

# Public Reactions to International Legal Institutions: The ICC in a Developing Democracy

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## **Abstract**

We examine public attitudes concerning a possible investigation by the International Criminal Court (ICC). We hypothesize that citizens tend to display lower levels of support for investigations in their own country than hypothetical ones abroad. We further argue that this decrease in support is moderated by a citizen's "proximity" to the investigation. Both perpetrators and victims of alleged crimes can be hesitant about legal interventions, with the former fearing prosecution and the latter fearing the loss of a fragile peace. We use a survey experiment about the ICC in Kyrgyzstan that randomly assigned respondents to a control group, asked about foreign investigations, and a treatment group, asked about an investigation into recent, local violence. Treatment lowered otherwise relatively high approval for investigations. This effect was strongest in regions most proximate to the violence, especially among co-ethnics of victims. Our findings help explain why support for international law can vary widely across subnational constituencies.

**Keywords:** International Criminal Court, Public Opinion, Post-Conflict Justice

Supplementary materials available in online appendix. All replication material available on Dataverse.

In November 2010, public opinion surveys indicated that nearly 80% of Kenyans were happy with investigations by the International Criminal Court (ICC) into violence surrounding the 2007 election. In early 2011, the ICC charged several prominent politicians with crimes against humanity for their alleged roles in that violence. Despite strong support for the ICC a few months earlier, the public response in Kenya was quite mixed. Approval of the ICC plummeted, especially in the home regions of the indicted politicians. Two of those indicted formed a political alliance and eventually won the next national election, campaigning on an anti-ICC platform.<sup>1</sup> They have since used the power of their offices to thwart the ICC process.

The decline in support for the ICC in Kenya is not unique; attitudes toward the ICC in other member countries have recently soured. In 2016 and again in 2017, the African Union (AU) endorsed African withdrawal from the ICC.<sup>2</sup> Though most countries have backed down, these withdrawal threats reflected rising public opposition to the Court. Perhaps noting these trends — and understanding the power of public skepticism towards international interventions — the Philippine President, Rodrigo Duterte, recently enacted his country's withdrawal from the ICC in response to an investigation into his war on drugs. And the ICC is, of course, not alone in suffering occasional public opposition, as multilateral legal institutions like the World Trade Organization, European Court of Justice, or ad hoc United Nations tribunals have received their fair share of opposition from domestic political actors.

Understanding the causes of public support/opposition for international legal institutions is important because public support helps determine institutional success. The ICC, for instance, is a prominent and unique institution. It is the world's first standing court charged with investigating and prosecuting those responsible for war crimes, genocide, and crimes against humanity. Yet, “not even the most powerful courts in the world have the power of the ‘purse’ or ‘sword,’”<sup>3</sup> which makes them dependent on support from their constituents to induce cooperation and compliance. The development of judicial power at both the domestic and international level requires some public acceptance of courts' authority

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<sup>1</sup>Chaudoin (2016); Mueller (2014).

<sup>2</sup>“African leaders plan mass withdrawal from international criminal court.” The Guardian (UK) 1-31-2017.

<sup>3</sup>Gibson et al. (1998: 343).

and legitimacy.<sup>4</sup> This is certainly the case for the ICC. It relies on state cooperation and consent. It requires local cooperation to conduct investigations, gather evidence, and bring indicted individuals to trial. Popular support can facilitate this cooperation, while opposition can stymie government willingness to cooperate and embolden opposition to the Court.

What explains why support for legal institutions might falter, and which segments of the population tend to be most hesitant about interventions from international courts? We argue, first, that citizens will generally exhibit higher support for abstract, foreign international legal interventions than interventions into their own countries. Whether due to resistance to intrusions into the sovereignty of one's own country, concerns about possible bias from supranational courts, or a general reluctance to revisit past violence, support for international law in the abstract will tend to be higher than for applications to one's own country. After all, interventions abroad harbor less threat to the welfare of individuals at home and, if anything, their presence may deter foreign actors from engaging in behavior that violates international norms or human rights. But an investigation into one's own country, on the other hand, may disrupt fragile peace, throw a country into turmoil, tarnish its international reputation, and target a citizen's co-ethnics or political allies — all of which can have tangible consequences that temper support.

Second, we argue that legal interventions can trigger contestation among groups with competing interests, creating negative consequences that affect support for an investigation. These consequences are most intensely felt by those living in closest proximity to the violence under investigation. Regions that experienced violence are likely to be those at highest risk of a resumption of hostility. Perpetrators or their supporters, who naturally resist prosecution, as well as victims of violence who fear upsetting a fragile peace, may be reluctant to pursue post-conflict justice. This can mean the regions that are most likely to fall under the scrutiny of investigations may also be those most likely to witness to decreases in support for outside legal interventions.

To examine these expectations, we analyze data from a survey experiment conducted in Kyrgyzstan during the fall of 2015.<sup>5</sup> Kyrgyzstan is representative of the type of country in which many observers

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<sup>4</sup>Staton and Moore (2011).

<sup>5</sup>Analysis plan pre-registered with Evidence in Governance and Politics (EGAP), ID#(anonymous).

hope the ICC can be effective: a less-developed democracy with a history of civil violence. For instance, Simmons and Danner (2010) argue that the deterrent and accountability effects of international courts have the largest marginal effect in countries with weaker institutions and some history of intrastate violence. Kyrgyzstan meets those criteria; it is only partially free according to standard ratings of government institutions, despite regular elections. Kyrgyzstan also experienced violence in 2010 between ethnic Uzbeks and Kyrgyz citizens resulting in hundreds of deaths and widespread displacement.<sup>6</sup> The violence was regionally concentrated, centered in the southern cities of Osh and Jalal-Abad. It took place against the backdrop of the undemocratic ouster of president Kurmanbek Bakiyev, who hailed from the southern city of Jalal-Abad. The violence was predominantly directed at Uzbeks, with NGOs and outside human rights groups alleging that the interim Kyrgyz government, led by Roza Otunbayeva, a politician from the capital of Bishkek, was likely negligent in responding to attacks on Uzbeks and possibly complicit in the targeting of ethnic Uzbeks. Given these public reports and coverage of the violence, a hypothetical investigation would likely target individuals in or connected to the interim majority Kyrgyz government, military, or possibly members of subsequent governments.

Kyrgyzstan is also a relatively *tabula rasa* setting with respect to the ICC. It signed but did not ratify the Rome Statute, and the ICC has not yet been active in the country. Also, the violence in southern Kyrgyzstan was widely reported at the time and remains salient in Kyrgyzstan today. This allows our survey to simulate the proposal of a possible investigation into a case that could fall under the ICC's purview, rather than examining attitudes about an already established investigation about which attitudes may have already hardened or been influenced by mobilization campaigns. Our survey is therefore novel in its study of the attitudes a non-Western population regarding highly salient instances of violence in an environment relatively free of pre-existing political mobilization either for or against international criminal investigations.

To briefly preview our approach and findings, our survey sampled 1,000 respondents proportionally to the population of each of Kyrgyzstan's sub-national regions. We randomly assigned respondents to either

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<sup>6</sup>The Kyrgyz government estimated 400,000 Uzbeks were displaced, roughly 100,000 across the border to Uzbekistan. See Luke Harding, "Uzbek refugees from Kyrgyzstan pogrom vow to return," *The Guardian* 17 June 2010

a prompt about an ICC investigation into non-specific foreign countries or a prompt about a possible ICC investigation into events that occurred in southern Kyrgyzstan in 2010. The outcome variable of our survey measures respondents' support of these hypothetical investigations. The treatment - specification of an investigation into Kyrgyzstan - is meant to elicit reactions similar to those when one first hears about a proposed international legal intervention. By using our survey instrument to compare support for foreign versus domestic investigations, we want to mimic this event, with the estimated treatment effects providing guidance as to which populations might have more or less favorable initial reactions to an investigations in their country.

