

# Preferences and Compliance with International Law

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*International law lacks many of the standard features of domestic law. There are few legislative or judicial bodies with exclusive authority over particular jurisdictions or subject matters, the subjects regulated by international law typically must affirmatively consent to be bound by it, and supranational authorities with the power to coerce states to comply with international obligations are rare. How can a legal system with these features generate changes in state behavior? For many theories, the ability of international law to inform and change individual preferences provides the answer. When voters care that treaty commitments be kept, or that international norms be honored, the theory goes, leaders are more likely to be able to make choices consistent with international obligations. Over the last decade, a literature has emerged testing these theories using surveys and experiments embedded in surveys. Multiple U.S. studies find that international law and international norm arguments shift public opinion in the direction of greater compliance by 4 to 20 percentage points. However, studies in foreign contexts are more mixed, with some backlash reported in countries in which international law is highly politicized. This Article describes the state of current knowledge about whether international law actually does change preferences, explains the limitations with existing research, and proposes avenues for future study.*

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## INTRODUCTION

International law lacks many of the standard features associated with public law in the domestic setting. There is no global legislature to set rules, no centralized enforcement body, and states, the primary subjects of international law, often have to opt into legal commitments. Therefore, a fundamental question in the field is whether international law can produce changes in state behavior.<sup>1</sup> For instance, if a country ratifies a treaty on women's rights, is this likely to cause the country to adopt policies that improve the rights of women? External sanctions for violations of treaty obligations would incentivize state compliance, yet such sanctions often do not materialize.<sup>2</sup>

However, even in cases where it is unlikely that external sanctions will be imposed for treaty violations, many scholars have argued that ratification of international agreements can still lead states to change their policies.<sup>3</sup> One theory for how this may occur is that the ratification of international treaties may change domestic politics in a way that pushes states towards compliance.<sup>4</sup> Although there are several ways that ratification of international treaties may change the relative power in domestic political struggles, a primary mechanism theorized as a way for international commitments to change domestic politics is through changing public opinion.<sup>5</sup> The basic argument is that learning about international legal obligations makes citizens more supportive of policies that are consistent with the agreement's terms. Treaties in particular may be especially influential to domestic audiences as they set forth binding and clearly articulated obligations, enabling the public to discern when a state has

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1 See, e.g., Abram Chayes & Antonia Handler Chayes, *On Compliance*, 47 INT'L ORG. 175 (1993).

2 BETH A. SIMMONS, MOBILIZING FOR HUMAN RIGHTS: INTERNATIONAL LAW IN DOMESTIC POLITICS 123 (2009); EMILIE M. HAFNER-BURTON, MAKING HUMAN RIGHTS A REALITY 44 (2013); ERIC A. POSNER, THE TWILIGHT OF HUMAN RIGHTS LAW 79 (2014).

3 See, e.g., Harold Hongju Koh, *Review Essay: Why Do Nations Obey International Law?*, 106 YALE L.J. 2599 (1997); ANDREW T. GUZMAN, HOW INTERNATIONAL LAW WORKS: A RATIONAL CHOICE THEORY (2008).

4 See, e.g., Xinyuan Dai, *Information Systems in Treaty Regimes*, 54 WORLD POL. 405 (2002); Xinyuan Dai, *Why Comply? The Domestic Constituency Mechanism*, 59 INT'L ORG. 363 (2005); SIMMONS, *supra* note 2; Yonatan Lupu, *Best Evidence: The Role of Information in Domestic Judicial Enforcement of International Human Rights Agreements*, 67 INT'L ORG. 469 (2013); Yonatan Lupu, *Legislative Veto Players and the Effects of International Human Rights Agreements*, 59 AM. J. POL. SCI. 578 (2015).

5 See, e.g., Emilie M. Hafner-Burton, Brad L. LeVeck & David G. Victor, *How Activists Perceive the Utility of International Law*, 78 J. POL. 167 (2016).

violated them. However, in addition to international agreements, international law arises from other sources, such as custom, general principles, and the writings of experts. While such norms may be less precise and may not even always be legally binding,<sup>6</sup> they nonetheless can shift national public opinion and lead voters to expect policy initiatives from their leaders that are consistent with global best practice.<sup>7</sup> For instance, although UN recommendations are persuasive but nonbinding sources of international law, they can influence what domestic audiences expect of their governments. This change in public opinion can then generate the much needed “compliance pull” that improves the possibility that international law and international norms will change state behavior.<sup>8</sup>

To test this theory, a myriad of recent articles have examined the link between international legal obligations and changes in individual preferences. These articles have primarily researched this topic by conducting surveys that assess support for various policies while experimentally manipulating whether respondents are provided information on the status of international law.<sup>9</sup> For instance, Wallace conducted a survey that asked respondents in the United States about their support for using torture to try to extract information that may be relevant in the war on terror, but randomly informed half the respondents that the torture would violate America’s international legal commitments.<sup>10</sup>

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6 Indeed, international bodies such as the International Committee of the Red Cross have conducted major projects to clarify customary international law because clearly articulated custom is thought to be more effective. See 1 JEAN-MARIE HENCKAERTS & LOUISE DOSWALD-BECK, *CUSTOMARY INTERNATIONAL HUMANITARIAN LAW: RULES* (2005).

7 Katerina Linos, *Diffusion through Democracy*, 55 AM. J. POL. SCI. 678 (2011); KATERINA LINOS, *THE DEMOCRATIC FOUNDATIONS OF POLICY DIFFUSION: HOW HEALTH, FAMILY AND EMPLOYMENT LAWS SPREAD ACROSS COUNTRIES* (2013).

8 See THOMAS M. FRANCK, *THE POWER OF LEGITIMACY AMONG NATIONS* (1990).

9 See, e.g., Geoffrey P.R. Wallace, *International Law and Public Attitudes Toward Torture: An Experimental Study*, 67 INT’L ORG. 105 (2013) [hereinafter Wallace, *International Law*]; Adam S. Chilton, *The Influence of International Human Rights Agreements on Public Opinion: An Experimental Study*, 15 CHI. J. INT’L L. 110 (2014); Geoffrey P.R. Wallace, *Martial Law? Military Experience, International Law, and Support for Torture*, 58 INT’L STUD. Q. 501 (2014) [hereinafter Wallace, *Martial Law*]; Kyla Jo McEntire, Michele Leiby & Matthew Krain, *Human Rights Organizations as Agents of Change: An Experimental Examination of Framing and Micromobilization*, 109 AM. POL. SCI. REV. 407 (2015); Anton Strezhnev, Beth A. Simmons & Matthew D. Kim, *Rulers or Rules? International Law, Elite Cues and Public Opinion*, 30 EUR. J. INT’L L. 1281 (2019).

