The Not–So–Peaceful Domestic Democratic Peace[*]

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Abstract

Violations of the right to physical integrity of the person are conventionally regarded as an anomaly in democratically governed societies and are by and large viewed as a hallmark of autocratic and repressive regimes. Yet since the early 1990s, about 80% of democracies engaged in torture in a given year. Between 30 to 40% of democracies committed extra-judicial killings and imprisoned individuals for political reasons. To explain when and how democracies nevertheless violate these basic human rights, I identify the ability of democracies to declare states of emergency in order to respond to natural disasters or political turmoil, as an explanatory mechanism. I argue that during states of emergency the pacifying constraints imposed by democratic institutions are unhinged or circumvented, allowing for the temporary and spatially limited suspension of the "Domestic Democratic Peace."

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1 Introduction

It is well established in the literature on repression that democracies outperform autocratic regimes with regard to the protection of civil, political, and physical integrity rights. Quantitative studies have consistently shown that more democratic states are less likely to engage in repression and to commit violations of these rights (see among others: Mitchell and McCormick, 1988; Henderson, 1991, 1993; Poe and Tate, 1994; Davenport, 1995; Fein, 1995; Rummel, 1997; Poe, Tate and Keith, 1999; Keith, 2002; Davenport and Armstrong, 2004). Subsequent scholarship has devoted significant effort on identifying concrete mechanisms explaining this empirical regularity – known as *Domestic Democratic Peace.* Most prominently, Davenport (2007*a*,*b*) argues that in democracies *Voice* or the preferences of the electorate on the one hand, and *Veto* or the presence of other institutional players on the other, act as constraints on leaders' ability to repress and violate the rights of citizens. Institutional characteristics, such as political participation, multi-party competition, or the existence of checks on executive power, are seen as critical factors explaining the performance gap between democracies and autocracies (Bueno de Mesquita et al., 2005; Davenport, 2007*b*).

It is implicitly assumed in this work that when they are unencumbered by institutional constraints, both democratic and authoritarian leaders alike will make use of their authority and employ repression in pursuit of their goals. In other words, repression is seen as a handy tool at leaders' disposal and the violation of rights merely the consequence of instrumentally rational behavior. Current scholarship is thus concerned primarily with elaborating the conditions that trigger or constrain leaders' use of the repression toolkit.

Relatively little attention has been devoted to the crucial detail that democracies only *tend* to repress less, and that they only *outperform* autocracies with regard to the protection of rights. From an empirical standpoint the *Domestic Democratic Peace* proposition is anything but perfect. Freedom from torture, and cruel and unusual punishment, for instance, remains a routinely violated physical integrity right in both democracies and autocracies (Cingranelli and Richards, 1999; Conrad and Moore, 2010). As illustrated in Figure 1,

though certainly lower than in autocratic regimes, violations of physical integrity rights are anything but absent, even among countries that are conventionally considered democratic.[1] In particular, the left panel of Figure 1 shows that since the end of the Cold War period, about 80 percent of democracies have engaged in torture on a yearly basis. Extra-judicial killings or summary executions are reported in about 40 percent of all democratic regimes during this period. The prevalence of political imprisonment fluctuates around 30 percent, and only the frequency of disappearances appears to have declined to about one-in-ten democracies.

Figure 1: Prevalence of Physical Integrity Rights Violations in Democracies and Autocracies
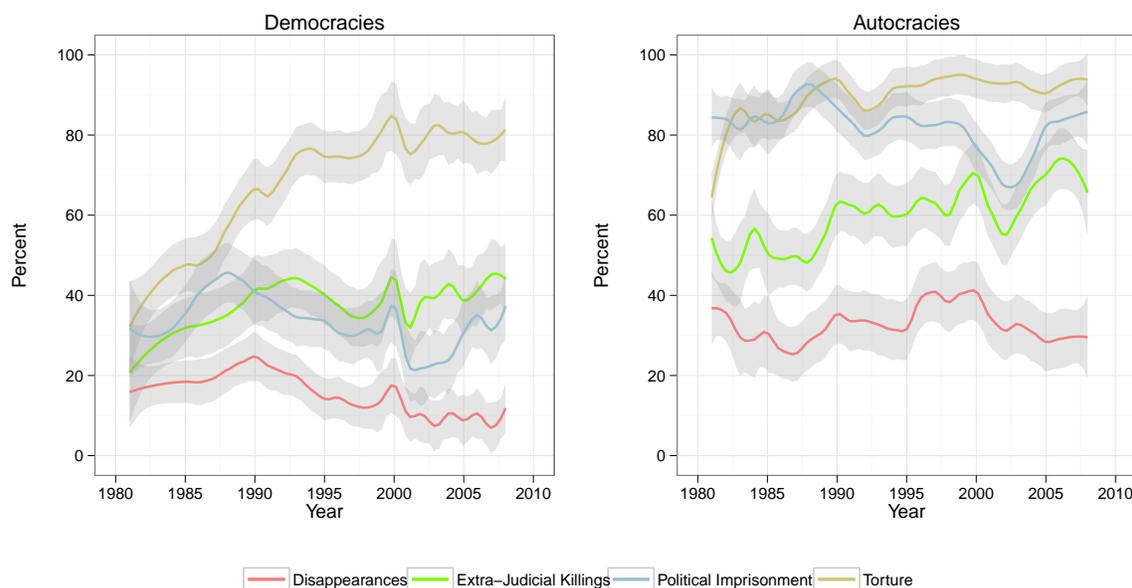
Plotted are approximations of the proportions of democracies (left panel) and autocracies (right panel) that were found to have engaged in at least one of the respective physical integrity rights violation in a year (using a LOESS-smoother with a low span parameter). Data Sources: Cheibub, Gandhi and Vreeland (2009b): *Democracy and Dictatorship Revisited Data Set*, and Cingranelli and Richards (2009): *CIRI Human Rights Data Project*.

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[1]Following Alvarez et al. (1996); Przeworski et al. (2000), and Cheibub, Gandhi and Vreeland (2009a), a regime is considered a democracy if all of the following four rules apply: 1) the chief executive is chosen in popular elections or by a body that was itself popularly elected, 2) a popularly elected legislature exists, 3) more than one party competes in the elections, and 4) an alternation of power under electoral rules identical to those that brought the incumbent to office has taken place. If a country fails to meet one of these conditions it is considered an autocracy. Throughout this paper the terms autocracy, dictatorship, and non-democracy are used interchangeably.

