1. Introduction

The contemporary human rights regime not only features a broad range of regulatory human rights norms at both the regional and global level, but also a set of monitoring and dispute settlement bodies charged with supervising compliance with these norms. While the bindingness of the human rights treaties and conventions which they are charged with supervising is not in doubt as a matter of formal law, the legal status of the supervisory bodies’ pronouncements is not uniform. The three regional human rights courts currently in existence—the European Court of Human Rights (ECtHR), the Inter-American Court of Human Rights (IACtHR), and the African Court of Human and Peoples’ Rights (AfrCtHPR)—have been endowed with the authority of issuing legally binding judgments and decisions in contentious cases. If the courts find a violation of the applicable conventions and protocols, this entails, under the rules of state responsibility, the respondent state’s obligation to comply with the judgment and to make the necessary changes to bring domestic law, policy, and practice into line with the requirements of the relevant legal instrument, as interpreted by the competent court.

The output of most human rights supervisory bodies, by contrast, is not legally binding upon the parties before it, at least not formally in terms of explicit provisions to that effect included in the human rights treaties they interpret and apply as part of the exercise of their supervisory functions. This qualitative difference is already reflected in the terminology selected: The majority of human rights bodies do not go by the name of “court” or “tribunal,” but are called “committee” or “commission,” and their output is not made up of “judgments” or “decisions,” but of “views,” “concluding observations,” “opinions,” and “reports.” While there have been attempts to construe legally binding effects of the pronouncements of these bodies, these have largely remained academic
and have not caught on in practice (except for interim measures which some treaty bodies have declared to be legally binding); states, in any event, as the ultimate masters of the treaties under which these bodies operate, have rejected such claims to binding effect, at least with respect to final pronouncements.1

This difference in the institutional design of human rights supervisory mechanisms raises the question of their relative effectiveness in addressing and remedying human rights infringements. What is clear is that the binary distinction between legally binding and non-binding pronouncements is, by itself, not determinative of behavioral outcomes: As existing research on the impact of norms—both legal and non-legal, and at various levels, including individuals, society, the state, and national and international organizations—has shown, legally binding norms, in the well-known words of a fictional Prince of Denmark,2 are frequently “more honour'd in the breach than the observance,” while many non-legal (social, cultural, religious etc.) norms command substantial compliance. Jettisoning the binary distinction with its reliance on formal sources and rules of recognition,3 and replacing it with a conceptualization of legal normativity as a matter of degree—as done, for example, in the “legalization” literature4—may yield a more accurate description of how normativity is constituted, perceived, and operates, but it does not change the overall picture, with stronger forms of legalization not necessarily resulting in higher rates or more robust forms of compliance.5 The relationship between formal legal bindingness of a norm or decision, or its absence, on the one hand, and its behavioral effects, on the other, can thus not be simply assumed to be consistently of one kind or another, but is a matter of empirical investigation. The question then becomes what relative contribution legal status makes to the political dynamics of bringing about compliance by interested stakeholder and under what conditions compliance can also be achieved in its absence.

This paper outlines elements of a recently begun project that seeks to examine the relative significance of the legal status of the decisions of human rights supervisory bodies in individual complaints cases for achieving compliance with those decisions while controlling for other aspects of those decisions and the actors involved that may be expected to affect the probability of compliance. One such factor is the identity of the

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2 William Shakespeare, Hamlet, Act 1, Scene 4.
respondent state and its political and legal characteristics, comprising such aspects as regime type, political and legal systems, the existence/absence of a domestic bill of rights and judicial review, current and past domestic unrest and strife etc. Ideally, then, one should examine how the same states respond to decisions of different legal provenance to be able to observe how differences in legal status affect outcomes while keeping state-related background conditions the same as much as possible.

Fortunately, the fact that many of the states that are subject to the jurisdiction of the regional courts have also accepted the individual complaints procedures before one or more of the UN human rights treaty bodies allows to do just that, and while we cannot observe how these states respond to identical complaints alternatively under condition of either legal bindingness or non-bindingness, there is sufficient proximity in terms of the issues that are being brought before the respective supervisory bodies. Specifically, I plan to examine the behavior of states party to the regional human rights systems in Europe and the Americas to the judgments rendered by the regional courts as opposed to the behavior in response to the views of global treaty bodies, specifically the Human Rights Committee, considering cases under the International Covenant on Civil and Political Rights, and the Committee Against Torture, dealing with cases under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (While the African human rights regime also features a court, as noted above there are too few merits judgments to date for meaningful comparison).

