

Support for International Law and the Impact of Political Norms

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Who are the supporters of international courts and laws to ensure these institutions have the legitimacy they need to be effective? Public support for international courts and tribunals is and will be critical in determining whether these institutions will become legitimate and effective conflict resolution tools in international relations. I develop an explanation of public opinion concerning international humanitarian law and international Courts that highlights the roles of both individual and national characteristics. At the national level, I suggest that support should increase as exposure to democratic and human rights norms grows. Human rights and the democratic rule of law are the core mission of international justice and to the extent these norms are prevalent in the education and political socialization people experience in their country of residence, we should find that they are as supportive of these ideals internationally as they are nationally. However, these ideals are in fierce competition with another set of norms centered around sovereignty, national security and national interests. I also hypothesize that individuals residing in states that have significant external or internal security concerns will be less likely to support international laws and courts. I analyze the preferences of publics throughout the world using data from the International Committee for the Red Cross's People on War survey regarding international law and the role of international courts in ameliorating the impact of conflict violence and find staunch support for most of the hypotheses.

Introduction

International courts and laws that concern the protection of individuals from war crimes, crimes against humanity and genocide have become increasingly prominent since the end of the Cold War. While their short and long-term success depends on many factors, among the most important is public acceptance and support. Like domestic judicial systems that are designed to protect the public from harm, international tribunals are also created to provide justice and deter future violations of international laws. But where domestic courts provide a public good for their constituents who are served by the judicial system, do international courts have stakeholders and constituents whose support is crucial for their functioning? International courts and tribunals are created to realize aspirational goals of ending impunity for war criminals, protecting human rights and fostering an international environment guided by the rule of law. They seek to regulate the behavior of states and non-state actors alike to elevate if not prioritize the protection of civilians in national security policy. Yet, when states ratify international laws, oversee international courts, and participate in their functioning, the benefits they receive (e.g., a more rules-based international system) are more intangible and remote than practical and contemporary. Furthermore, because the measurable benefits resulting from the work of these tribunals are relatively infrequent and invisible, there are few natural constituencies for international law that can powerfully advocate on its behalf. Without natural and powerful pressure groups in civil societies to advocate on behalf of international law, support for tribunals and their missions must be won among publics who

must be convinced to support one ideal—international law—over another—state sovereignty and security. Hence, public support for international courts and tribunals is and will be critical in determining whether these institutions will become a legitimate and effective conflict resolution tool in international relations. As deGuzman (2012, 268) writes, “The globalization of communications increasingly means that an institution’s legitimacy depends on the opinions of ordinary citizens around the world.”

Scholars are increasingly turning their attention to understanding public opinion on transitional justice more generally and international courts in particular (Dancy et al. 2019; Meernik and King 2019). I am interested in the extent of public support for international laws and courts that seek to protect civilians against war crimes, crimes against humanity and genocide and demonstrate that there is no impunity for international crimes. Is there a public constituency that supports these institutions and believes in the principles they seek to uphold? Are publics around the world supportive of international laws and courts? Popular impressions of the major remaining tribunal, the International Criminal Court (ICC), have been hurt by recent controversies involving problematic cases in Africa, but also for its inability to provide justice in other conflict situations, such as Syria. Therefore, I analyze the preferences of publics throughout the world using data from the International Committee for the Red Cross’s People on War survey regarding international humanitarian law and the role of international courts in ameliorating the impact of conflict violence.

I develop an explanation of public opinion concerning international courts and the core crimes they address—war crimes, crimes against humanity and genocide—that highlights the roles of both individual and national characteristics. At the national level, I suggest that support for international courts should be greater in nations whose political systems practice democracy and protect human rights, which are typically key values and practices among adherents to international laws and courts. However, these ideals are in fierce competition with another set of norms centered around sovereignty, national security and national interests. When the pursuit of international justice leads to the pursuit of one’s own fellow citizens as would-be war criminals, I expect support for this justice will be eclipsed by concern for one’s country and fellow citizens (Chapman and Chaudoin 2013; Chaudoin 2016). Thus, while individuals may profess support for the general principles of international law, especially when it pertains to other countries’ war criminals, when its application threatens their own state’s sovereignty, we are likely to see a shift in support. “International justice for thee, but not for me”, to paraphrase. Hence, I also evaluate the salience of national security concerns in support for international courts and the international laws over which they exercise jurisdiction. These competing norms ultimately play out in the values and preferences of individuals.

First, I review the emerging research on public opinion and transitional justice. The extant literature has mostly and understandably focused on the beliefs and preferences of people in those societies that have undergone some type of transitional justice process (e.g., the former Yugoslavia, Rwanda). I seek to draw out the broader lessons this research conveys regarding how personal experience with conflict and transitional justice affects individuals’ support for the often-difficult march to justice. I next outline my expectations regarding the relative impact of exposure to human rights norms and national security concerns. I provide a brief overview of the key descriptive statistics and test a multivariate regression and ordered probit analyses to assess the validity of these hypotheses. I conclude by discussing what the future might hold for international justice in an era of rising nationalism.

Background and Literature Review

The prevalence of international courts and tribunals grew rapidly during the “justice cascade” (Sikkink 2011) of the 1990’s. In response to the ongoing tragedy of ethnic massacres in the former Yugoslavia in the early 1990’s, the United Nations Security Council created the first international tribunal—the International Criminal Tribunal for the former Yugoslavia (ICTY)—in 1993. And although there were significant problems at the outset regarding international cooperation, funding, the rather inchoate nature of international human rights jurisprudence, and the apprehension of suspects, eventually the ICTY discharged all of the cases it initiated. All indicted individuals were either captured, died, or had their case transferred to lower courts, and the ICTY closed its doors in 2017-2018. Its sister tribunal—the International Criminal Tribunal for Rwanda (ICTR)—was created in 1994 to address the Rwandan genocide, and the ICTR to shut its doors in 2017-2018 after addressing nearly all of its cases. The Special Court for Sierra Leone (SCSL) similarly concluded its business after prosecuting those who took part in that civil war and committed crimes against humanity, including one of the ringleaders of the conflict—Liberian President Charles Taylor. For a period of time numerous courts were created to deal with specific conflicts—including the Extraordinary Chambers in the Courts of Cambodia to address the Khmer Rouge killing fields of the 1970’s; the Special Panels for Serious Crimes in East Timor to deal with the aftermath of East Timor’s breakaway from Indonesia; the Special Tribunal for Lebanon to investigate the assassination of Lebanese Prime Minister, Rafik Hariri, and the Kosovo Specialist Chambers and Specialist Prosecutor’s Office to confront crimes committed by Kosovar Liberation Army in the late 1990’s and early 2000’s. None of these courts, however, have succeeded in the same manner as the ICTY, ICTR, and SCSL. While the Cambodian courts have issued a handful of judgments that provided some long-delayed justice for the people of that country, there have been problems with gaining the necessary national and international support these tribunals need to succeed.