A similar conclusion can be reached when considering an aggregate measure of physical integrity rights violations, such as the Political Terror Scales (PTS), instead of the itemized count measures of Cingranelli and Richards. Table 1 presents the relative frequencies of democratic and autocratic country year observations with varying levels of political terror as measured by the the PTS based on the State Department's Human rights reports. Although about 47 percent of all 2419 democratic country year observations fall into the least violent category, well over a quarter of all democratic observations fall into categories three through five. Countries at this level, experience – at the least – extensive political imprisonment; executions and political murders and brutality may be common and unlimited detention, with or without a trial, for political views are accepted. At worst terror will have expanded to the entire population, such that murder, disappearances, and torture are a common part of life (Wood and Gibney, 2010). Again as can be expected, given the empirical regularity linking physical integrity rights violations to regime type, the records of autocracies are far worse with almost 60 percent of all observations falling into the three most violent categories.

Table 1: Political Terror by Regime Type

Political Terror	Democracy	Autocracy
1 (low)	46.8	11.5
2	26.7	31.5
3	15.8	34.6
4	8.6	14.6
5 (high)	2.1	7.9
Total	100.0	100.1
Country Years	2419	2810

Note: Shown are the percentages of country year observations between 1976 and 2008 in terms of the degree of political terror experienced in a year. Data sources: Gibney, Cornett and Wood (2011): *The Political Terror Scales*, and Cheibub, Gandhi and Vreeland (2009*b*): *Democracy and Dictatorship Revisited Data Set*.

Of course, Davenport (2007*b*, 180) acknowledges that "the [domestic democratic] peace proposition is not bulletproof" and indeed research finds a confounding effect of both domes-

tic and international conflict on repressive behavior that overwhelms the pacifying influence of democracy. The presence of civil and interstate conflict, it is argued, provides political authorities with incentives to engage in repression, in order to "suppress the opposition, to control the flow of information, and to acquire intelligence through every means possible" (Bueno de Mesquita et al., 2005, 447). International and civil wars threaten the authority of leaders and regime survival, leading to increased repression.

Violent domestic conflict, protest and dissent have thus been singled out as a primary factor explaining the use of repression.[2] Democracies and autocracies alike are, when threatened with domestic conflict such as insurgency, terrorism, or guerrilla warfare, more likely to repress in order to "fulfill one of the state's primary objectives – political control" (Davenport, 2007*b*, 39). The reduction of these conflicts indeed is seen as "a major source of legitimacy" for authorities, for whom violent conflict provides a mandate to repress for the sake of law and order (39). Davenport goes so far as to argue that when domestic or foreign "challenges to the status quo take place, authorities generally employ some form of repressive action to counter or eliminate the behavioral threat; in short, there appears to be a "Law of Coercive Responsiveness" (Davenport, 2007*a*, 7).

Considering, however, that especially in developed democracies violent dissent and challenges to the state are less common, and given that democracies are significantly less likely to experience civil and interstate war, the persistence and level of physical integrity rights violations in democracies are surprising. In this paper then, I address the question of when and how democracies engage in violent or repressive behavior despite the theoretical expectation of pacifying effect of democratic institutions. I do so by relaxing the assumptions of the standard repression account with its focus on national security, yet explicitly build on the theoretical mechanisms advanced by Davenport (2007*b*) namely his arguments regarding – *Voice* and *Veto*. I argue that the institution of the state of exception – that is the ability of states to declare states of emergencies – can be seen as means to circumvent the constraints

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[2]For recent work investigating the so called "repression–dissent nexus" see Carey (2006); Pierskalla (2010).

imposed by political democracy, effectively undermining both *Voice* and *Veto*.

The remainder of this study proceeds as follows. In section 2, I revisit Davenport's mechanisms and review recent scholarship seeking to explain physical integrity rights violations without the explicit reference to elite driven instrumental repression. Rather than addressing why leaders in democracies engage in repressive behavior, in section 3, I instead propose a mechanism explaining how and when physical integrity rights are violated. In particular I argue that by declaring states of exception, democracies can temporally cease to function as democracies thus suspending the domestic democratic peace in specific geographic areas and for specific individuals. In section 4, I evaluate the implications of this argument using a causal inference approach with recent data on torture and ill-treatment. I conclude in section 6 after presenting evidence consistent with the argument that states of exception undermine or suspend the pacifying influence of political democracy on repressive behavior of states (section 5).

2   The Repression Paradigm

By and large, the political science literature studying physical integrity rights violations attempts to understand why states and their leaders employ repression and to identify the conditions that shape and influence leaders preference to engage in repressive behavior. The predominant approach is to treat physical integrity violations and repression synonymously as instrumentally rational behavior employed by political elites to achieve some end. According to this "rationalist-structuralist" approach, repression is "coercive behavior employed by political authorities against individuals and groups within their territorial jurisdiction for the *expressed* purpose of controlling behavior and attitudes" (Davenport and Armstrong, 2004, 539). Repression more specifically is defined as "any action by [one group] which raises the contender's cost of collective action" (Tilly, 1978, 100). Goldstein (1978) similarly argues that repression is implemented "for the purpose of imposing a cost on the target" so as to

deter "specific activities and/or beliefs perceived to be challenging to government personnel, practices and institutions" (xxvii). Lastly, Gurr (1986, 51) claims that "the necessary condition [for repression] is the existence of a group, class, or party that is regarded by ruling elites as an active threat to their continued rule." For modern nation states repression is "virtually always politically purposeful. Indeed, it is purposeful by definition" (51). In short, then violations of physical integrity rights are conceptualized as the consequence of the existence of contenders or challengers (perceived or real) in direct and open conflict with elites or the state, as well as the status quo.

Treating physical integrity rights as the outcome of elite driven instrumental behavior has been a remarkably fruitful approach to study the causes of violations and to develop mechanisms explaining the performance gap between democracies and autocracies. The most celebrated study located in the rationalist-structuralist camp, is Davenport's seminal *State Repression and the Domestic Democratic Peace* (2007*b*).

In his study Davenport identifies two mechanisms explaining the Domestic Democratic Peace. His first mechanism, *Voice*, is the ability of citizens to remove potentially repressive leaders from office. Davenport argues that "political leaders fear being removed from office by citizens for engaging in activities that are antithetical to the popular interest" (2007*b*, 51). Repressive behavior such as torture or mass arrests would result in unfavorable evaluations of elected officials and thus democratic elections (i.e. the ability for participation and representation of diverse interests) constrain the behavior of democratic decision-makers. As those controlling the means of repression are required to concern themselves with the preferences of their constituents, for a politician to "violate [the voter's physical integrity rights] is essentially to ask to be thrown out of office" (13).