The paper is organized as follows. The next section provides a review of existing assessments of the state of compliance with the decisions of the regional and global human rights supervisory bodies in individual complaints procedures. Section three addresses the extent of overlapping memberships by states in the European and American regional and the global human rights regimes. Section four articulates several theoretical expectations as to the causal factors that are expected to influence compliance of human rights decisions, among them their legal status as legally binding or non-binding. The empirical test of the resulting hypotheses, however—planned for section five and the central part of the paper—will have to be postponed as empirical data especially on compliance with treaty body views is not readily available in sufficient detail from existing sources and has not been collected yet; a funding application to enable the building of a database and document repository covering all relevant aspects of compliance with treaty body views is currently in preparation. [...]
steady field of activity within international relations. I here present key findings in the literature, first, on regional courts and commissions, and, second, on the global UN human rights treaty bodies.  

2.1. Compliance with the Judgments of Regional Human Rights Courts

2.2. European Court of Human Rights

The European Court of Human Rights (ECtHR) is the oldest regional human rights court. Set up in 1959, it operated as a part-time institution together with the now defunct European Commission of Human Rights and the Council of Europe’s Committee of Ministers exercising a quasi-judicial role until November 1998, when a major reform of the ECHR supervisory mechanism under Protocol No. 11 turned it into a full-time court and fully judicialized the Convention’s supervisory system. Final judgments of the Court finding at least one violation of the Convention are sent to the Committee of Ministers which is charged with supervising their execution (Art. 46 (2) ECHR). It does so at several special human rights meetings per year at which it reviews, with the help of a special division in the Council of Europe’s Secretariat that is staffed with legally trained personnel, the measures adopted by states in response to the adverse judgments that concern them. Other than peer pressure, making shortcomings in executing judgments public, e.g., through interim resolutions, and the ultimate threat of expelling a state from the Council of Europe, the Committee has no coercive enforcement measures at its disposal.

How good, or bad, is compliance with the judgments of the ECtHR? Because a comprehensive assessment has been lacking in the literature (cp. Janis, Kay & Bradley 2008: 104), as part of another project I created a compliance database that includes all of the compliance-relevant judgments the Court has issued from 1960 up until the end of 2010 (i.e., leaving out all judgments that do not require substantive measures to comply with them of their own, such as judgments that did not find a Convention violation and those on procedural issues, and considering jointly merits judgments with related judgments on just satisfaction, where rendered separately). The cleaned-up database includes a total of 12,266 compliance-relevant entries: 11,348 adverse judgments on the merits, 903 judgments recognizing friendly settlements or unilateral declarations, and 15 judgments struck off the Court’s list for other reasons.

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Due to the large number of observations as well as different languages and legal systems, it is not feasible for an individual researcher to conduct original research on the execution of judgments in all 47 ECHR parties. Instead, I use a shortcut and link every judgment in the database with the compliance status assigned to it by the Council of Europe's Committee of Ministers, the body which under the Convention is charged with supervising the execution of final ECtHR judgments. When the Committee is satisfied that a respondent state has paid the Court-awarded financial compensation (‘just satisfaction,’ Article 41 ECHR), and has taken appropriate individual and general measures, as necessary, to remedy the violation(s) found in the Court’s judgment(s), it adopts a decision to that effect and issues a ‘final resolution’ with respect to that judgment; alternatively, where the Committee deems a judgment not yet sufficiently executed, it is kept under supervision. Whether the Committee’s assessments can function as indicators of legal compliance with ECtHR judgments obviously depends on the seriousness and neutrality with which it conducts its supervision. I argue that, on the whole, the Committee's assessments have become sufficiently demanding and thus a reasonable proxy for compliance: While the critical examination of state-reported remedial measures appeared to be somewhat perfunctory in the early years of its supervisory practice, the assessment criteria that the Committee has come to apply to the bulk of the Court’s judgments have been strengthened over time to be taken as reasonable indicators of compliance according to sufficiently high (though not necessarily always the highest) standards.  

