Why do democracies comply with human rights judgments? A Comparative Analysis of the UK, Ireland and Germany

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Why do democracies comply with human rights judgments? Recent literature on compliance has proposed different answers to whether being a democracy matters in fulfilling international commitments. A central focus of these studies was whether democratic institutions enhance or hinder compliance. Scholars have studied both the positive effects of democratic accountability and the negative effects of democratic popular pressure on compliance (Neumayer, 2005; Simmons 2000; Busch and Reinhardt 2002; Dai 2006). Recent quantitative literature in international relations and human rights further focussed on regime type as an independent variable to explain state commitment to human rights regimes and asked whether democracies behave differently than non-democracies (Dawkins & Wade, 2008a). Normative literature has also turned its attention to the distinction between liberal democracies and non-democratic states (Buchanan, 2003; Hessler, 2005) and why democracies should support human rights institutions. It has been argued that democracies share an affinity with the respect for the rule of law in international relations (Slaughter, 1995) or that even though democracies do not need rigorous international human rights supervision themselves, they have a duty to support such supervision to set an example to non-democratic states (Buchanan, 2003). These different strands of literature suggest an apparent disagreement about whether democracies are more or less likely to comply with human rights commitments and what reasons motivate their compliance.

In this paper, we explore the relationship between democratic institutional qualities and human rights commitments, by employing different methods and new data. We

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study democracy as a dependent variable rather than an independent variable affecting human rights compliance. We submit that democracies have a number of objective institutional properties, but we also emphasise that institutional properties have different prominence in different contexts. We claim that the ideas that states have of their own democracy play an important role in determining the reasons for compliance with human rights commitments. We further focus on reasons for democratic compliance with a particularly institutional form of human rights commitment: human rights judgments. Unlike human rights treaties, which are general and not time sensitive, human rights judgments generate specific and temporally traceable commitments. Variation in compliance with human rights judgments, however, is not conceived of simply as a ‘yes/no’ framework (Dawkins and Jackoby 2008b), but it takes place ‘more/less slowly’ and ‘more/less extensively’.

We build on research that identifies competitive elections, respect for the rule of law and protection of rights as distinct institutional properties of democracies. However, we also emphasise that the latter two have different ‘meanings-in-use’ in different empirical contexts (Weiner, 2009) that drive commitment to comply with human rights judgments. This research agenda calls for bringing collectively held ideas about democracies into our understanding of democratic compliance with human rights judgments. We hold that democracies are not more or less rationally instrumental or norm-driven when complying with human rights judgments, because of some inherent property or institutional feature of democracy itself. Instead, we propose that democratic identity construction and collectively-held policy ideas about right conduct within the institutionalised context of a human rights court explains more fully why democracies comply with human rights judgments of international courts.

In order to study democracy as a dependent variable in human-rights judgment compliance, we rely on rich qualitative data based on elite interviews carried out in Germany, the UK and Ireland, Turkey and Bulgaria in relation to their compliance with the human rights judgments of the European Court of Human Rights. We build on this data for a ‘trial run’ of our hypothesis. There are few regions with democratic countries and supranational human rights courts, and the regional prominence of democracies and its human rights court makes Europe a natural choice. From this study we hope to generate representative conditions about democratic ideas of human rights compliance from which, in turn, we can safely generalise. In the larger project
of which this paper forms part, we also study properties of democratising states in relation to human rights compliance with the aim of identifying whether reasons for compliance and non-compliance varies between old democracies and democratising states or new democracies. The UK, Germany and Ireland provide a rich basis to capture differences in the historical democratic contexts which give rise to different democratic identity constructions and differences in actual constitutional structure. This enables us to propose a number of hypotheses, which would help make sense of human rights compliance behaviour in a larger number of cases.

The analysis proceeds as follows. We first identify the generalisable qualities which we argue democracies have and are recognised as such by all domestic actors. We then develop a number of propositions that imply a relationship between ideas about democratic states and human rights judgment compliance. Next, we turn to the qualitative data in the three states, the United Kingdom, Germany and Ireland and discuss why the propositions we have developed make sense of our empirical data. We conclude by discussing how this social constructivist research agenda furthers our understanding of compliance and human rights regimes.

Theorising Democratic Properties and Reasons for Compliance with Human Rights Courts

Studies on whether the behavioural patterns of democracies are different from other regime types identify the salient properties of democracies and analyse the effect such properties have on international commitments (Simmons, 2000; Dai, 2006; Keohane, Macedo and Moravsick, 2009; Slaughter, 1995). Central democratic properties in the literature are ‘regular competitive elections’ and ‘the respect for the rule of law’. These flow from the principles of direct political accountability of politicians in democracies and the equal application of law to all citizens and respect for their rights. Scholars have advanced both institutionalist arguments about electoral institutions making a difference on compliance (Simmons, 2000) and liberal institutionalist arguments concerning the domestic distributional consequences of elections (Dai, 2006). Similarly, scholars have proposed that the respect for the rule of law is a necessary condition for effective compliance because domestic respect for law and rights resonates with international respect for law and rights (Helfer and Slaughter, 1997). It has also been shown that the institutional qualities of rule of law
institutions (i.e. common law vs. civil law) have an effect on commitment to international human rights law (Simmons, 2007).

Research on regular competitive elections and the rule of law, in particular, have developed general causal propositions about the effect that regular competitive elections and domestic respect for the rule of law have on compliance:

Citizen support (or lack of support) for international commitments makes it more likely (or less likely) for democratic states to comply with international directives/commitments/decisions (Busch and Reinhardt 2002; Neumayer 2002). 2

Domestic respect for the rule of law makes it more likely for democratic states to comply with international directives/commitments/decisions (Helfer and Slaughter 1997)

We build on this research about the effect of regular competitive elections and respect for the rule of law on democratic compliance patterns. We submit, however, that both general proposals are incomplete. There are a number of reasons for this. First, though the focus on elections succeeds in bringing the ‘domestic focus back’ to international relations (Cortell and Davis, 2000; Zürn & Checkel 2005), it does so at the expense of the path-dependencies on long-term international policy ideas that democracies have. We propose that ‘international protection of human rights’ is one such long term policy idea and it has to be treated separately from domestic respect for the rule of law. Second, only focussing on regular elections cannot explain cases of human rights compliance when there is lack of voter or interest group pressure to follow a human rights judgment, or when governments comply despite citizen and interest group reactions. Third, respect for the rule of law does not explain cases of very slow compliance, contested compliance or non-compliance with human rights judgments. States with strong democratic rule of law traditions do not always respect international law and international lawyers have long documented techniques and doctrines through which democracies shield government conduct from international review (Benevisti, 1993). These scenarios require a rethinking of democratic properties and the configuration of their relationship with human rights compliance.