10 Wallace, *International Law*, *supra* note 9.

The experiment found that respondents told about international law were roughly 6 percent less likely to support the use of torture.

A number of other studies have conducted similar experiments and found similar results. For example, some of these articles have found that providing the public with information on international law increases support for policies by 5-10 percentage points, and sometimes up to 20 percentage points. Articles on the influence of international norms also report sizeable effects.<sup>11</sup> Moreover, subgroup analyses presented in Part II.E below suggest that these effects are not concentrated in a particular community. Men and women, persons of high and low education, and persons with different prior beliefs on the specific issue at hand all seem to respond in similar ways. That said, it is worth noting that several U.S.-based studies note large opinion shifts towards international law and international norms among Republicans, to the surprise of some scholars who assume that international law is supported disproportionately by Democrats. Moreover, support for the UN and cosmopolitanism are associated with bigger responses to experimental treatments.<sup>12</sup>

However, there are a range of limitations with this line of research. Notably, there are questions about the external validity of the experiments that have been conducted in this literature. Although questions about external validity are standard in experimental research, and some concerns, such as embedding an experiment in a nationally representative sample, have been addressed, other concerns persist. Importantly, pretreatment remains a big worry: this is the concern that information provided through the researcher has been provided earlier to subjects in both the treatment and the control group through national media, ordinary conversations, and other sources.<sup>13</sup> Moreover, it is also unclear whether changes in public opinion actually translate to changes in policy. Even if information on international law can change support for

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11 See, e.g., Linos, *Diffusion*, *supra* note 7.

12 Chilton, *supra* note 9; Adam S. Chilton, *The Laws of War and Public Opinion: An Experimental Study*, 171 J. INSTITUTIONAL & THEORETICAL ECON. 181 (2015); LINOS, DEMOCRATIC FOUNDATIONS, *supra* note 7; Linos, *Diffusion*, *supra* note 7.

13 For example, as we discuss below in Part IV.B, it is difficult to have an unbiased control group for many experiments on the effect of international law on public opinion, because human rights discourse is ubiquitous. See, e.g., Adam S. Chilton & Mila Versteeg, *International Law, Constitutional Law, and Public Support for Torture*, 3 RES. & POL. 1, 3, 5, 8 (2016):

[B]ecause the respondents in the control group may already be aware that torture is prohibited by international law and the constitution, it is unfortunately impossible to have a perfect control group for this type of experiment. This suggests that our experiment thus provides a hard test of whether international or constitutional law changes public opinion.

policies by 4-20 percentage points, those policies may not be salient enough to voters for politicians to feel compelled to respect voter preferences.<sup>14</sup> Finally, support for international law and international organization activities varies dramatically around the globe, and thus the fact that much of the research in this area has been conducted in the U.S. is a major limitation.<sup>15</sup> While one important study suggests that the U.S. public responds in similar ways to other publics, notably the Indian and Australian publics,<sup>16</sup> other research in states where international law has been highly politicized, such as Israel and Turkey, suggests important cross-country variation. As a result, more research is still needed to understand the link between ratification of treaties, public opinion, and compliance with international law.

In this Article, we describe how the potential for international law to change preferences features prominently in standard theories of compliance, document the state of current knowledge about whether international law actually does change preferences, and then explain the limitations with existing research and avenues for future study. To do so, this Article proceeds as follows. In Part I, we describe the role that public opinion plays in theories of international law. Specifically, we discuss how changes in preferences may generate pressure that leads governments to bring their policies into compliance with international obligations. In Part II, we review empirical research that examines how information about international law and norms shifts policy preferences. In Part III, we then describe the limitations of the existing literature. Finally, we conclude by outlining avenues for future research.

## I. THE ROLE OF PREFERENCES IN INTERNATIONAL LAW

The potential for international law to change preferences is explicitly incorporated into many theories about international law's nature and effectiveness. Here we will briefly describe the broad strokes of two of these theories: (1) international agreements produce changes in behavior, in part, because their existence alters

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14 *See infra* Table 1.

15 Although many theories about how international law may be complied with because of changes of preferences have focused on examining democracies, it is possible that the compliance pull of international law could also change the behavior of autocracies. For instance, just as the existence of an international obligation may change the opinion of the general public in democracies, it may also change the opinion of the "selectorate" in non-democracies. *See, e.g.*, BRUCE BUENO DE MESQUITA, ALASTAIR SMITH, RANDOLPH M. SIVERSON & JAMES D. MORROW, *THE LOGIC OF POLITICAL SURVIVAL* (2003).

16 Strezhnev, Simmons & Kim, *supra* note 9.

public opinion in a way that produces a “compliance pull,” and (2) leaders insincerely ratify treaties that they do not intend to comply with, or believe will produce substantial benefits, because of the public relations benefits for doing so. We focus on these arguments because they have both been recent focuses in the literature on international law, but they are by no means the only way that public opinion interacts with international law. For instance, although the focus of this Article is on the effect international agreements and norms have on public opinion, an extensive literature suggests that public preferences influence international law.<sup>17</sup>

### A. Producing a Compliance Pull

There are several distinct features of international agreements and norms that limit their ability to constrain behavior.<sup>18</sup> For instance, there is no centralized legislature that has the power to promulgate international law, and multiple court systems with overlapping yet partial authority can interpret, develop, and apply international law, which can result in interpretations and applications of law that are less consistent than in domestic legal systems. Moreover, international law is a system that is frequently normatively justified based on consent, and thus its ability to constrain is limited because states are frequently only considered bound to obligations they place on themselves.<sup>19</sup> Given this emphasis on consent, much of international law resembles private ordering, rather than public law, in the domestic sphere. But, perhaps most saliently,

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17 See, e.g., OLE R. HOLSTI, *PUBLIC OPINION AND AMERICAN FOREIGN POLICY* (2004).