The database yields compliance rates for each respondent state, year of judgment, and type(s) of violation. A backward-looking, 'comet-tail' assessment based on the compliance status of all judgments in the database as of January 1, 2014, provides a first idea of the record of compliance with the Court’s judgments. Because I am interested specifically in how liberal democracies respond to ECtHR judgments, I created a democracy indicator which is based on a country's democracy score as recorded in the Polity IV (2014) dataset, averaged across the number of years since the country first came under the Court's jurisdiction until January 1, 2014. Figure 1 shows compliance rates for most countries subject to the ECtHR's jurisdiction matched against the countries’ democracy score (the size of the bubbles represents the total number of 


8 Seven countries (Malta, Bosnia and Herzegovina, Iceland, San Marino, Liechtenstein, Andorra, and Monaco, totaling 68 judgments) are not shown for lack of a Polity IV democracy score. For reasons of representation, the outlier Azerbaijan (average democracy score of 0, compliance rate of 2.6%, 38 judgments) is likewise not shown.
Figure 1: Compliance Rate, Avg. Democracy Score & Number of Adverse Judgments (by Country)
individual judgments rendered against that country, ranging from three for Montenegro to 648 for France and 2,422 for Turkey).

One expected relationship that is confirmed by the graph is the positive correlation between average democracy score and cumulative compliance rate, with Russia and Ukraine (democracy scores of 5.4 and 6.5, respectively) having quite low compliance rates (2% and 3% respectively), while countries with higher compliance rates also tend to have higher democracy scores (e.g., Turkey: 8.3/39%; Czech Republic: 9.4/93%; UK: 10/96%). The bivariate relationship between democracy score and compliance rate, while positive, is, however, clearly not perfect; indeed, the variation in the latter explained by the former, as measured by the trendline’s R², is just below 30%, leaving substantial variation that is explained by other factors. This is most clearly indicated by the fact that more than three years after the last judgment in the dataset had been issued, there is huge variation in compliance rates even among the 15 countries that have consistently scored a ten in the Polity IV democracy score across all relevant years: At 0.9%, Slovenia’s compliance rate is hovering just above zero, Germany’s rate of 53.1% is in the middle, and Denmark and Norway both have perfect rates of 100%.

These (non-)compliance rates have to be taken with a grain of salt, however: First, while they are based on the compliance status of individual judgments, these judgments are often not independent of each other, but represent clone cases with the same type of violation as earlier “lead” cases against the same state. Out of Italy’s 1,928 compliance-relevant judgments, for example, nearly 1,500 concern recurrent violations of a small number of procedural justice rights protected by Article 6 (1) ECHR, especially the right to trial within a reasonable time. Second, raw compliance rates do not capture variation in the difficulty of complying with ECtHR judgments (e.g., payment of just satisfaction only versus adoption of new legislation or reforming the judicial system). Last but not least, rates of compliance and non-compliance are agnostic as to their underlying causes, but from a social science perspective it is precisely the question whether non-compliance results from intentional disregard, negligent delay, foot-dragging, or complications intervening in otherwise good faith efforts to comply, and whether compliance has been voluntary or coerced, that are of interest. Aggregate compliance rates thus provide important, but incomplete information about state behavior.

Whether non-compliance at a given point in time is an intended end-point, or a way station toward full compliance, requires empirical investigation on a case-by-case (or violation-by-violation) basis; so does assessing the scope and depth of compliance in the case of judgments that the Committee of Ministers considers complied with. I report results from several comprehensive in-depth country case studies involving a number
of ‘perfect 10’ liberal democracies elsewhere. In none of the cases examined there did states refuse outright to comply with the ECtHR’s judgments, but in many they sought to minimize their domestic consequences. […]

2.3. Inter-American Court and Commission of Human Rights

TO BE WRITTEN BASED ON:


2.4. African Court and Commission of Human and Peoples’ Rights

The African Court of Human and Peoples’ Rights was set up in 2005 after its constitutive instrument, adopted in 1998, entered into effect. Thirty states, out of the AU’s current membership of fifty-four, have ratified the protocol and of these, as of early 2016, seven have accepted the (optional) jurisdiction of the Court: The Court’s first judgment was delivered in 2009. Overall, the AfrCtHPR’s caseload has been modest: The court’s website states that 90 applications have been lodged in contentious cases, plus eleven requests for advisory opinions. About a fourth of the applications in contentious proceedings are noted to have been “finalized” (which includes striking out decisions due to inadmissibility or lack of jurisdiction). There exists, to my knowledge, no study yet of compliance with the few merits judgments that found a violation of the applicable African Charter of Human and Peoples’ Rights.