We find that citizens in Kyrgyzstan generally expressed support for both investigations abroad and into the 2010 violence. Yet, they were significantly less supportive of investigations at home compared to foreign investigations. As we detail below, baseline support for ICC investigations abroad was relatively high, at 83%. The treatment referring to an investigation of Kyrgyzstan lowered approval by roughly 10%. This is, perhaps, unsurprising. After all, there are many reasons why intervention into one's own country may be viewed less favorably than abstract interventions abroad. It does, however, underscore the importance of assessing likely reactions to a domestic investigation rather than relying on general indicators of a population's support for international law or the ICC abroad when considering whether an intervention would enjoy local support.

More notably, we found that the decrease in support for an investigation in Kyrgyzstan was magnified by proximity to the proposed investigations. Respondents in regions affected by the 2010 violence show the strongest negative treatment effect – meaning their aversion to an investigation into Kyrgyzstan relative to investigations abroad was largest. Importantly, this is not simply attributable to resistance to prosecution among alleged perpetrator groups. Rather, minority Uzbek respondents were among those exhibiting the largest, negative treatment effects. For those groups, treatment lowered support by approximately 23%.

While we focus most on regional variation in reactions, we also heed the call of Staton and Moore (2011) and explore whether theories about support for domestic courts also apply to an international court like the ICC. Specifically, we assess whether awareness of the ICC increases support, since awareness of domestic courts is thought to increase support for a court's actions by increasing perceptions of the

procedural legitimacy.<sup>7</sup> Contrary to that expectation, we did not find evidence that Kyrgyz citizens who are more aware of the ICC were more supportive of investigations into Kyrgyzstan or investigations abroad.

We proceed by discussing the link between public attitudes and international court effectiveness, then discuss why there is likely to be a gap between support for hypothetical ICC investigations abroad and a hypothetical ICC investigation at home. We then discuss our additional theories drawn from literature on domestic courts, followed by a description of our survey design and findings.

## **International Law, Public Attitudes, and State Cooperation**

Public preferences play a central role in many theories about the effectiveness of international organizations. Across many issue areas, domestic political actors can undermine or encourage compliance with international rules or agreements.<sup>8</sup> The preferences and reactions of subnational actors also play an important role in limiting or facilitating the effectiveness of *legal* institutions. Because international and domestic legal bodies often lack direct enforcement powers, citizen support for an autonomous judiciary can facilitate the court's ability to constrain other actors.<sup>9</sup> Both international and domestic courts face challenges of enforcement and need to develop authority and legitimacy among their constituents.<sup>10</sup>

Public attitudes also feature prominently in some arguments ICC-specific arguments, where breaking a commitment to the ICC or violating its rules triggers disapproval from subnational audiences. Simmons and Danner (2010) argue that this disapproval makes the Rome Statute a credible signal to citizens about a government's commitment to the rule of law. Chaudoin (2016) models how the ICC can provide information about leaders' past actions, which can trigger contestation between domestic pro- and anti-accountability groups. The ICC can also enhance "social deterrence" against ICC violations by shaping social expectations.<sup>11</sup>

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<sup>7</sup>Gibson, Caldeira and Baird (1998)

<sup>8</sup>Dai (2007); Simmons (2009).

<sup>9</sup>Vanberg (2005).

<sup>10</sup>Staton and Moore (2011).

<sup>11</sup>Jo and Simmons (2016); Dutton and Alleblas (Forthcoming).

Given that citizens play a role in the effectiveness of international legal institutions, what do we know about how preferences about legal institutions are formed? Existing work on public preferences and national courts emphasizes the distinction between specific and diffuse support. Diffuse support refers to general feelings about the legitimacy of a court while specific support refers to feelings toward particular rulings.<sup>12</sup> However, features of the ICC and other international courts make it difficult to develop reservoirs of diffuse support that can overcome the specifics of a particular investigation. Prior to an ICC investigation, citizens typically have very little experience with the Court. They have little precedent to inform their attitudes or a track record on which to base their assessments.

In such cases, diffuse support may be driven more by citizens' perceptions of their national courts.<sup>13</sup> Yet, the ICC operates on a principle of complementarity, meaning it only intervenes where national courts are unwilling or unable to prosecute accused criminals. Therefore, its presence is most likely in places where domestic courts are weak or perceived as less legitimate. International courts also face unique informational difficulties, whereby it is harder for them to identify likely sources of support or opposition, because these courts must serve very heterogeneous audiences.<sup>14</sup> This is certainly the case for the ICC. Investigations into civil violence trigger intense, heterogeneous reactions that are not easy to predict.

Despite the importance of citizens in theories about international legal institutions, only a handful of experimental studies assess the impact of international law on public attitudes. Some work finds that citizens prefer policies that are consistent with international law or they express disapproval of governments whose policies break those rules (Tomz, 2008). Across several issues related to human rights policies, survey experimental evidence shows how commitments to international law increase disapproval of solitary confinement (Chilton, 2014), torture (Wallace, 2013), and drone strikes (Kreps, 2014). Anjum, Chilton and Usman (2016) sample from a university area in Pakistan, finding that United Nations endorsement increases support for women's rights reforms for respondents who expressed confidence in the UN more generally. McEntire, Leiby and Krain (2015) find that the frames used by international

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<sup>12</sup>Gibson, Caldeira and Baird (1998).

<sup>13</sup>Voeten (2013).

<sup>14</sup>Lupu (2013).

NGOs can influence citizens' support for a campaign against sleep deprivation interrogation techniques.

However, other studies have found that the effect of international law on opinions is circumscribed by an individual's prior beliefs about the international institution and the policies in question. For example, Chapman (2011) shows how reactions to UN Security Council authorizations depend on the individual's beliefs about the preferences of the UN. Chaudoin (2014) demonstrates that consistency with trade agreements is a secondary concern compared to a respondent's underlying policy preferences. Bearce and Cook (2015) find that information from international institutions can affect opinions in economic and security contexts, mostly for motivated and knowledgeable individuals. Lupu and Wallace (2017) and Terman and Gruffydd-Jones (2018) find that international law prompts can *raise* approval for human rights violations in some contexts.

With the exception of Anjum, Chilton and Usman (2016) and Lupu and Wallace (2017), these studies employ a U.S. sample and typically emphasize hypotheticals, as opposed to actual events. In contrast, our experiment asks questions about an episode of violence that is very salient to the respondents. To our knowledge, ours is the first nationally administered international law and human rights survey experiment conducted in a transitioning democracy, and one with a recent history of civil strife. Next, we turn to our expectations regarding support for hypothetical ICC investigations within such a country.

## **Support for Investigations**

When international institutions initiate actions in a target state, how do citizens react? Specifically, when an institution like the ICC initiates an investigation in a country, what determines approval of that investigation and how does approval vary across relevant sub-populations? As the Kenyan example cited above and other situations demonstrate, the initial stages of an investigation can trigger changes in perceptions of the institution. The institution changes from an abstract, arms-length entity that operates in foreign countries to one directly examining events and potentially charging individuals in a citizen's home country. This shift from abstract to concrete can generate powerful reactions as the stakes become more immediate. We wish to understand whether and how this shift affects support for investigations.

