

How Contestation Moderates the Effects of International Institutions: The International Criminal Court and Kenya

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A broad class of theories, applied to a wide array of substantive issues, argues that international institutions facilitate compliance by mobilizing procompliance domestic groups. I develop a general model of political contestation over compliance policy in which institutions mobilize both pro- and anticompliance groups. The model predicts that institutions have the greatest ability to induce compliance when the groups have similar values to winning a compliance contest or costs to effort, *ex ante*. Institutions have a weaker marginal effect when groups are imbalanced. I demonstrate features of the model using the Kenyan experience with the International Criminal Court. The ICC cemented the political alliance of two anticompliance candidates. The ICC's indictments had the greatest effect on support for the most prominent indicted candidate in regions of Kenya where pro- and anti-indictment forces were balanced. Features of domestic political contests are a key moderator of the effectiveness of international institutions.

The effect of international institutions on the behavior of sovereign nations is a fundamental question in international relations research. A prominent argument is that international institutions affect member state behavior, because they mobilize subnational groups who support policies that are consistent with the institution's goals or rules, that is, compliance. This argument is a key feature of broad classes of theories, such as those based on information provision, audience costs, and credible commitments, which have been applied to a wide array of substantive issues across human rights and international political economy.¹ Yet institutions are not always successful at inducing compliance through domestic channels. For example, during the most recent Kenyan election, the International Criminal Court (ICC) indicted two of the candidates running for president. The indictments meant that the outcome of the election took on direct implications for the likelihood of future compliance with the ICC: if an indicted candidate won, he would gain significant means to resist being held accountable by the ICC. Existing theories

would predict that the ICC indictment helped mobilize procompliance actors to avoid this possibility. While this is one effect of the ICC's actions, it does not tell the full story. In fact, the indicted candidates went on to win the election and subsequently used their power to thwart the ICC's efforts.

I ask: under what conditions can international institutions have the greatest effect on the likelihood of compliance via the mobilization of procompliance groups? I argue that the answer requires consideration of how institutions can mobilize both pro- and anticompliance groups. In virtually every issue area affected by international institutions, there are at least two groups with divergent preferences over compliance. Understanding the effect of an institution on both groups is critical because compliance decisions are ultimately decided by contestation between these opposing groups (see Goldstein and Martin 2000).

I develop a model in which both pro- and anticompliance groups exert costly effort to influence a contest over compliance policy. In the model, an institution can strategically

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1. See Carrubba (2005); Chaudoin (2014a); Elkins, Guzman, and Simmons (2006); Mansfield et al. (2000, 2002); Rosendorff (2005); Simmons (2009, 2000); Tomz (2008).

transmit information to raise the procompliance group's value to winning the contest, causing that group to exert more effort. However, this can also cause the anticompliance group to respond with increased or decreased efforts, in equilibrium, depending on features of the contest. Often, an institution can trigger increased efforts by the anticompliance group, who seeks to retain their chances of winning control over compliance policy.

By taking into account both groups' endogenous decisions, the model yields testable predictions about the institution's effect on both groups' efforts and predictions for when institutions have the greatest ability to induce compliance. Institutions are most able to increase the equilibrium probability that the procompliance group wins the contest over policy when the two groups are balanced *ex ante*. By balanced, I mean when both groups have comparable valuations of winning the contest and costs to effort. A group's value to winning and costs to effort affect its incentives to invest in effort. When these incentives are similar across groups, that is, neither group has a substantially higher value to winning or costs to effort than the other group, an institution can have the greatest marginal effect on the likelihood of compliance.

Institutions are less able to increase the procompliance group's chances of winning the contest when these incentives are imbalanced. When institutions mobilize procompliance groups with low values of winning or high costs of effort, this also induces the anticompliance group to ratchet up their effort, minimizing the institution's effect on the resulting contest. When procompliance groups have very high values to winning or low costs to effort, those groups are already investing heavily in winning the contest, even without an institutional jolt. So the institution's marginal effect is again lessened. The effect of institutions on the likelihood of compliance is thus nonmonotonically related to the relative features of the two groups.

As described above, the 2013 Kenyan election represented a political contest with significant implications for Kenya's future relationship with the ICC. I use this setting to demonstrate two key predictions of the model. I analyze the decisions of political elites and data on public opinion to show that (1) anticompliance actors increased their efforts in response to the ICC's actions, and (2) the degree to which the ICC decreased support for the main indicted politician (and therefore decreased the probability that he would win the election and resist the ICC) was highest in regions where his support was balanced with other candidates *ex ante*. For the first prediction, I trace how the ICC's actions affected the alliance decisions of the indicted political elites. These alliance decisions constituted an im-

portant way in which the indicted politicians adjusted their efforts after the ICC's actions.

For the second prediction, I conduct extensive quantitative analysis of the effect of the ICC's actions on public support for the indicted politicians. After the ICC's actions, support for the indicted politicians decreased the most in regions where the indicted politicians received middling levels of support before their indictment, which is consistent with the model's prediction. This finding is subjected to a large set of robustness checks designed to address possible threats to inference.

Apart from the theory, empirical analysis of Kenya and the ICC is important because the indictments became the first trial of a sitting head of state of an ICC member and the first trial where the ICC became a major electoral issue. The Kenyan case, and its ultimate collapse, were watershed moments for an institution that is still relatively young, trying to establish its role in the prosecution of the world's gravest crimes. Since the institution relies on cooperation from authorities in the states it is investigating, understanding the subnational effects of its actions is critical to its effectiveness.

The broader contribution of this article is to show how strategic competition among groups conditions the ability of institutions to induce compliance through domestic political channels. Beyond arguing whether institutions matter, this article argues that a theoretical understanding of how institutions affect both sides of the political spectrum is important to understanding when institutions matter most. The balance between pro- and anticompliance groups is a critical moderating variable of the effectiveness of institutional actions. Features of both groups help explain why institutional actions are likely to succeed in some settings but not others.

The theoretical argument presented here is generalizable to many different empirical settings. For example, World Trade Organization disputes potentially activate the lobbying efforts of firms supporting and opposing protection. International Monetary Fund reports can affect the political efforts supporting or opposing compliance with conditionality requirements. The Kenyan case is demonstrative of the importance of considering both pro- and anticompliance groups.

TWO SIDES TO COMPLIANCE

Most international institutions lack direct enforcement capabilities, which has led to a growing emphasis on domestic enforcement mechanisms. In virtually every issue area, existing theoretical arguments describe how institutions facilitate compliance by mobilizing procompliance groups, domestic and international. In the area of human rights, Beth Simmons (2009) argues that human rights obligations mobilize citizens

to demand better treatment from oppressive governments. In the area of international trade, Mansfield, Milner, and Rosendorff (2002) argue that trade agreements act as alarms, triggering citizens to punish elected officials who violate the agreement.² In the area of environmental cooperation, Xinyuan Dai (2005) argues that the LRTAP Convention increased the electoral leverage of environmental activists to encourage government compliance with the 1985 Sulphur Protocol. Similar arguments have been made in many other contexts, including security, investment, and IMF agreements.

There are also a variety of mechanisms through which institutions mobilize procompliance groups. Institutions provide information about the occurrence and severity of a government's noncompliance, causing procompliance groups to punish their leaders.³ Institutions also increase citizens' value to compliance by inspiring new ideas and providing new resources or access channels. Institutions can raise audience costs, by activating citizen disapproval when promises or commitments are broken.⁴

These arguments have a common, valuable feature: with an international institution, procompliance groups have a higher likelihood of influencing their country's policy, than without. Institutions can mobilize active procompliance groups in their quest to change their government's policies or activate previously latent groups to begin their quest.

However, a government's compliance decision inevitably creates winners and losers. Some domestic groups bear higher costs or receive lower benefits than others, creating anticompliance groups.⁵ Opposing groups are present in many important issue areas. For example, many attempts to improve human rights, such as naming and shaming efforts, result in resistance from opposition groups, who defend "traditional" practices (Bob 2012). Actions by international institutions like the ICC have triggered reactions from anticompliance groups. Though few would support impunity for war criminals, the ICC often meets fierce resistance, particularly in Africa, where many perceive the court as a tool of Western imperialism. In 2008, reports of ICC arrest warrants for the Sudanese President Omar al-Bashir caused massive protests in Sudan supporting al-Bashir, as thousands of citizens rallied in opposition to the ICC. The "peace versus justice" literature has often considered these types of reactions (Clark 2011).

