International Institutions and Contests Over Compliance: the International Criminal Court and Kenya *

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Abstract

A broad class of theories, applied to a wide array of substantive issues, argues that international institutions facilitate compliance by mobilizing pro-compliance domestic groups. I develop a general model of political contestation over compliance policy in which institutions can mobilize *both* pro- and anti-compliance groups. The model predicts that institutions have the greatest ability to increase compliance, where it otherwise would not have occurred, when pro- and anti-compliance 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 key features of the model using the Kenyan experience with the International Criminal Court. The ICC cemented the political alliance of two anti-compliance candidates and helped them mobilize supporters. 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. This article demonstrates how features of domestic political contests are a key factor for the effectiveness of international institutions.

The effect of international institutions on the behavior of sovereign nation states is a fundamental question in international relations research. A prominent argument is that international institutions affect member state behavior, because they mobilize sub-national groups who support policies that are consistent with the institution's goals or rules, i.e. compliance. This argument is a key feature of broad classes of theories, such as those based on information provision, audience costs and credible commitments,[1] which have been applied to a wide array of substantive issues across human rights and international political economy.[2]

Yet, institutions are not always successful at inducing compliance in the ways predicted by these arguments. 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 pro-compliance 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 go on to win the election, and subsequently use 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 pro-compliance groups? I argue that the answer requires consideration of how institutions can mobilize *both* pro- and anti-compliance 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 a function of contestation between these opposing groups.

[1] Carrubba (2005); Mansfield, Milner and Rosendorff (2000, 2002); Rosendorff (2005); Tomz (2008).

[2] Simmons (2009); Simmons and Danner (2010); Mansfield, Milner and Rosendorff (2000); Buthe and Milner (2008); Elkins, Guzman and Simmons (2006); Simmons (2000).

I develop a model in which both pro- and anti-compliance groups exert costly effort to influence a contest over compliance policy. In the model, an institution can raise the pro-compliance group's value to winning the contest, causing that group to exert more effort. However, this can also cause the anti-compliance 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 anti-compliance 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 pro-compliance group wins the ability to set 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, i.e. 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 pro-compliance group's chances of winning the contest when these incentives are imbalanced. When institutions mobilize pro-compliance groups with low values to winning or high costs to effort, this also induces the anti-compliance group to ratchet up their effort, minimizing the institution's effect on the resulting contest. When pro-compliance 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 non-monotonically 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 compliance 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) anti-compliance 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 important 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.

The broader implication of this article is to explain and formalize the conditions under which institutions are most able 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 anti-compliance 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 applications. The model can be extended to account for variation in variables emphasized in existing literature, like regime type or other features of domestic political institutions. The theory can also be applied to 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 their government's decision to comply

with conditionality requirements. The Kenyan case analyzed here is a representative example of these common phenomena and is demonstrative of the importance of considering both pro- and anti-compliance groups.

Two Sides to Compliance

Most international institutions lack direct enforcement capabilities which has led to a growing scholarly emphasis on domestic enforcement mechanisms. In virtually every issue area, existing theoretical arguments describe how institutions facilitate compliance by mobilizing pro-compliance groups. In the area of human rights, Beth Simmons (2009) argues that human rights obligations mobilize citizens to demand better treatment from oppressive governments.[3] 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.[4] 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 a variety of other contexts, including security, investment agreements, and IMF agreements.[5]

There are also a variety of mechanisms through which institutions mobilize pro-compliance groups. Institutions provide information about the occurrence and severity of a government's non-compliance, causing pro-compliance groups to punish their leaders.[6] Institutions also increase citi-

[3]See also Simmons and Danner (2010) on the ICC or Keith, Tate and Poe (2009) linking human rights and regime type via accountability to domestic actors.

[4]See also Ehrlich (2007); Mansfield and Reinhardt (2008); Pelc (Forthcoming); Pevehouse (2002), or Kono (2006) on democracies hiding trade barriers from domestic audiences.

[5]For security, see: Fang (2008); Chapman (2007, 2009). For investment, see: Buthe and Milner (2008); Elkins, Guzman and Simmons (2006). For the IMF, see: (Simmons, 2000).

[6]Carrubba (2009); Dai (2005, 2006); Mansfield, Milner and Rosendorff (2002); Rosendorff (2005).

zens' value to compliance by inspiring new ideas and providing new resources for pro-compliance groups.[7] Institutions can raise audience costs, by activating citizen disapproval when promises or commitments are broken.[8]

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

This article uses these arguments as a launching point for an examination of the effect of institutions on both pro- and anti-compliance groups. A government's compliance policy decision inevitably creates domestic winners and losers. Some domestic groups bear higher costs or receive lower benefits than others, creating *anti-compliance* groups. The presence of opposing groups has been identified in many important issue areas. For example, many attempts to improve human rights result in resistance from opposition groups, who defend "traditional" practices.[9] Actions by international institutions like the ICC have triggered reactions from anti-compliance groups. Though few would support impunity for war criminals, the ICC often met fierce resistance, particularly in Africa, where many perceived the court as tool for 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 Sudanese citizens rallied in opposition to the ICC.[10]

Examples of both pro- and anti-compliance groups also abound in international political economy, where compliance policy has direct economic consequences that benefit some groups at the expense of others. Divergent sub-national interests over IPE policies has inspired a rich body of re-

[7] Simmons (2010).

[8] Abbott and Snidal (1998); Leeds (1999); Mansfield and Pevehouse (2006); Tomz (2008).

[9] Bob (2012); Cloward (2014); Jasper and Poulsen (1993).