In part as a way to overcome the challenges of continually creating temporary and specific tribunals to handle particular conflicts, the international community came together in Rome in the summer of 1998 to create the International Criminal Court. With its permanency, global mission and with the benefit of the substantial jurisprudence developed by the ad hoc tribunals, the ICC is intended to institutionalize the norms and processes of international justice to end impunity for international crimes, advance the rule of law and deter future violations. Established in 2002, located in the capital of international justice, The Hague Netherlands, and theoretically enjoying the support of the 123 members of the States Parties Assembly (those countries that have signed and ratified the ICC treaty) the ICC should be in an ideal position to advance these ideals. Nonetheless, the ICC has struggled to obtain the support of the international community in general, its member states in particular and the UN Security Council, which referred two situations to the ICC (Sudan, 2005 and Libya, 2011), but did not provide significant assistance to the ICC. While states have talked the talk of human rights and international justice, their willingness to walk the walk to call out noncompliant states and demand their assistance in the apprehension of suspects and the acquisition of evidence has been notably lacking. Indicted war criminals like Sudan’s former president, Omar al-Bashir, have been allowed to travel the globe with little fear of consequence. To be sure, these tensions are to be expected as conflict situations engage national security interests as well as human rights concerns. Nonetheless, the Assembly of States Parties and the UN

Security Council have struggled to muster the level of collaboration and international muscle needed to vigorously enforce the law as happened with the ad hoc tribunals.

There are many reasons for these shortcomings, such as a perception of anti-African bias, the lack of leadership from key major powers like the United States, the difficulties of addressing so many conflict situations, and a lack of cooperation from many states that have not complied with ICC requests. When state support for international justice is already precarious, the role of public opinion in either encouraging or discouraging regime leaders from supporting the ICC is even more important. Whether leaders tap a wellspring of suspicion of international organizations more generally as is found in the United States with the hostility of the Republican party to the ICC, or they stoke such fears as in Kenya (Dancy et al., 1999), international courts must contend with a growing resistance to their mission from many states. If public opinion is becoming less supportive of international justice because of these forces, it suggests that the relevance of international justice may diminish without the staunch support it requires to conduct its complex and controversial work. Therefore, there is a strong need to investigate and identify which factors explain public opinion regarding international justice and the international courts that confront war crimes, crimes against humanity and genocide. Public opinion will play a powerful role taken together of granting these institutions the support and legitimacy they need to function properly.

There is a growing body of knowledge on public preferences for different types of transitional justice (Kim and Hong 2019); the impact of exposure to violence on support for retributive versus restorative types of justice (Elcheroth 2006; Spini et al., 2008; Elcheroth and Spini 2009) and opinion formation in nations that have been the focus of international tribunals (Clark 2009; Dancy et al., 2019; Ivokovic 2006; King and Meernik 2017; Klarin 2009; Meernik 2015; Meernik and King 2019; Orentlicher 2008; Subotic 2009). More generally, scholars have found that individuals are motivated to support international justice, or prefer its competence over the corruption, incompetence and bias of local courts. Elcheroth and Spini (2009, 190) find in their research that when communities experience violence, they often, “become more critical toward local authorities and more supportive of international institutions that prosecute human rights violations”. On the other hand, there is also research to suggest that many individuals who experience human rights violations are less likely to seek the retributive justice of the courts (Elcheroth 2006). Many individuals may simply wish to forget the events of the past because of the severe traumas they experienced; because they view contentious trials as threats to a fragile peace (Kim and Lee 2014; Samii 2013); or may simply believe that justice, no matter who delivers it, will privilege the rich and powerful. In short, there are ample reasons to believe individuals who have experienced human rights violations may support or oppose efforts to prosecute perpetrators (Dancy et al., 2019).

Perhaps the most analyzed populations are those from the former Yugoslavia who have been surveyed over many years regarding their opinions of the ICTY. For example, research has shown that public support for the International Criminal Tribunal for the Former Yugoslavia (ICTY) heavily depends on whether the ICTY was perceived as prosecuting members of one’s own ethnic group or the “other” ethnic groups (Hagan and Ivkovic 2006; Clark 2009; Klarin 2009; Orentlicher 2008; Subotic 2009). Serbs more often perceived the ICTY as inherently biased against their ethnic brethren as most of those who were prosecuted for war crimes, crimes against humanity and genocide were Bosnian Serbs, or Serbs from Yugoslavia/Serbia. Croatian support tended to be more conditional. When Croats viewed the indicted individual as a war hero (e.g., General Ante Gotovina) there was little support and

even less cooperation with the ICTY. On the other hand, Croats were naturally supportive of efforts to prosecute Croatian Serbs who perpetrated human rights atrocities when they sought to ethnically cleanse Croats from their Serbian microstates. Bosnian Muslims and Kosovar Albanians typically evinced the greatest level of support as they were generally the victims in the conflict. However, cooperation with the ICTY and support for the punishment meted out to war criminals also varied when the accused was one of their own. This was particularly the case with the Kosovar Albanian leadership that sought to undermine trials of their own leaders so much that ultimately a separate tribunal had to be created to prosecute these individuals. More than anything the experience of the ICTY demonstrates the heavily conditional support for international justice in nations that have become the wards of the international justice system. Indeed, as “constituents” of these courts we should expect that people will have strong opinions about and vested interests in their work.