2 The work of Dai has further refined this general proposal and argued that the bias towards the domestic interest group with ‘more political leverage and informational advantage’ is likely to affect compliance policies of governments under conditions of electoral pressure (Dai, 2006: 691).
We propose that understanding compliance of democracies with human rights judgments requires bringing together not only objectively identifiable democratic properties, but also their *role* in generating democratic identities and collectively held policy ideas about democratic behaviour internationally concerning human rights. We further argue that two democratic properties, namely, the respect for the rule of law and the protection of human rights\(^3\) call for an analysis not in terms of their objective descriptions, but in terms of their intersubjective appraisal (Kratochwil and Ruggie 1986) in different democratic contexts as identity-shaping and policy idea generating qualities. The meanings that domestic actors assign to being a democracy form the basis of commitment to compliance with human rights judgments.

In exploring the relationship between democratic properties and collective identities and the ideas they generate, we depart from the social constructivist literature on identities and norms (Klotz, 1995; Checkel, 1999; Marcussen, Risse, Engleman-Martin, Knopf and Roscher, 1999; Finnemore & Sikkink 1998; Goodman & Jinks, 2004). In particular, we employ Legro’s definition of identity and collectively-held policy ideas, which brings an analytical clarity to the relationship between identities and norms by highlighting the ideational aspects of domestic agency. As Legro states, identities are ‘about self-image’ and collectively-held policy ideas are ‘collective wisdom about appropriate action’ (Legro, 2009: 41). There is a close relationship between the two as ‘policy ideas can become a standard reference for action and define self image’ (Legro, 2009:41). Social constructivist literature has long argued that collectively held policy ideas can have a ground in international norms. International institutions provide an interactional outside-in process for their diffusion (Finnemore, 1996; Goodman & Jinks 2004; Avdeyeva, 2007). In this paper we focus on how collectively held policy ideas of domestic actors can emerge as a *response to* conditions of international institutionalisation. This requires approaching international institutions not as a ‘teacher of norms’, but as an independent provider of reasons for democracies to define their interests. International institutions can play an ‘identity affirming’ or ‘identity booster’ role. A state that is committed to a norm as a result of

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\(^3\) These general qualities we identify are purposefully narrow and normative. Theories of democracy provide longer lists of democratic qualities such as active and informed citizens (Gutmann and Thompson, 1996), equality-aptness (Lindbolm, 1977). For the purposes of this study, we suggest that the further properties we identify are non-controversial and adequately correspond to contemporary democracies.
how it sees its own self-image, affirms this commitment by justifying its continuing membership to international institutions promoting that norm.

In light of this, we theorise that the protection of individual rights and respect for the rule of law generate a collective sense of self for democratic polities. They generate policy ideas about right conduct that are able to resist pressures of regular competitive elections. We further propose that membership in a human rights court helps constitute new collectively-held policy ideas. We will take these properties in turn to discuss how they inform different types of democratic identity types and policy ideas about appropriate forms of conduct.

Protection of Individual Rights, Democratic Identity and Policy Ideas

Protection of individual rights is a property of democracies that significantly informs their self-image and generates policy ideas about international behaviour. Democracies see themselves as ‘human rights respecting states’ significantly as opposed to non-democratic states. The identity of a ‘human rights respecting state’ generates a number of long-term collectively held policy ideas about human rights compliance for democracies who are part of human rights courts. In this respect, the very existence of a human rights court and the consequent stream of supranational cases against a democratic state constitute the background for compliance with human rights judgments and enables formulation of new policy ideas as well as preferences. Significantly, states who have a ‘human rights respecting state’ self-image, but who are not part of human rights courts lack such reasons. (Moravcsik, 2001) Membership to a densely institutionalised human rights context, therefore, is a necessary condition for the generation of reasons for compliance with human rights judgments.

We identify two types of motivations that support compliance with human rights judgments. First is avoiding the embarrassment of being named and shamed about domestic human rights violations. (Downs & Jones, 2002; Hafner-Burton 2008). We would expect that the ‘human rights respecting state’ image to be diffused and widely shared by the citizenry and politicians in order for avoiding embarrassment to act as a motivation and that the state would place an important emphasis on its ‘human rights respecting’ qualities as part of its self-image domestically as well as internationally. We call this the ‘international embarrassment’ thesis and propose that:
The more a democratic state is embarrassed by its human rights violations the more it is committed to comply with human rights judgments.

Second, the protection of individual rights domestically motivates democracies to set an example to, criticise, and interfere in other states which do not protect human rights. We explain this policy idea with reference to the universality of human rights and that democracies have a desire to promote human rights not only at home, but also abroad as legitimate standards of governance. Democracies that are part of human rights courts are likely to see human rights courts as effective, non-partisan and unbiased ways of setting an example to others. Furthermore, judgments of human rights courts allow for criticism of human rights violating states in a non-political way. This, simultaneously, provides a reason for democracies to comply with human rights judgments. Democracies cannot credibly demand others to comply if they themselves are not complying with human rights judgments. Human rights courts provide a forum which allows democratic states to effectively engage with other states and criticise them without the disadvantage of being accused as politically motivated and self-interested. We therefore propose that:

The more a democratic state aims to improve human rights standards internationally, the more committed it will be to comply with human rights judgments.

Respect for the Rule of Law, Democratic Identity and Policy Ideas

Respect for the rule of law as a property introduces attitudes towards judicial decisions as an element of human rights compliance. Respect for rule of law is an important part of the self-image of democracies (Slaughter 1995; Helfer & Slaughter 1997; Simmons; 2000). Respect for judicial decisions and respect for citizen choices through elections have attracted a lively debate in the literature on democracy (Ely, 1980; Waldron, 1999; Bellamy, 2007). Unlike the literature that positively correlates respect for the rule of law and respect for international law (Slaughter, 1995) we argue that respect for the rule of law mobilises policy ideas both for and against compliance with human rights judgments. We expect this to be based on whether the

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4 As one interviewee stated: ‘if you have a respect for the law you are a democracy and you respect democratic practises and if you are not a democracy you don’t have respect for the law’, Interview 20, 10.12.2008.
democratic identity is built on ideas of the autonomy of the democratic polity or on a more universally held idea of the rule of law. When self-image is conceived as ‘democracy as autonomy’, respect for the rule of law is defined as stopping at the national democratic boundaries and a more realistic paradigm of policy ideas replaces attitudes towards international law compliance. When self-image is conceived as ‘democracy as solidarity’, a democracy perceives respect for the international rule of law as a natural extension of respect for the domestic rule of law. These are ideal-types. In the empirical world, we would expect states to be ‘more or less’ committed to the two rule of law models. Respect for the rule of law, therefore, supports both the autonomy of domestic courts deciding on rights disputes faithful to the democratic traditions of a state (Brunee and Toope, 2002; Charlesworth et al. 2003) and the internationalist idea of a unified conception of the rule of law (Slaughter, 2003). In the light of this we propose that:

The more a democratic state values the autonomy of its democratic rule of law, the less committed it will be committed to comply with human rights judgments.

