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**KELLOGG INSTITUTE**  
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**PARAGUAY'S COMPLIANCE WITH THE INTER-AMERICAN  
HUMAN RIGHTS SYSTEM**

Aníbal Perez-Liñán, Madeline Soiney, Railen Hernández Guatache,  
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## **ABSTRACT**

Why do new democracies comply with international human rights obligations? We analyze Paraguay's compliance with all reparation measures requested by the Inter-American Human Rights System over the past two decades. In contrast to most studies, which focus on reparation measures ordered by a single organ in the system, our study covers all orders resulting from friendly settlements, reports published by the Inter-American Commission on Human Rights, and rulings by the Inter-American Court of Human Rights. We provide a novel classification of human rights cases, and evaluate three competing explanations for compliance: legal factors, international pressures, and domestic political will. Our analysis of 1,426 reparation-years underscores the importance of changes in political will over time.

## **RESUMEN**

¿Bajo qué condiciones las nuevas democracias cumplen con sus obligaciones internacionales de derechos humanos? En este trabajo analizamos el cumplimiento por Paraguay de todas las medidas de reparación solicitadas por el Sistema Interamericano de Derechos Humanos en las últimas dos décadas. A diferencia de la mayoría de los estudios, que se centran en las medidas de reparación ordenadas por un solo órgano del sistema, nuestro estudio abarca todas las solicitudes resultantes de soluciones amistosas, informes de fondo publicados por la Comisión Interamericana de Derechos Humanos y fallos de la Corte Interamericana. Proporcionamos una clasificación novedosa de las demandas de derechos humanos y evaluamos tres explicaciones en competencia para dar cuenta del cumplimiento: factores legales, presiones internacionales y voluntad política nacional. Nuestro análisis de 1426 reparaciones-año subraya la importancia de los cambios en la voluntad política a lo largo del tiempo.

An influential literature has established that new democracies are more willing to make binding commitments to international human rights institutions than established democracies. To account for this apparent paradox, scholars argue that new democracies seek to establish a credible reputation on the international front, with newly elected leaders seeking to prevent a reversion to authoritarian rule on the domestic front.<sup>1</sup> However, compliance with international human rights norms varies considerably across new democracies, and even *within* new democracies over time.

Why do new democracies comply with their international human rights obligations? We explore this question by analyzing Paraguay's record of compliance with reparation measures ordered by the Inter-American Human Rights System. Paraguay is a paradigmatic case of the phenomenon under study: the country endured a dictatorship until 1989, accepting the jurisdiction of the Inter-American Court of Human Rights only in 1993, at the end of the transition to democracy. Furthermore, the country's various domestic reforms and distinct human rights mechanisms make Paraguay a particularly valuable case study of compliance.

This paper makes two novel contributions to the literature. First, we offer an exhaustive mapping of Paraguay's cases reaching the Inter-American Human Rights System and document compliance with the resulting orders over time. Our dataset covers 156 reparation measures resulting from cases that ended with friendly settlements, reports on the merits issued by the Inter-American Commission on Human Rights, and rulings by the Inter-American Court of Human Rights. This is the most complete record of Inter-American obligations for any single country analyzed to date. While most comparative and case studies analyze compliance with decisions of the Inter-American Court, no study, to our knowledge, has compared the effectiveness of all instruments available in the Inter-American System across cases dealing with a single country.<sup>2</sup> This country-specific approach offers a more comprehensive understanding of the ways in which domestic reforms and actors impact state compliance with human rights reparations.

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<sup>1</sup> Jon C. Pevehouse, "With a Little Help from My Friends? Regional Organizations and the Consolidation of Democracy," *American Journal of Political Science*, 46 (July 2002), 611–26; Andrew Moravcsik, "The Origins of International Human Rights Regimes: Democratic Delegation in Postwar Europe," *International Organization*, 54 (Spring 2000), 217–52; Sharanbir Grewal and Erik Voeten, "Are New Democracies Better Human Rights Compliers?" *International Organization*, 69 (Spring 2015), 497–518.

<sup>2</sup> For instance, Daniel Naurin and Øyvind Stiansen, "The Dilemma of Dissent: Split Judicial Decisions and Compliance with Judgments from the International Human Rights Judiciary," *Comparative Political Studies*, 53 (May 2020), 959–91; Joel E. Correia, "Adjudication and Its Aftereffects in Three Inter-American Court Cases Brought against Paraguay: Indigenous Land Rights," *Erasmus Law Review*, 11 (April 2018), 43–56.

Second, we leverage this information to evaluate three competing explanations for compliance in new democracies: the role of legal conditions, international pressures, and domestic political will. We employ qualitative information distilled from historical sources, primary documents, and interviews to reconstruct the nature of the legal cases, the contexts in which Paraguay experienced greater international exposure, and the institutional transformations designed to promote greater compliance. Our novel quantitative strategy explicitly allows for the inclusion of time-varying covariates, accommodating changing conditions and predicting the expected time to compliance under different scenarios. Using recommendation-years as units of analysis in our investigation allows us to analyze delays in reparative justice by accounting for periods of state inactivity, unlike conventional analyses of compliance, which often overestimate states' ability to comply in a timely manner. The results of our investigation underscore the importance of analyzing changes in political will over time.

Attaining compliance with human rights reparations is the victims' ultimate recourse for securing access to justice. Because victims appealing to the Inter-American Human Rights System have exhausted all domestic remedies, reparation measures are the final opportunity to redress violations. Modern conceptions of access to justice emerged in connection with the right of individuals to bring claims before international bodies in the twentieth century.<sup>3</sup> Thus, national efforts to secure compliance with reparation measures are an indication of broader concerns about promoting access to justice. Furthermore, compliance with certain measures may lead to structural reforms that subsequently benefit the greater population of the country. Human rights compliance also carries weight in the international community, as it conveys the legitimacy of international human rights institutions and ensures the overall effectiveness of regional human rights protection systems, such as the Inter-American Human Rights System. As we document in this paper, the most important predictor of Paraguay's compliance with international obligations is the intervention of domestic political actors committed to the advancement of a human rights agenda.

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<sup>3</sup> Francesco Francioni, "The Rights of Access to Justice under Customary International Law," in F. Francioni, ed., *Access to Justice as a Human Right*. (Oxford: Oxford University Press, 2007), 1–55. Articles 8 and 25 of the American Convention on Human Rights provide for the right of every person to access an independent tribunal for the protection of rights under the state's constitution or the Convention.

## PARAGUAY AND THE INTER-AMERICAN HUMAN RIGHTS SYSTEM

After taking over in 1954, General Alfredo Stroessner built his dictatorship on a trifecta of power comprising the state, the armed forces, and the Colorado Party (formally the Asociación Nacional Republicana, or ANR).<sup>4</sup> Stroessner's survival in office was explained both by vast networks of clientelistic relationships that kept his allies satisfied and by high levels of repression against his opponents.<sup>5</sup> His regime relied on the violent suppression of peasant uprisings; the imprisonment, torture, and exile of political dissenters; and self-censorship and co-optation.<sup>6</sup> In 1959, in a parallel development five years after Stroessner's assumption of power, the Organization of American States (OAS) created the Inter-American Commission on Human Rights.

Paraguay's 1967 Constitution initially permitted the president's reelection for a single term. However, after a 1977 reform, the Constitution allowed for indefinite reelection. Under this system, Stroessner managed to be elected for office eight times. The reform also granted the general significant powers over Congress and the judiciary. The other branches of government merely provided a democratic façade and supported the executive's policy initiatives<sup>7</sup>

Meanwhile, in 1969, the OAS member states adopted the American Convention on Human Rights (ACHR), also known as the Pact of San José. The ACHR entered into force nine years later, after a sufficient number of parties ratified the treaty. The Convention created a regional human rights system based on two organs: the pre-existing Inter-American Commission on Human Rights (IACHR) and the newly created Inter-American Court of Human Rights (IACtHR)<sup>8</sup> The IACHR, operating from Washington, D.C., retained a supervisory role over all OAS members, while the IACtHR, established in San José, Costa Rica in 1979, exercised a judicial role for states that ratified the Convention and accepted its jurisdiction.

Under this system, victims of human rights violations who exhaust domestic remedies are able to elevate individual cases to the IACHR. The Commission seeks to broker a friendly

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<sup>4</sup> José Molinas, Aníbal Pérez-Liñán, and Sebastián Saiegh, "Political Institutions, Policymaking Processes, and Policy Outcomes in Paraguay, 1954–2003," *Revista de Ciencia Política*, XXIV (February 2004), 67–93.

<sup>5</sup> Diego Abente, "Stronismo, Post-Stronismo, and the Prospects for Democratization in Paraguay," Kellogg Institute for International Studies Working Paper no. 119, Notre Dame, IN, 1989).

<sup>6</sup> Nancy R. Powers, "The Transition to Democracy in Paraguay: Problems and Prospects," Kellogg Institute for International Studies Working Paper no. 171, Notre Dame, IN (1992).

<sup>7</sup> Molinas, Pérez-Liñán, and Saiegh, 69-74.

