

Human Rights Reparations: Design and Compliance

KSGA30201 – 01 / POLS30504 - 01

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University of Notre Dame
Fall 2021 (08/23 - 12/07)

Class: Mondays and Wednesdays, 2:00 - 3:15 pm

📍 242 DeBartolo Hall

📍 1140 of Eck Hall of Law, on September 1, September 29, and October 6

Office Hours: Tuesdays, 2.30-4.00 pm; Thursdays, 12.30-2.00 pm, and by appointment.

📍 2029 Jenkins-Nanovic Halls

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Under what conditions do governments comply with international norms? How can international courts secure respect for their orders? Because international courts lack effective means of enforcement, governments often defy their rulings. We will analyze why governments adhere to court orders and how international bodies can become more effective. We will also introduce advanced methodological tools to analyze and predict compliance. Students in the seminar will have the opportunity to participate in research projects integrated to the Notre Dame Reparations Design and Compliance Lab (NDRL). Participants will be able to use the tools acquired in the course to analyze compliance with the rulings of the Inter-American Court of Human Rights, the World Bank Inspection Panel, and other international bodies.

Course Objectives

Upon successful completion of this course, you will be able to:

1. Conduct an original research project employing social science instruments.
2. Prepare a quantitative report on compliance combining legal and data science principles.
3. Collect and analyze empirical data, using quantitative methods.
4. Use basic commands in R statistical software.
5. Engage with the Notre Dame Reparations Design and Compliance Lab to advance a research project assessing government compliance with human rights.

Materials

No textbook is required for this class; we will read academic articles and watch some videos to introduce methodological topics. All readings are available through Hesburgh Library or the Law Library, online (open access), or through Sakai (in the case of unpublished materials).

Note: Items marked as *Read* or *Watch* in the Course Schedule are required for all students. Additional items marked as *Recommended* are optional for undergraduate students, but required for graduate students.

Statistical Software: We will use free software to analyze data. Do not worry if you have no prior experience, we will cover data analysis tools in class. Install **R** and **R Studio**. (Instructions in Sakai.)

Laptop: Bring a laptop to class. You should be able to access **Sakai** and run **R Studio** in class.

Additional Resources

Inter-American Commission on Human Rights

- Main page: <http://www.oas.org/en/iachr/>
- Annual Reports: <http://www.oas.org/en/iachr/reports/annual.asp>

Inter-American Court of Human Rights

- Main page: <http://www.corteidh.or.cr/>
- Case summaries (Loyola Law School): <https://iachr.lls.edu/database>

European Court of Human Rights

- Main page: <https://www.echr.coe.int/Pages/home.aspx?p=home>
- Case database: <https://hudoc.echr.coe.int/>

World Bank Inspection Panel

- Main page: <https://www.inspectionpanel.org/>
- Panel cases: <https://www.inspectionpanel.org/panel-cases>

Covid Security Policy

Due to the rapid dissemination of the Delta variant, I will ask everyone in class to wear a mask. I understand that this is very frustrating, but we owe this extra effort to our colleagues who are immunocompromised or who live with immunocompromised or unvaccinated people (especially children). We will adjust this policy during the semester following University regulations.

Course Evaluation

All assignments should be uploaded through Sakai before the deadline. Do not e-mail me assignments.

Four reports using data-analysis tools to assess compliance (15% each). In each report, you will address a specific research question about compliance with international norms, using a different statistical technique. Reports are brief (2-4 pages), but they require you to analyze data and interpret quantitative results. Instructions will be posted in Sakai, under Assignments. **Due September 20, October 11, November 15, December 5.**

Class presentation (15%). We will form teams who will make brief presentations related to the fourth analytic report (November 29 and December 1).

- Each team should upload a presentation file (e.g., Powerpoint) in Sakai before November 29
- Presentations should have no more than 6 slides
- Delivery of the presentation must be completed in 8 minutes
- Use minimal text – slides are not your notes
- Use figures and tables to convey your findings
- Frontload the main conclusion (bottom line up front)

Quizzes (15%). This course has no exams, but completing the readings and watching required videos before class is crucial. I will assess your understanding of the materials with brief quizzes. Quizzes will be deployed in Sakai, and I will ask you to complete them in class. Besides substantive questions about the content of the readings, you should be ready to answer questions such as...

- In one sentence, summarize the main argument of the article.
- How does the argument in this reading relate to last week's readings?

Class attendance and participation (10%). The course will be interesting only to the extent that you are engaged in the conversation. I will assess your engagement based on several considerations:

- Preparedness. I will often pose questions at the end of the class, or ask you to consider problems or complete small tasks in preparation for our next class (for example, you must be ready to run R Studio in your laptop by August 30). I will expect you to be prepared for each meeting.
- Active engagement in class discussions.
- Active engagement in data-analysis exercises conducted in class.
- Evidence of low-quality engagement, such as unjustified absences, multitasking in class, etc.