The more a democratic state sees the rule of law as a universal principle, the more committed it will be to comply with human rights judgments.

Implications for Empirical Analysis

Our theoretical discussion of inter-subjective dimensions of democracies above calls for expanding the factors that explain variation of human rights compliance across democracies. According to the propositions we develop, democracies comply with human rights judgments under pressures of electoral institutions. However, they also have reasons to comply that stem from two ideas and corresponding institutional practices that are closely associated with democratic rule: the protection of individual rights and the respect for the rule of law. Expansion of the explanatory factors for democratic compliance towards ideas associated with being a democracy is better able to explain variation in compliance decisions both in terms of speed (fast/slow compliance) and content (extensive/minimal compliance).

These are, of course, ideal-propositions and we do not expect any democratic state to exclusively fit with one of them. Actual compliance decisions, including their timing and content, with human rights judgments are based on a mix of reasons and
motivational conflicts. For example, some democratic states may see themselves as setting an international example for human rights. However, they might also only believe in the domestic rule of law. Some states may find human rights judgments against them embarrassing, but may not comply for a long time due to electoral pressures. It is also possible, however, that some democracies correspond to one policy-idea more consistently than others. This suggests that for every individual compliance decision one has to closely study the balance of reasons.

The aim of these propositions is not to match countries with one or more of these propositions, but to show how variations within democratic regimes can be explained in a more precise and nuanced way both in terms of the speed and the content of compliance. These propositions, therefore, are able to account for compliance scenarios that may have been regarded as ‘puzzles’ under theories that study democratic compliance in terms of electoral or interest group support or propensity to respect laws. In the empirical world, the balance of reasons provided for complying with a human rights judgment matters, precisely because the form and the speed of compliance can be explained by them. Reasons, however, are not dichotomous variables and make sense when they are conceived of in terms of a positive or a negative match. They are also weighed against each other, so it is not the presence of a multiplicity of reasons, but their final weighing by the decision-makers that determines a particular human rights compliance outcome.

Table 1: Democratic Policy Ideas and Compliance with Human Rights

| Policy Idea                                    | Compliance
<table>
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<tr>
<td>Avoiding International Embarrassment</td>
<td>More committed to comply</td>
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<tr>
<td>Commitment to international promotion of human rights</td>
<td>More committed to comply</td>
</tr>
<tr>
<td>Protecting autonomy of democratic rule of law</td>
<td>Less committed to comply</td>
</tr>
<tr>
<td>Respect for international</td>
<td>More committed to comply</td>
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Comparative Analysis of the UK, Ireland and Germany

Our aim in this part of the paper is to empirically support the case for expanding the factors explaining the variation in democratic compliance with human rights factors from objective institutional properties to perception of institutional properties. We focus on three democracies; UK, Germany and Ireland, all of which are founding members of the European Court of Human Rights and have been subject to human rights litigation on a diverse range of policy areas. Table 1 shows the number of cases brought against these countries, the number of judgments against them and the number of cases that they have complied with and the average length of compliance.

Table 2: Human Rights Judgments and Compliance Performance of the UK, Ireland and Germany⁵

<table>
<thead>
<tr>
<th></th>
<th>United Kingdom</th>
<th>Ireland</th>
<th>Germany</th>
</tr>
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<tbody>
<tr>
<td>Total number of judgements</td>
<td>404</td>
<td>23</td>
<td>136</td>
</tr>
<tr>
<td>Judgements finding a violation</td>
<td>243</td>
<td>13</td>
<td>81</td>
</tr>
<tr>
<td>Number of cases with final resolutions⁶</td>
<td>98</td>
<td>6</td>
<td>54</td>
</tr>
</tbody>
</table>

⁵ Figures pertain from ECtHR’s inception to 31st December 2008. Compiled from the following sources: 2008 Annual Report on the Supervision of the Execution of judgements of the European Court of Human Rights, Council of Europe, Committee of Ministers, April 2009. Council of Europe’s Website on the execution of judgements of the ECtHR, http://www.coe.int/t/dghl/monitoring/execution/ and the HUDOC database; http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC/HUDOC+database/ ⁶ Note this figure does not include those cases which are in principle closed i.e. they have already been examined under section 6, but are still awaiting the presentation of a draft final resolution. The figures which include those cases which are in principle closed are UK 209; Ireland 8 and Germany 72.
UK, Germany and Ireland have different historical trajectories of democratic identity-building. Democratic institutions are configured in different ways in each of these countries. Germany and Ireland both have strong Constitutional Courts and written constitutions, whereas Britain lacks a written constitution and has a recently established Supreme Court. As the Table shows, the UK has the highest number of cases. This can be explained by the lack of a constitutional filtering mechanism and the culture of Strasbourg litigation in the UK. All three countries have, overall, a history of compliance with the judgements of the European Court of Human Rights. Germany is the fastest complier amongst the three, whereas Ireland is the slowest on average. The UK, on the other hand, has the longest compliance time in a single judgment of all with over eleven years.

In order to examine the reasons for compliance with human rights judgments, we employ the qualitative interviewing technique. This enables us to identify the relationship between institutional democratic factors and collectively-held policy.

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7 This figure represents only those cases where execution measures are still required, according to the information available at 31\textsuperscript{st} December 2008, or in which the measures taken are still under assessment. It therefore excludes those cases that are in principle closed but are still awaiting the adoption of a final resolution.
ideas that political and legal elites hold about human rights compliance. With this aim, we interviewed 63 elites in the UK, Germany, Ireland and Strasbourg between May 2008 and June 2009, using purposive sampling. We focused on three types of elites for this study: politicians from government and opposition parties, whose responsibilities were related to human rights issues, Constitutional Court or Supreme Court judges, and human rights lawyers. The inclusion of the latter two categories have enabled us to compare and contrast the ideas that politicians have about protecting rights and the rule of law with those of the high court judges and human rights lawyers. The interviews with human rights lawyers have also enabled us to identify compliance expectations of those who bring human rights cases before the ECtHR. The interviews we carried out lasted between forty-five minutes to ninety minutes. We asked questions about why they or their government complies with human rights judgments, if and why they thought that the European Court of Human Rights was a legitimate institution and whether democratic disagreement with a human rights judgment mattered for compliance. The interviews were semi-structured and we used examples from actual judgments of the European Court of Human Rights to discuss underlying beliefs about compliance and also allowed interviewees to compare their democratic identity and policy ideas with those of other states.

