Human Rights and the Politics of Law and Order

Oskar N.T. Thoms

Research Fellow
Centre for International Policy Studies, University of Ottawa

March 21, 2018

Outline

Puzzle

▶ overall human rights have improved, but not in all places and for all groups

▶ literature: judicial independence reduces torture

▶ Whose rights are being protected? And under what circumstances?

▶ why this matters for human rights scholars and policymakers

Preview

- ▶ politics of "law and order" affect human rights change
  - ▶ public insecurity due to crime undermines judicial protection

- ▶ victim type matters
  - ▶ judicial independence is more effective in reducing torture of dissidents than of criminals
  - ▶ CAT commitment enhances protection of only dissidents

- ▶ address fundamental problem of human rights measurement

Theory

- When do judiciaries provide accountability for police violations?
    - judicial independence and motivation
    - judges/prosecutors' incentives biased in favour of defendants because courts rely on police for evidence (Brinks 2008)
    - political and legal mobilization to counter bias

- What is the role of public insecurity due to crime?
    - constrains mobilization for human rights
    - reinforces bias of criminal justice system

- public insecurity limits rights-protecting effect of judicial independence
    - particularly for criminals

Human Rights Data

- ▶ What is the fundamental problem of measurement?
    - ▶ reported violations are a biased subset of all violations
    - ▶ information effects

- ▶ Ill-treatment and Torture (ITT) dataset
    - ▶ Conrad, Haglund, and Moore (2014)
    - ▶ specific allegations of violations by Amnesty International
    - ▶ content analysis of all AI publications from 1995 to 2005

- ▶ country-year counts of allegations for dissidents and criminals

Methods

- ▶ How can we make inferences about all violations based on potentially biased allegations data?

- ▶ assuming observed violations are a subset of all violations, the detection of violations can be modeled

- ▶ detection-controlled "undercount" model
  - ▶ estimates probability of detection for observed events and expected total number of events

- ▶ requires theory of human rights reporting

Independent Variables

- ▶ variables expected to affect the detection of torture events
- ▶ variables expected to affect total number of torture events

- ▶ latent judicial independence (Linzer and Staton 2015)
  - ▶ autonomy and power/influence

- ▶ law and order index (International Country Risk Guide)
  - ▶ illegal behaviour of societal actors
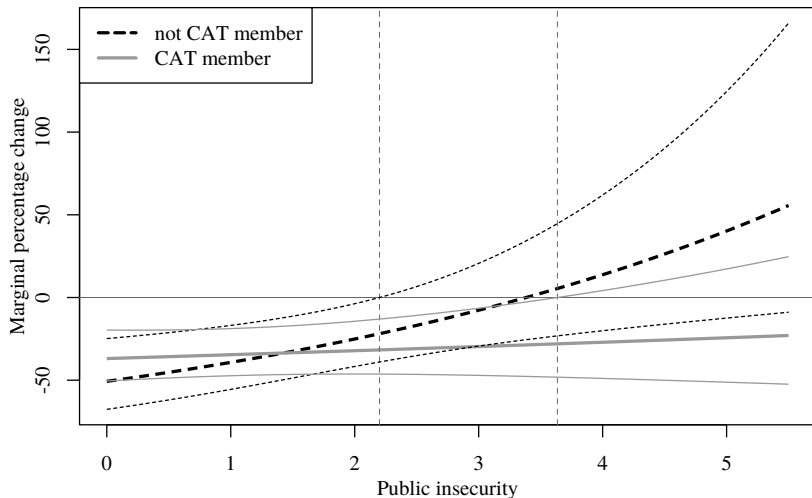 - ▶ strength and impartiality of state legal responses

Base Model

marginal percentage changes with 95% confidence intervals

dissidents   criminals
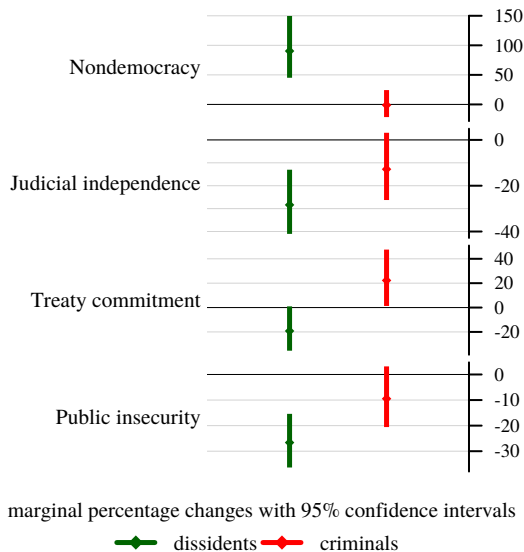
Interaction: Judicial Independence and Public Insecurity
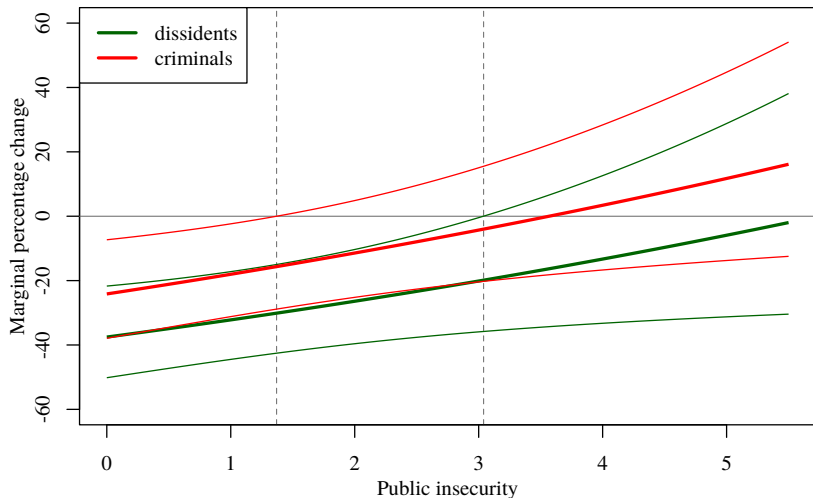
Treaty Interaction for Dissidents

Discussion

▶ When does judicial independence reduce torture?
  ▶ public insecurity limits judicial protection against torture
  ▶ human rights change benefits dissidents more than criminals

▶ Are human rights universal in practice?
  ▶ What about other groups?
  ▶ Do international commitments foster democratic policing?

▶ What data are needed?
  ▶ new disaggregated human rights measures
  ▶ other measures of public insecurity

▶ accounting for measurement bias
  ▶ improvements in theory for detection model
  ▶ new data on organization decision-making and resources