18 Jack Goldsmith & Daryl Levinson, *Law for States: International Law, Constitutional Law, Public Law*, 122 HARV. L. REV. 1791, 1792 (2009). It is worth noting that the distinctiveness of international law is sometimes overstated. Notably, many of the features that limit the ability of international law to constrain states are also true of constitutional law. Christopher A. Whytock, *Thinking Beyond the Domestic-International Divide: Toward a Unified Concept of Public Law*, 36 GEO. J. INT’L L. 155 (2004). Just as leaders may find ways to avoid complying with international treaties when they believe it is against their interest to do so, leaders may also find ways to avoid constitutional commitments when they believe it is against their interest to abide by them. See, e.g., ADAM CHILTON & MILA VERSTEEG, *HOW CONSTITUTIONAL RIGHTS MATTER* (2020).

19 See, e.g., Ronald Dworkin, *A New Philosophy for International Law*, 41 PHIL. & PUB. AFF. 1, 2 (2013) (“Many contemporary international lawyers . . . assume that a sovereign state is subject to international law but, on the standard account, only so far as it has consented to be bound by that law, and they take that principle of consent to furnish an international rule of recognition.”).

“the international legal system lacks a super-state enforcement authority capable of coercing recalcitrant states to comply.”<sup>20</sup>

Of course, there are international institutions that, at least publicly, express their desire for states to change their behaviors to bring them into compliance with international law. But these institutions often have few tools at their disposal to sanction states for violation of their commitments. For instance, countries that ratify human rights treaties are subsequently subjected to a reporting regime where regular reports are issued about their progress on improving human rights.<sup>21</sup> But countries that fail to improve their human rights are not fined, sanctioned, or otherwise punished by the United Nations for failure to uphold their commitments.<sup>22</sup> Naming and shaming will often follow egregious human rights abuses,<sup>23</sup> and the occasional reduction in multilateral lending, especially from the World Bank, might also follow, but these pathways are typically not sufficient to generate strong compliance.<sup>24</sup>

Not only are international organizations unable to punish countries for violating international agreements, but frequently other countries do not punish their peers either.<sup>25</sup> In some areas of international law, compliance can be induced by the threat of reciprocal noncompliance.<sup>26</sup> For instance,

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20 Goldsmith & Levinson, *supra* note 18, at 1793.

21 Cosette D. Creamer & Beth A. Simmons, *Ratification, Reporting, and Rights: Quality of Participation in the Convention against Torture*, 37 HUM. RTS. Q. 579 (2015); Cosette D. Creamer & Beth A. Simmons, *The Dynamic Impact of Periodic Review on Women’s Rights*, 81 LAW & CONTEMP. PROBS. 31 (2018); Cosette D. Creamer & Beth A. Simmons, *The Proof is in the Process: Self-Reporting Under International Human Rights Treaties*, 114 AM. J. INT’L L. 1 (2020).

22 POSNER, *supra* note 2; HAFNER-BURTON, *supra* note 2; SIMMONS, *supra* note 2.

23 Ryan Goodman & Derek Jinks, *How to Influence States: Socialization and International Human Rights Law*, 54 DUKE L.J. 621 (2004). However, it is actually not clear whether naming and shaming reduces human rights violations. For instance, Hafner-Burton and Hathaway find that state repression actually increases after naming and shaming campaigns. See Emilie M. Hafner-Burton, *Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem*, 62 INT’L ORG. 689 (2008); Oona A. Hathaway, *Do Human Rights Treaties Make a Difference?*, 111 YALE L.J. 1935 (2002).

24 James H. Lebovic & Erik Voeten, *The Cost of Shame: International Organizations and Foreign Aid in the Punishing of Human Rights Violators*, 46 J. PEACE RES. 79 (2009).

25 For a possible explanation of this phenomenon, see *infra* note 29.

26 For example, the threat of reciprocal noncompliance has been theorized as a primary mechanism driving compliance with the laws of war. See, e.g., JAMES D. MORROW, *ORDER WITHIN ANARCHY: THE LAWS OF WAR AS AN INTERNATIONAL INSTITUTION* (2014). As the argument goes, parties to a conflict will comply with

imagine that Country A and Country B sign a treaty agreeing to reduce tariffs. If Country A subsequently raises tariffs to their original level, Country B can respond by reciprocally raising tariffs. But in many areas of international law, reciprocal noncompliance may not make sense. To illustrate, instead imagine that Country A and Country B sign a treaty agreeing to not torture their citizens. If Country A subsequently tortures its political dissidents, it does not make sense for Country B to torture its citizens to punish Country A for violating the treaty. Country B may still be able to punish Country A for violating the commitment not to torture — for instance, through economic sanctions or military intervention — but doing so is costly. Or, in other words, Country B faces a “punisher’s dilemma.”<sup>27</sup> More generally, in domestic and international law settings alike, enforcement is costly, and intra-state commitments to enforce international law, such as the world army envisaged in the UN Charter, are quite limited in practice. The result is that, in many cases, the threat of punishment for failure to comply with international law is a weak incentive.<sup>28</sup>

However, even though countries may not bring their policies into compliance because of the threat of enforcement from international organizations or foreign states, it is still possible that ratifying international agreements has a causal effect on policy adoption and enforcement.<sup>29</sup> Notably, one frequently

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the preexisting laws of war if they believe doing so will induce compliance from their adversaries. For instance, countries may decide to treat prisoners of war decently because they hope it will lead their adversaries to not mistreat their own captured soldiers.

27 POSNER, *supra* note 2.

28 In the area of human rights, the idea that states would punish other countries for violations of international treaties is sometimes called “empathetic enforcement.” Although it may occur in some instances, many scholars are skeptical that it is a major driver of compliance with international law. See SIMMONS, *supra* note 2, at 116 (“If we are looking for empathetic enforcement [of human rights treaties] from other countries, we will be looking in vain for a long time.”); POSNER, *supra* note 2, at 80-81 (“Even powerful countries often cannot exert sufficient pressure on a human rights violator to cause it to improve its behavior, because the target of sanctions can often retaliate by improving its ties with the sanctioning countries’ rivals.”).