We focus first on the average reaction to the suggestion of an investigation. Our expectation is that citizen support for investigations in their own country will be lower than support for foreign investigations. There are several reasons to expect a difference between citizens' opinions on international law and institutions in the abstract compared to their willingness to support specific interventions in their country. First, a citizen may be willing to condemn crimes and support accountability as abstract ideals, yet disagree with foreign investigations into events close to home. Citizens understand more about the political and social dynamics of violence at home and therefore may simultaneously hold attitudes supportive of international law in general but reject its application to specific events. This is perhaps an obvious point, but underscores the need to look beyond simple measures of support for international law or the ICC when anticipating whether an investigation will enjoy widespread support within a country.

Certain biases could also explain why citizens approve of international law in the abstract yet react negatively to its application to their own country. ICC investigations target individuals, and respondents may rationalize their preferences for an indicted politician by explaining away the indictment as the result of foreign intrusion or institutional bias. They may feel a natural exceptionalism about their own country that makes them feel targeted or victimized by an investigation. For instance, Terman and Gruffydd-Jones (2018) document how naming and shaming from outsider human rights organizations can trigger increased nationalism and backlash against the criticism. The claim of Western imperialism behind indictments in Kenya may have found sympathetic ears given larger dynamics and a human tendency to be skeptical of foreign intervention.

Of course there is a large body of literature in psychology dealing with cognitive biases that shape attitudes. Our study is not designed to identify specific types of biases as the root of the main treatment effect, but several may be worth noting. Defensive attribution bias suggests individuals view events more negatively as they become more proximate or likely to affect the individual. That is possible for investigations into events that may have occurred in an individuals' own country, town or region.<sup>15</sup> Egocentric bias implies that individuals may view themselves and individuals in their own country as

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<sup>15</sup>Shaver (1970).

less culpable and/or more equipped for domestic prosecution of war crimes than is warranted.<sup>16</sup> That is, citizens may view foreign involvement as unnecessary because it implies that domestic efforts to address violent events are insufficient. For example, the Kyrgyz Investigative Commission (KIC), as we note below, investigated the June 2010 violence but stopped short of determining culpability. Inviting the ICC could be perceived as contrary to the conclusions of that investigation, and thus an affront to the government that carried it out. Finally, the “illusion of asymmetric insight”<sup>17</sup> may lead individuals to conclude that their understanding of violent events in their own country is far better and more informed than that of outsiders. Political reactions among Kyrgyz politicians to the KIC report accused it of misunderstanding events and their political context, as a result of a pro-Uzbek bias (Wilkinson, 2015). But whether accurate or due to overconfidence, this tendency might lead individuals to view foreign investigations, as opposed to those carried out by domestic authorities, with skepticism.

For these reasons, there is likely to be a disconnect between citizens’ general approval of hypothetical actions by an international legal institution in other countries, compared to an investigation affecting their country. These reasons need not be thought of as mutually exclusive; many of these factors may be at play.

**Hypothesis 1.** *Citizens are less likely to approve of investigations in their own country than hypothetical investigations into other countries.*

Reactions to an institution are also likely to be heterogeneous across segments of the population. What characteristics of citizens or subpopulations might moderate - meaning, magnify or mute - negative reactions towards investigations? Here, we argue that citizens in closer proximity to the past violence in question are less likely to support investigations. One reason is that, as emphasized by recent theories of international institutions, investigations can trigger sub-national contestation.<sup>18</sup> Contestation refers to the competing efforts of groups with heterogeneous preferences to gain or retain control over the ability to make policy or hold office. Effort can be political, as in a campaign contribution. But in the context of human rights and individuals opposing their government, effort can also take the form of protests, dissent

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<sup>16</sup>Greenberg (1983).

<sup>17</sup>Pronin et al. (2001).

<sup>18</sup>Conrad and Ritter (2013); Chaudoin (2016); Hollyer, Rosendorff et al. (2011).

or violence, while effort for the government can include repression and other forms of coercive violence.

In these theoretical models, actions by bodies like the ICC can affect levels of contestation by changing groups' value for holding office. For example, international influence can make a dissenting group more emboldened to demand human rights or justice. International bodies can also change groups' marginal costs of effort by making repression more expensive for the government or encouraging previously dormant groups to contest the status quo.

Actors often simultaneously increase their contestation efforts to counter one another. A large body of work argues that international institutions can mobilize pro-compliance actors.<sup>19</sup> However, domestic actors who oppose compliance, like political elites or politicians among the accused groups can also mobilize to counteract the efforts of international institutions with their own public campaigns or with coercion. Accused politicians can rally public support to their side by accusing an institution of bias and malpractice. Initial supporters of an institution can turn into opponents in response to these countermobilization efforts, as the Kenyan example cited above demonstrates.<sup>20</sup>

We expect that citizens anticipate the risk of renewed or intensified contestation when they consider the desirability of an investigation. "Effort" may be an abstract concept in a theoretical model, but for a citizen living in an area that might experience renewed contestation between opposing groups, it directly affects their well-being. Efforts to counteract an institution's agenda can heighten insecurity. These effects tend to be most pronounced for citizens living in close proximity to the events under investigation. In the case of civil violence, this often means *geographic* proximity. Crimes investigated by bodies like the ICC tend to be geographically concentrated, since the populations committing violence against one another tend to do so over contested homelands, distributive disagreements, or those with which they share familiar and long-standing emotional enmity.<sup>21</sup>

**Hypothesis 2 (Proximity).** *The decrease in support for an investigation into one's own country will be stronger for individuals in closer proximity to the proposed investigation.*

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<sup>19</sup>Simmons (2009).

<sup>20</sup>See also Prorok (2017), who argues that ICC cases can prolong civil conflicts, and Nalepa and Powell (2016), who similarly contend that ICC intervention can discourage dictators from ceding power.

<sup>21</sup>See Toft (2005); Kaufman (2001); Cederman, Gleditsch and Buhaug (2013).

Accounting for the possibility that the ICC triggers contestation means one must consider the likely reactions of *both* victims and perpetrators of violence. Perpetrators may fear both direct consequences and more intangible, social consequences from efforts to hold them or their in-group members accountable for violence. Yet, victims, too, might fear the investigations will increase tensions and uncertainty among those involved. Even if a body like the ICC is not salient before an investigation, citizens understand that elites can make it a salient issue by mobilizing citizens for or against the ICC.

Previous work has linked citizen reactions to an international institution with perceptions of how the institution affects the citizen's livelihood. Meernik (2015) argues that citizens assess their current quality of life and use that lens to assess the desirability of international justice efforts. Analyzing data from citizens in countries falling under the jurisdiction of the International Criminal Tribunal for the former Yugoslavia, he finds that support for the ICTY is "filtered through one's perception of the present and future" (p. 568). For a citizen living in a country that has ongoing contact with international courts, if her conditions are improving, then she is more likely to have positive assessments of the international court.

However, the same reasoning implies that citizens *not* currently under the scrutiny of an international court may be hesitant about an international legal intervention if they believe that their conditions are stable or improving without the court. Peace after civil strife is often fragile, and the fear that post-conflict justice will raise old animosities and disturb a delicate post-conflict equilibrium is common.<sup>22</sup> These dynamics plague indigenous post-violence efforts, as well. For example, if the perpetrators and victims have reached a settlement with some sort of compensation, the victims may fear that international intervention will jeopardize those gains.<sup>23</sup>

Existing work has found conflicting feelings about international and domestic accountability efforts among those directly affected by past violence. In some instances of domestic accountability efforts, broad segments of the citizenry who suffered extensive human rights abuses make powerful demands for domestic trials, especially once the offending regime has been removed (Sikkink, 2011). However, transitional justice and domestic accountability efforts, like interventions by outside actors, can also

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<sup>22</sup>Scharf (1999); Goldsmith and Krasner (2003).

