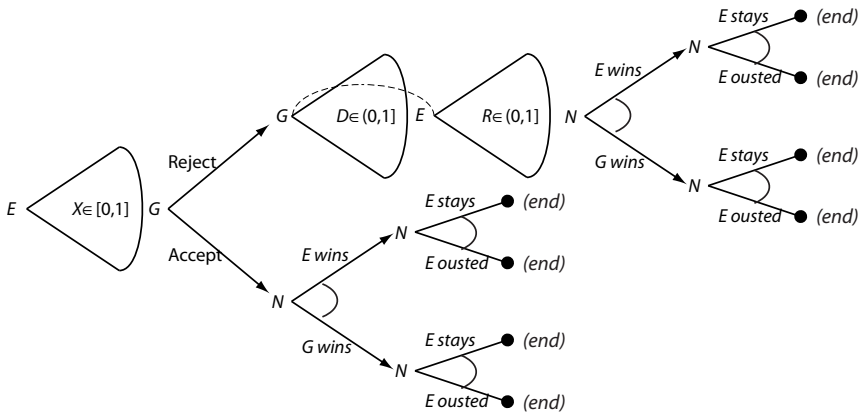


Figure 2.1: A representation of the repression/dissent baseline model

resources from a limited pool in order to enact them. Based on these elements, I specify the following game theoretic model.

2.2 The Model

Figure 2.1 represents the sequence of the baseline model. The executive offers the citizenry some distribution of the disputed policy or good, $x \in [0,1]$. A group can either accept the offer as is, ending the game, or reject it. Should it reject the offer, the group and the executive simultaneously choose levels of dissent, $d \in [0,1]$, and repression, $r \in [0,1]$, after which the policy and tenure outcomes are determined, and the game ends. At any end node, the executive retains power probabilistically, depending on the policy outcome of the dispute.

The actors disagree over the allocation of some policy or good (Assumption 2.1). The executive makes the group an offer of $x \in [0,1]$, which represents a policy position or a division of some good, and keeps the remainder, $1-x$, for himself or the state.[4]

[4]He typically gains the utility on the behalf of the state rather than himself. For instance, if the good is

Each actor would prefer to receive as much as possible; the incumbent most prefers to offer $x = 0$, keeping 1 for himself, and the group most prefers to receive $x = 1$.[5] If the group accepts the offer, the game ends and the good is divided or the policy is set as proposed. If the group rejects the offer and the actors enter dispute, the winner of the dispute receives the entire good and the loser receives nothing.[6]

The actors are also concerned with the reassignment of the benefits of power at the end of the game (Assumption 2.2). Holding political power brings with it certain benefits, such as control over policies or the rents available to the office. The executive wants to retain office and receives 1 if he remains in power after the appointment stage. In contrast, the group, not being in power, would like access to the political control or the rents therefrom. When the incumbent's tenure ends as a result of the group's involvement in a dispute, the group receives benefits from the new coalition or leader in power. However, the group cannot receive the benefits of turnover if it does not dissent. Dissent imposes costs that weaken the leader's control over policy (discussed below). In doing so, a group demonstrates its willingness and capacity to damage the leader's position, and should another leader take office as a result of the group's dissent, she may grant the group benefits (1) in order to placate them. Finally, while the incumbent

a piece of territory, the remaining territory does not belong to the executive but to the state—though he gains the utility of power or positive support for keeping it from the group. However, he can also retain explicit rents from his portion of the bargain.

[5]This specification does not build in a preference on any side for "fairness." The group from the population prefers an equal distribution as compared to a lesser slice of the pie, but all actors would prefer to receive all of the stakes of the dispute, *ceteris paribus*.

[6]It is true that a dispute between any two opponents does not necessarily end with the entire stakes shifting in the victor's favor. It could end with a change in policy, a shift in policy of varying size, or retention of the status quo. All that is required for the model dynamics to hold is for victory to yield a greater utility than and loss to be worse than accepting the bargain at the outset. For tractability, I normalized these quantities to 1 and 0.

receives the benefits of office if she remains in place after a bargain, the group cannot receive benefits if she loses the position without the occurrence of dissent.

The reassignment of power and its associated benefits is a function of how much policy ground the executive concedes to the group during the interaction. The executive's winning coalition[7] prefers to retain an executive who maximizes the resources of the state (and thus available to be distributed among them) in the course of a dispute.[8] In this way, the policy outcome (the final distribution over the disputed good as a result of the conflict) influences the probability of executive political survival. A leader who wins the dispute, receiving the ideal policy or division on behalf of the state, faces an unmodified probability of political survival, p, which is the highest survival probability for a given leader. A leader who bargains faces a lower probability of political survival as a function of the amount offered to the group, $\frac{p}{1+x}$. Finally, a defeated ruler who loses the entire policy faces the lowest survival probability, $\frac{p}{1+x} = \frac{p}{2}$.

If the group rejects the executive's offer, the actors enter a costly dispute in which the group chooses a level of dissent and the executive chooses a level of repression (Assumption 2.3). The *level* represents a level of coercion, disruption, and/or violence connected with the repressive or dissenting actions chosen. The actors' choices are made simultaneously, such that neither actor knows the opponent's contemporaneous level of rights violation or dissent with certainty. The level chosen affects the actors' costs incurred in the course of the dispute as well as the probability the policy outcome

[7] A winning coalition is the group of people whose support is necessary to maintain a leader in office (Bueno de Mesquita et al. 2003).

[8] Alternatively, the coalition can prefer the rents made available to them by winning the dispute. Either conceptualization fits this specification.

will end in their favor.

The probability the executive is successful in the dispute (and by extension, the group is unsuccessful) is a function of the levels of repression and dissent. The executive "wins" and receives his preferred policy and reappointment outcomes ($x = 0$ and p, respectively) with probability $1-\frac{1}{1+\frac{r}{d}}$, which increases in repression and decreases in dissent. Dissent damages state resources, threatens stability, and challenges the executive's legitimacy to rule, all of which make the executive less likely to receive the policy outcome or division he prefers. On the other hand, rights violations damage group resources and make current and potential group members fearful of participation, which make the executive more likely to receive the policy outcome he prefers. The reverse logic applies to the group, which receives its preferred outcomes ($x = 1$ and $\frac{p}{2}$) with probability $\frac{1}{1+\frac{r}{d}}$, a probability increasing in dissent and decreasing in repression.

Finally, repression and dissent entail resource costs. The costs of dissent are specified in the term $\frac{-d}{k}$. These are the costs of dissenting, such as resources of money, time, skills, and effort. The resource costs increase with the level of dissent chosen, d, and the parameter k characterizes the efficiency with which the group dissents. The same act of dissent (such as a peaceful march) may be more costly for one group than another. The marginal costs may increase if a group is particularly vulnerable for one reason or another, has difficulty organizing or solving collective action problems,[9] or has a very limited pool of resources, for instance. As such, we can think of the group's efficiency (k) as its capacity to absorb the costs of a given level of dissent (d).

[9]The group must have already solved its collective action problems in order to make the dissent decisions specified in this model. However, the marginal cost term can capture the costliness of the barriers to collective action.

The executive similarly incurs resource costs by violating rights. Repression requires resources in personnel and equipment. Additionally, there are opportunity costs in that authorities use limited state resources in this manner instead of for some other necessary action. As repression becomes more widespread, coercive, and/or violent (level r increases), it requires more resources. It also can be more or less costly to use a level of repression as the state's efficiency (c) varies. It may be marginally more costly for Italy to torture dissidents than Tunisia, for instance, whether because of its vulnerability to international sanctions or its lack of capacity to do as it pleases without significant hurdles. Thus, as for groups, the state's efficiency (c) in this project refers to its capacity to absorb the costs of a given level of repression (r).

Though the dispute has the potential to yield the actors' most preferred outcomes, it also entails potentially high resource costs that limit the actors' willingness or capacity to fight. The executive represses in an attempt to win the dispute, yielding the policy he prefers and a higher probability of political survival. The group also dissents to win, hoping to receive its preferred policy and an increased probability the executive will be replaced. However, the dispute is a costly one, made more costly as conflict behaviors reach higher levels or marginal costs increase. Under some conditions, one or both actors may prefer to avoid the dispute entirely by striking a bargain at the outset and circumventing repression or dissent.

For future reference, Table 2.1 lists the notation for and definitions of the parameters and variables of this model.

Table 2.1: Table of Notation

x	offer to dissident group
d	level of dissent
r	level of repression
c	state's repression efficiency
k	group's dissent efficiency
p	probability of executive survival

2.3 Utility Functions

Each actor prefers to receive as much of the good as possible without expending too many resources in the act of dissent or repression. The executive desires to remain in office at the lowest possible resource cost, while the group prefers his removal. The game involves two decisions for each actor: (1) the allocation of policy and the acceptance or rejection thereof, and (2) how much to repress or dissent in the process of dispute.

The group can accept the certainty of a division of the good at the outset or dissent, which offers the potential to win or lose the entire good and potentially receive the benefits of turnover, all at a certain cost. If it enters a dispute, it must choose a level of dissent. As this level increases, the group improves its probability of receiving the entire stakes, but at an ever-increasing resource cost. The dissident group's utility function is as follows:

$$U_G = \begin{cases} x & \text{if G accepts} \\ -\frac{d}{k} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[p \times 0 + (1-p) \times 1\right] + \left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2} \times 0 + \left(1 - \frac{p}{2}\right) \times 1\right] & \text{if G rejects} \end{cases}$$

The executive violates rights to improve his odds of winning a higher probability of

retaining office and his preferred policy, though repression entails resource costs. He makes the initial offer and decides how much to repress if the group rejects the offer. As is the case for the dissident group, the amount of repression he chooses involves a resource cost while improving the probability he receives his preferred outcome—a higher probability of political survival than if he were to lose the entire disputed good. However, if he believes entering the dispute will prove to be too costly, he can make an offer the group will accept at the outset. The executive's utility function is as follows:

$$U_E = \begin{cases} \frac{p}{1+x} \times 1 + \left(1 - \frac{p}{1+x}\right) \times 0 & \text{if G accepts} \\ -\frac{r}{c} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[p \times 1 + (1-p) \times 0\right] + \left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2} \times 1 + \left(1 - \frac{p}{2}\right) \times 0\right] & \text{if G rejects} \end{cases}$$

2.4 Equilibrium Behavior

The game has a unique pure strategy Subgame Perfect Equilibrium, such that there is a unique equilibrium outcome for any combination of parameter values. In this section I present a formal statement of the equilibrium behavior and describe its intuition. I discuss the empirical implications of the results in the next section. Proofs can be found in Appendix A.

Proposition 2.1. *The following strategies constitute the Subgame Perfect Equilibrium:*

$$
\begin{cases}
\textit{Group} \begin{cases} \textit{accept when } x \geq x_G, \textit{ where } x_G \equiv \frac{8c-8cp+kp}{8c}; \\ \quad \textit{reject otherwise} \\ d^* = \frac{k^2 p}{8c} \end{cases} \\
\textit{Executive} \begin{cases} \textit{bargain when } \frac{k}{8} \leq c \leq \frac{k}{2} \textit{ OR} \\ \quad c > \frac{k}{2} \textit{ and } \frac{16c(-2c+k)^2}{64c^3-40c^2k+12ck^2-k^3} < p < 1; \\ \quad \textit{no bargain otherwise} \\ r^* = \frac{2ckp-k^2p}{8c} \end{cases}
\end{cases}
$$

For any set of parameter values, the game ends in one of two possible equilibrium outcomes: the players reach a bargain or they enter a conflict of repression and dissent.

In the bargaining outcome, the Executive offers the minimum bargain the Group will accept, avoiding repression entirely. The Group will accept any offer greater than its reservation value, which equals its utility of entering the dispute, defined as

$$x_G \equiv \frac{8c - 8cp + kp}{8c}$$

At this reservation value, the Group is indifferent between the bargain and the conflict, and any offer more generous than this is more advantageous than entering the conflict with its attendant resource loss. If the Group is efficient in its use of dissent, the Executive is inefficient, or the probability of turnover is fairly high, the conflict yields higher

utility, driving the reservation value above 1 and inducing the Group to reject any bargain the Executive might offer. Otherwise, it will prefer to avoid the costs and bargain. The Executive has no incentive to offer the group any more than the minimum it will accept. He will, however, offer the Group's reservation value and therefore reach a bargain when he expects the conflict to be less beneficial than any bargain would be, as when he faces a high probability of losing power or is relatively inefficient in his use of repression.

In the conflict outcome, the Group rejects the Executive's offer and both players choose a severity of conflict that balances the potential for success against the resources required to win. Either the Executive or the Group (or both) determines that the conflict can yield a higher payoff than any possible bargain. If he wins the dispute and receives his preferred policy, the Executive can improve his chances of remaining in political power and retaining its benefits. As such, the Executive attempts to maximize his probability of success $\left(1-\frac{1}{1+\frac{r}{d}}\right)$ by choosing a higher level of repression. On the other hand, the resource costs of violating rights increase with the conflict level chosen, and it becomes even more costly when he is less efficient. In balancing these tradeoffs (as well as in consideration of the variables that inform the Group's level of dissent), the Executive chooses his optimal level of repression,

$$r^* = \frac{2ckp - k^2p}{8c}$$

which is a positive quantity as long as $k < 2c$.[10] Similarly, the equilibrium level of dis-

[10] If $k > 2c$, the Executive is still drawn into conflict but chooses not to repress ($r^* = 0$).

sent, d^*, is a function of both the Group's efficiency and expected utility from power reassignment, as well as the Executive's efficiency:

$$d^* = \frac{k^2 p}{8c}$$

2.5 Implications for Repression and Dissent

If this theory accurately represents the decision-making processes of states and groups, what behaviors should we observe? Repression and dissent are endogenous variables, so it is difficult to take traditional comparative statics over one to see the effects of the other. Instead, I examine the implications of the actors' respective efficiencies and the probability of political survival on the levels repression and dissent, as well as how changes in these exogenous parameters affect the likelihood that the game ends in either the bargaining outcome or the conflict outcome. In this section, I employ comparative statics analysis to derive testable implications from the theory. In doing so, I can address the questions posited in the first chapter. Proofs of the comparative statics can be found in Appendix A.

2.5.1 Repression, Dissent, and Political Survival

Recall that the executive can improve his chances of retaining office by increasing the coerciveness or violence of his action ($1 - \frac{1}{1+\frac{r}{d}}$), because winning his preferred division of the disputed good yields a higher survival probability (p versus $\frac{p}{2}$). However, choosing a higher level of repression means expending resources that he could use

elsewhere. When the probability of political survival (p) is high, the executive can lose these resources and still satisfy his winning coalition, so he is able to risk more resource loss in the repression level he chooses in the effort to win the policy. Consequently, an executive repress severely to protect his position of power precisely under the conditions when it is least necessary, or when the probability of political survival is high, and he will repress less when his position is vulnerable and turnover more likely.

Implication 2.1. *The level of repression (r^*) increases as the probability of political survival (p) increases.*

We should also observe more severe dissent when the leader is unlikely to lose office. As p increases, the group knows it is increasingly likely to see the incumbent reappointed, *ceteris paribus*. Per Implication 2.1, groups also expect that the leader will be free to repress at high levels. To win its preferred policy and a chance at future spoils of power, the group has to dissent at a severity that competes with the state's severe repression. Once embroiled in a conflict (which is rare, see Section 2.5.2), the only chance that the group will succeed against high levels of repression is to dissent as severely as possible.

Implication 2.2. *The level of dissent (d^*) increases as the probability of political survival (p) increases.*

Implication 2.1 is a relatively unsurprising result when considered in the context of extant scholarship. The result suggests state leaders with the highest survival rates will use the highest levels of repression, as compared to state leaders with a weaker hold

on political office. Autocrats, for instance, are the least likely to lose office of all of the standard regime type categories (Chiozza and Goemans 2004, p. 614), and autocrats or dictators are well-known for human rights violations (Hathaway 2002, Vreeland 2008) while democratic governments use the lowest levels of repression (Davenport 2007*b*, Henderson 1991, Poe and Tate 1994, von Stein 2006). Many scholars argue that the more an executive is bound to the population for his position, whether by democratic institutions or elections, the less likely he is to violate rights (Davenport 2007*b*, Davenport and Armstrong 2004, Helmke 2005, Poe and Tate 1994). However, many of these theories are based on the assumption that the constraining actors prefer rights to be protected, which may or may not be the case. Majorities are notorious for being unconcerned with the rights of minority groups, and institutions have varied preferences. I make no particular assumptions about any actor's normative value for repression in and of itself; I assume only that the coalition whose support maintains the leader in power prefers that he win the dispute. Nevertheless, Implication 2.1 supports this pervasive finding of domestic democratic peace.

Surprisingly, the group also dissents at a higher level as the probability of executive survival increases, which is counterintuitive when compared to our understanding of dissident behavior in the context of regime type. Scholars have suggested that regime type has a "more murder in the middle" (or inverted-U) effect on the relationship between repression and dissent. According to this idea, regimes with a tight hold on power repress less than mixed regime types, because the population fears severe repression and *therefore dissents less* than in regimes in which they are more free to

oppose the government (Fein 1995, Regan and Henderson 2002). Implication 2.2 contradicts this face-value assertion. In order to have a chance at receiving the policy it prefers, a strategic group will use *higher levels of dissent* as the executive is increasingly stable in office in order to take the best attempt at toppling him.

This behavior was observed in Burma in 2007. Often seen as a poster case for the fact that repression is often threatened but rarely observed, the military junta (which has firmly help power for 18 years) has largely kept popular protest at bay. Nevertheless, in the fall of 2007 thousands of monks and supporters took to the streets in peaceful protest against the regime. Though the protests were non-violent, they were extremely widespread and disruptive—spanning the country, shutting down cities, and lasting for over two months. The inverted-U hypothesis would not predict such levels of dissent, but my theory, which explicitly connects political survival to the act of repression, predicts this behavior. Once the monks and their supporters decided the conflict was worth the resources to dissent, they had to choose high levels to have even a chance at receiving the economic and social policy outcome they desired.

2.5.2 Policy Dispute as a Source of Conflict

Rights violations do not occur in a vacuum; state authorities and opposition groups disagree about something, which either leads authorities to repress in anticipation of dissent or groups to turn their disagreement into actual dissent. The introduction of the policy-setting stage to a model of repression and dissent allows one to predict not only the level of repression or dissent, but also the actualization of the dispute in the

first place. In this way, I account theoretically for the difference in these two decisions. In this section, I discuss expectations as to how *likely* it is that we might observe repression and dissent as exogenous conditions shift. I do so by deriving the conditions under which the actors will be more or less willing to bargain *ex ante* versus entering a dispute involving repression and dissent.

Consider the group's decision to either accept the executive's offer or reject it and dissent. Though the group can avoid the costs of dissent by accepting an offer in the bargaining stage, it has the potential to receive more policy and power benefits than it could wrest out of a bargain if it is willing to incur the resource costs. If the position of power shifts to a new leader or coalition as a result of the group's capacity and willingness to organize and oppose state authorities, the group receives the benefits of the executive's lost political position. The less likely the group is to receive these benefits (as survival becomes more probable), the more likely the group is to accept a bargain. Further, once involved in the dispute, the group's optimal level of dissent increases as the probability of executive political survival increases. A group will dissent as much as possible in order to damage the executive's chances of reappointment and thereby win increasingly valuable benefits of office. However, the heightened level of dissent also increases the resource costs the group incurs in the process, since more coercive or violent dissent requires more resources. The group thus prefers to avoid the increased resource costs and risk of loss and instead bargains with him in the policy stage. In sum, the group is less likely to dissent against an executive that sits more securely in office.

	Group prefers Conflict		Group prefers Bargain	
p	*E* prefers Conflict	*E* prefers Bargain	*E* prefers Conflict	*E* prefers Bargain
.2	50	0	824	150
.4	50	0	824	150
.6	50	0	574	400
.8	50	0	449	525
Total	200	0	2671	1225

Table 2.2: Simulated frequency of predicted outcomes

Implication 2.3. *As the probability of executive political survival (p) increases, dissent becomes less likely.*

Interestingly, the executive also prefers to avoid conflicts as he faces an increasing probability of political survival. I ran a numerical simulation to determine the frequency with which outcomes are likely to occur as the probability of political survival increases, the results of which are presented in Table 2.2. These results suggest that the executive always enters the conflict when the group prefers to enter the conflict. Further, the executive usually prefers to bring the group into the conflict even when the group will accept some bargain, perhaps knowing it can exploit the group and receive his preferred policy. However, as the probability of political survival increases, the executive increasingly prefers the bargain outcome to the conflict outcome.

Despite the increased probability of retaining power, the fight will be a costly one. The executive will use high levels of repression (Implication 2.1), which means expended resources, and the group will use high levels of dissent (Implication 2.2). These competing actions make the probability of policy success less certain. Since he still has a high probability of political survival regardless of the policy outcome, he may prefer to have the bargain division of the policy for certain rather than risk the loss of the

policy at the high expense of lost resources. As such, an increasingly stable leader will prefer to avoid conflict with dissident groups.

Implication 2.4. *As the probability of executive political survival (p) increases, repression becomes less likely.*

This result highlights the difference between the onset of repression and dissent and the levels thereof. A leader with a high probability of political survival is less likely to engage in repression than one with a high probability of turnover, and dissent is less likely as well. However, in accordance with Implication 2.1 stable leaders should use the highest *levels* of repression. Similarly, though the group is less likely to dissent as the probability of executive survival increases, it will use a higher level of dissent if it does enter the dispute (Implication 2.2). Being less likely to win, the group seeks to avoid what will be a costly conflict, and the executive will often bargain to avoid costs as well. However, once engaged, the only way to prevent loss is to use more coercive dissent as the executive becomes more stable in power, and the executive will similarly use high levels of repression to increase his chances of winning the policy and a high probability of survival. This dynamic clarifies and extends the traditional inverted-U argument as to the relationship between repression and dissent. It is true we should expect to observe fewer instances of repression because there are fewer instances of dissent, but when we do observe these behaviors, the *levels* of both repression and dissent should be quite high. The prediction over levels conditions the predictions of that theory.

The inclusion of the motivation for dissent—the policy or allocation over which the

actors disagree—thus suggests that the decisions *to initiate* dissent and *how much* to dissent are made with different considerations given the same exogenous conditions. Players are prone to avoid disputes they expect to lose or to be quite costly. Groups will accept increasingly poor divisions of the stakes—and executives are willing to offer these acceptable bargains—in order to avoid expensive conflicts. In the context of stable benefits of office, then, we should observe high levels of conflict from both parties, but bargains that exploit the group's poor conflict position and fewer instances of repression and dissent overall.

Extant scholarship generally is not explicit as to whether an expected "increase" means one should observe more frequent or more severe rights violations. This may account in part for contradictory scholarly findings. Say, for instance, scholar A finds repression occurs less often in state X as a variable increases in value, and scholar B finds more coercive or violent repression in state X with the same increasing variable. If neither scholar's theory specifically predicts likelihood versus level and instead predicts a broad "increase" or "decrease," these results would seem to be separate and contradictory. However, if my theory is correct, these results are part of the same overall process of decision-making when it comes to rights violations.

2.5.3 Strategic Repression and Dissent

As discussed above, authorities repress and groups dissent as coercively as possible in the context of a high probability of political survival in order to make the best attempt at winning valuable policies and benefits of office. However, groups avoid disputes

they do not expect to win or they expect to be costly. Put differently, actors attempt to minimize their own loss by avoiding costly conflicts and maximizing their probability of gain once involved. However, in contrast to the predictions regarding political survival, groups and executives also try to minimize their resource losses *during* conflict when they expect their marginal costs of conflict to be high (or efficiency to be low).

State authorities and dissident groups take care to minimize the expenditure of precious resources when they are marginally costly. In choosing a level of repression or dissent, authorities and group determine how much they are willing to "spend" to win the dispute. However, the efficiency with which the players can enact these behaviors determines whether the same act may be more or less costly in a given situation. In other words, an action may be less effective in yielding preferred outcomes if the actor has to spend more to win the dispute in its use. As their efficiency increases, the actors can use higher levels of repression and dissent and expend fewer resources.

Implication 2.5. *As the executive becomes increasingly efficient (c increases), the level of repression (r^*) increases. As the group becomes increasingly efficient (k increases), the level of dissent (d^*) increases.*

However, strategic actors will make their decisions based not only on the factors that condition their own behavior but also on the factors that condition their opponent's actions. State authorities and dissident groups have ideas as to what constrains their opponent and will act accordingly in order to maximize their chances of winning at minimal costs to themselves. Groups will use higher levels of dissent against leaders whose hands are tied by their inability to bear the costs of a given act of repression.. As

noted in Implication 2.5, an inefficient leader incurs higher costs for using less severe repression and so chooses lower levels of violations. A group anticipates this and *increases* the level of dissent, taking advantage of the leader's resource-constrained state in an attempt to win its preferred policy and potentially receive the benefits of political power.

Implication 2.6. *As the executive becomes increasingly efficient (c increases), the level of dissent (d^*) decreases.*

In contrast, the executive conditions his choice of severity on the relative efficiencies between the players. As dissent becomes marginally more costly to the group, the executive anticipates higher levels of dissent, he strategically lowers the level of repression to minimize his costs if repression is cheaper to him than dissent is to the group. If dissent is cheaper for the group than repression is for the executive, he increases the level of repression as the marginal cost of dissent increases.

Implication 2.7. *As the the group becomes more efficient (k increases), the level of repression (r^*) increases when the executive is more efficient than the group ($c > k$) and decreases otherwise ($c < k$).*

The players tread carefully when deciding whether to enter the conflict based on the levels of repression and dissent they expect themselves and their opponents to choose. Groups seem to prefer to avoid conflicts in which they have to minimize the amount of dissent they use, such as when they are plagued with inefficiencies. Considering the inverse of this, as groups become more efficient in their use of dissent, they

have less to fear from the conflict. When it can use a higher level of dissent at a relatively lower cost, the dispute itself is worth more and a bargain comparatively worth less. The group can then feel free to demand more in the bargaining process. Consequently, the group's minimum acceptable offer increases and the group will accept fewer offers, making dissent more likely to occur.