Alongside the Court exists the African Commission of Human and Peoples Rights whose creation in 1987 predates that of the AfrCtHPR. Under African Charter Articles

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9 See von Staden, *supra* note 7; a fully revised and updated version is under contract as a book and expected to published in late 2016/early 2017.
11 See AfrCtHPR website at http://en.african-court.org/index.php/12-homepage1/1-welcome-to-the-african-court; the seven countries currently accepting the jurisdiction of the Court are Burkina Faso, Ivory Coast, Ghana, Mali, Malawi, Rwanda, and Tanzania; see ibid.
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55 et seq., the Commission may consider communications from individuals and other non-state entities which, if admissible, will be considered as to their merits and result, where a violation of the Charter has been found, in a “recommendation.” While legally non-binding, these recommendations are still normative in character, usually demand a change in behavior from the respondent state, and can thus be examined in terms of the extent to which they have been subsequently complied with. A study published in 2007, reviewing a set of 60 cases in which the Commission had found violations of the Charter, found that only seven of these had been sufficiently complied with, making for a compliance rate of about 12%. A more recent book-length treatment of the implementation of Commission recommendations, while addressing how decisions and recommendations are being used by different actors at the domestic and regional level during the implementation process, did not address the quantitative scope of the phenomenon of implementation (or lack thereof).

2.5. Compliance with Treaty Body Views

There are few reliable conclusions one can draw as to the quantitative state of compliance with the views of the human rights treaty bodies as systematic empirical assessments—either comprehensive or sample-based—of the state of compliance with the outcomes of their individual complaints procedures remain lacking in the literature. While two of the treaty bodies—the Committee on the Rights of the Child and the Committee on Migrant Workers—have not issued any views yet, the other seven have, if in starkly varying volumes: As Table 1 shows, the Human Rights Committee has been the most active treaty body, followed by the Committee Against Torture; together these two account for 96% of all Views on the merits, with the HRC alone having issued 76% of the total. As regards the compliance-relevant views that have found at least one violation of the underlying convention, the HRC accounts for even 86% of all adverse findings.

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15 The Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure entered into force on April 14, 2014, but the database at http://juris.ohchr.org/ only includes one inadmissibility decisions so far (as of June 1, 2016). As to the Committee on Migrant Workers’ competence to consider individual complaints, ten declarations are necessary under Convention Article 77 for it to become operative; only three have so far been made, however; see https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&lang=en.
### Table 1: Volume of Individual Complaints and Views, per Treaty Body

<table>
<thead>
<tr>
<th>Treaty Body</th>
<th>Registered Complaints</th>
<th>Inadmissible/Discontinued</th>
<th>Views on the Merits</th>
<th>Thereof: Finding at least one violation</th>
<th>As of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>HRC</td>
<td>2,593</td>
<td>1,013</td>
<td>1,088</td>
<td>922</td>
<td>04/2015</td>
</tr>
<tr>
<td>CAT</td>
<td>697</td>
<td>267</td>
<td>272</td>
<td>107</td>
<td>08/2015</td>
</tr>
<tr>
<td>CEDAW</td>
<td>67</td>
<td>24</td>
<td>16</td>
<td>15</td>
<td>?</td>
</tr>
<tr>
<td>CERD</td>
<td>55</td>
<td>19</td>
<td>30</td>
<td>15</td>
<td>05/2014</td>
</tr>
<tr>
<td>CRPD</td>
<td>19</td>
<td>1</td>
<td>5</td>
<td>5</td>
<td>05/2014</td>
</tr>
<tr>
<td>CESCR</td>
<td>13</td>
<td>8</td>
<td>2</td>
<td>1</td>
<td>05/2016</td>
</tr>
<tr>
<td>CED</td>
<td>?</td>
<td>?</td>
<td>1</td>
<td>1</td>
<td>03/2016</td>
</tr>
<tr>
<td><strong>SUM</strong></td>
<td><strong>3,222</strong></td>
<td><strong>1,294</strong></td>
<td><strong>1,333</strong></td>
<td><strong>994</strong></td>
<td></td>
</tr>
</tbody>
</table>