2. See also Ehrlich (2007); Pelc (2013).

3. See Carrubba (2005); Chaudoin (2014a); Dai (2005, 2006); Gray (2013); Mansfield et al. (2002); Rosendorff (2005). Of course, subnational actors can also provide information to international institutions.

4. See Chaudoin (2014b); Simmons (2010); Tomz (2008).

5. This is more common in cooperation-based situations, as opposed to coordination-based situations.

Examples of both pro- and anticompliance groups also abound in international political economy, where compliance policy has direct economic consequences that benefit some groups at the expense of others. Divergent subnational interests over IPE policies have inspired a rich body of research on outcomes like political cleavages, public opinion, and firm and NGO behavior. As with human rights, the actions of international institutions can trigger competition among these groups. In February 2002, the US Senate Committee on Finance held hearings regarding WTO disputes over protection of US lumber and steel producers.⁶ While some participants expressed support for compliance with the WTO and opposition to tariffs, the hearing was also a platform for tariff supporters/compliance opponents. Senator Baucus (from lumber-producing Montana) lambasted Canadian "give-away prices" before showing contempt for WTO steel disputes. Senator Rockefeller (from steel-producing West Virginia) then excoriated the Clinton administration for having tariffs that were not high enough. Caught in the middle, Senator Breaux of Louisiana described how he had received two letters—one from a large New Orleans port facility company opposing tariffs and one from a Louisiana steel producer supporting higher tariffs. Faced with competing pressure from both groups, he (under)stated: "We have got very strong feelings on both sides."

The existence of anticompliance groups is more than an interesting observational phenomenon, because compliance is the outcome of a contest over policy between competing groups. The idea that government policy choices are like contests has a rich history, rooted in studies of rent-seeking and lobbying (Tullock 1967). Groups assign value to the ability to choose policy and are willing to exert costly effort to increase their influence. The "prize" for the contest is that the winning group gets to shift policy closer to its preferences. "Effort" takes many forms, like lobbying, monetary contributions, protests, or violence. Groups vary in their valuation of the prize and in their marginal costs or effectiveness of effort. Within IR, phenomena such as armament decisions or countries dividing the benefits from collective action have been thought of as contests.

International institutions can affect particular features of these compliance contests. For example, revealing information about the severity of a government's noncompliance to a procompliance domestic group (e.g., Mansfield, Milner, and Rosendorff 2000, 2002) increases that group's value to win-

6. "Hearing before the Committee on Finance of the US Senate." February 13, 2002. S. Hrg. 107-607.

ning the prize. Learning that poor economic conditions are the result of noncompliant policy, as opposed to adverse unobservable shocks, increases the potential value of lobbying against noncompliant policies. Institutions' ability to increase procompliance groups' access to legal resources and litigation (e.g., Simmons 2010) is akin to lowering the costs of effort or increasing the effectiveness of effort. Though these arguments are most often associated with judicial institutions, the naming and shaming associated with NGOs and human rights institutions could also spur procompliance groups into action.

The theory presented here emphasizes how institutions affect the efforts of both groups. Under certain conditions, institutions can increase the anticompliance groups' efforts as well, which has important implications for the conditions under which institutions are most able to increase the probability that the procompliance group wins the ensuing contest. The model below formalizes those conditions and develops intuition for the effects of institutions on each group's efforts and the likelihood of compliance.

MODEL

The model describes two groups engaging in costly effort to influence a contest over their country's compliance policy and an international institution that can potentially influence the groups' behavior. Specifically, two groups, a procompliance (PC) and anticompliance (AC) group, differ in their preferred government policy, with the PC group preferring a higher level of compliance than the AC group. Each assigns value to the ability to set government policy. By "set policy," I mean situations in which that group's preferred policy is chosen as the government's policy.⁷ The AC group assigns value $V_{AC} > 0$ to outcomes in which they choose a policy matching their preferences.

The role of the international institution is to potentially influence the PC group's beliefs about the value to setting policy. This value depends on the state of the world—specifically, whether compliance is beneficial or not to the PC group, $\{B, \sim B\}$. When compliance is beneficial, the PC group gains positive utility from setting policy, $v_{PC} > 0$. When compliance is not beneficial, I normalize their utility from setting policy to zero. The prior probability that compliance is beneficial, $p \in (0, 1)$, is commonly known. In other words, the PC group has an ex ante expected value of getting to set compliance policy, $V_{PC} = pv_{PC}$ but is uncertain about the exact value.

The institution receives a private signal about the state of the world, denoted $\{b, \sim b\}$. I say that b is a "positive signal," indicating that compliance is beneficial. The probability that the institution's private signal correctly reflects the state of the world is $q = Pr(b|B) = Pr(\sim b|\sim B)$. After receiving their private information, the institution chooses whether to send a positive public signal, S , indicating that compliance is beneficial, or to not send a signal, denoted $\sim S$.

The informational environment thus matches features of real world situations. PC groups might not know the value to compliance. For example, citizens may not know whether their leaders are guilty of war crimes; removing a guilty leader yields them a benefit, while removing an innocent one might not. Similar arguments have been made regarding trade barriers and the WTO. A citizen might observe an economic downturn but not know whether it was caused by a tariff barrier or an unobserved shock. If a trade barrier caused the downturn, removing a protectionist leader is valuable. If the downturn was simply a shock, removing that leader is not as valuable. For simplicity, I assume that the AC group knows its valuation and is only affected by the IO's signal insofar as that signal might change the PC group's behavior.

International institutions often have additional information about the state of the world. For example, the ICC gathers private information over whether a politician has committed war crimes and many think of the WTO as a clearinghouse for information on trade barriers. The possibility that the institution's private information is wrong reflects the imperfection or possible bias of that information. Institutional actions, like an ICC indictment of a politician or a WTO Dispute Settlement ruling against a trade policy, are prominent, public signals reflecting this information.

Below, I consider equilibria where the institution's public signal is informative, meaning a positive signal from the institution increases the PC group's expected utility for setting compliance policy from V_{PC} to V'_{PC} . Conversely, when this institution does not send this signal, it lowers the PC group's expected utility for setting policy to V''_{PC} . The institution's signal potentially causes the procompliance group to update its beliefs positively about the value of compliance. For these equilibria, I assume that the institution's signal is accurate more than half the time, $q \in (\frac{1}{2}, 1)$.

After the institution's signaling decision, each group exerts costly effort to influence a contest over which group sets policy. The costs to effort are a linear function of that group's effort level. I allow the marginal costs to effort to differ by group, denoted c_{PC} and c_{AC} . The probability each group wins is a function of their effort levels. The probability that the procompliance group wins is $\phi_{PC}(e_{PC}, e_{AC}) = e_{PC}/(e_{PC} + e_{AC})$, and $\phi_{PC}(0, 0) = \frac{1}{2}$. The probability that the anticompliance group wins is $\phi_{AC}(e_{PC}, e_{AC}) = e_{AC}/(e_{PC} + e_{AC})$, with

7. For example, in common agency models, an interest group can set or influence tariff policy by making a large enough contribution offer to induce the agent/politician to choose that tariff.

$\phi_{AC}(0, 0) = \frac{1}{2}$. The expected payoffs for the groups are thus: $\Pi_{PC}(e_{PC}, e_{AC}) = \phi_{PC}(e_{PC}, e_{AC})V_{PC} - c_{PC}e_{PC}$ and $\Pi_{AC}(e_{PC}, e_{AC}) = \phi_{AC}(e_{PC}, e_{AC})V_{AC} - c_{AC}e_{AC}$.