Implication 2.8. *As the group becomes increasingly efficient in dissent (k increases), dissent becomes more likely.*

In other words, the likelihood of dissent and its level share the same directional prediction in terms of group efficiency, and the same is true of the group's decision with respect to state efficiency. When the group expects the executive to repress with efficiency, it uses lower levels of dissent to avoid wasting its resources (Implication 2.6). To avoid these costs entirely, it prefers to bargain. As such, as the state becomes more efficient (and thus uses a higher level of repression), the group is less likely to dissent and uses lower levels when it does so.

Implication 2.9. *As the state becomes increasingly efficient in repression (c increases), dissent becomes less likely.*

Executives also avoid conflicts in which the dissident group's efficiency limits the usefulness of repression. State authorities expect that an efficient group will use more severe dissent *ceteris paribus* than an inefficient group, making the conflict more difficult to win. As such, the executive avoids conflicts with very efficient groups and enters those with inefficient groups.

Variable	Repression Likelihood	Dissent Likelihood	Repression Level	Dissent Level
Efficiency of repression (c)	–	–	+	–
Efficiency of dissent (k)	$-$ if $k > c$; + if $k < c$	+	$-$ if $k > c$; + if $k < c$	+
Probability of political survival	–	–	+	+

Table 2.3: Baseline Theory Predictions

Implication 2.10. *As the group becomes increasingly efficient in dissent (k increases), repression becomes more likely when the executive is more efficient than the group ($c > k$) and less likely otherwise ($c < k$).*

Table 3 lists the directional predictions as to the effects of an increase in the independent variables on the likelihood and levels of repression and dissent. From these results, we can infer that players will strategically avoid conflict when they expect the opponent to repress or dissent efficiently. Repression can effectively deter dissent when the group expects the executive to repress as much as he likes. Additionally, the expectation of high levels of dissent can lead to either high or low levels of repression, depending on the relative magnitude of the actors' respective costs. In societies in which groups can easily organize and raise resources for dissent, we should observe more instances but lower levels of repression. This is quite an assertion; though dissent is always coupled with repression in my model, dissent associated with low levels of repression is generally not considered in the literature.

The implications also suggest states and dissidents will take advantage of weak opponents. This implication aligns with empirical regularities of repression and dissent, but it is novel in and of itself. An executive anticipating a group to have difficulty dis-

senting can exploit it and repress at a higher level. In other words, as observable dissent decreases or occurs less often, observable repression increases in levels. Implication 2.6 suggests dissident groups will similarly exploit executives facing high marginal costs to yield better deals. Empirically, this suggests groups may be more likely to dissent when they expect the world is watching, which increases the executive's marginal costs of repression. Transnational advocacy network theory contends states are less likely to repress as the presence of international and domestic NGOs in state increases, and that citizens become more active in pressuring the state for changes (Keck and Sikkink 1998). In other words, dissent is more common as the state becomes more constricted in its ability to easily repress. However, this relationship is not the focus of Keck and Sikkink's (1998) work, and they do not test it empirically.

The key implication of the project holds true across the independent variables: the process by which the onset of these behaviors is determined differs from that which determines its severity. Some explanatory variables, such as the efficiency with which groups dissent, affect both the likelihood and level of repression and dissent in the same direction. Others, such as the probability of executive political survival, affect the likelihood and level in opposing directions. As such, studies that do not distinguish between onset and severity cannot be certain as to which of these dependent variables they are predicting.

Literature Prediction		**Model Prediction**
Dissent	increased repression	marginally cheaper repression
	varied responses	varied marginal cost of repression to constant cost of dissent; varied relative costs of dissent and repression
Repression	increased dissent	marginally costly repression &/or cheaper dissent
	decreased dissent	marginally cheaper repression & marginally costly dissent
Inverted-U relationship		increasing levels but decreasing frequency of repression and dissent with increasing executive stability, combined with the reverse in the case of decreasing values of p, mimic the tails of the curve
Additional/Novel Results		increasing levels and frequency of *dissent* when repression is marginally costly
		$\uparrow b$ and/or p: increasing levels of dissent as office is more stable or more beneficial
		critical differences between levels and freq., esp. *wrt* p and the executive response to marginal cost of repression ($\frac{1}{c}$)

Table 2.4: Existing Relationships Between Repression and Dissent and Predictions of Strategic Model

2.6 Conclusion

I have presented a theoretic model of strategic rights violations and popular group dissent in a context of bargaining over policy with consequences for executive survival. I derive the implications of a model with these three basic assumptions for the prediction of repression and dissent. In doing so I account for most of the directional relationships found in previous studies, both linear and non-linear, in a single model.

This formal model accounts for many of the conflicting relationships found in the literature as a result of a single model. Table 2.4 compares the implications of the baseline model to the findings of the repression-dissent literature. State actors and dissi-

dent groups try to avoid resource costs, even to generosity in the bargaining stage. An executive will repress less when the marginal cost of expending the resources to do so is high, and the group will similarly dissent less when the action is marginally costly. In addition, both actors will try to avoid conflicts they expect to be costly.

However, the executive will take advantage of the group if he expects his own costs to be low and the group's marginal costs to be high. When an executive knows a group will have difficulty dissenting because the marginal cost of dissent is increasing, he may force it into dispute and violate rights in order to ensure his place in office. In addition, we should expect a group to act the same way, dissenting when repression is costly. The combination of these findings predict several of the linear relationships found in extant literature. The actors make decisions not only within the constraints of resource and opportunity costs, but they also act in strategic anticipation of their opponent's decisions. Adding this second implication suggests there are conditions under which we see each of the empirical directional relationships, accounting for the fact that we have many scholarly findings regarding the directional relationship of repression and dissent.

The theory also yields novel predictions, particularly over the dissident group's strategic choices. For instance, the model results indicate situations in which dissent increases even as repression decreases. Put differently, dissident groups will try to dissent when the executive is forced to keep his costs low, a relationship relatively unexplored in the literature (see Davenport 2007*a*, p. 9). In addition, the theory implies a novel relationship between dissent and the executive's position in office. As widely suggested

in the literature, as the executive has a stronger hold on power or as the office itself becomes more beneficial, the executive will use higher levels of repression. However, since scholars tend not to examine the relationship between dissent and these variables of office, we do not know much about what to expect with respect to dissent. Surprisingly, the model results imply the dissident group should also use higher levels of dissent as the executive becomes more stable in office. This is because once the group decides it is valuable to be involved in conflict, it must use high levels of dissent in order to have a chance at success. Therefore, though groups will be less likely to dissent against a leader it expects to use a high level of repression, groups engaged in conflict against such leaders will use high levels of dissent.

Finally, the theory predicts state authorities will make opposing decisions regarding the choice to enter conflict and how much to repress based on the same parameters, namely the leader's probability of political survival and both actors' marginal costs, as will the group when it comes to dissent. In short, there is an important theoretical difference between the *likelihood* of repression or dissent and the *levels* of these behaviors that has not previously been explored. Based on the same combination of costs and benefits, a state authority will use *higher levels* of repression, but may be more likely to *accommodate* the group rather than enter the conflict in the first place. Potential dissident groups make a similar decision calculus. This implication not only accounts for some of the conflicts in extant literature but also suggests scholars should reconsider the way in which we approach studies of repression. Not only should we consider how our predictive variables (whether attributes or institutions) affect both

processes, but we should also delve deeper into what makes one type of variable affect the processes similarly while another affects it differently. Such a study would help us to identify which attributes are likely to be straightforward rights protections and which are prone to creating moral ambiguities.

Chapter 3

Onset versus Severity: Testing the Baseline Model

In the previous chapter, I presented a theory of repression and dissent in which state authorities and citizen groups bargain over policy allocation and sometimes enter a domestic "conflict" of rights violations and dissent. I specified and solved a theoretical model consistent with the assumptions that (1) authorities and groups disagree over a policy position, (2) the policy outcome influences the authorities' probability of turnover, and (3) the anticipation of repression and dissent affects both actors in both stages.

In this chapter, I assess the validity of these theoretical claims by empirically testing the observable implications of the model. These implications inform hypotheses that can be tested empirically, which I compact into three multi-part hypotheses here.

Recall from Chapter 2 that when the group rejects the offer, both actors are drawn

into a dispute in which they must choose their respective levels of conflict. Rejection may occur because the group will not accept any bargain (since it may receive political kickbacks if the incumbent is removed) or because the executive has refused to offer its minimum acceptable bargain. The conflict may be observable as either repression or dissent, but either action is the result of the bargaining failure at the outset. Therefore, I define *conflict* as the onset of either human rights violations or dissent for the purpose of testing.

Hypothesis 3.1. *The likelihood of conflict onset (a)* ***increases*** *as groups become increasingly efficient*[1] *at dissent, (b)* ***decreases*** *as the probability of executive political survival increases, and (c)* ***decreases*** *as state authorities become increasingly efficient at repression.*

Once a group decides to dissent or authorities decide to repress in anticipation of dissent (or both), both actors choose levels of their conflictual actions. These levels are chosen (theoretically) without observing the opponent's action in order to determine what the actors would do whether they moved first or last. Thus, both actors base their decisions on the independent variables that influence their own as well as each other's decisions.

Hypothesis 3.2. *The level of dissent (a)* ***increases*** *as groups become increasingly efficient at dissent, (b)* ***increases*** *as the probability of executive political survival increases, and (c)* ***decreases*** *as state authorities become increasingly efficient at repression.*

[1]The definition of efficiency, for both groups and authorities, is discussed at length below. To summarize, groups become more "efficient" as they become increasingly cost-effective or are able to bear the costs of dissent with greater ease.

Hypothesis 3.3. *The level of repression (a)* ***decreases*** *as state authorities become increasingly efficient at repression, (b)* ***increases*** *as the probability of executive political survival increases, and (c)* ***decreases*** *as groups become increasingly efficient at dissent* when authorities are less efficient than groups *and* ***increases*** *otherwise.*

The model yields testable implications that often align with previous scholarship, suggesting the assumptions and the structure of the model are reasonable approximations of the data-generating process. It also yields novel implications, extending its analytical leverage over existing theories. We should see actors bound from entering conflict by their own inefficiencies yet encouraged by their opponent's inefficiencies. Dissent against leaders with a strong hold on office should reach higher levels than dissent against more vulnerable leaders. Most importantly, independent factors affect the *onset* and *severity* of repression and dissent differently. As state authorities become less likely to lose their position of power, repression and dissent should be more severe but less likely to occur. The hypotheses are restated in Table 3 for clarity.

Variable	Conflict Likelihood	Repression Level	Dissent Level
Efficiency of repression (c)	–	–	–
Efficiency of dissent (k)	+	$-$ if $k > c$; + if $k < c$	+
Probability of political survival	–	+	+

As with all social science theories, the predictions of a model are dependent not only on the values of the explanatory variables but also on the relational process that generated those values (King 1989, Morton 1999, Signorino 1999). Formal theoretic models afford the advantage of being extremely explicit in the relationship between

parameters and variables. To perform the most rigorous assessment possible, the theory informs all aspects of the statistical analysis, from the sample selection to the appropriate sources and coding of data to the functional form of the estimator. I discuss each of these aspects in turn.

In the following sections, I expound upon the decisions defining the statistical tests of the theory and describe and interpret the results. I first explain the choices as to the unit of observation and sample selection, data selection and coding, and the estimator for statistical analysis. I then describe and discuss the quantitative results, as well as their implications for the proposed theory. Though the estimations provide mixed support as to how the efficiencies of repression and dissent affect these behaviors, there is strong support for the novel predictions as to the probability of political survival. The data exhibit clear patterns highlighting the different data-generating processes of onset and levels of repression and dissent.

3.1 Research Design

The baseline theory models a disagreement over a policy and the conflict that arises if a bargain is not reached. The theoretical (and thus ideal) unit of analysis is the individual policy—state authorities set policies and citizens either accept them as proposed or reject them and dissent. However, the independent variables of interest—the efficiency of repression and dissent and the probability of remaining in power—are extremely difficult to quantify at the level of the individual policy decision. Policies are adopted every day and often even more frequently than that, and the independent variables

are unlikely to to exhibit observable variation at the subdaily level. Instead, I use a model at the most disaggregated temporal level to which there is data available for all variables.

The model also captures the interaction between a group and the state, suggesting the unit of analysis should be dyadic.[2] However, a dyadic test can capture only groups that already exist (i.e., are observable) and are sufficiently large and sustainable for observation. I make no theoretical assumptions about group size or sustainability. The group in question could be an ethnic group, such as the Kurds; an organized group, such as Greenpeace or union workers; or a group of many or few members that forms only in its common opposition to the particular policy and disbands after the issue is resolved. This last type suggests the group may be a "latent" group that arises from the general citizenry in an instance of a policy with which some number of citizens disagrees. I therefore treat the group as a universal "group" that could either previously exist or contemporaneously arise in order to dissent against a given policy. I measure the group's efficiency as the characteristics that would allow groups to form and/or dissent to occur rather than the efficiency of any individual group. Thus, a dyadic approach is inappropriate.

Because (a) the independent variables of interest are available only at the annual level of observation and (b) the theoretical characteristics of the "group" preclude dyadic study, the unit of observation for this study is the state-year. The theory is applicable to

[2]Dyadic tests are common in the repression-dissent nexus literature; scholars examine how each dissenting group interacts with the government, whether as a series of "moves" and "turns" or in single interactions (see, e.g., Gartner and Regan 1996, Gurr 1970, Mahoney-Norris 2000, Moore 1998, 2000, Shellman 2006).

all states, as no aspect of the structure or variables limit it in scope to a particular type or region of states. The analysis is only limited by the availability of data across the variables, which yields $N = 133$ states. The temporal scope is limited by the Integrated Data for Events Analysis (IDEA) framework, the source of repression and dissent event data. This data is available at the event (subdaily) level from January 1, 1990 to December 31, 2004, to be aggregated according to the investigator's needs—in this case annually, yielding $T = 15$ years.[3]

In the following subsections, I discuss the operationalization of the dependent and independent variables for the purposes of testing. For each variable, I discuss (1) the theoretical concept and its relevant characteristics to be operationalized, (2) the data source, and (3) the coding and interpretation of the chosen measure.

3.1.1 Operationalization

Dependent Variable(s): Repression and Dissent

Though the focus of this dissertation is on the prediction of human rights violations as the central dependent variable, I argue state authorities violate rights as a function of their expectation of dissent. The model yields predictions over the levels of both repression and dissent and their onset, thus yielding three dependent variables. Because the measures of rights violations and dissent are from the same data source and are coded similarly, I discuss their operationalization together in this subsection.

[3] Shellman (2004*b*) demonstrates that the level of aggregation of events data affects inferences and can introduce bias by obscuring dynamics at a more disaggregated level. Unfortunately, the availability of the independent variables restricts the analysis to the annual level for the time being.

While some human rights studies measure human rights violations on a scale of severity (Cingranelli and Richards 2007, Gibney and Dalton 1996) and others use counts of repressive events (Davis, Leeds and Moore 1998), such studies do not account for the theoretical difference between the decision to initiate violations and the level of those violations. I use measures of rights violations and dissent that facilitate the prediction of both the onset and the severity of these behaviors.

The Integrated Data for Events Analysis (IDEA) dataset includes over ten million events reported in over 200 countries from January 1, 1990, to December 31, 2004 (King and Lowe 2003). The Virtual Research Associates (VRA) developed a computer program to cull the lead sentences[4] of subdaily Reuters news reports and code them according to the type of event, as well as the source and target of each event. The VRA software system codes the information with higher reliability than human coders, yielding a much larger dataset than could be possible with human coders alone (King and Lowe 2003).

Consider the following example of a lead sentence and the IDEA coding scheme:[5]

> *Russian artillery*^{S} south of the Chechen capital Grozny *blasted*^{223} *Chechen positions*^{T} overnight before falling silent at dawn, witnesses said on Tuesday.

Russian artillery is coded as the source of this event and *Chechen positions* is the target. VRA categorizes these elements as either government or civilian, ethnic groups

[4] Journalists are trained to summarize the most important points of a report within the first two sentences, and these are known as the *leads* (Davis, Leeds and Moore 1998).

[5] This example is taken directly from King and Lowe (2003, 620) and is not necessarily an event included in the data used for the tests in this dissertation.

or organizations, etc. The type of event in this example (223) corresponds to "armed actions." A lead may have more than one event in it, such as when a clash between a group and state authorities involves *beating* and *riots*, for instance, and each of these events is included in the dataset individually.

From this data, I extracted all conflictual events, using the Taylor et al. (1999) Conflict-Cooperation Scale for Inter- and Intrastate Interactions as my guide. To develop this scale, Taylor et al. asked scholars of intrastate conflict to rank the IDEA event categories on scales of contention–accommodation, coercion–altruism, and physical violence and collapsed these scales into a single index of conflict and cooperation. The particular advantage of this scale is that scholars were asked to rank these events as actions in the context of *intrastate* conflict, as opposed to interactions between states. Therefore, it includes much lower levels of conflict events than the more commonly used Goldstein scales. From these rankings, Taylor et al. (1999) developed a scale that ranges from -11.033 (most conflictual) to 5.813 (most cooperative).[6]

I weighted each conflictual event[7] according to its Taylor et al. index coding. I then coded all conflict events with a government source and civilian target as repression and all conflict events with a civilian source and government target as dissent, limiting the sample to events that occur between sources and targets within the same state.

The Taylor et al. scale places conflictual events on an ordinal scale with a linear-like

[6]There are other scales of conflict levels available for use that I did not choose for various reasons. The Goldstein scale was developed for interstate conflict, which the Taylor et al. scale adapts for lower levels of intrastate conflict. The Intranational Political Interactions (IPI) Project developed a scale for intrastate conflict events (Davis, Leeds and Moore 1998), but the scale is ordinal and therefore imposes linear assumptions on data that is not so linearly related (Shellman 2004*a*). The Shellman (2004*a*) scale is more interval-like, but it is limited to only a handful of events coded by the IDEA framework.

[7]That is, each event that is relevant to intrastate conflict. I dropped any event that did not have a Taylor et al. coding, such as sporting events, health articles, natural disasters, etc.

relationship, which may not be an appropriate approximation of the actual relationship between these behaviors. While the scale was developed to assign each event a weight rather than a ranking,[8] the weights are still based on the (informed) opinions of scholars. Weights suggest a sense of equality among events that could be seen as very qualitatively different. How many instances of torture is the equivalent of one extrajudicial killing? Is a state-wide curfew the equivalent of isolated beatings? These events are difficult to compare. The scale seems increasingly ambiguous in the small differences, as it is difficult to assess qualitatively whether a beating (weighted -8.689) is more or less severe than an abduction (weighted -8.532), though this index suggests they are quantitatively different. While using such a scale ranks among the most reliable and valid ways to quantify such a concept as the severity of conflict, basing the scale on scholarly opinions introduces ambiguity to any weighting system.

In an attempt to use the most valid measure of conflict events and severity possible, I selected three dissent event forms and three repression event forms to represent the range of severity of each of these behaviors. Table 3.1 lists the selected event forms and their respective severity weights. They serve to represent a varied range of violence, coercion, and disruption. When comparing them qualitatively, one event type is clearly more severe than another.

[8]The Shellman (2004) piece criticizes ordinal rankings as being unrepresentative of the actual relationship between behaviors and develops a weighting system in the same style of Taylor et al. (1999).

Table 3.1: Event Forms Chosen for Analysis

Repression			Dissent		
Event Form	Weight	Freq	Event Form	Weight	Freq
Armed Hostilities[a]	-10.399	2542	Armed Hostilities[d]	-10.399	2024
Non-armed Physical Force against Human Targets[b]	-8.514	3210	Non-armed Physical Force against Human Targets[e]	-8.514	2497
Declare Martial Law or Curfew[c]	-5.813	2413	Non-armed Protests[f]	-5.042	2268

[a] IDEA event form armed hostilities <RAID>.
[b] IDEA event forms physical assault <PASS>, corporal punishment <CORP>, and beating <BEAT>.
[c] IDEA event form declare martial law or curfew & the imposition of similar rules <BANA>.
[d] IDEA event form armed hostilities <RAID>.
[e] IDEA event forms physical assault <PASS>, corporal punishment <CORP>, and beating <BEAT>.
[f] IDEA event forms non-military protests & sit-ins <POBS>, protest processions <PMAR>, and protests that place participants at risk <PALT>.

I aggregate these selected types of weighted events at the annual level of observation for each state. I use the mean levels of repression and dissent, which prevents a state that represses more frequently at low levels from seeming the equivalent of a state that represses rarely at high levels. Dividing the sum of levels by the number of events for the year also serves to account for the fact that the media is able to investigate and report more for some states (notably open and/or democratic states) than others. This can be particularly problematic if the very states that are either most likely to violate or use more severe violations are systematically underreported, which is generally the case. Therefore, the worst violators are least likely to appear in the dataset.[9]

Histograms describing the distribution of the severity of repression and dissent can be found in Figure 3.1. These histograms include the values of all instances of repression or dissent given that either dissent or repression has occurred. In other words,

[9] I also accounted for this problem by dividing the levels of repression and dissent by the total number of ally types of events reported for that state in that year, including events such as international interactions and sporting events. The results reported below are robust to this specification.

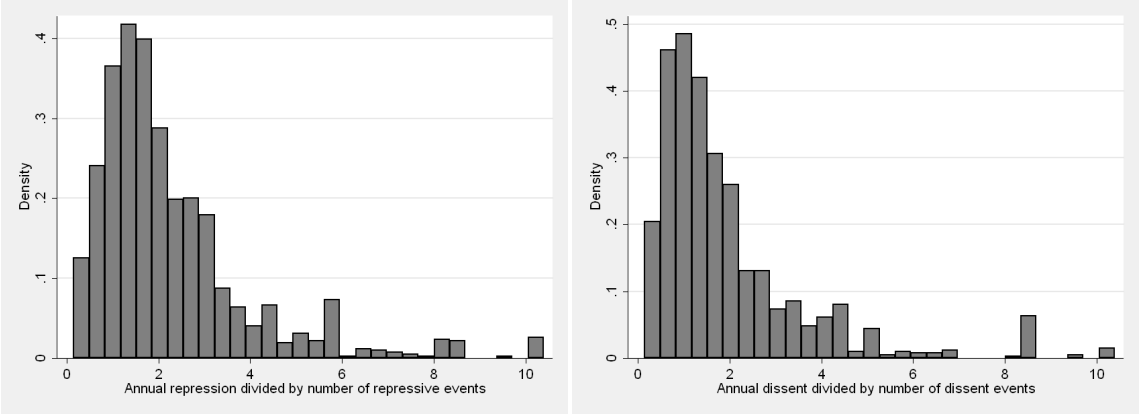


Figure 3.1: Histograms of levels of repression (left) and dissent (right), given that one of the two actions have occurred.

these are the levels chosen in conflict. While the levels of these variables do not appear to follow a normal distribution in the strict sense, they are relatively continuous, in that they follow fine gradations between integers. To take the natural log of or otherwise transform these variables so that they follow the normal distribution is to distort the data. The system used to weight this data to translate it from a number of events to the severity of the various types of events was precisely designed such that the difference between values has a specific meaning. Therefore, I do not transform this data.

This process of weighting types of repressive and dissent events accomplishes two tasks: (a) it creates a relatively continuous yet meaningful measure of the severity of repression or dissent and (b) identifies instances in which repression and/or dissent occurred. Recall that *conflict* is defined as the onset of either repression or dissent for the purposes of testing Hypothesis 3.1. In accordance with this definition, any state-year that sees any positive level of either repression (1256 state-years) or dissent (1221 state-years) is coded as $conflict = 1$, and any state-year with a value of zero for both the level of repression and the level of dissent is coded as $conflict = 0$. This is be-

cause both actors enter a dispute if one or the other decides to act; the opponent must respond, even if he responds by doing nothing (which they often do, see Figure 3.1).

At the end of the day, the event data combined with the weighting system allows me to account for all three of the dependent variables predicted in Hypotheses 3.1 through 3.3: the severity of repression, the severity of dissent from any type of group, and the onset of conflict in the first place.

Independent Variable: The Capacity to Repress

Recall the term from the executive's utility function that formalizes the costs of repression, $\frac{r}{c}$. The numerator, r, represents the level of rights violations, such that violations of increasing severity are increasingly costly in terms of resources. Extrajudicial killings require police or soldiers and weaponry. Political arrests require jail cells and paid guards. Curfews require monitoring of the streets, and restricted media requires government-run printing presses and airwaves. These elements are all costly to the state.

The denominator, c, accounts for the efficiency with which authorities can repress (an increasing c means a state is increasingly efficient). Put differently, we can think of the state's efficiency as its ability to absorb the costs of violating rights. Authorities deciding whether and how much to repress must take into account the state's capacity to absorb costs and balance that capacity against the expected costs of the state's optimal level of repression (given the expected level of dissent). As such, any measure of state efficiency to repress must be exogenous to the violation itself.

What might a "capacity to absorb the costs of repression" look like? Consider first what those costs are. As discussed, rights violations require personnel, resources, and effort to carry them out, which are all costly in terms of a state's budget. Insofar as a state's resource pool is limited, repression also creates opportunity costs, in that resources expended on rights violations can then not be used to enact other policies. The state may also have to absorb non-resource-related costs for violating rights, such as economic or political sanctions from the international community or rights advocacy groups. The state's capacity to absorb these costs, then, can be either actual resources available to carry out repression or a lack of a vulnerability to punishment for these actions. For this project, I operationalize the state's capacity to repress as the former.