The fact that all treaty bodies shown in the table above have in their views found violations of the applicable human rights treaty makes these views susceptible to analysis in terms of compliance and non-compliance (and the small number of adverse views in most cases would in principle even allow comprehensive assessments). In the absence of institutionalized mechanisms to supervise the execution of views in the treaties themselves, the treaty bodies over time developed their own follow-up procedures. The Human Rights Committee was the first to appoint a Special Rapporteur for Follow-Up on its views in 1990, formalized the Special Rapporteur’s powers in its 1994 Rules of Procedure, and began making public follow-up progress reports in 1997.\(^\text{17}\) Other treaty bodies—CAT, CERD, CEDAW,\(^\text{18}\) and CRPD—have followed step and have likewise set up follow-up procedures to views\(^\text{19}\) in individual complaints cases.\(^\text{20}\)

\(^\text{16}\) Based on …, except for HRC figures which are taken from Consideration by the Human Rights Committee at its 111th, 112th and 113th sessions of communications received under the Optional Protocol to the International Covenant on Civil and Political Rights, CCPR/C/113/4 (Sept. 8, 2015).


\(^\text{18}\) The CEDAW Optional Protocol is notable for expressly providing for follow-up to the committee’s views; see Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Oct. 6, 1999, Article 7 (5)).

The committees’ follow-up includes some information—where provided by the respondent state—on the remedies adopted to address the treaty violations found in the relevant View as well as usually an assessment of whether these sufficiently comply with it. Starting with its 109th session in 2013, the Human Rights Committee has begun to use a categorical five-unit “scorecard” (with sub-categories) to evaluate compliance. This scorecard ranges from “reply/action largely satisfactory” (“A”) over “reply/action partially satisfactory” (“B1/2”) to “reply/action not satisfactory” (“C1/2”); in addition, states may be rated “D1/2” if they fail to cooperate and do not submit any information, and “E” if the measures adopted actually go against the recommendations included in a given view.\(^{21}\) The CAT, CEDAW and CERD also rate state responses as “satisfactory,” “partially/partly (un)satisfactory,” or decide to continue the follow-up dialogue, but without using a lettered scorecard.\(^{22}\)

Based on the information generated by the follow-up procedures it should thus be possible to calculate compliance rates and to compare these with the rates that have been yielded by research into the European and Inter-American human rights systems. Some such aggregate statistics have indeed been provided by the committees. The Committee against Torture (CAT), for example, had noted in its 2015 Annual Report to the UN General Assembly that it “had closed the follow-up dialogue with a note of satisfactory resolution with regard to 47 communications, out of a total of 101 communications where it had found violations of different provisions of the Convention,”\(^{23}\) thus yielding a compliance rate of 46.5%. On the basis of somewhat earlier data relying also on the committees own follow-up assessments, Geir Ulfstein has calculated a comparable rate for CAT of 48.9%, a significantly lower one for the HRC (around 10%), 20% for CERD, and 75% for CEDAW (on the basis of only four adverse views, however).\(^{24}\) The Open Society Justice Initiative, in a 2009 report, had set the HRC

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20. These need to be distinguished from separate follow-up procedures with respect to the committees’ “concluding observations” on state reports which have been institutionalized by six of the committees; see Office of the UN High Commissioner of Human Rights, Follow-Up to Concluding Observations, http://www.ohchr.org/EN/HRBodies/Pages/FollowUpProcedure.aspx.

21. See, most recently, Human Rights Committee, Follow-up Progress Report on Individual Communications Received and Processed between June 2014 and January 2015, UN Doc, CCPR/C/113/3 (June 29, 2015), 18.


