Structural determinants of human rights prosecutions after democratic transition

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Over the last three decades, an increasing number of countries have experienced the transition from authoritarianism to democracy and the new governments have been increasingly expected to address past human rights violations. To guarantee the nonrepetition of human rights violations, governments have adopted a wide range of measures such as criminal prosecution, truth commissions, judicial reform, reparations, memorialization, exhumations and reburials, and the lustration of police and security forces (Roht-Arriaza, 2002: 97).[1] The number of states initiating criminal prosecutions against former state officials has been steadily increasing and scholars refer to this new trend as 'the justice cascade' (Lutz & Sikkink, 2001) or 'a revolution in accountability' (Sriram, 2003). A close examination of the diffusion of human rights prosecutions throughout the world has important theoretical and policy implications since the importance of criminal prosecutions remain 'unrivaled' compared to other measures (Freeman, 2006: 10).

In the mid-1980s, scholars of democratization argued that the human rights trials of former military leaders in Latin America would cause political instability and thus be less likely in the future. Huntington (1991: 228), for example, observed that no effective criminal prosecution and punishment occurred in most transitional countries in the 1970s and 1980s and concluded: 'In new democratic regimes, justice comes quickly or it does not come at all.' Similarly, O'Donnell & Schmitter (1986: 29) predicted that such prosecutions would become less likely as 'the bitterness of memories attenuated with the passage of time' in transitional societies. However, contrary to their expectations, human rights prosecutions have dramatically increased since the mid 1990s. Lutz & Reiger (2008: 12) document the prosecutions of 34 heads of state for human rights violations between 1990 and 2008. This number dramatically increases when the cases of lower-ranking officials are also considered.

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[1] I refer to transitional justice as "the conception of justice associated with periods of political change, characterized by legal responses to confront the wrongdoings of repressive predecessor regimes (Teitel, 2003: 69)" For more details, see Hayner (2002) and Wiebelhaus-Brahm (2010) for truth commission; Elster (2006) and

For example, more than a dozen prosecutions against former presidents, military and police officers, and torture experts occurred in South Korea alone after democratization (Kim, forthcoming).

Several factors provide the preconditions necessary for this change: the end of the Cold War and the subsequent accelerated wave of democratization, the atrocities in the former Yugoslavia and Rwanda and the creation of *ad hoc* international criminal tribunals, and the accretion of human rights treaties and the development of corresponding organizations. This new trend has been met with both enthusiasm and skepticism. Many scholars maintain that such prosecutions deter future violations (Mendez, 1997; Orentlicher, 1995; Roht-Arriaza, 2005; Roht-Arriaza & Mariezcurrena, 2006) while others believe that prosecution will not deter future violations and that in some circumstance they will lead to an increase in repression by disrupting a nascent stability (Elster, 2006; Goldsmith & Krasner, 2003; Snyder & Vinjamuri, 2003).

Yet, while the academic literature on the impact of human rights prosecution is relatively well developed, the literature on the causes of such prosecution is still sparse. Why do states pursue criminal prosecutions against former state officials on the charge of human rights violations? What explains the global diffusion of such prosecutions? There have been a few attempts to integrate dispersed theories from various disciplines and subdisciplines of political science, sociology, criminology, and law (Backer, 2009; Grodsky, 2010; Huyse, 1995; Pion-Berlin, 1994; Skaar, 1999), but we still know little about them. Moreover, despite the emergence of recent examples of cross-national analysis (Dancy & Poe, 2006; Olsen, Payne & Reiter, 2010; Roper & Barria, 2009), the field has been dominated by case studies of a single or a small number of countries. Although the details of the prosecution process can be traced closely in these case studies, the variations in the way decisions are made to adopt

De Greiff (2006) for reparations; and Freeman (2010) and Mallinder (2008) for amnesty.

human rights prosecutions across different countries cannot be properly examined.

It is necessary to empirically test the recurring and overlapping explanations on how states decide to criminally prosecute former state officials. For this article, I have tested three key theories after surveying the existing literature in the fields of human rights, transitional justice, democratization, and international relations: the balance of power between old and new elites, transnational advocacy networks, and the diffusion theory. The validity of each theory has been attested separately in case studies of individual countries but has not yet been simultaneously tested in a cross-national study of global samples. I conducted a cross-national analysis of 71 countries that were in a state of transition from authoritarianism to democracy between 1980 and 2006, using a new dataset on human rights prosecutions that I compiled with Kathryn Sikkink and Carrie Booth Walling.[2]

I find that there is strong evidence to support the transnational advocacy networks and diffusion explanations. First, active domestic and international advocacy for individual criminal accountability is a key factor guaranteeing persistent and frequent human rights prosecutions. My study further shows that domestic advocacy plays a crucial role in criminal prosecutions of high-profile state officials while international pressure is more effective in promoting prosecutions of low-profile officials. Second, the diffusion theory is also supported since the occurrence of human rights prosecutions in neighboring countries is a relevant factor. Interestingly, transitional countries are most sensitive to trials occurring in culturally or linguistically similar countries and this supports the constructivist's norm diffusion theory, which focuses on the role of identity and communication in the diffusion process. However, I find that the power balance explanation, which has been the prevailing explanation, is valid only for the immediate use of human rights prosecutions. I find that the level of repression in the former authoritarian regime, the past history of political instability, and prevailing current

economic conditions are also relevant.

In the first section, I review and discuss the various arguments in comparative politics, international relations, human rights, and the international law literature that suggest some of the structural determinants of human rights prosecutions. In the second section, I present the research design including dependent and independent variables, controls and methods, and a discussion on the sample that defines countries undergoing democratic transition. In the third section, the statistical evidence is examined using various models of event history analysis. I conclude with a summary and suggestions for future research.

Why do states use human rights prosecutions?

Balance of power between old and new elites

Why do states hold former state officials criminally accountable for past human rights violations following democratization? Huntington (1991: 215) asserts that such prosecutions are short-lived phenomena and are only possible within a short period immediately after transition. The most important determinant then is the balance of power that exists between the old and new elites immediately after transition. Huntington further argues that the power structures of transitional countries are determined by the type of transition (transformation, transplacement, and replacement), which significantly affects cohesion among security forces. Therefore, military defeat or other dramatic breaks within the old order that lead to a *replacement* of the old regime, work positively towards holding those responsible accountable. In other *transformations* where old elites decide to adopt democracy or *transplacements* where old and new elites negotiate the terms of the transition, accountability is less likely.

The power balance theory has been widely supported since the 1990s (Huyse, 1995; Nino, 1996; Pion-Berlin, 1994; Skaar, 1999; Zalaquett, 1992). These scholars generally agree on three assumptions and conclusions. First, the decision to use human-rights prosecutions is

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[2] Human Rights Prosecution Database (http://www.griffith.edu.au/professional-page/hun-joon-kim/human-

mainly a function of domestic politics and, to some extent, is exclusively a function of the decision-making process of the new elites. Second, the new democracies are reluctant to hold the past authoritarian regimes accountable because of their concern for stability. However, when states do, they hold trials only shortly after transition. Third, demand for truth and justice is at its peak immediately after transition but usually diminishes over time. In general, scholars share Huntington's pessimism about the prospect of human rights prosecutions in transitional societies. This theory leads to the following hypothesis: *The new government will more likely to use human rights prosecutions if the power of old elites has been critically undermined by a ruptured transition*.

However, scholars started to question the power balance theory when they noticed that more and more states were willingly using criminal prosecutions; and they saw that the demand for justice and accountability grew in intensity over time. First, the power balance theory loses its validity when it comes to cases of delayed justice, where the power balance becomes a constant, unvarying factor long after transition. Second, the power balance theory, which exclusively focuses on domestic politics, tends to neglect altogether the role of international politics or broader external social relations. Third, since the power balance theory relies on the decision-making model of a few elites, it fails to grasp the dynamics and changes in the demand for justice from victims and activists over time.

