

# Contents

|  |           |
|--|-----------|
| <i>Acronyms</i>  | page xi   |
| <i>Acknowledgments</i>   | xiii      |
| <b>1 Human Rights Tribunals and the Challenge of Compliance</b>              | <b>1</b>  |
| Two Anecdotes from the Americas  | 1         |
| Introduction to the Book   | 3         |
| The Human Rights Tribunals in Context and in Practice                        | 4         |
| <i>The European Court of Human Rights</i>                                    | 4         |
| <i>The Inter-American Human Rights System</i>                                | 8         |
| Questions about Compliance   | 11        |
| Book Outline and Methodology   | 13        |
| <b>2 Explaining Compliance with Human Rights Tribunals</b>                   | <b>19</b> |
| Compliance from the Bottom Up: Democratic Institutions and Domestic Politics | 19        |
| The Agents and Actors of Compliance  | 21        |
| Explaining Compliance with Human Rights Tribunals                            | 25        |
| <i>Demonstrating a Commitment to Human Rights</i>                            | 25        |
| <i>Setting and Advancing Domestic Human Rights Agendas</i>                   | 29        |
| <i>Democratic Preferences and Begrudging Compliance</i>                      | 31        |
| Competing Explanations for Compliance  | 33        |
| <i>Tackling Endogeneity</i>  | 33        |
| <i>Coercion</i>  | 34        |
| <i>Enforcement</i>   | 35        |

|   |   |    |
|---|---|----|
|   | <i>International Law as Instructive and Constitutive</i>  | 37 |
|   | Conclusion  | 39 |
| 3 | <b>Domestic Institutions and Patterns of Compliance</b>   | 41 |
|   | Challenges of Measuring Compliance with Human Rights<br>Tribunals   | 41 |
|   | The Compliance with Human Rights Tribunals (CHRT)<br>Dataset: An Overview   | 44 |
|   | <i>The Inter-American Court of Human Rights</i>   | 44 |
|   | <i>The European Court of Human Rights</i>   | 45 |
|   | <i>Additional Case and Obligation Characteristics: Types of<br/>Mandates and Obligations</i>  | 47 |
|   | Estimating Compliance with Human Rights Tribunals:<br>Statistical Analyses  | 52 |
|   | <i>Robustness Checks</i>  | 60 |
| 4 | <b>Compliance as a Signal of States' Human Rights<br/>Commitments: Uribe's Colombia</b>   | 66 |
|   | Colombia and the Inter-American Court of Human Rights:<br>An Overview   | 66 |
|   | Domestic Political Institutions and Constraints in Colombia   | 68 |
|   | Uribe's Incentives to Express a Commitment to Human Rights  | 69 |
|   | Using Human Rights Rulings: The Novelty of the Inter-American<br>Court of Human Rights  | 73 |
|   | 19 Tradesmen: <i>A Reputational Boost with Reservations</i>   | 74 |
|   | Unwilling and Implicated: A Dearth of Compliance Coalition<br>Partners  | 77 |
|   | Conclusion  | 81 |
| 5 | <b>Leveraging International Law's Legitimacy to Change<br/>Policies: Compliance and Domestic Policy Promotion in<br/>Argentina and Portugal</b> | 82 |
|   | Leveraging International Law at Home: Between Style and<br>Substance  | 82 |
|   | Argentina: Institutions and Incentives for Compliance   | 83 |
|   | <i>Domestic Institutions in Argentina</i>   | 84 |
|   | <i>Using the Inter-American Court's Rulings to Confront the Past<br/>and Build a "New Argentina"</i>  | 87 |
|   | <i>Leveraging the Court's Rulings to Ultimately Address the Past</i>  | 89 |
|   | Portugal: A Brief Study of When Judges Take up the Mantle of<br>Compliance  | 93 |
|   | Conclusion  | 97 |

|          |   |            |
|----------|---|------------|
| <b>6</b> | <b>The Bitter Pill of Compliance: Preferences for Human Rights, Democracy, and the Rule of Law</b>                            | <b>98</b>  |
|          | The United Kingdom and the European Court of Human Rights   | 99         |
|          | <i>The United Kingdom's Compliance Record</i>   | 101        |
|          | The Trouble over Terrorists: The European Court's Reshaping of the Global War on Terror and Immigration in the United Kingdom | 102        |
|          | <i>Deportation and Detention</i>  | 104        |
|          | <i>Stop-and-Search Laws</i>   | 107        |
|          | DNA and Prisoners' Voting Rights: Different Types of Security, Same Compliance Dynamics                                       | 108        |
|          | <i>Storage of DNA from Innocent Citizens</i>  | 108        |
|          | <i>The Row over Prisoners</i>   | 109        |
|          | Conclusion  | 111        |
| <b>7</b> | <b>Compliance Failures: Russia, Italy, and Brazil and the Politics of Noncompliance</b>                                       | <b>113</b> |
|          | Russia: Problems of Caseloads and Compliance  | 114        |
|          | <i>Constraints on the Kremlin</i>   | 116        |
|          | <i>The Politics of Partial Compliance in Russia</i>   | 119        |
|          | Italy: Moving beyond Reparations to Reform the Rule of Law  | 121        |
|          | <i>Why Italy Won't Comply with the European Court of Human Rights' Rulings</i>  | 122        |
|          | Brazil: The Unwilling Participant   | 125        |
|          | <i>Formal and Informal Institutional Constraints in Brazil</i>  | 126        |
|          | <i>Brazil's Inconsistent Compliance: A Comparison</i>   | 127        |
|          | <i>The Prospect of Changes in Brazil's Compliance Practices</i>   | 130        |
|          | Conclusion  | 132        |
| <b>8</b> | <b>Conclusion: The European and Inter-American Courts in Context</b>  | <b>134</b> |
|          | Summary of Central Argument   | 134        |
|          | Extensions to Other Tribunals   | 137        |
|          | <i>The United Nations' Human Rights Treaty Bodies</i>   | 139        |
|          | <i>The African Human Rights Institutions</i>  | 142        |
|          | <i>Asia-Pacific Human Rights Institutions</i>   | 144        |
|          | <i>The International Criminal Court</i>   | 145        |
|          | A Larger Research Agenda  | 149        |
|          | <i>Long-Term Effectiveness and Compliance</i>   | 150        |

|  |     |
|--|-----|
| <i>Beyond Compliance: Courts, Constituents, and States</i> | 150 |
| Best Practices   | 153 |
| Compliance and Human Rights Tribunals Revisited            | 156 |
| <i>Works Cited</i>   | 159 |
| <i>Index</i>   | 183 |