According to the Davenport's second mechanism, *Veto*, democracy ensures a reduction in repression due to a pacifying influence of institutional checks and balances, executive constraints, and veto players on those wielding political power (Bueno de Mesquita et al., 2005; Davenport, 2007*b*). Unlike the *Voice* mechanism in which leaders are constrained by

the preferences of the electorate, the *Veto* mechanism holds that other institutional players act as constraints. Davenport argues that when making the decision as to whether or not to employ repression, authorities have to "worry about potential resistance from other authorities, outright denial of approval for relevant behavior, and/or the possibility that some sanction might be imposed for attempting to employ such behavior (for example, having some desirable legislation blocked in the future)" (2007*b*, 24).

For Davenport, the decision to employ repression and to violate the rights of citizens rests explicitly with the executive or leader. For his mechanisms the preferences of the electorate and other institutional actors are straightforwardly viewed as costs leaders have to consider in their decision making process. More recent scholarship has begun to move away from this leader centric approach. Rejali (2007) for instance considers the leader centric "national security model" as only one of three alternative approaches (49). While the ability to violate the rights of citizens is useful to identify national security threats, "enhanced interrogation techniques" or "stress and duress methods" maybe useful to other agencies and law enforcement also. Moving beyond national security concerns, Rejali argues that the ability to torture serves the purposes to coerce confessions (23). In essence, violating physical integrity rights is viewed by at least some members of coercive agencies as a useful means to more efficiently carry out their job. When the procurement of critical information is pressing or when judicial systems place high values on confessions, incentives exist for law enforcement to engage in practices such as torture which may be in conflict with the pronounced positions of executives.[3]

Similarly, Conrad and Moore (2010) note that it is safe to assume that presidents and governors rarely if ever perpetrate physical integrity rights violations, personally. Especially in democratic contexts, executives delegate "the supervision and interrogation of detainees

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[3]In the discussion of his juridical explanation of torture, Rejali identifies Japan as an example of a country that places a high premium on confessions. He finds that in 1990, "99.8 percent of cases led to convictions, *and* that 91.5 percent of these cases were based on confessions under arrest" (emphasis added, 2007, 52). For comparison, the average conviction rate in the United States was 21 percent, the United Kingdom, 35 percent, and France 40 percent (52).

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and prisoners to jailers and interrogators", and the maintenance of law and order to the police and other law enforcement agencies (461). As such, the coercive authority of the executive (the principal) is delegated to bureaucracies and agencies (the agents).[4] As is well known, motivating a party to act on behalf of another, under conditions of incomplete or asymmetric information, can give rise to the agency dilemma or principal-agent problem. In short, the implementation of legislation and executive directives is open to interpretation by the bureaucracy or agencies, which creates incentives or opportunities for the agents to deviate from the intentions or preferences of legislators or executives. Physical integrity rights violations can thus arise as a consequence of agency-loss. That is, the coercive agencies either misinterpret the preferences and intentions of their principals or act in their own interests given a lack of oversight and monitoring.[5]

Rather than a response to real or perceived threats to the regime and leaders' tenure in office, Rejali additionally suggests that violations of physical integrity rights may be viewed as part of an "informal arrangement" between the police and citizens (57). Even in the absence of a permissive legal context or threats to national security, violations may serve to enforce "civic discipline" and to "shape the urban landscape" through intimidation (56-60). The fact that victims of abuse in democracies tend to include "street children, vagrants, loiterers, and illegal immigrants" and not merely suspected terrorists and criminals, suggests that social exclusion, marginalization and unequal access to the judicial system must be seen as evidence for non leader centric mechanisms of physical integrity rights violations (see especially: Agamben, 2005; Amnesty International, 2005; Brinks, 2008; Amnesty International, 2009).

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[4]Conrad and Moore (2010) employ this framework in their recent study to identify conditions under which states stop the use of torture, finding that when threatened by violent dissent (i.e. threats) no incentives exist, even amongst liberal democracies to discontinue their reliance on torture. When violent dissent is absent, the existence of a free press and *Voice* increases the likelihood that a government terminates its use of torture.

[5]Also see Rivera Celestino (2012) for a principal-agent account of physical integrity rights violations in the context of violent crime.

3 *Voice* and *Veto* reconsidered

As noted above, physical integrity rights violations in democracies may be driven by factors other than the decision making processes of leaders. Instead of focusing on the implicit cost-benefit calculations of principals or their agents, this paper is agnostic as to why violations occur. I simply assume that violations may serve any number of purposes and the ability to violate rights may be useful to counter national security threats, to coerce confessions in certain legal contexts, or to serve as a means to punish deviant behavior as in Rejali's model of civic discipline. Assuming then that violations may have a variety of causes, I here focus on how and when violations occur as well as on the identities of both victims and perpetrators. Building on Davenport's *Voice* and *Veto* and mechanisms and their underlying assumptions, below I propose that the ability to declare states of emergencies can be seen as an answer to these questions.

Modern democratic constitutions contain emergency provisions for the temporary suspension of the separation of powers and certain civil and political rights to cope with exceptional crises which threaten the survival of the state (Scheppele, 2004, 1005). A declaration of a state of exception (or state of emergency, martial law, or state of siege or alarm) results in "the provisional abolition of the distinction among legislative, executive, and judicial powers" (Agamben, 2005, 7). Such declarations of states of emergencies "tend to result in the expansion of powers, [and] the concentration of powers in the hands of the executive" (2006, 8). Gross and Ní Aoláin write:

> Concepts such as separation of powers and federalism are likely to be among the first casualties when nations need to respond to a national emergency. The executive branch assumes a leading role in countering the crisis, with the other two branches pushed aside (whether of their own volition or not) [. . .] The government's ability to act swiftly, secretly and decisively against a threat to the life of the nation becomes superior to the ordinary principles of limitations

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on governmental powers and individual liberties. While such expansions and concentrations of powers are not unique to times of crisis, but rather are part of the modernization of society and the need for governmental involvement in an ever-growing number of areas of human activity, it can hardly be denied that such phenomena have been accelerated tremendously (and at times, initiated) during emergencies. (8)

It is clear from the above that the ability to declare a state of exception has direct consequences for Davenport's mechanisms of *Voice* and *Veto*, given that the existence and *normal* operation of democratic constitutional arrangements accounts for their pacifying effects. Since democratic constraints are suspended during an emergency, these pacifying effects thus may not be realized when a state of exception is declared.

The most apparent implication regarding Davenport's first mechanism, *Voice*, is the notion that the ability to vote and participate in the political process is a prerequisite for the protection of physical integrity rights. *Voice* or the ability to throw the proverbial rascals out must thus be seen as applying only to those individuals who have citizenship and make use of their right to vote. By suspending certain civil and political rights in a state of exception, the ability of citizens to constrain leaders at the election booth is thus itself constrained. Aside from the fact that voters may actually find repressive behavior against certain segments of society justified and even desirable, those temporarily exempted from the normal democratic order, as well non-citizens, and non-voters cannot necessarily expect the benefits of the domestic democratic peace.