The international institution's payoffs are affected by whether they choose to send the public signal, S , and whether the procompliance group wins when compliance is beneficial. When compliance is beneficial, the institution receives a payoff of $V_I > 0$ if the procompliance group wins. When compliance is not beneficial or when the AC group wins, the institution receives a payoff of 0. The institution must also pay a cost, $0 < k < V_I$, if they send a public signal. The cost can be thought of as the direct consumption of institutional resources or as opportunity costs. Focusing institutional resources on one issue detracts from the ability to use those resources elsewhere. The ICC, for example, is acutely aware of how its budget constraints affect the cases it can and cannot pursue.

The sequence of the game is (1) the institution receives its private information and chooses whether to send a public signal, (2) the groups observe the institution's signal decision and simultaneously choose their effort levels, and (3) a contest winner is realized who gets to choose compliance policy. A perfect Bayesian Nash equilibrium consists of (a) the institution's decision over whether to signal $S, \sim S$ given its private information (b) groups' posterior beliefs about the value of compliance after they observe S or $\sim S$, and (c) for each $S, \sim S$, a pair of sequentially rational effort levels, e_{PC}^* and e_{AC}^* .

Equilibrium analysis

I first characterize an equilibrium in which the institution's signal changes the efforts of both groups. I then derive optimal effort levels and the probability that each side wins the contest without the institution. This generates intuition on how effort levels change in response to changing valuations and costs for each player. I then add the institution, describe the effects of its signal on effort levels, and then characterize the institution's signaling decision. All proofs are in the appendix. Note, for arguments where it is not necessary to distinguish between the two groups, I use subscripts to denote groups generically as "group i " and "group j ."

I consider an "informative equilibrium," where an institution's signal increases the procompliance group's expected value of winning the contest. Formally,

Proposition 1. Informative equilibrium: There exists a perfect Bayesian equilibrium where

- (i) The institution chooses $S \mid b$ and $\sim S \mid \sim b$.
- (ii) Group i chooses $e_i^{*'} \mid S$ and $e_i^{*''} \mid \sim S$.
- (iii) The PC group's beliefs are $Pr(B \mid S) > Pr(B \mid \sim S)$.

Optimal effort levels and win probabilities. Optimal effort levels can be expressed by first re-characterizing each group's payoffs in terms of relative costs and benefits to winning. Consider a linear transformation of group i 's payoffs by dividing Π_i by V_i . Further, define d_i as $d_i \equiv c_i/V_i$. Thus, d_i represents the ratio of costs to benefits for group i : as their value to winning increases or marginal cost to effort decreases, d_i decreases. Group i 's maximization problem is thus: $\max_{e_i} \Pi_i(e_i, e_j) = e_i/(e_i + e_j) - d_i e_i$. The accompanying first-order condition is $e_j/(e_i + e_j)^2 = d_i$.⁸

Proposition 2 characterizes e_i^* and corollary 1 describes how optimal effort changes with each parameter. Intuitively, according to (i) of corollary 1, the optimal effort level for group i is decreasing in d_i . As their value of winning the contest, V_i , increases, group i 's optimal effort level increases. As their marginal cost of effort, c_i , increases, they exert less effort.

Proposition 2. In equilibrium, the optimal effort level for group i is:

$$e_i^* = \frac{d_j}{(d_i + d_j)^2}.$$

Corollary 1. In equilibrium:

- (i) $\partial e_i^*/\partial d_i = -2d_j/(d_i + d_j)^3$ and
- (ii) $\partial e_i^*/\partial d_j = d_i - d_j/(d_i + d_j)^3$.

Figure 1 shows the equilibrium effort levels for each player, e_{PC}^* and e_{AC}^* , as V_{PC} increases along the horizontal axis.⁹ Looking first at the PC group's efforts (dotted line), as V_{PC} increases, so too does their equilibrium effort level. However, according to item (ii) of corollary 1, the relationship between i 's optimal effort and d_j is nonmonotonic and depends on the groups' relative valuations. The solid line depicts e_{AC}^* . The mark on the horizontal axis denotes where $V_{PC} = V_{AC}$. When V_{PC} is lower than V_{AC} , the AC group's optimal effort level is increasing in V_{PC} . When V_{PC} is higher than V_{AC} , the AC group's optimal effort level is decreasing in V_{PC} . The two curves cross when $V_{PC} = V_{AC}$.

This nonmonotonicity arises because groups' effort levels are determined jointly in equilibrium. When V_{AC} is higher than V_{PC} , increases in V_{PC} cause the PC group to increase its

8. Nash equilibria are preserved by linear transformations in payoffs. This approach is from Corchon (2007). The derivations describe optimal effort levels in any subgame perfect Nash equilibrium, so I temporarily drop the ' and '' superscripts.

9. This figure is in terms of V_i , but an analogous figure could display c_i on the horizontal axis.

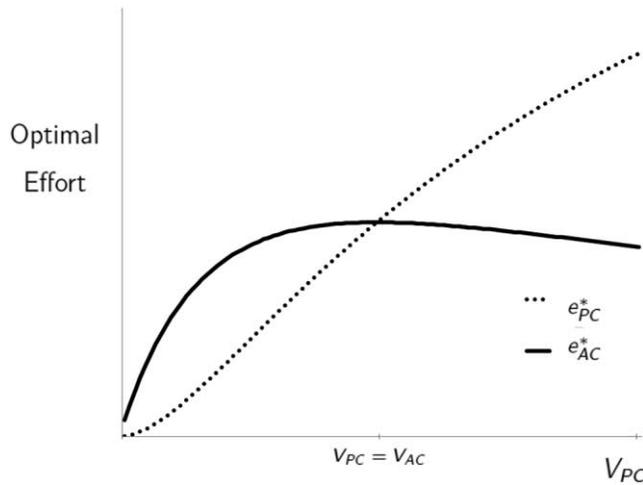


Figure 1. Equilibrium effort levels as V_{PC} varies

own effort level, but they also cause an increase in the AC group’s effort. Intuitively, this is akin to deterrence on the part of the AC group. When the AC group values winning the contest very highly, it is willing to respond to increases in its opponent’s effort levels with more-than-proportionate increases in its own effort levels, in order to retain a high probability of winning the contest, as on the left side of figure 1.

On the other hand, when the PC group values winning the contest very highly, increasing its value even further decreases the optimal effort of the AC group, as on the right side of figure 1. When the PC group strongly wants to win the contest and chooses a correspondingly high level of effort, the AC group has little chance to win, and the marginal cost of effort can outweigh the marginal gain in probability of winning. As the PC group increases its effort level, this drives down the marginal value of the AC group’s effort even further, as the contest becomes more and more hopeless for the AC group.¹⁰

How do changes to valuations and costs affect who wins the contest, taking into account changes in effort? Denote the probability that group i wins the contest as $\phi_i(e_i, e_j)$. Proposition 3 and corollary 2 describe the effect of changes in d_i and d_j on the equilibrium probability of each group winning.

Proposition 3. In equilibrium, the probability that group i wins is:

$$\phi_i(e_i^*, e_j^*) = \frac{d_j}{d_j + d_i}.$$

10. These cross-group effects and nonmonotonocities are not artifacts of Tullock/ratio form contest success functions. Similar effects exist in equilibria to two-player all-pay auctions with asymmetric valuations.

Corollary 2. In equilibrium:

- (i) $\partial\phi_i(e_i^*, e_j^*)/\partial d_i = -d_j/(d_i + d_j)^2$ and
- (ii) $\partial\phi_i(e_i^*, e_j^*)/\partial d_j = d_i/(d_i + d_j)^2$.

Intuitively, ϕ_i is decreasing in d_i and increasing in d_j . As the PC group values the prize more (decreasing d_{PC}), its effort level increases, and the corresponding probability of winning also increases, even taking into account changes in the AC group’s effort level (part i of corollary 2). Similarly, as the AC group values the prize more, it increases its effort level, lowering the probability that the PC group wins (part ii of corollary 2).

The institution’s signal. The institution’s decision depends on their expected gains and costs from sending a signal. The gains arise because the signal causes the PC group to raise its value of the prize, increase its effort level and its probability of winning. I denote the PC group’s updated d as $d_{PC}\gamma'$ after a positive institutional signal, and $d_{PC}\gamma''$ when the institution does not send a signal. Note that because the institution is “honest” (item i of proposition 1) and because the institution’s signal is accurate enough ($q > \frac{1}{2}$), it is the case that $0 < \gamma' < 1 < \gamma''$, and $d_{PC}\gamma' < d_{PC} < d_{PC}\gamma''$.¹¹ However, sending the signal entails a fixed cost for the institution.

