

# Supplementary Appendix

Table 1: ECtHR Variable Summary Statistics

Variable	Mean	Standard Deviation	Range	Observations
Human Rights	1.73	1.29	-1.65 : 4.71	1178
Rulings	2.06	9.53	0 : 112	1212
Civil Society	0.65	0.33	0.10 : 0.98	3418
NHRI	0.47	0.50	0: 1	1528
Judicial Independence	0.80	0.21	0.09 : 1.00	1174
Exec. Constraints	6.57	1.02	1.00 : 7.00	1032
ln(Population)	1.60	2.06	-3.77 : 5.00	1212
ln(GDP)	9.38	1.21	5.77 : 12.17	1176

Table 2: Results with Alternative Dependent Variables

	CIRI DV		Change DV	
	Estimate	P-Value	Estimate	P-Value
<b>ECtHR*NHRI*CivSoc</b>	<b>0.279</b>	<b>0.015</b>	<b>0.030</b>	<b>0.000</b>
ECtHR*CivSoc	-0.240	0.022	-0.026	0.000
NHRI*CivSoc	-1.360	0.020	-0.022	0.569
ECtHR*NHRI	-0.199	0.011	-0.021	0.000
ECtHR	0.164	0.027	0.019	0.000
NHRI	1.263	0.035	-0.030	0.429
CivSoc	2.867	0.000	0.039	0.059
Human Rights <sub>t-1</sub>	1.257	0.000	0.447	0.000
Judicial Independence	4.924	0.000	-0.099	0.016
Exec. Constraints	-0.441	0.002	0.005	0.469
Population	-0.216	0.033	-0.001	0.787
GDP	-0.078	0.475	0.009	0.074

NOTES: n=872, Pseudo- $R^2 = 0.332$  (CIRI DV); n=913,  $R^2 = 0.242$  (Change DV). Columns 1 and 2 of Table 2 displays coefficient estimates and p-values from a model estimated with an alternative dependent variable, the Cingranelli, Richards and Clay (2014) physical integrity rights index. Columns 3 and 4 display coefficient estimates and p-values from a model estimated with an alternative dependent variable, the change in the Fariss (2014) repression estimates. Models estimated with clustered standard errors on country.

Table 3: Linear Regression Model with Human Rights Organizations instead of Civil Society Index

	Estimate	P-Value
<b>ECtHR*NHRI*Xhro</b>	<b>0.006</b>	<b>0.001</b>
RulingsXhro	-0.002	0.004
NHRI*HROs	-0.013	0.202
ECtHR*NHRI	-0.006	0.025
Rulings	-0.001	0.028
NHRI	0.024	0.147
HROs	0.004	0.533
Human Rights <sub>t-1</sub>	0.983	0.000
Judicial Independence	-0.124	0.142
Exec. Constraints	0.021	0.136
Population	-0.012	0.064
GDP	0.015	0.283

n=742,  $R^2 = 0.991$

NOTES: Table 3 displays coefficient estimates and p-values from a model estimated with a count of human rights organizations in the state, rather than civil society strength. Models estimated with clustered standard errors on country.

Table 4: ECtHR Linear Regression with Country and Year Fixed Effects Results

	Country FE		Year FE	
	Estimate	P-Value	Estimate	P-Value
<b>ECtHR*NHRI*CivSoc</b>	<b>0.041</b>	<b>0.000</b>	<b>0.033</b>	<b>0.001</b>
ECtHR*CivSoc	-0.034	0.002	-0.030	0.002
NHRI*CivSoc	0.005	0.981		
ECtHR*NHRI	-0.027	0.001	-0.024	0.001
ECtHR	0.024	0.002	0.022	0.002
NHRI	0.028	0.877	0.034	0.643
CivSoc	0.058	0.655	0.163	0.004
Human Rights <sub>t-1</sub>	0.905	0.000	0.977	0.000
Judicial Independence	-0.521	0.002	-0.153	0.119
Exec. Constraints	0.046	0.007	0.016	0.208
Population	0.170	0.183	-0.008	0.227
GDP	0.008	0.51	0.020	0.181

NOTES: n=946,  $R^2 = 0.991$  (country fixed effects); n=946,  $R^2 = 0.989$  (year fixed effects). Columns 2 and 3 of Table 4 displays coefficient estimates and p-values from a model estimated with country fixed effects. Columns 4 and 5 of Table 4 displays coefficient estimates and p-values from a model estimated with year fixed effects.

## Examining Selection

Selection problems represent a serious concern for research examining the influence of international human rights law on state behavior (Hill 2010, Lupu 2013). Studying the ECtHR allows us to avoid a major selection issue when studying international treaties – selection into the regime. All 47 Council of Europe member states are subject to the jurisdiction of the ECtHR;<sup>1</sup> and the “treatment” in this case are the rulings, not the accession to the court.