[10] McDoom, Ophera, "Thousands of Sudanese rally in support of Bashir," Arab News/Rueters, July 14, 2008.

search on outcomes like political cleavages, public opinion, and firm and NGO behavior.[11] As with human rights, the actions of international institutions can trigger competition among these groups. In February of 2002, the United States Senate Committee on Finance held hearings regarding WTO disputes over protection of U.S. lumber and steel producers.[12] While some participants expressed support for compliance with the WTO and opposition to tariffs, the hearing was overwhelmingly a platform for tariff supporters/compliance opponents. The Chair of the committee, Senator Baucus (from lumber-producing Montana) opened by lambasting Canadian "give-away prices" before showing contempt for WTO steel disputes saying, "I take particular umbrage when Europe and Japan criticize U.S. trade policy in steel after decades of subsidies and cartels in their own country." Senator Rockefellor (from steel-producing West Virginia) then followed with scathing criticism of 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 any 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."

Why Analyzing Both Sides Matters

The existence of anti-compliance 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 the study of rent-seeking behavior and lobbying.[13] Groups within society assign value to the ability to choose government policy and are willing to exert costly effort to increase their influence over policy. The

[11] Rogowski (1987); Milner and Tingley (2011); Sell and Prakash (2004); Mayda and Rodrik (2005).

[12] Hearing Before the Committee on Finance of the United States Senate, 107th Congress, Second Session, February 13, 2002. S. Hrg. 107-607.

[13] Tullock (1967).

"prize" for the contest is that the winning group gets to shift government policy closer to its most preferred policy. "Effort" takes many forms, like lobbying, monetary contributions, protests, or violence. Groups can vary in their valuation of the prize and in their marginal costs or effectiveness of effort. Other phenomena of interest to international relations scholars have been thought of as contests, such as armament decisions[14] or countries dividing the benefits from collective action.[15]

The existing theories of international institutions described above motivate one facet of an institution's effect on a compliance contest. For example, revealing information about the severity of a government's noncompliance to a pro-compliance domestic group (e.g. Mansfield, Milner and Rosendorff (2000, 2002)) is akin to increasing that group's value to winning the prize. Learning that poor economic conditions are the result of non-compliant policy, as opposed to adverse unobservable shocks, increases the potential value of lobbying against non-compliant policies. Institutions' ability to increase pro-compliance 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. Existing theory thus gives important motivation to the idea that an international institution can affect the pro-compliance side of a contest.

The theory presented here emphasizes how institutions affect the efforts of both groups. Under certain conditions, institutions can increase the anti-compliance groups' efforts as well, which has important implications for the conditions under which institutions are most able to increase the probability that the pro-compliance 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.

[14] Slantchev (2010).

[15] Schneider and Slantchev (2013).

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. The model is general in two important ways. First, it is general to types of effort or regime type. "Effort" is assumed to have only two features: it is costly and more effort improves, however minimally, a group's chance of influencing policy. In a democracy, effort might mean a political contribution or voting decision. In an autocracy, effort might occur outside an institution via protest. The model's conception of effort accommodates both. Second, the model incorporates strategic behavior on the part of the institution by modeling the institution's preferences and actions. The institution is not assumed to be a passive or stochastic influence on contests.

Players, Preferences, and Actions

Two groups, a pro-compliance (PC) and anti-compliance (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. 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.[16]

The institution receives a private signal about the state of the world, denoted $\{b, \sim b\}$. I say

[16]Later, I discuss the possibility that an institution can affect both sides' valuations.

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 highly beneficial, or to not send a signal, denoted $\sim S$.

The informational environment thus matches features of real world situations. 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 might yield 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 the downturn was caused by a trade barrier, then removing a protectionist leader is valuable for pro-free-trade citizens, but if the downturn was simply a shock, removing that leader is not as valuable.[17]

International institutions often have some 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 features of this equilibrium thus reflect the dynamics described by existing theories. The institution's signal potentially causes the pro-compliance group to update its beliefs positively about the value of compliance. For these

[17] Mansfield, Milner and Rosendorff (2000).

equilibria, I assume that the institution's signal is accurate more than half the time, such that $q \in (\frac{1}{2}, 1)$.

After the institution's signaling decision, each group can engage in costly activities 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 pro-compliance group wins, is $\phi_{PC}(e_{PC}, e_{AC}) = \frac{e_{PC}}{e_{PC}+e_{AC}}$, and $\phi_{PC}(0,0) = \frac{1}{2}$. The probability that the anti-compliance group wins is $\phi_{AC}(e_{PC}, e_{AC}) = \frac{e_{AC}}{e_{PC}+e_{PC}}$, with $\phi_{AC}(0,0) = \frac{1}{2}$. 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 $\Pi_{AC}(e_{PC}, e_{AC}) = \phi_{AC}(e_{PC}, e_{AC})V_{AC} - c_{AC}e_{AC}$.[18]

The international institution's payoffs are affected by whether they choose to send the public signal, S, and whether the pro-compliance group wins when compliance is beneficial. When compliance is beneficial, the institution receives utility of $V_I > 0$ if the pro-compliance group wins. When compliance is not beneficial or when the AC group wins, the institution receives utility 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.[19]

I also allow for the possibility that the institution values its legitimacy or reputation. All else equal, the institution prefers not to have its signals ignored. If they send a positive public signal

[18]This is the familiar ratio form of contest success functions. Skaperdas (1996) derives this form from appealing axioms and Jia (2008) derives it from a stochastic setting.