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compliance rate also at a low 12%,\textsuperscript{25} whereas the HRC itself a few years earlier had been more positive by noting that about 30% of its Views received some sort of appropriate response by respondent states.\textsuperscript{26} A quick glance at the (rare) finding of satisfactory compliance in the most recent tabulation of views and follow-up information seems to point to the lower rate being closer to the truth, however.\textsuperscript{27}

So far, no comprehensive assessments of compliance with treaty body views have been made by independent researchers, either within a single regime or across regimes. Such assessments – and any causal analyses for which they might be used – would have the benefit of being able to apply the same compliance standards across all units of observation and would be less open to criticisms of politicized assessments. (In this respect it is worth pointing out that—in contrast to the practice of the Committee of Ministers and the IACtHR described above—the HRC, for example, has repeatedly ended its follow-up dialogue despite the fact that compliance had not been (fully) achieved, simply noting the outcome in its final follow-up decision). The absence of compliance-focused research of course does not imply lack of academic engagement with the treaties and treaty bodies. There have been a number of studies that have looked at, \textit{inter alia}, the related aspect of (increasing) the effectiveness and impact of the various monitoring and complaints mechanisms on the basis of select case studies, from a bird’s eye perspective or as an incidental issue,\textsuperscript{28} including comparisons with other international human rights supervisory mechanisms,\textsuperscript{29} the effectiveness of concluding observations to state reports in select countries,\textsuperscript{30} and effectiveness-related aspects arising in the context of repeatedly resurfacing proposals for reforming the treaty body system.\textsuperscript{31}

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obligations themselves, are sub-optimal and in need of improvement is taken as a given in most of these contributions, but the extent to which compliance with views, for example, lags behind that with adverse decisions in other, especially the regional systems, is not explicated on the basis of systematically collected and assessed data.

3. Research Design

What is clear from this selective review of the existing evidence as to patterns of compliance and non-compliance with the legally binding judgments of the regional courts, on the one hand, and the legally non-binding resolutions and views of the regional commissions and global treaty bodies, on the other, is that legal status, by itself, does not predict compliance or non-compliance: Some legally binding judgments remain fully unexecuted or only partially complied with, while some non-binding resolutions and views trigger behavioral changes that result in compliance. So what, then, is the specific causal contribution that the presence or absence of legally binding status plays with respect to bringing about compliance? Phrased differently, under what conditions is the legally binding status of a decision insufficient to induce compliance and under what conditions can resolutions and views lead to compliance even in the absence of legal bindingness?

[...]

3.1. ECHR Parties Subject to Treaty Body Individual Complaints Mechanisms

As shown in

Figure 2, five of the nine principal UN human rights treaties—the International Covenant on Civil and Political and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the
Rights of the Child—have been ratified by all forty-seven ECHR states, the International Covenant on Economic, Social and Cultural Rights by all of them except Andorra. With an overlap of 41 states, the Convention on the Rights of Persons with Disabilities also ranks comparatively high (Ireland, Liechtenstein, Monaco, the Netherlands, Norway and Switzerland are non-parties), while the remaining two, the International Conventions for the Protection of All Persons from Enforced Disappearance and on the Protection of the Rights of All Migrant Workers and Members of Their Families (only Albania, Azerbaijan, Bosnia and Herzegovina, and Turkey are parties), rank lowest.

**Figure 2: ECHR Parties (47) – UN Human Rights Treaties & Individual Complaints Procedures**

<table>
<thead>
<tr>
<th>Committee</th>
<th>Number of ECHR States Party to Relevant Convention</th>
<th>Number of ECHR states subject to individual complaints mechanism</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human Rights Committee (HRC)</td>
<td>47</td>
<td></td>
</tr>
<tr>
<td>Committee on Economic, Social and Cultural Rights (CESCR)</td>
<td>46</td>
<td></td>
</tr>
<tr>
<td>Committee on the Elimination of Racial Discrimination (CERD)</td>
<td>47</td>
<td>13</td>
</tr>
<tr>
<td>Committee on Elimination of Discrimination against Women (CEDAW)</td>
<td>47</td>
<td>37</td>
</tr>
<tr>
<td>Committee Against Torture (CAT)</td>
<td>47</td>
<td>43</td>
</tr>
<tr>
<td>Committee on the Rights of the Child (CRC)</td>
<td>47</td>
<td>38</td>
</tr>
<tr>
<td>Committee on the Rights of Persons with Disabilities (CRPD)</td>
<td>47</td>
<td>38</td>
</tr>
<tr>
<td>Committee on Enforced Disappearances (CED)</td>
<td>47</td>
<td>7</td>
</tr>
<tr>
<td>Committee on Migrant Workers (CMW)</td>
<td>47</td>
<td>12</td>
</tr>
</tbody>
</table>