More generally, we have learned that in states that were subject to international tribunals (e.g., the former Yugoslavia, Kenya), popular impressions of these courts hinge considerably on one’s identity and experiences during the conflict (Dancy et al., 2019; Meernik 2015). Dancy et al., (2019) argue, however, that this type of support is conditional on the type of regime from which individuals must seek justice. They write:

Those skeptical of home governments will support outside intervention. This is not true in developed countries, where a negative valuation of domestic governing institutions correlates with a negative orientation toward international institutions like the United Nations (Torgler 2008) and European courts (Voeten 2013). However, communities that have lived amid social breakdown distrust domestic institutions, which have repeatedly failed to solve internal crises. As a result, they evince greater hope in international involvement because it may alter course, or reform what is broken (Elcheroth and Spini 2009; Meernik and King 2014).

Much of the research on public opinion and international courts has centered on public opinion in states affected by international justice where these publics naturally have strong, a priori opinions about justice filtered through their own personal, community and national contexts (Ford 2012). My focus, however, is on public support more generally across the international community. What do we know about public preferences when individuals do not have such vested interests in the outcomes of international justice? Mostly because of a lack of cross-national, public opinion data, research in this area has been scant. Meernik (2015) finds that when individuals share characteristics with those accused of international crimes, such as religion or the region in which they reside, they are less desirous of ICC involvement (see also Chaudoin 2016), while Meernik and King (2014) find in their cross-national study of opinions on the appropriateness of prosecution that individuals’ perceptions of the legitimacy of the institution and their views regarding morality are critical factors. It is especially important to develop models of cross-national research. To this end, I next describe how I will blend together the extant research findings on public opinion and international justice to hypothesize how both normative values and national interests influence individual attitudes as well as secondary expectations regarding the impact of knowledge and information.

Competing Norms and Public Support for International Justice

There are two core values that are at the heart of international courts and jurisprudence that concern war crimes, crimes against humanity and genocide—devotion to human rights and the

rule of law. As Robert Jackson, the Chief US Prosecutor at Nuremberg so famously said in his opening remarks, “The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that civilization cannot tolerate their being ignored, because it cannot survive their being repeated”. International tribunals are founded on this principle that human rights must be protected through the rule of law because without those guarantees of justice and security, humanity will suffer the consequences of unconstrained leaders who prioritize power over people. In effect, the international rule of law to protect the rights of innocents protects us all. As scholars have noted, there are many elements to the rule of law. There are thin definitions that emphasize the adherence to the black letter of the law and thick definitions where the content of the law matters as much as adherence to law (Skanning 2010). I define rule of law more generally according to the core or “thin” elements and consider adhering to the law as more indicative of the rule of law than the nature of the law itself. In that vein, the definition by the United Nations is appropriate: “the rule of law is a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards”¹. To believe in these values of human rights and the justice delivered through the rule of law is to also believe in two of the core values of democracy. Therefore, my first expectation is that individuals who reside in states with a demonstrated commitment to the democratic rule of law and the protection of human rights will be more likely to support their expression at the international level.

To be sure, there is not an exact correspondence between rule of law and democracy. There are many nations that practice a form of rule of law that are not necessarily democratic. Some democratic states can have somewhat messy legal systems which are in a state of flux or subject to the wishes of the powerful, such as Ukraine and other former Soviet republics. Generally, however, democratic states are more likely than not to provide some degree of rule of law. Indeed, many such states may be seeking to improve their rule of law (Moravcsik 2000). Thus, I will talk about rule of law and democracy as referring to those states where both are practiced.

I make a fairly basic assumption regarding exposure to such norms at the domestic level, which is that individuals who reside in countries that practice the democratic rule of law and uphold human rights will learn the value and universality of these norms, even if there are divisions over whether to promote such values actively or passively. Individuals learn these values through political socialization in education, civil society, and through the practice of politics as leaders, government employees, and voters (Inglehart 1981; Maoz and Russett 1992). To be sure, some states more actively express these ideals and promote human rights and democracy than others. Some governments may emphasize democratic principles more so than human rights. Citizens living in democratic, open and rules-based societies are also more likely to be exposed to new ideas and information about developments like the International Criminal Court. Individuals residing in more repressive countries would likely find such information embargoed for its potential in undermining an anti-democratic order (see also Meernik and Guerrero 2014; Snyder and Vinjamuri 2003; Zvobgo 2019).

There is, however, an alternative explanation for the relationship between exposure to normative values and support for international jurisprudence and international tribunals. Some individuals, who have experienced socialization and exposure to democratic norms, may exhibit frustration and disillusionment with these ideals if they do not believe such

principles have meaning in their lives (see Kotzian 2010; Van Ham, Thomassen, Aarts and Andeweg 2017 on public beliefs in democracy). They may look longingly at more authoritarian leaders like Vladimir Putin of Russia for inspiration. Hence, instead of enthusiasm and engagement with democratic norms and human rights practices, some individuals may become inured to their benefits as a result of this long-term exposure. Their exposure to norms of human rights and the democratic rule of law may not necessarily have a negative impact, but it may dampen ardor for externalizing and advancing these ideals. On the other hand, those who have not had either the exposure to democratic and human rights norms, or any kind of disillusionment with these ideals may see these norms in a very different light as aspirational goals they wish for their country to achieve. The repression they experience may lead some individuals to place their hopes in values that elevate the individual over the state, and governance by a body of law rather than the will of one person. I suggest an alternative hypothesis that individuals from states that experienced less democracy and fewer human rights protections will offer greater support for international law.

I make two basic arguments regarding the impact of human rights and the democratic rule of law. First, for hypothesis 1, I contend that individuals living in democratic states will be more likely to support key principles of international protections against war crimes. Second, and analogously, I predict that individuals from states that enjoy better human rights protections will be more likely to support these key principles of international law and the relevant international tribunals. However, I also suggest that these same two factors may exercise the opposite effect. I discuss the measurement of the dependent variables later.

Hypothesis 1a: Individuals residing in states with higher levels of democracy will be more likely to agree with the principles of international humanitarian laws.

Hypothesis 1b: Individuals residing in states with lower levels of democracy will be more likely to agree with the principles of international humanitarian law.

Hypothesis 2a: Individuals residing in states with higher levels of democracy will be more likely to believe that international courts are effective.