Note: We will meet in the Law School (1140 of Eck Hall of Law) on 9/1, 9/29, and 10/6

Course Schedule

🔔 = Indicates an assignment due

Monday, August 23 – Introduction

Wednesday, August 25 – National and International Law

Read: Desierto, Diane and Aníbal Pérez-Liñán. 2020. “Concept Note: Introduction to the ND Reparations Design and Compliance Lab.” Presented at the workshop *Rethinking Compliance and Reparations in International Law*, University of Notre Dame, May 25. Available [HERE](#)

Read: Carozza, Paolo G. 2016. “The Problematic Applicability of Subsidiarity to International Law and Institutions.” *The American Journal of Jurisprudence* 61 (1): 51–67.
<https://doi.org/10.1093/ajj/auw004>

Recommended: Sandoval, Clara. 2018. “Two steps forward, one step back: reflections on the jurisprudential turn of the Inter-American Court of Human Rights on domestic reparation programmes.” *The International Journal of Human Rights* 22 (9): 1192-1208:
10.1080/13642987.2016.1268439

Monday, August 30 – Creating and Reading Datasets

🔔 **Before class: Install R and R Studio in your computer. Create a folder for your R files.**
(Look for instructions in Sakai)

Tutorial (Windows): <https://www.youtube.com/watch?v=TFGYIKvQEQ4>

Tutorial (Mac): <https://www.youtube.com/watch?v=LanBozXJjOk>

Wednesday, September 1 – Reparations and Compliance with International Law

**** Professor Diane Desierto will address this topic. We will meet at 1140 of Eck Hall of Law ****

Read: Schwebel, Stephen M. 1994. “The Compliance Process and the Future of International Law.” Chapter 35. In *Justice in International Law: Selected Writings*, 598–607. Cambridge: Cambridge University Press. doi:10.1017/CBO9780511551765.036

Recommended: Weiss, Edith Brown. 2004. “Rethinking Compliance with International Law.” Chapter 6. In Eyal Benvenisti and Moshe Hirsch, eds., *The Impact of International Law on International Cooperation: Theoretical Perspectives*, 134–65. Cambridge: Cambridge University Press. doi:10.1017/CBO9780511494147.006

Recommended: du Plessis, Max. 2003. “Reparations and International Law: How Are Reparations to Be Determined (Past Wrong or Current Effects), against Whom, and What Form Should They Take.” *Windsor Yearbook of Access to Justice*, 22, 41-70.

Monday, September 6 – Conceptualizing and Estimating Causal Effects

Watch: Leslie Myint, “Defining Causal Effects”: <https://youtu.be/poSGgCFsHgU>
What does aspirin have to do with international law?

Wednesday, September 8 – Second-Order Compliance

Read: Giorgetti, Chiara. 2018. “What Happens after a Judgment is Given? Judgment Compliance and the Performance of International Courts and Tribunals.” In *The Performance of International Courts and Tribunals*, Ed. Theresa Squatrito, Oran R. Young, Andreas Follesdal, Geir Ulfstein. Cambridge: Cambridge University Press, 324-350 (**Tip: this is part of an edited volume; search for the book title in Hesburgh Library, then look for Chapter 10.**)

Recommended: Desierto, Diane. 2018. “Enforcement Options and Paths to Compliance: Disputants and Global Stakeholders in *Philippines v. China*.” *Asian Journal of International Law* 8 (1): 64–75. <https://doi.org/10.1017/S2044251317000224>.

Monday, September 13 – Dealing with Uncertainty

Watch: p-values (5 min.): <https://youtu.be/3viE4s-Xm7U>
What is a p-value? by Daniel Lakens (20 min.): https://youtu.be/RVxHlsIw_Do

Wednesday, September 15 – Compliance in the European Court of Human Rights

Read: Von Staden, Andreas. 2018. *Strategies of Compliance with the European Court of Human Rights*. Philadelphia: University of Pennsylvania Press, **Introduction** (pages 1-27)

Read: Stafford, George. 2019. “The Implementation of Judgments of the European Court of Human Rights: Worse Than You Think.” *EJIL: Talk! Blog of the European Journal of International Law* Part 1: [Grade Inflation](#) Part 2: [The Hole in the Roof](#)

Monday, September 20 – Regression Analysis

🔔 **First Analytic Report due at 5 pm**

Watch: An Introduction to Linear Regression Analysis (5 min.): <https://youtu.be/zPG4NjIkCjc>
Watch: Multiple Linear Regression Using R: https://youtu.be/WRp_MpYQFbg