[19]Evans-Pritchard, Blake. "Mali Case Throws Spotlight on ICC Budget Constraints." August 6, 2012. Institute for War and Peace Reporting.

and the anti-compliance group prevails, the institution pays a legitimacy cost, $l \geq 0$.[20] Note that the inclusion of legitimacy costs is only to add versatility to the model. All results about effort and the probability of compliance obtain when $l = 0$.

The sequence of the game is as follows: (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, (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 an institutional signal on effort levels and use this to characterize the institution's signaling decision. Proofs of all propositions 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 pro-compliance group's expected value of winning the contest.[21] Formally,

[20] For a similar assumption, see Carrubba (2005).

[21] The conditions for the existence of this equilibrium are straightforward and in the appendix. I analyze this type of equilibrium since it has the features reflecting the questions motivating this paper.

Proposition 1. *Informative Equilibrium: There exists a Perfect Bayesian Equilibrium where*

(i) The institution chooses $S|b$ *and* $\sim S| \sim b$

(ii) Group i *chooses* $e_i^{*\prime}|S$ *and* $e_i^{*\prime\prime}| \sim S$

(iii) The PC group's beliefs are $Pr(B|S) > Pr(B| \sim S)$.

Optimal Effort Levels and Win Probabilities

A general form for each group's optimal effort levels can be expressed by first re-characterizing each group's payoffs in terms or relative costs and benefits to winning. Consider a linear transformation of group i's payoffs by dividing Π_i by V_i.[22] Further, define d_i as $d_i \equiv \frac{c_i}{V_i}$. 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: $max_{e_i} \Pi_i(e_i, e_j) = \frac{e_i}{e_i+e_j} - d_i e_i$. The accompanying first order condition is $\frac{e_j}{(e_i+e_j)^2} = d_i$.[23]

Proposition 2 characterizes e_i^* and Corollary 1 describes how optimal effort changes with each parameter.

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

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

Corrollary 1. *In equilibrium:*

(i) $\frac{\partial e_i^*}{\partial d_i} = \frac{-2d_j}{(d_i+d_j)^3}$ *and (ii)* $\frac{\partial e_i^*}{\partial d_j} = \frac{d_i - dj}{(d_i+d_j)^3}$.

Intuitively, according to (i) of Corollary 1, the optimal effort level for group i is decreasing in

[22] Nash equilibria are preserved by linear transformations in payoffs. This approach is from Corchón (2007).

[23] The derivations describe optimal effort levels in any subgame perfect Nash equilibrium, so I temporarily drop the $\prime$ and $\prime\prime$ superscripts.

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.

Figure 1 shows the equilibrium effort levels for each player, e^*_{PC} and e^*_{AC}, as V_{PC} increases along the horizontal axis.[24] Looking first at the PC group's efforts (red line), as V_{PC} increases, so too does their equilibrium effort level.

However, according to (ii) of Corollary 1, the relationship between i's optimal effort and d_j is non-monotonic and depends on the groups' *relative* valuations. The blue line depicts e^*_{AC}. The mark on the horizontal axis denotes where $V_{PC} = V_{AC}$. When the 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 $V_{PC} = V_{AC}$.

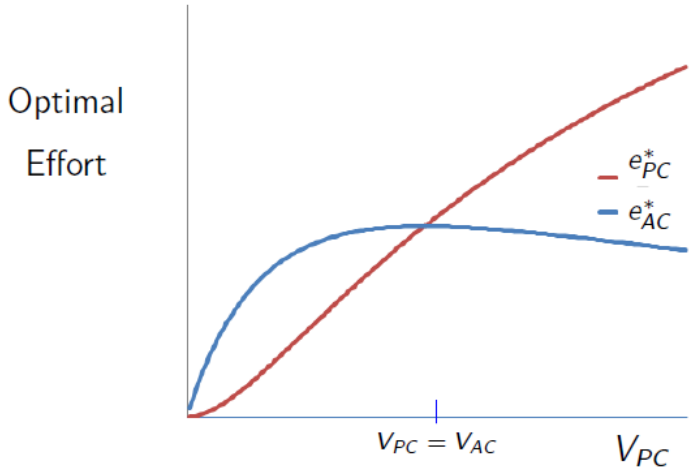
This non-monotonicity arises because groups' effort levels are determined jointly in equilibrium. When V_{AC} is higher than V_{PC}, increases in V_{PC} cause the PC group to increase its own effort level, but they also cause an increase in the AC group's effort. Intuitively, this is akin to deterrence on the part of the AC group. When the AC group values winning the contest very highly, it is willing to respond to small 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 very strongly wants to win the contest, and chooses a correspondingly high level of effort, the AC group has very 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 to reflect an increased desire to win, 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.

How do changes to valuations and costs affect who wins the contest, taking into account

[24]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



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:*

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

Corollary 2. *In equilibrium:*

(i) $\frac{\partial \phi_i(e_i^*, e_j^*)}{\partial d_i} = \frac{-d_j}{(d_i + d_j)^2}$

(ii) $\frac{\partial \phi_i(e_i^*, e_j^*)}{\partial d_j} = \frac{d_i}{(d_i + d_j)^2}$.

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

Before continuing, note that this model describes a specific way in which institutions might affect a contest: signaling about the value of the prize. However, none of the results or comparative static relationships described in the preceding sections are unique to a signaling model. Those relationships obtain even if we think that institutions influence contests in ways other than signaling. For example, the above results would obtain even under alternative assumptions where institutions lower the costs of pro-compliance effort by opening legal avenues to challenge non-compliance.[25] The above results would also obtain under constructivist theories in which institutions had a suasion effect on actors' perceived desirability of compliance.[26] For common types of theories, in which the an institutional action affects the costs to effort or value of the prize, this model's leverage on actors' effort levels and win probabilities, which are the most important results, obtains.