<sup>8</sup> Instituto Interamericano de Derechos Humanos, *Acceso a la justicia y derechos humanos en Paraguay* (San José: Instituto Interamericano de Derechos Humanos, 2009). <https://www.corteidh.or.cr/tablas/26736.pdf>.

settlement with the offending state and, if this proves unfeasible, produces a report on the merits of the case that typically includes specific recommendations. If the state fails to comply with those recommendations within a set timeframe, the Commission can make the report public or refer the case to the IACtHR (if the state accepts the Court's jurisdiction). Court rulings are technically binding, and they include a list of reparation measures—often more extensive and detailed than the IACHR's recommendations—that states are required to implement.

Paradoxically, Stroessner's Paraguay was among the original signatories of the Convention in 1969. However, the country did not ratify the treaty for two decades. The Inter-American Commission continuously monitored the country from 1973 to 1990, publishing two special reports on Paraguay (in 1978 and in 1987), which expressed concerns about serious human rights violations. The IACHR repeatedly requested permission to carry out on-site visits; however, Stroessner's regime invoked principles of sovereignty and non-interference in internal affairs in order not to comply with its human rights obligations.<sup>9</sup>

The *stronista* regime began to decline in the 1980s. With the completion of the Itaipú Dam, Paraguay's economic boom came to an abrupt end, imposing economic constraints that the government had long avoided. This situation meant that Stroessner was unable to continue rewarding all of his allies in the armed forces and the Colorado Party at the same time.<sup>10</sup> The economic recession, combined with a succession crisis, led to the coup of February 3, 1989. The coup's leader, General Andres Rodríguez, was a former ally who had grown estranged from Stroessner. Three months after the coup, Rodríguez called for parliamentary and presidential elections, from which he emerged as the winner to complete the presidential term ending in 1993.<sup>11</sup>

During the transition, Paraguay strived to restore its international standing in the field of human rights. Indeed, the first act of the democratically constituted Congress was the enactment of Law No. 1/89, "Approving and Ratifying the American Convention on Human Rights or Pact of San José, Costa Rica." President Rodríguez invited the Inter-American Commission to finally visit Paraguay in February 1990. In 1992, a Constituent Assembly replaced the 1967

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<sup>9</sup> Julio Duarte Van Humbeck, "Paraguay frente al Sistema Regional de Derechos Humanos." In Cynthia González Feldmann, ed., *El Paraguay frente al Sistema Internacional de los Derechos Humanos* (Montevideo: Konrad-Adenauer-Stiftung, 2004).

<sup>10</sup> Andrew Nickson, "El régimen de Stroessner (1954–1989)," in Ignacio Telesca, ed., *Historia del Paraguay* (Asunción, Paraguay: Taurus, 2010).

<sup>11</sup> Magdalena López, "Paraguay: de la transición a la democracia (1989–2008). Un abordaje normativo electoral." *Espacio Abierto Cuaderno Venezolano de Sociología*, 21 (May 2012): 207–25.

Constitution, breaking with the country's dictatorial past.<sup>12</sup> The Assembly outmaneuvered Rodríguez, banning presidential reelection, and set a high threshold for the denunciation of human rights treaties by requiring a constitutional procedure akin to a constitutional amendment. In 1993, the Rodríguez administration issued Decree No. 16078, accepting the jurisdiction of the Inter-American Court of Human Rights.<sup>13</sup>

The early years of the democratic era did not yield much turnover among political elites. Rodríguez was succeeded by four Colorado presidents: Juan Carlos Wasmosy (1993–1998), Raúl Cubas Grau (1998–1999), Luis Ángel González Macchi (1999–2003), and Nicanor Duarte Frutos (2003–2008). Wasmosy, the first civilian president of the democratic era, saw factionalism escalate inside the Colorado Party. As a result, his successor, Cubas Grau, lasted less than eight months in office. Congress charged Cubas for his presumed responsibility in the murder of Vice-President Luis María Argaña and the massacre of young demonstrators. The president resigned before the impeachment process was completed.<sup>14</sup> Senate Speaker González Macchi assumed office to complete Cubas' term. After three years of this caretaker government, President Duarte Frutos reestablished a strong executive in command of the Colorado Party, but unity broke when he attempted a constitutional reform to pursue reelection. As a result of this failure, Duarte Frutos ended a string of consecutive Colorado administrations that began in 1947.<sup>15</sup>

As Paraguay entered the new century, the number of pending obligations with the Inter-American System grew significantly. The Commission issued a third report on the human rights situation in Paraguay in 2001. The number of individual cases then escalated, as past violations of the Stroessner dictatorship reached decisive stages in Commission and Court processes, and new violations in the democratic era failed to achieve resolution in the domestic legal system.

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<sup>12</sup> Luis Lezcano Claude, "Historia Constitucional del Paraguay (Periodo 1870–2012)." *Revista Jurídica–Universidad Americana*, 3 (September 2012): 173–291.

<sup>13</sup> Romina Paiva Godoy, "La Convención Americana sobre Derechos Humanos en el Ordenamiento Jurídico Paraguayo y sus Efectos," *Revista IIDH*, 60 (July–December 2014), 157–167; Ministerio de Relaciones Exteriores, *Paraguay: Miembro del Consejo de Derechos Humanos de las Naciones Unidas 2015–2017* (Asunción, Paraguay: MRE, 2015).

<sup>14</sup> José María Costa, "El contexto político y la justicia en el Paraguay. Una síntesis de hechos relevantes en los 28 años de democracia," in *Fragmentación política e independencia judicial: Un estudio de las acciones de inconstitucionalidad, 1995–2015* (Asunción, Paraguay: Instituto Desarrollo, 2018); Aníbal Pérez-Liñán, *Presidential Impeachment and the New Political Instability in Latin America* (New York: Cambridge University Press, 2007).

<sup>15</sup> López, 212.

We discuss the nature of those cases in the next section. Confronted with these obligations, successive administrations adopted proactive actions to advance compliance.

In August 2008, former bishop Fernando Lugo, of the Alianza Patriótica para el Cambio (Patriotic Alliance for Change), became Paraguay's first non-Colorado president in the democratic era. His center-left administration showed greater sensitivity to human rights issues, activated important institutional reforms, which we discuss later, and appointed experienced officials to key agencies like the Paraguayan Indigenous Institute (Instituto Paraguayo del Indígena, or INDI). However, much of the foreign affairs bureaucracy in charge of interacting with the Inter-American System of Human Rights was inherited from the previous era.

Lugo was elected by a coalition of eight political parties that included the Liberal Party (Partido Liberal Radical Auténtico, or PLRA), the second largest force after the ANR. However, his administration never commanded a stable majority in Congress.<sup>16</sup> Almost fourteen months before the end of his term, the coalition broke down. Lugo was charged with poor performance in office and removed in a controversial impeachment that only lasted two days. His vice-president from the Liberal Party, Federico Franco, took over to complete the term ending in 2013.<sup>17</sup>

The rushed removal of President Lugo from office had severe implications for Paraguay's international standing. In June 2012, the Southern Cone Common Market (MERCOSUR) suspended Paraguay's participation until the presidential elections scheduled for April 2013. On the same day, the Union of South American Nations (UNASUR) adopted an identical resolution. Both organizations had concluded that the country had experienced a "democratic breakdown."<sup>18</sup>

During the first year of President Horacio Cartes's administration, Paraguay rejoined both UNASUR and MERCOSUR. After a five-year hiatus, Cartes marked the return of the Colorado Party to power.<sup>19</sup> Like Duarte Frutos, Cartes eventually entertained the idea of reelection via

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<sup>16</sup> Daniel Jatobá and Bruno Theodoro Luciano, "The Deposition of Paraguayan President Fernando Lugo and its Repercussions in South American Regional Organizations," *Brazilian Political Science Review*, 12 (March 2018).

<sup>17</sup> Liliana Rocío Duarte Recalde, "Paraguay: interrupción al proceso de consolidación de la democracia," *Revista de Ciencia Política*, 33 (January 2013): 303–24; David-Eleuterio Balbuena Pérez, "Impeachment, the Paraguayan Constitution, and the Impeachment of President Fernando Lugo," *Revista de Derecho Político*, 87 (May–August 2013), 355–398.

<sup>18</sup> Fabiana Beatriz Franco Llano, "El impacto en las relaciones exteriores de Paraguay por ocasión de la destitución del Presidente Fernando Lugo por juicio político. Año 2012," *Revista Jurídica–Universidad Americana*, 6 (June 2018): 49–64.

<sup>19</sup> Brian Turner, "Paraguay: La vuelta del Partido Colorado al Poder," *Revista de Ciencia Política*, 34, 1 (2014): 249–66.

constitutional amendment. This action exacerbated existing divisions in the Colorado Party, and led to protests that were strongly repressed, leaving several people injured. The reelection project failed a second time, and a new Colorado faction gained office in 2018 when Mario Abdo Benitez was sworn in as president.<sup>20</sup> By the time Abdo took office, twenty-five years had passed since Paraguay accepted the jurisdiction of the Inter-American Court, and a series of institutional reforms had established innovative mechanisms to achieve compliance in human rights cases.

## **CASES IN THE INTER-AMERICAN SYSTEM**

Our analysis of public records has led us to identify sixty-two cases that reached the admissibility stage in the Inter-American Commission on Human Rights between 1972 and 2018. Of those, eight cases were disposed of by Paraguay through a friendly settlement, eighteen led to a published report on the merits of the case by the IACHR, and eleven were referred to the Inter-American Court of Human Rights. We could not find information for the disposition of the remaining twenty-five cases, either because the case remained open when we completed our data collection (June 2021) or because old records were not available. About a quarter of the cases reached the Inter-American System before Paraguay's transition to democracy, but a majority were presented to the IACHR after 1992.