<sup>23</sup>Sriram et al. (2012).

become sites of contestation. This raises the specter of renewed conflict, which is especially frightening for those in the least stable situations. Studying transitional justice in post-war Burundi, Samii (2013) found that insecurity made citizens less supportive of indigenous transitional justice efforts. In other instances, domestic accountability for widespread abuses are initially met with fear of renewed hostilities, but can have longer term effects on citizens' beliefs about truth and reconciliation, as in the South African Truth and Reconciliation Commission (TRC) (Gibson, 2004). Studying the International Criminal Tribunal for the former Yugoslavia, Nalepa (2012) identifies some tradeoffs between justice and reconciliation, but ultimately concludes that refugee returns — one indicator of reconciliation — increase more with “truth-finding” proceedings rather than “justice-producing” ones.

Looking at public opinion regarding justice efforts from international sources, there is also evidence that citizens closest to past violence have mixed feelings about external investigations. Elcheroth and Spini (2009) find that communities in the former Yugoslavia that experienced systematic human rights abuses more strongly support international prosecutions. Meernik and King (2014) analyze cross national survey data from 1999, asking whether respondents preferred international justice, domestic justice, or neither. They find that those directly affected by the ravages of war support some form of justice, but “a substantial minority prefer some outcome that would, in effect, leave well enough alone” (p. 17).

## **Awareness of the Court**

We also heed the call of Staton and Moore (2011) to link theoretical arguments about domestic courts to international legal bodies. We therefore examine whether awareness of the court, which may enhance perceptions of procedural legitimacy, influences attitudes. According some theories, citizens who are knowledgeable about courts are more likely to believe that the court acts impartially, basing decisions on a politically neutral interpretation of law.<sup>24</sup> Existing research on international justice finds some evidence consistent with these theories. For example, Vinck and Pham (2010) find that awareness of the ICC was positively correlated with support for the Court in the Central African Republic. Meernik and King (2014)

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<sup>24</sup>Gibson, Caldeira and Baird (1998); Benesh (2006); Hoekstra (2003); Grimmelikhuijsen and Klijn (2015).

find that awareness of relevant international laws like the Geneva Conventions is positively associated with support for international justice efforts.

For bodies like the ICC, awareness of its broader mandate and functions is particularly important since allegations of political bias or neocolonial interference are frequently levied by leaders seeking to discredit its investigations. For instance, the narrative that the ICC is biased against African countries and fails to level scrutiny at Western countries or great powers has been influential among African populations. The Gambian Minister of Information went so far as to label the ICC the “Infamous Caucasian Court,” despite the current Chief Prosecutor for the Court being a Gambian woman.<sup>25</sup> Uhuru Kenyatta labelled the ICC case investigating him as a ploy of the United States, despite the US not having ratified the treaty or advocated for the investigation. Citizens with more sophisticated information about the Court are able to assess these claims independently, rather than taking such rhetorical flourish at face value.

International courts also tend to be less active in terms of caseload than domestic courts. For example, only 11 situations have reached the investigation stage of the ICC process, with cases against particular individuals opened in only 8 of those situations. The judges and style of jurisprudence of these courts are often foreign, literally and figuratively, to the citizens of a country under investigation. Charges in particular cases tend to come in clusters, with the Court infrequently returning to charge additional individuals or re-open old cases. This contrasts with bodies like the US Supreme Court or the European Court of Justice which adjudicate approximately 75 and 1,600 cases per year, respectively. This lack of a case history can make claims of bias seem more credible; there is less of an established record in the public domain that would contradict such claims. Yet if citizens have some prior knowledge about the basic rules and procedures of the ICC, this may make up for the absence of a long history of cases.

Another set of theoretical models, however, suggests that the effects of general awareness are indeterminate. According to these models, the effects of awareness are contingent on the type of knowledge and beliefs an individual holds, rather than simply the amount of prior awareness. For instance, an individual may be very familiar with controversies surrounding the ICC, but less familiar with the procedural ins and outs of investigations. Or, conversely, individuals may know a lot about the general ideas behind the creation

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<sup>25</sup>Cropley, Ed. Reuters World News “ICC’s toughest trial: Africa vs. ‘Infamous Caucasian Court’” Oct. 28, 2016

of the court but less familiar with details of specific cases. This means that prior awareness could make an individual less supportive or more supportive depending on how that awareness shapes their perception of the institution. For example, in a slightly different context, Chapman (2011) models citizens who have beliefs about whether the UN Security Council is tilted for or against interventions. If a pro-intervention citizens holds knowledge that the UNSC is anti-intervention, then UNSC condemnation of military action may not affect her opinions. She dismisses that condemnation as yet another example of the bias of the institution. Similarly, prior awareness of the ICC may mean that respondents are familiar with the criticism levied against the court. As the larger backlash against the court in Sub-Saharan Africa demonstrates, familiarity may breed contempt. In those cases, knowledge of the geographical distribution of ICC cases, as well as some details of those cases, provide fodder for anti-ICC sentiment. Moreover, since the ICC tends to operate in countries with weaker legal and electoral institutions, pessimism about the quality of domestic institutions may also engender pessimism about international institutions. Awareness of the short-comings of one's own domestic courts could therefore be correlated with skepticism of foreign courts.

As an empirical matter, awareness of the ICC varies greatly across individuals. In the United States, approximately 32% of people indicate that they have some knowledge of the ICC, which is slightly higher than the percentage in our Kyrgyz sample, 24%.<sup>26</sup> Citizens tend to have low awareness of international courts before the court takes any actions, with awareness increasing after the initiation of investigations. In many countries, ratification of the Rome Statute was not a controversial or highly publicized event. But once investigations begin, the court takes on a much higher, more politicized profile. For example, in Kenya and other ICC situations, once the investigations were underway, awareness of the ICC has tended to be quite high.<sup>27</sup>

Testing models where citizens access their prior beliefs about an institution to determine their reactions requires measuring those beliefs - not just whether the individual is aware of the institution. As this is not the central intent of our study, we do not have that measurement for the Kyrgyz sample. However, we can assess the more unidirectional prediction implied by the first set of theoretical arguments, that

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<sup>26</sup>American Bar Association ICC Project Polling.

<sup>27</sup>Ipsos Synovate SPEC Barometer Survey Report, Nov. 20, 2012.

awareness and knowledge increase support.

**Hypothesis 3 (Awareness).** *The decrease in support for an investigation into one's own country will be weaker for individuals who are more aware of the court.*

## Research Design

To assess these hypotheses, we fielded a survey experiment in the Republic of Kyrgyzstan during the fall of 2015. Kyrgyzstan is an excellent place to field this type of experiment for several reasons. First, Kyrgyzstan signed the Rome Statute in 1998 but has not ratified or been the subject of any ICC actions. This amount of contact is “just right” because respondents are not likely to have highly defined opinions about the ICC. If we conducted this survey experiment in a country under investigation, opinions would be dominated by respondents' views of the highly-visible, recent ICC actions. Kyrgyzstan has had some experience with external inquiries into the 2010 violence. The Kyrgyz Inquiry Commission (KIC) investigated the violence at the behest of the government, but its report did not lead to any investigations of government officials. The report's conclusions were deemed “too harsh ... and too truthful,” leading the Kyrgyz parliament to reject the report and ban its author from the country.<sup>28</sup> The KIC's brief impact means that there is not a prominent body of post-conflict justice that drives citizens' perceptions of investigations.