United Kingdom: Example setter with autonomy

A multiplicity of policy ideas is present in the British elite discourse about human rights, democracy and the rule of law. Significantly, the United Kingdom is a ‘human rights respecting’ democracy. There also exist firmly grounded beliefs about the domestic rule of law. The historically configured relationship between the British parliament and the British judiciary based on the primacy of the former over the latter also contributes to seeing the elected parliament as the guardian of the rule of law as much as courts. Britain is sensitive to electoral and interest group pressure and what is called the ‘Daily Mail’ effect of the human rights judgments.\(^8\) Scepticism towards

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\(^8\) The ‘Daily Mail’ effect was mentioned by several interviewees who pointed towards the impact that negative headlines in British newspapers may have upon effective and speedy compliance by the government; ‘The government did not want to give effect to the because they were afraid of what the Daily Mail would say’, Interview 11, 01.07.2009; Interview 7, 11.06.2008; Interview 3, 03.06.2008
human rights judgments is also mixed with a general scepticism towards ‘Europe’ and interventions in the domestic rule of law tradition of Britain by outsiders/foreigners.9

Protection of Human rights and British Identity and Policy Ideas

The human rights respecting state aspect of the British identity originates both from a historical conception of British identity, and the collectively-held policy idea that Britain should set an example to non-democratic states.10 As one interviewee puts it ‘If we stopped complying with the Convention what would happen in Russia and other countries where democracy and the rule of law are less deeply rooted.’11 The historical legacy of the rights tradition in the United Kingdom is an important reference point in British perception that it is a state that knows how to protect individual rights. As one government politician explains, ‘We don’t have a real rule of law issue, I mean what we tried to do when the Convention was first drafted was impart British values to continental Europe post war, and people forget it was actually written by British lawyers, in large part, to try and codify the basic common law principles under which our freedoms operated’.12 This further supports the view that human rights are exported rather than imported concepts. The reference to the history of rights protection in Britain also forms the policy idea that Britain should contribute to the protection of human rights internationally.13 Britain, indeed, sees itself as an example-setter for rights protections in other countries. This view stems from domestic sources of identity rather than international norms. That is, the UK elite hold these views regardless of their membership in the European Human Rights system.

Even though the European Court of Human Rights does not shape British identity or policy ideas about appropriate international conduct on human rights, the institutional setting of the European Court of Human Rights enables Britain to define new interests

9 ‘They tend to think Europe is over there, especially England, England is terrible like this, ... we’re independent, you know, we might be a bit dependent on Europe but quite frankly they’re not going to tell us what to do’ Interview 21, 09.12.2008.
9 ‘I don’t see why we need a foreign court to make these decisions...my argument is that it is for me, the nation state, to decide what is mine and what I leave to someone else.’ Interview 2, 20.05.2008.
10 ‘I think also for the government to say to countries in other parts of the world you are not complying with your obligations to human rights, if we are adopting the approach that we will not comply with the judgements of the court... I don’t think we can be in that position’ Interview 17, 28.07.2008.
11 Interview 13, 15.07.2008.
12 Interview 14, 15.07.2008.
13 ‘...but to withdraw from the whole convention... it would be very difficult then for us to use this as an instrument for holding others with poor human rights records for holding them to the account through the Convention, we’d lose that...human rights can’t be regarded as a purely national affair and that to me is absolutely fundamental’ Interview 62, 21.04.2009.
and generate reasons for compliance with human rights judgments. In particular, there is a view amongst politicians that the European Court of Human Rights can be used as a tool to promote human rights internationally and criticise other states human rights records. Britain further justifies its reasons for compliance under the logic of a ‘one-player’ game. The decision to comply is an individual decision problem rather than a co-operation problem and it is not sensitive to the actions that other states might take. The argument, here, is that if the UK cares about the protection of human rights internationally, it ought to remain within the European Human Rights system and comply with the Court’s judgments. There are, however, also views contesting this policy idea. Politicians who share a deep scepticism of foreign judges and a strong belief in the UK democracy to resolve rights disputes argue that human rights can be advanced nationally without submitting to the authority of a human rights court. The US emerges as a ‘model’ in this context due to the exclusive national control over rights disputes.

A second policy idea that emerges in the UK is the argument that compliance with the European Court of Human Rights boosts the legitimacy of Britain’s political interventions in other countries, such as Russia and Turkey. This is a new policy idea directly informed by the institutional conditions of having a human rights court. As one interviewee explains ‘Conducting, using, having a dialogue on human rights with countries is not an easy thing and it is sometimes viewed by countries as being quite subjective and of course when there have been rulings of the Court then you can refer to them and they give you a sort of benchmark which then can’t be regarded... as subjective’. The European Court of Human Rights has an added value in providing a neutral basis from which to intervene in other states about their human rights records.

The data has not revealed international embarrassment as a reason to comply with human rights judgements. We could speculate that the perception of Britain as a human rights standard setter, because of its historical legacy of protecting individual rights, accounts for the absence of international embarrassment. This is also supported

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15 'Perhaps we should look at what the Americans do. No one in America questions the legitimacy of the US Supreme Court, well not since Gettysburg anyway... Even when their judicial activists in the court in the United States, they’re seen as having legitimacy, because ultimately their appointments are ratified by congressmen. Interview 2, 20.05.2008.
by an understanding that Britain has a good human rights record and the cases against it are often ‘obscure’\(^\text{17}\) or on borderline human rights issues\(^\text{18}\).

\textit{Rule of Law, British Identity and Policy Ideas}

The relationship between the rule of law and the British self-image is also a domestically made and historically embedded democratic construction. This particularly manifests itself as a strong respect for and commitment to the British common law tradition, and the international self-image of the UK as a state which ‘keeps its promises’.\(^\text{19}\) A tension, however, is apparent between preserving the democratically stamped rule of law tradition and compliance with human rights judgments. These two come into conflict with each other when Strasbourg disagrees with common law interpretations of rights and finds a violation (Hoffman, 2009). The (British) elite often rationalise their protest by criticising the European Court of Human Rights as encroaching on the democratic decision making processes.\(^\text{20}\) As one politician forcefully puts it, ‘I was voted in you see actually to decide these things, that’s why people voted for me ok, and therefore I should pass the law that relates to this country, because I’m accountable to my electorate, nobody else is and to have law makers effectively from across the shores elsewhere producing law which is binding on my constituents is to me wrong.’\(^\text{21}\)

The protection of the democratic rule of law in these cases of protest becomes a more weighty reason for slow compliance\(^\text{22}\) or contested compliance with human rights judgments\(^\text{23}\). That said, ideas of fair play and keeping international promises also