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 thus increase 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" (part 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 $d_{PC}\gamma' < d_{PC} < d_{PC}\gamma''$.[27] However, sending the signal entails a fixed cost for the insitution and risks legitimacy costs if the PC group loses the ensuing contest.

To gain intuition on how the institution weighs these costs and benefits, Proposition 4 and Corollary 3 characterize the difference between the institution's expected utility for sending the signal and not sending the signal.

[25] Simmons (2009).

[26] Checkel (2005).

[27] Full representation of γ is in the appendix.

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:*

$$EU_I(S|b) - EU_I(\sim S|b) = Pr(B|b)[\phi_{PC}(e^{*\prime}_{PC}, e^{*\prime}_{AC}) - \phi_{PC}(e^{*\prime\prime}_{PC}, e^{*\prime\prime}_{AC})]V_I - \phi_{AC}(e^{*\prime}_{PC}, e^{*\prime}_{AC})l - k$$

Corrollary 3. $\frac{\partial EU_I(S) - EU_I(\sim S)}{\partial d_{PC}} = \frac{pV_I}{\gamma'}[\frac{\gamma'' d_{AC}}{(\gamma'' d_{PC} + d_{AC})^2} - \frac{\gamma' d_{AC}}{(\gamma' d_{PC} + d_{AC})^2}] - l[\frac{\gamma'}{\gamma' d_{PC} + d_{AC}} - \frac{(\gamma')^2 d_{PC}}{(\gamma' d_{PC} + d_{AC})^2}]$

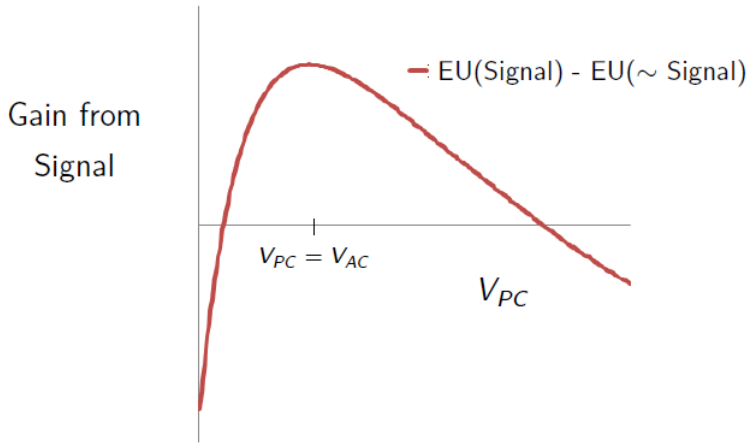
Corollary 3 shows that the institution's optimal decision, S versus $\sim S$, is non-monotonically related to d_{PC}. This is not immediately apparent from the expression, so Figure 2 displays this relationship graphically. The horizontal axis is V_{PC} and the vertical axis shows the institution's expected utility when they send the signal minus their expected utility when 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 when the two sides' valuations are roughly equal. This is for two reasons. First, look at the left hand side of Figure 2, where the AC group values the prize more than the PC group. In this region, 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, looking at the right hand side, where the PC group values the prize more, 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 pro-compliance group's effort level is more likely to be pivotal and to swing the contest in its favor. Additionally, the signal can push the pro-compliance group's effort level above that of

Figure 2: Expected "Gain" from Signal



the anti-compliance group, a region in which, increases in the pro-compliance group's effort levels also cause decreases in the anti-compliance group's effort levels.

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 upwards, meaning that the institution is more willing to send a positive signal. The costs also affect the possibility that an informative equilibrium exists in the first place. 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 legitimacy costs increase, the institution is less likely to send the public signal. However, unlike changes in the costs of a signal, this effect is not simply to shift the institution's expected gains from a signal downward. As legitimacy costs increase, the institution must be particularly careful when the AC group has higher valuations, since this is when the risk of loss of legitimacy resulting from an AC group's victory is highest. When the PC group is likely to win, the institution can be less fearful of legitimacy costs. This is why the slope of the curve in Figure 2 is steeper on the left hand side.

As noted above, this model described how an 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' value to winning. 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 probabilities of one side winning would obtain. In a model with two-sided shocks, 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.[28] That is, even without an institution, anti-compliance groups likely have a better idea of their own costs and benefits to compliance. 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.[29] Such shocks are likely to be one-sided: a human rights treaty helps the PC group litigate against human rights violations but doesn't help AC groups better defend human rights violations via coercion or repression.

Application: Kenya and the ICC

This section tests two key hypotheses from the theoretical model:

- Hypothesis 1: Institutional actions can increase the effort levels of the anti-compliance group.

[28] Dai (2007).

[29] Simmons (2009).

- Hypothesis 2: The effect of institutional actions on the outcome of the contest is non-monotonic, with the greatest effect where pro- and anti-compliance groups are balanced.

I test these predictions using data from the most recent, 2011-2013 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 which 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. Whomever 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."[30]

This is indeed what happened. The indicted candidates won the election, and used their new powers to thwart the ICC's prosection 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."[31] 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.

[30]Mue, Njonjo. "The ICC Mustn't Give Up In Kenya." Open Democracy November 6, 2014.

[31]McConnell, Tristan. "How Kenya Took on the International Criminal Court." Global Post. March 25, 2014.