Kyrgyzstan is also the type of country for whom ICC commitments are thought to be most important. The country experienced internal violence in the recent past, and its institutions are relatively nascent as it gained independence only amidst the collapse of the Soviet Union. In the spring of 2010, a revolution aimed at democratization and ending corruption overthrew the previous government. While it is not a fully matured democracy, it is also not a complete autocracy.<sup>29</sup> In October of 2015, the country held relatively competitive and peaceful national elections, in contrast to some of its more autocratic neighbors. NGOs and advocacy groups operate relatively more freely in Kyrgyzstan.

According to some existing theories, fledgling or partially transitioned democracies with a history

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<sup>28</sup>Fiedler (2016).

<sup>29</sup>Freedom House scores Kyrgyzstan at 5.5 on its 7 point scale (7 is not free) in 2010, citing concentration of power, restrictions on religious and press freedoms. It scores a 5 in 2017, remaining in the “partly free” category.

of violence may be those most affected by ICC ratification.<sup>30</sup> Consolidated democracies typically have independent judiciaries, rule of law, and few human rights abuses. Stable autocracies, on the other hand, may have a poor human rights record but are unlikely to consent to the jurisdiction of the ICC. But partial democracies with “skeletons in the closet”<sup>31</sup> due to civil conflict are the types of countries that may need the credibility of an outside legal institution and the opportunity for investigations.

Beginning in April 2010, opposition protests against the government of President Kurmanbek Bakiyev began in the Kyrgyz capital of Bishkek. These demonstrations quickly escalated and turned violent, prompting President Bakiyev to flee, first to southern Kyrgyzstan, and later to Kazakhstan. Opposition leaders formed a government under interim President Roza Otunbayeva, who remained in power until December 2011. This period is sometimes known as the Second Kyrgyz Revolution.

In summer of 2010, at a time of heightened uncertainty following the revolution, lower-level disputes between ethnic Kyrgyz and Uzbeks in southern Kyrgyzstan escalated to widespread violence.<sup>32</sup> The KIC estimated that 470 people died as direct result of the violence, with another 1,900 wounded. Approximately 111,000 people were displaced into Uzbekistan, with another 300,000 internally displaced.<sup>33</sup> NGO estimates of the death toll and displacement are much higher. While both Kyrgyz and Uzbeks engaged in violence, the Uzbeks suffered disproportionately, both in terms of loss of life and destroyed property. The independent inquiry also concluded that some of the events likely constituted crimes against humanity under international law. A Human Rights Watch report argued that the Kyrgyz national security apparatus was tacitly involved in the violence, in part due to their selective disarmament of Uzbek — but not Kyrgyz — groups, as well as widespread extralegal arrest and abuse of Uzbeks.<sup>34</sup> Since 2010, violence between Uzbeks and Kyrgyz citizens in Osh has largely subsided, though tensions remain close

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<sup>30</sup>Simmons and Danner (2010).

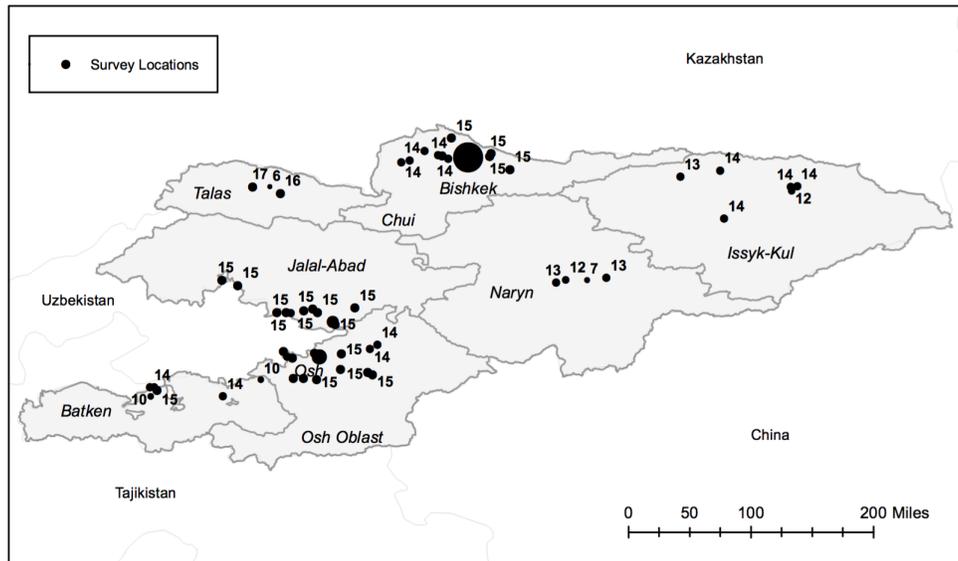
<sup>31</sup>Nalepa (2010).

<sup>32</sup>Collins (2011).

<sup>33</sup>Report of the Independent International Commission of Inquiry into the Events of Southern Kyrgyzstan in June 2010. May 3, 2011. [http://www.cmi.fi/images/stories/activities/blacksea/kic/kic\\_report\\_english\\_final.pdf](http://www.cmi.fi/images/stories/activities/blacksea/kic/kic_report_english_final.pdf). Accessed 12-27-2015.

<sup>34</sup>“Where is the Justice? Interethnic Violence in Southern Kyrgyzstan and its Aftermath.” Human Rights Watch Report. August 2010. <https://www.hrw.org/report/2010/08/16/where-justice/interethnic-violence-southern-kyrgyzstan-and-its-aftermath>. Accessed 12-27-2015.

Figure 1: Survey Locations



to the surface. There has not been reconciliation between the two groups, and domestic accountability efforts are generally perceived as ineffective and biased.

The map in Figure 1 divides Kyrgyzstan into nine administrative regions. The 2010 violence mainly occurred in three locations with large, concentrated Uzbek populations: Osh, Osh Oblast, and Jalal-Abad.<sup>35</sup> Osh Oblast refers to the rural area around Osh, as some accounts of the 2010 violence involve citizens coming to Osh from the rural surrounding areas of the Oblast to take part in the conflict.<sup>36</sup> Of those three locales, Osh experienced the most violence, with UN satellite data indicating that approximately 75% of destroyed buildings were located in Osh.<sup>37</sup>

## Survey Instrument

We sampled 1,000 respondents aged 18 and older and the surveys were administered face to face in either Kyrgyz or Russian language, per the respondent's choice. The number of surveys conducted in

<sup>35</sup>Though it has areas with larger Uzbek populations, Batken did not experience significant violence in 2010.

<sup>36</sup>Human Rights Watch Report. August 2010.

<sup>37</sup>"Damage Analysis Summary." UNOSAT Report. July 2010.

a particular location was proportional to population along two strata: the region of the country and the urban/rural population. For example, approximately 17% of the population lives in the rural part of the Osh oblast region, so 177 interviews were conducted in that geographical unit. For sampling within a particular unit, the survey firm divided the geographical units into rayons, selected a point in each primary sampling unit, and selected every third household after walking from that point. Within households, enumerators used a Kish grid to select respondents.

For the instrument itself, respondents were read a brief introduction to the issue of the International Criminal Court:

As you may or may not know, Kyrgyzstan has taken steps to join an international organization called the International Criminal Court. The International Criminal Court is located in The Hague, in the Netherlands, but addresses issues in many countries. The court tries to investigate and prosecute individuals who are accused of serious crimes like genocide, crimes against humanity or crimes committed during wartime.

Respondents were then asked “Have you heard of the International Criminal Court?” and they could choose between “Yes” and “No.” Approximately 25% of respondents chose “Yes.” Respondents were then randomly assigned to either the treatment or control condition. The *control* group was given a prompt about a generic, non-specific, hypothetical ICC investigation. They were told “Some people have suggested that the International Criminal Court should investigate the violence that occurred in other countries.”