\(^17\) Interview 14, 15th July 2009.
\(^18\) Interview 20, 10.12.2008.
\(^19\) Written Response 12.06.2008.
\(^20\) ‘We believe in the rule of law actually and I mean that’s how we live’ Interview 6, 06.06.2008
‘I think we’re inherently law abiding nation’, Interview 8, 16.06.2008
\(^21\) ‘With the Strasbourg Court there is no reconsideration or further right for democratic decision taking. So democracy unlike in our system where the rule of law is balanced by the democratic rights of people to change the law, doesn’t exist at Strasbourg.’ Interview 20, 10.12.2008.
\(^22\) Interview 19, 08.12.2008.
\(^23\) For example, the decision in \textit{Hirst v UK} (application no. 40787/98) concerning the rights of prisoners to vote was discussed as a case where the role of democratic procedures in the rule of law were being undermined; ‘Now I think there is a perfectly legitimate debate to be had in our parliament about whether our parliament should grant the right of prisoners to vote, perfectly reasonable but I don’t think it’s anything to do with the European Court at all.’ Interview 20, 10.12.2008
‘For example, voting of prisoners and the keeping of the DNA database I think it’s got nothing to do with the European Court of Human Rights whatsoever’ Interview 19, 08.12.2008
\(^24\) For example, the decision in \textit{Osman v UK} (application no. 23452/94) case was contested under these terms as were several cases relating to housing rights such as \textit{Connors v UK} (application no. 66746/01) and more recently \textit{McCann v UK} (application no. 19009/04).
figure in British democratic identity construction. As an otherwise stern advocate of British democracy states ‘If you sign up to a club and the rule says you must do x, y and z you should do x, y and z...this is not Zimbabwe if the court says something you have to do it’. Compliance with human rights judgments are, therefore, regarded as a necessary, even if not preferred, compromise to advancing human rights through membership of a human rights court. As a member of parliament from the ruling Labour Party vividly sums up ‘If you believe in international law you’ve just got to take it on the chin’.

Synthesis

Protection of human rights and the respect for the rule of law play an important role with respect to United Kingdom’s democratic identity. Yet, Britain does not fit into any of the propositions we developed and rather manifests a complex mix of qualities both acting as reasons for compliance and reasons against compliance with human rights judgments. Britain’s identity as a ‘fair player’ and its policy idea to set an example and criticise others emerge as important reasons for UK compliance with human rights cases. The UK, at times, prolongs the compliance processes, in the light of perceived popular reactions (*Hirst v. UK*) or in the light of threats to domestic rule of law (*Osman v UK*).

The UK takes compliance with human rights as an individual decision problem in that the actions of other states within the human rights system, democratic or non-democratic, does not determine its reasons for compliance. Rather, the UK elites assign a novel bargaining utility to human rights judgments and argue that their compliance provides them with the high moral ground to criticise others.

The importance of the British rule of law and its common law tradition are important ideational factors in explaining cases of slow compliance. We do not, however, interpret this as a one-dimensional ‘domesticism’ about human rights or ‘scepticism about human rights courts’. Indeed a wide range of systemic changes have come to effect in Britain following human rights judgements. Notably, prison reform, rights of

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‘I think that decision [*Osman v UK*] caused a lot of resentment among quite a lot of English lawyers because it was thought that the European Court of Human Rights had really, was trying to interfere in the content of English law’ Interview 9, 19.06.2008. Interview 6, 06.06.2008.

24 Interview 2 20.05.2008.

25 Interview 14, 15.07.2009.
homosexual and transgender persons, deportation and extradition policy have seen significant changes in the light of Strasbourg judgements. Overall, ideas about fair play and setting an example prevent the UK sliding into a hypocritical position about human rights promotion and compliance. Rather, the value of democratic rule of law has more explanatory weight in accounting for UK’s slow compliance with some of the human rights judgments, the House of Lord’s requests for further clarification of previous judgments or the lengthy consultation processes the UK chooses to undertake in deciding the means for compliance.

**Ireland: International embarrassment and democratic autonomy**

In Ireland, there is also a complex interaction between its identity as a human rights respecting state and its ideas about the domestic rule of law. The Irish Constitution, embedding rights into Irish political culture since 1933, plays an important role towards attitudes to compliance with human rights judgments. There is, however, also a strong emphasis in Ireland on respect for Irish citizens’ choices and the political leverage the collectively-held moral views have with respect to some borderline rights/moral conflict issues such as the regulation of abortion and the definition of family. Despite this emphasis on citizen choice and the importance of the constitution in Ireland, it remains a slow complier with human rights judgments.

**Protection of Human rights, Irish Identity and Policy Ideas**

Since the end of the Second World War, Ireland has assumed the identity of a ‘human rights respecting state’. Unlike Britain, Irish elites see human rights as an international norm, to which Ireland is committed. This also justifies Irish support for

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26 Notable cases include: *Smith & Grady v UK* (application no. 33985/96/33986/96) which led to homosexuals being allowed to serve in the military, *Christine Goodwin v UK* (application no. 28957/95) concerning the rights of transgendered people, *Chahal v UK* (application no. 22414/93) concerning the extradition of individuals who may be at risk of torture. Cases related to prison reforms are too numerous to mention but include, *Golder v UK* (application no. 4451/70); *Szuluk v UK* (application no. 63679/00); *Kennan v UK* (application no. 27229/95) and *Dickson v UK* (application no. 44362/04).

27 ‘If ever there was an issue that would be specifically an Irish issue is the issue of abortion. We have had a couple of, two I think, referenda on the issue where we have amended our Constitution... So I think if the court of human rights were to deal with a case I think that would cause a bit of a storm in Ireland’ Interview 43, 30.03.2009

28 ‘We regard ourselves as a country that has signed up for basic principles of human rights’ Interview 50, 01.04.2009
international human rights organisations, in particular the United Nations and the Council of Europe. For the Irish, ‘human rights respecting state’ forms part of the self-image of Irish people. As one of the interviewees puts it:

‘There’s a great respect for human rights in Ireland and since the Court is specifically dealing with that particular issue I think we’d be very loathed not to go along with its operations and its findings... It’s very much entrenched and embedded I think in the Irish psyche and the Irish establishment, political establishment at this stage.’

This self-image, however, also has an external dimension. It is not only important that Ireland sees itself in this way, but it is also important that it is seen as a human rights respecting state by others. ‘Irish governments don’t want to be found to be in continuing breach of the European Convention. They find that internationally embarrassing.’ Human rights is, therefore, seen as an idea that has wide citizen support and also an idea that, if violated, signals political and moral unacceptability to the outside world.