The Political Risk Services (PRS) Group[10] assesses countries across twenty-two indicators of political risk, publishing the International Country Risk Guide (ICRG) annually. These indicators provide information to potential investors as to the economic, political, and financial risk the country represents to their investment. In particular, political risk indicators represent the propensity for political stability, such that a more politically stable environment will be less prone to expropriation of private investments (Group 2009).

To represent the state's ability to absorb the costs of repression, I use the ICRG corruption rating. Figure 3.2 is a histogram illustrating its distribution. This indicator takes into account the government's susceptibility to bribery, as well as "excessive patronage, nepotism, job reservations, 'favor-for-favors', secret party funding, and suspi-

[10]For more information on the PRS Group, as well as the indicators discussed here, visit URL http://www.prsgroup.com/.

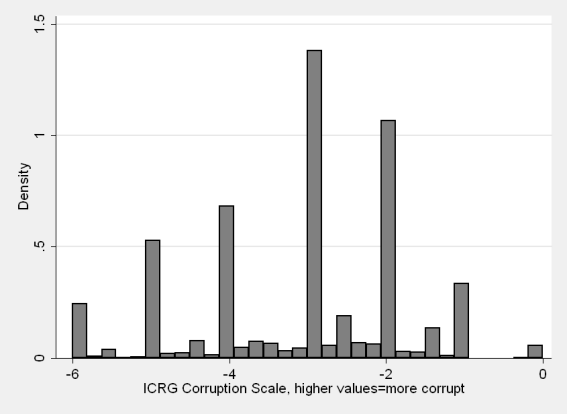


Figure 3.2: Histogram of International Country Risk Guide annual indicator of *corruption*.

ciously close ties between politics and business (ICRG 2009, 31)."[11] Corrupt governments have increased access to the resources of the state, whether they be taxes, business assets, private investments, natural resources, or private or public infrastructure. With such resources more readily available to them, corrupt governments can absorb the costs of repression with greater ease. The indicator is coded from zero to six, such that six represents the lowest level of risk, so I recoded this variable such that the highest value represents the highest level of corruption and thus efficiency at repressing citizens.

Independent Variable: The Capacity to Dissent

A group faces costs of conflict much like state authorities do. In the group's utility function in Chapter 2, the costs of dissent are captured in the term $\frac{d}{k}$. As in the executive's cost term discussed above, d represents the level of dissent, such that more severe dissent is more costly to a group, and k corresponds to the group's capacity to enact that

[11] The PRS Group comes to these ratings (and the government stability ratings, discussed below) by interviewing country experts and aggregating their ratings into a single overall rating *each month*. The annual indicators are averages of the monthly ratings.

particular level of dissent.

A group's capacity to absorb the costs of dissent is partially a function of its institutional resources and/or the resources of its members. Amnesty International receives contributions to the organization itself, while an ad hoc dissident group's resources are more likely to be a pool of members' contributions. In addition to financial resources, dissent requires some modicum of organization, and the more easily a group can organize, the more easily it can dissent. Organization in this sense involves both the formation of the group itself (assembling, agreeing on the position against the policy, etc.) and the mobilization of people in the act of dissent (publicizing the event, planning the details, etc.).

The unit of analysis for this study is the state-year in order to capture groups already in existence *and* groups that may arise in order to dissent against a particular policy. Measures of actual group resources would systematically omit information on groups not yet formed. More importantly, such measures would make a state in which groups have not formed because they lack the capacity to do so observationally equivalent to a state in which they have not formed because they agree with the policy, and these are very different states of the world according to my theory. Instead, my approach to measuring *any* group's capacity to dissent involves state-wide measures of group efficiency.

I operationalize the ease with which groups can organize and dissent using the number of international non-governmental organizations (INGOs) that have state citizens as members. This data is available from Hafner-Burton and Tsutsui (2005) and

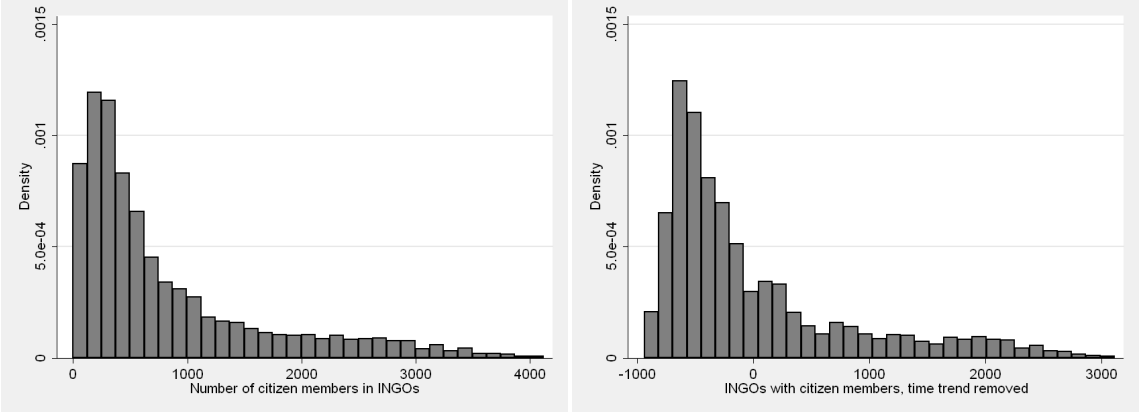


Figure 3.3: Histograms of the number of international non-governmental organizations with state citizens as members (left) and this variable with the time trend removed (right).

was coded based on the Yearbook of International Organizations, an annual publication of the Union of International Associations. Citizen membership in INGOs approximates the population's connection to international civil society, which can provide organizational support. This linkage provides citizens with resources and expertise necessary to form domestic groups and enact both violent and non-violent protest (Bhasin and Murdie 2010, Keck and Sikkink 1998). Figure 3.3 includes a histogram of the raw data for this indicator.

A measure of the capacity to dissent must be exogenous to the actual choice of dissent and the level of repression. Like the executive, groups decide whether and how much to dissent based in part on the resources and organization available to them, so the capacity to dissent must be separable from the actual dissent. Additionally, the group's efficiency is exogenous to the level of repression, which is more difficult to separate theoretically. The capacity to dissent could be a function of the level of repression, as when a state restricts the population's right to assemble. Nevertheless, this

exogeneity is important because it allows me to theoretically and empirically identify repression's *direct* effects on dissent decisions before attempting to address its indirect effects. Membership in INGOs is one of the more exogenous measures available, since it is more difficult for state authorities to control the activities of international organizations than domestic organizations.

This particular measure of dissent efficiency is non-stationary; it has a unit root. A unit root is a form of time-dependence that is pervasive in time-series cross-sectional data. When the current value of a variable is partially a function of the previous time-period's value of that variable, the mean of the series is not constant over time. Consequently, a time-trending variable will seem to be predicting the dependent variable when it is actually *time* that is influencing its effects (Enders 2004). The number of INGOs with citizen membership is a prime candidate for a violation of trend stationarity; once an organization establishes membership within a state it is likely to continue to have members into the future, so the current value is built upon the previous values. A panel data-appropriate Fisher test suggests I cannot reject the null hypothesis of a unit root in every panel of the data for this particular series; the χ^2_{312} statistic is 185.709 with a p-value of 1.000.[12] I detrended the series by regressing the number of INGOs with citizen membership against time, or the year. The residuals from this regression are the element of the INGO indicator that is *not* explained by the time period of a given observation. Thus, these residuals are the detrended value of the indicator, which can be used as the new values of this predictor. The distribution of the detrended value is

[12]Dickey-Fuller tests of all other series presented suggest that all other series of data presented here do not have pervasive unit roots.

illustrated in Figure 3.3.

Independent Variable: Probability of Executive Political Survival

In the theoretical model, state authorities and potential dissident groups make decisions based in part on the probability with which the authorities will retain political power. Leaders' ability to stay in power is partially a function of regime type; democracies see turnover far more often than autocracies by the difference between frequent competitive elections and dictatorships. However, regime type often does not vary within states over time, and a leader's probability of political survival can vary dramatically.

Political survival is a function of supporting institutions, leader characteristics, and policy outcomes. Chiozza and Goemans (2003, 2004) find that leaders are more likely to lose office as they get older but are more stable when they have experience in office. They also find that democracies see the most turnover, involvement in crises makes a leader vulnerable to losing office, and leaders of economically developed states enjoy longer tenure. These findings suggest that leaders require the support of their own party, strong supporting institutions, and the support of the population if they are to stay in power (see also Bueno de Mesquita et al. 2003).

The PRS Group (discussed above) developed an indicator that accounts for these three influences on a leader's stability in office. The indicator represents an assessment of "the government's ability . . . to stay in office (ICRG 2009, 29)." Three subcomponents combine for the overall rating of government stability: government unity, leg-

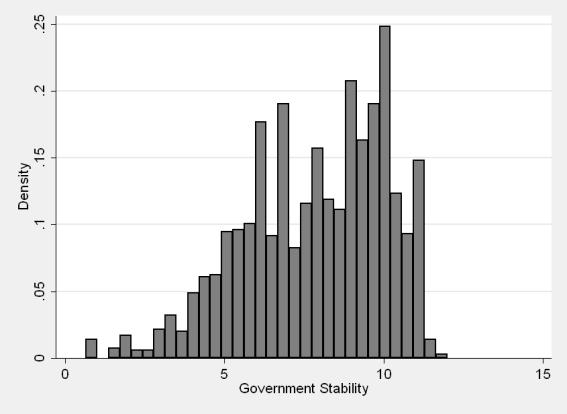


Figure 3.4: Histogram of International Country Risk Guide annual indicator of *government stability*.

islative strength, and popular support. The indicator ranges from zero to twelve, with twelve indicating the highest level of government stability (or the highest probability of political survival). A histogram of the indicator can be found in Figure 3.4.

The assumption of the theoretical model is that both dissident groups and state authorities base their expectations of the leader's probability of political survival on the same indicators—they come to the same assessment. The ICRG government stability indicator is one based on institutional and environmental characteristics that either actor could observe. It does lack specific subcomponents based on a leader's particular policies, but it accounts for the public's approval of his package of policies indirectly in its subcomponent of popular support. As the public's approval of these policies is the concept Chiozza and Goemans (2004) approximated with the policy outcomes in their model, I see this as a reasonable compromise.

The descriptive statistics of all of the measures used in this analysis are enumerated in Table 3.2. The data includes $N = 133$ states with data for all of the indicators and $T = 15$ years of data, though the actual temporal coverage varies by country.

Table 3.2: Summary Statistics

Variable		Mean	Std. Dev.	Min.	Max.	Obs.
Level of	overall	1.223	1.702	0	10.399	N = 2310
Repression	between		.747	0	4.653	n = 159
	within		1.535	-2.650	10.679	$\overline{T}$ = 14.5
Level of	overall	1.022	1.582	0	10.399	N = 2310
Dissent	between		.537	0	2.392	n = 159
	within		1.492	-1.370	10.728	$\overline{T}$ = 14.5
Government	overall	-3.097	1.312	-6	0	N = 1851
Corruption	between		1.136	-6	-.583	n = 133
	within		.694	-5.658	-.897	$\overline{T}$ = 13.9
# INGOs w/	overall	822.919	835.756	0	4121	N = 2311
Citizen Members	between		823.037	47	3344.47	n = 159
	within		175.803	-186.748	1599.85	$\overline{T}$ = 14.5
Government	overall	7.868	2.225	.667	12	N = 1851
Stability	between		1.056	3.336	11.208	n = 133
	within		1.995	1.268	12.798	$\overline{T}$= 13.9

3.1.2 Statistical Estimator

According to the baseline theory, the state's optimal level of repression is a function of the state and group's efficiencies and political survival *as well as the process of decision-making*. The state first enters a dispute, whether because authorities repress or a group dissents. Then, once the actors have entered a dispute, they choose levels of repression and dissent. The level of repression is part of a *selection process*; the sample in which a level of repression can possibly be chosen is determined first by the process that leads the actors into the dispute and so is non-random. Further, the decision for one or the other actor to begin the dispute is based on the anticipation of the levels of conflict that are likely to be chosen in the latter stage. Consequently, the sample of state-years in which the actors choose levels of repression and dissent is a nonrandom sample of only those who are involved in a dispute. An empirical model of the severity

of repression should model the selection process in order to approximate the data-generating process described in the theoretical model and thus avoid bias (Heckman 1979, Sartori 2003).[13]

Unlike many common selection problems but like many strategic processes, the game theoretic model posited here explicitly predicts that the identical set of explanatory variables affects both the onset of the conflict and the severity thereof. The workhorse of selection models, the Heckman (1979) selection model, requires an exclusion restriction—at least one explanatory variable that affects the selection equation but not the outcome equation. When the researcher has theoretically-based reasons to suspect that the explanatory variables influencing both decisions—as I do—Sartori (2003) contends that using a Heckman model with an exclusion restriction will bias the estimates of their effects.

The structure and assumptions of the theory imply that the same explanatory conditions can sometimes lead to an increase in the likelihood of conflict but a decrease in the levels of repression and dissent, and vice versa. Put differently, though the set of independent variables is the same across the two decisions, the process by which conflict emerges is different from the process by which its intensity is determined. The estimable parameters that determine the probability of repression and dissent differ from those determining their level. Such a model also should not necessarily restrict the errors for each process to be the same, as Sartori's (2003) selection estimator does, though they are still correlated to some unknown degree across the two stages.

[13] If there are unmeasured influences on the second equation that are correlated with unmeasured concepts in the selection equation, this will bias the effects of measured predictors on the dependent variable downward, with the equivalent effects of omitted variable bias (Sartori 2003, 114-115).

Finally, the distributions of the latent and observable dependent variables have implications for the underlying distribution that should be taken into account in choosing the estimator. The first decision process, the onset of a repression-dissent dispute, is a dichotomous one. Either the group or state acts, beginning a dispute, or not. State authorities decide on the level of repression from a latent continuous space. They decide which actions to take, against how many victims, etc., and these choices combine for an overall picture of the level of repression at that point in time. The operationalization of this level also takes a relatively continuous form, and the level of dissent also follows this continuous pattern. However, the levels of repression and dissent are limited dependent variables in that they have a lower bound (zero), and this minimum value occurs often in the data set (see Figure 3.1).

I use a two-stage tobit model to estimate the relationship between the state's and groups' efficiency of conflict and political survival and the onset and level of repression and dissent. This model was developed by Cragg (1971), so I will refer to the model throughout this project as Cragg's tobit. Cragg (1971) developed this model as an estimator for "corner-solution models," or models in which the probability of observing any positive value is based on a different process (parameters) than the actual value, given that it is positive.[14] The first decision is represented by a probit model and the second by a truncated regression model (Cragg 1971, 831). The likelihood function of Cragg's tobit is

$$f(w,y|\mathbf{x}_1,\mathbf{x}_2) = \left\{1-\Phi(\mathbf{x}_1\gamma)\right\}^{1(w=0)}\left[\Phi(\mathbf{x}_1\gamma)(2\pi)^{-\frac{1}{2}}\sigma^{-1}\exp\left\{-(y-\mathbf{x}_2\beta)^2/2\sigma^2\right\}/\Phi(\mathbf{x}_2\beta/\sigma)\right]^{1(w=1)}$$

[14]Models like this are sometimes called "two-stage," "two-tier," or "double-hurdle" models (Wooldridge 2002, 536-538).

where w equals 1 if y is positive and 0 otherwise. The vectors γ and β determine the probability that the dependent variable is positive and its value given that it is positive, respectively.[15] The estimator has the following characteristics relevant to the theoretical process I have identified here (Cragg 1971):

1. It models the observed value of the dependent variable as the result of a selection process.

2. It does not require an exclusion restriction, so that the two equations to be estimated can be based on the same set of independent variables.

3. It allows the two outcomes (onset and level) to be determined by different parameters, so the directional effects of the predictors on the outcome may diverge.

4. The first stage has a dichotomous outcome, and the second stage has a continuous outcome, truncated at zero.

I also expect that any influences on repression and dissent outcomes not captured here (and thus relegated to the error term) are likely to be correlated within countries.[16] Therefore, I cluster the errors by country in all estimations below.

Finally, in Chapter 2 I argue that the decisions to engage in conflict and the severity thereof are decisions that are made strategically. State authorities repress with an expectation as to what the group's choice of dissent is likely to be, and they expect the group to dissent with its own expectation. Theoretically, then, the effects of any

[15] This equation and notation is taken from Burke (2009, 586).

[16] I tested for serial autocorrelation, collinearity, and heteroskedasticity, and found none of them to be a problem in any series, once I attended to the time trend in the INGO data.

unmeasured variables should effect the estimates of both the repression process (onset and level) and the dissent process. The errors from the Cragg's tobit estimates of both processes should be correlated with one another. I do not model this correlation specifically, which may introduce bias into the estimates.

Nonetheless, the two models are specified as if the actors are making their decisions simultaneously. The independent variables that might theoretically effect only one actor are also listed as predictors for the other actor (as specified in the hypotheses above). Additionally, the two actors make their decisions based on contemporaneous values of the independent variables.

3.2 Estimation Results

Table 3.3 reports the results of the two empirical models used to test the empirical implications of the baseline theory. The statistically significant results that align with the relevant hypotheses are highlighted in bold type. Cragg's tobit model estimates repression and dissent as two processes, such that the level of dissent is contingent on having one or the other actor initiate the conflict, as is the level of repression. Thus, to estimate these levels, I had to estimate the probability of conflict occurring once for each model, even though the theoretical model establishes conflict as a single event whether initiated by repression or dissent. However, the two estimates for the probability of conflict occurring are virtually identical, with estimated coefficients and standard errors nearly indistinguishable from one another. All hypothesis testing is based on two-tailed tests.

Table 3.3: Estimation results : Cragg's Tobit Models of Dissent and Repression

Variable	**Dissent**	**Repression**
	Probability(Conflict=1)	
Government Corruption	0.2278**	0.2321**
	0.0513	0.0517
INGOs w/ Citizen Members	**0.0007****	**0.0006****
(trend removed)	0.0001	0.0001
Government Stability	**-0.0695****	**-0.0556****
	0.0157	0.0156
Intercept	1.3754**	1.3268**
	0.2155	0.2296
	Level of Dissent	Level of Repression
Government Corruption	-0.3827	**-0.2468**†
	0.2413	0.1264
INGOs w/ Citizen Members	-0.0032**	-0.0032**
(trend removed)	0.0009	0.0008
Efficiency Interaction		-0.0003*
		0.0002
Government Stability	**0.1215**†	**0.1640****
	0.0736	0.0582
Intercept	-3.2679†	-0.9871
	1.8015	0.7837
	Equation 3 : σ	
Intercept	2.9620**	2.3380**
	0.4463	0.2360
N	1847	1847
Log-likelihood	-2778.51	-2998.1967
$\chi^2_{(3)}$	72.1903	56.581

Significance levels : † : 10% * : 5% ** : 1%

3.2.1 Conflict Efficiencies

Hypothesis 3.1 lists the effects the explanatory variables are predicted to have on the probability that either a group or state authorities will engage in any given act of dissent or repression, respectively. In other words, what affects the probability that a "conflict" will begin? The structure of the formal model is such that authorities repress only when dragged into conflict by a looming or acting dissident group. Thus, the onset of either repression or dissent is primarily a function of the factors that influence a *dissident group*, and state authorities should be responding to these factors as triggers the way they expect a group would. As such, Hypothesis 3.1 states that the likelihood of conflict should increase as groups can dissent more efficiently but decrease as the state can repress more efficiently. In other words, we should be more likely to observe conflict when conditions are favorable to the group, which is not the case when the state can easily repress.

The empirical estimates do suggest conflict is more likely to occur when groups are increasingly efficient. As the number of INGOs with state citizens as registered members increases, the probability of conflict increases. This suggests that as there are more opportunities to organize into groups and more resources available to facilitate mobilization, we should be more likely to see either dissent or repression. This result is statistically significant at the $\alpha < 0.01$ level of confidence. Figure 3.5 plots the number of INGOs with citizen members against the predicted probability of conflict onset. As the resources available through INGOs increase, there is a clear pattern of increasing probability of conflict, even with the time trend removed from the data series.

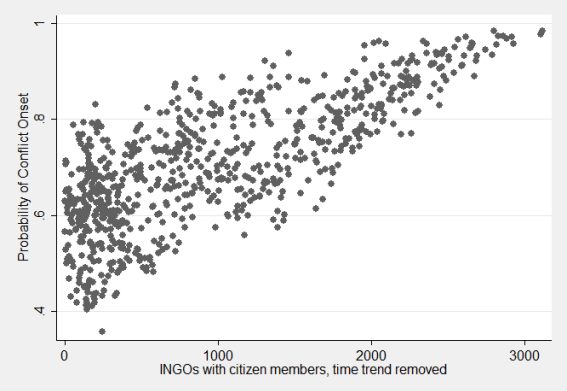


Figure 3.5: The probability of conflict onset and the number of INGOs with citizen members (efficiency of dissent)

However, increasing *state* efficiency does not lead to a decreasing probability of conflict onset, counter to the prediction in Hypothesis 3.1(c). According to the results of Tobit Models 1 and 2, the probability of repression or dissent occurring *increases* as the government becomes more corrupt (i.e., more efficient). This suggests that state authorities may also drag groups into conflict when conditions are favorable to the state. It is rather intuitive that the state would be more willing to repress as its efficiency would make that action relatively less costly. Taking comparative statics over the cutpoint at which the Executive is indifferent between offering the group a reasonable bargain and offering it nothing with respect to the state's efficiency of repression demonstrates that if the Executive was given the chance to move at this node in the game, he would be more likely to offer the group nothing as he became increasingly efficient. Thus, this theoretical implication that does not hold empirically may be a function of the payoff structure defined for the model.

The state's efficiency of repression (operationalized here as government corruption) is predicted to have a negative effect on the levels of both dissent and repression

(Hypotheses 3.2(c) and 3.3(a)). The results of the empirical estimations suggest that this may be the case, but the results are a bit weak. The effect of corruption on the level of dissent is statistically indistinguishable from zero. Its effect on the level of repression, on the other hand is statistically significant at the less rigorous standard of $\alpha < 0.10$.

The number of INGOs with members residing in that particular state has a significant and negative effect on the level of dissent. This result is in contrast to Hypothesis 3.2(a), in which the level of dissent is predicted to increase as the group becomes more efficient at dissent. It makes intuitive sense that the group's level of efficiency could lead either to an increase (if cheaper dissent means the group can afford to dissent more severely) or a decrease (if cheaper dissent leads the group to conserve its resources while still accomplishing its dissent-related goals). Though the theoretical model suggests we should observe the former, the empirical model suggests groups respond to efficiency in the latter manner.

Finally, the theoretical model implies that the level of repression is a function of the group's efficiency only as it is related to the state's efficiency. Hypothesis 3.3(c) states, "The level of repression decreases in the efficiency of dissent when authorities are less efficient than groups and increases otherwise [when groups are less efficient than authorities]."

The empirical results are thus mixed in their support of the hypotheses presented at the start of this chapter. While a group's efficiency makes conflict more likely to occur, authorities' efficiency does as well. However, that same efficiency leads both

groups and state authorities to engage in lower levels of dissent and repression, perhaps because they prefer to reserve their resources. Thus, though antithetical to the some of the predictions stated in Hypotheses 3.1 through 3.3, it seems that the efficiencies that allow groups and authorities to engage in conflict cheaply free them to enter conflict more easily and frequently. Though these results do not align precisely with the predictions of the baseline model, they do support the intuition of the theory.

Though there is evidence that group and state efficiencies have some of the predicted effects on repressive and dissent behavior, not all of the predictions presented above are supported. This may be related to slippage between the operationalization of these efficiencies (or, alternatively, costs) and the concepts themselves. Corruption can make the government more efficient at enacting any policy it chooses, and its effects are not likely to be limited to repression. Additionally, the number of INGOs with citizen members could be endogenously related to groups' *ex ante* efficiencies. While I do believe these measures to be good approximations of these concepts (for reasons explained above), they are not perfect. In the conclusion, I discuss alternative methodological approaches to testing these hypotheses.

3.2.2 The Probability of Political Survival

The most novel predictions derived from the baseline model in Chapter 2 are related to the probability of executive political survival. The leader's expectation as to whether his position of power is vulnerable or stable affects his willingness to engage in severe repressive behavior (Hypothesis 3.3(b)). Higher levels of repression require more re-

sources, which may damage his ability to satisfy his supporting winning coalition, but they also increase his probability of controlling the policy under dispute. A leader with a strong hold on his position of power has his winning coalition firmly behind him and so can afford to risk lost resources in the attempt to retain control over policy. A vulnerable leader, on the other hand, has to conserve his resources for his winning coalition. Thus, a higher probability of political survival is predicted to be associated with high levels of repression.

However, the expectation of the increased costs of severe repression makes entering the dispute less appealing, such that the leader should be more willing to bargain and conflict onset should be less likely (Hypothesis 3.1(b)). Hypotheses 3.1(b) and 3.2(b) together contend that dissident groups should exhibit similar behavior, anticipating that the increased probability of political survival will free the executive to increase the level of repression. Thus, the group should expect to be able to press the executive for generous bargains, but it will have to use high levels of dissent if it is to have much chance at receiving its preferred policy at the end of the interaction.