The *treatment* group was given a prompt about a hypothetical ICC investigation in Kyrgyzstan, regarding violence in 2010. They were told “Some people have suggested that the International Criminal Court should investigate the violence that occurred in the Southern part of Kyrgyzstan in 2010.”

The structure of the treatment and control conditions was designed to mimic the “treatment” that citizens receive when the ICC opens an investigation in their country. The treatment effect, a comparison of approval for investigations under the treatment and control conditions, gives an idea of whether and how much groups of citizens are likely to react negatively to an ICC action in their country. Before an investigation, the ICC is a distant actor, working on foreign issues. However, when the court opens an investigation in a particular country, it becomes much more specific and real, scrutinizing events from

particular times and places. The treatment effect gives us a way to assess how citizens might react to that event if it were to happen. The overall direction of the treatment effect - whether approval increases or decreases when assigned to the treatment condition - allows us to assess Hypothesis 1. Then, we can compare the magnitude of the treatment effect across different subpopulations to assess Hypotheses 2 and 3, which describe which groups are likely to have larger or smaller reactions.

The survey instrument and emphasis on the treatment effect, as opposed to nominal levels of approval under each condition, is also meant to deal with issues of desirability bias and misrepresentation that can occur in surveys regarding sensitive issues like human rights. For instance, in a study of female genital mutilation and early marriage, Cloward (2014) finds that many respondents expressed opposition to these practices, despite engaging in them. Psychological and material incentives inclined respondents toward deceptive self-representations of their beliefs and actions. The same could be true of surveys regarding international law and the ICC. If we had only asked citizens whether they support the application of international law to their country, their responses might not have been representative of their likely reactions if this occurred in the real world. Assessing the gap between support for foreign investigations versus investigations into one's own country provides a measure of whether citizens are likely to respond negatively and which groups have more or less pronounced reactions.

To ensure that respondents had a common understanding of this prompt, we extensively pre-screened the survey instrument. We conducted in-depth pilot surveys with citizens in the capital, Bishkek. After each survey item, we asked open-ended questions to see how the respondent interpreted the prompt. For example, after the treatment item, we asked "What events did this make you think of?" All of the respondents recalled and thought of the events surrounding the 2010 violence. They all chose events from the location and time period referred to in the survey. This is unsurprising, since these events were widely covered and nationally important.

## **Outcome variable**

After random assignment to treatment or control, respondents were asked: *Do you think that these investigations would be a good or bad thing?* Respondents answered very good, somewhat good, neither

a good nor bad thing, somewhat bad, or very bad. For the binary version of the outcome variable, approval of an investigation (*Inv. App.*), we coded a respondent as approving of the investigation if she chose “Very good” or “Somewhat good.” Some responses were coded as “Difficult to answer/refused to answer” (*DK/RTA*) by the survey enumerators. This was not a choice that was read aloud to the survey respondents, but the survey enumerators were given this as an option for coding responses. The categorical version of this variable is thus an ordinal, 5 point scale: very bad (1), somewhat bad (2), don’t know (3), somewhat good (4) very good (5).

For the main analyses, we exclude respondents who choose don’t know or declined to answer, because it is unclear whether this response indicates lack of opinion or a hesitancy to express disapproval. Our contextual knowledge and the knowledge of the survey firm do not cause us to suspect that non-response indicates a fear of responding. Nevertheless, we looked for ancillary evidence that would disconfirm this intuition. Fortunately, we did not find any significant effects of treatment on the likelihood of a respondent choosing to not respond. There was some heterogeneity across regions in non-response rates, but this was not strongly correlated with our regions of primary interest. The appendix also shows how the results are similar when we include these responses.

## **Sample Statistics and Randomization**

Table 1 provides summary information. The first column shows the summary statistics for the full sample. Columns 2 and 3 split the sample between the three regions that experienced violence, Osh, Osh Oblast, and Jalal-Abad, and the remaining six regions. The remaining columns show individual regions.

We used the test from Hansen and Bowers (2008) to assess balance in treatment assignment by region. The overall  $\chi^2$  statistic for balance on treatment assignment across regions was insignificant, indicating balance. We also assessed balance across various respondent characteristics. We included indicator variables for whether the respondent chose to have the survey conducted in Kyrgyz or Russian, whether the respondent was under 50 years of age (*Under 50*), male (*Male*), had any post-secondary education (*Post. Sec. Educ.*), was employed (*Employed*), and had an above average income (*Above Av. Inc.*). The overall  $\chi^2$  statistic was significant; however, the differences do not appear to be substantively meaningful.

Table 1: Summary Statistics

	Full mean	Non-Osh mean	Osh/Ob./Jal. mean	Osh city mean	Osh oblast mean	Jalal-Abad mean
Treatment	0.50	0.50	0.50	0.50	0.50	0.50
Inv. App.	0.63	0.63	0.62	0.68	0.70	0.53
Inv. App. Num.	2.98	3.03	2.92	2.76	2.97	2.92
DK/RTA	0.19	0.22	0.16	0.00	0.06	0.32
Heard of ICC	0.24	0.29	0.17	0.42	0.17	0.10
Government Approval	2.63	2.59	2.68	2.48	2.77	2.65
Uzbek	0.12	0.05	0.20	0.18	0.23	0.18
Under 50	0.66	0.66	0.64	0.84	0.65	0.59
Male	0.40	0.40	0.40	0.32	0.40	0.44
Post Sec. Ed.	0.37	0.42	0.30	0.76	0.22	0.26
Employed	0.26	0.28	0.25	0.40	0.28	0.17
Above Av. Inc.	0.78	0.73	0.84	0.94	0.85	0.79
<i>N</i>	1,000	579	421	50	192	179
	Bishkek mean	Chui mean	Issyk-Kul mean	Naryn mean	Talas mean	Batken mean
Treatment	0.50	0.50	0.51	0.49	0.51	0.51
Inv. App.	0.59	0.70	0.63	0.69	0.26	0.74
Inv. App. Num.	2.98	3.05	2.71	3.25	2.79	3.37
DK/RTA	0.25	0.13	0.14	0.20	0.64	0.19
Heard of ICC	0.29	0.27	0.41	0.29	0.21	0.27
Government Approval	2.48	2.63	2.69	2.53	2.13	2.93
Uzbek	0.03	0.04	0.06	0.00	0.00	0.18
Under 50	0.72	0.70	0.58	0.62	0.62	0.61
Male	0.37	0.29	0.52	0.62	0.46	0.40
Post Sec. Ed.	0.54	0.39	0.54	0.31	0.31	0.21
Employed	0.33	0.21	0.35	0.18	0.49	0.17
Above Av. Inc.	0.68	0.75	0.72	0.91	0.72	0.75
<i>N</i>	177	160	81	45	39	77

Summary statistics of respondent characteristics, for the full sample, Osh/non-Osh sub-samples, and regional sub-samples. The numbers are the mean of that variable for that sub-sample.

The only covariate for which there was an individually significant result was gender, with males being slightly more likely to be assigned to treatment than control.

## Results

The overall treatment effects were negative, meaningful, and statistically significant, consistent with Hypothesis 1. Figure 2 shows a Bayesian estimate of the treatment effect on the binary *Inv. App.* variable.<sup>38</sup> Approval for the investigations is approximately 83% under the control group. Treatment lowers approval for the investigation by approximately 10%, to 73%. The statistical significance of this decrease is apparent using the Bayesian approach and the frequentist approach. The test statistic for a comparison of mean approval ratings is -3.50 ( $p < 0.01$ ).<sup>39</sup> These large effects occur despite the fact that the treatment is not particularly “strong;” it does not make any value statements, judgments, or predictions about the desirability of an investigation. The treatment effect is similar substantively to those found in other survey experiments in international relations.<sup>40</sup>

The presence of relatively high overall approval of investigations, under both conditions is also interesting. While the nominal levels of approval are higher than we would have expected, we do not think that this necessarily indicates that the ICC would be warmly welcomed if an investigation occurred. The overall level of support is possibly inflated since the survey, even the treatment condition, asks about a hypothetical occurrence, and respondents may place less weight on the downsides of hypothetical, future actions or scenarios. The 73% approval rate in the treatment condition is comparable to the approval rates of the ICC investigation in Kenya *before* the ICC took concrete actions, rates which then decreased substantially.