29 It is important to note that this discussion does not provide an exhaustive overview of the mechanisms that are theorized to drive compliance with international law without the threat of sanctions. For instance, it has been theorized that states may comply with their international agreements out of concern for their reputation for international cooperation. See Rachel Brewster, *The Limits of Reputation on Compliance*, 1 INT’L THEORY 323 (2009); Rachel Brewster, *Unpacking the State’s Reputation*, 50 HARV. INT’L L.J. 231 (2009), or because the state’s elite



discussed mechanism through which treaty ratification may cause states to alter their behavior is through changes to the domestic political climate as a consequence of ratification. In other words, ratification of treaties may somehow alter domestic politics.<sup>30</sup> There are several ways this can happen. For instance, NGOs, activists, or minority political parties may be able to use courts to pressure countries to live up to their commitments. In this account, the existence of international legal sources that governments have previously consented to be bound by provides additional legal arguments that litigants may be able to use in domestic courts to challenge government policies. At least some research has tested these claims and found that, under certain conditions, prior ratification of international treaties combined with independent judiciaries can lead to greater compliance with those agreements.<sup>31</sup>

But one of the primary ways that the existence of international laws can change the domestic political climate is by changing public opinion. Simply put, it may be easier for political actors to convince the public that a policy is a bad idea if they can argue it violates international law (or, correspondingly, that a policy being considered is a good idea if it is required by international law). This is because there are reasons to believe that the existence of international law changes preferences. For instance, the public may believe that compliance is normatively important because their government has previously committed itself to an agreement, and that it would thus be inappropriate to not live up to its existing promises. Additionally, the public may believe that compliance is instrumentally important because their government may suffer consequences for reneging on its promises. Moreover, some mechanisms suggest that both binding international agreements and nonbinding international norms can change public opinion. For instance, in learning theories, the public may believe that compliance with international agreements or conformity with international standards is important because the international agreement or standard provides

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are acculturated into international legal norms. *See also* Harold Hongju Koh, *The 1994 Roscoe Lecture: Transnational Legal Process*, 75 *NEB. L. REV.* 181 (1996); Goodman & Jinks, *supra* note 23.

30 Dai, *Information Systems*, *supra* note 4; Dai, *Why Comply?*, *supra* note 4; SIMMONS, *supra* note 2.

31 There is debate over whether the existence of human rights commitments and independent courts in a country combine to produce better outcomes. For instance, Lupu finds evidence that countries with independent judiciaries are more likely to improve certain kinds of human rights outcomes, but Chilton and Versteeg examine the relationship between constitutional rights and independent courts and do not find evidence that courts improve the protection of constitutional rights. *See* Lupu, *Best Evidence*, *supra* note 4; Adam S. Chilton & Mila Versteeg, *Courts' Limited Ability to Protect Constitutional Rights*, 85 *U. CHI. L. REV.* 293 (2018).

information about the likely success of the policy. In acculturation theories, an international agreement or standard can lead the public to believe that a certain policy is modern or appropriate, and thus increase support for this policy.<sup>32</sup> For example, if a state adopts maternity leave policies once these are shown to correlate with improved employment prospects for women, this is classified as learning. If instead, states adopt maternity leave policies as soon as prominent countries do the same, without any evidence that these improve outcomes of interest, this is classified as acculturation.

Regardless of the reason why the existence of international law changes preferences, if ratification does in fact change public opinion about a policy, it should thus improve the probability that the government will be compliant. This is because, even though the pressure may not be equal across all regime types, democracies and autocracies alike feel at least some pressure to adopt policies that their public will support. To be clear, the fact that public opinion changes does not mean that it will be a decisive factor. After all, moving support for a policy from 20% to 30% may do little to sway a government about the wisdom of adopting a policy. But, on the margin, if legal commitments are moving preferences in their direction, this may lead to some changes in policy. To put it simply, changes in “public opinion [create] some pressure towards compliance with international law.”<sup>33</sup>

Moreover, not only do international legal requirements have the potential to change preferences, but some have even theorized that international organizations are designed in ways to increase public support for compliance with their requirements.<sup>34</sup> For instance, Zvobgo and Chaudoin argue that one reason why the ICC may have been designed as a complementary legal regime — that is, it only conducts investigations when national governments are unwilling or unable to — is because this design increases the public support for the institution, as well as its legitimacy.<sup>35</sup> This is important because

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32 Goodman & Jinks, *supra* note 23; Linos, *Diffusion*, *supra* note 7.

33 ERIC A. POSNER & ALAN O. SYKES, *ECONOMIC FOUNDATIONS OF INTERNATIONAL LAW* 27 (2013).

34 Even if international institutions are “rationally” designed to achieve a certain objective — like increasing public support or legitimacy — it does not necessarily follow that those design features achieve their goals. For a debate on this subject, compare BARBARA KOREMENOS, *THE CONTINENT OF INTERNATIONAL LAW: EXPLAINING AGREEMENT DESIGN* (2016), with Adam S. Chilton, *Book Review of The Continent of International Law: Explaining Agreement Design by Barbara Koremenos*, 111 AM. J. INT’L L. 801 (2017).

35 Kelebogile Zvobgo & Stephen Chaudoin, *Complementarity and Public Views on Overlapping Domestic and International Courts* (Provost Fellowship in the Soc. Sci. & William & Mary Global Res. Inst., 2020).

international organizations are in many ways particularly dependent on public perceptions of their legitimacy. For example, international tribunals' power stems primarily from their ability to declare an act consistent or inconsistent with international law.<sup>36</sup> For this reason, international tribunals must be even more concerned than domestic courts about their legitimacy with national publics and their portrayals in national media.<sup>37</sup>

## B. Insincere Ratification

A large body of scholarship has tried to empirically test the effectiveness of international agreements. Among other things, research along these lines has tried to assess the effect of preferential trade agreements on the flow of trade, bilateral investment agreements on the flow of investment, bilateral labor agreements on the flow of migrants, and international human rights agreements on the protection of human rights.<sup>38</sup> Although the results of this literature have been mixed, there are a substantial number of articles, examining a number of different kinds of international agreements, that have found that the ratification of international agreements has no discernable effect on government behavior.

These findings naturally raise the question of why governments would expend resources, however modest they may be, negotiating and signing treaties that do not in fact accomplish their stated objectives. One set of theories suggests that international agreements are intended to secure progress against a future potential backlash, by tying a country that could easily revert to authoritarianism to the pro-democracy constraints of the European Union,

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36 Andrew T. Guzman, *International Tribunals: A Rational Choice Analysis*, 157 U. PA. L. REV. 171 (2008).