However, a second selection problem may involve strategic behavior by regional court judges. For example, Carrubba, Gabel and Hankla (2008, 435) argue judges might temper their judgments based on the allocation of resources to the court. Though they make their argument in the context of the European Court of Justice, the logic may apply to the ECtHR. Perhaps the Court will rule less often against wealthier states that represent larger funding partners. We control for GDP in our statistical models. We also control for GDP in the matching exercises described below.

Recent work by Fjelstul and Carrubba (2018) highlight another source of selection bias. Again in the context of compliance with the ECJ, they argue that the European Commission might resolve cases before they ever reach the Court. This can occur because the Commission decides the government actually did not violate the law or because the government comes into compliance before a trial (429-430). Applying this logic to our case of the ECtHR, this would imply that those states that have fewer adverse rulings differ from those with more adverse rulings because their human rights practices are better. This should bias *against our expectations* and suggests that the effects we find may be even larger.

Lastly, courts may judge strategically where they believe their rulings stand a better chance of actual implementation (Carrubba 2009), such as states with better human rights practices, stronger democratic institutions, and stronger civil society. We control for these factors in the presented models. Moreover, observing simple scatterplots (Figure 1) show the ECtHR renders more adverse judgements against worse violators (corroborating the logic of the previous paragraph). The scatterplots also show that the relationship between number of judgments and civil society strength

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<sup>1</sup>This represents every European state except Belarus and Kazakhstan.

and the number of judgments and democracy is fairly flat, suggesting that the ECtHR does not render more judgments in states with strong civil society.

## Matching

To further our confidence in light of selection, we perform robustness checks where we pre-process the data using matching techniques, then estimate our regression models. Doing so allows us to simulate a randomized experiment conditional on the observed covariates (Rubin 1974, Guo and Fraser 2010). The results are generally the same as the models presented in main text, with some nuance, which we present below.

With no generally agreed upon method for matching data with an interactive explanatory variable, we preprocess the data three times, once for each constituent variable. More specifically, we generate dichotomous variables of each of three constituents by splitting the variable at the mean, with values higher than the mean representing “treatment,” and values lower representing “control.”<sup>2</sup> Then we perform nearest-neighbor propensity score matching with the observed covariates included in the main models yielding a dataset with similar units across the treatment and control groups. Table 5 shows the extent to which the matching created more balanced datasets across the treatment and control groups. After pre-processing, we estimated the linear regression described in the main text. Table 6 shows the estimates for the explanatory variable for matching on each of the constituents. All three coefficient estimates remain positive, while two of the three remain statistically significant at traditional levels. All three coefficient estimates are considerably larger than our main results suggesting that if selection biases our results, it is making it harder for us to find the hypothesized relationship.

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<sup>2</sup>We did not need to transform NHRI as it is already dichotomous.

Table 5: Propensity Score Balance

	Before Matching		After Matching	
	Mean Treated	Mean Control	Mean Treated	Mean Control
ECtHR	0.40	0.10	0.40	0.40
n	131	781	131	84
NHRI	0.73	0.67	0.73	0.73
n	649	263	3.76	4.02
CivSoc	0.97	0.52	0.97	0.97
n	858	54	858	25

NOTES: Estimated average propensity score for each explanatory variable constituent (listed in the first column) for the treated and control groups. The estimated propensity scores are presented before and after data preprocessing with matching to show the extent to which balance occurs.

Table 6: Triple Interaction Explanatory Coefficient Estimates for All Three Treatment Matched Data Sets

Treatment	Coefficient Estimate	P-Value
Adverse Judgements	0.32	0.04
NHRI	0.24	0.10
CivSoc	0.18	0.18

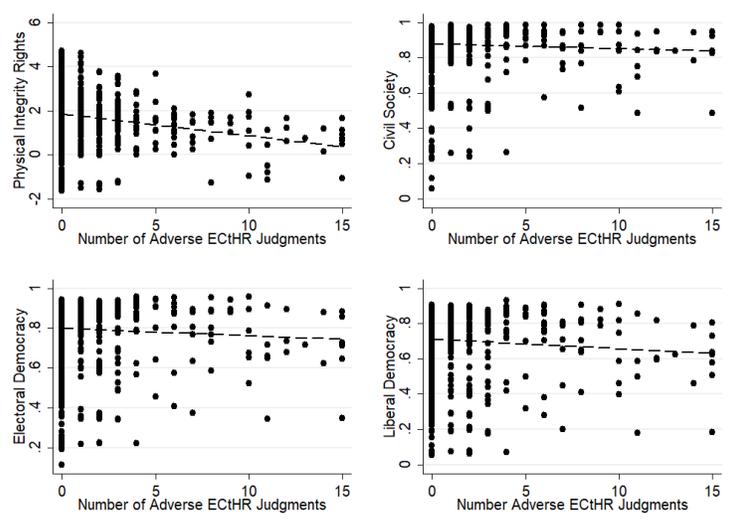
NOTES: Coefficient estimates and their p-values on the triple interaction term of the full model. Each row represents the model estimated when we matched upon that treatment variable.