Hypothesis 2b: Individuals residing in states with lower levels of democracy will be more likely to believe that international courts are effective.

Hypothesis 3a: Individuals residing in states with higher levels of human rights protections will be more likely to agree with the principles of international humanitarian law.

Hypothesis 3b: Individuals residing in states with lower levels of human rights protections will be more likely to agree with the principles of international humanitarian law.

Hypothesis 4a: Individuals residing in states with higher levels of human rights protections will be more likely to believe that international courts are effective.

Hypothesis 4b: Individuals residing in states with lower levels of human rights protections will be more likely to believe that international courts are effective.

Ideals must always be balanced against risk and the realities of the international environment. States that support the international rule of law, especially through signature and ratification of the ICC treaty, must consider how their regime will respond to allegations of violations of these laws (Goodliffe and Hawkins 2006, 2009; Hathaway 2002, 2007; Kelley 2007; Zvobgo 2019; Zvobgo and Chaudoin 2020). Some states may assume that through a

commitment to such norms, extensive training and aversion to international military excursions they can avoid being placed in such situations. Other states may believe that whatever violations of international law their forces might be accused of committing, their national courts will be able to properly settle such allegations, in which case intervention by an international court would be unlikely. For regimes that support international justice and belong to the ICC, the risks inherent in either scenario 1 or 2 for engendering detrimental foreign policy consequences are quite small. Hence, such states generally work with and support international courts. On the other hand, some regimes with activist and more militarily-oriented foreign policies may perceive much greater risk in international justice in general and membership in the ICC in particular because of the possibility that somewhere, some of their troops, or perhaps some of their allies may commit violations of international law (Hathaway 2002, 2005; Helfer and Slaughter 1997; Kocs 1994). Their risk aversion may lead to a greater reluctance to join the ICC, or support its intrusive investigations and trials. The United States, China, Russia, India, Israel and other large countries with powerful militaries have not joined the ICC and sought to tamp down if not prevent its exercise of authority.

It is not just the powerful states that have reason to be concerned about international courts. States that are experiencing internal conflicts may also run the risk that their strategies and those utilized by non-state armed actors could attract the attention of the international prosecutors (Gilligan 2006; Jo and Simons 2016; Rudolph 200; Simons and Danner 2010). In fact, nearly all of the conflicts investigated by the international tribunals have concerned internal conflicts, albeit with international involvement (e.g., Bosnia, Sierra Leone, the Democratic Republic of the Congo, Uganda, Libya, Sudan). Many of the protections afforded by the Geneva Conventions are relevant during internal conflicts, as well as protections against genocide and crimes against humanity. Regime leadership in such states can be expected to elevate discourse focusing on national security and threat when such conflicts arise. When one's society is under threat from within, individuals may become more likely to think in terms of personal security and safety, which are directly implicated by the threats to national, internal security (see Dancy et al., 2019; Voeten 2013; Zvobgo 2019). When individuals live in nations experiencing such threats, I suggest that they privilege concerns pertaining to security rather than international law. While rebels may use the language of rights, the rule of law and victimization to win over potential constituents, governments can be expected to focus on fear-based responses to internal threats and thus dampen enthusiasm for international justice. We should find that individuals who reside in such states have been exposed to such concerns and the risks that might befall their heroic armed forces should they fall into the clutches of an activist and intrusive international court. Therefore, I suggest the following:

Hypothesis 5: Individuals residing in states that engage in more militarized interstate disputes will be less likely to agree with the principles of international humanitarian law.

Hypothesis 6: Individuals residing in states that engage in more militarized interstate disputes will be less likely to believe that international courts are effective.

Hypothesis 7: Individuals residing in states involved in an internal conflict will be less likely to agree with the principles of international humanitarian law.

Hypothesis 8: Individuals residing in states involved in an internal conflict will be less likely to believe that international courts are effective.

The People on War Survey

To assess these hypotheses, I utilize data from the People on War survey carried out at the behest of the International Committee of the Red Cross in 2016.ⁱⁱ This is a global survey of over 17,000 individuals in 16 countries. While relatively brief and specific regarding the range of questions on international humanitarian law and the role of the Red Cross, it contains a great deal of data on individuals' beliefs regarding the permissibility of certain actions during wartime as well as their attitudes regarding international courts. I create two dependent variables from these data. First, I look at support for the principles of international humanitarian laws relevant to the international courts through a series of questions asking individuals' views about actions that are considered to violate the Geneva Conventions on War Crimes. I utilize six such questions to create an additive scale of support for international law. These questions are:

Q2. What about attacking enemy combatants in populated villages or towns in order to weaken the enemy, knowing that many civilians would be killed? Is that wrong or just part of war?

Q3. What about depriving the civilian population of food, medicine or water in order to weaken the enemy. Is that wrong or just part of war?

Q4. What about attacking religious and historical monuments in order to weaken the enemy. Is that wrong or just part of war?

Q5. What about attacking hospitals, ambulances and health care workers in order to weaken the enemy. Is that wrong or just a part of war?

Q9. Humanitarian workers are sometimes injured or killed as they are delivering aid in conflict zones. Is that wrong or is that just part of war?

Q10. What about torture. Is that wrong or just part of war?

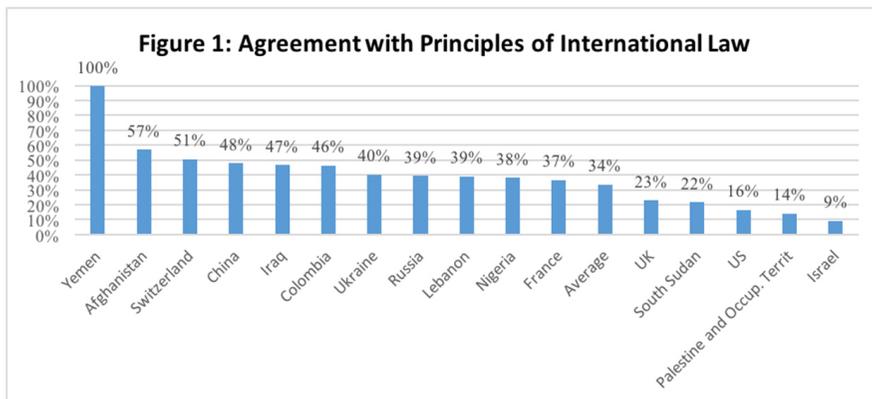
The possible answers are "Wrong"; "Part of War"; "I don't know"; and "I prefer not to answer". I sum the number of times an individual identifies these actions as "Wrong". One could make the argument that these questions tap into people's knowledge more than values. However, individuals are clearly asked to give their opinions as they are advised that in answering these questions that they should, "...give your opinion, even if you have little knowledge of the subject".ⁱⁱⁱ Further, they are simply asked if these actions are "wrong" or "part of war", not whether they are, in fact, illegal.