In this section we introduce a typology of cases intended to summarize the challenges confronted by Paraguay in the Inter-American System.<sup>21</sup> We divide the cases into seven different categories based on the rights violated and the types of victims.

### **Abuses Under the Dictatorship**

In these cases (n = 16), the victims were subject to arbitrary detention, detention without due process, torture, disappearance, or death during the Stroessner dictatorship. A vast majority of the cases reached the Commission between 1973 and 1996, but only cases initiated after 1993 were subject to the Court's jurisdiction. For instance, in *Goiburú et al. v. Paraguay*, the petitioners alleged that Paraguayan authorities illegally and arbitrarily detained, tortured, and disappeared four men because they opposed the ruling party. The IACHR received a set of

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<sup>20</sup> Ignacio González Bozzolasco, "Paraguay: La reelección presidencial y los inicios de la carrera electoral 2018," *Revista de Ciencia Política*, 37 (November 2019): 543–62.

<sup>21</sup> On the importance of disaggregating national patterns, see Julie Hollar, "Human Rights Instruments and Impacts," *Comparative Politics*, 46 (October 2013), 103–20.

related petitions in 1995 and 1996 and referred the case to the IACtHR in 2005. The Court ordered reparations for the surviving victims and their family members in 2006, including compensation to the victims' family members for loss of income and legal costs.<sup>22</sup> The ruling emphasized the dignity of the victims and called for investigating and punishing responsible state agents, returning victims' remains to family members, and dedicating a public plaza in honor of the victims. The reparations ordered in the *Goiburú* case are typical of those intended to redress abuses under the dictatorship.<sup>23</sup>

### **Indigenous Communities**

Indigenous community cases (n = 8) expanded during the twenty-first century—six of the eight cases in this category reached the IACHR between 2000 and 2005.<sup>24</sup> *Comunidad Indígena Sawhoyamaxa* is emblematic of this type of case. *Sawhoyamaxa* involved the violation of community rights over ancestral territory. The petitioners stated that eleven years after the initiation of procedures to recover the ancestral territory of the Sawhoyamaxa People, Paraguay had still failed to address the problem. The members of this community lived in subhuman conditions, leading to deaths due to lack of sufficient food and medical care.

In *Sawhoyamaxa* (2006) the IACtHR emphasized that a failure to guarantee the right to communal property leads to physical, mental, and emotional suffering.<sup>25</sup> Territory is inherently linked to indigenous communities' shared histories and relationships with the earth; furthermore, a lack of communal property subjects community members to harsh conditions of life.<sup>26</sup> Despite the ruling, Paraguay's compliance with measures involving expropriation and restitution of land proved especially complex. Sensing limited progress, the Court organized a supervision hearing in Costa Rica in 2008 and an urgent hearing in Bolivia in 2009 after several Sawhoyamaxa children died. The meeting in Bolivia was the first supervision hearing ever conducted in public, and it set the model for the Court's selective use of public hearings to address compliance in

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<sup>22</sup> Inter-American Court of Human Rights, Case of *Goiburú et al. v. Paraguay*. Merits, Reparations and Costs, Judgment of September 22, 2006, Series C No. 153 (para. 141).

<sup>23</sup> Bridget Mayeux and Justin Mirabal, "Collective and Moral Reparations in the Inter-American Court of Human Rights" (Human Rights Clinic: The University of Texas School of Law, Nov. 2009), 18–50.

<sup>24</sup> The victims were indigenous communities in all except the *Páez* case, in which the petitioner asserted that an indigenous group had unlawfully settled on his property.

<sup>25</sup> Inter-American Court of Human Rights, Case of *Comunidad Indígena Sawhoyamaxa v. Paraguay*. Merits, Reparations and Costs, Judgment of March 29, 2006, Series C No. 146.

<sup>26</sup> Asier Martínez de Bringas, "Los sistemas normativos indígenas en el marco del pluralismo jurídico: Un análisis desde los derechos indígenas," *Revista de Derecho Político*, 86 (January–April 2013), 411–444.

difficult cases. New hearings on Sawhoyamaxa took place in 2011 and 2014, followed by a Court visit to the community in late 2017.

### **Censorship and Freedom of Expression**

These cases (n = 13) center around the victims' freedom of expression. In a few cases, such as *ABC Color* and *Radio Ñandutí*, the victims were media organizations; in the others, the victims were individuals punished for their political views. A majority of these cases reached the IACHR before Paraguay's transition to democracy, but there were important exceptions. The case of *Ricardo Canese* represented the first ruling issued by the Inter-American Court of Human Rights against Paraguay (2004). Canese was a presidential candidate who denounced Juan Carlos Wasmosy for his alleged links to the Stroessner dictatorship. He was convicted of defamation in criminal proceedings that lasted over ten years, during which he was unable to leave Paraguay. Canese submitted a petition to the Inter-American Commission in 1998. The IACHR referred his case to the Inter-American Court in 2002 and—although he was acquitted by Paraguay's Supreme Court that year—the IACtHR condemned Paraguay for violating freedom of expression in the context of democratic elections, and ordered additional reparation measures.<sup>27</sup>

### **Arbitrary Dismissal or Forced Resignation of Government Officials**

In these cases (n = 5), the petitioners were fired or forced to resign from government positions. All these cases of arbitrary dismissal reached the Inter-American System in a short time window, between 2001 and 2004. For example, *Ríos Ávalos v. Paraguay* resulted from President Duarte's attempt to—in his own words—"pulverize the judiciary."<sup>28</sup> Justice Bonifacio Ríos Ávalos asserted Paraguay had violated his rights in a wrongful impeachment leading to his removal from the Supreme Court. Congress refused to reinstate Ríos Ávalos, claiming that impeachment proceedings were consistent with the National Constitution. The case was submitted to the Inter-

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<sup>27</sup> Ana Carolina Pérez Bohórquez, Ana María Cardona Betancourt and Valentina Martínez Torifa, "Inter-American Standards on Freedom of Expression Regarding Officials and Candidates to Hold Public Office," *Via Inveniendi Et Iudicandi (VIEI)*, 12 (January–June 2017), 67–88.

<sup>28</sup> Inter-American Commission on Human Rights, *Ríos Avalos v. Paraguay*, Petition 969–03, Inter-Am. C.H.R., Report No. 47/09, OEA/Ser.L/V/II., doc. 51, corr. 1 (2009).

American Commission in 2004 and referred to the Inter-American Court in 2019, where it remains open at the time of this writing.<sup>29</sup>

### **Military Recruitment of Minors**

In these cases (n = 5), minors were forcefully recruited into the Paraguayan military and subsequently died or disappeared. For instance, *Marcelino Gomes Paredes and Christian Nunez* concerned two 14-year-old boys who disappeared while performing compulsory military service for the Paraguayan armed forces. The petitioners in this case—the boys’ parents—asserted that despite the prohibition on doing so, “the military and police forces have made it a systematic, constant, and frequent practice to recruit minors between the ages of 12 and 17, and to date no steps have been taken to curb this practice.”<sup>30</sup> Problems related to military recruitment recurred during the democratic period, with the first case reaching the Commission in 1996 and the last one in 2005.

### **Abuses After the Dictatorship**

In these cases (n = 5), the victims were subject to arbitrary detention, detention without due process, torture, disappearance or death after Paraguay’s transition to democracy. For instance, in *Arrom Suhurt et al. v. Paraguay*, petitioners Juan F. Arrom Suhurt and Anuncio Martí alleged that they were detained for two weeks, beaten, and suffocated by state agents. The *Arrom Suhurt* case, like most cases in this category, deals with the violation of the rights to personal liberty, integrity, life and recognition of legal personality, in addition to the violation of the rights to judicial guarantees and to judicial protection. *Arrom Suhurt et al. v. Paraguay* is the only case in which the Inter-American Court ruled that the State of Paraguay was not responsible for these violations and therefore ordered no reparations.<sup>31</sup> The first case in this category reached the Commission in 1999.

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<sup>29</sup> See *La Nación*, “Destitución por juicio político: se inicia el caso Ríos Ávalos vs Paraguay en la Corte IDH,” *La Nación*, Mar. 1, 2021. The IACtHR announced the ruling in October 2021.

<sup>30</sup> Inter-American Commission on Human Rights, *Marcelino Paredes and Christian Nunez v. Paraguay*, Case 12.330, Report No. 82/03, Inter-Am. C.H.R., OEA/Ser.L/V/II.118 Doc. 70 rev. 2 at 399 (2003).

<sup>31</sup> Inter-American Court of Human Rights, Case of *Arrom Suhurt et al. v. Paraguay*. Merits, Judgment of May 13, 2019, Series C No. 377 / 5.

## Miscellaneous Cases

Six cases in our dataset do not fit distinctly in any of the previous categories. For instance, *Cordova* was a custody case in which a mother took her child to Argentina without the Paraguayan father's consent. There are also four cases for which the Inter-American Commission did not publish enough information to categorize them.