Assuming Davenport's *Voice*-mechanism explains the Domestic Democratic Peace, temporal *Voice*-differentials within society must be able to explain violations in democracies. It is reasonable to hypothesize then that violations of physical integrity rights are more likely to be committed when *Voice* is temporarily suspended. Moreover victims of physical integrity right violations are likely the *Voice*-less, that is non-citizens, such as illegal immigrants and refugees, but also marginalized and unrepresented segments of society, such as migrant la-

bor, prisoner's who have been stripped of their voting rights, or the poor. Indeed Agamben (2005, 20, 22) argues that "growing sections of humankind are no longer representable inside the nation-state" as evidenced by "the phenomenon of so called illegal immigration", the refugee and the defacto stateless "who do not want to be and cannot be either naturalized or repatriated."

This argument can similarly be extended to Davenport's second mechanism, *Veto*. As outlined above, institutional checks and balances, executive constraints, and the preferences of veto players on those wielding political power are implicated in making the repression toolkit less attractive to leaders. During a state of emergency, however, power is centralized in the executive and potential veto players such as courts and legislatures pushed to the periphery. As with the *Voice* mechanism, Davenport's *Veto* thus can vary temporally. When a state of exception is declared, the *normal* constitutional constraints, democratic deliberation, and checks and balanced are undermined if not entirely suspended for the sake of expediency in responding to an exceptional situation. For all intents and purposes then, relatively stable measures of *normal* institutional constraints do not adequately reflect the realities of constraints facing leaders in *exceptional* situations. Again, if Davenport's *Veto* mechanism explains the Domestic Democratic Peace, then varying levels of *Veto* across time should be able to account for varying levels of physical integrity rights violations in democracies. Consistent with Davenport's argument, democracies should be more likely to violate rights when the constitutional order is suspended in a state of exception.

4   Data and Methods

To evaluate the existence of an effect of states of exception on violations of physical integrity rights, I analyze data on states' human right performance in democracies for an 11 year period from 1995 to 2005. I rely on three sets of measures of repressive behavior, the Political Terror Scales (PTS) of Gibney, Cornett and Wood (2011), the Cingranelli and

Richards Physical Integrity Rights Index (CIRI) (2009) and data from the Ill-Treatment and Torture Project due to Conrad and Moore (2012). As an indicator for states of exception, data collected by Hafner-Burton, Helfer and Fariss (2011) is used. Hafner-Burton et al. coded all declared and undeclared states of exceptions (states of emergency, states of siege, or martial law) between 1976 and 2007, based on the U.S. State Department's annual Human Rights Country Reports.

Figure 2: Declarations of States of Exception
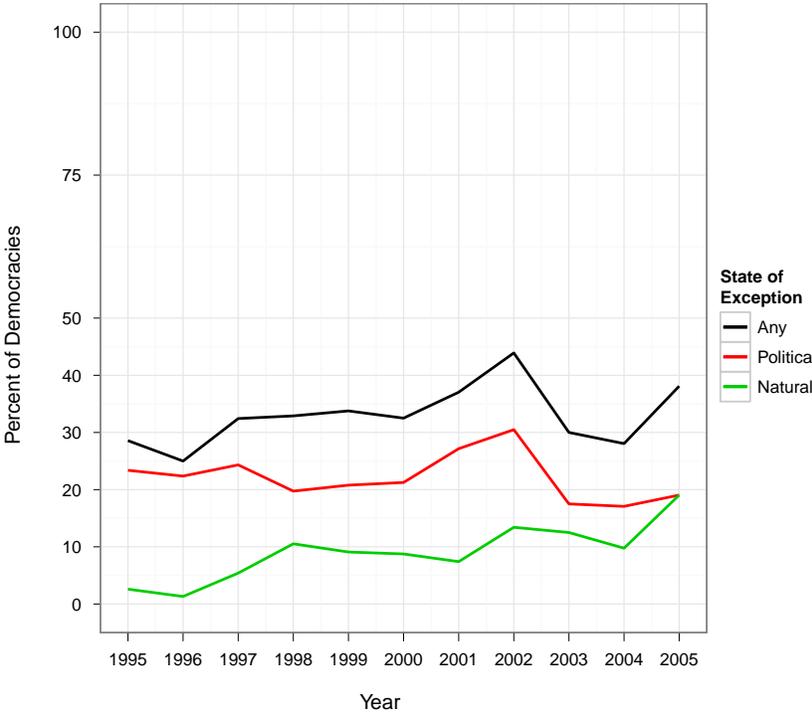
Shown are the proportion of democracies declaring a state of emergency in a given year by emergency type. Data sources: Hafner-Burton, Helfer and Fariss (2011), and Cheibub, Gandhi and Vreeland (2009*b*): *Democracy and Dictatorship Revisited Data Set.*

Figure 2 summarizes the relative frequencies of states of exception in democracies between 1995 and 2005. As can be seen, between 30 and 40 percent of democracies experience a state of some type of emergency in any given year. Emergencies with a political background fluctuate around 20%. Emergencies declared in response to a natural disasters have increased

in the period from about 5% of all democracies annually to 20%. There appears to be a spike in the proportion of states that declared a state of exception or emergency, following the September 11th terrorist attacks in the United States, with declarations peaking at about 45% in 2002. I account for a potential temporal effect in the subsequent analysis.

When attempting to estimate the effects states of exception have on state behavior, it is important to note that the decision to declare a state of exception is not random and estimating the effects in a parametric model might introduce selection bias. In particular, it seems obvious that states likely declare emergencies in emergencies. To account for the non-randomness of the treatment, I preprocess the data employing Coarsened Exact Matching (CEM)(Iacus, King and Porro, 2011a).

4.1 Explaining Exceptions

To identify possible confounders that explain when countries declare a state of exception, I regress the binary indicator (state of exception was declared = 1, no state of exception was declared = 0) on a host of plausible explanatory factors. Considering that by design the institution of the state of exception can be viewed as a tool to respond to emergencies or crisis, measures of defacto crisis should account for when states declare a state of exception. To account for political emergencies, I include the aggregate Major Episodes of Political Violence index (compiled by Marshall, 2012b), measuring political turmoil and violence.[6] This index measures the severity of domestic conflict, civil and interstate war on scale ranging from 0 or little to no violence to 25 or extreme violence.[7] In the relevant subset of democratic country years this measure ranges from 0 to 8, with a median magnitude score of 0 (the mean = 0.43). This is consistent with the arguments advanced above that violent political conflict is relatively rare and relatively less severe in democracies.