I utilize a second dependent variable that measures individuals' views regarding the effectiveness of international courts. The survey questions read, "Here is a list of some separate ways to reduce the number of victims of war. Rate each option below on the scale of not very important, a little important, somewhat important and extremely important". Respondents are then given a series of options for reducing the number of victims, one of which is, "increasing accountability for atrocities through international courts"^{iv}. Individuals could indicate that such courts were "not very important"; "a little important"; "somewhat important" and "extremely important". While the ICC is not specifically cited, it is the most prominent of all the international courts at present and so we would expect that the ICC will loom large, if not dominate such responses. Regardless, this measure will help us better

understand how individuals perceive the impact of international tribunals. For these analyses I use an ordered probit model.

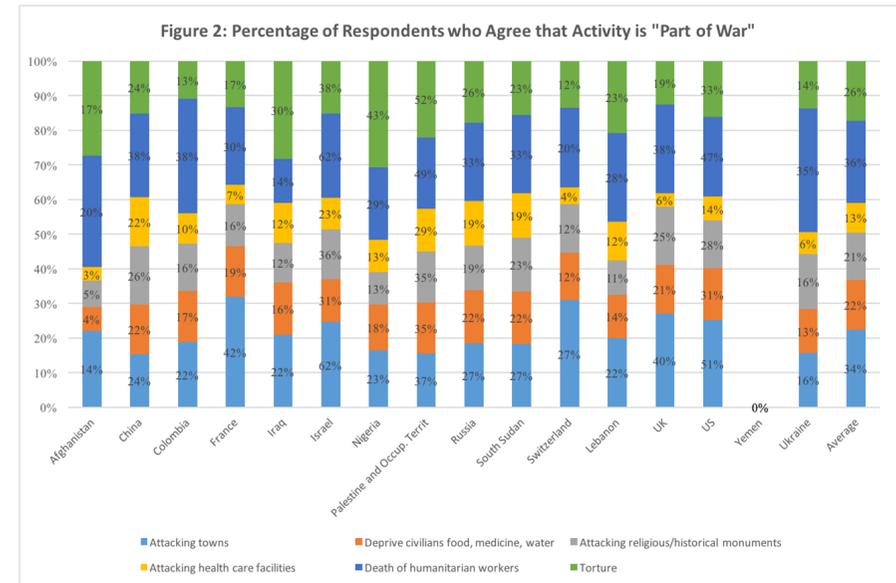
I use the standard Polity data to measure democracy (“-10” – “10”) and the Political Terror Scale data to measure human rights in states.^v I take the average of the State Department derived and Amnesty International derived measurements from these data to create one, composite measure. For both the democracy and human rights variables I use their average scores in the five years prior to the ICRC survey (i.e., 2011-2015) from 2016. I use the number of militarized interstate disputes in which a state was involved for the years 1990-2010 (to coincide with the end of the Cold War and the last year for which these data are available at the time of writing).^{vi} Data on internal conflicts are derived from the Correlates of War data base on civil wars and include all states that were involved in internal conflict between 2000 and 2016. I also include controls for age, education, awareness of international law and gender using data from the survey. I also tested for the impact of economic development as measured by gross domestic product per capita, a key indicator of state strength, on support for international law. We found the variable to be highly correlated with all of the other state-level measures and could not be used.

We will look first to individuals’ agreement with the principles of international law relevant to the international courts. Figure 1 ranks states according to the percentage of the population that agrees with all six of the principles described above. The results are surprising and fascinating.



Respondents in Yemen, a country that has been wracked by civil war for years, attained the highest support score by far of any nation—100%. Since one rarely finds 100% agreement on anything involving public opinion, I checked the items individually, and while the 100% is rounded up from 99.75% (only two individuals in Yemen did not agree with every one of the principles of international humanitarian law), I found unanimous agreement (with the noted exceptions) on all of these items. No country comes anywhere close to this level of agreement. We see the second most agreement in Afghanistan (57%), which is another nation that has been afflicted with war for decades. People in Iraq (47%), Colombia (46%) and Ukraine (40%), also countries that have experienced war in recent years, provide high levels of support (although not South Sudan, which exhibits only 22% support of all the principles). Among the democratic states, not surprisingly the home of the ICRC—Switzerland—scores highest (51%). Other democratic states do not fare so well. In fact, the United Kingdom, the United

States and Israel are three of the five lowest scoring countries in the survey. These three states are also among the most active militarily among the survey nations. Hence, we see an interesting paradox. Support for international law is greatest where people have suffered the most from the effects of war, while lack of support is highest in countries that are most likely to be involved in military conflicts.



To investigate this issue further, I looked to see if there were particular principles of international law that elicited more opposition. Figure 2 shows each country’s respondents’ views on which wartime activities, which are all barred under international law, they believe are an expected “part of war”. Respondents could have also chosen to indicate if they believe these activities were wrong. Very few individuals chose either “I don’t know” or “I prefer not to answer”. Respondents were most likely to indicate that attacking towns and villages, despite the prevalence of civilians, was just a “part of war” and that the death of humanitarian workers was also to be expected in wartime. To be clear, however, the question wording on healthcare workers does not necessarily imply the agency of military forces as the question is worded, “Humanitarian workers are sometimes injured or killed as they are delivering aid in conflict zones. Is that wrong or is that just part of war?”. The average percentage agreement that the death of healthcare workers is part of war is 36%, while the percentage of respondents agreeing that attacking towns is just part of war is 34%. Among the noticeable outliers are the respondents from Israel and the US, and to a lesser extent the Palestinian authority. The majority of Israelis (62%) believe attacking towns and the death of humanitarian aid workers are a part of war, while 51% of US respondents believe the former is part of war. Among the Palestinians, 51% believe that torture is just part of war.