I assess Hypothesis 1 by showing how the ICC's actions resulted in increased effort levels by the indicted (i.e. anti-compliance) actors. As in the model, the ICC increases the value of compliance to the un-indicted politicians and their supporters. This, in turn, causes 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 anti-compliance actors – because existing literature already analyzes the effects of institutions on pro-compliance actors. 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 test 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. In the Kenyan setting, 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 subnational 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 non-monotonic, as predicted by the theoretical model.

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.[32] The violence caused over 1,000 deaths and internally displaced approximately 600,000 people. The violence largely 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 of 2011, jockeying for the upcoming presidential 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.[33] Note, for ease, I previously used the more familiar term, "indictment." From here forward, I will use the more precise term, "summonses."

[32] Mueller (2008).

[33] 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.

Effort and Political Coalitions

For Hypothesis 1, this section demonstrates that the ICC summonses, the institutional action, resulted in increased effort levels by the anti-compliance group, namely, Kenyatta, Ruto and their supporters. To be sure, the ICC's actions also increased the effort levels of Odinga and other pro-compliance actors. I focus on anti-compliance effort since that is a key feature of a theory emphasizing both sides of a compliance contest.

In the theoretical model, effort referred to actions that (1) were costly and (2) increased the probability of winning the contest. 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 towards an alliance. There had been intimations of a potential alliance between Kenyatta and Ruto a little bit 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.[34] While Kenyan political alliances are notoriously fluid, many commentators explicitly linked the deepening of their alliance with the ICC process.[35] Macharia Munene, a professor of politics in Nairobi, said " The political alliance is a gimmick...the two in-

[34]The Nation (Nairobi) Imanyara Pushes for Another Attempt At Tribunal Feb. 5, 2011. Daily Nation "Kenyan leader to address ethnic 'reconciliation' rally in northwestern town," Jan. 21, 2011. Also, The Nation (Nairobi) "Leaders Back Alliance for 2012 Poll" Dec. 5, 2010.

[35]The Star "Kenya and the ICC: Fact Versus Fiction" Jan. 24, 2011.

dividuals are in a marriage of convenience as both have questions to answer at the ICC."[36] Another commentator noted how the ICC issue "became a glue that would cement a political alliance on which they would ride to power."[37]

The Kenyatta-Ruto alliance was a costly decision in two ways. First, this alliance was less likely to have occurred in the absence of the ICC because of the violent history between the two principals. 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,"[38] 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."[39]

The alliance was also costly in realpolitik terms. The alliance required that Kenyatta and his party (TNA) give up a disproportionate 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.[40] 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.

[36] *Agence France Presse*, "Unity or impunity?" Dec. 1, 2012.

[37] The Standard, "How pair defied ICC rhetoric to clinch win," Mar. 2, 2014.

[38] Titz, Christoph "Ethnic Violence Overshadows Kenyan Campaign," Spiegel Online International, December 13, 2012.

[39] Waweru, Daniel "The Rise of the 'Uhuruto'," *African Arguments*, Dec. 5, 2012.

[40] Selassie, Gus. "Election 2013: Presidential aspirants seek winning tickets in Kenya." Global Insight Dec. 4, 2012.

URP also received a disproportionately large share of MPs in parliament.[41]

The alliance also met the second criteria 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."[42] The Kenyatta-led alliance successfully cast themselves as patriotic Kenyans in opposition to a patronizing international community.[43]

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.[44] The left pane shows the trends for Kenyatta and Ruto's home regions (Central, Rift Valley). The right pane 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.[45]

[41]The Star (Nairobi) Ruto Is Big Winner in Uhuru Deal Nov. 29, 2012.

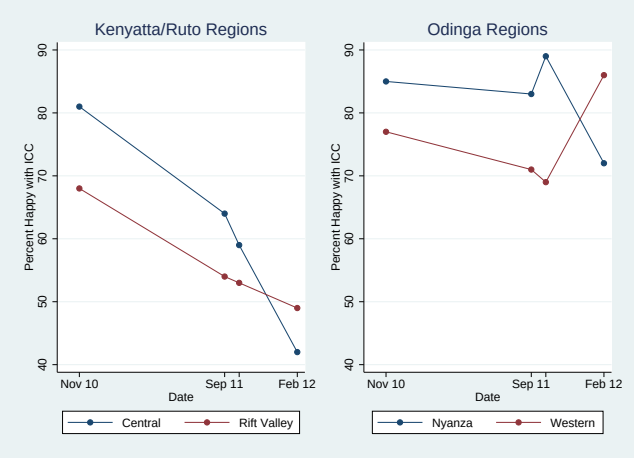
[42]Africa News Jan. 31, 2013 The Independent (Kampala).

[43]Lynch (2014).

[44]The polls asked "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.

[45]Long (2013).

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 on the horizontal axis is for an October 2011 survey.

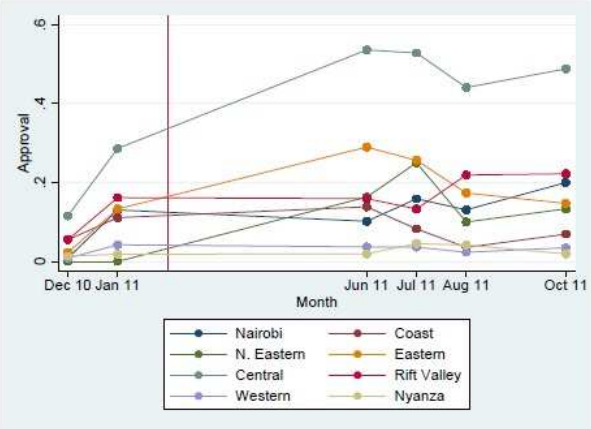
Effect of Institutional Signals and *Ex Ante* Support

To test 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 we see decreased popular support for Kenyatta, this represents a decreased probability of an anti-compliance actor winning the electoral contest.