To gain intuition on how the institution weighs these costs and benefits, proposition 4 characterizes the difference between the institution’s expected utility for sending the signal and not sending the signal.

Proposition 4. In an informative equilibrium, when the institution receives a private signal b , the difference between the institution’s expected utility for sending a signal and not sending a signal is: $EU_i(S|b) - EU_i(\sim S|b) = Pr(B|b)[\phi_{PC}(e_{PC}^{\gamma'}, e_{AC}^{\gamma'}) - \phi_{PC}(e_{PC}^{\gamma''}, e_{AC}^{\gamma''})]V_I - k$.

The first term describes the institution’s gains. The signal induces a change in effort, and a corresponding increase in the probability that the PC group wins, $\phi_{PC}(e_{PC}^{\gamma'}, e_{AC}^{\gamma'}) - \phi_{PC}(e_{PC}^{\gamma''}, e_{AC}^{\gamma''})$, and the first term also takes into account the institution’s updated beliefs, $Pr(B|b)$. The second term, k , is the fixed cost of the signal.

Figure 2 displays how the institution’s incentives are nonmonotonically related to d_{PC} . The horizontal axis is V_{PC} , and the vertical axis shows the institution’s expected utility when they send the signal minus their expected utility when

11. Full representation of γ is in the appendix.

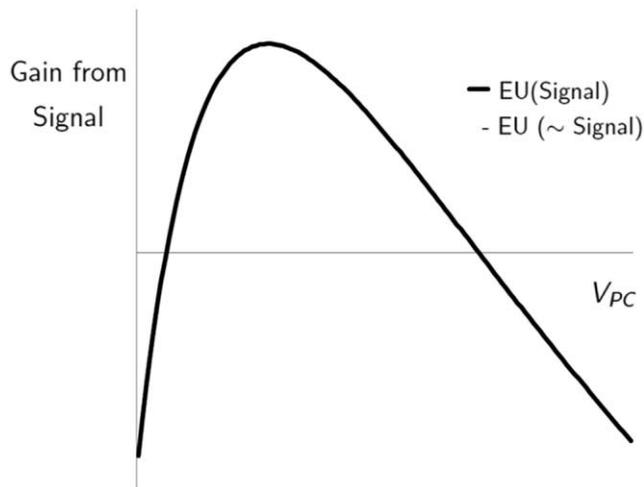


Figure 2. Expected "gain" from signal

they do not. When this difference is positive, the institution chooses to send the signal.

In words, the institution's signal has the largest effect and is therefore most valuable from the institution's perspective, when the two sides' valuations are roughly equal. This is for two reasons. First, on the left-hand side of figure 2, where the AC group values the prize more than the PC group, an institutional signal might induce some increase in the PC group's efforts, but it also increases the AC group's effort, muting the resulting change in the probability that the PC group wins and thus the institution's gains from sending the signal.

Second, on the right-hand side, the expected gain for the institution is also lowered. In this region, the PC group is already exerting a larger amount of effort and is already likely to win the contest, even without the institution's signal. The marginal effect of the institutional signal on the likelihood of the PC group winning is minimal.

The institution's signal has the largest effect on the probability that the PC group wins, and thus the largest potential gains from the institution's standpoint, in the middle region. Here, the increase in the procompliance group's effort level is more likely to be pivotal and to swing the contest in its favor. Additionally, the signal can push the procompliance group's effort level above that of the anticompliance group, a region in which increases in the procompliance group's effort levels also cause decreases in the anticompliance group's effort levels.

Note that, although the model describes the effect of an institutional signal on V_{PC} , all of the results regarding equilibrium efforts and win probabilities would obtain if the institution affected c_{PC} instead. All results regarding effort are characterized in terms of d , which shows how anything

that raises V_i has an effect on groups' efforts that is isomorphic to an equivalent decrease in c_i . To match this with existing literature, if an IO lowered c_{PC} , as in Simmons (2009), this would have an analogous effect on efforts as an increase in V_{PC} . Explicitly modeling this type of dynamic would not require the information and signaling components of this model, but the equations describing equilibrium effort and win probabilities would be generalizable to an argument about costs.

The effects of other parameters describing the institution's preferences are straightforward. As the institution's cost of sending a signal, k , decreases, the curve depicted in figure 2 shifts upward, meaning that the institution is more willing to send a positive signal. The costs also affect the possibility that an informative equilibrium exists. At the extreme, if the institution was "publicity seeking" and had very low or even negative k , and thus wanted to send positive public signals regardless of its private information, the informative equilibrium breaks down. The institution's public signal is no longer informative to the PC group.

As noted above, this model described how an institution might shock one side's valuation to winning the prize, but it did not incorporate "two sided" shocks, where the institution affected both the PC and AC groups' values to winning or their costs. The model assumed that only the PC group updated its beliefs, and any changes in the AC group's behavior were strategic reactions to changes in the PC group. It is worth noting that, even if the model incorporated such a feature, many of the propositions above would not change. All of the derivations for optimal effort levels and equilibrium winning probabilities would obtain. The institution's calculus would be affected by whether an institutional signal affected the valuation of one group more than the other. If the signal increased the PC group's valuation more than it increased the AC group's, then the signal is potentially valuable. If not, a signal is potentially counterproductive to compliance.

A model where the institution only shocks the PC group's valuation also reflects many real-world situations. AC groups generally hold informational advantages over PC groups (Dai 2007). Even without an institution, anticompliance groups likely have a better idea of their own costs and benefits to (non)compliance since they often are the original impetuses for noncompliant policies. This is even more apparent for arguments about how institutions help lower the costs of effort for PC groups, for example, by enabling litigation against human rights. Such shocks are likely to be one-sided: a human rights treaty helps the PC group litigate against human rights violations but does not provide any new avenues for AC groups to better defend human rights violations.

APPLICATION: KENYA AND THE ICC

This section assesses two key hypotheses from the theoretical model:

H1. Institutional actions can increase the effort levels of the anticompliance group.

H2. The effect of institutional actions on the outcome of the contest is nonmonotonic, with the greatest effect where pro- and anticompliance groups are balanced.

I assess these predictions using data from the most recent 2011–13 Kenyan presidential election cycle. This is a good setting to assess the theory, because the election itself is a type of contest: opposing candidates exert effort to win the prize of the presidency. This particular election is significant because, in the early stages of the electoral cycle, an institution took an action that became an important issue in the campaign contest. Specifically, the ICC indicted two of the three main candidates.

To be sure, the electoral contest was over the presidency. However, once the ICC indicted two candidates, the election took on direct implications for the likelihood of compliance with any subsequent ICC actions. Whoever won the election would have significant power over whether Kenya would cooperate with the ICC. If an indicted politician won the presidency, they would have powerful means to resist compliance with any ICC actions and vice versa. The indicted politicians themselves urged voters to think of the election as “a referendum on the ICC.”¹²

This is indeed what happened. The indicted candidates won the election and used their new powers to thwart the ICC’s prosecution efforts. One human rights activist described how, after the indicted politicians won the election, “nothing [happened] in government except the effort to derail the ICC.” Others described how the indicted politicians “[wrote] the playbook for beating the ICC.”¹³ The Kenyan parliament, dominated by the alliance that won the election, even voted to withdraw from the ICC. Susanne Mueller (2014) describes how “winning the election was part of a key defense strategy to undercut the ICC by seizing political power, flexing it to deflect the ICC, and opening up the possibility of not showing up for trial if all else failed” (26). Thus, the electoral contest became, de facto, a contest over the likelihood of future compliance with the ICC.

I assess hypothesis 1 by showing how the ICC’s actions resulted in increased effort levels by the indicted (i.e., anticompliance) actors. As in the model, the ICC increases the value of compliance to the un-indicted politicians and their supporters. A domestic body, the Waki Commission, had comprised a list of individuals who were thought to be most responsible for the 2007 violence. However, this information was sealed from the public and only revealed by the ICC’s actions. As existing theory would predict, this revelation increased the efforts of domestic groups, like human rights organizations, business coalitions, and pro-accountability politicians who called for the removal of the indicted officials from office.