Table 1: Explaining Support for Principles of International Humanitarian Law - Regression Analysis

Variable	Coeff.	Std. Error	T Statistic	P value	Std. Beta Coeff.
Polity 2 Rating	-0.092	0.004	-21.310	0.000	-0.229
Political Terror Scale	-0.242	0.023	-10.730	0.000	-0.130
Militarized Interstate Disputes	-0.010	0.001	-14.700	0.000	-0.145
Internal Conflict	0.908	0.048	19.070	0.000	0.216
International Law Awareness	0.073	0.016	4.500	0.000	0.036
Education	0.014	0.016	0.870	0.385	0.007
Age	0.008	0.009	0.850	0.393	0.007
Female	0.210	0.029	7.260	0.000	0.054
constant	5.262	0.116	45.270	0.000	.

N = 15,919

R² = .142

The model I developed in the previous section is presented in Table 1. I use regression analysis to estimate the model. The coefficients for all of the exogenous factors entered into the model are statistically significant, except for age. First, we see that those respondents living in more democratic states are less likely to support the principles of international humanitarian law. In fact, according to the beta coefficient, which provides a standardized measure of the impact of the independent variables based on a one standard deviation change in the independent variable, individuals living in more democratic states are less likely to support the principals of international law. For every standard deviation change in the democracy score, support for humanitarian law drops by .23 units. While we anticipated this finding in hypothesis 1b, it is rather striking to see that individuals who enjoy the benefits of democracy and rule of law are unwilling to extend such protections to innocent civilians in other countries. Certainly some part of this finding is being driven by the USA, which is heavily sampled in the survey and whose government has been especially hostile to these principles at times. To assess how much influence the USA respondents might be exercising in the analyses, I dropped those observations and reran the model. The democracy rating is still highly significant, although it is no longer the most powerful variable in the model (internal conflict is, results not shown). Simply put, individuals living in the democratic states surveyed by the ICRC are among the least supportive individuals in the sample.

I also separated out the components of the Polity 2 scale to determine if there were clusters of democratic features, such as restraints on the executive and degree of party competition that might exercise a stronger relationship on individuals' attitudes. I reran the model using the three principal components of the Polity 2 measure, executive recruitment, executive constraints and degree of political competition. The results are provided in the Appendix, and indicate there are some crucial distinctions in the impact of various democratic features on support for international law. Specifically, individuals in states that are more democratic in terms of executive recruitment and executive restraints are less likely to be supportive of international law, while persons in states that provide for greater political

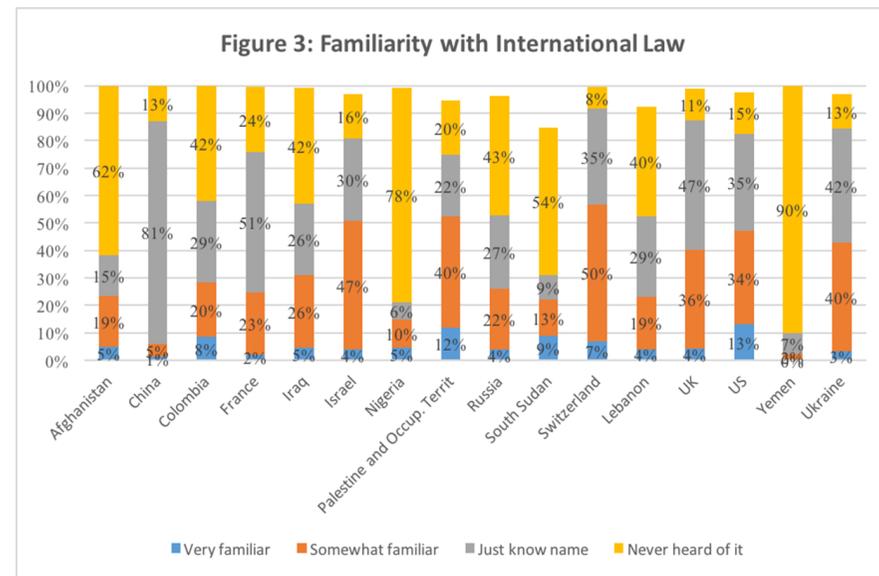
competition are more likely to support international law. This finding should be investigated to identify the impacts of all the various components of democracy more precisely on public support for international justice.

On the other hand, individuals living in states that provide better levels of human rights protection are more likely to support the principles of international law. The coefficient for the variable is statistically significant and powerful. It is important to remind the reader that the PTS ranges from "1" to "5" with higher values indicating more human rights violations. Thus, a negative relationship indicates that people residing in countries with more human rights abuses are less likely to support principles of international law. According to the standardized coefficient, average individual support for the principles of international humanitarian law decreases by .13 units as human rights protections diminish. We have an interesting and somewhat paradoxical relationship among democracy, human rights and support for international law. On the one hand, individuals living in countries that utilize democratic processes—we might think of democracy in this case as the structure of government—are less willing to support these principles. On the other hand, respondents residing in those states that respect human rights—what we might refer to as the substance of democracy—are more supportive of international humanitarian law. Given that we are analyzing relationships between constructs like democracy and human rights that are measured at one level of analysis (state level) and constructs like individual beliefs that are measured at a different level of analysis, we would not wish to make any strong inferences based on these data. Nonetheless, it would appear that simply living in a country that is, on paper, a democracy (e.g., USA, Israel), does not necessarily translate into greater individual belief in some of the underlying principles of democracy, especially as they pertain to individual rights. It may also be that a belief in democracy and individual rights may be confined to one's fellow citizens, and that support for democracy does not translate into a belief in the rights of those living outside one's polity. I also evaluated the impact of ICC membership on support for international humanitarian law, but the variable was highly and negatively correlated with involvement in militarized disputes, and did not improve the overall performance of the model.