The empirical results in Table 3.3 support these expectations. Recall that the operationalization of the probability of political survival is a function of government unity, legislative strength, and popular support. In other words, it takes into account the institutions that help keep the leader in his position as well as the general popularity of his policies and their outcomes. As the value of this measure of government stability increases, given that either repression or dissent has occurred, the overall level of repression increases. Figure 3.6 plots the predicted level of repression (given that a

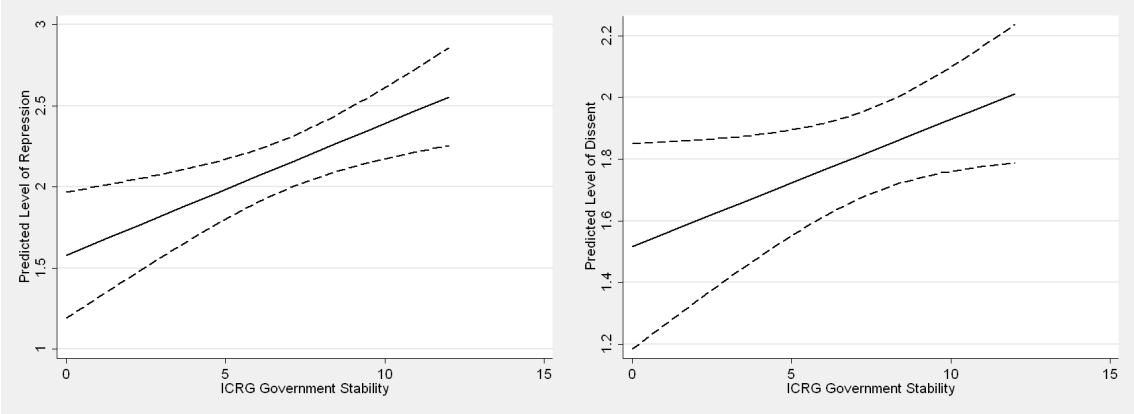


Figure 3.6: Predicted levels of repression and dissent given that either repression or dissent has occurred as a function of political stability

conflict has begun) against the level of political stability, as well as the estimated 95% confidence interval. A state with a leader at his most vulnerable is predicted to use a significantly lower level of repression than a maximally stable leader. A shift from the minimum political stability to the maximum is associated with almost a ten percent increase in the level of repression. The shift is analogous to the difference in severity between censorship and the mobilization of police forces or military for crowd control.

Though the effect is weaker, an increasing probability of executive political survival also leads to increasing levels of dissent, given that either repression or dissent has occurred. The estimated effect is statistically significant to the $\alpha > 0.10$ level of confidence. Dissident groups thus seem to follow the executive's lead, in that they increase levels of dissent in order to match what they expect to be high levels of repression in the course of a conflict that may occur under a government unlikely to lose power. The predicted levels of dissent over the range of government stability are illustrated in Figure 3.6.

Overall then, increasing government stability leads to higher levels of both repres-

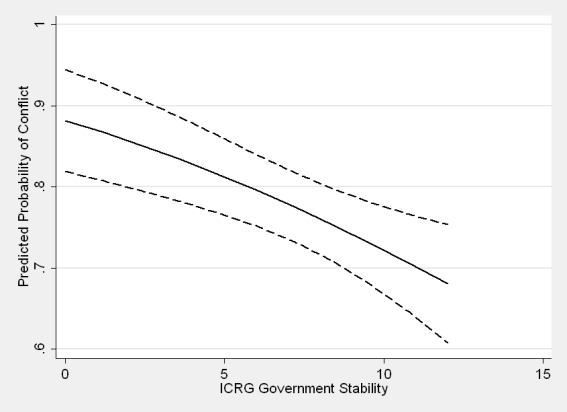


Figure 3.7: Predicted probability of conflict onset as a function of political stability

sion and dissent given that a conflict has begun. However, this makes repression a costly endeavor. It also becomes a risky one, as the more resources he expends in the course of repression, the less he has remaining to give to his winning coalition. The empirical results suggest that conflict should be less likely to occur as the government becomes increasingly stable in office. Consider Figure 3.7. As the level of government stability moves from its minimum (0) to its maximum (12), the probability of either repression or dissent (or both) occurring drops from nearly .9 to just under .7. In any given state, repression and/or dissent is fairly likely, yet a politically vulnerable leader is significantly more prone to engaging in low levels of domestic conflict than a stable leader. Additionally, though a politically stable leader is less likely to have to use repression, when he does, it is likely to be observed at higher levels than in the case of a more vulnerable leader.

3.3 Empirical Implications

The statistical evidence presented here suggests there is general empirical support for the baseline theory of repression and dissent. Efficiency, which makes repression and dissent a less costly tactic of political dispute, makes conflict more likely. Additionally, and importantly as the most novel implications of the theory, there is strong support for the predictions that as the probability of executive political survival increases, repression and dissent become less likely to occur but reach higher levels of severity when observed.

Though the empirical support for the predictions related to leaders' and groups' efficiencies are mixed, this may partially be a function of the measures used to represent the independent variables. Ideally, I would prefer measures that more directly approximate how costly (or efficient) it is for these actors to engage in repression or dissent. For instance, states pay personnel to police crowds, invest resources in prison upkeep, purchase media outlets to subvert the free press, etc., and all of these things are costly. Collecting data on these costs could be a way to compare the "costliness" or "efficiency" of a given behavior across states. Such a study has not been done to date and would require significant resources in the undertaking, but a data collection project is in the planning stages.

These estimates generally support implications derived in Chapter 2, but there are other ways to test the theory in future projects. The empirical models presented here indirectly account for the simultaneity of repression and dissent decisions, but they do not directly account for the fact that the errors should be connected across the two

(four) equations. Process-tracing of a particular case can allow a researcher to track the connections between the state's motivating factors and dissident behavior, for instance. Such a research method could also help the researcher distinguish between actions that are made in response to the opponent's behavior and those taken in anticipation of it.

There are also other empirical implications a researcher could use to test the theory. For instance, the theory suggests that the conditions that make the onset of conflict less likely should coincide with policy-related bargains of varying generosity to groups threatening to dissent. A researcher could examine policy changes or outcomes connected with various groups and trace the origins of those changes to look for conditions of efficiencies and political survival. Additionally, we should see processes of bargaining related to instances of repression and dissent. Were there exchanges of offers? Were threats made, either implicit or explicit? Was there a series of rejected offers before repression or dissent occurred? Examinations of these processes could potentially provide additional empirical assessment beyond that presented here.

Nonetheless, there is strong support for the argument that state authorities and potential dissident groups anticipate one another's behavior via the influences on said actions. Additionally, there is statistically and substantively significant support for the key implication of the baseline theory: *the process by which the onset of conflict is determined differs from the process by which its intensity is determined.* The predictors that lead to an increase in the severity of repression or dissent often make the actions less likely to ever occur.

Chapter 4

Extended Model: Repression under Judicial Constraint

In Chapter 2, I presented a baseline theory of the conflict process between state authorities and domestic dissent groups that results in several key implications. First, state authorities avoid turning to costly repression whenever possible in order to conserve resources that they may otherwise use to satisfy the coalition that maintains their position of power. They only repress when dissident groups pose sufficient threat to alter policy outcomes and thus threaten authorities' position of power. Second, the process that determines the onset of repression as just described differs from the process that determines its level of severity. Once involved in a conflict, whether because the group dissented or the state preempted dissent with a refusal to bargain, authorities will choose a level of repression that maximizes the return on invested resources. When the state is an efficient repressor or when the authorities have low risk of turnover, state

authorities will not hesitate to violate rights at high levels of severity. Finally, dissident groups choose to enter conflicts and the level of dissent based on their own efficiency and the leader's probability of survival, as well as his efficiency at repression. In other words, groups make their decisions based on the values of their own parameters and in anticipation of the leader's moves. Knowing this, strategic state authorities will adjust their behavior accordingly.

Given this understanding of the motivations to violate rights, what can constrain state repression?

Perhaps the most commonly cited constraint on human rights violations is regime type; non-democracies are more likely to violate human rights (Davenport 2007*a*, Henderson 1991, Poe and Tate 1994, Poe, Tate and Keith 1999), as well as their state obligations under international human rights law (Hathaway 2002, von Stein 2006, Vreeland 2008), than democracies. Democratic institutions that effectively check executive behavior reportedly restrict rights violations, yielding better overall human rights records for democracies (see, e.g., Apodaca 2004, Bueno de Mesquita et al. 2005, Davenport 2007*a*, Davenport and Armstrong 2004, Howard and Carey 2004). Scholars argue veto players[1] or institutional constraints prevent executives from acting freely and thus constrain state repression (Davenport 2007*a*, Poe and Tate 1994). However, others argue these institutions can only constrain when they are sufficiently "consolidated" (Bueno de Mesquita et al. 2003, Davenport and Armstrong 2004, Richards 1999) or when the institution is populated with persons of sufficient ideological distance from

[1]Veto players are those individual or collective actors whose consent is required for policy change (Tsebelis 2002, 2).

the executive (Henisz 2002). Conrad and Moore (2010) even find that a high number of veto points can lock in existing policies of state torture, since veto players block change from current policies. In sum, it remains unclear exactly if and how liberal democratic institutions protect rights.

Perhaps the best chance to protect human rights lies with domestic judiciaries. Lacking the ability to set or execute policies, judiciaries are unlikely to be the source of abuses. Instead, judiciaries evaluate (and thus signal) whether government actions pass constitutional limits, in this case those related to rights the constitution protects. Some courts identify rights abuses and successfully constrain executive behavior, as when Egypt's Supreme Constitutional Court handed down aggressive rulings supporting the freedoms of the press and association in the 1990s (Moustafa 2007), while others allow violations to continue unchecked, as the Chilean judiciary did while Pinochet's junta engaged in widespread and violent abuse (Hilbink 2007). What determines how a court will behave in the face of state repression? And when will state authorities comply with a court's decision against violations? In other words, under what conditions will a court effectively constrain human rights abuses?

Scholars, human rights organizations, and politicians alike cite judical independence as necessary to protect human rights (see, e.g., Howard and Carey 2004, Keith 2002), arguing that an independent court can rule against violations and constrain abusive behavior. However, the definition of judicial independence is contested, such that it remains unclear as to what it is that enables a court to effectively constrain executives (Ríos-Figueroa and Staton 2009, Staton and Moore 2010). Following Ríos-

Figueroa and Staton (2009), I argue judicial effectiveness is a function of two concepts related to punishment that are underlying factors in traditional definitions of judicial independence: the court's vulnerability to punishment for its decisions (judicial autonomy) and its ability to punish noncompliance (judicial power). Put differently, a court's ability to constrain is a function of not only its ability to rule freely but also its capacity to turn a ruling into a political outcome. In the model presented below, I differentiate explicitly between autonomy and power as separable concepts of judicial effectiveness. Among other implications, I argue that autonomy is neither necessary nor sufficient to induce executive compliance with court rulings. Autonomy can affect repressive behavior ex ante to the ruling, but it does so only when interacted with judicial power.

Further, I argue that courts influence the entire conflict process of repression and dissent, which suggests that courts have a more complex effect on rights violations than previously suspected. As demonstrated in Chapters 2 and 3, repression is not a static behavior in which states engage alone; repression is part of a conflict interaction with dissident groups. The presence of a court in such a process suggests that courts affect not only state authorities' decisions but also dissident groups' decisions *which further affects repression.* The baseline theory of conflict process also implies that the process of onset differs from the process of severity, which continues to be true in the model that includes a court. As such, court behavior may affect the choice to repress differently from the choice of severity, and while it may curb one, it may induce an increase in the other.

4.1 Judicial Constraint of Executive Abuse

How do courts constrain executive behavior? A core function of the judiciary is to evaluate whether govt actions pass constitutional limits (Hamilton 1788, pp. 577-578). Despite the mandate to identify violating behavior, courts are not empowered to enforce rulings (Carrubba 2009, Hamilton 1788, Helmke 2005). Alexander Hamilton (1788, p. 575) writes of the United States judiciary in the *Federalist Papers*, "[The judiciary] may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm for the efficacious exercise even of this faculty." When a court rules against a citizen in a criminal or civil case, the agencies of the executive branch ensure the citizen's compliance with the ruling. In contrast, when the party to the case is the executive, the object of the ruling is also its enforcer. The executive must comply with the ruling voluntarily, which he is unlikely to do without external incentives (Vanberg 2005).

Political theorists dating from Alexander Hamilton have argued that judicial independence is critical to overcoming this enforcement problem and restricting government power and maintaining popular freedoms (Hamilton 1788). Judicial independence is a contested term that generally refers to a court's freedom to rule without undue influence from other entities, whether individuals or institutions (see, e.g., Burbank and Friedman 2002*a*, Kornhauser 2002, Larkins 1996, Rosenn 1987, Tate and Keith 2007). Courts that fear punishment in conjunction with their decisions face severe disincentives to rule against the executive, and judges who are related to or bribed by state authorities similarly make decisions under influence. In contrast, courts that

are free from influence can identify violations "in accordance with their own determination of the evidence, law and justice" (Rosenn 1987, p. 7). Increased judicial independence is often associated with changes in executive behavior, particularly changes that protect citizen welfare (Clague et al. 1999, Feld and Voigt 2003, La Porta et al. 2004, North and Weingast 1989, Staton, Reenock and Radean 2010, Weingast 1997), including improved rights protection (Apodaca 2004, Cross 1999, Epp 1998, Hathaway 2005, Howard and Carey 2004, Keith 2002, Powell and Staton 2009).

Nevertheless, the concept of judicial independence is debated, and definitions vary widely (see, e.g., Burbank and Friedman 2002*a*). Independence is often associated in different scholarly contexts with concepts of effectiveness (Powell and Staton 2009), power (Cameron 2002), autonomy (Tate and Keith 2007), crime-reduction (Group 2009, Howard and Carey 2004), trust in institutions (Clague et al. 1999, Powell and Staton 2009), etc. Burbank and Friedman (2002*b*) and Ríos-Figueroa and Staton (2009) make strong cases for breaking amorphous concepts such as "rule of law" and "judicial independence" into their constituent concepts. Doing so enables the researcher to identify what it is about "judicial independence" that affects political outcomes (Ríos-Figueroa and Staton 2009), such as human rights protection. Do outcomes change because judges can rule without fear of negative repercussions, because executives fear identification as violators, or because third actors support the court as a protector of freedoms and enforce its rulings? In an attempt to better understand what it is about judicial independence that affects human rights outcomes, I follow (Kornhauser 2002, p. 47) and Ríos-Figueroa and Staton (2009, pp. 4-5) and break judicial independence

into two concepts: judicial autonomy and judicial power.

Courts are *autonomous* when judges are "free from coercion, blandishments, interference, or threats of government authorities or private citizens (Rosenn 1987, p. 7)."[2] Judicial autonomy corresponds to the common conceptualization of judicial independence—the idea that "independent" (i.e., autonomous) courts are not manipulated by others through either threat or bribe (see, e.g. Hamilton 1788, Helmke 2005, Howard and Carey 2004, Keith 2002, Kornhauser 2002).[3] State authorities and/or legislatures often have significant *de jure* and/or *de facto* control over judges' livelihoods or the institution's power—control that structures the environment in which judges make decisions. In many contexts, judges decide the direction of a case knowing there is a possibility authorities may alter the court's jurisdiction, docket control, resources, judges' appointments, salaries, and personal lives in response to the decision (Keith 2002). If the anticipation of punishment affects the decision, the court cannot be said to be autonomous. Thus, another way to think about autonomy is as a measure of *the ability of another actor to punish or otherwise influence the court in relation to its ruling.*

To influence political outcomes, however, courts must be able to rule as they like without punishment *and* the subject of the ruling must alter his behavior in line with the remedy. A court's capacity to affect political outcomes is its *judicial power.* Power is "a causal relationship between preferences and outcomes. In other words, an actor has power when a particular outcome is desired and [he] causes that outcome to transpire

[2] This is Rosenn's (1987) definition of judicial independence, but I use it here as a precise definition of the subconcept I refer to as autonomy.

[3] Ruling "freely" can mean a number of things, including ruling in line with legal precedent, with the judge's personal preferences, or with ideological bias, as long as the judge is not influenced by fear of repercussions.(Burbank and Friedman 2002*b*, Kornhauser 2002).

(Cameron 2002, p. 135)." However, as previously discussed, courts cannot enforce their own rulings, particularly when state authorities are parties to the case. This enforcement problem means that a court's power is not direct in that it affects outcomes as an institution per se, but is rather indirect in that it depends on another actor to affect outcomes on its behalf. On this, Hathaway (2007, p. 593) writes, "Every state is constrained to a greater or lesser extent by domestic legal and political institutions. How constrained it is depends on the degree to which those outside the government can enforce the state's legal commitments."

Courts rely on a number of entities to punish noncompliant executives, ranging from norms to competing elites to the public. The mechanism on which I focus in this extension is enforcement by the public for simplicity of explication, though all that matters for the theory is that the court has some expectation that some actor will support it and punish on its behalf. If the citizenry values the court, it will punish political leaders who defy or ignore its decisions (Vanberg 2005). Citizens may value and respect the court as an institution in and of itself (Gibson, Caldeira and Baird 1998, Vanberg 2005), because they believe it acts to uphold rules that are in the public benefit (Carrubba 2009), or because it supports the specific ruling (Gibson, Caldeira and Baird 1998). Once they learn of a ruling and subsequent noncompliance (see, e.g., Staton 2006, Staton and Moore 2010), dissatisfied populations may withhold electoral support, reduce campaign funds, address the noncompliance in the media, or engage in other punishment behaviors. The fear of public backlash can thereby induce state authorities to alter their behavior in line with the court's ruling (Vanberg 2005). Public

support and the associated threat of punishment for noncompliance is thus the conduit that translates the court's preferences into outcomes—its power.

The combination of judicial autonomy and power would seem to be the solution to courts' enforcement problems. With both, a court could rule without fear of punishment and the threat of punishment would lead to compliance. Political outcomes would change as a result of judicial rulings.

Though both concepts are part of most traditional definitions of judicial independence, autonomy and power do not always correlate. The British judiciary rules without manipulation, yet it is a notably less powerful court than the United States Supreme Court (Kornhauser 2002, p. 47). The Supreme Court of Pakistan—hardly autonomous—was dismissed in 2007 for its decisions against the president, yet by the end of the year political outcomes had dramatically shifted closer to the court's rulings (Gall and Perlez 2008). If they do not always covary, how do autonomy and power interrelate and in turn affect political outcomes?

Approaching these concepts separately also highlights inconsistencies in our understanding of the relationship between independence and human rights behavior. Though scholars contend that increased judicial independence leads to better human rights records (Apodaca 2004, Blasi and Cingranelli 1996, Cross 1999, Howard and Carey 2004, Keith 2002), neither autonomy nor power is a clear predictor of protection. Autonomous institutions sometimes uphold rights violations, as the Chilean judiciary did under Pinochet's regime (Hilbink 2007).[4] Manipulable courts sometimes rule against

[4]The Chilean judiciary governs its own appointments and has a strict culture of legalism; Hilbink (2007) argues it is this culture that led the court to rule as it did during this pressure, rather than as a result of pressure or ideological agreement with the regime.

human rights violations, as the Argentine court has done (Helmke 2005).[5] Similarly, powerful courts do not always protect rights, as when the US Supreme Court upheld many laws of discrimination in the early 20th century (**?**).

To avoid losing their status as an institution of value to the population, courts have an incentive to rule such that the ruling is likely to be obeyed (Carrubba 2009). The court's evaluation of this likelihood includes an assessment of its vulnerability to punishment (autonomy) and its ability to punish noncompliance (power). In addition, the likelihood of executive compliance with a court's ruling is a function of the executive's motivation to violate the law in the first place. In the case of state repression, as discussed in Chapters 2 and 3, leaders repress as part of a conflict with dissident groups, and the conflict's course is determined by characteristics of both leaders and groups. If a leader is bound to repress in order to remain in power, he may do so regardless of a court's ruling. As such, we must consider the court's effects on the entire conflict process rather than on the decision to repress alone.

4.2 An Extended Model

The model specified in this section extends the baseline model of state repression and popular dissent presented in Chapter 2 to include a judiciary of variable autonomy and power. There are three actors:

- The Executive (E) wants to remain in office, and to do so he must have the re-

[5] Helmke (2005) argues these actions were strategic moves to disassociate the judges from outgoing leaders in order to remain in position under new leadership.

sources to satisfy the winning coalition that keeps him in power. The pool of resources available for this purpose is depleted when (a) he loses policy ground to the dissident group, either through conflict or bargaining, (b) he complies with a court ruling against him, or (c) he is punished for noncompliance with a court ruling. Repression itself is also costly, though its impact on the state varies by the state's ability to absorb these costs (efficiency).

- The Dissident Group (G) has a preference for a policy that is opposed to the Executive's preference for that policy. Though dissent is costly in terms of resources, it does improve G's chances at receiving its preferred policy. Finally, if the Executive loses power as a result of the dissent-repression conflict, the Group receives an additional benefit from the newly instated government.

- The Court (C) receives institutional benefits from rulings and subsequent compliance, but it relies on third party (public) support to punish noncompliance (power). Additionally, with a ruling comes the potential for institutional punishment (autonomy).

The core of the model is identical to the baseline model presented in Chapter 2. The Executive (E) offers some policy $x \in [0,1]$ to the dissident Group (G). The Group can either accept this policy as offered or reject it such that both E and G enter a conflict of repression and dissent. Once in conflict, E and G simultaneously choose levels of repression (r) and dissent (d), respectively, though increasingly severe actions are increasingly resource costly. The levels of conflict chosen affect the probability that the Executive wins the dispute over the policy. Finally, the loss of the policy, whether

by loss in conflict or through bargaining, decreases the resources the Executive can use to remain in office in the future. Thus, both actors have to balance their desire to win the policy and retain (or gain) power with the cost of engaging in severe levels of conflict. While bargaining avoids conflict, it also entails some loss for at least one if not both actors.

Once the Executive represses, the Court (C) has the option to rule that he has violated constitutional provisions.[6] If the Court does not rule that a violation has occurred, it receives 0 and the Executive's and the Group's respective utility functions remain the same as in the baseline model.

If it does rule against the Executive, the public supports the court and punishes noncompliance with probability, $q \in [0,1]$. This probability represents the extent to which the public supports the court. The more public support the court enjoys (higher q), the more likely the public is to punish noncompliance. Until the Court rules, the actors must base their decisions on this probability of public enforcement. However, after the ruling (and Nature's subsequent revelation), the Executive knows whether or not he will be punished while deciding to comply or not.[7]

Finally, the Executive complies with the court's chosen remedy or he does not. If the public does not support the court and the Executive does not comply, the Court faces punishment for its anti-state decision as a function of its autonomy, $a \in [0,1]$.

[6] In this model, the Court is any court with the authority to rule against the Executive. A constitutional court may rule that the policy is unconstitutional or out of line with the state's international obligations, and a high court may rule that the Executive has taken an inappropriate or illegal action.

[7] All that is necessary for the following equilibria to hold is for the Executive to be slightly more informed as to the public's actions than the Court. Given that state authorities generally have greater access to resources for learning public opinion and often have incentives to do so for their own positions of political power, this assumption is a reasonable one. Further, I assume actors will not expend resources to learn of the court's support unless it poses an actual threat, operationalized here as an actual ruling.

Figure 4.1 illustrates the sequence of moves for the extended model.

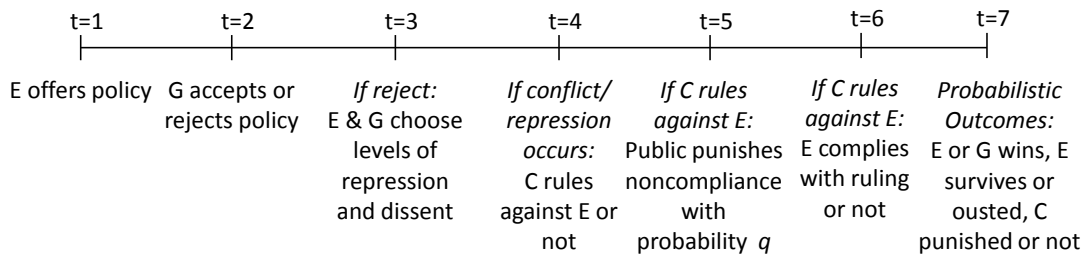


Figure 4.1: Sequence of play for extended model of conflict with a judicial institution

A Court that rules against the Executive wants him to comply. Courts value compliance for a multitude of reasons. In their decision, judges coordinate on a collective policy preference (Stephenson 2004) and inform actors who interpret and implement the court's decisions of its preferences (Cameron, Segal and Songer 2000, Canon and Johnson 1998). This preference signal can have policy implications that benefit the court, potentially moving future political outcomes closer to the court's institutional ideal point (see, e.g., Baird 2004, Vanberg 2005). Compliance can also signal that the court acts in society's collective interest (Carrubba 2009). As a result, the public can determine the Court is a beneficial institution and is likely to support it in the future. In other words, compliance builds the Court's institutional legitimacy. The Court thus receives a benefit with compliance, $f(j) \rightarrow j$. However, compliance entails some loss of power or resources for the Executive, leaving him with fewer resources to distribute to the winning coalition that keeps him in office. A winning coalition may be large (as in a democracy) or small (as in a monarchy), but in any case an executive with less control over policies or fewer resources has less to distribute as his supporting coali-

tion would like. Therefore, a leader who complies with a judicial sanction suffers a loss in his probability of political survival, much like a leader who loses policy ground to a dissident group.

If the Executive ignores or defies the Court's ruling, his defiance may be punished. As discussed above, the Court itself has no capacity to enforce rulings or punish non-compliance (Hamilton 1788). Nevertheless, third actors—most often the public—who support either the court as an institution or the ruling itself can punish leaders by reducing their support for the government (Staton 2006, Vanberg 2005), and all leaders need some measure of public support or quiescence (Bueno de Mesquita et al. 2002). A noncompliant Executive, then, is punished with probability (q), which represents the court's *judicial power* or the willingness of the public to punish noncompliant leaders. Again, this punishment reduces the Executive's overall resources in his probability of political survival ($\frac{p}{1+x+q*(1)+(1-q)*(0)}$).