Because Paraguay accepted the jurisdiction of the Inter-American Court in 1993, all cases prior to this date concluded with a report on the merits by the IACHR. Paraguay signed its first friendly settlement in 1998 (*Comunidades Indígenas Enxet-Lamenxay*). The Inter-American Court ruled in two cases involving Paraguay for the first time in 2004 (*Instituto de Reeducación del Menor* and *Ricardo Canese*).

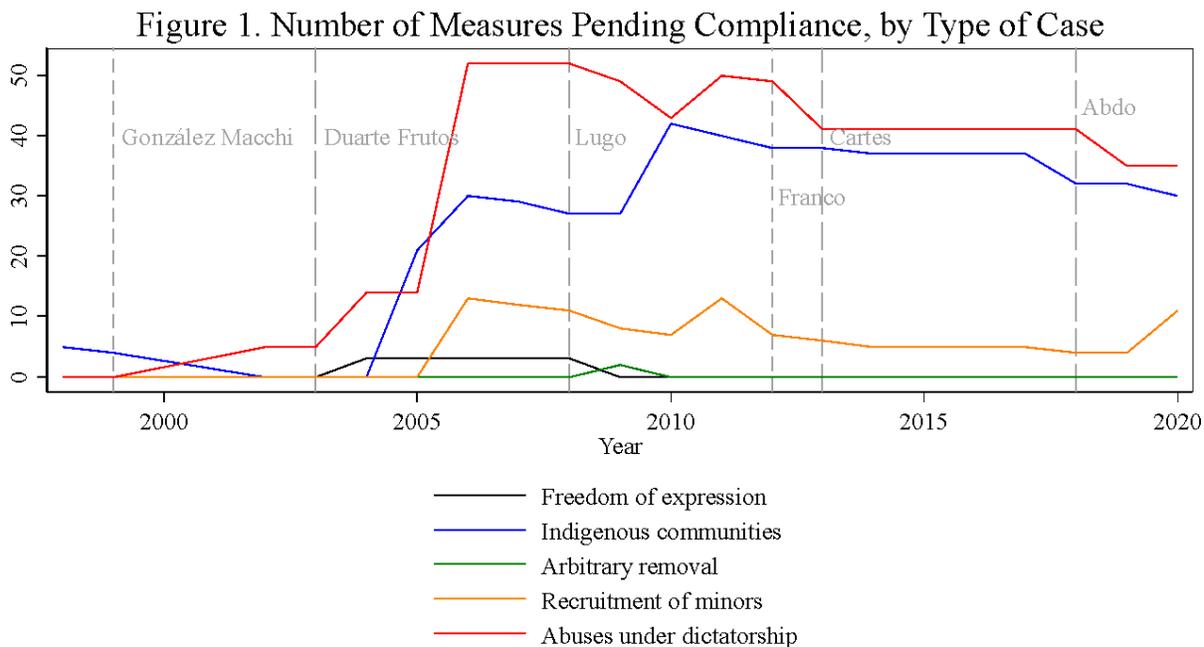
Our sample includes all cases for which there is a public record of reparation measures ordered between 1998 and 2020. The IACHR does not have records of compliance with specific measures prior to 1998, so our analysis begins with the friendly settlement in *Comunidades Indígenas Enxet-Lamenxay* and covers information in six other friendly settlements, two reports on the merits (issued by the IACHR in 2002 and 2009), and nine cases that reached the Inter-American Court.<sup>32</sup> Together, these cases represent 156 reparation measures that Paraguay faced during the first two decades of the twenty-first century.<sup>33</sup>

Figure 1 tracks the evolution of these 156 reparation measures resulting from the 19 cases over the past two decades. We classify all measures based on the type of case. (No cases dealing with abuses after the dictatorship have led to decisions ordering reparations so far.) The figure shows that Paraguay's international obligations expanded considerably during the administration of President Nicanor Duarte Frutos, as the Inter-American Court began to rule in cases dealing with past crimes under the Stroessner dictatorship (*Goiburú et al.*), freedom of expression (*Ricardo Canese*), military recruitment of minors (*Vargas Areco*), and novel cases dealing with indigenous communities (*Yakye Axa* and *Sawhoyamaxa*). The number of pending measures, reported on the vertical axis, jumped abruptly from 38 in 2005 to 98 in 2006.

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<sup>32</sup> In a tenth case, *Arrom Suhurt et al.* in 2019, the Inter-American Court ruled for Paraguay, so no reparation measures were ordered.

<sup>33</sup> The 156 orders constitute the universe of reparation measures requested by the Inter-American System during this period, with the possible exception of cases involving friendly settlements, IACHR reports on the merits, or Court rulings that were not yet published by the time of this writing.



The figure also shows that Paraguay's portfolio of reparations was dominated by cases related to the dictatorship and to indigenous communities. This portfolio, however, changed over time. In 2006, over half of all reparative measures referred to crimes under the dictatorship, and about a third referred to indigenous communities. By 2020, each of these categories made up approximately 40 percent of the portfolio. Paraguay progressively offered reparations for crimes committed during the Stroessner dictatorship during the Lugo, Franco, and Abdo administrations, and made an effort to provide reparations to indigenous communities towards the end of the Lugo and Cartes years. By the end of 2020, the number of reparation measures pending compliance (79) was the lowest since 2006.

## INSTITUTIONAL TRANSFORMATIONS

As Paraguay confronted an increasing number of pending reparation measures in the twenty-first century, a current of institutional reforms sought to establish the necessary capacity to comply with the orders of the Inter-American System. Promoted by coalitions of human rights activists, a new generation of committed public officials, and some political leaders, these reforms reached multiple corners of the Paraguayan state, including the appointment of compliance delegates in

about 80 government agencies, and the creation of a Human Rights Directorate within the Supreme Court.<sup>34</sup>

At the center of these transformations, often, was the Ministry of Foreign Affairs. The ministry executes Paraguay's foreign policy on human rights, including all procedures related to the Inter-American (OAS) and the Universal Protection (UN) Systems. The ministry coordinates participation in public hearings and the negotiation of friendly settlements and also collaborates with domestic institutions on matters of compliance, review, control, and promotion of human rights. The upgrade of the ministry's former Human Rights Operational Unit to the rank of General Directorate in 2013 demonstrated its growing role in this area.

We focus the following discussion on two institutional developments that were specifically intended to improve compliance with international human rights obligations: a digital system to monitor recommendations (SIMORE) and the Inter-Institutional Commission for Compliance with International Judgments (CICSI). Although SIMORE earned Paraguay an international reputation as an innovator in this area, the less visible CICSI most effectively mobilized political will.

### **The SIMORE Platform**

Starting in 2011, foreign affairs officials expressed the need for a searchable database to access all decisions and recommendations issued by international human rights bodies. They hoped that by coordinating actions between multiple governmental institutions, an online platform would facilitate compliance. After an early pilot in 2012, the Ministries of Foreign Affairs and Justice, in cooperation with the Human Rights Advisor for Paraguay in the Office of the United Nations High Commissioner for Human Rights (OHCHR), began the development of a System for Monitoring Recommendations (SIMORE).<sup>35</sup> The process unfolded as Paraguay confronted regional isolation in the aftermath of Lugo's controversial impeachment.

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<sup>34</sup> According to SIMORE Paraguay, the institutions in charge of compliance with decisions emanating from the Inter-American Human Rights System include the INDI, the Office of the Vice President, the Ministry of Education and Science, the Ministry of Public Health and Social Welfare, the National Emergency Secretariat, the National Environmental Sanitation Service, the Ministry of Environment and Sustainable Development, the Ministry of Information and Communication Technologies, the Ministry of Interior, the Ministry of Justice, the Supreme Court, the Senate, and the Ministry of Finance. (Available at: <https://www.mre.gov.py/SimorePlus/Home/resultado>).

<sup>35</sup> Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos–Paraguay, “Sistema de Monitoreo de Recomendaciones (SIMORE). Experiencia Paraguaya” (June 2014), 23. Available at: <https://acnudh.org/load/2019/07/036-Sistema-de-Monitoreo-de-Recomendaciones-Experiencia-de-Paraguay.pdf>.

The creation of SIMORE in June 2014 coordinated the work of executive agencies, Congress, the judiciary, the Prosecutor's Office, the Ministry of Public Defense (MDP), and the ombudsman with the purposes of promoting an effective implementation of human rights recommendations and generating information for national reports, especially for the United Nations' Universal Periodic Review (UPR).<sup>36</sup>

The platform compiles human rights recommendations made to Paraguay by international human rights bodies such as the IACHR and the IACtHR and by special procedures of the United Nations and the Organization of American States. It also provides updated information on actions taken by state institutions to follow up with and implement those recommendations.<sup>37</sup> The current version of the platform, called SIMORE Plus, also incorporates the Sustainable Development Goals (SDGs) and their targets.<sup>38</sup>

SIMORE was a successful project that heightened Paraguay's international reputation. The acronym became a regional brand. In 2020, the Inter-American Commission on Human Rights launched the Inter-American SIMORE, an online database covering the Commission's recommendations to OAS states resulting from approved friendly settlements, published merit reports, annual reports, country reports, thematic reports, and precautionary measures. Paraguay also established a technical cooperation program and assisted with the development of local SIMOREs in Chile, Costa Rica, the Dominican Republic, Guatemala, Honduras, and Uruguay.<sup>39</sup>

Paradoxically, and despite the flagship nature of the program, SIMORE did not become Paraguay's main vehicle for securing compliance with the Inter-American System. The database offered structured information that proved extremely valuable to track general recommendations by the Universal Protection System, and to prepare national reports for the Universal Periodic Review. The reparation measures resulting from individual cases in the IACHR and the IACtHR, by contrast, required specific forms of inter-agency coordination that varied with each case.