Compliance with European Court of Human Rights judgments is conceived through the argument of the necessity to avoid the mismatch between the self-image of a ‘human rights respecting state’ and lack of compliance because ‘….it’s a bit difficult to beat the drum on [human rights] if a couple of judgements of the European Court [are] saying you’re violating the European Convention.’ Ireland’s identity as a human rights respecting state, therefore, generates policy ideas that call for consistency of conduct in the field of human rights. This further generates reasons for compliance in the institutionalised setting of the European Court of Human Rights.

Rule of Law, Irish Identity and Policy Ideas

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29 “The United Nations is sort of, it’s a god for us, we regard the United Nations as the world order in Ireland,” Interview 42, 30.03.2009.
30 Interview 43, 30.03.2009.
31 Interview 45, 30.03.2009.
32 Interview 50.01.04.2009.
33 Interview 45, 30.03.2009.
Unlike Britain, the Supreme Court tradition in Ireland provides strong support for judicial oversight to protect human rights. The problem arises if the values enshrined in the Irish Constitution come into conflict with a judgment of the European Court of Human Rights. The Irish Constitution, for the most part, has the same list of rights as the European Convention on Human Rights. However, it diverges on the morally sensitive issues of abortion and the definition of a family. The terms of the Constitution on these social issues can only be amended via a referendum. As one interviewee puts it:

‘The abortion issue is an extraordinarily sensitive issue here and do you know what the real sensitive issue here is? That there is a determination in this country that whatever solution, if that’s the right word, is reached it will be our solution. Whatever mistake is made it will be our mistake. We’ve had a series of referenda on this. It will be highly undesirable if a court were to intervene in that particular matter.’

Collectively held views about social issues backed by a Constitutional arrangement makes Ireland resistant to comply with human rights judgments in these areas. This is a real conflict between democratic decision making processes and supranational human rights courts, as the argument of the Irish Constitutionalists is based on the ‘ownership of a decision’ rather than what the decision should be. That said, those who would like to see Ireland move forward on these issues welcome the intervention of the European Court of Human Rights as they see it as a way of increasing the participation of citizens who hold different views (Chichowski, 2006). Indeed, in the case of Open Door and Dublin Well Woman against Ireland which declared the banning of obtaining or making available information about abortion services in another state, the Parliament reacted slowly, but positively. Within three years of the judgment the Irish Parliament enacted legislation that made it lawful to give information, on certain conditions, to a woman likely to avail herself of services outside of the state for the termination of pregnancies.

Synthesis

34 ‘Because of the strong tradition of judicial review instinctively the executive will abide by court decisions and it would do so in international fora anyway and would want to be seen to do so’ Interview 56, 03.04.2009.
35 Interview 50, 01.04.2009.
36 Committee of Ministers Resolution 368 (1996).
Domestic actors in Ireland recognise that they have multiple and at times contradictory motivations regarding compliance with human rights judgments. These motivations stem from the perception of the democratic qualities of Ireland as a human rights respecting state and as a constitutional democracy. Irish elites value consistency in respecting and promoting human rights domestically and internationally and identify with a social-psychological state of embarrassment for not acting as a human rights respecting state. This can be explained through citizen support for the ‘international human rights cause’ and Ireland’s past under British rule. The definition of democracy as autonomy and the right of a democratic community to make its own mistakes, especially when it comes to social issues, however, also have a firm hold in Ireland. This leads to a division of loyalties in difficult cases.

In instances where compliance brings these two contradictory principles into collision, there is slow compliance. A key example of this has been the amendments of the laws decriminalising homosexuality which took four and a half years after the European Court of Human Rights judgment in the Norris v. Ireland case. Membership of the European Court of Human Rights also plays an important role in addressing the tension between different democratic ideas. As long as Ireland is part of this system, elites will continue to mobilise reasons for compliance with its judgments despite resistance. This institutional dynamic makes Ireland ‘an eventual complier’ with human rights judgments.

**Germany: Democracy as a Guarantor of International rule of law**

Germany is a country where the rule of law as a democratic idea is a weighty reason for compliance. Unlike the United Kingdom and Ireland, Germany supports the idea that the rule of law is a singular concept and politicians are under a duty to abide by the rule of law, domestic or international. This view generates a strong reason to comply with human rights judgments and it also points us to a conception of

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37 If there is one thing the people of Ireland should well know it’s about hardship and difficulty and deprivation and hunger and being badly treated one thing we should never forget is to make sure that nobody else is treated in some of the ways that we were treated when we were badly treated” Interview 51, 01.04.2009

38 In response to the Norris judgement, which was delivered on 26 October 1988, the Irish government passed the new Criminal Law (Sexual Offences) Act 1993, which entered into force on 7 July 1993. See Committee of Ministers Resolution DH (93) 62
democracy that is based on solidarity with other democratic or democratising communities.

Protection of Human Rights, German Identity and Policy Ideas

Germany has an uncontested self-image as a human rights respecting country. This self-image relies on the idea that the post Second World War judicial system in Germany is based on respecting individual rights and controlling majorities from trumping rights. For this reason there is a very close relationship between the protection of human rights and the German legal system and a deep conviction that German democracy is based on the very idea of protecting fundamental rights (Grundrechte) through strong judicial oversight of political decisions.

Human rights are also thought to be a universal ideal, which generates policy ideas about international promotion. As one interview puts it ‘In Germany, due to the Basic Law’s provision in article 19(4), the guarantee of legal process has always been part of the political culture. It is therefore logical that – if you are part of a common sphere of justice like the Council of Europe … you have the desire that people have the same opportunities to make human rights claims against their own states.’ \(^{39}\) This argument by analogy is different from that of the UK as the emphasis is not so much on setting an example to others because of a good human rights record, but on a deep conviction that individuals, regardless of their location, should be able to have access to legal process and human rights protection.

This view also generates further policy ideas about ‘a duty to politically intervene’ in the domestic affairs of other states to promote human rights and to be open to criticism from others.\(^{40}\) In Germany, the idea of human rights is closely linked to the promotion of a European community and the common interests of individuals living across Europe (Marcussen \textit{et.al.} 1999). As one interviewee explains ‘I am convinced that during the past years in Europe, at least in Europe, a development has started of human rights standards becoming established in people’s minds. They are a fixed part of our value system. I believe in this very strongly. A government depends in the public sphere on how it respects and implements these values that the population

\(^{39}\) Interview 31, 26.03.2009.

holds. If it wasn’t doing this it would rob itself of its legitimacy, and thereby of its rootedness in society.”\textsuperscript{41} The legitimacy of the European Court of Human Rights is conceived as stemming from citizens` support across Europe and reinforces the idea that states in Europe discharge a common duty to protect human rights by supporting the European Court of Human Rights.