Finally, ruling against the actor with institutional control over the judiciary has associated risks. A compliant Executive signals he agrees with the Court's decision—or at least the Court's authority to decide as such—so the Court does not incur punishment. In contrast, an Executive who dislikes the Court's ruling may retaliate against the Court in one or more of the ways discussed above: restricted jurisdiction, reduced salaries, judge replacement, etc. He can only punish the Court inasmuch as the Court lacks autonomy.[8] In other words, an autonomous court is protected in practice from such

[8]The concept I refer to as autonomy—the Court's vulnerability to retributive punishment for its decisions—aligns closely to what many scholars refer to as judicial independence. As such, the concept can be further disaggregated into *de jure* (legal) and *de facto* (practical) independence. While both have been studied in the context of human rights violations (See, for instance, Apodaca (2004), Howard and Carey (2004), Keith (2002).), most scholars would agree that *de jure* autonomy is insufficient for

manipulative efforts, while a non-autonomous court is vulnerable to political attacks (Cross 1999, Hamilton 1788, Keith 2002, see, e.g.). The Court makes its decision with the understanding of this potential for punishment.

The players' payoff functions are specified as follows:

$$U_G = \begin{cases} x & \text{if G accepts} \\ -\frac{d}{k} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[p(0) + (1-p) * 1\right] + \left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2} * 0 + \left(1 - \frac{p}{2}\right)(1)\right] & \text{if G rejects} \\ & \text{\& no ruling} \\ -\frac{d}{k} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{1+(q*j+(1-q)*0)} * (0) + \left(1 - \frac{p}{1+(q*j+(1-q)*0)}\right) * 1\right] & \text{if G rejects} \\ \quad + \left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2+(q*j+(1-q)*0)} * 1 + \left(1 - \frac{p}{2+(q*j+(1-q)*0)}\right) * (1)\right] & \text{\& ruling} \end{cases}$$

$$U_E = \begin{cases} \frac{p}{1+x} * (1) + \left(1 - \frac{p}{1+x}\right)(0) & \text{if G accepts} \\ -\frac{r}{c} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[p * 1 + (1-p) * 0\right] + \left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2} * 1 + \left(1 - \frac{p}{2}\right) * 0\right] & \text{if G rejects} \\ & \text{\& no ruling OR} \\ & \text{if noncompliance} \\ -\frac{r}{c} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{1+j} * 1 + (1 - \frac{p}{1+j}) * 0\right] & \text{if G rejects} \\ \quad + \left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2+j} * 1 + \left(1 - \frac{p}{2+j}\right) * 0\right] & \text{\& compliance} \end{cases}$$

$$U_C = \begin{cases} 0 & \text{if no ruling} \\ j & \text{if ruling \& compliance} \\ a(0) + (1-a)(-j) & \text{if ruling \& noncompliance} \end{cases}$$

insulating courts from state punishment. As such, autonomy in this project refers to *de facto* autonomy.

4.3 Equilibrium

There is a unique pure strategy Subgame Perfect Equilibrium to the game, meaning for any combination of unique parameter values there is a unique equilibrium outcome. Highlighting the difference between a baseline case of conflict and a world with an active court, I characterize the possible equilibrium outcomes as one of two cases: either (a) the Court does not rule against the rights violation, or (b) the Court rules against the Executive and he complies with a probability analogous to the Court's power. Additionally, each case can end either in a bargain between the Executive and the Group (and the Court never has the opportunity to act) or a conflict with repression and dissent (and the Court and Executive act in one of the equilibrium combinations of behavior). I will discuss the bargaining and conflict behavior of each equilibrium in subsequent sections, but first I address the conditions under which each equilibrium occurs.

Proposition 4.1 (No Court Ruling)**.** *When* $a < \frac{2q-1}{q-1}$ *and* $q < \frac{1}{2}$*, the Court does not rule the Executive has violated the law.*

$$
\begin{cases}
\textit{Group} \begin{cases} \textit{accept when } x \geq x_{nr}, \textit{ where } x_{nr} \equiv \frac{8c-8cp+kp}{8c}; \textit{ reject otherwise} \\ d^* = d_{nr} = \frac{k^2 p}{8c} \end{cases} \\
\textit{Executive} \begin{cases} \textit{bargain when } \frac{k}{8} \leq c \leq \frac{k}{2} \textit{ OR } c > \frac{k}{2} \textit{ and } \frac{16c(-2c+k)^2}{64c^3-40c^2k+12ck^2-k^3} < p < 1; \\ \quad \textit{no bargain otherwise} \\ r^* = r_{nr} = \frac{2ckp-k^2p}{8c} \end{cases}
\end{cases}
$$

When judicial autonomy ($a < \frac{2q-1}{q-1}$) and judicial power ($q < \frac{1}{2}$) are low, the Court will not rule that repression has violated constitutional law. Under these conditions, the public is unlikely to enforce compliance, so the court is left vulnerable to punishment for its ruling. Further, the probability of such punishment is high. As a result, the court avoids the potential punishment and does not rule against state authorities. A court that does not rule that a violation has occurred leaves the group and executive facing the same conditions as the baseline model. They choose the same levels of dissent and repression and enter conflict under the same conditions as in the baseline model presented in Chapter 2.

Proposition 4.2 (Court Ruling)**.** *When $a \geq \frac{2q-1}{q-1}$ or $q > \frac{1}{2}$, the Court rules the Executive has violated the law.*

$$
\begin{cases}
\textit{Group} \begin{cases} \textit{accept when } x \geq x_{ct}, \textit{ where } x_{ct} \equiv \frac{kp-4c(-1+p-jq)(2+jq)}{4c(2+3jq+j^2q^2)}; \textit{ reject otherwise} \\ d^* = d_{ct} = \frac{k^2 p}{4c(1+jq)(2+jq)} \end{cases} \\
\textit{Executive} \begin{cases} \textit{bargain when } \; j < \frac{1}{2}\sqrt{\frac{9c^2-8ck+2k^2}{c^2q^2}} - \frac{1}{2q} \textit{ and } \underline{p} < p < \overline{p} \textit{ OR} \\ j \geq \frac{1}{2}\sqrt{\frac{9c^2-8ck+2k^2}{c^2q^2}} - \frac{1}{2q} \textit{ and } 0 < p < \overline{p} \textit{ (defined in Appendix B)} \\ r^* = r_{ct} = \frac{2ckp-k^2p}{4c(2+3jq+j^2q^2)} \\ \textit{comply if public punishes, do not comply if no punishment} \end{cases}
\end{cases}
$$

However, when autonomy or power is sufficiently high, the court will sanction repressive actions. A sufficiently powerful court can reliably expect the public to enforce its decisions, punishing a noncompliant executive. As such, the court faces a low probability of being punished, both because noncompliance is rare and its autonomy protects it from punishment

when noncompliance does happen to occur. The Executive anticipates that the Court will rule against him and includes an estimate of what he is likely to have to pay in his calculation of his optimal level of repression. Compliance requires resources that he cannot otherwise use to repress dissidents, so the Court's presence and strategy affects his repressive behavior. Anticipating a change in the Executive's rights violations, the dissident group adjusts its own levels of dissent and bargaining behavior accordingly.

Under what conditions is the court likely to rule, moving the actors into one case of equilibrium outcomes versus the other? When can the court effectively constrain the executive use of repression? Furthermore, what effects does the court have on repression outside of the Executive's decision to comply with the ruling or not? In the following section, I attempt to answer these questions with a discussion of the comparative statics derived from the equilibrium described above and the empirical implications suggested by the model.

4.4 Analysis

4.4.1 Court Rulings and Executive Compliance

The Executive observes whether the public will punish him for noncompliance or not, so knows exactly whether or not it is in his favor to comply with the court's ruling. Clearly, if the Court knows the Executive will comply, it should rule against him ($j > 0$), while if he will not comply, it should not rule against him ($a * 0 + (1 - a) * (-j) \not> 0$). The Court in this model is concerned only with compliance; it would prefer to allow repression in the status quo to ruling against a noncompliant Executive.

Unfortunately for the Court, it does not know whether the Executive will comply with the ruling or not, because it does not know whether the public will enforce the ruling. However, it

does have a sense for the amount of public support it enjoys, in that it knows the *probability* with which the public (or any other exogenous actor) will punish the Executive's noncompliance, q. The Court calculates its expectation of the Executive's compliance decision and rules with some risk of noncompliance when it is sufficiently autonomous, or when:

$$U_C(Rule) \geq U_C(NotRule)$$

$$q * j + (1-q) * (1-a) * (-j) \geq 0$$

$$a \geq \frac{2q-1}{q-1}$$

Figure 4.2 illustrates the two types of outcomes described in Propositions 4.1 and 4.2, as functions of judicial autonomy and power. The solid curved line represents the points at which the Court is indifferent between ruling against repression and allowing the violation to go unsanctioned. To the left of this line, the Court does not rule against the Executive, and to the right, it does. The x-axis is the Court's power, or the probability with which the Executive will comply with the Court's decision.

The Court's decision is a function of both its autonomy and its power. As it becomes increasingly autonomous, there is a wider range to the right of its indifference line in which the Court will rule that the Executive has violated the law. Additionally, as it is increasingly likely that the public will defend it against a noncompliant Executive, the range of autonomy for which the Court rules against him increases (the cutpoint becomes easier to meet). Thus, as we might expect,[9] the likelihood that the Court rules against the Executive increases as judicial autonomy and power increase.

[9]This prediction is in line with many of the scholarly arguments that a more "independent" court will be more enabled to rule against executive behavior and human rights violations (see, e.g. Apodaca 2004, Blasi and Cingranelli 1996, Cross 1999, Howard and Carey 2004, Keith 2002).

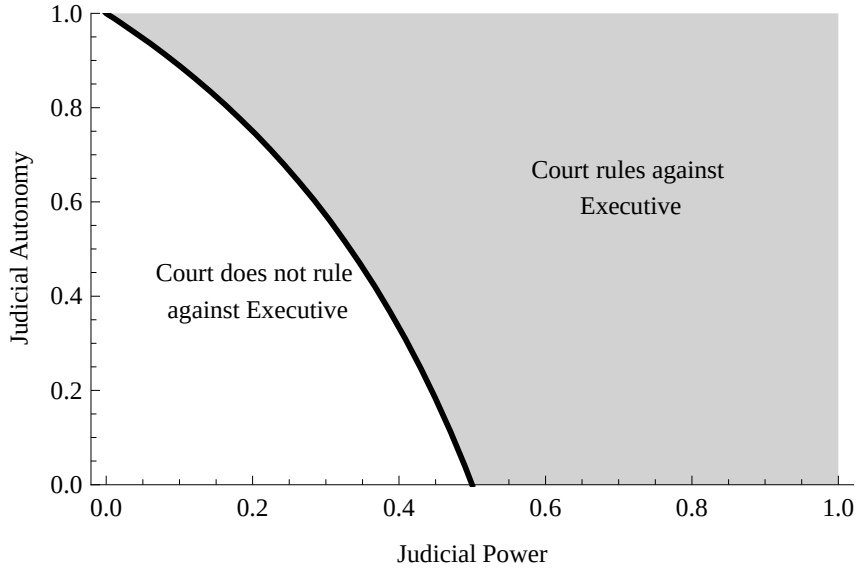


Figure 4.2: The Court's decision as a function of judicial autonomy and power.

Implication 4.1. *As judicial autonomy and judicial power increase, the likelihood of a Court ruling against an Executive increases.*

In contrast, compliance is a function of the Court's power alone. As the Court becomes increasingly powerful, the Executive is more likely to comply with any remedy, even a remedy that is very resource costly. However, for any level of judicial power and any remedy, shifting the level of judicial autonomy does not change the Executive's decision as to compliance. The court's vulnerability to punishment only affects its likelihood of ruling against state authorities, not the likelihood the Executive will comply. Only another actor—the public, the legislature, the media, the international community, etc.—can influence his compliance decision.

Implication 4.2. *As judicial power increases, the likelihood of compliance increases. Judicial autonomy has no effect on compliance.*

Obviously, a court has to rule against state authorities if it is to change state behavior. However, autonomy has little direct effect on the executive's choice of compliance, which is critical to altering his behavior. If he will not comply, the court's ruling falls on deaf ears and leads

to no change in political outcomes.[10] These results thus are antithetical to the very common conception that judicial independence is key for the protection of rights. Scholars, politicians, and non-governmental organizations commonly argue that one of the surest ways to protect human rights (and improve democratic institutions and economic conditions, for that matter) is to insulate courts and judges from state manipulation. In contrast to these prominent arguments, the implications of this theory suggest that such insulation will have little ability to change the executive's compliance behavior. Autonomy is neither necessary nor sufficient to induce executive compliance.

Based on the levels of judicial autonomy and power, the Executive and the Group formulate some expectation over the Court's move and thus in which state of the world they are playing. How do the Court's ruling and the Executive's expected response affect the dispute between the Executive and the Group? In other words, how does the Court affect the onset and severity of repression and dissent in each of these possible scenarios?

4.4.2 Conflict in an Institutional Context

When the Court is susceptible to political manipulation $\left(a < \frac{2q-1}{q-1}\right)$, it will not rule that the Executive has violated the law, so the equilibrium conflict and bargaining behavior remains the same as in the baseline model. The Executive and the Group simultaneously choose levels of repression and dissent that maximize their utilities. The Executive chooses

$$r_{nr} = \frac{2ckp - k^2p}{8c}$$

[10] Or so we would think. Keep reading...

given that he must minimize the resources he expends and account appropriately for his opponent's efficiency while trying not to lose the policy and risk losing political power. Likewise, the Group attempts to maximize its probability of receiving the policy outcome and the benefits of political power while minimizing resource loss and so chooses

$$d_{nr} = \frac{k^2 p}{8c}$$

The Group will accept any offer that is greater than what it expects to receive from rejecting the bargain and entering conflict, or any $x \geq x_{nr}$ such that

$$x_{nr} \equiv \frac{8c - 8cp + kp}{8c}$$

and the Executive, for all practical purposes, will offer the Group any bargain he can to avoid costly conflict. Repression and dissent result when the Group cannot be otherwise satisfied.

A state in which a court does not or cannot rule against human rights violations is theoretically indistinguishable from a state in which there is no court. The Court's presence cannot affect behavior if it takes no action, the likelihood of which is determined by its autonomy and power.

In contrast, if the Court *does* rule against state repression, whether because it is sufficiently autonomous, powerful, or both, the Executive and the Group modify both the likelihood and the severity of their conflict behavior accordingly. The independent variables—the Group's efficiency, the Executive's efficiency, and the probability of executive political survival—all have the same functional relationship to the dependent variables of repression and dissent as in the baseline model. In other words, all of the implications derived in Chapter 2 still hold in the

context of a judiciary. However, the addition of the Court's ruling and the Executive's compliance choice shifts both the likelihood and the severity of the conflict behaviors, with the other variables held constant.

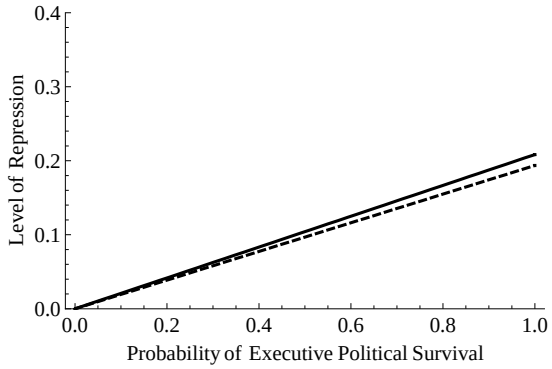
If the Court rules against state repression, the Executive anticipates the probability that the public (or any other actor) will punish him for noncompliance and treats that as the probability with which he will comply. Regardless of the form the remedy takes, compliance leaves the Executive with a lowered capacity to set policies his winning coalition prefers or fewer resources to distribute to the members of the group that keeps him in power. On the other hand, if the Court lacks public support, he faces a low probability of having to comply with the decision. This probabilistic outcome enters the Executive's utility in his probability of political survival, $\frac{p}{1+q*j+(1-q)*0}$.

The Executive chooses the level of repression knowing that his probability of political survival will decrease by the size of the remedy he will pay with probability q. Though repression increases his probability of winning the policy (which results in a higher probability of political survival), it is costly in terms of resources. The Executive can counterbalance the utility loss from the remedy he may have to pay by using fewer resources to repress. Thus, he chooses a level of repression that is lower than the severity he uses in the context without a court:

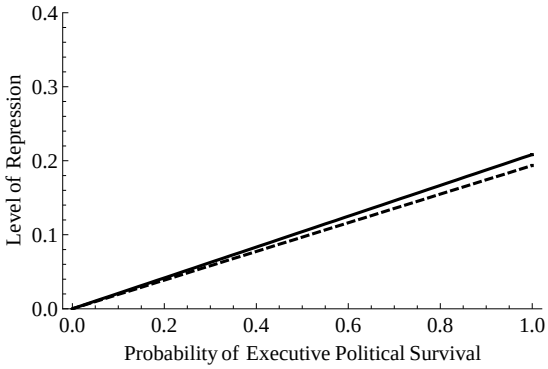
$$r_{ct} = \frac{2ckp - k^2 p}{4c(2 + 3jq + j^2 q^2)}$$

Figure 4.3 illustrates the equilibrium levels of repression in the political contexts with and without a court. In each graph, the solid line illustrates the predicted level of repression from the baseline model, while the dashed line represents the severity of repression chosen in the presence of a Court that will rule a violation has occurred. In the top two graphs, a shift in

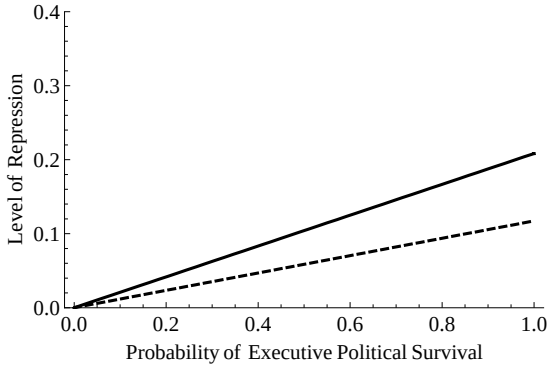
the court's autonomy from the (near) minimum to the maximum of its possible (theoretical) range while holding power constant effects no change in the severity of repression. Shifting autonomy neither affects the choice to comply with the Court's decision nor the behaviors of the conflict process. In other words, given that the Court will rule against the Executive, its autonomy has little effect on the Executive's decisions.



(a) Court with low autonomy (0.1) and low power (0.1)



(b) Court with high autonomy (0.9) and low power (0.1)



(c) Court with low autonomy (0.1) and high power (0.9)

Figure 4.3: The level of repression used in the context of judiciaries as a function of the probability of executive political survival. Solid line indicates level of repression in baseline case without a court, dashed when court rules against the executive.

However, the Court does have to be either autonomous or powerful for it to be able to rule against the Executive. Recall that the Court rules against the Executive when $a \geq \frac{2q-1}{q-1}$. If q is low (the Court is relatively powerless), the Court may still decide against him if a is suffi-

ciently high. In Figure 4.3, the dashed line in the upper two graphs does not move despite the significant shift in judicial autonomy. Nevertheless, in the top left graph, with low autonomy and low power, the Court is insufficiently autonomous to rule against the Executive according to the cutpoint $a \geq \frac{2q-1}{q-1}$. In the top right graph, with high autonomy and low power, the Court does meet this cutpoint and *will* rule against him. Put differently, facing a manipulable and powerless Court, the Executive always chooses the solid line (baseline repression). Facing an autonomous (yet still powerless) Court, he is forced to choose the dashed one, which is ever slightly lower because of the possibility (albeit low) of being punished for noncompliance. Thus, increasing autonomy can lead to a reduction in the severity of repression, though it only has an impact when the Court has low levels of power.[11]

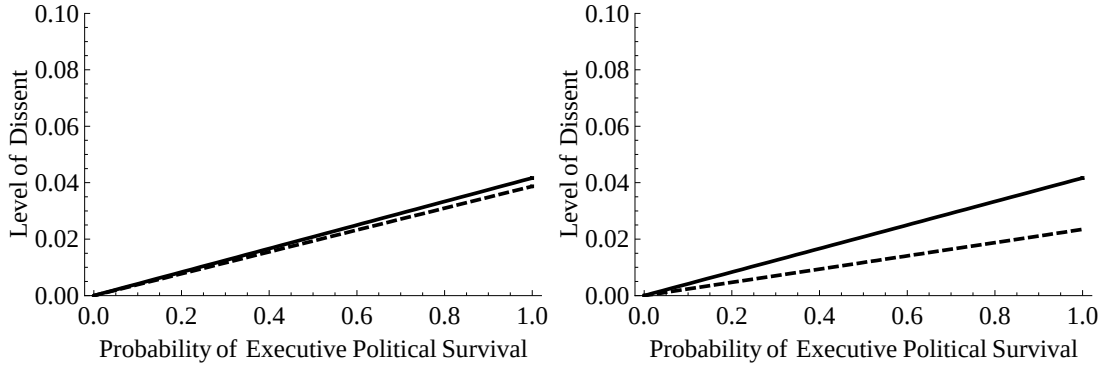
Implication 4.3. *When judicial power is low, the level of repression decreases as judicial autonomy increases. When judicial power is relatively high, judicial autonomy has no effect on the level of repression.*

Compared to the two upper graphs in Figure 4.3, the lower left graph illustrates a shift from the minimum level of judicial power to the maximum. In the effort to minimize resource loss, the Executive uses less severe repression in anticipation of the high likelihood that he will have to comply with the Court's ruling. This is true even when autonomy is at its lowest. In other words, when a Court enjoys significant support, the Executive will very likely have to comply with its ruling and will lower its severity of repression.

Implication 4.4. *As judicial power increases, the level of repression decreases.*

The dissident Group knows that the possibility of complying with the remedy will force the Executive to use his resources judiciously, lowering the level of repression. Since dissent can be

[11] Recall from Figure 4.2 that when $q \geq \frac{1}{2}$ the Court will always rule against the Executive, regardless of its autonomy.



(a) Court with high autonomy (0.9) and low power (0.1)

(b) Court with high autonomy (0.9) and high power (0.9)

Figure 4.4: The level of dissent used in the context of judiciaries as a function of the probability of political survival. Solid line indicates level of dissent in baseline case without a court, dashed when court rules against the executive.

quite costly for the Group, it prefers to dissent only to the degree necessary to eke out a policy victory over the Executive. Consequently, when the Court enjoys sufficient support to punish noncompliance, the Group also uses a lower level of dissent than it does in the baseline model:

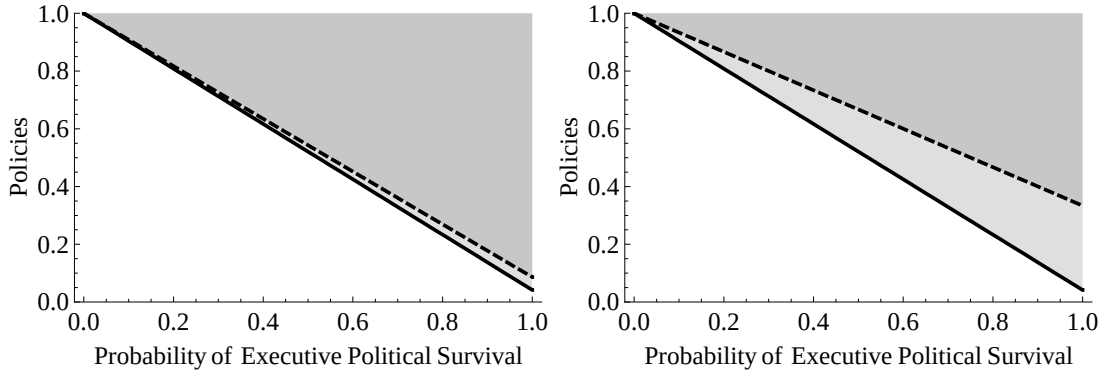
$$d_{rj} = \frac{(4-4a+a^2)k^2p}{(2a-5)(4a-9)c}$$

Judicial autonomy and power thus have the same effects on dissent, though the impact seems to be of less magnitude than the effects on the level of repression, judging from Figure 4.4.

Implication 4.5. *When judicial power is low, the level of dissent decreases as judicial autonomy increases. When judicial power is relatively high, judicial autonomy has no effect on the level of dissent.*

Implication 4.6. *As judicial power increases, the level of dissent decreases.*

Because the Group will use a lower level of dissent with relatively little loss to its probability of victory, the conflict becomes a less costly prospect. With less to fear, the Group can drive



(a) Court with low autonomy (0.1) and low power (0.1)

(b) Court with high autonomy (0.9) and high power (0.9)

Figure 4.5: The minimum bargain the group will accept. Solid line indicates acceptable bargain in baseline case without a court, dashed with a court.

a harder bargain, demanding a higher policy offer and rejecting a wider range of offers. The Group accepts any bargain, x, greater than or equal to x_{ct}, such that

$$x_{ct} \equiv \frac{kp - 4c(-1+p-jq)(2+jq)}{4c(2+3jq+j^2q^2)}$$

and rejects any offer less than this policy point. This minimum acceptable bargain is depicted in Figure 4.5. The solid lines illustrate the minimum bargain the Group will accept (given its expectation of the costs and potential benefits of entering conflict) in instances in which the Court will not rule against the Executive—the baseline prediction. The two gray areas above the solid lines are all offers the Group will accept. The dashed lines are the minimum offers it will accept if the Court will rule against the Executive, and the dark gray area above these lines are additional, more generous offers that the Group would accept were they to be offered.