Recall, the second hypothesis is that the effect of the ICC should be non-monotonic: strongest when pro- and anti-compliance groups are balanced *ex ante*, and weaker where they are imbalanced. Kenyan politics are well suited to assess this prediction because there is significant sub-national 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.[46] I therefore expect to see the largest effect of

[46] Gibson and Long (2009).

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 in Kenya.

the ICC in regions which are balanced in their pre-summonses support for Kenyatta, i.e. neither strongly predisposed to support nor oppose Kenyatta.

Figure 4 shows public support for Kenyatta, across regions and time, from surveys conducted between December 2010 to October 2011. The data are from a set of nationally representative polls taken before and after the ICC summonses, which is indicated with the vertical red line.[47] 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 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

[47]The data were purchased by the author from Infotrak, a Kenyan public opinion firm. Replication materials and .do files will all be available at [URL].

quantity is to use the pre-summonses surveys to predict post-summonses support for Kenyatta, and then compare the predicted and observed levels of support. If the ICC summonses decreased support for Kenyatta, then we should expect to see observed support be lower than predicted support. The magnitude of the difference between predicted and observed support describes the size of the ICC's effect.

The main result is that, in regions where Kenyatta enjoyed middling support before the ICC summonses, his support after the summonses is lower than expected. But in regions where he enjoyed particularly high or low levels of initial support, the summonses appear to have had little 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 pre-summonses data to "train" a model that predicts an individual's likelihood of supporting Kenyatta post-summonses. 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 pre-summonses surveys to estimate a probit regression which 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 Equation 1.[48] t is a counter variable that starts at zero and measures the month that the respondent was surveyed in, beginning in December 2010.

[48] ϵ_i are assumed to be distributed i.i.d., standard normal.

$$k_i^* = X_i\beta + \sum_{j=1}^{6} \gamma_j r_i^j + \sum_{j=1}^{6} (\delta_j r_i^j * t) + \epsilon_i \tag{1}$$

$$k_i = \begin{cases} 1 & \text{if } k_i^* > 0, \\ 0 & \text{otherwise.} \end{cases}$$

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-summonses surveys, I calculate the respondent's predicted level of support for Kenyatta, $\hat{k}_i = X_i\hat{\beta}$. $\hat{k}_i$ thus describes the individual's latent support for Kenyatta, as predicted by the covariates observed for that individual and the coefficients from the pre-summonses model.

I then calculate a measure of the degree to which the pre-summonses model over- or under-predicts an individual's support for Kenyatta. Specifically, I construct this difference: $d_i = \Phi(\hat{k}_i) - k_i$, where Φ indicates the cumulative standard normal distribution function. Higher, positive values of d_i indicate that the ICC had a greater effect in lowering that individual's support for Kenyatta. 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.

To see why this quantity, d_i, captures possible ICC effects, consider an individual in a post-summonses 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, based on the coefficient estimates from the model of the pre-summonses data. Conversely, if the post-summonses 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 test 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.

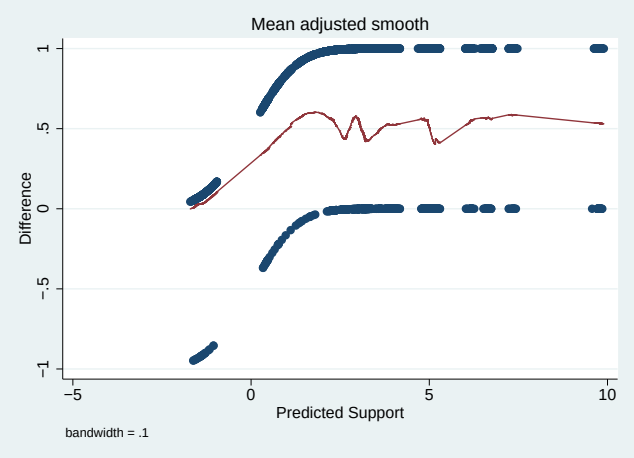
Figure 5 shows this relationship. The Figure plots how d_i varies with $\hat{k}_i$, using all four of the post-summonses surveys, with a Loess smoothed line to help show overall trends.[49] The vertical axis is the differences, d_i, and the horizontal axis is the predicted *ex ante* support, $\hat{k}_i$. The model's theoretical predictions receive support, though 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 which 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.

I say the theory receives only partial support, because 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 theoretical model. 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-summonses survey. Second, Figure 6 excludes the responses of individuals in Nairobi, which are likely outliers because the pre-summonses empirical model predicts very strong support for Kenyatta 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.

[49]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 5: Predicted versus Actual Support, All Post-Event Surveys

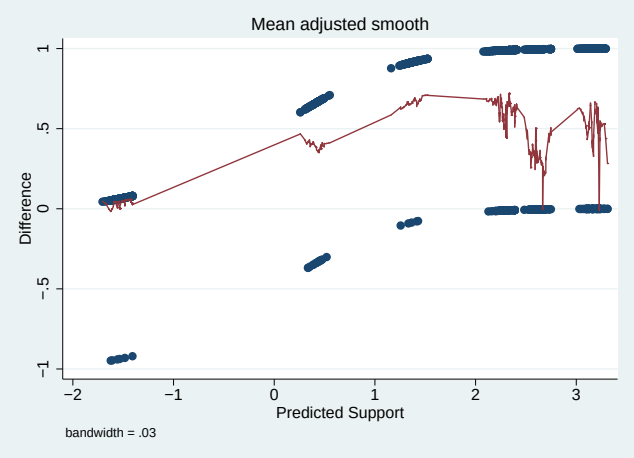


The horizontal axis is the linear prediction of latent support for Kenyatta using pre-ICC event estimates. The vertical axis is the individual's predicted probability of supporting Kenyatta minus the individual's observed choice. Smoothed loess line is included, where the mean of the smoothed values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

The pattern in Figure 6 is more strongly consistent with the theoretical prediction. As before, the effect of the ICC is weaker for individuals on the left hand side, i.e. individuals 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.