This, in turn, induces the indicted politicians to increase their own effort levels, in response. I focus on the second part of this chain, establishing that the institution’s actions increased the effort of the anticompliance actors. Existing literature provides examples of how an IO’s action affects the actions of procompliance groups. I emphasize their effect on anticompliance actors because their response is a crucial, yet often omitted, component of the overall effect of IOs. I carefully trace the effect of the ICC on the indicted political elites’ strategic decisions and their campaigns, showing how the indicted politicians adjusted their strategy in a costly manner.

I then assess hypothesis 2, showing that the effect of the indictment on the electoral contest is consistent with the model’s predictions. Ultimately, an election is a contest over popular support. The group with greater public support is more likely to win the contest. I use public opinion data regarding popular support for the candidates as a proxy for how well they were doing in the electoral contest, before and after the indictments. A decrease in popular support for the indicted politicians suggests a decreased probability that they will win the election, and therefore represents a decrease in the likelihood of future noncompliance. The model predicts that the indictment’s effect on the electoral contest should be greatest in places where support for the indicted and un-indicted candidates was balanced ex ante (e.g., before the indictment).

Since the Kenyan setting involves only one contest, I use variation in sub-national characteristics, such as region and ethnicity, as sources of variation in ex ante support for the indicted politicians. These characteristics make certain individuals and regions predisposed to support particular candidates, before the ICC’s actions. I show how the indictment caused the greatest decrease in the indicted candidates’ support in regions where support for indicted and unindicted politicians was balanced. I can thus demonstrate that the effect of the ICC at the sub-national level is nonmonotonic, as predicted by the theoretical model.

12. Njonjo Mue. “The ICC Mustn’t Give Up in Kenya.” *Open Democracy*. November 6, 2014.

13. Tristan McConnell. “How Kenya Took on the International Criminal Court.” *Global Post*. March 25, 2014.

Background

ICC involvement arose because of violence following the 2007 presidential elections. After general voting, the Kenyan Electoral Commission declared the incumbent, President Mwai Kibaki of the PNU party, the winner. But supporters of the challenging candidate, Raila Odinga of the ODM party, charged that electoral results had been manipulated. The electoral crisis, combined with existing tensions, resulted in violence between supporters of each group. The violence caused over 1,000 deaths and internally displaced approximately 600,000 people. Violence subsided after a UN-moderated power-sharing agreement.

In early 2010, the ICC's Pre-Trial Chamber granted its chief prosecutor permission to investigate possible crimes against humanity committed during the 2007 post-electoral violence. In March of 2011, the Chamber issued "summonses to appear" for six individuals. This list included Deputy Prime Minister Uhuru Kenyatta, who was accused of facilitating violence against ODM supporters, and then-Education Minister William Ruto, who was accused of supporting violence against PNU members.

The summonses for Kenyatta and Ruto are notable because, in March 2011, jockeying for the upcoming election was well under way. Both Kenyatta and Ruto had declared themselves candidates, and Kenyatta in particular was widely considered to be a leading candidate to oppose Odinga, who was also a front-runner candidate. The ICC summonses were a distinct, important event in the election, forcing the issue onto the national radar. There was widespread media coverage of the ICC's decision and public awareness of the issue was very high.¹⁴ Note, for ease, I previously used the more familiar term "indictment." From here forward, I will use the more precise term "summons."

Effort and political coalitions

For hypothesis 1, this section argues that the summonses, the institutional action, resulted in increased effort levels by the anticompliance group, namely, Kenyatta, Ruto and their supporters. In the theoretical model, effort referred to actions that (1) were costly and (2) increased the probability of winning the contest. Effort is very difficult to measure quantitatively in this context. This section shows one particularly important way in which the ICC's actions changed the efforts of the indicted politicians. Specifically, the specter

of the ICC trial cemented an unlikely political alliance between Kenyatta and Ruto. The pair formed the Jubilee Coalition, with Kenyatta as the presidential candidate and Ruto as vice-president. Like effort in the theoretical model, the formation of this alliance was initially costly but ultimately helped them win the electoral contest.

The timing of the alliance suggests the ICC helped push Kenyatta and Ruto toward an alliance. There had been intimations of a potential alliance between the two shortly before they first were mentioned as ICC targets in late 2010. However, this was always described as a loose alliance, without formal or concrete associations. When the ICC issued summonses for Kenyatta and Ruto, this alliance became much stronger, with the two making joint appearances and overtly supporting one another.¹⁵ While Kenyan political alliances are notoriously fluid, many commentators explicitly linked the alliance with the ICC process.¹⁶ One Nairobi politics professor said "The political alliance is a gimmick. . . . The two individuals are in a marriage of convenience as both have questions to answer at the ICC." Another commentator noted how the ICC issue "became a glue that would cement a political alliance on which they would ride to power."¹⁷

The Kenyatta-Ruto alliance was a costly decision in two ways. First, in the 2007 elections, Kenyatta and Ruto were on opposite sides of a bitter political battle that ultimately turned violent. After all, the ICC indictments alleged Kenyatta's role in supporting violence against supporters of Ruto's co-ethnics and vice versa. It is difficult to imagine two candidates representing such opposed groups with such a recent history of intense violence coming together on the same ticket. Political commentators argued this point forcefully. One labeled Kenyatta-Ruto "an unholy alliance," while another called the alliance "a platypus . . . a strange beast, consisting of two such different parts that had been thought to exist only in fantasy."¹⁸

The alliance was also costly in realpolitik terms. Kenyatta and his party (TNA) had to give up a disproportionate

14. A poll conducted by South Consulting in February of 2012 found that approximately 80% of people were aware of the trials, and among those citizens, 97% and 94% could identify Kenyatta and Ruto as suspects, respectively.

15. "Imanyara Pushes for Another Attempt at Tribunal." *The Nation (Nairobi)*. February 5, 2011. "Kenyan Leader to Address Ethnic 'Reconciliation' Rally in Northwestern Town." *Daily Nation*. January 21, 2011. Also, "Leaders Back Alliance for 2012 Poll." *The Nation (Nairobi)* December 5, 2010.

16. Mugambi Kiai. "Kenya and the ICC: Fact versus Fiction." *The Star*. January 24, 2011.

17. Macharia Munene. "Unity or Impunity?" *Agence France Presse*. December 1, 2012. Geoffrey Mosoku. "How Pair Defied ICC Rhetoric to Clinch Win." *The Standard*. March 2, 2014.

18. Christoph Titz. "Ethnic Violence Overshadows Kenyan Campaign." *Spiegel Online International*, December 13, 2012. Daniel Waweru. "The Rise of the 'Uhuru.'" *African Arguments*. December 5, 2012.

amount of the “spoils” of winning the election to Ruto’s party (URP). Kenyatta also had to accept Ruto as a running mate, though others were thought to have been his preferred choice because of similar ideologies and ethnic ties.¹⁹ The block of voters that Ruto was expected to deliver was much smaller than the block expected to follow Kenyatta. Yet the two sides agreed to split all public appointments and cabinet positions evenly. Ruto’s party was effectively promised more than half of the cabinet positions, since it was agreed that TNA would use some of its allocated cabinet positions to secure any additional coalition members. URP also received a disproportionately large share of MPs in parliament.²⁰

The alliance also met the second criterion for effort: it increased their chances of winning. The most direct effect of the alliance was that Kenyatta and Ruto delivered their expected votes, with particularly strong turnout in their home regions. Kenyatta and Ruto successfully marshalled these pivotal votes, in part, by using the ICC as an issue to rally their supporters. During rallies, the pair urged supporters to use the election as “a vote of no confidence in the ICC.”²¹ The Kenyatta-led alliance successfully cast themselves as patriotic Kenyans in opposition to a patronizing international community.