These figures illustrate several things. First, as in the baseline model, though the levels of repression (Figure 4.3) and dissent (Figure 4.4) *increase* as the leader becomes more secure in political power, the likelihood of conflict *decreases*. The Group will accept a wider range of bar-

gains as the probability of political survival increases, whether or not the Court rules a violation has occurred. Thus, bargaining is increasingly likely and conflict (areas below the respective lines) is less likely. Second, the Group's expectation that the conflict will be less costly when the Court will sanction the Executive leads it to demand more in the bargaining stage. Thus, the Court's actions make repression and dissent more likely than in the baseline model as the probability of executive survival increases. Third, as in the previous figures, varying the level of autonomy does not shift the position of the dashed lines, but judicial autonomy does affect whether the Group will demand the solid line versus the dashed line—at least when support for the Court is low. Finally, powerful Courts open opportunities for the Group to demand more in bargaining with state authorities. The graph on the left of Figure 4.5 is in the context of a relatively powerless court, and the graph on the right is in the context of a powerful court. The more support a Court enjoys on its behalf, the more the dashed line shifts away from the solid line—the Group demands more in the bargain. As a result, we should see more demands, and *more frequent dissent.*

Finally, as in the baseline model, the Executive always expects the conflict to be more costly than beneficial. Whenever possible, he will offer the Group a policy they will accept. In the end, in this model, we only expect to see conflict when the Group expects to receive more from the conflict than it can from any possible bargain.[12] The effects of the Court on the likelihood of repression are the same as its effects on the likelihood of dissent.

Implication 4.7. *When judicial power is low, the likelihood of repression and dissent increases as judicial autonomy increases. When judicial power is relatively high, judicial autonomy has no effect on the likelihood of conflict.*

[12]We may also see instances of executives who expect rejection and so offer no compromise at the outset. These are observationally equivalent in the model, but may be empirically distinguishable.

Implication 4.8. *As judicial power increases, the likelihood of repression and dissent increases.*

An autonomous and powerful Court, then, has several effects on repressive behavior. First, external support for the Court enforces the ruling, yielding compliance. Even after the Executive has repressed the Group, this compliance leads to some change or reversal in behavior. Second, the expectation of compliance limits the Executive's possible range of repressive behaviors. To minimize his loss, he reduces the level of severity with which he represses the Group. In expectation of this lowered repression, the Group also uses a lower level of dissent. Overall, the conflict is less severe when a Court can rule against the Executive, particularly when it has the support to enforce the decision. Finally, for better or worse, the presence of such a Court opens the state to a higher likelihood of conflict. Potential dissident Groups expect the leader to be more constrained in the context of a powerful and autonomous Court, and thus will be more prone to dissent. Though such a Court should be able to elicit compliance and reduce the severity of repression and dissent, both repression and dissent should be more frequent in such a context.

4.5 Conclusion

In this chapter, I demonstrated the mutability of the baseline model to answer additional questions about repression. In particular, under what conditions can a court effectively constrain state repression?

The introduction of the court into the baseline context of repression and dissent presents a glimpse of how a court can alter behavior. Repression is not a static decision; leaders do not repress out of a preference for rights violations. Instead, leaders repress to control dissident influence over policy and thereby retain their hold on political power. Courts affect not just the

use of repression but the entire interaction between state authorities and potential dissident groups. The theory presented here implies that a court able to rule against a state authorities, particularly one supported by the public, can impose costs that lead to the reduced severity of state repression. However, this constraint opens the authorities to increased pressure from dissident groups and can end in more violations overall.

Judicial autonomy and power are not new concepts, though they are not often separated conceptually while considered in the same study. Powell and Staton (2009), for instance, study the effects of judicial effectiveness (power) on a state's compliance with international treaty obligations, and Keith (2002) looks only at measures of autonomy and their effects on human rights practices. Most studies examine the effects of judicial independence on state repression, referring to both concepts within their ideas of judicial independence without separating them. Ríos-Figueroa and Staton (2009) contend that scholars should disaggregate these concepts to have a more accurate idea of which concepts affect what outcomes. In this project I have done so.

This theoretical chapter suggests that autonomy—the concept many refer to as "judicial independence"—is neither necessary nor sufficient to alter state repressive behavior. Autonomous courts are no more able to induce compliance with their rulings than courts subject to political influence. Consequently, a court that is insulated from outside influence can have little effect on the likelihood or severity of repression. Of course, a court must first be able to rule against state authorities before compliance can even be viable. It is here that autonomy can matter, since the court's decision to rule that a legal violation has occurred is a function of both its potential to be punished for the ruling and the likelihood that the decision will be enforced. However, even in this action autonomy is neither necessary nor sufficient, since a sufficiently powerful court can and will rule against the state, even when a court will certainly

be punished for the decision. In contrast, an actor willing to enforce the court's rulings is critical to altering state repressive behavior. Judical power is both necessary and sufficient for eliciting executive compliance and reducing the severity of state repression. Of course, it may still lead to an increase in the frequency of rights abuse in certain circumstances.

The extended model suggests new ways for those interested in protecting rights to approach the development of courts as a constraint on rights-violating behavior. Scholars, politicians, and international organizations argue that one of the most reliable ways to protect rights is to insulate judges from government manipulation. However, I argue judicial autonomy only affects repressive behavior when the court lacks the non-governmental support required for enforcement. Those interested in protecting rights should target their efforts to insulate courts among the weakest or newest institutions. For real impact, however, the best bang for the buck is in developing the court's *power*. International institutions, interested foreign governments, and non-governmental organizations can use their efforts to educate the population on the value of the court and its potential role in protecting their rights. The more the populace supports the courts, the more it will be able to defend rights in practice, even under threat of punishment.

Nevertheless, judicial institutions, even powerful ones, are not perfect solutions to the problem of human rights violations. Dissident groups present state authorities with far more threat to their political power than a court can under most circumstances. Without a real threat to the leader's position as a result of punishment for noncompliance, his bigger concern is likely to be the groups demanding policy change and threatening his ability to satisfy his winning coalition. This model suggests that while the court may constrain the leader to some extent, it does not prevent repression and may even lead to an increase in its likelihood. The leader will do what he has to do to remain in power, even under threat of powerful court sanction.

The effects of domestic courts on state repression is only one of many research questions we can answer by extending the simple baseline model I've presented in this project. We can examine how all kinds of political institutions or actors can affect rights violations, such as competitive elections, political parties and coalitions, economic sanctions, international institutions and treaties, transnational advocacy networks, domestic non-governmental organizations, etc. By looking closer at the process that leads to state repression, we can better understand how these institutions affect executive behavior in this context.

Chapter 5

Autonomy versus Power: Testing the Extended Model

In Chapter 4, I extended the baseline conflict process of repression and dissent to include a domestic judiciary. Extant scholarship suggests that the introduction of a court into the process should lead to a reduction in rights violations, particularly as the court becomes increasingly "independent" (Apodaca 2004, Blasi and Cingranelli 1996, Cross 1999, Howard and Carey 2004, Keith 2002). Following (Ríos-Figueroa and Staton 2009), I disgaggregated the concept of judicial independence into the court's vulnerability to punishment (autonomy) and its ability to impose costs on noncompliant authorities (power). The introduction of these separate concepts into the baseline model of conflict illuminates several interesting implications that I test empirically in this chapter.

When deciding whether to rule against the executive, the court considers the likelihood that it will face some punishment for its choice as well as the probability that the ruling will be enforced. The likelihood of a ruling is a function of both judicial autonomy and power. How-

ever, once the court rules, compliance is a function of power alone. As political support for the court increases, the executive will be increasingly likely to comply in order to avoid punishment. Autonomy, or the ability to punish the court for its ruling, does not affect the compliance stage and thus cannot affect the executive's post-ruling behavior beyond what would have occurred for that level of power with or without autonomy. Though autonomy and power both influence the court's willingness to rule, autonomy, surprisingly, is neither necessary nor sufficient to induce compliance.

The court's presence, however, also affects repression and dissent beyond the compliance decision. When deciding whether and how much to repress, the executive takes into account his expectation that the court will rule against him and the likelihood that the ruling will be enforced. Should he have to pay the court's chosen remedy, he will lose resources he could have otherwise used to satisfy his winning coalition. Thus, he must expend fewer resources in the course of repression than he would prefer in a world without a court. Increasing levels of support for the court lead to an increasing probability that he will have to comply with the remedy, so the level of repression should decrease accordingly.

A court's autonomy has no direct effect on the level of repression but instead is conditional on the level of judicial power. When the court is relatively powerful, state authorities will have to pay the remedy regardless of the level of autonomy. When the court lacks public support, however, the court's autonomy is critical to affecting the level of repression. Though the probability of enforcement is quite low, any ruling has some (albeit small) probability of punishment associated with noncompliance. The only way for a court to have any chance at affecting repression is by ruling against the executive. Thus, when the probability of enforcement is low, a court can effect change as it becomes increasingly autonomous.

Finally, the court's potential to sanction the executive for repressing the group affects the

dynamics of the conflict process as a whole. The dissident group expects that the possibility of sanction will lead the executive to conserve resources and use lower levels of repression. This means the group can also use lower levels of dissent and have the same effect on its capacity to "win" its preferred policy. However, with lower levels of repression and dissent, the conflict becomes less threatening to both actors. As a result, groups press for more generous bargains, and authorities are drawn into more conflicts. Though the court may lead to lower levels of severity, its presence may instigate more frequent conflict.

The focus of this dissertation is on state repression and popular dissent, so this empirical chapter centers on the effects of judicial autonomy and power on instances and levels of repression and dissent. The extended theoretical model presented in Chapter 4 also has empirical implications as to when the court is likely to rule against the executive as well as when he is likely to comply with its ruling. Nevertheless, for the purposes of this project, the hypotheses tested in this chapter are related to the effects of the court and its characteristics on the onset and levels of repression and dissent. I leave the other implications for testing in a future project.

Hypothesis 5.1. *When judicial power is high, judicial autonomy has no effect on the likelihood of conflict or the severity of repression or dissent. When judicial power is low and as judicial autonomy increases,*

1. *the likelihood of conflict increases,*
2. *the level of repression decreases, and*
3. *the level of dissent decreases.*

The statistical tests presented in this chapter build upon those from Chapter 3. The model with a domestic court is a theoretical extension of the baseline model, and so the core parameters—

the efficiency of repression and dissent and the probability of executive political survival—remain the same. The measures used to operationalize the baseline parameters in Chapter 3—state corruption, INGOs with citizen membership, and government stability—are used in these tests as well.

In addition to the core variables, the error structure and theoretical dynamics are the same for this extended theory as for the baseline theory. The levels of repression and dissent are the result of a selection process (conflict onset). Additionally, the two outcomes (conflict onset and levels) are based on the same set of independent variables but different parameters/processes. Thus, I use Cragg's tobit models to test the hypotheses in this chapter.

In the following sections, I describe the differences between these statistical tests and those presented in Chapter 3. I first describe the measures used to operationalize judicial autonomy and power. I briefly characterize the added complexity of the interaction between autonomy and power required to test the implications in Hypothesis 5.1. I then present the results of the statistical estimation and conclude with a discussion of the implications thereof.

5.1 Operationalizing Autonomy and Power

5.1.1 Judicial Autonomy

As defined in Chapter 4, a court is *autonomous* when judges can rule in line with their own (individual or collective) preferences, free from the influence of other actors. Rosenn (1987, p. 7) uses a definition of judicial independence that aligns with this concept of autonomy: "the degree to which judges actually decide cases in accordance with their own determination of the evidence, law and justice, free from coercion, blandishments, interference, or threats of government authorities or private citizens." Ideally, a measure of autonomy would measure

"the degree to which judges actually decide cases in accordance with their own determination of the evidence, law and justice," or at least in accordance with their own preferences.

To measure the extent to which judges are the "authors of their own opinions" (Kornhauser 2002, p. 48), one would need a sense of judges' individual or collective preferences over all cases related to state repression, as well as an accounting for all decisions for those relevant cases. Then we could construct a measure that characterizes how often the preferences match the rulings. However, autonomy is not so simple. If judges are coerced or bribed, they may selectively hear cases in which the interfering party's preferences align with the judges' preferences (Ríos-Figueroa and Staton 2009, pp. 12-14). Additionally, individuals or groups may not even bring cases to a court they believe to be corrupt (Powell and Staton 2009, Simmons 2009). If so, such a measure would suggest that the court always gets what it wants, when in reality it is not ruling as it would prefer in many cases in which the interfering party disagrees. This selection effect means that a measure should account not only for the cases in which courts rule but also those cases in which they could have ruled but they did not even hear the arguments.

I know of no datasets that account systematically for all four elements of the such an ideal measure of autonomy in a longitudinal format. Estimations of judicial preferences exist for some countries (notably the US) but very few. The Comparative Judicial Behavior Project is in the process of collecting data on constitutional court decisions across time and space, but this project is in its very early stages. Even then, it will not account for those cases that courts could have heard but did not. As a result, without heroic efforts on my part, I cannot measure the extent to which judges rule as they please directly.

However, the extent to which judges decide as they prefer is the *result* of its "free[dom] from coercion, blandishments, interference, or threats of government authorities or private citizens (Rosenn 1987, p. 7)." The court's vulnerability to punishment or other political influence by a

non-judicial actor is thus a key element of its autonomy. This vulnerability is partially a function of structural attributes that protect (or fail to protect) the court and/or its judges from institutional changes or personal sanctions. It is also a function of any connections between judges and politicians—judges personally related to authorities are likely to be subject to influence over their decisions. Thus, we could instead use a measure of judicial autonomy that captures the amount of influence to which the court is susceptible, whether via the potential for punishment or rewards for rulings.[1]

These ideas of judicial vulnerability and/or corruption are characterized in some of the more common measures of *judicial independence*, of which there are many.[2] Available measures differ slightly from one another in temporal and spatial scope. The baseline statistical data used in Chapter 3 includes 133 states over the years 1990 to 2004. To maintain as many state-years as possible, this eliminates the use of short-term or cross-sectional measures such as the Feld and Voigt (2003) or Howard and Carey (2004) measures.

Available measures of independence also capture different aspects of judicial autonomy. Keith's (2002) measure, for instance, codes *de jure* judicial independence, or judicial protections encoded in constitutional law. However, though a court may be protected by the letter of the law, it often remains vulnerable to punishment or corruption in practice (*de facto* autonomy (see, e.g., Feld and Voigt 2003, Howard and Carey 2004)). Since the theory being tested here focuses on the observable effects of the court's decision-making, the measure should capture the court's actual vulnerability rather than its legal vulnerability.

Most importantly, many of the measures of judicial independence account for more con-

[1] Russell (2001, p. 11) posits that judicial independence (here, autonomy) has two dimensions: an external dimension of those persons, groups, or institutions that influence the judges or the judiciary and an internal dimension of influence and authoritative control within the judiciary. For the current purposes, I am concerned with the external dimension, especially executive influence over the judiciary. I assume the judiciary has solved its collective problems of control.

[2] Ríos-Figueroa and Staton (2009, p. 7) analyze thirteen.

cepts than autonomy alone. Ríos-Figueroa and Staton (2009), in their analysis of the concept and measurement of judicial independence, find that many of the commonly used measures include factors related to both judicial autonomy and power in the same measure. The Political Risk Services (PRS) Group,[3] for example, has developed a measure of Law and Order that scholars often use to operationalize judicial independence, but this measure captures not only the "strength and impartiality" of the court but also the extent to which the general population observes the law (Group 2009, p. 33). This measure thus characterizes judicial autonomy and power together as well as the court's effects on society. I have argued that autonomy and power are distinct concepts with differing effects on the executive's use of repression, so a measure that combines them into a single concept would be inappropriate.

The measure I use to approximate the core concept of judicial autonomy is the Tate and Keith (2007) measure of *de facto* judicial independence. Building from Howard and Carey's (2004) measure,[4] Tate and Keith (2007, p. 17) coded text in US State Departments for all available states from 1981 to 2006. The trichotomous categorical variable follows the coding scheme as described in Table 5.1.

I use this particular operationalization to represent judicial autonomy because its components are limited to (1) executive influence on the court and (2) judicial corruption. There is no mention of the court's ability to enforce decisions (power) or any societal effects of judicial autonomy. The measure is limited to the vulnerability of the court to outside influence. The authors explicitly distinguish the behavioral measure from another *de jure* measure they de-

[3]This is the same group responsible for the measures of government corruption and stability used in Chapter 3.

[4]Howard and Carey's (2004) measure includes a component that codes whether the judiciary "afford[s] basic criminal due process protections to criminal defendants" that Tate and Keith (2007, p. 16) (and I, in this project) preferred to avoid, as it could be an effect of judicial autonomy rather than a characteristic of it. As a result, they followed a similar process as Howard and Carey in collecting their data, but left out this component.

Code	Category	Description
0	Non-independent judiciary	The judiciary is reported as not being independent in practice; is reported to have significant or high levels of executive influence or interference; or is reported to high levels of corruption.
1	Somewhat independent judiciary	The judiciary is reported to be somewhat independent in practice with reports of (some) pressure from the executive "at times" or with occasional reports of corruption.
2	Fully independent judiciary	The judiciary is reported as "generally independent" or is independent in practice with no mention of corruption or outside influence.

Table 5.1: Coding of Tate and Keith (2007) measure of *de facto* judicial independence

velop in the same project (Tate and Keith 2007). It also coincides with the full temporal range of the baseline dataset. As such, it is ideal for my purposes.[5]

5.1.2 Judicial Power

Judicial power, as defined in Chapter 4, is the court's ability to turn its preferences into political outcomes (Cameron 2002). Ideally, a measure of the court's power would note how often the court hands down a ruling and the target of the ruling complies with the stated remedy. One could determine what the court directs the target to do in each decision and then code whether or not the target complied.

However, vagueness in judicial rulings can make collecting such information a challenge. As Staton and Vanberg (2008) note, courts often hand down remedies with vague directives. For instance, the *Brown v. Board of Education* decision did not specify timelines or observable benchmarks of compliance but instead stated that integration should proceed "with all delib-

[5]Cingranelli and Richards (2007) have developed a very similar behavioral measure of judicial autonomy based on US State Department Reports and Amnesty International Reports, which correlates with the Tate and Keith (2007) measure (correlation statistic of 0.709, which is significant at the 95% confidence level) and performs similarly both in Tate and Keith's (2007) examinations and the statistical models reported here. However, the Cingranelli and Richards (2007) measure is more limited in time and scope than the Tate and Keith (2007) measure, so I use the latter.

erate speed (Brown v. Board of Education 349 U.S. 294 (1955), as cited in Staton and Vanberg (2008, p. 504))." Such vagueness obscures the court's directive, such that one cannot identify whether compliance has occurred or not. Further, Staton and Vanberg (2008) argue that courts sometimes purposefully construct vague decisions when they expect that state authorities are likely to not comply with the ruling. Judiciaries thrive on the appearance of compliance, and vague decisions may provide this cover when courts lack the power to actually enforce the rulings. Thus, a direct measure of compliance is likely to be not only difficult to observe but also a misrepresentation of the court's true capacity to induce compliance, rather than avoiding it using vagueness.

The strategic selection issue identified as a problem for measuring autonomy similarly affects the measurement of power or enforcement. A "weak" court may choose its actions carefully, only ruling against state authorities when it expects them to comply. Such a situation would give the appearance of compliance when the court actually has very little enforcement power. As Ríos-Figueroa and Staton (2009, p. 13) write, "Indeed, a court that offers little constraint on government can appear to be highly constraining if it chooses its cases wisely." Consequently, a measure of direct compliance is likely to systematically over-estimate the court's power, biasing any results in favor of supporting Hypothesis 5.1.

As a solution to both of these problems, I turn to a measure of the behavioral consequences of a powerful court, *contract intensive money* or CIM. Clague et al. (1999) developed CIM to account for property rights protection. Economic markets face enforcement difficulties much like high courts do. Contracts are rarely self-enforcing, particularly as the number of participants in the market increases, leading to the decreasing importance of reputation (North and Weingast 1989). However, the government (namely, the judiciary) "constitute[s] the entity that communicates breaches of contract" and "[the government] provides third-party enforcement

when no self-enforcing mechanism exists (Clague et al. 1999, p. 187)." CIM is a *behavioral* measure that represents the extent to which economic actors expect contracts to be honored. When actors expect the government to enforce agreements, they feel safe lending money to financial institutions. When they do not, they prefer to keep their money in currency. CIM measures "the ratio of non-currency money to the total money supply" (Clague et al. 1999, p. 188), calculated as

$$\frac{M_2 - C}{M_2}$$

where M_2 is the total money supply in a given country and C is the amount of currency held outside banks. The data for this calculation comes from the International Monetary Fund's International Financial Statistics (*International Monetary Fund* 2010).[6] As Clague et al. (1999, p. 188) describe, "Each firm and individual can decide, after taking account of the type of governance in that society, in what form it wants to hold its assets. Where citizens believe that there is sufficient third-party enforcement, they are more likely to allow other parties to hold their money in exchange for some compensation, and CIM is correspondingly higher."

Though designed to capture the expectation of the protection of property rights, scholars have also used CIM as a measure of the expectation of the effectiveness of the judiciary, particularly regarding the protection of human rights. To do so is to assume that "states that possess judicial institutions that protect property rights are likely to have judicial institutions that protect rights generally (Ríos-Figueroa and Staton 2009, p. 14)." The connection between the legal protection of economic contracts and the protection of human rights is an established one; Moustafa (2007) contends Egypt increased the judiciary's autonomy and power in order to guarantee property rights protection and attract economic investment, but doing so created

[6] Thanks to Jeff Staton and Courtenay Ryals Conrad for sharing their CIM data.

opportunities for activists to demand rights protection that the courts granted and the state generally honored. Scholars of the judiciary and human rights have found explicit connections between CIM and rights protection. Ríos-Figueroa and Staton (2009) suggest its use as a measure of judicial effectiveness specifically to address the problem of strategic selection. Powell and Staton (2009) find that higher values of CIM (trust in the judiciary) is associated with a higher propensity to ratify the Convention Against Torture without reservation, and Conrad (2010) finds states with effective judiciaries are more likely to honor their commitments.

Though a behavioral measure is an indirect way of accounting for judicial power, using it helps to address the above problems of identifying compliance and strategic selection effects. With no independent ability to enforce its rulings against state authorities, courts rely on a third actor—usually the public—for this power (Staton 2006, Vanberg 2005). Though it does not directly measure compliance, CIM explicitly accounts for the public's expectations that the court is a reliable institution. Furthermore, while a ruling-based measure could be endogenous to the level of state repression, the rate of trust in financial institutions is likely to be exogenous to this process (Powell and Staton 2009, p. 160). As such, I use CIM to account for the public's trust in and support for the judiciary, an approximation of the court's power.

The measures used in the baseline estimations in Chapter 3 remain the same in the following tests. Summary statistics for the two new variables, judicial autonomy and power, can be found in Table 5.2.

5.2 Estimation Results

Table 5.3 reports the results of the two empirical models used to test the implications of the extended theory as it predicts dissent and repression. All hypothesis testing is based on two-tailed

Table 5.2: Summary Statistics

Variable		Mean	Std. Dev.	Min.	Max.	Obs.
Tate & Keith	overall	.917	.843	0	2	N = 2299
Behavioral	between		.741	0	2	n = 157
Independence	within		.414	-.940	2.717	$\overline{T}$ =14.6
Contract	overall	.792	.160	0	1	N = 2070
Intensive	between		.1505733	.2371929	1	n = 151
Money	within		.0580913	.0258207	1.067919	$\overline{T}$ = 13.7

tests. The statistically significant results that align with the relevant hypotheses are highlighted in bold type.

As in the statistical tests of the baseline theory, I used Cragg's tobit models to estimate the two stage process of dissent and repression. Each model predicts the level of conflict as contingent upon onset occurring. Consequently, the onset of conflict is once in each model even though conflict is a single event—whether dissent or repression occurs first. Put differently, the first two equations of both estimations use the same dependent variable, though the results are listed separately for the sake of accuracy and transparency. The estimates for this stage across the two models are, as in the baseline estimates, virtually identical.

The estimates, once extended to include the court characteristics, continue to support the baseline hypotheses as in Chapter 3. As groups become increasingly efficient (the number of INGOs with citizens as members increases), the likelihood of conflict increases. A more efficient state engages in less severe acts of repression. Most importantly, as the probability of executive political survival (government stability) increases, repression and dissent are less likely to occur but are observed at higher levels of severity when they do occur. The inclusion of the additional court variables does not nullify or reverse these core results. As these results are discussed in depth in Chapter 3, I do not delve into them further here.

Turning now to judicial autonomy and power, Hypothesis 5.1 states that when judicial

Table 5.3: Estimation results : Extended Model

	Probability(Conflict=1)	
Autonomy	0.251	0.048
	0.443	0.468
CIM	0.253	-0.260
	0.519	0.586
Court Interaction	-0.509	-0.312
	0.536	0.565
Government Corruption	0.201**	0.182**
	0.055	0.056
INGOs w/ Citizen Members	**0.001****	**0.001****
(trend removed)	0.000	0.000
Government Stability	**-0.059****	**-0.042***
	0.016	0.017
Intercept	1.184**	1.487**
	0.404	0.458
	Level of Dissent	**Level of Repression**
Autonomy	2.239	1.001
	1.604	1.351
CIM	-1.712	-0.592
	1.576	1.096
Court Interaction	-1.140	-0.601
	2.110	1.609
Government Corruption	-0.181	**-0.262***
	0.223	0.133
INGOs w/ Citizen Members	-0.003**	-0.003**
(trend removed)	0.001	0.001
Government Stability	**0.134**†	**0.165****
	0.078	0.061
Intercept	-2.336	-0.863
	1.472	1.080
	Equation 3 : σ	
Intercept	2.881**	2.276**
	0.416	0.230
N	1700	1700
Log-likelihood	-2550.571	-2748.936
$\chi^2_{(6)}$	72.61	52.387

Significance levels : † : 10% * : 5% ** : 1%

power is low, an increasingly autonomous court should have a positive effect on the likelihood of conflict onset and a negative effect on the severity of repression and dissent. In other words, autonomy should affect repression and dissent *conditionally* depending on the level of judicial power. As Brambor, Clark and Golder (2005) and others[7] have well established, a conditional hypothesis such as "an increase in X is associated with an increase in Y when condition Z is met, but not otherwise" is best modeled using a multiplicative interaction term. As such, I interact judicial autonomy and judicial power in these estimates of dissent and repression. Further, to avoid omitted variable bias, I include the constitutive terms (Brambor, Clark and Golder 2005).