To account for emergencies declared in response to natural disasters, data published

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[6]The results reported below are robust to the use of alternative measures of political turmoil. See Model 3 in Table 2 which includes Bashin's measures of violent and non-violent protest (2008).

[7]I used the measure ACTOTAL which is defined as the total of the summed magnitude scores of all societal and interstate magnitude scores in a state in that year.

by the WHO Collaborating Centre for Research on the Epidemiology of Disasters (CRED) (2012) is used. CRED collects data on the number of individuals that are affected (killed, injured or made homeless) disaggregated by disaster type, country and year. For the analysis I summed the number of individuals affected (excluding deaths) for each country-year for all natural disaster types. The disasters types included are: droughts, earthquakes, epidemics, extreme temperatures, floods, insect infestations, wet and dry mass-movements (such as landslides and avalanches), storms, volcanoes and wildfires. Man-made disasters such as industrial accidents, or transportation accidents are excluded.

The ability of states to handle political turmoil or natural emergencies and thus their incentives to declare states of exceptions, are likely dependent on the overall size of the population, as well as their financial capacity to tackle crisis. Countries with larger populations are perhaps more likely to experience conflict, and the number of people potentially affected by natural disasters is probably higher. Similarly, the ability to respond to emergencies under normal constitutional constraints may depend on the level of development. Low income countries are perhaps more easily overwhelmed by disasters and violence, and it is reasonable to assume that infrastructure and housing are more vulnerable to catastrophic events a priori.

The decision to declare states of exceptions may also depend on institutional factors. An indicator of government type is included, as well as a measure of regime stability (the age of defacto democracy in years). Presidential systems, for instance, may be less likely to declare states of exception, as executives in presidential systems may already have sufficient authority to respond to crisis, whereas parliamentary governments might be more constrained by their legislatures. Similarly, established democracies with stable constitutions may be less prone to respond to crisis by resorting to exceptional measures. I also account for the population weighted number of refugees and internally displaced persons in a country. Large refugee populations may overwhelm the administrative capacity of states, prompting exceptional responses. Finally, I address the temporal variation observed in Figure 2 by adding an

indicator for the post-9/11 period.

Table 2: Determinants of States of Exception

Regressor	State of Exception (0,1)		
	Model 1	Model 2	Model 3
Intercept	−4.893***	−3.792***	5.478**
	(1.183)	(1.321)	(2.387)
GDP per capita (logged)	−0.230***	−0.025	−0.343***
	(0.080)	(0.094)	(0.125)
Population (logged)	0.331***	0.112	0.447***
	(0.067)	(0.084)	(0.147)
Period Dummy (post 9-11)	0.389**	0.335*	0.340
	(0.171)	(0.189)	(0.230)
Political Violence (MEPV)	0.544***	0.502***	0.110
	(0.144)	(0.139)	(0.144)
Internally Displaced Persons (adjusted)	0.042***	0.034**	0.054*
	(0.016)	(0.017)	(0.029)
Age of Democracy	0.001	0.001	0.002
	(0.003)	(0.004)	(0.005)
Refugees (adjusted)	0.053***	0.036*	0.015
	(0.019)	(0.021)	(0.022)
Parliamentary (dummy)	−0.630**	−0.711***	−1.075***
	(0.255)	(0.297)	(0.379)
Semi-Presidential (dummy)	0.309	0.066	0.365
	(0.201)	(0.219)	(0.266)
Victims of Natural Disasters (logged)		0.130***	0.159***
		(0.030)	(0.036)
Violent Protests (logged)			1.213***
			(0.174)
Non-Violent Protests (logged)			−0.209
			(0.181)
AIC	864	705	528
Country-Years	838	641	566
Log-likelihood	−422	−341	−251

Note: Shown are logit coefficients and standard errors in parentheses; $^*p < 0.1$; $^{**}p < 0.05$; $^{***}p < 0.01$ (two-tailed). Accounting for potential temporal dependence via the inclusion of a cubic polynomial of time (i.e. the inclusion of regressors t, t^2, t^3) does not substantively affect the results reported here. See: Carter and Signorino (2010)

The estimated coefficients can be gleaned from Table 2. With the exception of the age of democracy all factors are statistically significant predictors of states of exception. More developed countries are substantially less likely; countries with larger populations are more likely to declare emergencies. The presence of large refugee and displaced populations also increases the probability of declarations of states exception. Similarly, the post-9/11 period has seen a statistically significant increase. Interestingly, presidential systems appear to be much more likely to declare states of exceptions than parliamentary ones, though not statistically discernible from semi-presidential systems of government.

Figure 3: Predicted Probabilities of Declarations of States of Exception
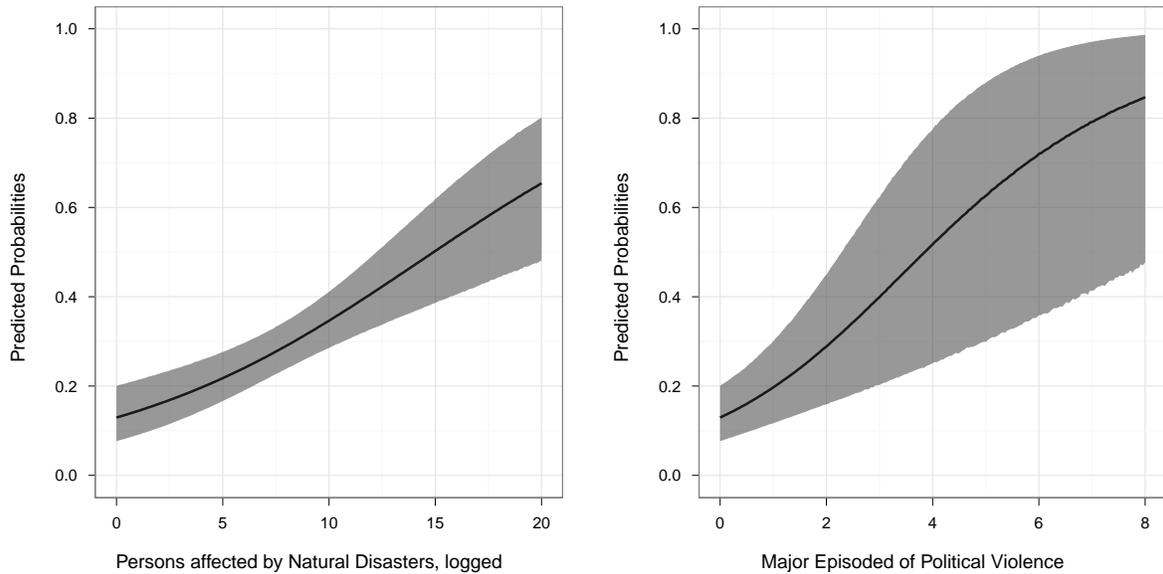
Shown are predicted probabilities and 95% confidence intervals of declarations of emergency for profiles holding all other factors at their means or medians. The profile for the left panel holds Major Episodes of Political Violence at zero, the profile for the right panel holds Persons affected by Natural Disasters at zero.