37 Katerina Linos & Kimberly Twist, *The Supreme Court, the Media, and Public Opinion: Comparing Experimental and Observational Methods*, 45 J. LEGAL STUD. 223 (2016); Terrence L. Chapman & Stephen Chaudoin, *Public Reactions to International Legal Institutions: The International Criminal Court in a Developing Democracy*, 82 J. POL. 1305 (2020).

38 For reviews of the empirical literature on the effectiveness of international law, see Beth A. Simmons, *Treaty Compliance and Violation*, 13 ANN. REV. POL. SCI. 273 (2010); Gregory Shaffer & Tom Ginsburg, *The Empirical Turn in International Legal Scholarship*, 106 AM. J. INT'L L. 1 (2012); Emilie M. Hafner-Burton, *A Social Science of Human Rights*, 51 J. PEACE RES. 273 (2014); Kevin L. Cope & Cosette D. Creamer, *Disaggregating the Human Rights Treaty Regime*, 56 VA. J. INT'L L. 459 (2016); Kevin L. Cope, Cosette D. Creamer & Mila Versteeg, *Empirical Studies of Human Rights Law*, 15 ANN. REV. L. & SOC. SCI. 155 (2019).

for example.<sup>39</sup> Another theory is that countries improve their policies in the course of international treaty negotiation, such that they are compliant by the time of ratification.<sup>40</sup> That said, one key explanation is that many states that sign international agreements may be “insincere ratifiers.”<sup>41</sup> Under this explanation, the states that ratify agreements may have no intention of changing their policies or adhering to the agreement. For instance, repressive, autocratic regimes may ratify the Convention Against Torture, despite regularly engaging in torture. Relatedly, states may sign treaties that they hope shape the behavior of others, but the negotiators may be skeptical that this is likely to occur. For instance, countries may sign bilateral labor agreements hoping that it will create opportunities for their citizens to migrate for more lucrative work, but also doubt that new positions will materialize because of the treaty.

But whether the state signing the treaty hopes that it does not constrain their behavior, or hopes that it changes the behavior of others but is skeptical about the proposition, the question remains why the government would expend resources under these circumstances. One kind of explanation is that governments may derive benefits from signing the treaty, which, even if modest, may outweigh the costs of negotiation or ratification. An example is the potential public relations benefits to signing a treaty. Several scholars have argued that this may explain the proliferation of many bilateral investment treaties (“BITs”). Although roughly 3,000 international investment agreements have been signed, there is evidence suggesting that these agreements may not lead to increases in investment.<sup>42</sup> In many cases, there are zero investment flows between the pair of countries prior to the signing of the BIT, and the negotiators do not appear to have thought that things would change after the treaty has been signed.

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39 Andrew Moravcsik, *The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe*, 54 INT’L ORG. 217 (2000).

40 Katerina Linos, *How Can International Organizations Shape National Welfare States? Evidence from Compliance with European Union Directives*, 40 COMP. POL. STUD. 547 (2007).

41 HEATHER SMITH-CANNOY, *INSINCERE COMMITMENTS: HUMAN RIGHTS TREATIES, ABUSIVE STATES, AND CITIZEN ACTIVISM* (2012).

42 Lauge Skovgaard Poulsen, *The Importance of BITs for Foreign Direct Investment and Political Risk Insurance: Revisiting the Evidence*, in YEARBOOK ON INTERNATIONAL INVESTMENT LAW & POLICY 2009-2010 539 (Karl P. Sauvant ed., 2010); Cree Jones, *Do Enforcement Provisions Promote Investment? New Evidence from a Natural Experiment in the Investment Treaty Network* (Working Paper, 2019), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3204964](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3204964).

How then did these BITs come into existence? One explanation is that there are minor diplomatic benefits to signing the treaties.<sup>43</sup> But another explanation is that the public is unaware that the treaties will not produce investment, so signing the agreements with a powerful country can produce small public-relations coups. For example, Chilton provides several anecdotes of foreign leaders signing BITs with the United States because they believe it will help them with their domestic political standing.<sup>44</sup> In one example, the leaders of Senegal and Morocco signed BITs but did not ratify them because they thought that this would provide leverage to produce a visit from minor diplomatic officials. As Chilton explains:

The United States signed a BIT with Senegal in 1983 and with Morocco in 1985. These BITs were both approved by the United States Senate on October 20, 1988. By 1990, however, these two partners had still not ratified the agreements. During a hearing held by the Senate Committee on Foreign Relations, Senator Sarbanes asked a State Department official why Senegal and Morocco had not yet ratified the agreements. The assistant Secretary of State replied by saying that “my understanding is that both governments were looking for an auspicious occasion on which to ratify the agreement, some ceremony. I didn’t know this until this morning.” In response, Senator Sarbanes asked: “Would a visit by you be deemed such a sufficient occasion, do you think?” In response, McAllister replied: “I would certainly think so. But I would hope we could do it before that.” This is revealing because Senegal and Morocco were willing to wait over three years to ratify agreements that are reportedly designed to attract investment so that they could have a signing ceremony with even a relatively obscure U.S. official.<sup>45</sup>

That Senegal and Morocco prioritized the publicity of ratifying the agreements over the ratification itself suggests that at least some leaders believe that signing treaties produces political benefits, even if they may not produce substantive changes. These theories thus suggest that the ratification of treaties should change preferences; the relevant change is just increasing support of the existing political leadership. Related anecdotes can be found in the literature on nonbinding international standards and peer-review grading mechanisms.

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43 Lauge N. Skovgaard Poulsen & Emma Aisbett, *Diplomats Want Treaties: Diplomatic Agendas and Perks in the Investment Regime*, 7 J. INT’L DISP. SETTLEMENT 72 (2016).

44 Adam S. Chilton, *The Political Motivations of the United States’ Bilateral Investment Treaty Program*, 23 REV. INT’L POL. ECON. 614 (2016).

45 *Id.* at 623-24.