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<sup>36</sup> Ministerio de Relaciones Exteriores, Unidad General de Derechos Humanos, "Respuesta de Paraguay Cuestionario del Alto Comisionado de las Naciones Unidas para los Derechos Humanos sobre la Resolución 24/16 del Consejo de Derechos Humanos: El papel de la prevención y protección de los derechos humanos" (n.d.). Available at: <https://www.ohchr.org/Documents/Issues/IntLaw/PreventionStudy/MemberStates/Paraguay.pdf>.

<sup>37</sup> Ministerio de Relaciones Exteriores, "Sobre el SIMORE PLUS" (n.d.). Available at: <https://www.mre.gov.py/SimorePlus/Home/Page?idTipo=1>.

<sup>38</sup> Ibid.

<sup>39</sup> Ministerio de Relaciones Exteriores, "Boletín de Información de la Unidad General de Derechos Humanos del Ministerio de Relaciones Exteriores" (n.d.), 1–3.

### **The Inter-Institutional Commission (Cicsi)**

After 2007, various non-governmental organizations began to call for the creation of an inter-agency coordination mechanism. Coordination was crucial to achieve compliance with reparation measures in cases involving indigenous communities, which simultaneously required the provision of public services, the construction of public works, and the expropriation and reallocation of large tracts of land. The proposal eventually found allies in Lugo's Ministry of Justice. In 2009, the administration created an Inter-Institutional Commission Responsible for the Execution of the Actions Necessary for Compliance with International Judgments (CICSI).<sup>40</sup> CICSI meetings were initially coordinated by the solicitor general (Procurador General de la República), but subsequent reforms transferred this role to the Ministry of Justice in 2012 and to the Ministry of Foreign Affairs in 2015.

The 2012 reform also placed Paraguay's vice-president at the head of the commission, granting CICSI new leverage across government agencies.<sup>41</sup> Today, its meetings regularly include representatives from the General Secretariat of the Presidency; from the ministries of Justice, Foreign Affairs, Interior, Education, Public Health and Social Welfare, Public Works, National Defense, Women, and Finance; from the secretariats for National Emergencies, Social Action, the Environment, and Children and Adolescents; from the institutes for Indigenous People (INDI) and for Rural and Land Development (NIRLD). It also incorporates representatives from the Attorney General's Office, the Ministry of Public Defense (MDP), Congress, and the Supreme Court. The representatives of the victims in cases pending compliance occasionally attend as guests.<sup>42</sup>

The ability of the vice-president to summon a wide range of institutions made CICSI into an effective mechanism to ensure follow-up and compliance with reparation measures. At the same time, this arrangement means that the commission's potential is most likely to be activated when the vice-president invests political capital in human rights cases. CICSI is an institutional multiplier of political will.

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<sup>40</sup> Ministerio de Relaciones Exteriores, Unidad General de Derechos Humanos (n.d.), "Respuesta de Paraguay," 7.

<sup>41</sup> *Ibid.*, 7; Ministerio de Relaciones Exteriores, "Paraguay miembro del Consejo de Derechos Humanos de las Naciones Unidas 2015–2017" (May 2015), 15. Available at: <https://www.mre.gov.py/Sitios/Adjuntos/infodhh/Docs/BOOK.pdf>.

<sup>42</sup> *Ibid.*, 7.

CICSI's work during Alicia Pucheta's short stint as vice-president offers a good example of this institutional pattern. In early 2018, as the Cartes Administration wound down, Paraguay's vice-president resigned to run for the Senate. Cartes nominated Supreme Court Justice Alicia Pucheta to complete the vice-president's term. Appointed by Congress, Pucheta served in this role from May 9 to August 15, 2018. Despite the brevity of her term, this was an active period for CICSI. At the Supreme Court, Pucheta had been in charge of the Human Rights Directorate and formed close ties with the Inter-American System.<sup>43</sup> She understood the importance of human rights cases involving vulnerable populations, especially indigenous communities, and participated in the Inter-American Court's visit to the Sawhoyamaya, Yakye Axa, and Xakmok Kasek communities a few months before her appointment as vice president.<sup>44</sup> Due to her background in law and her commitment to human rights, Pucheta leveraged her time at the head of CICSI to promote compliance. Both documentary sources and interviews show that she summoned meetings of high-ranking officials to coordinate the implementation of complex reparation measures across agencies.<sup>45</sup> Political leverage facilitated the coordination efforts by foreign affairs officials and the implementation efforts of a network of committed officials across a range of ministries.

### ASSESSING COMPLIANCE

Our dataset covers 156 reparation measures resulting from friendly settlements (46 measures), published reports on the merits (7 measures), and cases decided by the Inter-American Court (103 measures) between 1998 and 2020. This set comprises all measures linked to individual cases and petitions published by the IACHR through its Inter-American SIMORE database, as well as all cases involving Paraguay decided by the Inter-American Court. We gathered systematic data on compliance from the Commission's follow-up factsheets and from the Court's supervision resolutions. Based on this information, we identified two levels of compliance:

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<sup>43</sup> Inter-American Institute of Human Rights, "Course on Inter-American System of Human Rights for State Officials," Jan. 18, 2017. Available at: <https://www.iidh.ed.cr/iidh-en/news/curso-new-sobre-el-sidh-para-funcionarias-y-funcionarios-estatales-paraguay/>.

<sup>44</sup> Corte Suprema de Justicia, "Dirección de DD.HH. presentó material sobre pueblos étnicos," Corte Suprema de Justicia de Paraguay, Dec. 4, 2013. Available at: <https://www.pj.gov.py/notas/9311-direccion-de-ddhh-presento-material-sobre-pueblos-etnicos>.

<sup>45</sup> Ministerio de Justicia, "Presentan avances en el cumplimiento de sentencias internacionales en materia de DDHH" (June 25, 2018). Available at: [http://www.ministeriodejusticia.gov.py/noticias/presentan-avances-en-el-cumplimiento-de-sentencias-internacionales-en-materia-de-ddhh?cmm\\_paging\\_p=95](http://www.ministeriodejusticia.gov.py/noticias/presentan-avances-en-el-cumplimiento-de-sentencias-internacionales-en-materia-de-ddhh?cmm_paging_p=95).

*partial*, when the IACHR or the Court documented that Paraguay had achieved “partial” or “substantial partial” compliance with a request; and *full*, when the Inter-American sources documented “total” or “full” compliance (meaning that the supervision stage is closed). We also documented the years in which Paraguay adopted the respective measures.

Our main dependent variable captures the timing of the *first* form of compliance—whether partial or full—achieved by each reparation measure. To assess a more demanding standard, our analysis also estimates the likelihood of *full* compliance. We adopt a discrete-time approach, taking reparation measures-per-year as our units of analysis. While most studies analyze compliance with international court orders at the level of particular cases or particular orders, we look at specific measures *over time*, assessing the status of each measure by December 31<sup>st</sup> of each year.

This approach allows us to analyze delays in reparative justice. Consider the case of José Víctor dos Santos and Waldemar Gerónimo Pinheiro, an example of abuses under the dictatorship. The two men were arrested by local police and tortured as suspects in a homicide committed in 1985. Dos Santos spent eight years in the Tacumbú National Penitentiary, with no legal justification for his detention, until the Supreme Court ordered his release in 1995. Pinheiro was held in pretrial detention at Tacumbú for more than a decade. His irregular trial led to a thirty-year sentence in a lower court in 1995, but an appellate court overturned the decision one year later. The government eventually reported that Pinheiro had escaped the penitentiary in 1996.

The case arrived at the Inter-American Commission on Human Rights in 1995, but the Commission did not issue a report on the merits of the case until 2002.<sup>46</sup> The report requested that Paraguay:

1. Offer appropriate compensation to Waldemar G. Pinheiro.
2. Offer appropriate compensation to José Víctor Dos Santos.
3. Make the reparations commensurate with the harm done, which implied that compensation should be greater for Dos Santos, who had never been charged or sentenced.
4. Order an investigation to determine who was responsible for the violations.

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<sup>46</sup> Inter-American Commission on Human Rights, *Waldemar Gerónimo Pinheiro and José Víctor Dos Santos v. Paraguay*, Case 11.506, Report No. 77/02, Inter-Am. C.H.R., Doc. 5 rev. 1 at 803 (2002).

5. Take the necessary steps to prevent such violations from recurring.

By 2002, dos Santos and Pinheiro were nowhere to be found, and Paraguay could not pay the indemnifications. The government reported that the two men had most likely crossed into Brazilian territory. Because successive administrations had attempted to find the two men in collaboration with the Brazilian authorities, the Commission acknowledged in 2017 that the state was “partially” complying with the first three measures. Paraguay reported no attempt to comply with the last two measures, however, which still remained “pending” by the end of 2020, the last year covered in our dataset.