Public opinion on the ICC shows that this facet of Kenyatta’s campaign was especially successful in their stronghold regions. Figure 3 plots the percent of respondents who indicated that they were happy with the ICC process over time, according to nationally representative polls conducted by South Consulting.²² The left panel shows the trends for Kenyatta and Ruto’s home regions (Central, Rift Valley). The right panel shows Odinga’s home region (Nyanza) and another region in which Odinga previously received overwhelming support (Western). Public support for the ICC starts at a very high level in all regions. Over time, however, ICC support plummets in the Central and Rift Valley regions, as Kenyatta and Ruto’s anti-ICC campaign gains traction. On the other hand, in the two regions associated with Odinga, support for the ICC stays strong. Kenyatta and Ruto’s campaign appears to have been successful at blunting the negative impact of their ICC indictments, especially in their home regions, which helped their electoral prospects (see Ferree, Gibson, and Long 2014).

19. Gus Selassie. “Presidential Aspirants Seek Winning Tickets in Kenya.” *Global Insight*. December 4, 2012.

20. Star Team. “Ruto Is Big Winner in Uhuru Deal.” *The Star (Nairobi)*. November 29, 2012.

21. “Africa News.” January 31, 2013. *The Independent (Kampala)*. Also, Lynch (2014).

22. The polls asked the following: “How Happy or Unhappy Are You That the ICC Is Investigating Perpetrators of Post Election Violence?” The surveys averaged between 200 and 900 respondents per region, per survey.

Effect of institutional signals and ex ante support

To assess hypothesis 2, I use public opinion data from before and after the ICC’s summonses. The data provide snapshots of Kenyatta’s likelihood of winning the electoral contest. I look for evidence that the ICC’s actions and the ensuing adjustments in effort of opposing groups decreased support for Kenyatta. Where I see decreased popular support for Kenyatta, this represents a decreased probability of an anticompliance actor winning the electoral contest. While it would be ideal to link subnational adjustments in effort, such as campaign contributions or campaign stops, with subnational changes in support, this type of data is not available.

Recall that the second hypothesis is that the effect of the ICC should be nonmonotonic: strongest when pro- and anticompliance groups are balanced ex ante and weaker where they are imbalanced. Kenyan politics are well suited to assess this prediction because there is significant subnational geographic variation in ex ante support for political candidates. Ethnic groups are heavily concentrated in particular regions, and political candidates are strongly associated with their home regions. Voters’ political preferences are very concentrated along ethnic lines, so regions are predisposed to support or oppose certain candidates (see Gibson and Long 2009). I therefore expect to see the largest effect of the ICC in regions that are balanced in their presumptions support for Kenyatta, that is, neither strongly predisposed to support nor oppose Kenyatta.

Figure 4 shows public support for Kenyatta, across regions and time, from nationally representative surveys conducted between December 2010 and October 2011, with the summonses indicated with the vertical line.²³ The surveys asked respondents to indicate their preferred presidential candidate. Each dot shows the percentage of respondents from that region who indicated that Kenyatta was their most preferred candidate during that particular survey. Each of the six surveys polled an average of 1,300 respondents.

I use these data to construct two quantities: (1) an individual’s expected level of support for Kenyatta before the summonses and (2) a measure of how much the ICC decreased support for Kenyatta. The first quantity describes an individual’s preferences for Kenyatta before the institution’s action. The second quantity describes the ICC’s effect. The overall approach for this second quantity is to use the presumptions surveys to predict post-summons support for Kenyatta, and then compare the predicted and observed levels of support. If the ICC summonses decreased support for Kenyatta, then observed support should be lower than predicted support. The magnitude of the difference between pre-

23. Data are from Infotrak. Surveys are described in the appendix.

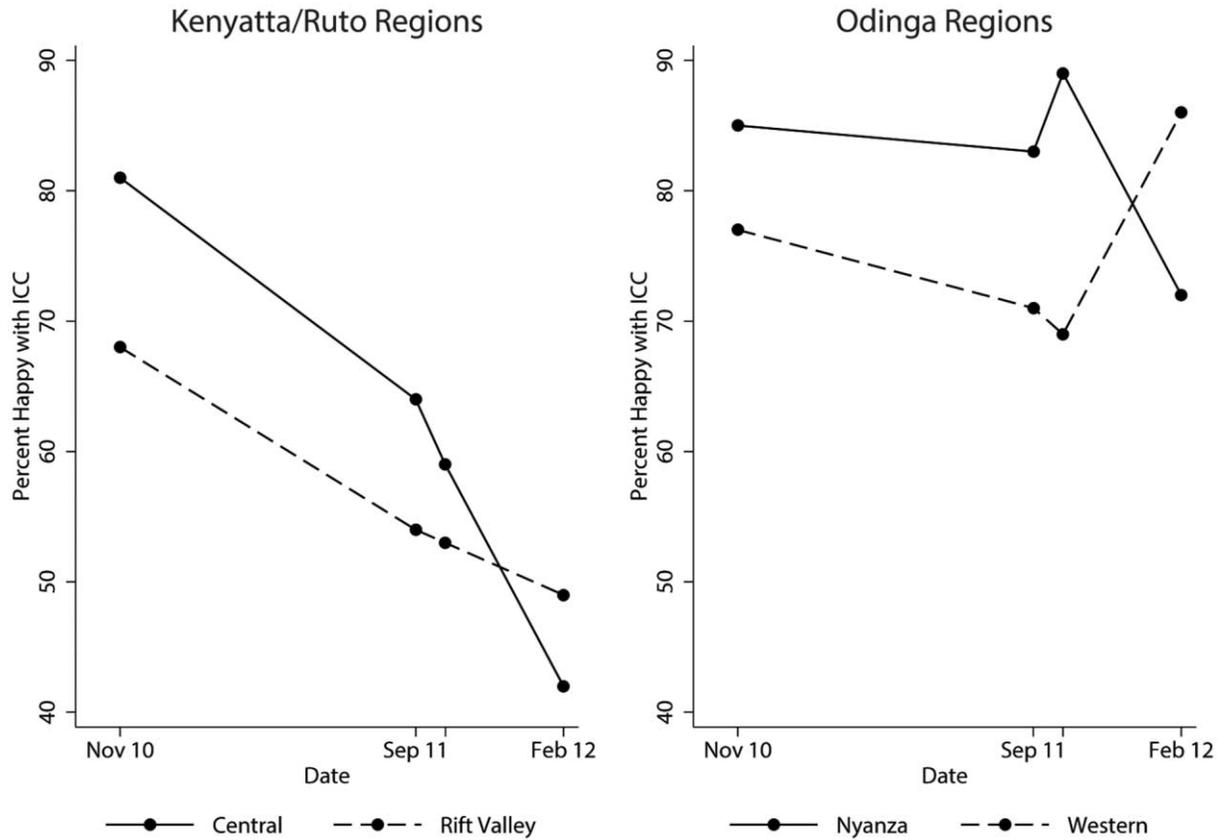


Figure 3. Support for ICC across regions. Percentage of respondents who indicated that they were happy with the ICC process over time, data from South Consulting. The unlabeled tick is for an October 2011 survey.

dicted and observed support estimates the size of the ICC’s effect.

The main result is that, in regions where Kenyatta enjoyed middling support before the summonses, his post-summons support is lower than expected. But in regions where he enjoyed particularly high or low levels of initial support, the summonses had less effect. This is consistent with the theoretical model, in which institutional actions have the greatest effect “in the middle.”

To measure the effect of the ICC, I first use presummons data to “train” a model that predicts an individual’s likelihood of supporting Kenyatta post-summons. I then compare the predicted and observed support across individuals. Let k_i be an indicator variable that equals 1 if respondent i chose Kenyatta as their most preferred candidate. The surveys also asked a variety of demographic questions, like the respondent’s sex, age, whether they lived in an urban or rural area, their religion, and their region of residence. Let X_i denote the matrix containing these variables (excluding region), where each row corresponds to one respondent. Let r_i^j be a binary variable that equals 1 if respondent i lives in region j and zero otherwise.