Wednesday, September 22 – The Inter-American System

Read: Von Bogdandy, Armin and Urueña, René. 2020. “International Transformative Constitutionalism in Latin America.” *American Journal of International Law* 114 (3): 403–442. doi:10.1017/ajil.2020.27

Recommended: Soley, Ximena and Steininger, Silvia. 2018. «Parting Ways or Lashing Back? Withdrawals, Backlash and the Inter-American Court of Human Rights». *International Journal of Law in Context* 14 (2): 237–257. doi:10.1017/S1744552318000058

Recommended: Sandholtz, Wayne. 2020. “Human Rights Courts and Global Constitutionalism: Coordination through Judicial Dialogue.” Forthcoming, *Global Constitutionalism*. doi:10.1017/S2045381720000064

Monday, September 27 – Confounders, Reporting Multivariate Results and Predictive Capacity

Read: Pearl, Judea, and Mackenzie, Dana. 2018. *The Book of Why. The New Science of Cause and Effect*. New York: Basic Books. Chapter 4 “Confounding and Deconfounding: Or, Slaying the Lurking Variable,” pp. 116-138

Watch: How to Calculate R Squared : <https://youtu.be/w2FKXOa0HGA>

Wednesday, September 29 – Beyond States: Independent Accountability Mechanisms

**** Professor Diane Desierto will address the topic. We will meet at 1140 of Eck Hall of Law ****

Read: World Bank Inspection Panel. 2012. *Citizen-Driven Accountability for Sustainable Development*. Available [HERE](#)

Recommended: Barlas, Dilek, and Tatiana Tassoni. 2015. "Improving Service Delivery through Voice and Accountability: The Experience of the World Bank Inspection Panel." *The World Bank Legal Review*, volume 6, pages 477-494 (Tip: search in Hesburgh Library for World Bank Legal Review, first, then look for volume 6, and chapter 22).

Monday, October 4 – Compliance with the Inter-American Commission

Read: Parente, Francesca. 2021. “Settle or Litigate? Consequences of Institutional Design in the Inter-American System of Human Rights Protection.” *Review of International Organizations*, forthcoming: <https://doi.org/10.1007/s11558-020-09412-y>

Recommended: Ziccardi, Natalia Saltalamacchia, Jimena Álvarez Martínez, Brianda Romero Castelán, and María José Urzúa Valverde. 2019. “Friendly Settlements in the Inter-American Human Rights System: Efficiency, Effectiveness and Scope.” In Par Engstrom, ed. *The Inter-American Human Rights System Impact Beyond Compliance*. London: Palgrave Macmillan, 59-88 ([here](#))

Recommended: Goldman, Robert K. 2009. “History and Action: The Inter-American Human Rights System and the Role of the Inter-American Commission on Human Rights.” *Human Rights Quarterly* 31 (4): 856–87. <https://doi.org/10.1353/hrq.0.0108>

Wednesday, October 6 –Self-Determination, Democracy, and Compliance

**** We will meet at 1140 of Eck Hall of Law ****

Read: Summers, James. 2013. “The Internal and External Aspects of Self-Determination Reconsidered.” In Duncan French, ed., *Statehood and Self-Determination*. Cambridge: Cambridge University Press, 229-249.

Read: Inter-American Court of Human Rights. 2020. *Denunciation of the American Convention on Human Rights and the Charter of the Organization of American States and the consequences for State human rights obligations (interpretation and scope of articles 1, 2, 27, 29, 30, 31, 32, 33 a 65 and 78 of the American Convention on Human Rights and 3(l), 17, 45, 53, 106 and 143 of the Charter of the Organization of American States)*. Advisory Opinion OC-26/20, November 9, 2020. Series A No. 26. Official summary available [HERE](#)

Recommended: full text of the Advisory Opinion, available [HERE](#)

Monday, October 11 – Data Management

📌 Second Analytic Report due at 5 pm

For a quick reference on data management in R: Ismay, Chester and Albert Y. Kim. 2021. *ModernDive*, Chapter 3. <https://moderndive.com/3-wrangling.html> (we will only cover some of the functions discussed in this chapter)

Wednesday, October 13 – Compliance with the Inter-American Court

Read: González-Salzberg, Damián. 2013. “Do States Comply with the Compulsory Judgments of the Inter-American Court of Human Rights? An Empirical Study of the Compliance with 330 Measures of Reparation.” *Revista do Instituto Brasileiro de Direitos Humanos* 13: 93-113. Available here: <http://revista.ibdh.org.br/index.php/ibdh/article/view/238>

Recommended: Huneeus, Alexandra. 2011. “Courts Resisting Courts: Lessons from the Inter-American Court's Struggle to Enforce Human Rights.” *Cornell International Law Journal* 44 (3): 493.

Recommended: Parente, Francesca. 2021. “In Defense of the Inter-American Court of Human Rights.” Unpublished manuscript. Available through Sakai.