For instance, governments sometimes strengthen their national human rights institutions immediately prior to a major regional meeting, in the hopes of getting an “A” grade before the international spotlight falls on them.<sup>46</sup>

## II. EVIDENCE THAT INTERNATIONAL LAW CHANGES PUBLIC OPINION

A medium-sized literature has emerged in law and political science to examine whether international law changes state behavior by influencing public opinion. Many of these studies use surveys, and experiments embedded within surveys. In a typical study, all respondents are asked their views on a policy debate, and for randomly assigned subsets, this question is preceded by information about international law or international norms. Across a broad range of fields, studies typically report that public opinion shifts in the direction of greater conformity with international law or norms. Effect sizes are often on the order of 6-8 percentage points, while some reach 15 or even 20%. These are nontrivial shifts in the public opinion literature, given that elections in democracies are typically decided by much smaller margins. Indeed, in many of these studies, the baseline level of support for a policy is around 40-60%, and opinion shifts in this range are especially salient as they implicate the median voter. In the review below, we survey studies from fields where the most work has been done, including human rights, environmental law, the law of war, and trade, and summarize the main effects and subgroup effects. The majority of the studies reveal that international law has a positive effect on public opinion, although studies in countries with popular nationalist leaders with anti-international law stances suggest the opposite is true in such contexts.

### A. Human Rights

Human rights is the area where the most research has been done, likely because other enforcement strategies, based on reciprocity, are expected to be particularly weak in this field. For example, as reported above, Wallace, one of the pioneers in this field, surveyed a representative sample of American adults and reported that survey respondents randomly assigned to receive information about international law as regards torture were 6% less likely to

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46 Katerina Linos & Tom Pegram, *Architects of their Own Making: National Human Rights Institutions and the United Nations*, 38 HUM. RTS. Q. 1109 (2016).

support torture than persons not given this information.<sup>47</sup> This opinion shift is notable because torture is an issue on which opinions tend to be relatively well-formed, and thus generating opinion shifts of any type is challenging.<sup>48</sup> In a related study, Chilton focused on opinion shifts on the question of solitary confinement.<sup>49</sup> Importantly, Chilton's study included, in addition to a control group, a placebo treatment that contained information about human rights generally, with no explicit reference to international law, and compared the treatment effect of information about international law to both the control and the placebo. Chilton reported that a specific reference to international human rights treaties the U.S. has signed, which prohibit solitary confinement, leads to a statistically significant 4% decline in support for this practice, even compared to a placebo in which general information about human rights is made available to respondents.<sup>50</sup>

Concluding international treaties is difficult and often leads to agreements with limited scope. Thereafter, ratification at the national level often happens with grave time delays, and sometimes only after a society has transformed its domestic legislation to conform fully with the treaty. Therefore, international lawyers and international organizations also focus on the development and promotion of nonbinding norms and soft-law instruments. Available experiments suggest that nonbinding international norms can also shift public opinion. For example, Linos reports that UN recommendations shift U.S. public opinion much more than other endorsements, including endorsements from U.S. experts. In representative surveys of U.S. adults, on the questions of raising taxes for universal health insurance and paid maternity leave, the UN recommendation shifted opinion significantly more than alternative prompts

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47 Wallace, *International Law*, *supra* note 9. Respondents were presented with a brief hypothetical scenario in which U.S. officials sought to use interrogation methods against combatants that would constitute torture, described as “caus[ing] severe pain or suffering.” No further description of torture practices was included. *Id.* at 117-18.

48 In a related article, however, Wallace finds that although civilian opinions on torture are influenced by information on international law, military veterans do not change their opinions based on the same information. However, as we discuss below in Part IV.B, this may be because veterans are more likely to have previously been exposed to information about international law in the course of their training, and thus to have been “pre-treated.” See Wallace, *Martial Law*, *supra* note 9.

49 Chilton, *supra* note 9.

50 *Id.*

about U.S. expert recommendations and the practices of most developed countries, on the order of 10 percentage points or more.<sup>51</sup>

## B. Law of War

A number of studies have also examined whether information on the laws of war changes support for the initiation of conflict (*jus ad bellum*) and for the way states behave during conflict (*jus in bello*). To study the influence of the international legal regime on the support for entering conflicts, Wallace tests support for humanitarian interventions while varying information about whether or not the United Nations sanctions the mission.<sup>52</sup> The results of the experiment suggest that respondents in the United States are roughly 20% more supportive of interventions that have been sanctioned by the United Nations. Wallace argues that this is because the United Nations provides legitimacy to the potential mission.

In addition to experiments testing the influence of international law on opinions about the initiation of conflict, several studies have examined its role in producing support for strategic choices during the conflict. Chilton reports that arguments about the law of war — and in particular *jus in bello* principles of proportionality — move opinion in a sample recruited through Mechanical Turk, in the expected direction, by 12%.<sup>53</sup> Importantly, Chilton also finds that while an argument about morality does not further increase this shift, an argument about reciprocity — the other side's commitment to follow international law — does further move opinion, for a cumulative 16% shift.<sup>54</sup>

Wallace and Kreps use a nationally representative sample and report a 6-8% shift in public opinion when international law arguments are made in the context of drone attacks.<sup>55</sup> They test two international law arguments and find that both references to violations of a foreign state's sovereignty and *jus in bello* arguments about excess civilian deaths shift Americans' views. They also examine whether international law arguments attributed to an international organization (the United Nations) or a nongovernmental organization (Human Rights Watch) resonate more, but do not find a meaningful difference.

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51 Linos, *Diffusion*, *supra* note 7; LINOS, DEMOCRATIC FOUNDATIONS, *supra* note 7.

52 Geoffrey P.R. Wallace, *Supplying Protection: The United Nations and Public Support for Humanitarian Intervention*, 36 CONFLICT MGMT. & PEACE SCI. 248 (2019).

53 Chilton, *supra* note 12.

54 *Id.*

55 Sarah E. Kreps & Geoffrey P.R. Wallace, *International Law, Military Effectiveness and Public Support for Drone Strikes*, 53 J. PEACE RES. 830 (2016).