This case illustrates the importance of analyzing compliance over time. If we took a “snapshot” of the case in 2020, a conventional analysis of compliance would indicate that Paraguay had partially complied with 60 percent (three of the five) measures recommended by the IACHR. This conclusion, however, would vastly overestimate Paraguay’s ability to comply in a timely manner. If we take recommendation-years as our units of analysis, it becomes clear that the first three measures remained open for sixteen years (2002–2017) until reaching partial compliance. In addition, the last two measures remained open for nineteen years (2002–2020), without any progress by the time of the last observation. This creates a *yearly* probability of partial compliance of just 3.5 percent, given by three events in eighty-six recommendation-years, or  $3/(16+16+16+19+19)$ . This metric reflects delays more accurately because it penalizes long spells of state inactivity.<sup>47</sup>

Table 1 summarizes the information for our sample by comparing the number of reparation measures per type of case, the percentage that have achieved the first manifestation of compliance (partial or full), and the yearly probability of compliance for each category. The last column also displays the Expected Time to Compliance (ETC). The ETC is defined as the inverse of the yearly probability. This principle allows us to translate multivariate estimates of the yearly probability of compliance into an expected time horizon, as we show in the empirical section.

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<sup>47</sup> On the issue of estimation, we follow Aníbal Pérez Liñán, Luis Schenoni, and Kelly Morrison, “Time and Compliance with International Rulings: The Case of the Inter-American Court of Human Rights,” Max Planck Institute for Comparative Public Law & International Law (MPIL) Research Paper no. 2019–17 (2019).

**TABLE 1****LEVELS OF COMPLIANCE BY 2020, BY TYPES OF CASES**

Case type	Measures	Percent with compliance	Yearly probability	ETC (years)
Abuses under dictatorship	60	61.7	0.064	16
Indigenous communities	53	52.8	0.063	16
Freedom of expression	3	100.0	0.250	4
Arbitrary removal	2	100.0	1.000	1
Recruitment of minors	26	61.5	0.172	6
Miscellaneous	12	100.0	0.293	3
All	156	62.8	0.083	12

*Source:* Authors' data, based on information from the IACHR and the IACtHR.

*Note:* Percent with compliance is calculated for individual measures, while the yearly probability of compliance is calculated for measure-years. The expected time to compliance (ETC), measured in years, is the inverse of the yearly probability.

Table 1 suggests some important conclusions. In line with Figure 1, over 70 percent of all reparation measures involve cases inherited from the dictatorship or involving indigenous communities. A cross-sectional “snapshot” of Paraguay’s cases indicates a reasonable effort, as Paraguay had complied (at least partially) with 63 percent of the measures ordered by the Inter-American System by 2020. At the same time, the expected time to compliance is twelve years on average, with a wide range of variation across case types. The largest categories present a longer time horizon of sixteen years, while the smaller categories display faster response rates. Cases of arbitrary removal and “miscellaneous” cases, in particular, display an expected time horizon between just one and three years. Because these two categories involve some idiosyncratic characteristics, their patterns of prompt compliance require a brief discussion.

The only case of arbitrary removal in our sample refers to that of Carlos Alberto Mojoli Vargas, a former member of the Electoral Tribunal forced to resign in 1999. Following the procedure laid out in article 50 of the American Convention of Human Rights, the IACHR issued a private report on the case in 2009, urging Paraguay to follow due process in disciplinary procedures against judges, and to terminate any pending procedures against Mojoli. The Paraguayan government reported in short order that it had modified its disciplinary procedures

already in 2007, and a court cleared Mojoli in 2009. Thus, the two recommendations achieved full compliance by the end of the year.<sup>48</sup>

The two “miscellaneous” cases in our sample correspond to those of Jorge Enrique Patiño Palacios and Miriam Beatriz Riquelme Ramírez; both involved friendly settlements. Patiño was assassinated in 1994, and his family alleged that the police had failed to investigate properly and had participated in a coverup. Paraguay reached a friendly settlement with the family in 2012, and complied with the agreement partially by 2014 and in full by 2019. Riquelme was arrested in 2005 and denied parole to breastfeed her newborn child, against Paraguayan law. Paraguay reached a friendly settlement with Riquelme in 2011, and complied with it in full within a year. These examples suggest that friendly settlements, not surprisingly, display a much shorter time to compliance.

### THREE EXPLANATIONS FOR COMPLIANCE

The previous section underscores the importance of treating reparation measures per year as units of analysis. It also suggests that Paraguay’s varying levels of compliance, across cases and over time, deserve careful exploration. The scholarship on judicial politics has traditionally wondered why governments obey domestic court orders, given that judges have few mechanisms to enforce their decisions.<sup>49</sup> This question acquires greater theoretical significance in the case of international courts like the IACtHR, which have limited reach within countries under their jurisdiction, and in the case of political bodies like the IACHR, which issue forceful recommendations without the status of a judicial ruling.

The literature addressing compliance with international court orders emphasizes three types of explanations. The first set of explanations underscores the nature of legal cases and in particular the complexity of the reparation measures confronted by states. Giorgetti notes that “highly controversial or politically sensitive cases are less likely to receive compliance.” Staton and Romero argue that more complex cases force the Inter-American Court to issue less clear

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<sup>48</sup> Inter-American Commission on Human Rights, *Carlos Alberto Mojoli Vargas v. Paraguay*, Case 12.431, Report No 121/10, October 23, 2010. Notice that we date compliance based on when Paraguay received the report (2009), not the date of publication. See also Inter-American Commission on Human Rights, *Efectos del Cumplimiento Total de Recomendaciones Estructurales Casos con Informes de Fondo Publicados*. Cuadernillos de Seguimiento 01 (Observatorio de Impacto, Serie Diálogos, 2021).

<sup>49</sup> Diana Kapiszewski and Matthew M. Taylor. “Compliance: Conceptualizing, Measuring, and Explaining Adherence to Judicial Rulings,” *Law & Social Inquiry*, 38 (September 2013), 803–35.

orders, which in turn facilitate noncompliance. In a study of seventy rulings of the Inter-American Court, González-Salzberg found that orders to publish decisions and to provide monetary compensation for victims achieve rates of compliance close to 90 percent, while orders to prosecute perpetrators or reform legislation achieve rates of compliance below 40 percent. Taking stock of the situation in 2012, Bailliet similarly concluded that states are unwilling to prosecute perpetrators in the security forces, but also identified some problems with monetary reparations.<sup>50</sup>

A second set of explanations highlights the role of external incentives. In their analysis of compliance with rulings of the European Court of Human Rights, Grewal and Voeten find that new democracies eager to signal their commitment to human rights norms implement judgments more quickly than established democracies—although this effect disappears the longer a judgment remains pending. Bailliet noted that Peru’s compliance with an Inter-American Court ruling in a case involving a US citizen “underscores the real effect of external pressure upon the state in Latin America.” Giorgetti concludes that pressures from the international community or from specific actors in the region encourage compliance with international judgments. Moreover, Sandoval et al. have documented that supervision hearings conducted by the Inter-American Court to monitor compliance provide strong incentives for states to implement reparation measures.<sup>51</sup>

A third line of research focuses on domestic political will. Domestic leaders and institutions are responsible for carrying out international recommendations. Thus, compliance with international rulings necessarily depends on the political will of domestic leaders and their ability to establish institutions for that purpose. For instance, Saltalamacchia et al. document that governments are considerably more likely to comply with reparation measures resulting from a

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<sup>50</sup> Chiara Giorgetti, “What Happens after a Judgment is Given? Judgment Compliance and the Performance of International Courts and Tribunals,” in Andreas Follesdal, Geir Ulfstein, Oran R. Young and Theresa Squatrito, eds., *The Performance of International Courts and Tribunals* (Cambridge: Cambridge University Press, 2018), 324–350; Jeffrey K. Staton and Alexia Romero, “Rational Remedies: The Role of Opinion Clarity in the Inter-American Human Rights System,” *International Studies Quarterly*, 63 (2019), 477–491; Damián A. González-Salzberg, “The Effectiveness of the Inter-American Human Rights System: A Study of the American States’ Compliance with the Judgments of the Inter-American Court of Human Rights,” *International Law/Revista Colombiana de Derecho Internacional*, 15 (January–June 2010), 115–142; Cecilia M. Bailliet, “Measuring Compliance with the Inter-American Court of Human Rights: The Ongoing Challenge of Judicial Independence in Latin America,” *Nordic Journal of Human Rights*, 31 (December 2013), 477–495.

<sup>51</sup> Grewal and Voeten; Bailliet, 494; Giorgetti, 348; Clara Sandoval, Philip Leach, and Rachel Murray, “Monitoring, Cajoling and Promoting Dialogue: What Role for Supranational Human Rights Bodies in the Implementation of Individual Decisions?” *Journal of Human Rights Practice*, 12 (2020), 71–100.

friendly settlement than with those resulting from a report issued by the IACHR.<sup>52</sup> Hillebrecht argues that executive leaders capitalize on international human rights rulings to advance their political agendas and bolster support for domestic human rights reforms.<sup>53</sup> Conversely, Parente shows that non-compliance may result from domestic leaders championing the priorities of their constituents over those of the Inter-American System.<sup>54</sup> In turn, González Ocantos claims that “judiciaries must be politicized in order to (...) cement their commitment to enter sensitive political territory.”<sup>55</sup> Murray and De Vos determine that the creation of national mechanisms and committees, as well as “ministerial engagement and ownership at the highest level,” facilitate the implementation of reparations.<sup>56</sup>

We assess those explanations in the context of Paraguay’s history, using nine dichotomous indicators as proxies for the three theories. To capture legal conditions surrounding different types of cases, we employ indicators for cases involving *Abuses under the Dictatorship* as well as *Indigenous Communities*. As noted above, these two categories comprise 113 of the 156 measures in our sample, and usually involve measures that are hard to implement—investigation and prosecution of security forces, and legislative decisions about land expropriations. Cases inherited from the dictatorship represent almost 50 percent of our sample (701 reparation-years) while cases of indigenous communities represent almost 40 percent (543 reparation-years). To identify “easy” measures, we also include a dichotomous indicator that captures *Monetary Reparations* across all cases in the sample (307 reparation-years).