Figure 3 presents the predicted probabilities for states of exception for the two most obvious factors, violent conflict (MEPV) and the number of persons affected by natural disasters. The decision to declare states of exception is, as expected, dependent on the presence of an emergency both in the form of violent political conflict and natural disasters.

Having identified a host of explanatory factors influencing the declaration of a state of exception, substantively meaningful cutpoints were set for each measure to create a matched sample by means of coarsened exact matching (CEM). By manually setting cutpoints, it is possible to determine what constitutes a reasonable or close match and set (im)balance ex ante (Iacus, King and Porro, 2011a,b). The coarsening via the cutpoints effectively groups values of the pre-treatment confounders such that substantively indistinguishable values are assigned identical numerical values. For example, the difference between $5000 of GDP per capita and $5045.30 is likely not substantively relevant, and observations with these amounts would likely make good matches (ignoring other confounders). From a statistic standpoint the difference of $45.30 in GDP may, however, nevertheless be statistically significant and the sample imbalanced according to conventional tests. Observations that do not have close matches on potentially confounding pre-treatment covariates in both the treated and control groups, and which may therefore bias the estimated effects, are pruned from the dataset. The exact cutpoints chosen in the Coarsened Exact Matching procedure (CEM) can be found in Table 5 in the Appendix.

After preprocessing the data 245 country year observations remained in the matched sample, 396 were dropped because no close match was found. 144 of the remaining observations were control units, 101 treated observations (i.e. those declaring a state of emergency).[8] Although the coarsened exact matching procedure, makes balance checking less critical as imbalance is determined ex-ante, conventional balance tests are reported in Table 3.

As can be inferred from the columns under the pre-matching heading, the original sample was highly imbalanced with regard to the confounders identified in the previous section.[9] Only the post-9/11 period dummy was balanced when defining balance as p-values above 0.05. In terms of the mean difference between treated and control observations, democracies

[8]Increasing the coarsening of the matched-on confounders by reducing the number of cutpoints, of course, increased the resulting matched sample size but also worsened balance, substantially. The estimated post-processing effects for the larger but less balanced sample, however, were surprisingly smaller than those for the more balanced but smaller sample. Only estimates using the better balanced sample are reported here.

[9]Note that the test statistics were not computed for the government type indicators.

which declared a state of exception were on average about 7 years younger, about $4000 in GDP per capita poorer, and experienced more episodes of political violence, and larger scale natural disasters.

After matching the mean differences drop substantially across all confounders. Substantively, control and treated observations appear to be indistinguishable in terms of the mean differences. The mean difference in GDP per capita, for instance, drops to $157.70, while the mean difference in age is reduced to about 6 months. It should be noted, however, that the corresponding p-value of a t-test on the difference still suggests imbalance from a statistical standpoint, though the p-value for the bootstrapped Kolmogorov-Smirnov test suggests balance over the distribution. Although, the matched sample is arguably substantively balanced, at least in terms of the mean differences between treated and control observations, the remaining statistical imbalance will be addressed in the post-matching analysis by spanning the imbalance parametrically when computing effects.

5   Findings

To estimate the causal effect of declaring a state of exception on states behavior regarding human rights, the sample average treatment effect on the treated is computed. Because the matching procedure in some cases assigned more than one control unit (an observation that did not declare a state of exception) to a treated unit (an observation that declared a state of exception), the sample average treatment effect on the treated is computed as the weighted regression of measures of physical integrity rights violations on a constant and the treatment variable. Since the matched sample was not balanced statistically for all potential pre-treatment confounders, the regression also spans that remaining imbalance by adding these confounders as controls.

Table 3: *p*-Values for *t*-Tests and Bootstrapped Kolmogorov-Smirnov Tests

Covariates	Pre-Matching			Post-Matching		
	Mean Difference (Treated − Control)	*t*-Test *p*-Value	KS Test *p*-Value	Mean Difference (Treated − Control)	*t*-Test *p*-Value	KS Test *p*-Value
post 9-11 period	0.066	0.072	—	0.000	0.919	—
Internally Displaced Persons per 1000 capita	5.987	0.000	0.000	0.086	0.138	0.044
Major Episodes of Political Violence	1.036	0.000	0.000	0.133	0.001	0.052
Population, logged	0.849	0.000	0.000	0.033	0.111	0.041
Age of Democracy	−7.277	0.004	0.008	0.533	0.197	0.604
Refugees per 1000 capita	1.518	0.020	0.298	−0.037	0.050	0.571
GDP per capita	−3946	0.000	0.000	−157.7	0.001	0.265
Persons affected by Natural Disasters, logged	3.138	0.000	0.000	−0.742	0.001	0.006

Note: This table presents p-values for *t*-tests (two sample for pre-matching; paired for post-matching) and bootstrapped Kolmogorov-Smirnov tests (to assess the difference between the distribution of control and treatment observations). Defining balance as all p-values higher than 0.05, these samples are potentially imbalanced. Those potential confounders, are included as explanatory variables in the post-matching analysis. Multivariate Imbalance Measure prior to matching and $\mathcal{L}_1 = 0.908$ and $\mathcal{L}_1 = 0.516$ after.

Figure 4 reports the sample average treatment effects on the treated for the inverted Cingranelli and Richards Physical Integrity Rights Index (CIRI), The aggregate Level of Torture (LoT) from the Ill-Treatment and Torture Project (ITT), and the Political Terror Scales (PTS). As can be seen for all three measures of physical integrity rights violations, treated observations were statistically more repressive, or more likely to be accused of torture. It is important to note that all three measure employ different scales. PTS is measured on a 5-point scale, CIRI on a 9-point scale, and the LoT uses 6 categories. The effect thus is strongest regarding Ill-Treatment and Torture allegations (ITT) and weakest for the Cingranelli and Richards measure. Overall, however, the size of the effects are substantively meaningful.