Wallace uses data from surveys conducted in eleven countries by the International Committee of the Red Cross in 1999 to examine the relationship between knowledge of the laws of war and attitudes towards wartime behavior.<sup>56</sup> Wallace finds that respondents with greater knowledge of the laws of war are significantly less supportive of the use of violence.<sup>57</sup>

### C. Other Areas

There have also been a handful of studies about other areas of international law. For example, a study along these lines about environmental law is Tingley and Tomz's study of climate change.<sup>58</sup> They find that many respondents are willing to penalize foreign polluters with economic sanctions, and more so when these polluters have violated international treaties. Using a Mechanical Turk sample of U.S. respondents, they found that a treaty caused a 14-point surge in public support for trade sanctions, and an 11-point surge in public support for naming and shaming.<sup>59</sup>

In the area of international trade, Chaudoin tested whether a treatment indicating that an import restriction would violate international agreements and lead to a suit before the World Trade Organization reduced support for such a measure.<sup>60</sup> He found a 10% decline in support when this treatment concerning an international agreement was given, whereas a related placebo treatment, and an agreement referencing economic arguments, did not significantly reduce support. Two caveats: Chaudoin recruited respondents using Mechanical Turk, and thus these results cannot be said to be nationally representative. Moreover, and more interestingly, the effects were concentrated among respondents who did not have firm policy views on trade; respondents who either supported or opposed free trade were much less likely to budge.

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56 Geoffrey P.R. Wallace, *Condemning or Condoning the Perpetrators? International Humanitarian Law and Attitudes Toward Wartime Violence*, 44 *LAW & SOC. INQUIRY* 192 (2019).

57 Much of these effects, however, are driven by respondents with greater knowledge of international humanitarian law being less supportive of abuse of prisoners. There were only small differences between respondents with and without high levels of knowledge in their support for violence directed towards civilians.

58 Dustin Tingley & Michael Tomz, *Conditional Cooperation and Climate Change*, 47 *COMP. POL. STUD.* 344 (2013).

59 *Id.* at 363.

60 Stephen Chaudoin, *Promises or Policies? An Experimental Analysis of International Agreements and Audience Reactions*, 68 *INT'L ORG.* 235 (2014).

#### D. Main Effect Overview

In short, across a broad range of issue areas, studies suggest there may be sizeable shifts in opinion when respondents are told that a behavior is required by international law or consistent with international norms. Table 1 below summarizes these studies. For each study, Table 1 presents the treatment in abbreviated form; the full text is available in the Appendix. We then report the sampling frame and the direction of the effect. A positive sign indicates a shift in public opinion in the direction of greater compliance with international law or behavior consistent with international norms. We then summarize effect sizes and statistical significance.

While the great majority of studies suggest positive effects of international law arguments on public opinion, it is important to flag three experiments that suggest the possibility of backlash. These three studies all involve contexts in which international law arguments are highly salient in domestic political contexts, and popular nationalist leaders have taken the anti-international law position. Notably, in Turkey, arguments that international law requires hosting additional refugees generated backlash, especially among supporters of the ruling party.<sup>61</sup> While nationalist and anti-immigrant sentiment is on the rise around the world, Turkey hosts more refugees than any other country in the world, and the ruling party has given the issue great salience.<sup>62</sup> Additionally, government restrictions on the rights of protesters were found to be more problematic when they violated international human rights law, according to a study fielded in India.<sup>63</sup> However, when this same study was fielded in Israel, amidst the highly politicized Israeli-Palestinian conflict, the same treatment generated backlash.<sup>64</sup> Finally, a study about the ICC indicated backlash when the investigation was to hit close to home, in Kyrgyzstan.<sup>65</sup> These three important studies highlight that while in most contexts international law resonates, in

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61 Kevin L. Cope & Charles Crabtree, *A Nationalist Backlash to International Refugee Law: Evidence from a Survey Experiment in Turkey*, 17 J. EMPIRICAL LEGAL STUD. 752 (2020).

62 See Melissa Carlson, Laura Jakli & Katerina Linos, *Rumors and Refugees: How Government-Created Information Vacuums Undermine Effective Crisis Management*, 62 INT'L STUD. Q. 671 (2018); Melissa Carlson, Laura Jakli & Katerina Linos, *Refugees Misdirected: How Information, Misinformation and Rumors Shape Refugees' Access to Fundamental Rights*, 57 VA. J. INT'L L. 539 (2018).

63 Yonatan Lupu & Geoffrey P.R. Wallace, *Violence, Nonviolence, and the Effects of International Human Rights Law*, 63 AM. J. POL. SCI. 652 (2019).

64 *Id.*

65 Chapman & Chaudoin, *supra* note 37.

some cases, nationalist politicians have succeeded in painting international law and the international community as the enemy.

**Table 1: Study Summaries: How Much Does International Law Influence Opinion?**

Article	Treatment	Sampling Strategy	Shift Direction	Effect Size	Significance
<b>Anjum, Chilton and Usman 2020</b>	• Support when proposal source is UN	Pakistan (614) Interviews	+	11%	Y
	• Willingness to act when proposal source is UN		+	8%	Y
<b>Chaudoin 2014</b>	Shift against a violating trade policy after Int Law cue	US (2,500) mTurk	+	11%	Y
<b>Chaudoin 2019</b>	Approval of an ICC investigation when investigation in home country	Kyrgyzstan (1,000) Interviews	-	10%	Y
<b>Chilton 2014</b>	Support for reform (in use of solitary confinement) following Int Law cue	US (1,859) mTurk	+	4%	Y
<b>Chilton 2015</b>	Shift against conflict strategies after laws of war treatment	US (1,813) mTurk	+	12%	Y
<b>Chilton and Versteeg 2016</b>	Shift against torture after Int Law cue	US (2,159) SSI firm	+	2%	N
<b>Cope and Crabtree 2018</b>	Support of Int Law when it violates home refugee policy	Turkey (1,292) KONDA	-	6%	Y
<b>Kreps and Wallace 2016</b>	Opinion shift in favor of IO/NGO claims that drone strikes violate sovereignty	US (2,394) GfK	+	6-8%	Y
<b>Linós 2013</b>	• Support for health insurance for all US citizens following UN rec	US (2,030) Knowledge Networks	+	24%	Y
	• Support for providing new mothers with paid leave following UN rec	US (1,291) Knowledge Networks	+	27%	Y
<b>Lupu and Wallace 2019</b>	Support for home government that violated Int Law while repressing opposition group	India (796) mTurk	+	8%	Y
		Israel (1,292) Midgam	-	4%	Y
		Argentina (1,096) Panel Election Study	NA	0%	Y