To capture external incentives for compliance, we employ three additional variables. The first identifies all cases included in the *SIMORE* database after the creation of the platform in 2014. Eight of the nineteen cases in our sample, totaling 93 of the 156 measures (or 421 reparation-years), were included, and while it is possible that their inclusion facilitated

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<sup>52</sup> Natalia Saltalamacchia Ziccardi, Jimena Álvarez Martínez, Brianda Romero Castelán, and María José Urzúa Valverde, “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* (Cham: Palgrave Macmillan, 2019), 59–88.

<sup>53</sup> Courtney Hillebrecht, “The Domestic Mechanisms of Compliance with International Human Rights Law: Case Studies from the Inter-American Human Rights System,” *Human Rights Quarterly*, 34 (November 2012), 959–985.

<sup>54</sup> Francesca Parente, “Fix for the Future, Not for the Past: Democratic Accountability and Non-Compliance with International Law,” unpublished paper, University of California, Los Angeles, Mar. 21, 2019.

<sup>55</sup> Ezequiel González Ocantos, “Persuade Them or Oust Them: Crafting Judicial Change and Transitional Justice in Argentina,” *Comparative Politics*, 46 (July 2014): 496.

<sup>56</sup> Rachel Murray and Christian De Vos, “Behind the State: Domestic Mechanisms and Procedures for the Implementation of Human Rights Judgments and Decisions,” *Journal of Human Rights Practice*, 12 (February 2020), 22–47.

compliance, it is also possible that their inclusion signaled the complexity of the cases. A second variable captures actions by the *Inter-American Court of Human Rights* to monitor compliance through supervision hearings (mostly held in Costa Rica) or onsite visits to Paraguay. This indicator identifies cases addressed by a hearing or visit in the year when the IACtHR conducted the supervisory visit. A total of 265 reparation-years in our sample experienced such supervision. The third variable captures *pending reparation measures during 2012–13*, when Paraguay was suspended from MERCOSUR and UNASUR following President Lugo’s impeachment. The Franco administration had to navigate a hostile regional environment, and it is plausible to assume that the Ministry of Foreign Affairs was under greater pressure to signal compliance with international norms during this period.

The last set of variables identifies instances of visible political will. To address Saltalamacchia et al.’s argument, we include a dichotomous indicator to distinguish reparation measures resulting from *Friendly Settlements* (46 of the 156 measures, or 302 reparation-years). A second variable captures reparation measures during the *Lugo Administration* (392 reparation-years in 2009–2012). As explained earlier, Lugo was Paraguay’s first elected leftist president, and as such, he prioritized key policy areas. For example, he appointed Margarita Mbywangi, a member of the Aché people, as the country’s Minister of Indigenous Affairs, and Óscar Ayala, a human rights activist, as director of INDI. The Lugo Administration also marshaled the creation of the CICSI. Unfortunately there are no publicly available minutes of CICSI meetings, or a list of the cases discussed in the Commission. However, qualitative evidence suggests that CICSI was particularly active at the end of the Cartes Administration, during Alicia Pucheta’s short term as vice-president. The change in CICSI’s political climate in 2018 facilitated the work of public officials in charge of compliance across multiple institutions. We employ a dichotomous indicator (*Pucheta’s CICSI*) to identify reparations pending during 2018 (81 observations).

## STATISTICAL ANALYSIS

We estimate discrete-time duration models taking reparation measures-per-year as units of analysis. For this purpose, we observe each of the 156 reparation measures on a yearly basis, from the time when the measure was ordered until compliance took place—or until 2020, if compliance never occurred. For measures originating in the Inter-American Commission, we

take the year when the friendly settlement was signed (not when it was published) or the year when the merits report was issued (under art. 50 of the American Convention) as the initial moment. For measures originating in the Inter-American Court, we take the year of the ruling as the initial moment. Our indicators of compliance take a value of 0 if Paraguay did not comply with the measure by the end of the year, and 1 if the state complied in a given year (the measure drops from the series afterwards).

As mentioned above, we code two separate outcomes: the *first form* of compliance (whether partial or full), and the achievement of *full* compliance for a more demanding standard. Because full compliance usually takes longer than partial compliance, the dataset includes 1,174 recommendation-years for the first form of compliance and 1,426 measure-years for full compliance. Our analysis estimates the probability of each outcome on a yearly basis, which allows us to capture changes in the likelihood of compliance over time. For example, we can estimate whether the probability of compliance changed in years when the Inter-American Court of Human Rights conducted a hearing on particular cases. The estimation relies on a hierarchical model, using a probit link with frailties by legal case. This accounts for the fact that the legal cases are intrinsically different. We also account for duration-dependence by adding a quartic transformation of time.<sup>57</sup>

Table 2 summarizes the results of our analysis. The first three models estimate the yearly probability of the first form of compliance using different blocs of explanatory variables. Variables that refer to the case are listed first, followed by variables that capture external incentives and then those that capture domestic political will. Model 2.4 integrates all predictors into a single equation. The last model employs the full specification to predict full compliance. The results underscore the role of domestic political will vis-à-vis purely legal conditions and international incentives.

Two legal factors influence compliance. Paraguay is generally less likely to comply in cases that originated during the Stroessner dictatorship. At the same time, and in line with the existing literature, the government is significantly more likely to cover monetary reparations.

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<sup>57</sup> Discrete-time duration applications often employ a cubic transformation of time to account for duration-dependence. We add a fourth term to properly capture the functional form of the latent hazard function in our context. A cubic transformation implies that the probability of compliance eventually takes off as time goes by, but Grewal and Voeten, 507, show that in new democracies, cases “go cold” after several years. See also David Carter and Curtis Signorino, “Back to the Future: Modeling Time Dependence in Binary Data,” *Political Analysis*, 18 (Summer 2010), 271–92.

Our estimates suggest that the probability of partial compliance is higher when reparations can be settled through compensation, yet we do not find significant effects in the model for full compliance. Despite the similarity in the expected time to compliance observed for the two main categories of cases in Table 1, the estimate for cases involving indigenous communities fails to achieve conventional levels of significance in multivariate models ( $p < .10$  in model 2.5).

Against conventional explanations, external incentives do not appear to be the main driver of compliance with international obligations in Paraguay. This is surprising given the reputation acquired by SIMORE throughout Latin America and the innovative actions taken by the Inter-American Court to address the supervision of indigenous communities cases *in situ*. It is plausible that sample-size issues undermine the significance of some findings, but these results also hint at more substantive lessons.

Estimates for SIMORE, for example, are negative but insignificant. This is in part explained because SIMORE includes complex cases with large numbers of reparation measures and compliance histories that span multiple years. Paraguay made efforts to achieve partial compliance in those cases prior to the creation of the platform, eventually incorporating into the database measures that required considerable effort to achieve full compliance. Of the eight cases included in SIMORE, seven had experienced partial compliance with at least one reparation measure prior to 2014, but only three experienced any form of full compliance prior to that date. When SIMORE was launched in 2014, most measures were waiting for full compliance. The database became a crucial instrument to inform reports for the UN's Universal Periodic Review, but not to coordinate political efforts to achieve full compliance in pending Inter-American cases.

**TABLE 2**

<b>DISCRETE-TIME DURATION MODELS</b>					
Compliance	(2.1) First	(2.2) First	(2.3) First	(2.4) First	(2.5) Full
<i>Legal Conditions</i>					
Dictatorship	-0.83* (0.40)			-0.46 (0.26)	-0.70* (0.33)
Indigenous	-0.61 (0.42)			-0.40 (0.25)	-0.55 (0.31)
Monetary	0.63* (0.16)			0.63* (0.16)	0.11 (0.17)
<i>External Incentives</i>					
Included in SIMORE		-0.51 (0.29)		-0.13 (0.30)	-0.21 (0.34)
IACtHR supervision		0.05 (0.19)		-0.04 (0.21)	0.35 (0.20)
Years 2012-13		0.03 (0.19)		0.06 (0.19)	0.32 (0.20)
<i>Political Will</i>					
Friendly settlement			0.80* (0.22)	0.72* (0.24)	0.57* (0.29)
Lugo administration			0.41* (0.14)	0.46* (0.16)	0.57* (0.17)
Pucheta's CICSI			0.48 (0.30)	0.57 (0.31)	0.75* (0.32)
<i>Duration Dependence</i>					
<i>t</i>	0.62* (0.17)	0.58* (0.17)	0.55* (0.17)	0.54* (0.17)	0.82* (0.24)
<i>t</i> <sup>2</sup>	-0.16* (0.05)	-0.16* (0.05)	-0.17* (0.05)	-0.17* (0.05)	-0.34* (0.09)
<i>t</i> <sup>3</sup>	0.01* (0.00)	0.01* (0.00)	0.02* (0.00)	0.01* (0.01)	0.04* (0.01)
<i>t</i> <sup>4</sup>	-0.00* (0.00)	-0.00* (0.00)	-0.00* (0.00)	-0.00* (0.00)	-0.00* (0.00)
Constant	-1.12* (0.30)	-1.38* (0.21)	-1.79* (0.19)	-1.67* (0.27)	-1.77* (0.32)
Var(Case)	0.42 (0.22)	0.43* (0.22)	0.11 (0.08)	0.08 (0.08)	0.18 (0.13)
Observations	1174	1174	1174	1174	1426

Note: Entries are probit coefficients (standard errors). Frailities by legal case.