Figure 4: Sample Average Treatment Effects on the Treated
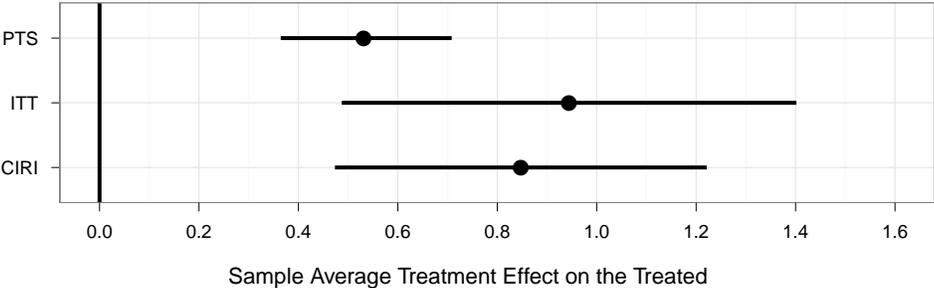
Reported are the sample average treatment effects on the treated and 95% confidence intervals for three measures of physical integrity rights violation, CIRI, ITT (LoT), and PTS using the original scaling of these measures.

Given the categorical nature of these measures, the estimation of linear treatment effects may not be appropriate. I therefore also computed the effect of declaring a state of exception on ill-treatment and torture allegations by estimating a weighted order probit, also controlling for all potential confounders. The estimated coefficients and standard errors are reported in Table 4.

The results suggest that the variation in allegations is largely due to three factors, the size of the population, the presence of internally displaced individuals in the country, and whether or not a state of exception was declared. All three measures are statistically significant predictors of ill-treatment and torture allegations after preprocessing the data. Of the remaining factors non attain statistical significance at conventional levels.

Table 4: Post-Processing Analysis

Regressor	Coefficient	Std. Error
State of Exception	0.797***	0.162
GDP per capita (logged)	0.066	0.092
Population (logged)	0.496***	0.072
Period Dummy (post 9-11)	0.049	0.164
Major Episodes of Political Violence	-0.007	0.073
Internally Displaced Persons per 1000 capita	0.033***	0.010
Age of Democracy	-0.003	0.004
Refugees per 1000 capita	0.050	0.034
Parliamentary (Dummy)	-0.256	0.306
Semi-Presidential (Dummy)	-0.079	0.207
Persons affected by Natural Disasters (logged)	-0.040	0.025

Note: Shown are coefficients and standard errors of a weighted order probit regression on the 6-point LoT-Scale; $^*p < 0.1$; $^{**}p < 0.05$; $^{***}p < 0.01$ (two-tailed).

The predicted probabilities across the six categories of ill-treatment and torture allegations are plotted in Figure 5. They are reported for two profiles, holding all values at their respective means and median but varying whether or not a state of emergency was declared. As is apparent, the predicted probabilities for the profile in which no state of exception was declared differs sharply from the one which did. In particular, the probability that Amnesty International does not allege ill-treatment and torture, drops from about 0.5 without a declaration of a state of exception to below 0.2 if a exception was declared. At the same time the probability of Amnesty International alleging systematic torture and ill-treatment jumps for just over 0.15 to well over 0.4. In short declarations of states of emergencies and the

Figure 5: Predicted Probabilities of Ill-Treatment and Torture Allegations
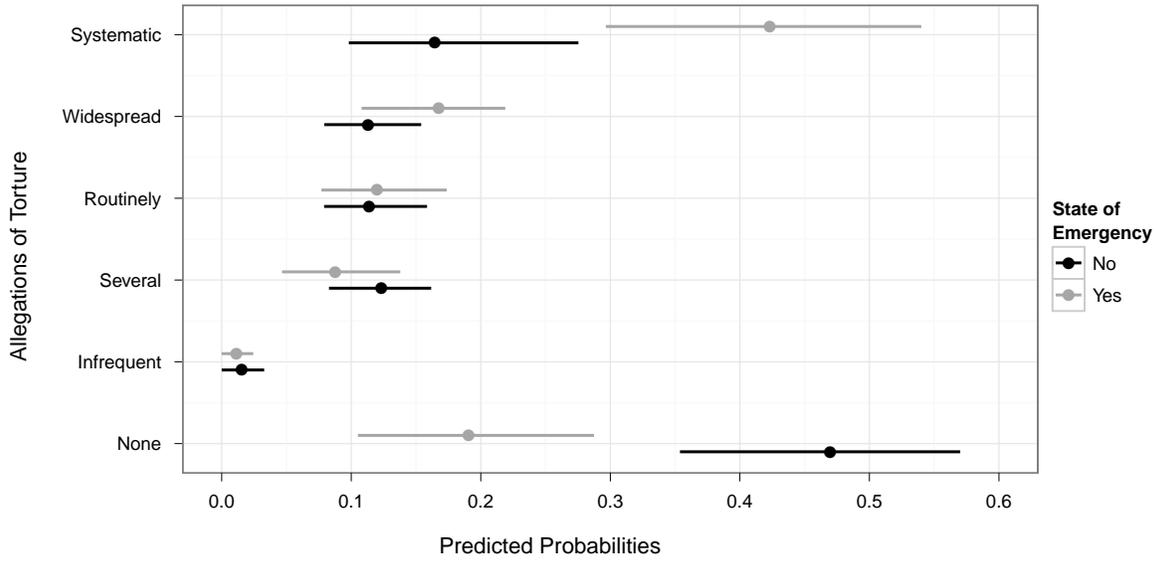
Shown are the predicted probabilities and bootstrapped 95% confidence intervals for two profiles, holding all other confounders at their respective means or medians while varying the treatment variable.

arguably temporary suspension of certain rights has significant implications for whether or not violation of torture are alleged by Amnesty International.

In section 2, I argued that according to Agamben's argument the state of exception effectively redefines membership in the polity. A declaration of a state of exception could thus be seen as a means to selectively suspended rights of certain individuals and to determine when and where the domestic democratic peace applies. I hypothesized that quasi- or non-citizens who traditionally lack *Voice* such as prison inmates, illegal immigrants, and marginalized segments of society would be particularly at risk of falling outside the domestic democratic peace. Furthermore, I argued that in states of exception executive constraints are relaxed and Davenport's *Veto* mechanism undermined.

I therefore finally attempt to evaluate to what degree declarations of states of exception determine the behavior of different state actors and to assess if particular groups are disproportionately likely to become victims of physical integrity rights violations. To do so, I again

take advantage of data from the Ill-Treatment and Torture Project, which disaggregates ill-treatment and torture allegations by perpetrator and victim types. For the matched sample defined above, sample average treatment effects on the treated are computed for these disaggregated measures of torture allegations. As before, they are weighted linear regressions of allegations on a constant, the treatment indicator, and all previously identified confounders. The effects are reported in Figure 6.