## Illustrating the Importance of Horizontal and Vertical Ties

To illustrate the importance of both horizontal and vertical ties, consider three states in the Council of Europe: Greece, Italy, and the Netherlands. Beginning with Greece, in the 2011 case of *M.S.S. v. Belgium and Greece*, the ECtHR found that Greece’s asylum conditions violated the European Convention and Belgium violated rights for transferring an asylum seeker to Greece. The Greek National Commission for Human Rights (NCHR) states that its mission is to “monitor developments regarding human rights protection on the domestic and international plane, to inform Greek public opinion about human rights-related issues and, above all, to provide guidelines to the Greek State aimed at the establishment of a modern, principled policy of human rights protection.”<sup>3</sup> The

<sup>3</sup>See <https://tinyurl.com/y9qkgkzj>.

Figure 1: Number of Adverse Judgments across Physical Integrity Rights and Civil Society



NOTES: Dashed line displays fitted values.

NCHR understands its role to include both influencing the public’s understanding of rights issues as well as interacting directly with governmental actors to ensure rights protection. The NCHR publishes judgments like *M.S.S. v. Belgium and Greece* on its website and provides a list of ECtHR judgments involving Greece, translations of the judgments, and information on submitting petitions in the ECtHR. In its 2012 annual report, the NCHR noted that Greece lagged behind the actual needs of asylum seekers as specified in the *M.S.S.* decision of the ECtHR.<sup>4</sup> In addition to its published annual reports, the Greek NCHR also provides short case summaries with links to every report, observation, decision, and recommendation related to the rights issue at hand in a particular ECtHR case. In the case of *M.S.S.*, the NCHR provided access to additional documents on detention conditions and the rights of detainees, including recommendations to the government to address the issue.<sup>5</sup>

Although the important vertical ties exist in Greece, horizontal ties are relatively weak, and as a result, we argue that there is a relatively low expectation of mobilization, even in the presence of ECtHR activity and a NHRI (Huliaras 2014).<sup>6</sup> Notably, implementation of adverse ECtHR

<sup>4</sup>See <https://tinyurl.com/y8ebzevx>, page 41.

<sup>5</sup>See <https://tinyurl.com/yadkuth9>.

<sup>6</sup>Data supports the observation that civil society is relatively weak (Coppedge et al. 2016).

judgments in Greece remains slow. In fact, in the years following the 2011 *M.S.S. v. Belgium and Greece* judgment, the conditions of detention of asylum seekers declined, as a new presidential amendment approved in 2012 allows for detention to be prolonged by up to 12 months and significant gaps in funding resulted in a decrease in quality of services (Staal 2014). Absent robust civil society, the judgment is less likely to deter future human rights abuses.

Turning to Italy, the ECtHR rendered an adverse judgment in the case of *Ben Khemais v. Italy* in 2009. Italian courts ordered the deportation of a Tunisian national (Ben Khemais) to Tunisia in 2006, where he had been sentenced by a military court to ten years' imprisonment for membership in a terrorist organization. Khemais lodged an application with the ECtHR and following the case, he was extradited to Tunisia despite the ECtHR order to stay the applicant's deportation pending a decision. Italy claimed that diplomatic assurances were sought from the government of Tunisia, but the ECtHR found that diplomatic assurances were not sufficient to ensure against Ben Khemais' torture and ill-treatment. Rights advocates actively lobbied for the return of Ben Khemais. Amnesty International reported that "international and national human rights non-governmental organizations (NGOs) [had] spoken virtually with one voice against reliance on diplomatic assurances against torture, largely based on reliable field research in many countries where torture is practiced" (Amnesty International 2010, 7).

Despite the activity of civil society and domestic mobilization efforts in response to the *Ben Khemais v. Italy* judgment, Ben Khemais was returned and probably tortured (Amnesty International 2010). The ECtHR considered at least three repeat cases and *Ben Khemais v. Italy* remained open for six years following the judgment because the government of Italy did not make the necessary human rights policy changes for a prolonged period of time. The absence of an NHRI limited the effectiveness of the adverse ECtHR judgment.