We also see a fascinating difference in support for principles of international law settled in international tribunals between those who live in states that take part in more militarized interstate disputes and those who live in states that have or are experiencing internal conflict. The former are distinctly unlikely to support these international principles, while the latter are strongly inclined to support these laws. The coefficients for both variables are statistically significant, both make a great deal of sense. Those states that project power abroad—principally the major powers in the sample (the USA, France and the United Kingdom) as well as regional powers, like Israel, participate in numerous armed conflicts in other countries, and hence have cause for concern regarding international oversight of their behaviors. And while the UK and France are members of the International Criminal Court, their citizens do not appear to be as supportive of the Court's guiding principles. These may be the same individuals living in the more democratic countries in the sample who are also less inclined to support these principles.

Individuals living in states that have recently experienced internal conflict see the world in a vastly different way. They are much more supportive of principles of international humanitarian law. For everyone, standard deviation increases in this variable (.46), which is dichotomous, individuals living in civil war states increase their support for international law by .21 units. We might reasonably assume that many of these individuals or their family

members have experienced or witnessed the types of international law violations referenced in the survey, such as the destruction of towns and villages, attacks on historical and religious monuments, and torture. We might surmise that exposure to the violation of these laws and their devastating consequences would make many people inclined to believe such actions should be illegal. While their government leaders may well take a vastly different stance and argue that they should be allowed to do whatever is necessary to preserve the state in the face of rebellion or civil war, their positions may not carry much weight with the average person. Indeed, it may well be the government that is violating their rights as we have seen in Yemen, Afghanistan and Colombia, and making individuals more supportive of these rights at the international level.



We find that greater awareness of the purposes of the Geneva Conventions correlates positively with support for its principles. While not exactly an earth-shattering revelation, it does demonstrate that awareness of the Geneva Conventions is critical if it is to have an impact on individual opinions. Further, we see in Figure 3 that awareness of the Conventions is quite limited. The percentage of individuals who are aware of it is quite small in all countries. Ironically it is highest in the United States at 13%, just ahead of the Palestinian and Occupied Territories at 12%. Even in Switzerland, home of the ICRC, just 7% of those surveyed were remarkably familiar with it. The coefficient for the education variable is statistically insignificant, and also correlates strongly with the democracy and human rights variables. Some of its impact is likely registered there. Age is not related to support for these key international law principles, but gender is. Women are somewhat more likely than men to support these principles.

I next examine the determinants of individuals' beliefs in the prospects for increasing accountability for atrocities through international courts as a method of reducing the number of civilian casualties during war. There are some key differences in the results in this model as compared to the measure of support for the principles of international law. First, we see that a state's democracy rating is no longer related to its citizens' opinions regarding international

courts. However, individuals living in states that provide higher levels of human rights protections are more likely to believe that international courts are a better way to "increase accountability for atrocities". Again, it would appear the actions taken by states that provide more robust human rights protections may have more of an impact on respondents' opinions than the "talk" of states that are democratic in structure. A little less talk and a lot more action would seem to change attitudes.

Table 2: Explaining Individual Opinions on the Effectiveness of the ICC - Ordinal Probit Model

Variable	Coeff.	Std. Error	T Statistic	P value
Polity 2 Rating	0.002204	0.002675	0.82	0.41
Political Terror Scale	-0.11987	0.014475	-8.28	0
Militarized Interstate Disputes	0.002003	0.000458	4.37	0
Internal Conflict	0.381434	0.030846	12.37	0
International Law Awareness	0.054007	0.011	4.91	0
Education	0.041363	0.010442	3.96	0
Age	0.019969	0.006119	3.26	0.001
Female	0.176257	0.019021	9.27	0
/cut1	-1.29225	0.077527		
/cut2	-0.60973	0.076629		
/cut3	0.27045	0.07657		

N = 14,589

We see in Table 2 that the relationship between the number of militarized interstates disputes a state has been involved in over the last couple of decades has changed. Where before we saw that such militarily active states tended to dampen enthusiasm among their citizen respondents for the principles of international law, now we see the relationship has changed. Respondents living in states that were involved in more of these military activities, are more likely to believe that international courts can help to reduce the number of civilian casualties during war. While an explanation of the reasoning behind this apparent change of attitudes regarding international laws and courts must remain speculative at this point, let me offer one potential account. Among individuals who are citizens of militarily active states, there may well be a greater concern that the constraints international humanitarian law places on governments may "interfere" with the realization of the state's national security interests, when they are asked to comment on specific war-fighting strategies. When asked to estimate the impact of these international humanitarian laws more generally, they may in fact be more charitable in their estimation of the power of these courts. That is, their apprehension regarding international humanitarian law we see evident in the former question may be explained in part by their concomitant belief that these courts are, in fact, quite effective at reducing violence. They fear the ICC will be effective and thus interfere with their country's national interests, and thus their fear of the ICC plays an outsized role in their beliefs. In effect,

their belief/fear in the (potential) effectiveness of these courts leads to a concern that these effective courts may unduly constrain the actions of their government.

As hypothesized, I also find that individuals who show greater awareness of the principles of international humanitarian law are more likely to believe in the potential impact of international courts in reducing the number of civilian casualties during war. Finally, we see in these estimates that the coefficients for both the gender and age variables are positive and statistically significant. Women are more likely than men to believe that international courts have a key role to play in reducing casualties from international law. The percentage of women who take the most positive view of international courts is only slightly different than the opinions of the men—52% of women believe that international courts are especially important in reducing casualties, while 47% of the men feel the same way (results not shown).

Conclusion

This review of public opinion on international humanitarian law and international tribunals has illuminated new insights that will be of significant use in developing our theoretical understandings of this topic as well as the more practical implications of this research. As hypothesized we find that individuals residing in states with better human rights records were more likely to express greater support for the principles of international law, but we also found that there was a negative relationship between a government's democracy rating and its people's support for these key principles. More in-depth exploration of this apparent paradox is needed to understand why human rights practices seem have more of an impact on opinion formation than the type of government. As discussed earlier, it may be that actual human rights practices are more visible and salient to individuals as cues to a government's true preferences rather than the institutional guarantees of freedoms and responsibilities one finds on paper in laws and constitutions. The action of upholding human rights seems to mean more than the talk of democracy in shaping people's attitudes on international justice.