## Proximity Moderation

In the context of the 2010 violence, proximity is most easily thought of in geographic terms. The violence was concentrated in the Southern regions, specifically Osh, Osh Oblast, and Jalal-Abad. For ease, we refer to these three as the "Osh" (Osh, Osh Oblast, and Jalal-Abad) versus "Non-Osh" regions.

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<sup>38</sup>Let  $\theta_t$  be the non-informative Beta Jeffrey’s prior distribution of respondents who approve of the investigation under treatment regime  $t \in \{Control, Treatment\}$ . Let  $n_t$  and  $a_t$  represent the number who received and approved under treatment  $t$ . The figures show the mean and 95 percent credibility intervals for 5,000 draws from the conjugate posterior,  $\theta_t \sim \beta(a_t + 0.5, n_t - a_t + 0.5)$ , distribution.

<sup>39</sup>These results, as well as a set of regressions replicating all the Bayesian results using various specifications, control and outcome variables, and region fixed effects are in the appendix.

<sup>40</sup>Eg Tomz 2007.

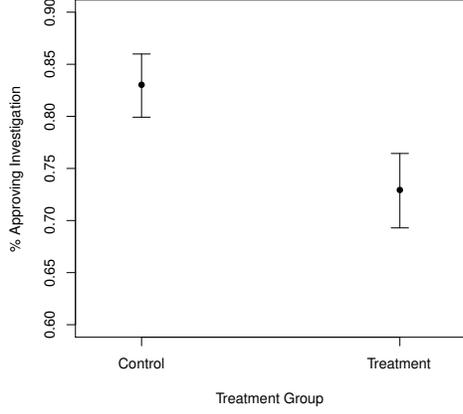


Figure 2: Overall Treatment Effects

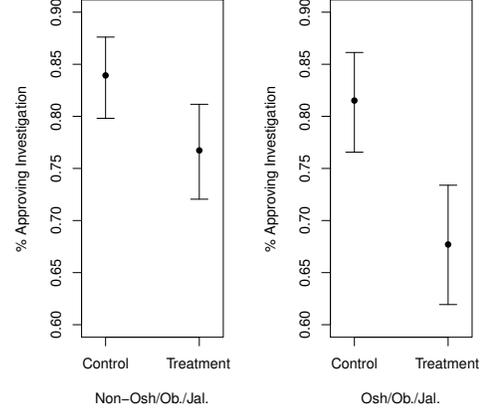


Figure 3: Treatment Effects by Regions

Consistent with Hypothesis 2, the treatment effect is approximately twice as strong in the Osh regions. Figure 3 shows the treatment effects for each sub-sample, constructed in the same way as Figure 2. In the non-Osh regions, treatment lowers approval of the investigation by approximately 8%, from 84% to 76%. In the Osh regions, treatment lowers approval by approximately 16%, from 82% to 66%. Interestingly, both regions display similar nominal levels of approval of the ICC in the abstract, yet approval for an investigation in Kyrgyzstan drops much more in the Osh regions. Had we simply asked respondents their opinion of the ICC in general, we would have omitted this meaningful, regional heterogeneity.

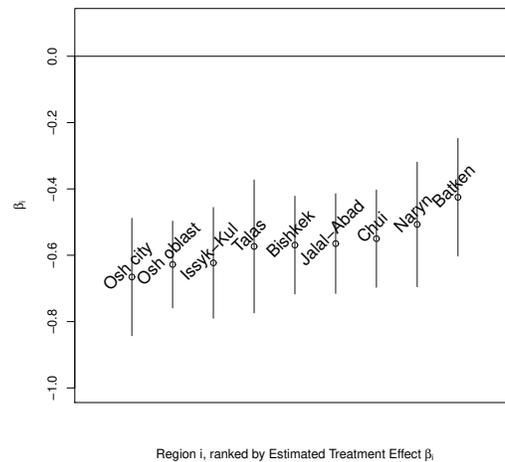
For a more detailed assessment of region-specific effects, we estimated a multi-level model in which we included region-specific intercepts and treatment effects. Individual respondents are indexed by  $i$  and they reside in 9 regions indexed by  $j$ .  $X_i$  refers to a set of control variables that include the respondent's age, gender, education level, employment status and income. The model is shown in Equation 1.

$$\begin{aligned}
 y_i &= \beta_0 + \beta_i Treatment_i + X_i \Gamma + \epsilon_i \\
 \beta_0 &= u_{1j} \\
 \beta_i &= u_{2j}
 \end{aligned}$$

(1)

Figure 4 orders the regions according to the magnitude of their treatment effects.<sup>41</sup> Consistent with our expectations, Osh and Osh Oblast have the two largest, negative treatment effects and neither estimate overlaps with zero. The treatment effect for Jalal-Abad is negative, and ranks 6th out of 9 in terms of magnitude. While we would have expected the treatment effect in Jalal-Abad to be stronger than other regions, as mentioned above, the majority of violence occurred in Osh, so the strongly negative treatment effects for Osh and Osh Oblast provide the most direct support for our proximity arguments

Figure 4: Treatment Effects: Investigation Outcome, Multi-Level Model



Consistent with Hypothesis 2 that investigations can raise fears of uncertainty and insecurity for both perpetrators and victims of violence, these effects were also not simply a case of perpetrators expressing disapproval of investigations. The results are striking in that the treatment effects are *stronger* for Uzbek respondents and most strong for Uzbeks in Osh. Figures 5 and 6 show estimates of treatment effects for Uzbek and Non-Uzbek respondents, both in the full sample and in the Osh regions. As above, all four estimates of the treatment effect show negative and meaningful effects. However, the difference between the estimated treatment effects by ethnicity is even more pronounced in the Osh regions. Treatment for Uzbek respondents in the Osh regions lower approval by approximately 23%, which is twice as large as the treatment effect found for non-Uzbek respondents in the same regions and 50% bigger than the

<sup>41</sup>The bands show the estimated coefficient plus/minus two times the standard error of that estimate.

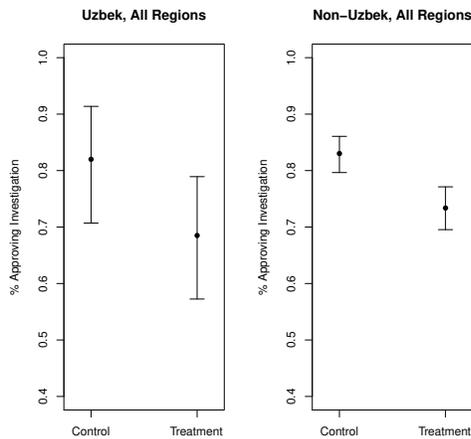


Figure 5: All Regions

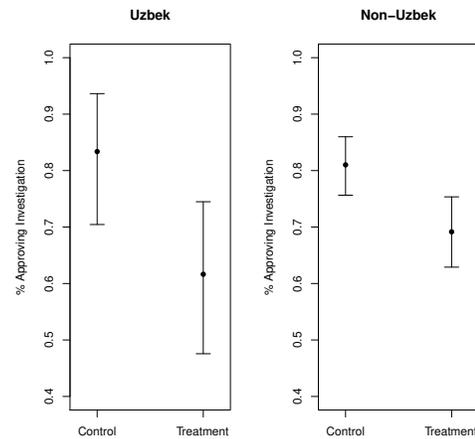


Figure 6: Osh/Osh Oblast/Jalal-Abad

treatment effect found for Uzbek respondents in all regions.<sup>42</sup>

These results are consistent with the prediction that support for investigations can be weaker among the more victimized group. As described above, outside observers attribute a majority of the violence and destruction of property to Kyrgyz attacks on Uzbek neighborhoods,<sup>43</sup> which might make investigations more attractive to Uzbeks. Since Kyrgyz controlled the local and national governments, from 2010 until today, Uzbeks might support the idea of an outside actor investigating those in power at the time. Yet, that group is also keenly aware of the possibility of renewed hostilities and the likelihood that repercussions would fall most heavily on them.