Transnational advocacy networks

Since the 1990s, scholars have observed that the demand for justice and accountability from victims has become increasingly effective. This change was a puzzle because the demand from the affected population had always been present but had not always presented a politically effective advocacy for judicial accountability. In other words, the demand from victims had been a necessary condition but not a sufficient condition to explain the new tide

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rights-prosecution-database).

of accountability. Scholars, therefore, started to pay attention to the increase in the number and effectiveness of domestic and international advocacy groups.[3] Some scholars find the role of individuals and civil society movements to be more important (Backer, 2003; Roht-Arriaza, 2002), while others stress the role of international organizations (Bassiouni, 2002; Buergenthal, 1994) in promoting trials.

Scholars of international relations had already discovered the important role of individuals and advocacy groups in bringing normative changes to politics (Finnemore, 1996). The transnational advocacy networks theory provides a useful analytic framework for incorporating existing explanations both at the domestic and international level (Finnemore & Sikkink, 1998; Kaufmann & Pape, 1999; Keck & Sikkink, 1998). Advocacy networks are committed and knowledgeable actors who work on specialized issues and promote causes and principled ideas and norms, which include international and domestic NGOs, the media, and parts of regional and international intergovernmental organizations (Keck & Sikkink, 1998: 8-9). This theory leads to the following hypothesis: *The new government will more likely to use human rights prosecutions if transnational human rights networks, domestically and internationally, advocate for such prosecution.*

Diffusion theory

Diffusion refers to the process where 'prior adoption of a trait or practice in a population alters the probability of adoption for remaining nonadopters' (Strang, 1991: 325). Diffusion occurs when the decision to proceed with a human rights prosecution in one country is influenced by previous choices of other countries with an authoritarian past. In earlier studies of human rights prosecutions, the contagion effect was often introduced but found insignificant due to a lack of evidence (Pion-Berlin, 1994: 126). However, after witnessing the

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[3] New nongovernmental organizations (NGOs) like the International Center for Transitional Justice have emerged and many old NGOs such as Amnesty International and Human Rights Watch have included transitional justice into their programs. Since 2004, the UN has officially incorporated transitional justice as a major policy

dramatic increase in human rights prosecutions around the globe, increasingly more scholars are suggesting that there is a diffusion of individual accountability (Roht-Arriaza, 2002: 97; Sikkink & Walling, 2007).

[Figure 1]

The diffusion theory is plausible in cases of human rights prosecutions because the data show a spatial and temporal clustering pattern. Figure 1 illustrates this pattern both in terms of democratization and human rights prosecutions. In Latin America, 13 out of 15 transitional countries have had human rights trials (87%) while only four out of 14 countries had such trials in Asia (28%). Scholars of international relations have offered diffusion explanations on similar patterns in global politics, such as the spread of democracy (Gleditsch & Ward, 2006; Starr, 1991), economic policies (Simmons, Dobbin & Garrett, 2006; Simmons & Elkins, 2004), wars (Most & Starr, 1980), and treaty ratifications (Simmons, 2008). Scholars agree that spatio-temporal clustering occurs because geographic proximity is the key determinant of the diffusion process.

Constructivists in international relations studying the spread of norms lead us to similar expectations. Norms are 'standards of appropriate behavior for actors with a given identity (Katzenstein, 1996: 5)' and human rights prosecution is a new judicial model containing the norm of individual criminal accountability, stating that the perpetrators of human rights *should be* held accountable. Scholars of norm diffusion discovered that after a tipping point, norms have an independent effect through 'a combination of pressure for conformity, desire to enhance international legitimation, and the desire of state leaders to enhance their self-esteem (Finnemore & Sikkink, 1998: 895).' In this process, communication and shared understanding of the norm among like-minded states are more important than simple geographic proximity. In sum, both policy and norm diffusion theories lead us to the

tool to promote and protect human rights (S/2004/616).

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following hypothesis: *The new government will more likely to use human rights prosecutions if other – either geographically proximate or culturally similar – states have used such prosecution.*

Research design

To test these hypotheses, I used our new dataset on human rights prosecutions in 71 countries that became democracies (democratization) between 1980 and 2006 (Appendix 1). Democratization refers to a situation where a state changes from a repressive and closed regime such as a military, one-party, authoritarian, dictatorial, or communist regime to an open and decentralized government. Usually, the evident indicator of democratic transition is a free, fair, secret, and direct national election for major government offices, including head of state (Huntington, 1991: 7). Neither all the countries in the world nor only the 33 countries with human rights prosecutions would be a proper sample. The former would lead one to include many irrelevant cases without democratization and a repressive past and the latter would exclude many important cases that did not have trials although they had a high probability of doing so. Following established practice (Mansfield & Snyder, 2002; Olsen, Payne & Reiter, 2010), I determined transitional countries using the dataset from the Polity IV Project.[4]

Dependent variables

Human rights prosecution is executive and/or judicial activities before, during, and resulting from criminal procedures brought against former state officials on charges of human rights violations. By prosecuting human rights violations, I refer to processes including indictments, arrests, extraditions, detentions, and trials for violations of core human rights by state

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[4] I began with all 116 democratic countries with total populations greater than 500,000 in 2008 and followed a two-step procedure. First, the Regtrans is a 6-point scale regime-change variable, with '+3' indicating a major democratic transition, '+2', a minor democratic transition and so forth until '-2' an adverse regime transition. I found that 53 countries were undergoing a democratic transition ('+3' and two or more consecutive years of '+2' scores in Regtrans) and 18 countries were experiencing a democratic transition simultaneously with state

officials.[5] Some of the prosecutions involve former heads of state and high-level officials, but there are also trials of lower level officials including police officers and prison guards. In these cases, the core set of human right violations (torture, summary execution, disappearances and political imprisonment), genocide, war crimes and crimes against humanity are usually addressed.[6] Human rights cases can also be prosecuted in foreign and international courts, as in the cases of Pinochet in the UK and Milosevic at the Hague. Although much attention is given to a number of high-profile international tribunals and foreign universal jurisdiction cases, most prosecutions take place in domestic judicial systems.

While information is readily available on the relatively small number of international trials, the data on domestic prosecutions are decentralized and difficult to quantify. To address this problem, we have created a new database consisting of data collected from the US Department of State Country Reports on Human Rights Practices. When the reports mentioned a judicial proceeding that met the above criteria, a country is coded '1' for having a human rights prosecution in a given year and '0' if not. A binary variable was created to track whether a country had a prosecution at any point after transition. However, this measure has the potential danger of masking the complex, varying realities in the ranks of the accused. Consequently, I created additional variables that measure the human rights prosecutions of high- and low-profile state officials, defined by the rank of the accused (Appendix 1). Prosecutions are high-level if the accused falls under any of the following categories: generals, admirals, ministers, presidents, and heads/directors of security and intelligence sectors. Sometimes, countries decide to have either only high-level or low-level prosecutions. At other

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creation ('99') or transformation ('97').

[5] I modified our previous definition by excluding several categories of prosecutorial activities: an extradition request, the existence of an INTERPOL arrest warrant, reversal by the high court of earlier amnesties, determinations that amnesties were void or inapplicable to certain crimes or defendants, the denial of appeals, or the creation of new laws that deal with past human rights abuses.

[6] These are the nonderogable rights in the International Covenant on Civil and Political Rights (ICCPR), the Genocide Convention, the Convention against Torture (CAT), those parts of the Geneva Conventions prohibiting war crimes, and the Rome Statute of the International Criminal Court (ICC).

[Figure 2]

Our data show that 33 out of 71 transitional countries have used human rights trials and 21 countries had high-level prosecutions (Appendix 1). Figure 2 provides a snapshot of my dependent variables. The gray dotted line shows the cumulative number of countries that underwent democratization between 1980 and 2006. We see a steady increase in the number before 1989 and a sudden rise between 1989 and 1992, reflecting the collapse of the Soviet Union and the Eastern European regimes. The solid and dashed lines show the steady increase of countries pursuing human rights prosecutions.

Independent variables

Power balance

Scholars of democratization and transitional justice agree that the type of transition is the most powerful predictor of the power balance between old and new elites after transition (Huntington, 1991; Huyse, 1995; Pion-Berlin, 1994; Skaar, 1999). Military defeat or other political breaks within the old order critically undermine the power of old elites and thus strengthen the power of the new. Until now, data on transitional types have not existed to allow the testing of this hypothesis. Recently, the Transitional Justice Database (TJDB) project by Olsen; Payne & Reiter (2010) created a transitional type dataset. I used one of their transitional type variables, the sudden transition variable, which indicates any military or political defeat of the old elites. If the power balance hypothesis were valid, we would expect to see a significant positive effect of ruptured transition on the likelihood of human rights prosecutions.