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 to the theory advanced here 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. However, the overall result that support for Kenyatta decreased, combined with the patterns of those decreases over different regions, suggests that the theory's emphasis on both sides of the contest is an important improvement of our understanding of the ICC's effects on sub-national contests.

Figure 6: Predicted versus Actual Support, First Post-Event Survey Only, Excluding Nairobi



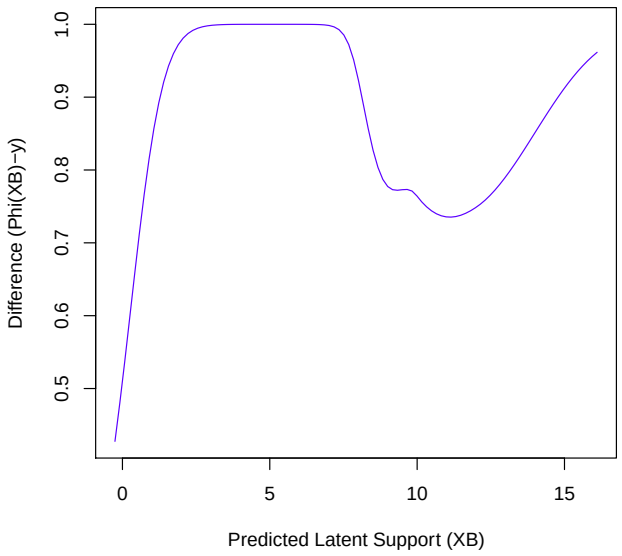
This figure only uses data from the June 2011 survey and excludes respondents from Nairobi. The horizontal axis is the linear prediction of latent support for Kenyatta using pre-ICC event estimates. The vertical axis is the individual's predicted probability of supporting Kenyatta minus the individual's 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.

Robustness

Several robustness checks add further support to these findings and address potential threats to inference. First, the results described above are robust to flexible estimation techniques. The first step in the algorithm described above was to use pre-summonses data to train a model of support for Kenyatta. For this step, I chose a particular functional form to model the probability of supporting Kenyatta. While the functional form I chose was grounded in theoretical knowledge about this situation, it is important to establish that the results are not artifacts of that chosen functional form.

Kenkel and Signorino (2013) develop a technique in which the functional form for the effect of covariates on the outcome of interest is estimated rather than imposed. This approach incorporates the covariates, their polynomial expansions, and interactions of the various terms into a basis regression. It then selects the appropriate variables, expansions, and/or interactions using penalized, adaptive LASSO regression. The approach is designed to let the data inform the appropriate

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.

functional form of the relationship between the pre-summonses covariates and the likelihood of supporting Kenyatta.

I apply their approach here by estimating the pre-summonses training model using their procedure, implemented via the *polywog* command in R. I then reconstruct the differences, d_i, as before, using the *polywog* estimated coefficients.[50]

Figure 7 shows the smoothed local fit line of those differences. The non-monotonic 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.

As a second robustness check, I altered the algorithm above to lessen bias resulting from para-

[50]Estimates were iterated and bootstrapped 500 times.

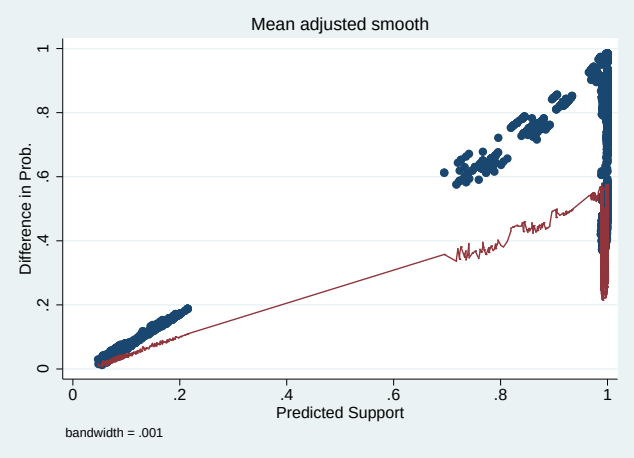
metric assumptions I made about the distribution of individual level disturbances. In the algorithm above, I modeled an individual's likelihood of supporting Kenyatta as a function of that individual's latent support for Kenyatta and an individual level disturbance. Since I used a probit model, the disturbances were assumed to be normally distributed. The shape of the cumulative normal distribution might bias results in favor of finding the greatest effect of the summonses "in the middle," i.e. where the normal CDF is steepest. I want to check that the results are not artifacts of these "floor and ceiling effects," resulting from a parametric assumption I made.

To address this, I first used a logit regression to estimate a pre-summonses training model, since the logit distribution has fatter tails than the standard normal used in the probit. I then estimated an analogous logit regression using individuals from the post-summonses surveys. For each post-summonses individual, I then calculated their predicted probability of supporting Kenyatta based on the estimates from the pre-summonses model and based on the estimates from the post-summonses model. I then calculated the difference: the predicted probability that an individual supported Kenyatta based on pre-summonses coefficients (from step 1) minus their probability based on post-summonses coeffcients (from step 2). This difference is interpreted in the same way as the differences in the probit approach above. A positive quantity shows that the individual's support for Kenyatta is lower, based on the post-summonses coefficients, than would have been expected, based on the pre-summonses coefficients.