The institutional existence of the European Court of Human Rights further gives way to the consistency argument. “Yes, German courts have an excellent, outstanding high standard of quality. But if Germany says we have a great standard of quality, we don’t need an ECtHR – well, how easy would it be for Russia to say the same!...No, exactly because of solidarity, no matter how high the standards, we say that we need a European equal and overarching authority – the same for all people in Europe! Not for the German to be more equal than the Russian”.\textsuperscript{42}

\textit{Rule of Law, German Identity and Policy Ideas}

In Germany, the concept of the democratic rule of law is embodied in the concept of \textit{`Rechtstaat’}.\textsuperscript{43} \textit{Rechtstaat} is a particular concept of democracy where strong judicial oversight of political decision-making processes is at the centre. This strongly resonates with legal oversight above states internationally. Democracies are seen as in need of a legal framework and oversight to function healthily. This view is strongly shared by politicians across the political spectrum and forms a consistently held collective belief in respecting international rule of law. Amongst the three countries under comparison, Germany is also the only one that allows for re-opening of criminal and civil proceedings domestically once the European Court of Human Rights finds a violation in a case.\textsuperscript{44}

As one politician puts it: ‘I think it’s just natural and just part of our governmental structure that we take court decisions very seriously.... So I think it’s a very long tradition in Germany of the very important position of lawyers as a profession and of courts as bodies which decisions should be accepted and followed. So maybe it’s a

\textsuperscript{41}Interview 32, 26.03.2009.

\textsuperscript{42}Interview 31, 26.03.2009.

\textsuperscript{43}`It’s a little bit the philosophy of Germany, you know, after the Third Reich to be Rechtstaat, you know, to apply the rule of law and therefore you cannot just light-handedly reject something from such a serious legal body as the European Court of Human Rights’ Interview 37, 04.05.2009

\textsuperscript{44}We should point out, however, that Germany is not the only country that allows for re-opening of civil and criminal proceedings amongst the Council of Europe member states.
cultural thing, maybe it’s also because sometimes we have the reputation also rightfully sometimes that we see too many obstacles in everything and we are quite hesitant sometimes to act if action is very necessary, because we like the feature of legal obstacles is a very prominent one also in the political discussions.\textsuperscript{45}

Unlike Ireland and the UK, the perception of the high quality of the rule of law system does not lead Germans to adopt a protective attitude towards the German Constitutional system. Though there is a clear belief in Germany in the centrality and authority of the Constitution, conflict between the Constitution and the European Convention of Human Rights is viewed as being a hypothetical rather than real problem.\textsuperscript{46} Whereas in the UK and Ireland, the compromise between protecting the democratic rule of law and compliance with human rights is made at the level of implementation, in Germany the domestic actors in principle accept that international rule of law must prevail when in conflict with domestic legislation rule of law. This does not bar criticisms of human rights judgments delivered against Germany.\textsuperscript{47} But, there is a strong emphasis that criticising human rights judgments is a separate activity than complying with human rights judgments.

The ideas about the rule of law are also perceived from the perspective of coherency as Germany has a self-image of itself as a rule of law respecting democracy domestically as well as internationally. This self-image generates strong policy ideas in favour of compliance with human rights judgments regardless of the content of the judgment.

\textit{Synthesis}

The singular notion of the rule of law, the conviction on having a strong judicial oversight of political institutions and the idea that human rights are universal and engage international responsibility work together providing reasons for Germany to

\textsuperscript{45} Interview 30, 26.03.2009.

\textsuperscript{46} For example, despite some criticism of the judgement in the case of Görgülü v Germany the German Constitutional Court (Bundesverfassungsgericht) stressed the obligation of all German Courts to interpret both ordinary and constitutional law in accordance with the ECHR as interpreted by the ECHR. The principle that the judge is bound by statute and law (Article 20.3 of the Basic Law (Grundgesetz – GG)) includes taking into account the guarantees of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the decisions of the European Court of Human Rights (ECHR)’ Decision of October 14, 2004, 2 BvR 1481/04.

\textsuperscript{47} For example, Carolina von Hannover v Germany judgement was criticised by several interviewees; Interview 40, 26.05.2009, Interview 35, 28.04.2009, Interview 36, 29.04.2009, Interview 30, 26.03.2009
comply with human rights judgments. This also means that slow compliance in Germany is better explained by factors that are not connected to democratic ideas. A strong candidate for such factors is the different layers of government that make up the federal system. The federal government in Germany is responsible for human rights violations within the Bundeslände, but does not have the authority to order its states to comply. When compliance depends on actions by the officials of Bundeslände, we can expect variation in compliance time and extensiveness across cases.

Table 3: Distribution of Democratic Ideas Compared: UK, Ireland, Germany

<table>
<thead>
<tr>
<th></th>
<th>United Kingdom</th>
<th>Ireland</th>
<th>Germany</th>
</tr>
</thead>
<tbody>
<tr>
<td>Avoiding international embarrassment</td>
<td>-</td>
<td>Yes</td>
<td>-</td>
</tr>
<tr>
<td>Setting an example</td>
<td>Yes</td>
<td>-</td>
<td>Yes</td>
</tr>
<tr>
<td>Protecting democratic rule of law</td>
<td>Yes</td>
<td>Yes</td>
<td>-</td>
</tr>
<tr>
<td>Respecting international rule of law</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Conclusion

Social constructivist studies have contributed greatly to scholarship on human rights compliance. In particular, the study of norms, identities and institutions has demonstrated the complexity of mechanisms that explain compliance and the role non-rational motivations and mechanisms play in human rights compliance. We have contributed to this social constructivist research agenda by developing an argument to explain within-regime type variation. By focusing on reasons for compliance generated by domestic actors in the context of institutionalised human rights demands.

48 Interview 25, 10.02.2009; Interview 24, 10.02.2009
we have moved away from arguments that focus on objective institutional properties as independent variables, such as regular competitive elections and respect for the rule of law. Instead, we have focussed on democratic properties as dependent variables and argued that democratic ideas are distributed differently in different contexts. In particular, we have developed two specific dimensions of democratic ideas. First, we argued that ‘international protection of human rights’ is a policy idea that resonates with democracies and provides them with reasons to comply with human rights judgments despite electoral pressure or the intrusiveness of the judgment into domestic rule of law. Second, we proposed that the respect for the rule of law mobilises arguments both for and against compliance and divides democratic elites’ loyalties between commitment to international law and commitment to democratic rule of law. Our theoretical framework, has not sidelined the institutionalist arguments on human rights compliance of democracies, but highlighted that attention must be paid to how democracies perceive themselves as human rights compliers alongside how democracies operate and represent domestic interests.