In addition, scholars supporting the power balance explanation suggest that human rights prosecutions can only be possible within a brief window of time after democratization. Although their prediction is proven wrong due to the emergence of delayed justice in many

transitional countries, it is probable that the power balance factor has a time-varying effect. In other words, it may not be true that countries are using human rights prosecutions only shortly after transition but it may be true that the power balance factor only affects the immediate or relatively early use of such prosecutions. The ruptured transition variable was interacted with the duration of 'post transitional regime' in order to measure the time-varying effect.

Transnational advocacy networks

Two variables were used to measure the effect of transnational advocacy networks on human rights prosecutions. First, the number of domestic human rights NGOs (Hathaway, 2007) was used to measure the power and effectiveness of domestic advocacy for individual criminal accountability. Although it is not entirely identical, many scholars have used the number of NGOs as an indicator of their activities and effectiveness (Mosley & Uno, 2007; Ramos, Ron & Thoms, 2007). Second, the presence of a UN peacekeeping operation in the country was used to measure international pressure for accountability. The leading role of the UN in promoting human rights prosecutions has long been observed (Bassiouni, 2002; Guest, 1995) and many international NGOs are working directly and indirectly in partnership with the UN It is commonly agreed that the key measure of the human rights commitment of the UN is its deployment of a peacekeeping operation (Dancy & Poe, 2006; Roper & Barria, 2009).

Diffusion

Policy diffusion and norm diffusion literature, respectively, point us to two different pathways through which human rights prosecutions spread: geographic proximity and cultural similarity. If the diffusion variable measured by geographic proximity is significant, it will support the conclusions of policy diffusion literature and if the variable measured by cultural similarity is significant, it will support norm diffusion theory. The number of states that used human rights prosecutions within a country's geographic and cultural neighborhood was used to measure two different pathways of the diffusion process. First, I used the UN subregional division of

the world to define a state's geographic neighbors.[7] Second, cultural neighbors were defined

by using either religion or language. Religion grasps the fundamental value system of a

culture and language provides a good indicator of information flow between states.[8]

An example will help clarify the differences between these two conceptualizations of a

neighbor. Argentina is classified in the South America category of the UN subregional

division. Using the geographic concept, trial experience in Bolivia, Brazil, Chile, Ecuador,

Guyana, Paraguay, Peru, and Uruguay are relevant. When the cultural concept (religion) is

used, trials in Bolivia, Brazil, Chile, Dominican Republic, Ecuador, El Salvador, Guatemala,

Haiti, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Uruguay matter, since these are

Latin American states where 50% or more of the population is Catholic.

Controls

Guided by previous studies in human rights and transitional justice literature, a set of

variables is included to control for all other factors that might affect the likelihood of human

rights prosecutions. First, I controlled for factors facilitating human rights prosecutions.

Scholars have argued that democracy (Herz, 1982), democratic consolidation (Moravcsik,

2000), private-prosecutor provision (Sikkink & Walling, 2007),[9] economic development

(Olsen, Payne & Reiter, 2010), and compliance to international human rights norms (Ball,

2000)[10] positively affect the state's decision to hold human rights prosecutions. Second, I

controlled for factors negatively affecting the likelihood of human rights prosecutions.

Previous studies found that the past levels and durations of repression (Roper & Barria, 2009),

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[7] The UN subregional division of the world includes: Eastern, Northern, Western, Southern, and Middle Africa; the Caribbean, and Central, South, and Northern America; Central, East, Southern, Southeastern, and Western Asia; Eastern, Northern, Southern, and Western Europe; and Australia, New Zealand, Melanesia, Micronesia, and Polynesia.

[8] I also used the *percentage* of countries having used human rights prosecutions within a state's geographic and cultural neighborhood and found no difference in the results.

[9] In their study of Latin America, Sikkink & Walling (2007) suggest that private prosecutor provisions might be one explanation for the prevalence of human rights trials in Latin America since private-prosecutor provisions permit human rights groups, often acting on behalf of victims, to file criminal cases in the courts.

[10] The commitment to an international human rights standard was measured by a state's ratification record

the current level of repression (Nino, 1996; Pion-Berlin, 1994), the existence of 'spoilers (Acuña & Smulovitz, 1997)',[11] and the past levels of political instability (Kim, 2008) obstruct human rights prosecutions. Finally, I also controlled for legal traditions (Poe, Tate & Keith, 1999) and alternative transitional justice measures (Rotberg & Thompson, 2000) (Appendix 2).[12]

Models

I use a Cox proportional hazards model, which predicts the hazard rates $h_i(t)$, the rate at which a state i uses a trial at time t given that the state did not have a trial until time t. By estimating the hazard rates, not only whether or not a state had trials but also when, is considered since the rate is conditional on the duration. Unlike other parametric or logit models, the Cox model provides the estimates of the coefficients without making any assumption about the baseline hazard function. In addition, the Cox model shares many asymptotic properties associated with other maximum likelihood estimates and provides useful diagnostics. The functional form for the model is:

$$h_i(t) = h_{0k}(t)e^{(\beta'X)} \quad (1),$$

where $\beta'X$ is the regression parameters and covariates and $h_{0k}(t)$ is an unspecified baseline hazard function estimated for each sequence of kth events.

For each model, the correlations among the independent variables were checked for multicollinearity and three diagnostics were used: (1) a test for proportional hazards assumption using the rescaled Schoenfeld residuals, (2) a test for an appropriate functional

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relating to three major international human rights conventions: ICCPR, CAT, and the Genocide Convention.

[11] The so-called 'spoilers' (Acuña & Smulovitz, 1997; Snyder & Vinjamuri, 2003) are an active and organized group of former state officials, military and police officers, politicians, activists, and lawyers who intentionally obstruct the transitional justice process. I measured the activities of spoilers by the number of coups and coup attempts after transition using the Armed Conflict and Intervention (ACI) Datasets.

[12] Truth commissions are known as the most important alternative to criminal prosecutions (Freeman, 2006; Hayner, 2002). However, it is debated whether trials and truth commissions are competitive or complimentary in nature. Some argue that truth commissions 'sacrifice the pursuit of justice (Gutmann & Thompson, 2000: 23)' while others argue that a state willing to prosecute individuals or establish a truth commission has the political

form of the covariates using the Martingale residuals, and (3) a test for a general model fit using the Cox-Snell residuals (Box-Steffensmeier & Jones, 2004). Grambsch & Therneau's global test did not yield a significant test statistic, suggesting that there were no violations of the proportional hazards assumption.[13] Both an elapsed and gap time were used to model the stratified Cox model to address statistical problems of event dependency and heterogeneity (Box-Steffensmeier & De Boef, 2006: 3518-3519).[14]

Findings

[Tables 1 and 2]

Tables 1 and 2 report the effects of the independent and control variables on the use of human rights prosecutions. Model 1 is a baseline model and Model 2 considers the possible time-varying effect of the power balance factor. Models 3 and 4, respectively, test each hypothesis further in case of high- and low-level human rights prosecutions. The coefficients measure the impact of the independent and control variables on the likelihood of using human rights prosecutions. The positive (negative) coefficients imply that the likelihood of using a prosecution increases (decreases) as an independent variable increases. The results show strong support for both transnational advocacy networks and diffusion explanations while partly validating the power balance explanation. For control variables, repression in the previous regime, past levels of political instability, and economic conditions are statistically significant. In the following, I will discuss my findings regarding each hypothesis.

Power balance

The result from Model 1 shows that, contrary to the conclusions drawn from many earlier

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will to pursue alternative measures in the future (Sikkink & Walling, 2007).

[13] The results of all these diagnostics and tests can be found at http://www.prio.no/jpr/datasets.