Figure 8 plots the results, with an individual's predicted probability of support based on pre-summonses 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 non-monotonically related to pre-summonses support in the way the theory predicts.

As a third robustness check, I conducted a "placebo test" to further establish that the results are not mere artifacts of the approach I used. To do this, I make use of the fact that there are 4 post-ICC surveys. Specifically, I repeated the logit algorithm just described, but, instead of comparing

Figure 8: Predicted versus Actual Support, Logit Approach

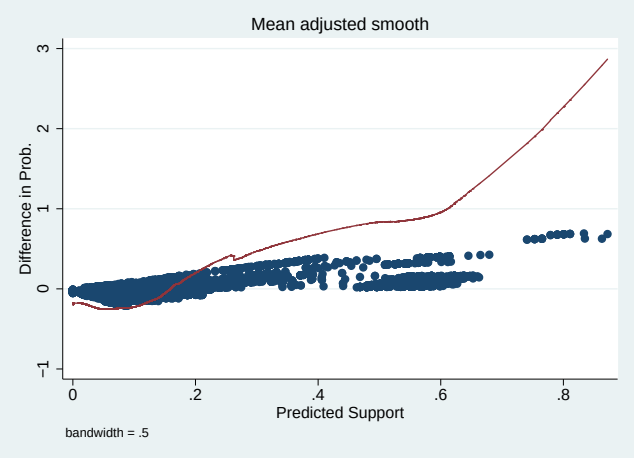


The horizontal axis is the predicted probability of support for Kenyatta using pre-ICC logit estimates. The vertical axis is the individual's predicted probability of supporting Kenyatta based on pre-ICC coefficients minus the predicted probability based on post-ICC coefficients. Smoothed loess line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

pre- and post-summonses data, I used the first two post-summonses surveys and compared them to the last two post-summonses surveys. This is a placebo test, because no event like the ICC's summonses occurred between the July 2011 and August 2011 surveys, i.e. between the first two post-summonses surveys and the latter two post-summonses surveys. So I should *not* expect to find the same relationship as above. This is indeed the case, as shown in Figure 9, where there is no strong pattern relating predicted support and ICC effects.

The appendix fully describes these robustness checks, as well as many others. For example, this analysis was based on assessing the decrease in support for Kenyatta. Similar results can be obtained by analyzing increases in support for Odinga. The ICC's actions and subsequent adjustment in efforts by both sides led to the greatest increases in support for Odinga in regions where he received middling support before the summonses. 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.

Figure 9: Predicted versus Actual Support, Logit Approach, Placebo Test



The horizontal axis is the predicted probability of support for Kenyatta using logit estimates from the first two post-ICC surveys. The vertical axis is the individual's predicted probability of supporting Kenyatta based on those coefficients minus the predicted probability based on coefficients from the second two post-ICC surveys. 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.

To be sure, comparing pre- and post-summonses support requires assumptions that are not testable. It is possible that events other than the ICC summonses affected support for Kenyatta. However, this is unlikely. These confounding events would need to have two features. They would have to be important events that occurred in the time frame in question- between January and June of 2011. Also, the effect of the event on respondents would have to vary with *ex ante* support in the same way predicted by the theory. For example, a non-ICC event that increased or decreased Kenyatta's popularity equally across regions or individuals would not explain these results. It is unlikely that such an event occurred, especially since the ICC dominated much of the national election dialogue during this time period.

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 anti-compliance domestic groups in a contest over compliance policy. The theory predicted that institutional signals often increase the efforts of anti-compliance groups. The theory further predicted that institutional signals should have the greatest marginal effect on the likelihood of compliance when pro- and anti-compliance 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 had attractive features for studying this theory, it is representative of many other situations of interest to international institutions scholars. For example, WTO disputes over protectionist barriers trigger contestation between pro- and anti-free trade firms. The European Union's austerity efforts directed at countries like Greece resulted in widespread contestation over fiscal and monetary policy. IMF conditionality requirements spark contests between different subnational groups over whether to adjust policy to comply with the IMF's conditions. Ratifying a human rights treaty creates new coalitions of actors to compete for influence over the government's human rights laws. The framework established here is portable to each of these contexts. International relations scholars have made tremendous progress in moving beyond debates over whether or not institutions matter. They now focus on the conditions under which institutions can affect member state behavior. This research suggests that a key component to the answer is: features of potential contest between pro- and anti-compliance groups moderate the effects of institutional

actions.

For future work, this research shows how it is inherently important to analyze the effect of institutions on the effort levels of both groups, even apart from the ultimate cooperation or compliance outcome. This is because effort itself has welfare implications. Sometimes, effort is exerted through political channels, with things like campaign contributions or lobbying. This type of effort is a welfare loss for society, since these efforts constitute rents accrued by politicians without any direct increase in citizen welfare. Other times, effort is exerted outside of political channels, with things like protests or violence. These are costly actions with direct, negative consequences for societal welfare. Assessing the overall effect of international institutions requires accounting for their effect on effort, as well as their effect on the ultimate policy outcome.

The policy implications of this research are also significant. 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, to the extent that institutions desire to affect compliance, its proponents should focus on cases where pro- and anti-compliance groups are balanced. Emilie Hafner-Burton (2013) recently suggested that steward countries should "triage" cases of human rights violations, and focus 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 might better benefit from focusing on cases where they can most effectively sway political contests towards compliance.

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