Figure 6: Disaggregated Sample Average Treatment Effects on the Treated
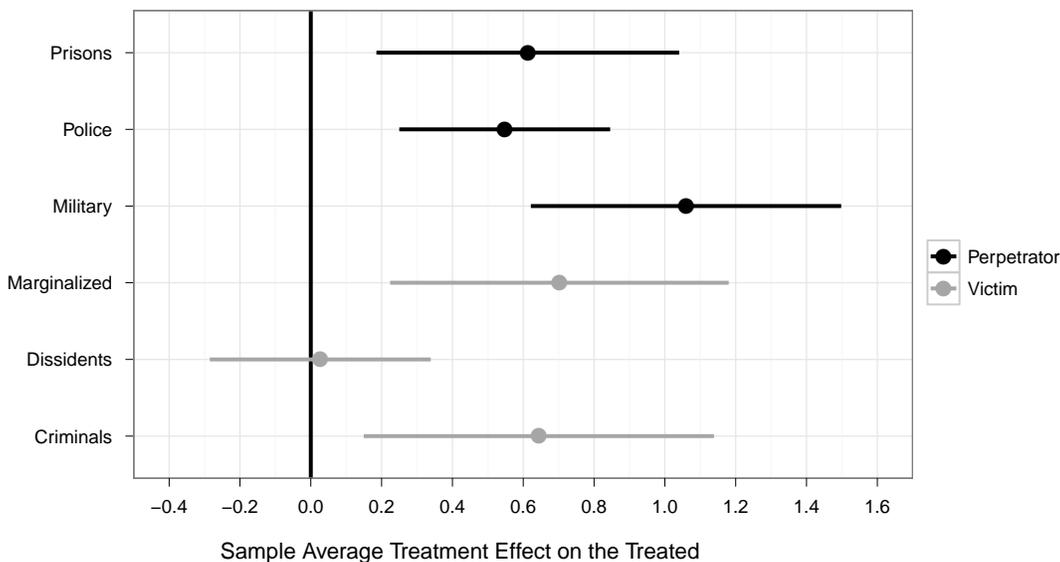
Reported are the sample average treatment effects on the treated and 95% confidence intervals for Ill-Treatment and Torture Allegation disaggregated by perpetrator and victim types.

Consistent with the hypothesis above, declarations of states of exception appear to unshackle executive constraints. The positive and statistically significant effects for three executive agencies, the police, the prison system, and the military, are all substantively large. In particular, the military is much more likely to be accused of engaging in ill-treatment and torture during states of exceptions. These effects, however, also appear to be consistent with conventional arguments regarding the so called *Law of Coercive Responsiveness*, according to

which executives when challenged or threatened will allow "authorities [to] generally employ some form of repressive action to counter or eliminate the behavioral threat" (Davenport, 2007a, 7).

Yet when considering the effects for three types of victims, namely marginalized individuals, dissidents, and criminals, it appears that eliminating challenging or threatening behavior may not be the rational of the violations. If violent challenges and dissent were crushed during states of emergency, the estimated effect for dissidents, as seen in Figure 6, would likely be larger and significant.[10] Instead the effects suggest that marginalized segments of society, as well as criminals, are at higher risk during states of exception. This is somewhat surprising considering the number of states of exceptions declared with an explicitly political background. Considering that illegal immigration and refugee flows are political phenomena, this may be explained. In other words, emergencies with a political background may not just be declared in times of civil war, terrorism, or violent conflict but also for non-violent challenges to the status quo.

6   Conclusion

Violations of the right to the physical integrity of the person, such as torture, and cruel and unusual punishment, extra-judicial executions, disappearances, and political imprisonment have long been treated as an anomaly in democratically governed societies. In the current literature on repression and human rights, violations of these rights are by and large seen the hallmark of autocratic and repressive regimes. Only in times of extreme political turmoil or during involvement in international and civil wars will democracies resort to violent coercion and aggression against individuals under their own jurisdiction. Whereas physical integrity rights violations are considered the norm in autocratic contexts, they are viewed as exceptional in democracies. I argued that though exceptional, violations of physical integrity

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[10]It should be noted that allegations of ill-treatment and torture, where the victims are dissidents, are relatively rare in democracies.

rights in democratic regimes are neither rare or uncommon, nor are they limited spatially or temporally to intra or international conflicts and mass dissent or protest. The seminal *Domestic Democratic Peace* in other words, is somewhat of a euphemism.

Relying on the mechanisms proposed in the literature, namely Davenport's *Voice* and *Veto* – according to which the presence of democratic institutions is associated with a reduction of states' repressive behavior – I identified the institution of the state of exception as a problematic tool in the democratic arsenal, and provided empirical evidence consistent with this interpretation. When democracies declare emergencies to respond to political turmoil or natural disasters, citizens are at increased risk to have their rights violated. The victims of violations, however, tend to be the marginalized and those lacking access to the political process rather than dissidents posing a threat to the regime, as one would expect from the traditional repression account. This finding, suggests that the leader centric approach with its focus on national security and regime threats is insufficient to explain violations in democracies. Why physical integrity rights of the poor, for example, are more likely to be violated during the state' response to a natural disaster, is beyond the scope of this descriptive account and a question for future research.

The state of exception, however, must be considered a factor that enables the circumventing of otherwise pacifying democratic institutions and the creation of conditions that allow for the violation of physical integrity rights to nevertheless occur. I argued that the state of exception achieves this effect because it allows for the re-definition of membership in the democratic political order by suspending constitutionally guaranteed rights and by unhinging the constraining and pacifying effects of democratic institutions.

A Appendix

Table 5: Coarsened Exact Matching Cutpoints

Covariates	Bin 1	Bin 2	Bin 3	Bin 4
GDP per capita (Income Category)	< $1,005 low	$1,006 – $3,975 lower middle	$3,976 – $12,275 upper middle	> $12,276 upper
Population Size	< 10 million	10–50 million	50-100 million	> 100 million
Age of Democracy	< 10 years	10–20 years	> 20 years	
Major Episodes of Political Violence	0-3 (little or no)	4-7 (low)	8-11 (moderate)	12-15 (serious)
Internally Displaced Persons per 1000 capita	< 0.001	> 0.001		
Refugees per 1000 capita	< 0.001	0.001–1	> 1	
Year (Period)	1995–2000 pre 9-11	2001–2005 post 9-11		
Persons affected by Natural Disasters	< 10,000	10,000 – 50,000	> 50,000	
Government Type	Parliamentary	Semi-Presidential	Presidential	

Note: Cutpoints for Major Episodes of Political Violence between 16–25 were not required because the maximum for the sample of democratic country years does not even exceed 11.

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