[14] Gap time is the time interval between successive repeated events, and the use of gap time is based on the assumption that a trial is not at risk for the kth event until the k-1th trial has occurred. Instead of using the time interval between successive repeated events, an elapsed time model uses time since transition, based on the assumption that all repeated events are developing simultaneously. Both assumptions are plausible and I estimated both models. I find no differences in the results and only present the elapsed-time model.

studies, the power balance between old and new elites does not affect a state's decision to use human rights prosecutions in general. The results from Models 3 and 4 also confirm this finding and suggest that the power balance explanation is not a valid framework for explaining either high- or low-level prosecutions. Then, why has the power balance theory been so widely supported by many earlier scholars? The answer can be found in the result from Model 2, which examines the possible time-varying effect of the power balance factor. Here, both the coefficients of the power balance variable and its time interaction effect are highly significant.[15] The positive coefficient of the power balance variable suggests that human rights prosecution is more likely if the country experienced a ruptured transition, which dissolved the old elites' power and strengthened that of the new. More specifically, my model predicts that the chance of using prosecution is 2.4 times greater if the country had a ruptured transition, holding all other factors constant. But the negative coefficient of the time interaction effect suggests that the impact of the power balance factor dramatically diminishes as time passes after transition. According to the model, the power balance factor is statistically significant up to the fourth year of transition but loses its significance after that.[16]

[Figure 3]

This finding suggests that there is a partial truth in the power balance explanation. Huntington and others correctly observed that the power balance between old and new elites is an important determinant of human rights prosecutions occurring shortly after democratization. However, these scholars were also wrong because the power balance factor can only explain a small part of the whole story. Figure 3 reveals the variations in the timing of human rights prosecutions after democratization. Only 39 out of 168 cases of human rights

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[15] A bivariate relationship also exists between the power balance variable and dependent variable. The coefficients of the power balance variable and its time interaction effects in a separate bivariate Cox model are, respectively, $\beta=0.658$ (SE=0.342, $p<0.054$) and $\beta=-0.085$ (SE=0.041, $p<0.039$).
[16] The test of the linear combination is statistically significant but becomes insignificant within five years of transition.

prosecutions (23%) occurred within the first four years of democratization and this is a percentage that can be adequately explained by the power balance theory, along with other factors. Nevertheless, the power balance theory cannot explain the remaining 77% of total prosecution cases occurring beyond the fifth year of transition. In sum, my analysis shows that the power balance theory is still a valid theoretical framework for explaining the immediate and relatively early use of human rights prosecutions. However, this explanation has to be complemented with two other more powerful theories, which explain not only the early but also the late use of human rights prosecutions: transnational advocacy networks and diffusion explanations.

Transnational advocacy networks

The statistical result strongly supports the role of transnational advocacy networks in promoting individual criminal accountability in transitional countries. Across all the models, variables measuring the impact of transnational advocacy networks turn out to be highly significant.[17] In general, a state with strong domestic and international organizations advocating human rights and individual criminal accountability is likely to use human rights prosecutions more frequently and persistently. To be specific, the chance of using human rights prosecutions is 4.3 times greater if a country were to move from the minimum to the maximum level of domestic advocacy. In addition, international pressure also increases the chance of such prosecutions by a factor of 2.4. If combined, the chances of prosecution are 10 times greater in a country with the highest level of domestic and international advocacy compared to those with the lowest level. This empirical finding is important since it shows that in addition to the decision-making processes of the elite, internal and external political pressure from civil society is an indispensable determinant of human rights prosecutions. In a

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[17] Tests for the joint effect of the domestic and international advocacy variables are significant in Model 1 (χ^2=8.67, *df*=2, *p*=0.013), Model 2 (χ^2=7.47, *df*=2, *p*=0.024), and Model 4 (χ^2=7.75, *df*=2, *p*=0.021). In addition, all statistically significant variables retain their direction and significance in separate bivariate Cox models.

sense, the role of domestic and international civil society is more important than the elite decision making process because the latter has a short-term effect while the former has a lasting impact. My findings, therefore, strongly support field observations regarding the critical role of civil society advocacy groups in the transitional justice process (Hayner, 2004: 47; Kritz, 2004: 23).

Interestingly, the results from Models 3 and 4 diverge in regard to domestic and international advocacy on the use of high- and low-level human rights prosecutions. In cases of high-level prosecutions, domestic advocacy is an important determinant of such processes while international advocacy is not. Conversely, in cases of low-level prosecutions, international advocacy is a crucial factor while domestic advocacy is not. This is a rather unexpected finding of my analysis and supports two observations from previous research. First, prosecution of high-profile officials has an important implication for domestic politics and any external pressure or involvement would cause complications, side-effects, or backlashes and thus be less effective (Grodsky, 2010; Subotic, 2009). Therefore, effective and persistent domestic advocacy, not international pressure, is the key determinant of high-level prosecutions in domestic courts. Second, as in the case of Germany after World War II or Rwanda after the 1994 genocide, international advocacy for individual criminal accountability is specifically designed in such a way so as to promote high-level prosecutions in international courts and low-level prosecutions in domestic courts (Bass, 2000; Sarkin, 1999).

Diffusion

Diffusion theory is also valid in explaining the use of human rights prosecutions in transitional countries. In general, a state is more likely to initiate and repeatedly use human rights prosecutions if similar prosecutions had already been used by its neighbors. Of the two different pathways offered by the diffusion process, cultural similarity, rather than simple

geographic proximity, determines the global spread of human rights prosecutions.[18] My

model predicts that the chances of human rights prosecutions taking place would be almost

four times greater if a country were to move from the minimum to the maximum level of

human rights prosecution precedents of its cultural neighbors. The result from the model

using the percentage of cultural precedents yields more meaningful interpretations. My model

predicts that for each additional 10% increase in a neighboring country's human rights

prosecutions, the chances of using such prosecutions in that country increase by 13%, holding

all other variables constant. Thus, if two hypothetical countries were to experience

democratization simultaneously in 2006, the chances of a human rights prosecution is 55%

more likely in a Catholic country in Latin America (where 61% of a state's neighbors have

already had human rights prosecutions in 2006) compared to a Muslim country in Asia (where

only 26% have had prosecutions).

Contrary to the findings from previous studies of policy diffusion, a state's decision to

use human rights prosecutions is not affected by the practice of neighbors simply defined as

geographically adjacent countries. It is rather prosecution precedents in neighboring countries

who share common cultural identities such as religion and language that matter. This finding

has two important theoretical implications. First, my finding strongly supports constructivist's

norm diffusion theory, which emphasizes the role of identity, shared understanding, and

communication in the diffusion process. Empirically, transitional countries are sensitive to the

prosecution experience in culturally similar, not geographically adjacent, neighbors. Since

human rights prosecution is a judicial model containing the norm of human rights and

individual criminal accountability, this partly reveals the dynamic of the norm diffusion

process. My findings indicate that the diffusion of human rights norms cannot be properly

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[18] The coefficients of diffusion variables measured by geographic proximity are insignificant in Models 1, 2, and 4. In Model 3, the coefficient shows a negative sign and significance. However, the relationship may be spurious since the coefficient from a bivariate model shows a positive sign and is not significant (β=0.054, SE=0.278,

explained simply by geographic proximity, which seems to explain well the diffusion process of other ideas such as economic liberalization (Simmons & Elkins, 2004). Thus, it is probable that at least two diffusion mechanisms exist and function differently depending on the content or 'intrinsic characteristics' of the norms (Finnemore & Sikkink, 1998: 906).

Second, this finding bolsters the argument that human rights prosecutions have a deterrent effect across borders. Kim & Sikkink (2010) finds a direct deterrent effect if a country's neighbors are pursuing human rights prosecutions, suggesting that a state, even without prosecutions of its own, may experience a similar deterrent effect of human rights prosecutions if that country has enough neighbors using such prosecutions. The diffusion of prosecutions provides another, rather indirect, mechanism of cross-border deterrence. The increase in human rights prosecutions of a country's neighbors first increases the chances of human rights prosecutions in that country through the contagion effect, and then deters future human rights violations in that country through the direct deterrence effect.