Finally, consider the Netherlands, with both an NHRI and strong civil society. In 2016, Francesco Corallo was arrested for suspected financial crimes in Sint Maarten, an island territory of the Netherlands. While detained, Corallo faced inhuman and degrading treatment and in 2018, the ECtHR found a substantive violation of Article 3 (prohibition of torture and degrading

treatment) against the Netherlands. The ECtHR noted that the applicant was detained for 114 days in a multi-occupancy cell under conditions that the European Committee for the Prevention of Torture described as “totally inappropriate for holding remand prisoners.”

But, the Netherlands has both the vertical and horizontal ties we expect lead to better human rights respect. The Dutch NHRI, the Netherlands Institute for Human Rights, works to assure human rights are protected in policy, preventing governments from breaching human rights and ensuring breaches are repaired if made.<sup>7</sup> The Dutch NHRI acts as a bottom-up vertical tie. For example, in its 2016 Annual Report, the NHRI noted that it intervened as an amicus curiae in a case about the reasoning behind decisions about pre-trial detention.<sup>8</sup> In February, 2019, the NHRI sent communication to the ECtHR noting the Dutch government’s failure to adequately make the necessary policy changes to align with the ECtHR’s judgment. About a week later, the government of the Netherlands responded to the NHRI’s communication indicating that in response, the government of the Netherlands would provide further information of measures taken to implement the judgment by April 9, 2019.<sup>9</sup> The government of the Netherlands submitted an action plan on April 9, 2019 detailing important policy changes made in line with the adverse judgment.<sup>10</sup> Notably, NHRI access to governmental actors as a result of the adverse ECtHR judgment contributed to the swift government response.

With respect to top-down vertical ties, the Dutch NHRI considers information provision and providing training courses, workshops, and presentations about human rights topics a primary function. It engages in media appearances and provides its own literature to raise awareness about these activities.<sup>11</sup> The NHRI also engages in public awareness campaigns designed to ensure the visibility of the Institute, as well as disseminates information on rights issues, including ECtHR judgments. For example, in Fall 2016, the NHRI engaged in several awareness-raising campaigns around issues of disability rights, relying on online platforms, daily newspapers, radio commer-

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<sup>7</sup>See <https://tinyurl.com/y9cvb3ux> for more on the Dutch NHRI.

<sup>8</sup>See <https://tinyurl.com/ycyh18jz>, page 40.

<sup>9</sup>See <https://tinyurl.com/y7bbhjdz> for further details on communications with the ECtHR.

<sup>10</sup>See <https://tinyurl.com/y7vsr28p>.

<sup>11</sup>See <https://tinyurl.com/ycyh18jz>.

cials, Boomerang cards and bus shelter advertising as mechanisms of dissemination.<sup>12</sup> Their website traffic, 25,000-30,000 visitors per month, suggests they have been successful in communicating with the public. The website includes “easy read” publications, summarizing key human rights publications for civil society actors and others interested in human rights concerns, including ECtHR cases. One such document published on the NHRI website is the 2018 adverse ECtHR judgment, *Corallo v. Netherlands*, as well as the NHRI’s communication with the Court. The *Corallo* judgment generated substantial interest in pre-trial detention and prison conditions within the country.<sup>13</sup> Such vertical tie activities led the 2019 United States State Department to note that the Dutch NHRI acted as an “independent primary contact between the government, and domestic and international human rights organizations.”<sup>14</sup>

Importantly, Dutch civil society operates freely throughout the country denoting strong horizontal ties. Far from repressing, the Netherlands’ Ministry of Foreign Affairs expends substantial resources to promote the capacity of civil society to influence human rights outcomes.<sup>15</sup> Unsurprisingly, then, norms of civil society participation in the Netherlands are relatively strong and domestic institutions are in place that encourage mobilization. In the *Corallo* case discussed above, human rights organizations used the ruling as leverage to pressure the Netherlands to allow monitoring of places of detention by independent nongovernmental observers. These actions led to systematic change that could prevent similar abuses in the future. For example, in St. Maarten, the government upgraded all nine cells at the police station and repaired structural damage to the prison caused by hurricanes.<sup>16</sup> Monitoring and pressure by civil society actors in the Netherlands played a key role in ensuring that the government took action designed to improve present and future human rights conditions. As demonstrated in the Dutch example, the presence of horizontal ties (robust civil society) and vertical ties (NHRI presence) generate a greater likelihood of the effectiveness of adverse ECtHR judgments.

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<sup>12</sup>See <https://tinyurl.com/ycyh18jz>.

<sup>13</sup>See <https://tinyurl.com/y6wgmxd7>, for example.

<sup>14</sup>See <https://tinyurl.com/y8v9po8n>, page 11.

<sup>15</sup>The data also indicates that civil society is particularly robust in the Netherlands (Coppedge et al. 2016).

<sup>16</sup>See <https://tinyurl.com/y8v9po8n>.

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