Regarding the acceptance of the individual complaints mechanisms instituted by the treaties—either requiring ratification of an optional protocol or making a declaration under the relevant article of the main convention—the numbers are lower in each case (also shown in Figure 2). The Human Rights Committee (HRC), which considers communications under the International Covenant on Civil and Political Rights, features the highest acceptance rate (44 states, or about 94%); only Monaco, Switzerland, and the United Kingdom have so far refrained from ratifying the relevant optional protocol. The biggest gap between ratification of the Convention and refusal to accept individual complaints can be observed in the case of the Convention on the Rights of the Child: Although
ratified by all ECHR parties, only seven of them have accepted the individual complaints procedure included in the third Optional Protocol which, however, is also of relatively recent origin, having been adopted only in 2011 and entered into force on April 14, 2014 (fifteen other ECHR parties have signed it, though).

Table 2: Complaints and Views Involving ECHR Parties (as of March/May/August 2014)

<table>
<thead>
<tr>
<th>Treaty Body</th>
<th>Registered Complaints</th>
<th>Views on the Merits</th>
<th>Thereof: Finding at least one violation ...</th>
<th>... against number of different countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>HRC</td>
<td>814</td>
<td>255</td>
<td>161</td>
<td>32</td>
</tr>
<tr>
<td>CAT</td>
<td>412</td>
<td>178</td>
<td>57</td>
<td>15</td>
</tr>
<tr>
<td>CEDAW</td>
<td>52</td>
<td>10</td>
<td>9</td>
<td>5</td>
</tr>
<tr>
<td>CERD</td>
<td>45</td>
<td>25</td>
<td>14</td>
<td>6</td>
</tr>
<tr>
<td>CRPD</td>
<td>7</td>
<td>4</td>
<td>4</td>
<td>3</td>
</tr>
</tbody>
</table>

The number of individual complaints that the treaty bodies have dealt with so far varies considerably. Of the five treaty bodies with some output on the merits, only the Human Rights Committee and the Committee against Torture have dealt with a significant number of complaints (see Table 2): The HRC has registered 814 complaints against ECHR parties, 255 of which resulted in views on the merits; of these, 161 views, involving 32 different states, found at least one violation of the ICCPR. In the case of the Committee against Torture, 412 complaints have been registered, 178 were decided on the merits, and 57 of these, involving 15 states, found at least one Convention violation. The numbers for the remaining three committees are considerably lower.

For the purpose of comparing different patterns of compliance and non-compliance of states vis-à-vis binding judgments of the ECtHR as compared to non-binding views of UN treaty body views, the number of adverse findings is the important variable, as higher numbers yield more variation in terms of issues and respondent states. As shown in Figure 3, most ECHR states (27) have been subject to only a very small number (six or fewer) of adverse findings by the HRC or CAT. Only a small number of states have been subject to adverse views in ten or more instances: Switzerland (10) and Sweden (20) before the CAT, and France (12), Russia (21), Spain (23) and the Czech Republic (29) before the HRC. The next step in the research will be to identify the violations alleged and found in each of these cases and to collect information on state responses to the Committees’ views.
Figure 3: Adverse Views by the HRC and the CAT against ECHR Parties (as of May 2014)
3.1. ACHR Parties Subject to Treaty Body Individual Complaints Mechanisms

Figure 4 shows the number of ratifications of the UN human rights treaties and acceptance of the individual complaints mechanisms before the treaty bodies by states also party to the American Convention on Human Rights. As in the European case, there are many instances (six out of nine) in which all, or nearly all, ACHR parties have also ratified the global instruments. Likewise, while not all treaty parties accept the individual complaints procedures under these treaties, a sizable number does.

**Figure 4: ACHR Parties (23) – UN Human Rights Treaties & Individual Complaints Procedures**

![Bar chart showing the number of ACHR states party to relevant conventions and the number of states subject to individual complaints mechanisms](chart)

**Figure 5: ACHR Parties – Adverse Views by the HRC and the CAT against ACHR Parties**

[TO BE ADDED]

[...]