Other determinants

In addition, I find that repression in a previous authoritarian regime, past levels of political instability, and economic conditions affect a state's decision to use human rights prosecutions. Two factors are related to the previous political history of the country and one factor is related to the current level of economic development. First, countries with an unstable past political history, measured by the number of coups and coup attempts, are more likely to use human rights prosecutions after democratization. This finding is interesting because it supports Moravcsik's (2000) argument that newly established democracies tend to lock themselves into binding human rights treaties in order to protect their fledging democracy from domestic challengers. My findings further specify the condition under which these new democracies are more likely to commit to a stronger application of domestic and international human rights

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p=0.845).

norms. If a country had frequent coups and regime reversions in the past, new elites are more likely to use human rights prosecutions to overcome their instability and to gain legitimacy and popular support. This argument is plausible because scholars believe that human rights prosecutions achieve these goals in newly democratized regimes (Hayner, 2002: 24; Minow, 1998: 88).

Second, my findings show that human rights prosecutions are more likely in developed countries rather than in developing countries after democratization. This finding illuminates an important but often overlooked dimension of the transitional justice process: the economy. My finding is consistent with previous studies on the relationship between development and transitional justice. Elster (2004: 213), for example, suggests that criminal prosecutions would be less likely if pressing economic concerns were to prevail and new regimes had to face hard economic constraints. Likewise, Olsen; Payne, & Reiter (2010) shows that the health of the economy affect a country's transitional justice choices and more affluent countries prefer human rights prosecutions to truth commissions or amnesty laws.

Conclusion

My findings provide the first comprehensive test for three key theories explaining the emergence and diffusion of human rights prosecutions after democratization. In sum, I found very strong evidence to support the transnational advocacy networks and diffusion explanations and a limited support for the power balance explanation on the relatively earlier use of human rights prosecutions. When combined, these three theories adequately explain both the early and late adoption of human rights prosecutions in transitional countries. The diffusion factor, by its very nature, argues relatively weakly the cases of global and regional pioneers of human rights prosecutions such as Argentina or South Korea. On the other hand, both balance of power and the transnational advocacy factors, or some combinations of the two, are strong determinants of human rights prosecutions for those early adopters. However,

as time passes in transitional societies, the power balance factor becomes increasingly less relevant and the impact of transnational advocacy and peer pressure from like-minded countries become stronger. In conclusion, it is a combination of peer pressure and transnational advocacy networks that explains the delayed justice phenomenon.

I hope that my findings from a cross-national analysis can facilitate a meaningful dialogue among scholars of human rights and transitional justice with different methodological orientations. I found empirical evidence that the balance of power, the transnational advocacy networks, diffusion, a past history of political instability and repression, and economic development, all have an effect on human rights prosecutions. Some of my findings, such as power balance and advocacy networks, are explained in depth by previous case studies and field observations. However, others -- time-varying effect of the power balance factor, divergent effect of domestic and international advocacy on high- and low-level prosecutions, diffusion paths of shared identity rather than geographic proximity, detailed role of past political instability, and current economic conditions -- still lack plausible theories or causal arguments supported by rich and detailed case studies. Further research is needed to explore the exact causal mechanisms of these factors and determine the relative importance of each factor. I believe a convincing and comprehensive theory of the adoption and diffusion of human rights prosecutions could be established through these further collaborations.

Reference

Acuña, Carlos H & Catalina Smulovitz (1997) Guarding the guardians in Argentina: Some lessons about the risks and benefits of empowering th courts. In: A James McAdams (ed.) *Transitional Justice and the Rule of Law in New Democracies*. Notre Dame, IN: University of Notre Dame Press, 93-122.

Backer, David (2003) Civil society and transitional justice: Possibilities, patterns and prospects. *Journal of Human Rights* 2(3): 297-313.

Backer, David (2009) Cross-national comparative analysis. In: Audrey R Chapman; Hugo

Van der Merwe & Victoria Baxter (eds) *Assessing the Impact of Transitional Justice: Challenges for Empirical Research*. Washington, DC: United States Institute of Peace Press.

Ball, Patrick (2000) State terror, constitutional traditions, and national human rights movement: A Cross-national quantitative comparison. In: John A Guidry; Michael D Kennedy & Mayer N Zald (eds) *Globalizations and Social Movements: Culture, Power, and the Transnational Public Sphere*. Ann Arbor, MI: University of Michigan Press, 54-75.

Bass, Gary J (2000) *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals*. Princeton, NJ: Princeton University Press.

Bassiouni, M Cherif (ed.) (2002) *Post-Conflict Justice*. Ardsley, NY: Transnational Publishers.

Box-Steffensmeier, Janet M. & Suzanna De Boef (2006) Repeated events survival models: The conditional frailty model. *Statistics in Medicine* 25(20): 3518-3533.

Box-Steffensmeier, Janet M. & Bradford S. Jones (2004) *Event History Modeling: A Guide for Social Scientists*. Cambridge: Oxford University Press.

Buergenthal, Thomas (1994) The United Nations Truth Commission for El Salvador. *Vanderbilt Journal of Transnational Law* 27(3): 497-544.

Dancy, Geoff & Steven C Poe (2006) What comes before truth? The political determinants of truth commission onset. *International Studies Association Annual Convention*, San Diego, CA, 22-25 March.

De Greiff, Pablo (ed.) (2006) *The Handbook of Reparations*. Oxford: Oxford University Press.

Elster, Jon (2004) *Closing the Books: Transitional Justice in Historical Perspective*. Cambridge: Cambridge University Press.

Elster, Jon (ed.) (2006) *Retribution and Reparation in the Transition to Democracy*. Cambridge: Cambridge University Press.

Finnemore, Martha (1996) *National Interests in International Society*. Ithaca, NY: Cornell University Press.

Finnemore, Martha & Kathryn Sikkink (1998) International norm dynamics and political change. *International Organization* 52(4): 887-917.

Freeman, David A. (2010) *Statistical Models and Causal Inference: A Dialogue with the Social Sciences*. Cambridge: Cambridge University Press.

Freeman, Mark (2006) *Truth Commissions and Procedural Fairness*. Cambridge: Cambridge University Press.

Gleditsch, Kristian & Michael Ward (2006) Diffusion and the international context of democratization. *International Organization* 60(4): 911-933.

Goldsmith, Jack Landman & Stephen D Krasner (2003) The pitfalls of idealism. *Daedalus* 132(1): 47-63.

Grodsky, Brian K (2010) *The costs of justice: How new leaders respond to previous rights abuses*. Notre Dame, IN: University of Notre Dame Press.

Guest, Iain (1995) *On trial: The United Nations, war crimes, and the former Yugoslavia*. Washington, DC: Refugee Policy Group.

Gutmann, Amy & Dennis Thompson (2000) The moral foundations of truth commissions. In: Robert I Rotberg & Dennis Thompson (eds) *Truth v. Justice: The Morality of Truth Commissions*. Princeton, NJ: Princeton University Press, 22-44.

Hathaway, Oona A (2007) Why countries commit to human rights treaties. *Journal of Conflict Resolution* 51(4): 588-621.

Hayner, Priscilla B (2002) *Unspeakable Truth: Facing the Challenge of Truth Commission*. New York, NY: Routledge.

Hayner, Priscilla B (2004) Responding to a painful past. In: Mo Bleeker & Jonathan Sisson (eds) *Dealing with the Past*. Bern: Swisspeace, 45-52.

Herz, John H (ed.) (1982) *From Dictatorship to Democracy: Coping with the Legacies of Authoritarianism and Totalitarianism*. Westport, CT: Greenwood Press.

Huntington, Samuel P (1991) *The Third Wave: Democratization in the Late Twentieth Century*. Norman, OK: University of Oklahoma Press.

Huyse, Luc (1995) Justice after transition: On the choices successor elites make in dealing with the past. *Law and Social Inquiry* 20(1): 51-78.

Katzenstein, Peter J (ed.) (1996) *The Culture of National Security: Norms and Identity in World Politics*. New York, NY: Columbia University Press.

Kaufmann, Chaim D & Robert A Pape (1999) Explaining costly international moreal action: Britain's sixty-year campaign against the Atlantic slave trade. *International Organization* 53(4): 631-668.

Keck, Margaret E & Kathryn Sikkink (1998) *Activists beyond Borders: Advocacy Networks in International Politics*. Ithaca, NY: Cornell University Press.

Kim, Hun Joon (2008) *Expansion of Transitional Justice Measures: A Comparative Analysis of Its Causes.* Minneapolis: Department of Political Science, University of Minnesota.