Our survey enumerators even made note of these patterns, suggesting support for the theoretical mechanisms generating the proximity hypothesis. In their post-survey technical report, the enumerators noted:

*Respondents from Osh city and Osh oblast perceived the [investigation question] in the [forms with the treatment] extremely negatively. These respondents said that this question had to be raised in 2010, and now there is no necessity to raise this question up, since it was difficult to improve the situation but the stability has been finally restored.*

While our survey cannot directly adjudicate between each possible mechanism for the treatment

<sup>42</sup>Credibility intervals are wider because there are fewer Uzbeks in the sample. The appendix contains interaction term regressions showing how the treatment effect is statistically stronger for Uzbeks in Osh, compared to non-Uzbeks.

<sup>43</sup>“Where is the Justice?” Human Rights Watch Report. August 2010.

effect, these patterns and their interpretation by our enumerators are consistent with the explanation of the negative treatment effect as the fear, especially among victimized populations, that external investigations may upset a fragile, post-violence peace. To be sure, Uzbeks were responsible for some violence, which may explain some hesitation about an investigation. But if that were the sole explanation for Uzbek reactions, then we would not expect Uzbeks to be among the most hesitant about an investigation.

Uzbeks in Osh may also be pessimistic about the prospects of accountability from an international investigation. They may think that an investigation would be too lenient, especially given the lack of meaningful accountability from domestic efforts. This potential mechanism is not inconsistent with our findings: a respondent may be pessimistic about gains from an investigation and therefore see little upside to weigh against the possibility of increased contestation as a result of the investigation.<sup>44</sup> Our survey did not involve detailed follow-up questions to elicit respondents' reasons for support or opposition, which would be a valuable focus for future research.

## **Awareness Moderation**

To assess whether awareness of the ICC moderated the treatment effects, we used a binary variable that equals one if the respondent had heard of the ICC, *Heard of ICC*. This measure is positively correlated with individual characteristics like education, which strengthens its validity. As with the proximity results, we show figures describing Bayesian estimates of the treatment effects.

The results, in Figure 7, are not consistent with Hypothesis 3. For respondents who had heard of the ICC, treatment lowered approval for an investigation by approximately 8%. For those who had not heard of the ICC, treatment lowered approval by 12%. While the treatment effect is smaller for those who had heard of the ICC, the difference is not statistically significant. The appendix describes results from regressions allowing the effect of treatment to vary by whether they had heard of the ICC, using a variety of specifications including region fixed effects.

While awareness increases respondents' support for the institution in the abstract, this support dissipates for a Kyrgyz investigation at a rate similar to those who are not aware of the court. These results sug-

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<sup>44</sup>We thank our anonymous reviewers for pointing out these possibilities.

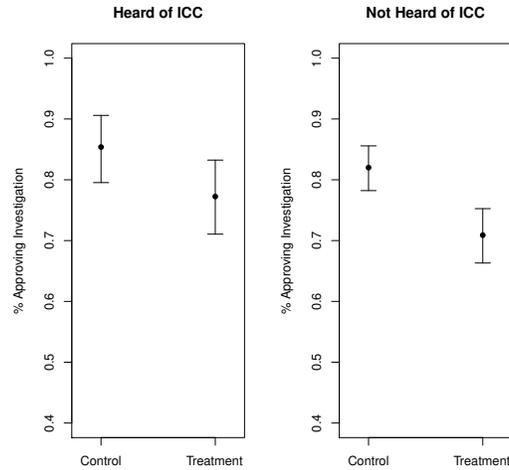


Figure 7: ICC Awareness

gest that simply increasing awareness of the court may be insufficient to engender support among populations. Although, it is possible that the substantive content of ICC awareness campaigns persuades citizens.

## Conclusion

Our nation-wide survey experiment in Kyrgyzstan was designed to identify the contours of public reactions to the announcement of an international court’s investigation into a developing democracy with a recent history of salient violence. We found a negative reaction to an investigation into past violence in Kyrgyzstan compared to the evocation of an abstract, foreign investigation. This reaction was more intense for citizens living in closer proximity to the violence being investigated, and was most intense among the more victimized group, compared to perpetrators. The negative reaction was not moderated by prior awareness of the ICC.

Our analysis addresses two, interrelated scholarly questions. First, because international courts, like domestic courts, rely on and value political legitimacy, we sought to understand how popular attitudes toward international legal interventions are shaped. Discerning who is most likely to support or oppose interventions by institutions like the ICC, in turn, may help inform expectations about which constituencies

are most primed for resistance and which may be wellsprings of support for post-conflict justice. These findings contrast with most micro-level studies on international law and institutions, which generally find a positive effect of institutions on support for compliance with international law. However, these studies tend to emphasize hypothetical, lower salience issues, with surveys most often conducted in the United States.

Our findings tell a different story for citizens living in more fragile situations, where investigations into violence are highly salient and engender intense feelings. Institutions like the ICC will almost always find themselves operating in these highly-charged environments. While these may be the settings where the ICC might be expected to have the largest positive influence,<sup>45</sup> the effect of the ICC on mobilizing public opinion in favor of accountability may be counterbalanced by entrenched feelings over underlying conflicts and fears of disrupting fragile peace. This research thus suggests the importance of emphasizing heterogeneity in responses to international institutions, especially reactions following international legal interventions.

The ICC recognizes the importance of subnational support and has begun awareness campaigns and public outreach programs before and during their investigations.<sup>46</sup> Our research points to the types of sub-populations that are most in need of these efforts, as well as some of the reasons for their likely resistance to the court. Just as McEntire, Leiby and Krain (2015) studied the most persuasive frames for human rights campaigns among U.S. citizens, we need a better understanding of the conditions under which citizens abroad react positively and negatively to institutional actions. Our results suggest that Kyrgyz citizens' resistance to the court is driven, in part, by their fear of upsetting a fragile peace that has settled after violence. Similar fears likely abound in other countries in which ICC investigations will be conducted.

Second, our analysis speaks to debates about whose interests are served by post-conflict and transitional justice. Such efforts face potential tension between providing accountability and justice and contributing to a stable peace. In some cases, the twin goals may be reinforcing. However, in other instances, these goals can conflict, as even victims prefer stable peace to upsetting the status quo. This suggests the need for caution and careful analysis of subnational dynamics before an institution like the

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<sup>45</sup>Simmons and Danner (2010).

<sup>46</sup><https://www.icc-cpi.int/get-involved/Pages/ngos.aspx>.

ICC chooses to launch an investigation. Of course, at some level these debates ultimately come down to normative questions about pragmatism versus the ethical desirability of justice. But our analysis does provide some empirical evidence that the alleged victims of violence may can be, if anything, more likely than others to view transitional justice with hesitation.

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