As hypothesized, a state's security situation can also shape individuals' views of international laws and tribunals. Respondents living in states that embarked on a high number of militarized interstate disputes were less likely to support key principles of international humanitarian law. As I hypothesized, individuals are more likely to respond to the national security concerns of regime leaders in states that project military force on a frequent basis (Kim and Hong 2019) and express less of a concern for individual human rights and instead place more emphasis on ensuring national security objectives can be met, regardless of the consequences. While our capacity to draw such conclusions when linking individual attitudes to state level actions is limited, this finding does demonstrate that in those states that are the most at risk of becoming subject to international laws and courts, the citizens are more risk averse than those living in states where such force projection is not a foreign policy option. These are the same states the ICC has always had trouble working with, including the USA, Israel, Russia, Iran and others. I also found, however, that individuals living in states that had experienced an internal conflict were more likely to support the principles of international law and believe that international courts can help reduce the deaths of innocents during war. Those who have experienced conflict violence have the most to gain from its cessation and would seemingly have a better understanding of the consequences of war and what is gained by adhering to the Geneva Conventions. Thus, even if regime leaders in these states are not supportive of international laws or international courts, there is a constituency in these countries for international justice that can be expanded. Indeed, the country whose citizens

were more supportive of international humanitarian law than any other—Yemen—has experienced one of the most brutal wars in the Middle East in recent years.

Support for the principles of international law exists even though there is often little awareness of what the Geneva Conventions do. In Yemen, for example, 90% of the population surveyed had never heard of the Conventions, although as pointed out above, this did not prevent nearly every person surveyed from agreeing with every principle of international law about which they were asked. Thus, while education and awareness of the Geneva Conventions are generally associated with more support for international law and international courts, it is clear that there is a ready constituency of individuals who believe in these legal principles, even if they are not quite aware of where these international principles reside. There may well be a great deal of latent support for international justice in these populations who wish to see international principles upheld in their lands.

Future theoretical development to understand the nature of public preferences regarding international laws and courts should begin by exploring the conditional relevance of various cues. Why are respondents from states with better human rights records more likely to support international laws and courts while those from democratic states do not appear to be as supportive? How do citizens differentiate among these possible cues and form opinions? How exactly do national security cues influence citizens preferences? How do individuals come to understand that abiding by certain principles of international humanitarian law may interfere with the achievement of national security objectives? How do citizens differentiate the relevance of external threats to national security that would seem to demand force projection? When the threats to security are internal to the state and stem from a rebel group or militia, how do individuals determine that respecting principles of these international laws is a higher good than defeating threats to their government? In other words, why would an individual in a state that projects force outward see threats embodied in international law, while an individual in a state that uses force internally would see opportunities for protection? The nature and immediacy of the threats facing the individual might help us explain this bifurcated response, but much more research on individual attitude formation across a variety of states and contexts is necessary.

The potential relevance of these findings for the International Criminal Court are particularly interesting. In the last several years the ICC has lost support among many states for what seems to be a focus on African conflict situations; a lack of verdicts, and a series of problems in cases from Libya, Sudan and Kenya in particular. These findings would seem to indicate that there is a respectable level of support among the surveyed individuals for the Court and that it does fairly well in these polls across a wide variety of regime types. But while the ICC seems to have a decent reputation overall, its more specific failures have kept it from capitalizing on public concern for humanitarian principles. The perception of the ICC may well be defined by its controversial involvement in certain cases rather than its overall mission. The data shows, however, that there is a foundation of support for international principles among many publics. The most effective strategy the ICC could pursue might be to publicize the values and principles that are the basis of these laws and institutions. The dedicated support the ICC enjoys from nations with good human rights records is a further indication that its values are the most universal and appealing part of the ICC mission. Coalescing around common values rather than controversial interventions might be one effective strategy for ensuring the ICC remains relevant in the coming decades.

Finally, I note that given the lack of awareness of international law among people in all the nations surveyed, the ICC might work in conjunction with the ICRC to raise awareness of these principles and values. Ensuring the bedrock of support necessary for the ICC to function effectively in a world with many hostile powers looking to clip its wings will be key to its relevance and longevity. Given that many people already agree with the principles of the relevant international laws at issue in these tribunals, without even necessarily understanding that these are settled principles of international law, there is fertile ground on which to work. Publicizing these values and the widespread agreement with them among individuals from around the world would seem to be a critical part of the public outreach international courts must engage in. If the ICC and the ICRC do not define themselves, they risk being defined by those nations that are indifferent at best and hostile at worst to its purposes.

APPENDIX

Table A.1. Regression Analysis - Explaining Support for International Law with key Democratic Elements

Variable	Coeff.	Std. Error	T Statistic	P value
Executive recruitment	-0.081	0.030	-2.690	0.007
Executive constraints	-0.404	0.025	-15.940	0.000
Political competition	0.173	0.017	10.110	0.000
Political Terror Scale	-0.134	0.021	-6.280	0.000
Militarized Interstate Disputes	-0.009	0.001	-12.420	0.000
International conflict	0.854	0.055	15.500	0.000
Awareness of international law	0.148	0.017	8.570	0.000
Age	-0.001	0.010	-0.100	0.918
Education	0.038	0.017	2.180	0.029
Female	0.251	0.031	8.120	0.000
constant	5.914	0.161	36.720	0.000

N = 14,317

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ENDNOTES

- i. As found at <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/> March 24, 2021.
- ii. The People on War data are hosted at <https://forsbase.unil.ch/>.
- iii. From the People on War Survey list of questions (2016), page 1.
- iv. The other options respondents were given were: “increasing the effectiveness of laws and rules that limit what combatants can do in war”; “increasing the accuracy of weapons to reduce the unintended casualties”; “increasing the news coverage of these wars so that atrocities are exposed”; and “Decreasing the number of weapons available to soldiers and fighters in the world”.
- v. Polity data can be found at <https://www.systemicpeace.org/inscrdata.html> while the Political Terror Scale is located at <http://www.politicalterroryscale.org/Data/>.
- vi. Data can be found at <https://correlatesofwar.org/data-sets/MIDs>.