Kim, Hun Joon (forthcoming) South Korea. In: Nadya Nedelsky & Lavinia Stan (eds) *Encyclopedia of Transitional Justice*. Cambridge: Cambridge University Press.

Kim, Hun Joon & Kathryn Sikkink (2010) Explaining the deterrence effect of human rights prosecutions for transitional countries. *International Studies Quarterly* 54(4): 939-963.

Kritz, Neil J (2004) Dealing with the legacy of past abuses. In: Mo Bleeker & Jonathan Sisson (eds) *Dealing with the Past*. Bern: Swisspeace, 15-32.

Lutz, Ellen L & Caitlin Reiger (eds) (2008) *Prosecuting Heads of State*. Cambridge: Cambridge University Press.

Lutz, Ellen & Kathryn Sikkink (2001) The justice cascade: The evolution and impact of foreing human rights trials in Latin America. *Chicago Journal of International Law* 2(1): 1-34.

Mallinder, Louise (2008) *Amnesty, Human Rights and Political Transitions: Bridging the Peace and Justice Divide*. Oxford: Hart Publishing.

Mansfield, Edward & Jack Snyder (2002) Democratic transition, institutional strength, and war. *International Organization* 56(2): 297-337.

Mendez, Juan E (1997) In defense of transitional justice. In: A James McAdams (ed.) *Transitional Justice and the Rule of Law in New Democracies*. Notre Dame, IN: University of Notre Dame Press, 1-26.

Minow, Martha (1998) *Between Vengeance and Forgiveness: Facing History after Genocide and Mass Violence*. Boston, MA: Beacon Press.

Moravcsik, Andrew (2000) The origins of human rights regimes: Democratic delegation in postwar Europe. *International Organization* 54(2): 217-252.

Mosley, Layna & Saika Uno (2007) Racing to the bottom or climbing to the top? Economic globalization and collective labor rights. *Comparative Political Studies* 40(8): 923-948.

Most, Benjamin A & Harvey Starr (1980) Diffusion, reinforcement, geopolitics, and the spread of war. *American Political Science Review* 74(4): 932-946.

Nino, Carlos S (1996) *Radical Evil on Trial*. New Haven, CT: Yale University Press.

O'Donnell, Guillermo A & Philippe C Schmitter (eds) (1986) *Transition from Authoritarian Rule*. Baltimore, MD: Johns Hopkins University Press.

Olsen, Tricia D; Leigh A Payne & Andrew G Reiter (2010) *Transitional Justice in Balance: Comparing Processes, Weight Efficacy*. Washington, DC: United States Institute of Peace Press.

Orentlicher, Diane F (1995) Settling accounts: The duty to prosecute human rights violations of a prior regime. *Yale Law Journal* 100(8): 2537-2615.

Pion-Berlin, David (1994) To prosecute or to parton? Human rights decisions in the Latin American southern cone. *Human Rights Quarterly* 16(1): 105-130.

Poe, Steven C; Neal Tate & Linda Camp Keith (1999) Repression of the human rights to personal integrity revised. *International Studies Quarterly* 43(2): 291-313.

Ramos, Howard; James Ron & Oskar N T Thoms (2007) Shaping the northern media's human rights coverage, 1986~2000. *Journal of Peace Research* 44(4): 385-406.

Roht-Arriaza, Naomi (2002) Civil society in processes of accountability. In: M Cherif Bassiouni (ed.) *Post-Conflict Justice*. Ardsley, NY: Transnational Publishers.

Roht-Arriaza, Naomi (2005) *The Pinochet Effect: Transnational Justice in the Age of Human Rights*. Philadelphia, PA: University of Pennsylvania Press.

Roht-Arriaza, Naomi & Javier Mariezcurrena (eds) (2006) *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice*. Cambridge: Cambridge University Press.

Roper, Steven D & Lilian A Barria (2009) Why do states commission the truth? Political considerations in the establishment of African truth and reconciliation commissions. *Human Rights Review* 10: 373-391.

Rotberg, Robert I & Dennis Thompson (eds) (2000) *Truth v. Justice: The Morality of Truth Commissions*. Princeton, NJ: Princeton University Press.

Sarkin, Jeremy (1999) The necessity and challenges of establishing a truth and reconciliation commission in Rwanda. *Human Rights Quarterly* 21(3): 767-823.

Sikkink, Kathryn & Carrie B Walling (2007) The justice cascade and the impact of human rights trials in Latin America. *Journal of Peace Research* 44(4): 427-445.

Simmons, Beth A (2008) *International Human Rights: Law, Politics, and Accountability*. Cambridge: Cambridge University Press.

Simmons, Beth A; Frank Dobbin & Geoffrey Garrett (2006) Introduction: The international diffusion of liberalism. *International Organization* 60(4): 781-810.

Simmons, Beth A & Zachary Elkins (2004) The Globalization of liberalization: Policy diffusion in the international politcal economy. *American Political Science Review* 98(1): 171-189.

Skaar, Elin (1999) Truth commissions, trials – or nothing? Policy options in democratic transitions. *Third World Quarterly* 20(6): 1109-1128.

Snyder, Jack & Leslie Vinjamuri (2003) Trial and errors: Principle and pragmatism in strategies of international justice. *International Security* 28(3): 5-44.

Sriram, Chandra Lekha (2003) Revolutions in accountability: New approaches to past abuses. *American University International Law Review* 19(2): 310-429.

Starr, Harvey (1991) Democratic dominoes: Diffusion approaches to the spread of democracy in the international system. *Journal of Conflict Resolution* 35(2): 356-381.

Strang, David (1991) Adding social structure to diffusion models: An event history framework. *Sociological Methods & Research* 19(3): 324-353.

Subotic, Jelena (2009) *Hijacked Justice: Dealing with the Past in the Balkans*. Ithaca, NY: Cornell University Press.

Teitel, Ruti G (2003) transitional justice genealogy. *Harvard Human Rights Journal* 16: 69-94.

UN Security Council (2004) Reports of the secretary-general on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616)

Wiebelhaus-Brahm, Eric (2010) *Truth Commissions and Transitional Societies: The Impact on Human Rights and Democracy*. New York, NY: Routledge.

Zalaquett, José (1992) Balancing ethical imperatives and political constraints: The dilemmas of new democracies confronting past human rights violations. *Hastings Law Journal* 43(6): 1425-1438.

Figure 1. Geographic dispersion of democratization and human rights prosecutions

Democratic Transition, 1980~2006
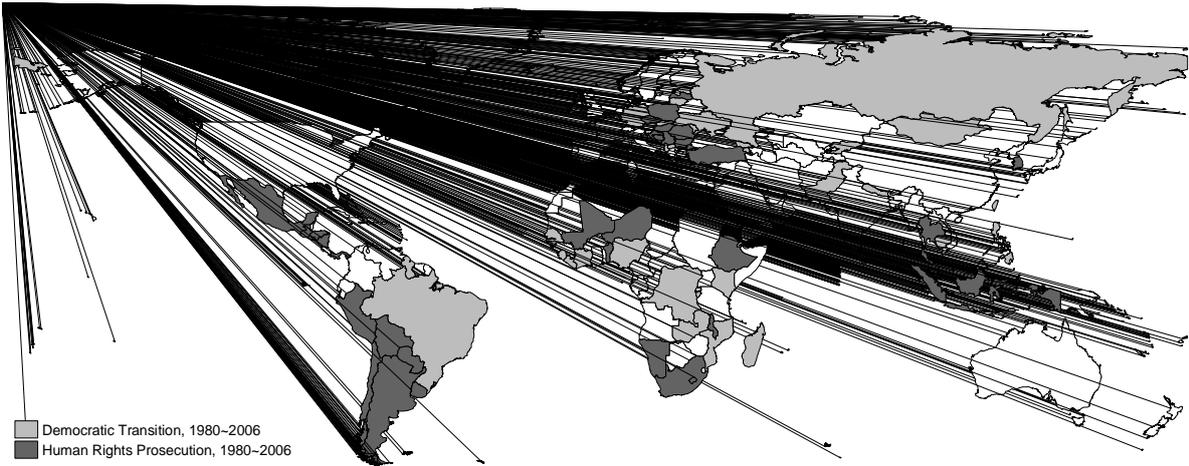Human Rights Prosecution, 1980~2006