This paper offered an argument that is both generalisable and is able to explain specific empirical attitudes towards human rights compliance. We have argued that democratic properties, namely the protection of rights and respect of the rule of law, generate democratic identities and policy ideas. These need to be taken into account as explanatory factors for why democracies are committed to complying with human rights judgments. These ideational factors can also account for slow or limited compliance with human rights judgments. The detailed empirical analysis of the UK, Ireland and Germany has played two important roles in the construction of our theory. Firstly, we used the rich empirical data to develop empirically informed, but also generalisable propositions. Second, we have conducted a close reading of the reasons provided in each empirical context to map out the complex balance of reasons that motivate democratic identity compliance with human rights judgments. The three case studies we have discussed in greater here have shown a combination of democratic ideas as reasons for compliance. Only in Germany, all ideational conceptions of democracy favoured compliance. In the UK and Ireland, on the other hand, the protection of democratic rule of law qualities, which were justified by historic continuity and citizen participation, also acted as a factor in slowing down compliance. They engaged the domestic actors in different balancing exercises as to
reasons for or against compliance. In the latter two countries, we have also argued that the lengthy compliance process is used as a way of reconciling the tensions that different democratic ideas generate about human rights compliance, whilst in Germany, lengthy compliance is better explained by institutional properties distinct to Germany democracy, i.e. the complex relationship between different units, i.e. the federal state, the government, local courts, local institutions and the Constitutional Court.

The theoretical logic of the study can be extended beyond these three comparative case studies. In particular, the logic can be applied to other places and might contribute to new theory development for sub-categorisations of democratic states and democratic identities. Our work-in-progress, for example, suggests that reasons for compliance between old democracies and new democracies are different. Despite major differences otherwise, Turkey and Bulgaria, for example, see human rights compliance as a cost of receiving recognition as a democratic state, which is balanced out against other considerations against compliance.

We have emphasised in this study that ‘one player game’ better describes the compliance dynamics with human rights judgments. This suggests that rational choice theories based on strategic interactions amongst states are not adequate to explain human rights judgment compliance of democracies. Democratic states see human rights compliance as an individual decision problem and lack of compliance by other states does not trigger an incentive for non-compliance for other states. We have further shown that ‘balance of reasons’ shaped by democratic identity and policy-ideas is a more adequate mechanism to understand human rights compliance, as opposed to, for example, insitutionalist mechanisms of ‘rule of law’ or ‘elections’ (Helfer and Slaughter 1997). This is due to two reasons. First, as we have shown there are multiple ideational motives at work, aside from electoral pressure, that factor into a decision of human rights compliance. These factors may all pull in the same direction or in different directions depending on the specifics of the case. Second, policy ideas about international protection of human rights or respect for international rule of law are values proper and not interests that states aim to maximise. For this reason, they operate differently as reasons for action, with the ability to replace strategic calculations or other values, such as the autonomy of democratic policies.
On the role of international institutions in the formation of policy ideas, our theoretical framework emphasises the emergence of these ideas as a response to the existing and ongoing operation of an international institution. The existence of the European Court of Human Rights delivering judgments across a mix of democratic and democratising states provides new reasons for democratic states to comply with the judgments against them. The institutional design of the Court, its independence and its ability to deliver judgments against any state which is a member, contributes to the emergence of new reasons. This also supports the ‘consistency’ argument raised by many elites about the undermining effect of hypocrisy on self-perception as a human rights promoter state. In this way human rights courts affirm and cultivate democracies identities’ as caring about human rights internationally. That said, in our research we have not found that the mere existence of the European Court of Human Rights replaces domestic reasons for compliance with human rights judgments. This confirms theoretical frameworks that emphasises the role of the agency in the socialisation of states in international institutional contexts (Checkel, 1999). The European Court of Human Rights either confirms or boosts democratic policy ideas or they provide additional motivations to comply with judgments. A key role that is played by human rights judgments is the public and deliberative determination of a human rights violation. Democratic elites associate this with a de-politicised and legitimate basis for engagement with and criticism of other states. Even though democratic states do not share the same reasons for compliance, they share the common understanding that human rights judgments, despite their interventionist nature, need to be complied with. This final observation has further implications for understanding the ideational basis for the robustness of the European Human Rights system.
References


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**List of Interviews**

Interviews were held in London, Dublin, Strasbourg and various locations in Germany between May 2008 and June 2009. All interview transcripts are on file with authors. Interviews were given on the condition that they would remain anonymous and non-attributable, therefore, only the interview number and date of the interview are listed below.

Interview 1, 12.05.2008.
Interview 2, 20.05.2008.
Interview 3, 03.06.2008.
Interview 4, 04.06.2008.
Interview 5, 05.06.2008.
Interview 6, 06.06.2008.
Interview 7, 11.06.2008.
Interview 8, 16.06.2008.
Interview 9, 19.06.2008.
Interview 10, 01.07.2008.
Interview 11, 01.07.2008.
Interview 12, 03.07.2008.
Interview 13, 15.07.2008.
Interview 14, 15.07.2008.
Interview 16, 23.07.2008.
Interview 17, 28.07.2008.
Interview 18, 29.07.2008.
Interview 19, 08.12.2008.
Interview 22, 02.05.2009.
Interview 23, 06.02.2009.
Interview 24, 10.02.2009.
Interview 25, 10.02.2009.
Interview 26, 11.02.2009.
Interview 27, 12.02.2009.
Interview 28, 13.02.2009.
Interview 29, 05.03.2009.
Interview 30, 26.03.2009.
Interview 31, 26.03.2009.
Interview 32, 26.03.2009.
Interview 33, 27.04.2009.
Interview 34, 28.04.2009.
Interview 36, 29.04.2009.
Interview 37, 04.05.2009.
Interview 38, 06.05.2009.
Interview 39, 18.05.2009.
Interview 40, 26.05.2009.
Interview 41, 27.05.2009.
Interview 42, 30.03.2009.
Interview 43, 30.03.2009.
Interview 44, 30.03.2009.
Interview 45, 30.03.2009.
Interview 46, 31.03.2009.
Interview 47, 31.03.2009.
Interview 48, 31.03.2009.
Interview 49, 01.04.2009.
Interview 50, 01.04.2009.
Interview 51, 01.04.2009.
Interview 52, 01.04.2009.
Interview 53, 02.04.2009.
Interview 54, 02.04.2009.
Interview 55, 02.04.2009.
Interview 56, 03.04.2009.
Interview 57, 03.04/2009.
Interview 58, 12.05.2009.
Interview 59, 13.05.2009.
Interview 60, 13.05.2009.
Interview 63, 23.04.2009.
Written Response 1, 12.06.2008.
Written Response 2, 21.05.2008.