At first glance, it appears that neither autonomy nor power has any significant effect on repression and dissent. The constitutive terms are indistinguishable from zero. However, this does not mean that neither characteristic affects the dependent variables. The inclusion of the constitutive terms with the interaction term in this model means even these standalone terms are to be interpreted conditionally—as the effect of these variables when the other is valued at zero (Brambor, Clark and Golder 2005, pp. 71-72). Consequently, the results suggest that autonomy has no distinguishable effect when a court is completely powerless (a value of zero), and power has no distinguishable effect when a court has absolutely no autonomy. What effects do they have if both variables have some non-zero value?

The interaction term itself is statistically insignificant for in all four estimated equations. However, its interpretation depends on the value of the constitutive terms (Brambor, Clark and Golder 2005, pp. 73-74). If the model can be represented by the following equation:

$$Y = \beta_0 + \beta_1(Autonomy) + \beta_2(Power) + \beta_3(Autonomy \times Power) + \epsilon$$

[7] See, e.g., Aiken and West (1991), Friedrich (1982), Wright (1976).

then the marginal effects of autonomy should be calculated as

$$\frac{\partial Y}{\partial Autonomy} = \beta_1 + \beta_3(Power)$$

As such, I graph the marginal effects so as to meaningfully interpret the interactive effect. I examine the marginal effects in light of all three implications of Hypothesis 5.1 in turn.

First consider the interactive effects of autonomy and power on the likelihood of conflict onset, illustrated in Figure 5.1. Hypothesis 5.1.1 states that an increase in judicial autonomy should lead to an increase in the likelihood of conflict, but this should only be the case when judicial power is low. The marginal effects found in Figure 5.1 do not support this implication. As one looks from left to right on this graph, judicial power increases. The solid line represents the effect of autonomy on the likelihood of conflict given that particular value of judicial power, and the dashed lines represent the 95% confidence interval around that estimated effect. If the entire confidence interval is on one side or the other of zero, then the effect can be considered statistically significant for that value of judicial power. There is a range, with a value of CIM of around 0.8, for which the marginal effects of autonomy on the likelihood of conflict are distinguishable from zero. However, this value of judicial power is relatively high, and the effect is negative and decreasing, both of which are antithetical to the predictions in Hypothesis 5.1.1.

The other two implications of Hypothesis 5.1 are that the severity of both repression and dissent should decrease as autonomy increases when a court lacks power (or public support). The marginal effect of autonomy on the level of repression is illustrated in the upper graph in Figure 5.2. For most of the possible values of CIM (judicial power), the confidence interval straddles the line indicating zero effect, indicating autonomy does not alter the level of repression. However, a court enjoys a relatively high level of support (approximately 0.8), judicial

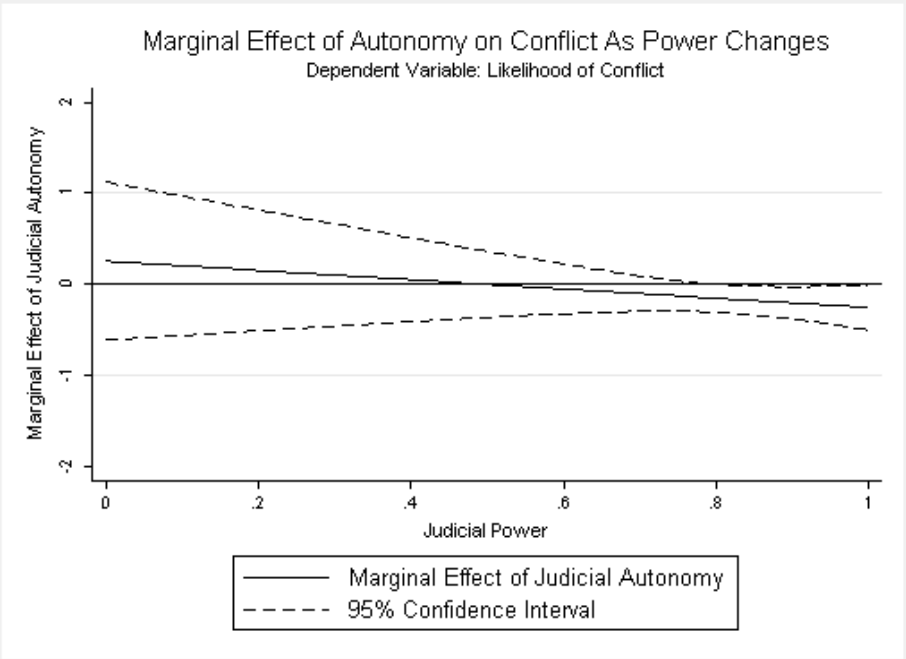


Figure 5.1: The marginal effects of judicial autonomy on the likelihood of conflict onset, given the value of judicial power.

autonomy has a statistically significant *positive* effect on the severity of repression. For this small range of power, an autonomous court will lead to more severe repression—not less, as predicted in Hypothesis 5.1.2.

The lower graph found in Figure 5.2 illustrates the marginal effect of autonomy on the level of dissent given the level of support the court enjoys. For relatively high values of power (from approximately 0.4 to 0.9), autonomy has a statistically distinguishable effect on the level of dissent. Since the lines are above zero, the effect is positive. In other words, an increase in the level of judicial autonomy should lead to an *increase* in the severity of dissent, in opposition to the prediction in Hypothesis 5.1.3. However, the effect of autonomy should be smaller in magnitude (decreasing) as power increases. This may suggest a more powerful court requires less autonomy to alter the severity of dissent.

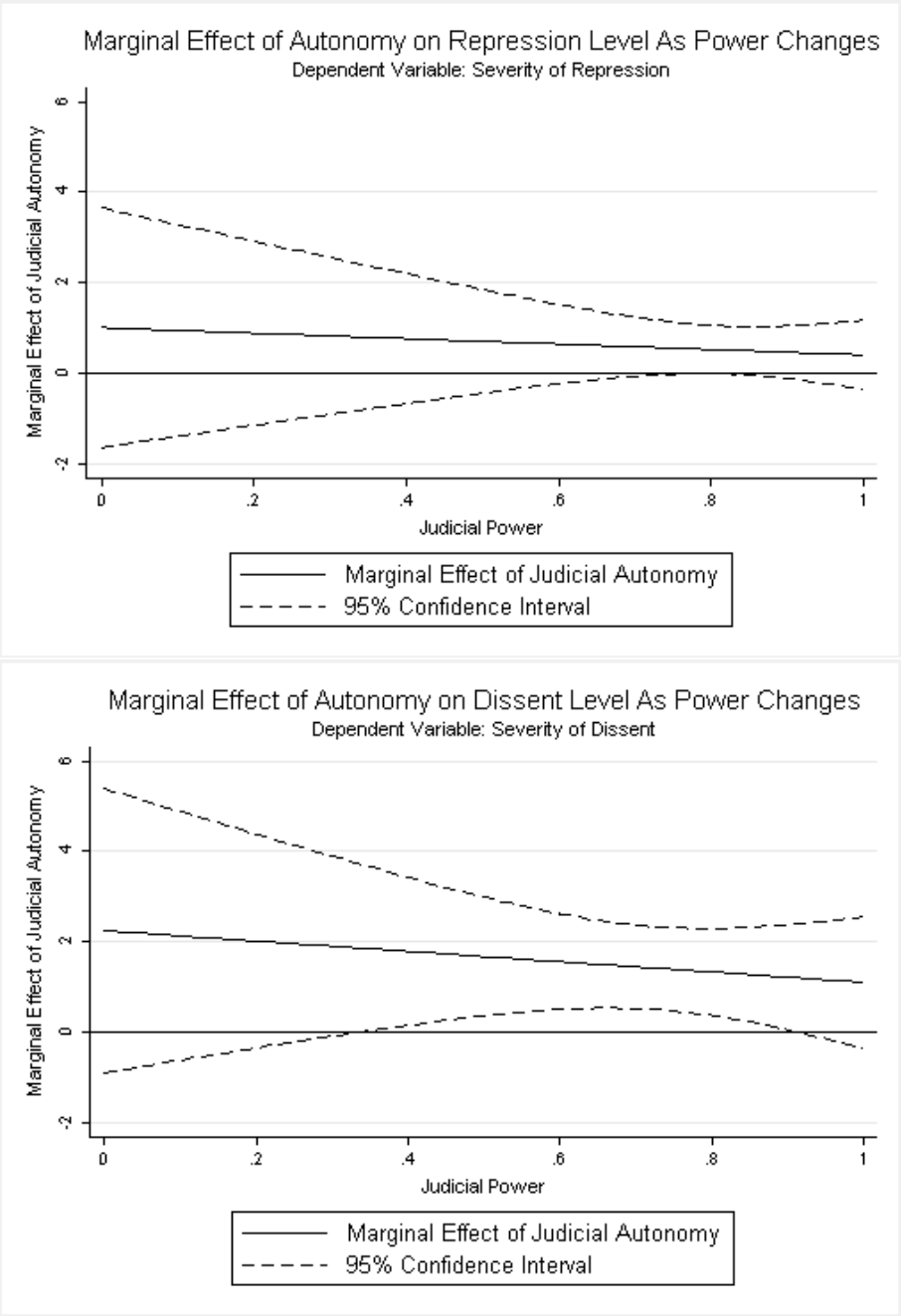


Figure 5.2: The marginal effects of judicial autonomy on the levels of repression and dissent, given the value of judicial power.

5.3 Empirical Implications

The statistical results suggest that autonomy and power affect repression and dissent in the opposite directions from those predicted based on the extended theory. Instead of reducing

the severity of these behaviors, an autonomous court leads to more severe rights violations and dissident actions. Rather than making conflict more likely to occur, it is less likely with increasing autonomy.

Though these effects are counter to the original predictions, they do suggest that the introduction of a court affects the process of conflict onset differently than it affects the process of severity. This supports the key implication of the baseline theory, that these processes differ and a theory of rights violations should consider them as such. Further, the empirical results suggest that a court—even an autonomous or independent one—does not lead to a reduction in rights violations as many have suggested. A court that can write its decisions without undue influence and then expect those rulings to be enforced represents a significant threat to authorities, making them think twice about entering conflicts with dissident groups that may require them to violate the law. However, as is true when considering the effects of political stability, once authorities and groups become engaged in a conflict, they quite often must play to win. Though the court may discourage conflict onset, it may encourage authorities to get the most out of conflicts into which they are drawn, using a higher level of repression than they would otherwise prefer to use.

The effects of judicial power are also counter to the expectations outlined in Hypothesis 5.1. This hypothesis predicted that autonomy would only affect repressive and dissent behaviors when the court lacks the support needed to enforce its decisions. The results of the extended theory imply that when a court is powerful, it represents sufficient threat to the authorities that they will adjust their behavior regardless of the court's level of autonomy. When a court is not powerful, the model predicts authorities will only adjust their behavior if they expect there to be a high probability of a sanctioning ruling, which will only occur if the court is autonomous.

In contrast to these implications, the empirical results imply that autonomy only affects

repression and dissent when a court is relatively powerful. This may be, however, an intuitive result. A court that cannot expect its rulings to be obeyed may opt not to rule against the executive, even if it is sufficiently autonomous to avoid punishment related to its decision. However, if a court enjoys a significant amount of support so as to expect compliance, its level of autonomy becomes critical to its choice to rule or not to rule against authorities. An autonomous court can take advantage of its power, while a vulnerable court cannot. Put differently, judicial power may increase the importance of a court's autonomy. Without power, a court's autonomy makes little difference.

The tests presented in this chapter suggest that courts have a more complex effect on repression than previously thought. Not only do they affect conflict onset and repression severity differently, they also affect dissident groups' behavior—which also affects repression. Further, the statistical results imply not only that judicial autonomy and power are separate concepts that affect behaviors about which courts are concerned, but also that their effects are conditional on one another.

As such, these empirical tests represent a first attempt at determining the predictive validity of the extended theory, and further tests are required. As noted at the outset of this chapter, the extended model had many other empirical implications, most notably implications as to when courts are likely to rule against state authorities and the conditions under which authorities are likely to comply. The effects the court will have on repression and dissent actions are clearly related to the leaders' expectations over these other decisions. Tests that take courts' actions and leaders' compliance into account are likely to be more rigorous tests of the theory's assumptions.

Chapter 6

Conclusion

6.1 Control versus Treatment

This project is built around the idea that in order to understand how institutions affect human rights practices, we must first determine what human rights practices would occur in the absence of institutions. In essence, I have argued for comparing a *control group* (without institutions) to a *treatment group* (with institutions). With almost no actual instances in the world of states without institutions of some type, this exercise is necessarily a theoretical one. If we first understand why authorities violate rights, we can think theoretically about how their incentives change with the introduction of institutions and identify when such an effect is at work empirically.

In this project, I am interested in the conditions under which a judiciary can effectively constrain human rights abuse as a first look at how institutions affect repression. To answer this question, I first established the control group. I developed a game theoretic model of the conflict between state authorities and potential dissident groups in order to determine the con-

ditions under which authorities violate rights. This theory is built on assumptions drawn directly from a significant body of existing work on state repression and rights violations: (1) authorities and groups have opposing preferences over a good or policy, (2) both actors desire the benefits of political power, and (3) the actions of repression and dissent are endogenously related to one another. The theoretical model endogenizes a disagreement over policy and a domestic conflict of repression and dissent.

The theory yields two equilibrium outcomes—either the actors reach a bargain over the policy or they enter a conflict and choose levels of repression and dissent—which highlight the difference in process between the onset and level of repression and dissent. Based on the same conditions, the actors make separate decisions as to how much they should repress and dissent if they reach the conflict stage and whether reaching that stage is desirable in the first place. The model implies that as the executive is more likely to retain office, the levels of repression and dissent should both increase. A strong leader can repress freely with less worry about his position of power. The group knows this, and its only chance at winning the conflict is to use as high a level of dissent as possible. This was the case in Burma in 2007. The military junta is very likely to retain its stronghold on power, and is showing no signs of giving it up. Nevertheless, the protests in the fall of 2007 were widespread and extremely disruptive. Once the citizens decided to protest, they had to go all out in order to have even a chance at receiving the policy outcome they wanted. However, as the group expects to have to use more and more dissent in any attempt to win and expects turnover to be increasingly improbable, it faces increasing incentives to avoid the conflict and accept lower bargains in the policy stage. In other words, conflict is less likely.

The effects of the probability of survival thus demonstrate that the onset and severity of state repression and popular dissent are distinct from one another. These concepts combine

for an overall picture of the domestic conflict. The leaders who are most likely to lose office will use lower levels of repression to reserve resources in their attempt to remain in power, but we should see many instances of repression because groups will pull these leaders into disputes more often. The leaders least likely to turnover will rarely ever repress, but when they do we are likely to observe the worst kind of repression. They will also rarely see dissent, but when they do it will be highly disruptive. Many instances of privacy violations as opposed to very rare instances of armed attacks on protests—while difficult to compare—are very different situations to the people on the ground.

In Chapter 3, I found statistically and substantively significant empirical support for the baseline model, most critically for the predictions over executive political survival and the key implication of separable processes. As the probability of political survival increases, or as the leader becomes increasingly stable in his position of power, conflict is less likely to occur. However, when the actors do engage in conflict, they use higher levels of repression and dissent in the mutual attempt to win the policy of interest and potentially retain or obtain political power.

The baseline model helps to identify the conditions under which authorities are likely to violate rights when the only constraints they face are limited resources and the need to satisfy winning coalitions to remain in power. Given these expectations as to how and when authorities will repress when they are unconstrained, how will these expectations change with the introduction of an institution that reportedly protects human rights?

To answer this question, I introduced the "treatment" of a domestic judiciary to the baseline (control) model. Judiciaries are the most commonly cited institution for the protection of rights, particularly as they become increasingly independent. However, in order to clearly identify the characteristics that make a court more or less likely to be an effective constraint in the context of a given conflict process, I followed Ríos-Figueroa and Staton (2009) and broke

independence into two of its constitutive parts: the insulation of the court from punishment for its decisions (judicial autonomy) and the extent to which external actors will punish non-compliance on the court's behalf (judicial power). Introducing a court into the baseline model allowed me to assess not only how these characteristics affect the court's behavior but also how the court affects the conflict process as a whole.

At the end of the day, executive compliance is a function of power alone; a court's autonomy affects only its willingness to rule against state authorities. An autonomous court can decide against state authorities, but a decision in and of itself is insufficient to force them to comply. In other words, autonomy is neither necessary nor sufficient to induce executive compliance with a court decision. The expectation of a ruling, however, can cause an executive to alter the chosen severity of repression. Whether he is forced to comply or not, the executive incurs some costs with a court ruling and must adjust the level of repression accordingly. Further, a dissident group, anticipating this, will reduce the severity of dissent in kind. Thus, a court's insulation from punishment should affect human rights practices, but these effects are unlikely to be the result of autonomy's influence on *compliance*.

Finally, the court's presence in this "treatment" influences the conflict process in its entirety, leading to a perverse effect on rights practices. The threat of court-related costs may cause the actors to reduce the levels of repression and dissent, but the theoretical implications suggest the court will have *the opposite effect* on the onset of conflict. Expecting the conflict to be less costly for them, the dissident group has less to fear from the conflict outcome. As such, the group will drive harder bargains in the shadow of the court than it otherwise would, making the onset of either repression or dissent more likely. The court thus affects the severity *and the likelihood* of repressive behavior, but decreasing one while increasing the other.

Though the empirical evidence presented in Chapter 5 does not substantiate the direc-

tional predictions of the model with the judiciary treatment, it does represent preliminary support for the two most interesting implications of this extended theory. First, judicial autonomy is neither necessary nor sufficient for the protection of human rights. Institutional protection from external punishment *and* the support necessary to enforce court decisions are *both* required in order to affect state repression. Autonomy and power are separable concepts that are often conflated or even ignored in the more commonly studied concept of judicial independence. The empirical models of Chapter 5 demonstrate that these concepts have distinct effects on repression and dissent, and their interaction is key to our understanding of court influence.

Additionally, judiciaries affect the onset of repression and dissent differently from their severity. This is further evidence to support the baseline implication that the process that determines the onset of repression differs from the process that determines its severity. It also supports the implication that courts affect each of these processes differently. As such, studies that examine the effects of courts on rights protection as a single process may be underspecifying the true data-generating process.

In approaching the study of institutions as a treatment to an underlying process of state repression, I am able to examine more explicitly the motivation to violate rights and how courts affect that *motivation* as opposed to the behavior itself. Courts impose costs on authorities who violate rights, but this affects dissident groups and the conflict process as a whole. As a result, courts affect the severity of repression in one direction and the likelihood of repression in the other. We may observe reductions in violations, but these reductions may be temporary or misleading as to the true effects of the court.

The fact that this is the case for domestic judiciaries implies that other institutions may also affect human rights practices in this more nuanced manner. Elite groups that support the

state may lead to an increase in the level of repression but also in the level of dissent, while opposing elites may lead to an increased likelihood of onset. Militaries can either support the executive by enacting the repression (as they do in China) or support the court by enforcing its decisions (as they have in Thailand); how do these choices affect the conflict between the state and dissident groups?

The model applied to international institutions is likely to yield similarly interesting results. International institutions may have direct effects on this process, as when the ICC rules that a state leader has violated the Rome Statute. This action threatens costs on state authorities much like that of the domestic court with variable enforcement power, and it is likely to affect the conflict between the state and groups similarly. In addition, international institutions can influence the process indirectly, perhaps by providing legitimacy to the domestic court (Powell and Staton 2009, Simmons 2009) or facilitating NGOs that channel resources toward or away from executives (Keck and Sikkink 1998). In such a case, adding an international institution treatment to the baseline model will yield more precise predictions over their influence than thinking only about the costs they impose on observed rights violations.

In short, considering institutions as a treatment to a baseline process of repression and dissent allows political scientists a clearer picture as to what changes with the introduction of an institution. Repression is a multi-dimensional action/reaction to dissent—a multi-dimensional action/reaction. By returning to common assumptions, I was able to establish a fundamental theory of state repression from which we can answer both persisting unanswered questions and new and exciting questions.

6.2 Applying Onset and Level

As noted above, the key implication of the baseline model is that the process that determines the onset of repression differs from that which determines its severity. This result has important implications for those who study human rights violations and those who work to curb them.

Distinguishing between onset and level of repression and dissent clarifies some of the conflicting results of existing scholarship, thus helping to synthesize this work into a broader understanding of the process of repression and dissent. There are many conflicting findings throughout the extant repression scholarship, including but not limited to negative, positive, and nonmonotonic relationships. The vast majority of this literature focuses on the level of these behaviors: whether groups use more or less violence, whether states use higher or lower levels of physical integrity violations. Further, many studies focus only on the relationship between repression and dissent rather than the conditions under which repression and dissent have certain relational forms (Shellman 2006). Since onset and levels are different decisions in the baseline theory, we can observe an increase in one combined with a decrease in the other; in some cases this can be observed as responses to different independent variables, and in other cases with the same values of a single variable. By returning to the assumptions on which most of the extant theories are built and allowing for the actors to decide when and how much to repress and dissent, I find theoretical and empirical results in most of the directions found in extant literature—as well as the conditions under which each is likely to be observed.

The distinction between onset and levels also has implications for how we measure human rights violations or state repression, as I discussed in Chapter 3. Most of our measures of rights violations account for environments of repression, which accounts for both how often and how much in a single indicator of overall repression. The Political Terror Scale (PTS), for

instance, assigns a score from one to five that characterizes how prevalent and severe political terror is in a particular state-year (Gibney and Dalton 1996), and the Cingranelli-Richards scale is similarly coded (Cingranelli and Richards 2007). However, such a measure does not allow us to distinguish empirically between widespread political restrictions and limited physical integrity violations in a straightforward manner. Some scholars use the number of repressive events combined with a scale of their severity to characterize the overall level of repression (see, e.g. Davis, Leeds and Moore 1998, Shellman 2004*a*). Though this tactic could allow scholars to distinguish between onset and level (as I have done here), their theories do not account for this distinction and so these measurements are not so used. Having here established the theoretical and empirical difference between onset and severity, scholars attempting to avoid empirical misspecification should match measures of level to theories of level, measures of onset to theories of onset, and consider carefully whether their theories (and consequent measures) should account for both decisions.

Consideration of repression as a process of two decisions may reopen old questions of rights violations. Can economic sanctions be targeted to affect repression overall, or can they reduce levels while increasing the likelihood of onset? How does population figure into the process of dissent—does it change the winning coalition requirements the executive must meet, or does it merely represent more opportunities to repress? Does international conflict make leaders hesitate to enter domestic conflicts with dissent groups, or does it enable them to use mobilized defense forces toward more severe repression—or both?

The contrast in these decisional processes also reveals newly unexplored research questions. How do these processes differ? I have argued here that leaders take their expectation of severity into account when deciding to repress or dissent, but how much is unknown? How much do the actors know about one another? Are there, in fact, independent variables that

affect one decision but not the other? How much knowledge of executive behavior do dissent groups retain from their own experiences, and can they learn from other groups as well? Should the informational balance favor state authorities, how does this asymmetry help or hurt them in the overall conflict? Does sequence determine the risks actors are willing to take? The baseline model alone, with its key implication, opens a world of research agendas for entrepreneurial scholars of human rights and state repression.

Actors interested in altering human rights practices should also discriminate between the onset of violations and their severity. Both human rights NGOs and concerned foreign states often act to intervene in a state's human rights practices. However, though some independent variables (such as the efficiency with which the state represses) affect both onset and level in the same direction, others (such as the threat the judiciary wields) do not. Practitioners should consider whether their policies and actions are likely to be of the former effects or the latter. Additionally, a policy actor may have a normative preference for a higher number of restrictions over a higher number of personal integrity violations, or vice versa, and can target her actions accordingly. In whole, human rights practitioners should take care to recognize the difference in these processes and speculate as to how their policies and actions affect the conflict process as a whole.

6.3 Implications for Domestic Courts

Finally, what is the significance of this dissertation for the study of judiciaries? I have argued here that a court takes three things into account when deciding whether to rule: (1) its freedom to rule without punishment (autonomy), (2) the extent to which a supporting entity will punish noncompliance (power), and (3) the underlying conflict process that determines the extent to

which authorities can alter their behavior. In this section, I survey the scholarly implications of the autonomy/power approach to studying courts. Additionally, I discuss the intellectual consequences of the project for the broader study of judicial institutions.

In this project, I disaggregated the commonly-used concept of judicial independence into two of its constitutive parts: autonomy and power. I examined these concepts as separate theoretical entities, pulling a court in (potentially) different decisional directions. I then tested the implications of the theory with concrete measures of these concepts and found that they are both relevant for the study of judicial effects on human rights practices and that they have an interactive effect. As such, it is appropriate to approach these as important subconcepts to understanding the conditions under which a court can effectively constrain executive behavior. To my knowledge, this is the first study to use these disaggregated concepts in a concrete theoretical and empirical application.

As Ríos-Figueroa and Staton (2009) argue, examining the subconcepts of judical independence gives us a sense of what characteristics guide court behavior and subsequent outcomes. As I have argued, judicial power is a necessity in order to induce compliance with a court's ruling. Once the court has ruled one way or another, its autonomy has little to no influence over the executive's action. Though it is commonly noted that courts have no enforcement powers of their own, this result goes further to suggest that judicial independence (re: autonomy) is insufficient to solve this problem. However, the court does need autonomy in order to rule against the leader in the first place. Once the court has the expectation that compliance will occur (power), it can rule as it chooses when there is a lowered threat of resultant punishment.