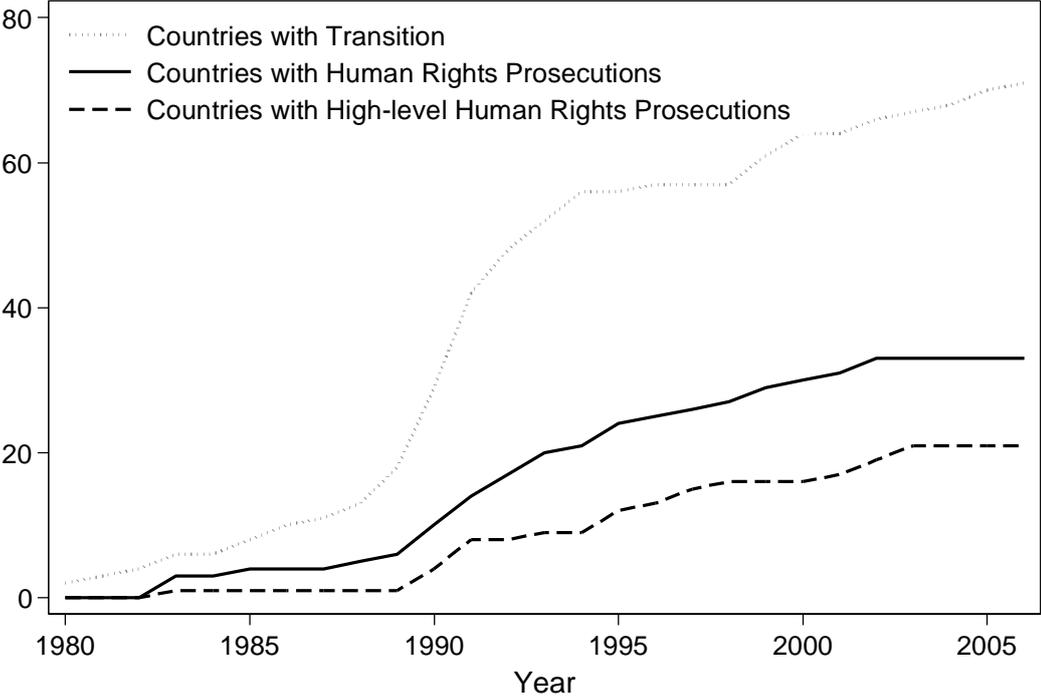Figure 2. The number of states with democratic transition and human rights prosecutions

Figure 3. The number of human rights prosecutions by years since democratization
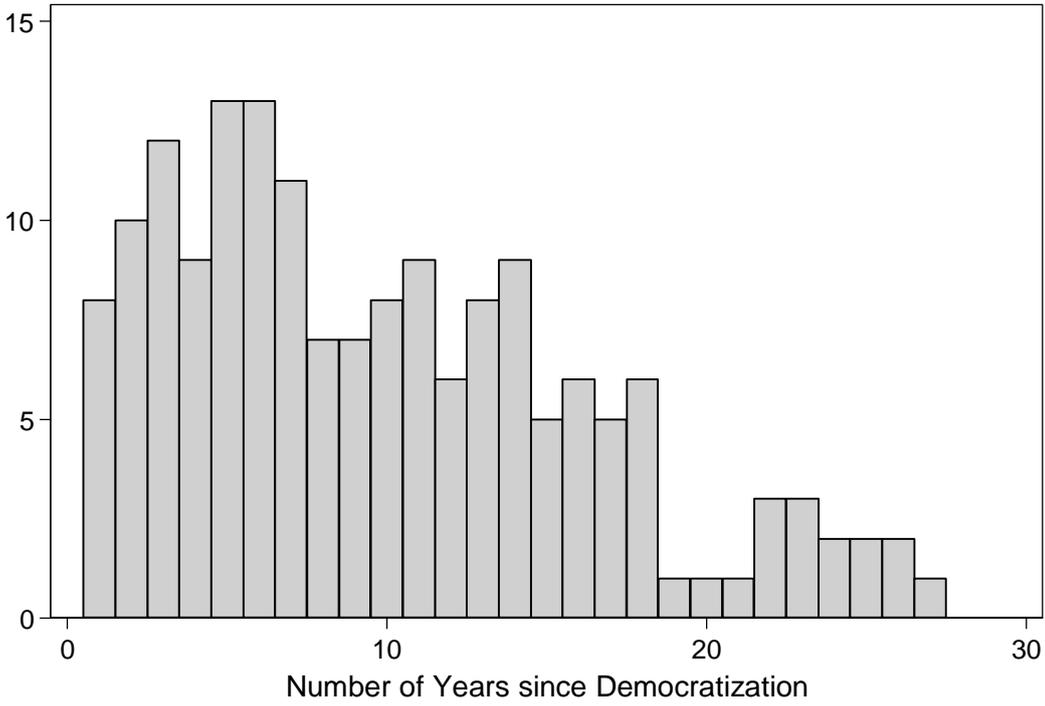
Table 1. Structural determinants of human rights prosecutions (baseline models)

	Model 1			Model 2		
	Coef.	Std.Err	p-value	Coef.	Std.Err	p-value
Power balance						
Transition type (rupture)	0.242	0.193	0.211	0.871	0.353	0.014
Transition type × Time				-0.091	0.042	0.031
Transnational advocacy networks						
Domestic advocacy groups (*ln*)	0.266	0.125	0.034	0.246	0.129	0.056
International involvement (UNPKO)	0.879	0.356	0.014	0.863	0.333	0.010
Diffusion						
Precedents in cultural neighbors (*ln*)	0.509	0.141	<0.001	0.493	0.146	0.001
Precedents in geographic neighbors (*ln*)	-0.427	0.253	0.092	-0.449	0.253	0.076
Controls						
Democracy	-0.027	0.071	0.711	-0.013	0.069	0.846
Democratic consolidation	0.012	0.007	0.112	0.009	0.007	0.135
Current level of repression	-0.142	0.108	0.189	-0.117	0.110	0.289
Commitment to human rights	-0.028	0.121	0.818	-0.016	0.110	0.885
Legal tradition (common law)	-0.283	0.431	0.512	-0.329	0.423	0.437
Private prosecutors	0.426	0.276	0.122	0.378	0.289	0.192
Duration of authoritarianism	0.204	0.135	0.131	0.222	0.139	0.111
Past level of repression	0.383	0.079	<0.001	0.364	0.082	<0.001
Spoilers (coups and coup attempts)	-0.206	0.381	0.589	-0.228	0.368	0.535
Past level of political instability (*ln*)	0.417	0.176	0.018	0.472	0.179	0.009
Other transitional justice measures	0.249	0.230	0.278	0.256	0.227	0.260
GDP per capita (*ln*)	0.337	0.120	0.005	0.334	0.118	0.005
Annual GDP growth rate (%)	0.003	0.016	0.828	0.006	0.016	0.686
Time at risk			1,008			1,008
Number of subjects			67			67
Number of events			160			160
Log pseudolikelihood			-222			-220
Chi-squared			122.22			120.40

Table 2. Structural determinants of high- and low-level human rights prosecutions

	Model 3			Model 4		
	Coef.	Std.Err	p-value	Coef.	Std.Err	p-value
Power balance						
Transition type (rupture)	0.335	0.254	0.188	0.246	0.241	0.308
Transnational advocacy networks						
Domestic advocacy groups (*ln*)	0.459	0.228	0.044	0.178	0.134	0.183
International involvement (UNPKO)	0.306	0.501	0.541	0.851	0.314	0.007
Diffusion						
Precedents in cultural neighbors (*ln*)	0.751	0.208	<0.001	0.368	0.139	0.009
Precedents in geographic neighbors (*ln*)	-0.896	0.327	0.006	-0.430	0.251	0.086
Controls						
Democracy	-0.011	0.081	0.890	-0.016	0.066	0.089
Democratic consolidation	0.009	0.009	0.289	0.007	0.006	0.298
Current level of repression	-0.049	0.246	0.842	-0.106	0.134	0.429
Commitment to human rights	0.182	0.215	0.398	0.106	0.114	0.353
Legal tradition (common law)	-0.457	0.609	0.454	-0.238	0.463	0.607
Private prosecutors	-0.295	0.378	0.436	0.487	0.355	0.169
Duration of authoritarianism	0.621	0.254	0.015	0.211	0.179	0.239
Past level of repression	0.262	0.127	0.040	0.382	0.109	0.001
Spoilers (coups and coup attempts)	-0.227	0.693	0.743	0.036	0.376	0.923
Past level of political instability (*ln*)	1.011	0.448	0.024	0.461	0.232	0.047
Other transitional justice measures	0.396	0.365	0.278	0.511	0.312	0.101
GDP per capita (*ln*)	0.376	0.199	0.059	0.341	0.134	0.011
Annual GDP growth rate (%)	-0.028	0.035	0.427	0.032	0.021	0.120
Time at risk			1,008			1,008
Number of subjects			67			67
Number of events			57			143
Log pseudolikelihood			-101			-198
Chi-squared			53.67			95.48

Appendix 1.