I first use the data from the presummons surveys to estimate a probit regression that models k_i as a function of the respondent’s observed demographic characteristics, the set of region indicators, and a region-specific time trend, as in

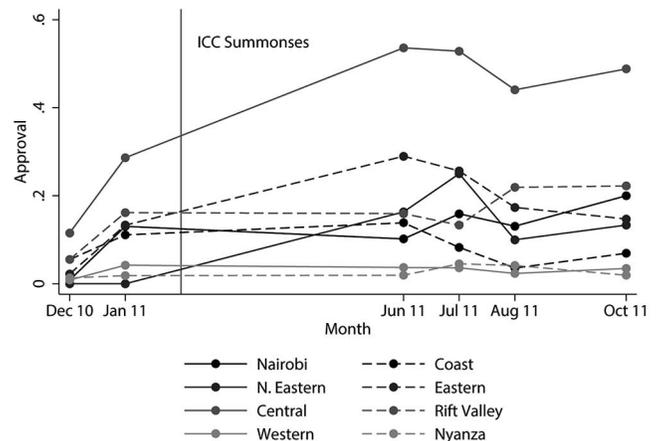


Figure 4. Kenyatta support by region over time. Percent of respondents in each survey answering that Kenyatta was their most preferred candidate for six surveys. Surveys were conducted by Infotrak. ICC summonses marked with vertical line.

equation (1).²⁴ Thus, t counts months, beginning in December 2010.

$$k_i^* = X_i\beta + \sum_{j=1}^6 \gamma_j r_i^j + \sum_{j=1}^6 (\delta_j r_i^j t) + \varepsilon_i, k_i = \begin{cases} 1 & \text{if } k_i^* > 0, \\ 0 & \text{otherwise.} \end{cases} \quad (1)$$

As a slight abuse of notation, denote the resulting vector of coefficients for all explanators as $\hat{\beta}$. For each individual in the four post-summons surveys, I calculate the respondent’s predicted level of support for Kenyatta, $\hat{k}_i = X_i\hat{\beta}$. Thus, \hat{k}_i describes the individual’s latent support for Kenyatta, as predicted by the covariates observed for that individual and the coefficients from the presummons model.

I then calculate a measure of the degree to which the pre-summons model over- or underpredicts an individual’s support for Kenyatta. I construct this difference: $d_i = \Phi(\hat{k}_i) - k_i$, where Φ indicates the cumulative standard normal distribution function. In other words, the pre-ICC model predicts the probability that individual would have chosen Kenyatta, $\Phi(\hat{k}_i)$, and I then compare that to the individual’s observed choice. Higher, positive values of d_i indicate that the ICC had a greater effect in lowering that individual’s support for Kenyatta.

To see why this quantity d_i captures possible ICC effects, consider an individual in a post-summons survey who did not support Kenyatta, $k_i = 0$. In this case, d_i is positive by construction. The magnitude of d_i gives a measure of how surprised we are that the individual did not support Kenyatta. Conversely, if the post-summons individual did select Kenyatta, $k_i = 1$, then d_i is negative by construction, and the difference measures the degree to which the individual’s observed support for Kenyatta is higher than expected.

I thus have the two pieces necessary to assess hypothesis 2. I have a prediction of the individual’s ex ante level of support for Kenyatta, \hat{k}_i , and a measure of the effect of the ICC summonses, the difference between the individual’s observed and predicted support, d_i . The theory predicts that the differences should be higher for individuals in the middle of the distribution of predicted support for Kenyatta and lower for those that are either very likely or very unlikely to support Kenyatta.

Figure 5 shows this relationship. The figure plots how d_i varies with \hat{k}_i , using all four of the post-summons surveys, with a Loess smoothed line to help show overall trends.²⁵

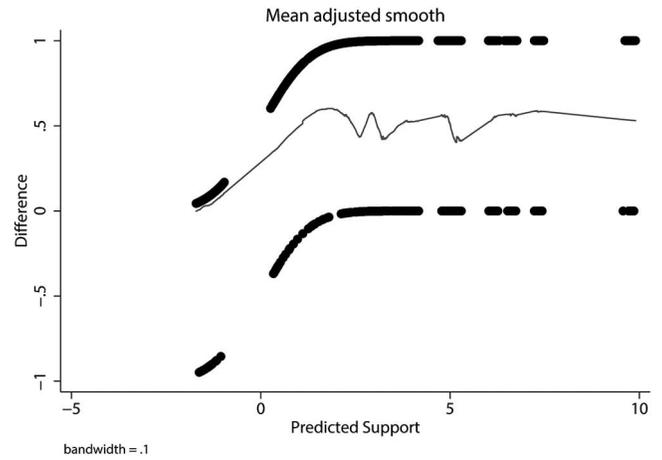


Figure 5. Predicted versus actual support, all post-event surveys. The horizontal axis is the linear prediction of latent support for Kenyatta using pre-ICC event estimates. The vertical axis is the individual’s predicted probability of supporting Kenyatta minus the individual’s observed choice. Smoothed loess line is included, where the mean of the smoothed values is constrained to equal the mean of the values on the vertical axis.

The vertical axis is the difference, d_i , and the horizontal axis is the predicted ex ante support, \hat{k}_i .

The predictions receive support, although with one caveat. As predicted, the estimated effect of the ICC—the differences—are highest for individuals who fall in the middle of the distribution of predicted support for Kenyatta. The highest estimated effect of the ICC is found in the Western region, which was widely considered to be a “swing region” in the election. The estimated effect of the ICC is particularly low for individuals who were not expected to support Kenyatta, as on the left-hand side of figure 5. The estimated effect of the ICC summonses is lowest in Nyanza, which is Odinga’s homeland. Like the right-hand sides of figures 1 and 2, an increase in effort by the PC groups had a smaller effect, because the PC groups were already strong ex ante.

The estimated effect of the ICC is also somewhat strong for individuals with higher predicted levels of support for Kenyatta. Looking at the right-hand side of the figure, the ICC seems to have lowered support, though not as much as in the middle of the predicted support distribution. However, two appealing modifications show stronger support for the prediction. Figure 6 shows the same results as figure 5 but with two changes. First, it “zooms in” by only using data from the June 2011 survey, which occurred most immediately after the ICC summonses. Zooming in decreases the potential influence of confounding events occurring in between the ICC summonses and the post-summons survey. Second, figure 6 excludes the responses of individuals in Nairobi, which are likely outliers because the presummons empirical model predicts very strong support for Kenyatta

24. ε_i are assumed to be distributed i.i.d., standard normal.

25. The smoothing algorithm is constrained so that the mean of the smoothed values equals the mean of the values on the vertical axis. The overall pattern is robust to various bandwidths.

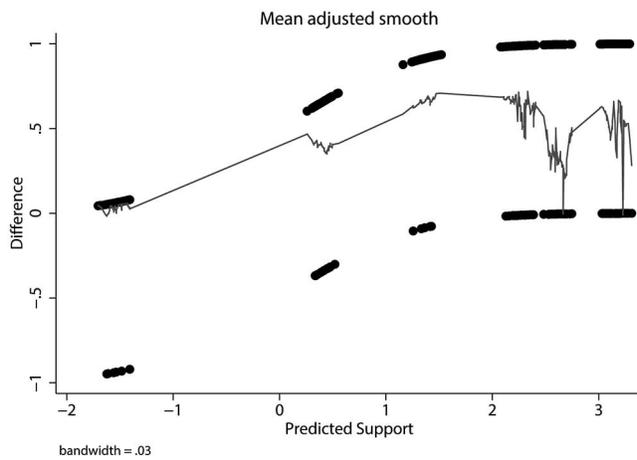


Figure 6. Predicted versus actual support, first post-event survey only, excluding Nairobi. This figure only uses data from the June 2011 survey and excludes respondents from Nairobi. The horizontal axis is the linear prediction of latent support for Kenyatta using pre-ICC event estimates. The vertical axis is the individual’s predicted probability of supporting Kenyatta minus the individual’s observed choice. Smoothed loess line is included, where the mean of the smoothed values is constrained to equal the mean of the values on the vertical axis.

in that region. The model likely over-predicts this support to a greater degree than in other regions because of the linear region-specific time trends.