This then leads us to consider what it is that courts *do*. If the goal of the court is to punish legal violations and curb behavior in that way, judicial power is essential. As such, scholars should further examine the source and function of judical power. Many have begun this pro-

cess: Vanberg (2005) examines public enforcement of court rulings, and others have found that elite support of the court can help compliance records. There may be other sources of judicial power as well. The Thai military, for instance, has punished state authorities for non-compliance with high court rulings. NGOs are sometimes active in direct support of the court, as lawyers' groups were in Pakistan in 2007. Work has also begun to examine how power influences court behavior. Staton (2010) finds that courts work to build their own support by publicizing their decisions in the public eye. However, we still do not know much about how judiciaries behave regarding their power. Do they have an expectation as to how much support they enjoy? Do they act in anticipation of their power, must they observe tangible support, or do they take cues from authorities?

If, instead, the purpose of the court is to inform interested actors of the violation, judicial autonomy is the key concept of interest. Carrubba (2005) argues that courts lacking enforcement power often serve as "information clearinghouses," alerting observers that a violation of the legal regime has occurred so that they might self-enforce the rules. Similarly, North and Weingast (1989) argue that early courts with no real power established themselves as a depository of information as to actors who have violated rules in the past. Though power is critical to compliance, this informative role of judiciaries can be fulfilled without power. Nevertheless, autonomy is critical to fulfilling this role. As such, recognizing the difference between autonomy and power, as well as considering the conditions under which each is likely, may help scholars to identify when courts are more prone to serve as informers versus enforcers.

Though autonomy and power determine when a court is likely to directly affect behavior via its decisions, this project suggests a court has broader effects than these. Its most straightforward method of changing behavior is to rule against a violation such that the target complies with the stated remedy. The court's very presence, however, and its attendant threat of

imposed costs, can lead to changes in executive (and group) behavior. All that is required is that the actors have some expectation that the court is likely to rule. Powell and Staton (2009) similarly argue that domestic courts can curb behavior pre-ruling when executives expect that individuals and groups are likely to bring cases against the state. Further, the theoretical model presented in 4 suggests that we may see such changes in behavior even when courts have little power to enforce rulings or low autonomy to rule as they please. If a court has sufficient values of only one of these concepts, we are likely to see altered behavior in the course of repression and dissent even without an actual decision of violation.

Finally, the disaggregation of autonomy and power opens reopens questions as to the conditions under which and areas in which courts can effectively constrain state authorities' behavior. In this project I have focused on courts and human rights protection, but autonomy and power are likely to have separable effects in other areas of court action. These include the protection of property rights, economic outcomes, state order, etc. Further, autonomy and power are general concepts that can be broadened to think about the ability of other institutions to influence state behavior. For instance, international treaty bodies could be thought of as having some vulnerability to external punishment for their actions (autonomy) and some expectation that other institutions or actors will support their decisions (power). These concepts thus allow us a window into understanding institutions as a whole, both in their effects on rights practices and their effects on political behavior more generally.

Appendix A

Baseline Theoretical Model

A.1 Proof of Equilibrium Behavior

$t = 3$: Simultaneous Levels of Repression and Dissent

E's utility for repression and *G*'s utility for dissent are functions of their opposing preferences over the policy position, the reassignment of political power, and the desire to minimize resource costs lost. The probability E receives the entire policy space is $\left(1 - \frac{1}{1+\frac{r}{d}}\right)$, which increases in r and decreases in d. The probability the executive retains office is $\frac{p}{1+x}$, which comes to p if E wins his ideal policy ($x = 0$) and $\frac{p}{2}$ if G wins its ideal policy ($x = 1$). The utility functions for repression and dissent are specified as follows:

$$U_E(Repress) = -\frac{r}{c} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[p * 1 + (1-p) * 0\right] + \left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2} * 1 + \left(1 - \frac{p}{2}\right) * 0\right]$$

$$U_G(Dissent) = -\frac{d}{k} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[p * 0 + (1-p) * 1\right] + \left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2} * 0 + \left(1 - \frac{p}{2}\right) * 1\right]$$

I take the first derivative of *E*'s utility with respect to r:

$$\frac{\partial U_E(Repress)}{\partial r} = -\frac{1}{c} + \frac{p}{2d(1+\frac{r}{d})^2}$$

The second derivative of $U_E(Repress)$ *wrt* r is negative when all parameters are positive, which is always true by definition, so the level of repression that maximizes *E*'s utility function is always a maximum. Setting the first derivative equal to zero and solving for r yields:

$$r_{(hold)} = -d + \frac{\sqrt{cdp}}{\sqrt{2}}$$

Substituting this value for r into $U_G(Dissent)$, I then take the first derivative with respect to d, which simplifies to:

$$\frac{\partial U_G(Dissent)}{\partial d} = -\frac{1}{k} + \frac{\sqrt{p}}{2\sqrt{2cd}}$$

The level of dissent that maximizes $U_G(Dissent)$ is also always a maximum. Setting $\frac{\partial U_G(Dissent)}{\partial d} = 0$ and solving for d yields

$$d^* = \frac{k^2 p}{8c}$$

Finally, substituting this optimal level of dissent into the original $U_E(Repress)$, taking the derivative, and resolving for r yields:

$$r^* = \frac{2ckp - k^2 p}{8c}$$

The equilibrium level of dissent is always positive, and the equilibrium level of repression is positive as long as $k < 2c$.

$t = 2$: Group Accepts Offer [Reappointment Function] or Rejects Offer [Dispute]

G's utility for accepting a bargain is the value of the bargain itself; if it does not enter conflict, it receives no utility from the reappointment outcome. It accepts an offer that is greater than its reservation value, or its value for entering a dispute, incurring the costs of conflict and dissenting at the equilibrium level d^*. Therefore, G accepts any offer $x \geq x_G$:

Utility of Accepting $\geq$ Utility of Dispute

$$x \geq -\frac{d^*}{k} + \left(1 - \frac{1}{1+\frac{r^*}{d^*}}\right)\left[p * 0 + (1-p) * 1\right] + \left(\frac{1}{1+\frac{r^*}{d^*}}\right)\left[\frac{p}{2} * 0 + \left(1 - \frac{p}{2}\right) * 1\right]$$

$$x \geq x_G$$

$$x_G \equiv \frac{8c - 8cp + kp}{8c}$$

This minimum acceptable bargain, x_G, is always positive, and it is less than or equal to one (meaning there is a possible bargain the group will accept), when $k \leq 8c$. When k is greater than this $8c$, the group will only accept offers greater than the policy space allows, so the actors enter a dispute.

$t = 1$: Executive makes an offer

If he chooses to bargain, E optimizes his utility by offering G no more than the minimum division it will accept, or $x = x_G$. G's indifference point strictly dominates a more generous offer for the executive:

$$\frac{p}{1+x}(1) + \left(1 - \frac{p}{1+x}\right)(0) > \frac{p}{1+x+\epsilon}(1) + \left(1 - \frac{p}{1+x+\epsilon}\right)(0)$$

$$U_E(Bargain) = \frac{p}{1+x_G}(1) + \left(1 - \frac{p}{1+x_G}\right)(0)$$
$$U_E(Conflict) = -\frac{r^*}{c} + \left(1 - \frac{1}{1+\frac{r^*}{d^*}}\right)\left[\frac{p}{1} * 1 + \left(1 - \frac{p}{1}\right) * 0\right]$$
$$+ \left(\frac{1}{1+\frac{r^*}{d^*}}\right)\left[\frac{p}{2} * 1 + \left(1 - \frac{p}{2}\right) * 0\right]$$

The executive prefers to offer $x^* = x_G$ rather than $x^* = 0$, forcing the group into a dispute, when the bargain is more beneficial to him than he expects the gamble of conflict to be, or when:

$$U_E(Bargain) \geq U_E(Conflict)$$
$$\frac{8cp}{-8c(-2+p)+kp} \geq \frac{(8c^2 - 4ck + k^2)p}{8c^2}$$

This inequality is true when

$$\frac{k}{8} \leq c \leq \frac{k}{2} \text{ OR } c > \frac{k}{2} \text{ AND } \frac{16c(-2c+k)^2}{64c^3 - 40c^2k + 12ck^2 - k^3} < p < 1$$

A.2 Proofs of Comparative Statics

Proof of Implications 2.1 and 2.1. The derivative of r^* with respect to p is positive: $\frac{\partial r^*}{\partial p} = \frac{2ck-k^2}{8c}$. The derivative is positive (and therefore increasing) when $c > \frac{k}{2}$, which must be true for r^* to be a positive and therefore realistic value. The derivative of d^* with respect to p is also positive: $\frac{\partial d^*}{\partial p} = \frac{k^2}{8c}$. □

Proof of Implication 2.3. The derivative of $\frac{8c-8cp+kp}{8c}$ (the cutpoint above which G will bargain) with respect to p is: $\frac{\partial x_G}{\partial p} = \frac{-8c+k}{8c}$. This is positive when $c > \frac{k}{4}$, which is true under the conditions that the executive chooses a positive value for repression, and negative otherwise. As this cutpoint increases, the range of conditions in which the group will bargain increases, so dissent becomes less likely. □

Proof of Implication 2.4. Using a numerical simulation to determine the conditions under which the executive prefers to bargain, I produced Frequency Table A.1, which suggests that as the probability of survival increases, the executive is more disposed to offer the group its reservation value and repression is less likely. □

Proof of Implication 2.5. The derivative of r^* with respect to c is positive: $\frac{\partial r^*}{\partial c} = \frac{kp}{4c} - \frac{2ckp-k^2p}{8c^2}$. As c increases (the executive becomes more efficient at repressing), repression increases in severity. The derivative of d^* with respect to k is positive: $\frac{\partial d^*}{\partial k} = \frac{kp}{4c}$. As k increases (the group is more efficient), dissent increases in severity. □

p	E prefers Conflict	E prefers Bargain
.2	874	150
.4	874	150
.6	624	400
.8	499	525
Total	2871	1225

Table A.1: Simulated frequency of predicted outcomes given the probability of executive political survival

k	E prefers Conflict	E prefers Bargain
2	1050	150
7	975	225
12	546	350
17	300	500
Total	2871	1225

Table A.2: Simulated frequency of predicted outcomes given group efficiency

Proof of Implication 2.6. The derivative of d^* with respect to c is negative: $\frac{\partial d^*}{\partial c} = -\frac{k^2 p}{8c^2}$. As c increases, the level of dissent decreases. □

Proof of Implication 2.7. The derivative of r^* with respect to k is $\frac{\partial r^*}{\partial k} = \frac{2cp-2kp}{8c}$, which is positive when $c > k$ and negative when $c < k$. As such, the level of repression (r^*) increases when the executive is more efficient than the group ($c > k$) and decreases otherwise ($c < k$). □

Proof of Implication 2.8. The derivative of $\frac{8c-8cp+kp}{8c}$ (the cutpoint above which G will bargain) with respect to k is positive: $\frac{\partial x_G}{\partial k} = \frac{p}{8c}$. As k increases (group becomes more efficient at dissent), the cutpoint increases such that the range of possible values the group will accept becomes smaller. Thus, bargaining becomes less likely and dissent more likely as the group is more efficient. □

Proof of Implication 2.9. The derivative of $\frac{8c-8cp+kp}{8c}$ (the cutpoint above which G will bargain) with respect to c is negative: $\frac{\partial x_G}{\partial c} = -\frac{kp}{8c^2}$. As c increases (the executive becomes more efficient), the cutpoint decreases such that the range of possible values the group will accept becomes larger. Thus, bargaining becomes more likely and dissent less likely as the executive is more efficient. □

Proof of Implication 2.10. Using a numerical simulation to determine the conditions under which the executive prefers to bargain, I produced Frequency Table A.2, which suggests that as the group becomes increasingly efficient in its use of dissent, the executive is more disposed to offer the group its reservation value and repression is less likely. □

Appendix B

Extended Theoretical Model

B.1 Proof of Equilibrium Behavior

$t = 6$: Executive Compliance with Court Ruling

At time $t = 5$, the public punishes noncompliance with probability q. Knowing the outcome of this probabilistic node, E complies in full with C's remedy, j, if the public punishes noncompliance (punishment normalized to 1), since j is always greater than 0 by definition:

$$U_E(\sim Comply \mid Punish) = \frac{p}{1+(1)} * 1 + \left(1 - \frac{p}{1+(1)}\right) * 0$$

$$U_E(Comply \mid Punish) = \frac{p}{1+(j)} * 1 + \left(1 - \frac{p}{1+(j)}\right) * 0$$

$$\frac{p}{1+(1)} * 1 + \left(1 - \frac{p}{1+(1)}\right) * 0 \geq \frac{p}{1+(j)} * 1 + \left(1 - \frac{p}{1+(j)}\right) * 0$$

$$j \geq 0$$

and does not comply if the public does not punish noncompliance:

$$U_E(\sim Comply \mid \sim Punish) = \frac{p}{1+(0)} * 1 + \left(1 - \frac{p}{1+(0)}\right) * 0$$

$$U_E(Comply \mid \sim Punish) = \frac{p}{1+(j)} * 1 + \left(1 - \frac{p}{1+(j)}\right) * 0$$

$$\frac{p}{1+(0)} * 1 + \left(1 - \frac{p}{1+(0)}\right) * 0 \geq \frac{p}{1+(j)} * 1 + \left(1 - \frac{p}{1+(j)}\right) * 0$$

$$0 \ngeq j$$

$t = 5$: Nature draws public's move of enforcement with probability q

$t = 4$: Court Ruling

E complies according to the probability the public punishes on behalf of the court, q, so the court must take q into account when choosing whether to rule a violation has

occurred. When will C rule against E?

$$U_C(Rule) \geq U_C(\sim Rule)$$
$$qj + (1-q)(a*0 + (1-a)(-j)) \geq 0$$
$$a \geq \frac{2q-1}{q-1}$$

C will rule against E when it is sufficiently autonomous, or when $a \geq \frac{2q-1}{q-1}$. This cutpoint lies within the feasible range of $a \sim [0,1]$ as long as $q \leq 0.5$. If $q > 0.5$, then $\frac{2q-1}{q-1} \leq 0$. Since C will rule against E when a is greater than this cutpoint and a is always greater than 0 by definition, when $q > 0.5$ C will always rule against E.

$t = 3$: Simultaneous Levels of Repression and Dissent

Recall that C rules against E when $a \geq \frac{2q-1}{q-1}$ and E complies with the remedy with probability q. Each of the three periods $t = 1,2,3$ are solved given one of two scenarios:

1. $a \geq \frac{2q-1}{q-1}$ C rules against E and E complies with probability q
2. $a < \frac{2q-1}{q-1}$ C does not rule against E

$t = 3.1$: C rules against E

E's utility for conflict given that C will rule against the violation and E will not comply is:

$$U_E(Repress|Rule) = -\frac{r}{c} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{1+(q*j+(1-q)*0)}*1 + \left(1 - \frac{p}{1+(q*j+(1-q)*0)}\right)*0\right]$$
$$+\left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2+(q*j+(1-q)*0)}*1 + \left(1 - \frac{p}{2+(q*j+(1-q)*0)}\right)*0\right]$$

The first derivative of $U_E(Repress|Rule)$ *wrt* r is:

$$\frac{\partial U_E(Repress)}{\partial r} = -\frac{1}{c} + \frac{p}{d(1+jq)(1+\frac{r}{d})^2} - \frac{p}{d(2+jq)(1+\frac{r}{d})^2}$$

The second derivative *wrt* r is always negative, making the solution to this equation a maximum in E's utility. Setting the first derivative equal to 0 and solving for r yields:

$$r_{ct(hold)} = \frac{-d(2+3jq+j^2q^2) + \sqrt{cdp(2+3jq+j^2q^2)}}{2+3jq+j^2q^2}$$

G's utility for conflict given that C will rule against the violation and E will not comply is:

$$U_G(Dissent|Rule) = -\frac{d}{k} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{1+(q*j+(1-q)*0)}*0 + \left(1 - \frac{p}{1+(q*j+(1-q)*0)}\right)*1\right]$$
$$+\left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2+(q*j+(1-q)*0)}*0 + \left(1 - \frac{p}{2+(q*j+(1-q)*0)}\right)*1\right]$$

Substituting $r = r_{ct(hold)}$ into $U_G(Dissent|Rule)$ and taking the first derivative *wrt* d yields:

$$\frac{\partial U_G(Dissent)}{\partial d} = -\frac{1}{k} + \frac{p}{2\sqrt{cdp(2+3jq+j^2q^2)}}$$

which is always a maximum. Setting this derivative equal to zero and solving for d yields G's optimal level of dissent given the court's actions:

$$d_{ct} = \frac{k^2 p}{4c(1+jq)(2+jq)}$$

Finally, substituting this value $d = d_{ct}$ into $U_E(Repress|Rule)$, taking the first derivative *wrt* r, and solving for r yields:

$$r_{ct} = \frac{2ckp - k^2 p}{4c(2+3jq+j^2q^2)}$$

The equilibrium level of dissent is always positive, and the equilibrium level of repression is positive as long as $k < 2c$. If $c \leq \frac{k}{2}$, E does not repress while in conflict, despite G's non-zero level of dissent.

$t = 3.2$: C does not rule against E

E's utility for conflict given that C will rule against the violation and E will not comply is:

$$\begin{aligned} U_E(Repress| \sim Rule) = &-\frac{r}{c} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{1} * 1 + \left(1 - \frac{p}{1}\right) * 0\right] \\ &+ \left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2} * 1 + \left(1 - \frac{p}{2}\right) * 0\right] \end{aligned}$$

The first derivative of $U_E(Repress| \sim Rule)$ *wrt* r is:

$$\frac{\partial U_E(Repress)}{\partial r} = -\frac{1}{c} + \frac{p}{2d(1+\frac{r}{d})^2}$$

The second derivative *wrt* r is always negative, making the solution to this equation a maximum in E's utility. Setting the first derivative equal to 0 and solving for r yields:

$$r_{nr(hold)} = -d + \frac{\sqrt{cdp}}{\sqrt{2}}$$

G's utility for conflict given that C will rule against the violation and E will not comply is:

$$\begin{aligned} U_G(Dissent| \sim Rule) = &-\frac{d}{k} + \left(1 - \frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{1} * 0 + \left(1 - \frac{p}{1}\right) * 1\right] \\ &+ \left(\frac{1}{1+\frac{r}{d}}\right)\left[\frac{p}{2} * 0 + \left(1 - \frac{p}{2}\right) * 1\right] \end{aligned}$$

Substituting $r = r_{nr(hold)}$ into $U_G(Dissent| \sim Rule)$ and taking the first derivative *wrt* d yields:

$$\frac{\partial U_G(Dissent)}{\partial d} = -\frac{1}{k} + \frac{\sqrt{p}}{2\sqrt{2cd}}$$

which is always a maximum. Setting this derivative equal to zero and solving for d yields G's optimal level of dissent given the court's actions:

$$d_{nr} = \frac{k^2 p}{8c}$$

Finally, substituting this value $d = d_{nr}$ into $U_E(Repress| \sim Rule)$, taking the first derivative *wrt* r, and solving for r yields:

$$r_{nr} = \frac{2ckp - k^2 p}{8c}$$

The equilibrium level of dissent is always positive, and the equilibrium level of repression is positive as long as $k < 2c$. If $c \leq \frac{k}{2}$, E does not repress while in conflict, despite G's non-zero level of dissent.

$t = 2$: Group accepts or rejects bargain

$t = 2.1$**:** C **rules against** E

G accepts any offer that is at least as beneficial as what the group could get from dissenting, or any $x \geq x_{ct}$:

$$\begin{aligned}
x \geq & U_G(Dissent|Rule, \sim Comply) \\
x \geq & -\frac{d_{ct}}{k} + \left(1 - \frac{1}{1 + \frac{r_{ct}}{d_{rx}}}\right)\left[\frac{p}{1 + (q * j + (1-q) * 0)} * 0 + \left(1 - \frac{p}{1 + (q * j + (1-q) * 0)}\right) * 1\right] \\
& + \left(\frac{1}{1 + \frac{r_{ct}}{d_{ct}}}\right)\left[\frac{p}{2 + (q * j + (1-q) * 0)} * 0 + \left(1 - \frac{p}{2 + (q * j + (1-q) * 0)}\right) * 1\right] \\
x \geq & x_{ct} \\
x_{ct} \equiv & \frac{kp - 4c(-1 + p - jq)(2 + jq)}{4c(2 + 3jq + j^2 q^2)}
\end{aligned}$$

This acceptable bargain, x_{ct}, is always greater than zero and is less than one when

$$c > \frac{k}{8 + 4jq}$$

meaning that there is a bargain within the bargaining range that G will accept under this condition. Notably, this means G will accept a bargain even in some cases when E will use zero repression in the course of conflict.

$t = 2.2$**:** C **does not rule against** E

G accepts any offer that is at least as beneficial as what the group could get from dissenting, or any $x \geq x_{nr}$:

$$\begin{aligned}
x \geq & U_G(Dissent| \sim Rule) \\
x \geq & -\frac{d_{nr}}{k} + \left(1 - \frac{1}{1+\frac{r_{nr}}{d_{nr}}}\right)\left[\frac{p}{1} * 0 + \left(1 - \frac{p}{1}\right) * 1\right] \\
& + \left(\frac{1}{1+\frac{r_{nr}}{d_{nr}}}\right)\left[\frac{p}{2} * 0 + \left(1 - \frac{p}{2}\right) * 1\right] \\
x \geq & x_{nr} \\
x_{nr} \equiv & \frac{8c - 8cp + kp}{8c}
\end{aligned}$$

This acceptable bargain, x_{nr}, is greater than zero and less than one when $k \leq 8c$. Notably, $8c > 2c$, which means G will accept a bargain even when E will use zero repression in the course of conflict.

$t = 1$: Executive makes an offer

If he chooses to bargain, E optimizes his utility by offering G no more than the minimum division it will accept, or $x = x_z$ where $z \in \{ct, nr\}$ depending on the level of judicial autonomy and power. G's indifference point strictly dominates a more generous offer for the executive:

$$\frac{p}{1+x}(1) + \left(1 - \frac{p}{1+x}\right)(0) > \frac{p}{1+x+\epsilon}(1) + \left(1 - \frac{p}{1+x+\epsilon}\right)(0)$$

$t = 1.1$**:** C **rules against** E

$$\begin{aligned}
U_E(Bargain) = & \frac{p}{1+x_{ct}}(1) + \left(1 - \frac{p}{1+x_{ct}}\right)(0) \\
U_E(Conflict) = & -\frac{r_{ct}}{c} + \left(1 - \frac{1}{1+\frac{r_{ct}}{d_{ct}}}\right)\left[\frac{p}{1+(q*j+(1-q)*0)} * 1 + \left(1 - \frac{p}{1+(q*j+(1-q)*0)}\right) * 0\right] \\
& + \left(\frac{1}{1+\frac{r_{ct}}{d_{ct}}}\right)\left[\frac{p}{2+(q*j+(1-q)*0)} * 1 + \left(1 - \frac{p}{2+(q*j+(1-q)*0)}\right) * 0\right]
\end{aligned}$$

The executive prefers to offer $x^* = x_{ct}$ rather than $x^* = 0$ when:

$$\begin{aligned}
U_E(Bargain) \geq & U_E(Conflict) \\
-\frac{4cp(2+3jq+j^2q^2)}{-kp+4c(2+jq)(p-2(1+jq))} \geq & \frac{p(-4ck+k^2+4c^2(2+jq))}{4c^2(2+3jq+j^2q^2)}
\end{aligned}$$

This inequality is true for any positive values of c, k, and q when

$$j < \frac{1}{2}\sqrt{\frac{9c^2-8ck+2k^2}{c^2q^2}} - \frac{1}{2q} \text{ AND } \underline{p} < p < \overline{p} \text{ OR}$$
$$j \geq \frac{1}{2}\sqrt{\frac{9c^2-8ck+2k^2}{c^2q^2}} - \frac{1}{2q} \text{ AND } 0 < p < \overline{p}$$

such that

$$\underline{p} \equiv \frac{8c(-2c+k)(1+jq)(2+jq)(k-c(1+jq)(2+jq))}{(-k+4c(2+jq))(k^2+4c^2(1+jq)(2+jq)-ck(4+jq(3+jq)))}$$
$$\overline{p} \equiv \frac{8c(2+3jq+j^2q^2)}{-k+4c(2+jq)}$$

$t = 1.2$**:** C **does not rule against** E

$$U_E(Bargain) = \frac{p}{1+x_{nr}}(1) + \left(1-\frac{p}{1+x_{nr}}\right)(0)$$
$$U_E(Conflict) = -\frac{r_{nr}}{c} + \left(1-\frac{1}{1+\frac{r_{nr}}{d_{nr}}}\right)\left[\frac{p}{1}*1+\left(1-\frac{p}{1}\right)*0\right]$$
$$+\left(\frac{1}{1+\frac{r_{nr}}{d_{nr}}}\right)\left[\frac{p}{2}*1+\left(1-\frac{p}{2}\right)*0\right]$$

The executive prefers to offer $x^* = x_{nr}$ rather than $x^* = 0$, forcing the group into a dispute, when the bargain is more beneficial to him than he expects the gamble of conflict to be, or when:

$$U_E(Bargain) \geq U_E(Conflict)$$
$$\frac{8cp}{-8c(-2+p)+kp} \geq \frac{(8c^2-4ck+k^2)p}{8c^2}$$

This inequality is true when

$$\frac{k}{8} \leq c \leq \frac{k}{2} \text{ OR } c > \frac{k}{2} \text{ AND } \frac{16c(-2c+k)^2}{64c^3-40c^2k+12ck^2-k^3} < p < 1$$

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