Countries with democratic transition, 1980~2006 (71 countries)
Albania (1990), Argentina (1983), Armenia[*] (1991, 1998), Benin (1990), Bolivia (1982), Bosnia[*] (1992), Brazil (1985), Bulgaria (1990), Burundi (2005), Cambodia (1988, 1998), Chile (1989), Comoros (1990, 2001), Congo, Democratic Republic of (2004), Croatia (1999), Czech Republic[*] (1993), Djibouti (1999), East Timor[*] (2002), El Salvador (1981), Estonia[*] (1991), Ethiopia[*] (1993), Georgia[*] (1991), Germany[*] (1990), Guatemala (1986), Guinea-Bissau (1994, 2005), Guyana (1992), Haiti (1990, 1994, 2004), Honduras (1980), Hungary (1989), Indonesia (1999), Ivory Coast (2000), Kenya (2002), Korea, Republic of (1987), Kyrgyzstan (2005), Latvia[*] (1991), Lesotho (1993), Liberia (2003), Lithuania[*] (1991), Macedonia[*] (1991), Madagascar (1991), Malawi (1994), Mali (1991), Mexico (1994), Moldova[*] (1991), Mongolia (1990), Montenegro[*] (2006), Mozambique (1994), Namibia[*] (1990), Nepal (1990, 2006), Nicaragua (1990), Niger (1991, 1999), Nigeria (1999), Pakistan (1988), Panama (1989), Paraguay (1989), Peru (1980, 2000), Philippines (1986), Poland (1989), Romania (1990), Russia[*] (1992), Senegal (2000), Serbia (2000), Sierra Leone (1996), Slovak Republic[*] (1993), Slovenia[*] (1991), South Africa (1992), Taiwan (1992), Thailand (1992), Turkey (1983), Ukraine[*] (1991), Uruguay (1985), Zambia (1991)

[*] Countries experiencing state creation and state transformation/creation at the same time.
Note: Some countries experience more than one democratic transition since the initial transition.

Countries with human rights prosecution, 1980~2006 (33 countries)
Argentina 1983-89, 1993-96, 1998-02, 2005-06; Benin 1991-92; Bolivia 1983, 1995; Bosnia 1999-2006; Bulgaria 1993-94, 1996; Chile 1991-96, 1998-2004; Croatia 1999-2006; Czech Republic 1997-98, 2001, 2005-06; El Salvador 1990-92, 1998; Ethiopia 1994, 1996-97, 1999-2001, 2006; Guatemala 1988, 1991, 1998, 2000-02; Haiti 1995-96; Honduras 1996-97, 2000-02, 2004-05; Hungary 1993, 1999, 2000-01; Indonesia 2000-04; Korea, Republic of 1993, 1996; Latvia 1995; Malawi 1995; Mali 1991, 1993; Mexico 2002-2004; Namibia 1990; Nicaragua 1992-93, 1995; Niger 1992; Panama 1991-98, 2002, 2004; Paraguay 1989, 1991-92, 1994-99, 2002-04; Peru 1985, 1990, 1993-95, 2001-06; Poland 1990, 1993-94, 1996-2001, 2004-06; Romania 1990; Serbia 2001~06; South Africa 1992, 1994, 1996, 2004; Thailand 1998; Turkey 1983; Uruguay 2002, 2006.

Countries with high-level human rights prosecutions, 1980~2006 (21 countries)
Argentina[*] 1983-85, 88-89, 96, 1998-2000, 2002; Benin 1991; Bolivia 1995; Bulgaria[*] 1993, 96; Chile[*] 1991-93, 95, 1999-2002, 04, 06; Croatia[*] 2003; Ethiopia[*] 1997, 2000, 06; Indonesia[*] 2003-04; Korea, Republic of[*] 1996; Latvia 1995; Malawi[*] 1995; Mali[*] 1991, 93; Mexico[*] 2002-2004; Panama[*] 1991-94; Paraguay[*] 1997, 99, 2002; Peru[*] 1990, 94; Poland[*] 1990, 2001, 2004-06; Romania[*] 1990; Serbia[*] 2001, 04; Thailand[*] 1998; Uruguay 2002, 06.

[*] Countries experiencing both high-level and low-level human rights prosecutions.

Countries with Truth Commissions, 1980~2006 (22 Countries)
Argentina 1983; Bolivia 1982; Chile 1990; Congo, Democratic Republic of 2004; East Timor 2002; El Salvador 1992; Germany 1992; Guatemala 1997; Haiti 1995; Indonesia 1999; Korea, Republic of 2000; Liberia 2005; Nepal 1990; Nigeria 1999; Panama 2001; Paraguay 2003; Peru 2001; Philippines 1986; Serbia 2002; Sierra Leone 2002; South Africa 1995; Uruguay 1985.

Appendix 2.

Summary Statistics

Variable	N	Mean	SD	Min	Max
Dependent Variable					
Year until human rights prosecution	168	9.86	6.46	1	27
Year until high-level prosecutions	58	9.09	5.80	1	22
Year until low-level prosecutions	151	9.83	6.53	1	27
Independent Variables					
Transition type (rupture)	1,066	0.39	0.49	0	1
Domestic advocacy groups (*ln*)	1,046	2.75	1.35	0	5.51
International involvement (UNPKO)	1,066	0.13	0.33	0	1
Precedents in cultural neighbors (*ln*)	1,066	0.88	0.91	0	2.64
Precedents in neighbors (*ln*)	1,066	0.92	0.65	0	1.95
Controls					
Democracy	1,054	6.42	3.12	-7	10
Democratic consolidation	1,054	61.36	53.46	-96	243
Current level of repression	1,051	2.57	1.03	1	5
Commitment to human rights	1,051	2.37	0.88	0	3
Legal tradition (common law)	1,066	0.17	0.38	0	1
Private prosecutors	1,066	0.41	0.49	0	1
Duration of authoritarianism	1,066	2.94	0.99	0.69	4.39
Past level of repression	1,066	5.31	1.08	2.5	7
Spoilers (coups and coup attempts)	1,066	0.06	0.26	0	2
Past level of political instability (*ln*)	1,065	1.09	0.92	0	2.71
Other transitional justice measures	1,066	0.15	0.36	0	1
GDP per capita (*ln*)	1,066	7.19	1.24	4.68	10.47
Annual GDP growth rate (%)	1,062	3.05	6.68	-44.9	85.9

Data Sources

	Variables	Data Sources
DV	Human rights prosecutions	Human rights prosecutions (HRP) dataset
IVs	Transition type	TJDB project
	Domestic advocacy groups	Hathaway (2007)
	International involvement	www.un.org/en/peacekeeping/list.shtml
	Precedents in neighbors	HRP dataset; UN database
	Precedents in cultural neighbors	HRP dataset; UN database; CIA fact book
Controls	Democracy and consolidation	Polity IV dataset
	Current level of repression	Political terror scale (state department)
	Commitment to human rights	www2.ohchr.org/english/law/
	Legal tradition	Global development network growth dataset
	Private prosecutors	Sikkink (unpublished)
	Duration of authoritarianism	Polity IV dataset
	Past level of repression	Freedom house civil liberty (mean)
	Spoilers and political instability	ACI datasets
	Other transitional justice measures	Dancy; Kim & Wiebelhaus-Brahm (2010)
	GDP per capital; GDP growth rate	UN database