Monday, October 18 – No class (break)

Wednesday, October 20 – No class (break)

Monday, October 25 – The Analysis of Categorical Outcomes

Watch: Linear Regression vs Logistic Regression (20 min.): <https://youtu.be/OCwZyYH14uw>
Binary Logistic Regression in R (15 min.): <https://youtu.be/HdB-z0TJRK4>

Wednesday, October 27, 2021 – Political Will

Read: Hillebrecht, Courtney. 2012. "The Domestic Mechanisms of Compliance with International Human Rights Law: Case Studies from the Inter-American Human Rights System." *Human rights quarterly* 34 (4): 959-985. <https://doi.org/10.1353/hrq.2012.0069>

Recommended: Gonzalez Ocantos, Ezequiel. 2014. "Persuade Them or Oust Them: Crafting Judicial Change and Transitional Justice in Argentina." *Comparative politics* 46 (4): 479-498. <https://doi.org/10.5129/001041514812522725>

Monday, November 1 - Transforming Data and Creating New Variables

Watch: Tables of regressions for Word (20 min.): <https://youtu.be/VrpcB1UeJJc>
How to Create a Categorical Regression Model in R (12 min.): <https://youtu.be/qst0QGBntxc>

Wednesday, November 3 – Domestic Implementation Mechanisms

Read: Murray, Rachel, and Christian De Vos. 2020. "Behind the State: Domestic Mechanisms and Procedures for the Implementation of Human Rights Judgments and Decisions." *Journal of Human Rights Practice* 12 (1): 22-47. <https://doi.org/10.1093/jhuman/huaa004>

Recommended: Welch, Ryan M., Jacqueline H. R. DeMeritt, and Courtenay R. Conrad. 2021. "Conceptualizing and Measuring Institutional Variation in National Human Rights Institutions (NHRIs)." *The Journal of Conflict Resolution* 65 (5): 1010-1033. <https://doi.org/10.1177/0022002720982349>

Monday, November 8, 2021 – Making Predictions

Watch: Logistic Regression in R Studio (10 min.): <https://youtu.be/iyU2CkHrfQk>
Watch: LOGIT REGRESSION IN R (13 min.): <https://youtu.be/LdrRY4Wb3MA>

Wednesday, November 10 – Dissenting Opinions

Read: Naurin, Daniel and Stiansen, Øyvind. 2020. "The Dilemma of Dissent: Split Judicial Decisions and Compliance With Judgments From the International Human Rights Judiciary." *Comparative Political Studies*, 53(6): 959–991. <https://doi.org/10.1177/0010414019879944>

Recommended: White, Robin C.A., and Iris Boussiakou. 2009. "Separate opinions in the European Court of Human Rights." *Human Rights Law Review* 9 (1): 37–60, <https://doi.org/10.1093/hrlr/ngn033>

Monday, November 15 – Discrete-Time Duration Models

📍 **Third Analytic Report due at 5 pm**

Watch: Brief Introduction to Survival Analysis (15 min.): <https://youtu.be/1kp7tV8yqVU>

Wednesday, November 17 – Supervision of Compliance: Shaming or Dialogue?

Read: Saavedra Alessandri, Pablo. 2020. "The Role of the Inter-American Court of Human Rights in Monitoring Compliance with Judgments." *Journal of Human Rights Practice* 12 (1): 178–184 <https://doi-org.proxy.library.nd.edu/10.1093/jhuman/huaa018>

Recommended: Sandoval, Clara, Philip Leach, and Rachel Murray. 2020. "Monitoring, Cajoling and Promoting Dialogue: What Role for Supranational Human Rights Bodies in the Implementation of Individual Decisions?" *Journal of Human Rights Practice* 12 (1): 71–100 <https://doi.org/10.1093/jhuman/huaa009>

Monday, November 22 – Non-Linear Effects

Watch: POLYNOMIAL REGRESSION: <https://youtu.be/Qnt2vBRW8Io>

Wednesday, November 24 – No class (Thanksgiving)

Monday, November 29 – Class Presentations

Wednesday, December 1 – Class Presentations

Monday, December 6 – Impacts Beyond Compliance

📍 **Fourth Analytic Report due at 5 pm**

Read: Koper, Natalia. 2021. "The Inter-American Court of Human Rights and Indigenous Rights in Nicaragua: From Land to Empowerment?" *Bulletin of Latin American Research*, forthcoming: <https://doi-org.proxy.library.nd.edu/10.1111/blar.13286>

Recommended: Zuloaga, Patricia Palacios. 2020. "Judging Inter-American Human Rights: The Riddle of Compliance with the Inter-American Court of Human Rights." *Human Rights Quarterly*, 42 (2): 392-433. doi:10.1353/hrq.2020.0022