The pattern in figure 6 is more strongly consistent with the prediction. As before, the effect of the ICC is weaker for individuals on the left-hand side, that is, individuals who were least supportive of Kenyatta *ex ante*. Now, however, the effect of the ICC is also weaker on the right-hand side, at higher predicted values of support for Kenyatta. Like the left-hand sides of figures 1 and 2, the effect of the IO is smaller because any increase in effort by the PC groups is met with an endogenous increase in effort by the AC groups.

Note too that the differences in each figure are largely positive. This indicates that the overall effect of the summonses was to decrease support for Kenyatta. This is important because it casts doubt on one plausible alternative explanation. One alternative explanation would argue that the summonses simply increased Kenyatta’s value to winning the presidency, which increased his effort level. However, that explanation is not consistent with the finding that the ICC decreased support for Kenyatta overall. If it were true that the ICC simply increased Kenyatta’s effort, that would likely result in an increase in his support. The differences between predicted and observed supported are largely positive in figures 5–8, suggesting that the overall result of the ICC was to decrease support for Kenyatta. This, combined with the patterns of those decreases over different regions, suggests that the theory’s

emphasis on both sides of the contest is an improvement of our understanding of the ICC’s effects.

Robustness. Several robustness checks further support these findings and address potential threats to inference. First, in the algorithm above, I chose the functional form for the presummons model, so it is important that results not be artifacts of that choice. Kenkel and Signorino (2013) develop a flexible estimation technique in which the functional form for the effect of covariates on the outcome is estimated rather than imposed, using an adaptive LASSO regression. I apply their approach here by estimating the presummons training model using their procedure, implemented by using the *polywog* command in R. I then reconstruct the differences, d_i , as before, using the *polywog* estimated coefficients.

Figure 7 shows the smoothed local fit line of those differences. The nonmonotonic pattern is again apparent. Consistent with the theoretical prediction, the effect of the ICC is strongest in the middle and weaker on the left and right areas.

A second threat to inference might be that the individual level disturbances in the presummons model, ε_i , are distributed normal. The normal CDF is steepest in the middle, making the analysis more likely to find effects of the ICC in the middle. As a robustness check, I repeated the algorithm using a logit model, since the logit distribution has fatter tails than the normal. For this check, I used a logit model for the presummons data. I then calculate the difference between the predicted probability of an individual supporting Kenyatta

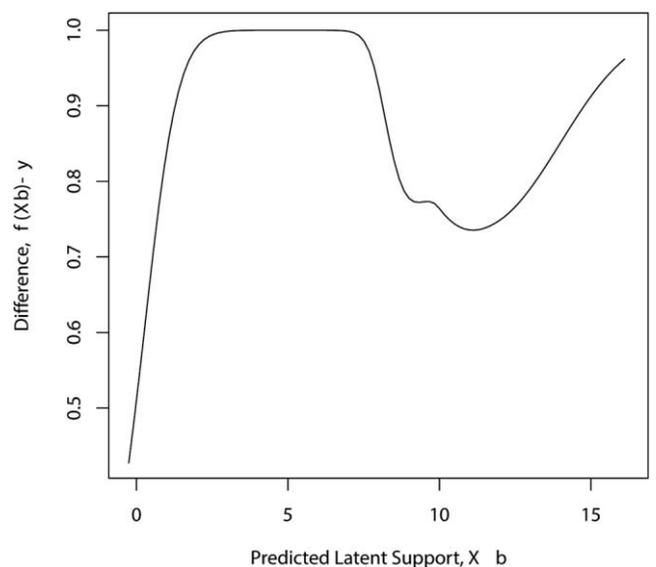


Figure 7. Smoothed predicted versus actual support, flexible estimation. This figure uses the *polywog* package (Kenkel and Signorino 2013) to construct pre-ICC estimates. The vertical axis is the individual’s predicted probability of supporting Kenyatta minus the individual’s observed choice. This figure shows the local fit loess line of those estimates.

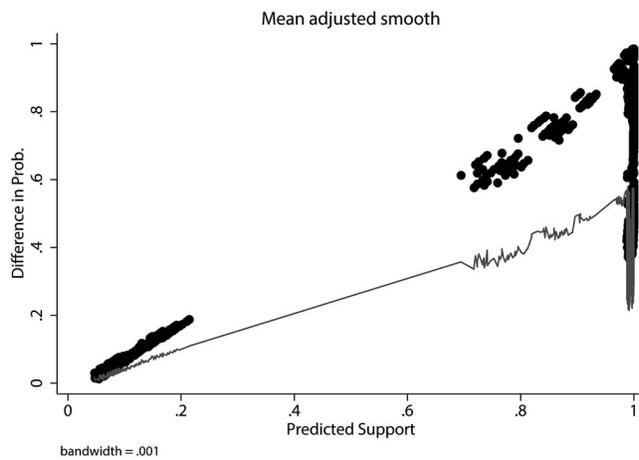


Figure 8. Predicted versus actual support, logit approach. The horizontal axis is the predicted probability of support for Kenyatta using pre-ICC logit estimates. The vertical axis is the individual's predicted probability of supporting Kenyatta based on pre-ICC coefficients minus the predicted probability based on post-ICC coefficients. Smoothed loess line is included, where the mean of the smoothed values is constrained to equal the mean of the values on the vertical axis.

and their observed support. This difference is interpreted in the same way as the differences above.

Figure 8 plots the results, with an individual's predicted probability of support based on presummons coefficients on the horizontal axis and the difference in predicted probabilities on the vertical axis. The same pattern from above obtains, though the results are less smooth because of the large number of predicted probabilities clustered at 1. The effect of the ICC summonses is nonmonotonically related to presummons support as predicted.

The appendix more fully describes these and other robustness checks. I conducted a placebo test using the four post-summons surveys to ensure that the algorithm of comparing predicted and observed support didn't generate similar results when comparing time-frames without events like the ICC summonses. Furthermore, similar results can be obtained by analyzing support for Odinga. The results presented here are also robust to analysis of different regions and surveys, as well as analysis of varying bandwidths for the various smoothing algorithms.

CONCLUSION

A large and valuable body of existing work argues that international institutions induce compliance because they mobilize domestic actors who support compliance. I developed a general theory in which institutions can affect the mobilization of both pro- and anticompliance domestic groups in

a contest over compliance policy. The theory predicted that institutional signals often increase the efforts of anticompliance groups and that these signals have the greatest marginal effects when pro- and anticompliance groups have similar valuations of winning the contest or costs to effort ex ante. I found empirical support for the first prediction by tracing how the ICC's indictment of two Kenyan politicians during the 2013 presidential campaign cemented their unlikely and costly political alliance and helped them rally supporters against the ICC. I found support for the second prediction by analyzing individual level data, showing that the effect of the ICC on support for the main indicted candidate was greatest in regions where he would have otherwise expected middling support.

While the Kenyan case is inherently important to analyze because it is a watershed moment in the life of a prominent institution, it is also representative of many other situations. WTO disputes over protectionist barriers trigger contestation between pro- and anti-free trade firms. The European Union's austerity efforts in Greece resulted in widespread contestation over fiscal and monetary policy. IMF conditionality requirements spark contests between different subnational groups over conditionality. Ratifying a human rights treaty creates new coalitions to compete for influence over the laws. The framework established here is portable to each of these contexts and gives leverage over the effect of institutions on effort and the outcome of the ensuing contest. This article demonstrates the importance of accounting for the pre-IO balance of power between opposing groups for assessing the IO's ultimate impacts.

This research has implications for what types of cases international institutions can most successfully pursue. International institutions often focus on the "worst of the worst" violators of institutional rules, perhaps (optimistically) because of their altruistic desire to do good where it is needed most or perhaps (cynically) because of their desire for additional prestige or resources. However, if institutions desire to affect compliance, its proponents should focus on cases where pro- and anticompliance groups are balanced. In the Kenyan case, the ICC potentially underestimated the degree to which anti-accountability actors could join forces to resist compliance. Emilie Hafner-Burton (2013) recently suggested that steward countries should "triage" human rights violations by focusing on cases where international efforts are most likely to have an effect. This research suggests possible ways to think about the likelihood of success. Rather than fight battles with overwhelmingly long odds, international institutions and their proponents would benefit from focusing on cases where they can most effectively sway political contests toward compliance.

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