\* p<0.05

Estimates for the effect of supervision hearings and onsite visits by the Inter-American Court also display insignificant effects, but deserve some important caveats. First, the estimate in Model 2.5 is significant at the .10 level, suggesting that the Court’s efforts could promote full compliance. (The estimate is also significant at the .05 level in a linear probability model estimated as a robustness test, and available on request). Activists interviewed for this project indicated that Paraguayan officials and legislators often make unusual efforts in preparation for supervision hearings and onsite visits. It is likely, however, that this variable captures heterogeneous effects—for instance, onsite visits may have stronger effects than hearings conducted in Costa Rica—yet the number of events is too small to distinguish different forms of supervision.

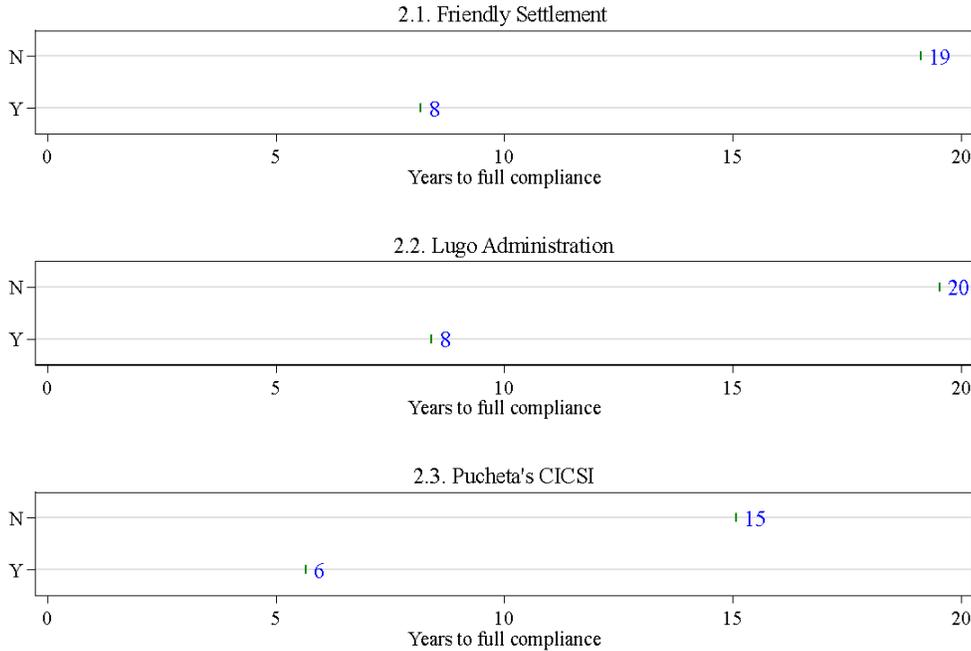
Despite the strong external pressures experienced by Paraguay after President Lugo’s removal from office, there is no evidence to affirm that Paraguay improved its record of compliance during the Franco administration. The coefficient for 2012–13 is positive but insignificant across models. (The largest estimate, in Model 2.5, barely achieves  $p < .20$ ). Like the coefficient for the Court’s supervision, however, the positive estimate for Model 2.5 achieves significance at the .05 level in the linear probability model estimated as a robustness test. Interviews conducted for this project suggest that the Franco administration had a mixed record in this area.<sup>58</sup>

In contrast, variables proxying political will appear to be distinctively related to compliance. It is not surprising that recommendations resulting from friendly settlements experience faster implementation, but the other two factors also have robust effects. As suggested by Figure 1, compliance with pending measures accelerated during the Lugo administration and in the final months of the Cartes administration, when Alicia Pucheta was in charge of the CICSI. Pucheta’s leadership, combined with action by committed state officials, seemed to prompt full compliance with pending measures.

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<sup>58</sup> For instance, Franco appointed former public defendant María Lorena Segovia Azucas as Minister of Justice, and she played an important role in the coordination of CICSI. At the same time, he appointed Rubén Quesnel as the head of INDI. Quesnel was later sentenced to 10 years in prison for embezzlement of funds destined to provide reparations for indigenous communities. See “Ex titular del Indi, Rubén Quesnel, condenado a 10 años de cárcel,” *Ultima Hora*, Aug. 28, 2018.

Figure 2. Expected Time to Full Compliance under Three Conditions



Because probit coefficients in Table 2 defy easy interpretation, we provide a more intuitive representation of these effects in Figure 2. The figure compares the expected time to (full) compliance, based on Model 2.5, under the three conditions proxying political will. Panel 2.1 compares the expected time to compliance (ETC) for cases resolved through a friendly settlement vis-a-vis other legal instruments (reports on the merits or IACtHR rulings). Panel 2.2 compares the ETC for the typical case under the Lugo administration vis-à-vis other administrations. Panel 2.3 compares the ETC for cases in 2018, when Pucheta was vice-president, vis-à-vis other historical periods. The procedure to simulate the expected time to compliance is similar in all cases: using the estimates from Model 2.5, we predict the probability of full compliance for every measure-year in our sample under two hypothetical conditions: assuming that all observations receive the treatment—e.g., experience a friendly settlement (denoted in the figure as Y)—and assuming that no observation experienced the treatment (N). For the purpose of the simulation, all other variables in the sample remain at their observed values. We then retrieve the ETC as the inverse of the average probability of compliance, for the treated sample and for the counterfactual.

Figure 2 provides clear evidence of the substantive implications of political will. While the expected time to compliance for measures resulting from a friendly settlement is eight years, other procedures yield an expected delay of nineteen years. Similarly, the typical reparation measure would be expected to reach full compliance after eight years if all administrations worked similarly to Fernando Lugo's team, but would be expected to reach full compliance after two decades in other circumstances. If all reparation measures had been processed by a CICSJ as supportive of public officials in charge of implementation as when Pucheta was at the helm, the expected time to compliance would have been six years instead of fifteen. These values are estimates, not precise time frames for implementation, but they illustrate the magnitude of the effects captured by our statistical models.

## CONCLUSION

Our analysis suggests that political will is the most important driver of compliance with international human rights obligations in new democracies. Executive leadership (e.g., during Lugo's administration), committed politicians in charge of institutional coordination (e.g., Pucheta at CICSJ), and public willingness to pursue friendly settlements dwarf other, conventional explanations like the complexity of reparation measures or international pressures. We do not deny that those factors are relevant, but they only set parameters within which public officials operate to provide remedies for human rights violations. When public officials are committed to provide reparations, they make extraordinary efforts to achieve improbable outcomes such as land expropriations or the construction of public works. By contrast, when public officials are not committed to timely remedies, international pressures prompt short-term initiatives that rarely yield long-term results.

We have offered systematic evidence for this pattern by analyzing the experience of Paraguay, a country with a long history of dictatorship prior to 1989. While most studies of compliance with international orders compare the behavior of different states under the same legal instrument, we compared the behavior of a single state across all legal instruments in the Inter-American Human Rights System—friendly settlements, IACHR reports on the merits, and IACtHR rulings. This strategy allowed us to weigh the importance of different explanations while avoiding selection bias created by the sorting of cases into different types of solutions. For example, cases that reach the Inter-American Court of Human Rights are by definition those in

which the state has been unwilling to negotiate with the victims at an early stage. This means that certain types of victims or violations may be underrepresented in studies of compliance that focus on a single instrument.

This paper offers the first exhaustive mapping of Paraguay's cases in the Inter-American System, providing a novel classification of sixty-two historical cases and a detailed quantitative analysis of compliance in nineteen cases that remained open in the twenty-first century. The quantitative analysis demonstrated the advantages of a novel discrete-time approach to evaluate compliance. In contrast to traditional works, which assess state compliance in particular cases or with particular reparation measures, this approach evaluates compliance with measures on a yearly basis, detecting when changes in the domestic or international context prompt changes in state responses.

Our findings have major implications for debates about access to justice in new democracies. Cases in the Inter-American System represent a difficult test since victims have unsuccessfully exhausted all domestic legal options before appealing to the Inter-American Commission on Human Rights. The Inter-American System therefore offers the final opportunity to achieve some form of justice in major human rights violations. We relied on qualitative knowledge of the Paraguayan case to pinpoint potential sources of political will. However, because political will is a "slippery and ambiguous concept," as Hillebrecht has pointed out, much additional research is needed to extend these lessons into other national contexts.<sup>59</sup> How to measure, locate, and activate political will is probably the most important agenda for the study of human rights compliance in the years to come.

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<sup>59</sup> Hillebrecht, 966.