Article	Treatment	Sampling Strategy	Shift Direction	Effect Size	Significance
Strezhnev, Simmons and Kim 2020	Shift toward Int Law over conflicting proposal to limit refugee entry	US (1,020 ) mTurk	+	9%	Y
		Australia (2,017) YouGov	+	3%	N
		India (1,469) Robas Research	+	5%	Y
Tingley and Tomz 2013	Support for trade sanctions against states that had broken a signed Int treaty	US (708) mTurk	+	14%	Y
Wallace 2013	• Shift toward Int Law standard on torture	US (2,817) TESS	+	6%	Y
	• Shift toward Int Law following high precision in agreement prohibiting torture *	US (6,101) TESS	+	8%	Y
Wallace 2014	• Shift toward Int Law standard on interrogation methods**	US (2,817) TESS	+	5%	Y
	• Shift toward Int Law following high precision in agreement prohibiting torture	US(6,101) TESS	+	6%	Y
Wallace 2019	Support of military interventions when UN has sanctioned the action	US (1,000) YouGov	+	20%	Y
Wallace 2019	Shift against violence when knowledge of Int Humanitarian Law (IHL)	1999 Int Red Cross Study (sampling sizes ranged from 8,400-12,100)	+	5%	Y

\* Wallace 2013: High delegation also yielded a (5%) shift that was significant.

\*\* Wallace 2014: The significant shift was only present among civilians in the first experiment. Veterans had no significant change. The 6% shift in the second treatment was consistent for both civilians and veterans.

## E. Subgroup Effects

Several studies report that respondents who are more positively inclined towards the United Nations, or who have more cosmopolitan attitudes, respond more strongly to treatments involving international law and international norms.<sup>66</sup>

<sup>66</sup> Linos, *Diffusion*, *supra* note 7; LINOS, DEMOCRATIC FOUNDATIONS, *supra* note 7; A. Burcu Bayram, *Due Deference: Cosmopolitan Social Identity and the Psychology*

In addition, consistent with extensive research on public opinion in other fields, Chaudoin reports that treatment effects were strongest among people who did not have firm views on the issue at hand, in this case trade policy.<sup>67</sup> Partisanship effects are not always consistent, but several U.S. studies show responses to international law and norms treatments among Republicans.<sup>68</sup> Scholars have not found consistent patterns with respect to other demographics, such as education<sup>69</sup> or gender.<sup>70</sup> We discuss the implications of these subgroup findings for policy, and the need for further research, in the parts that follow.

### III. STRENGTHS AND LIMITATIONS OF EXISTING RESEARCH

Across a broad range of fields, arguments about international law and norms seem to shift public opinion in the expected direction. This literature has some distinct advantages, including that (1) this research has been conducted through both surveys and survey experiments; (2) external validity concerns about the representativeness of survey samples have been addressed both through nationally representative samples and through replications of related studies based on convenience samples; and (3) careful attention has been given to the design of control groups, to ascertain exactly what the added value of international law and norms is. We begin by discussing these advantages in Part III.A. That said, although the body of academic research studying the effect of international law on public opinion has grown considerably in the last decade, there are still a number of limitations with this research. We discuss three of these limitations: Part III.B outlines empirical problems with existing studies finding a link between international law and public opinion; Part III.C explains how there is not a consistent theory for why international law may change opinion; and Part III.D outlines the limited evidence linking changes in public opinion to concrete changes in policy.

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*of Legal Obligation in International Politics*, 71 INT'L ORG. 137 (2017); Gulnaz Anjum, Adam Chilton & Zahid Usman, *United Nations Endorsement and Support for Human Rights: An Experiment on Women's Rights in Pakistan*, 20 J. PEACE RES. 1 (2020).

67 Chaudoin, *supra* note 60. See also Wallace, *Martial Law*, *supra* note 9 (noting that civilian opinion shifts more than veteran opinion on law of war issues).

68 Chilton, *supra* note 9; Chilton, *supra* note 12; LINOS, DEMOCRATIC FOUNDATIONS, *supra* note 7; Linos, *Diffusion*, *supra* note 7.

69 Chilton, *supra* note 9, at 137; Wallace, *supra* note 56. But see Cope & Crabtree, *supra* note 61 (reporting backlash to be concentrated among the least educated, who were also supporters of the ruling party).

70 Chilton, *supra* note 9, at 137.

### A. Empirical Strengths of Existing Work

The advantages of experimental, as compared to observational, research are well-publicized in the scholarship on preference development, and include, critically, the possibility of developing causal claims. In the literature on preference formation in international law, the combination of surveys with survey experiments allows both the testing of causal claims and their contextualization. For instance, surveys of attitudes towards international institutions in multiple states, while non-experimental, allow us to hypothesize about countries where we would expect to find smaller and larger experimental results.

Experimental studies of preference formation in psychology are sometimes criticized because it is thought that student pools and other subjects easily recruited by university researchers could respond very differently from other populations. In contrast, political science experiments, including in the area of international law and international relations, pay greater attention to the composition of the subject pool. Many studies on the influence of international law and norms use representative surveys of national publics, while others use diverse convenience samples. Diverse convenience samples, such as those collected using Amazon's Mechanical Turk, cannot be directly translated into national opinion expectations. That said, an important replication study suggests that key experimental conclusions on opinion change are the same in representative samples and Mechanical Turk samples alike.<sup>71</sup> There are also a limited number of surveys and experimental studies of elected official preferences on international law topics.<sup>72</sup> These studies of elite opinion are useful both because leaders can more directly translate their views into policy outcomes, and because the same stimulus may produce a different effect in an elite population of elected officials or foreign policy experts. It is possible that elites will respond more than ordinary people to information about international law, because they hold institutions such as the UN in higher regard. Alternatively, elites may respond less strongly, because they already have relatively thought out opinions — more research is necessary on this point.

Studies that compare international law arguments to other types of rhetoric are especially persuasive because a large literature on endorsement effects suggests that many types of endorsements or other positive arguments can

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71 Adam J. Berinsky, Gregory A. Huber & Gabriel S. Lenz, *Evaluating Online Labor Markets for Experimental Research: Amazon.com's Mechanical Turk*, 20 POL. ANALYSIS 351 (R. Michael Alvarez ed., 2012).

72 Michael Tomz, Jessica L.P Weeks & Keren Yarhi-Milo, *Public Opinion and Decisions About Military Force in Democracies*, 74 INT'L ORG. 119 (2020); Bayram, *supra* note 66.

move opinion. That said, several of the studies reviewed below find that international law arguments are more effective in influencing public opinion than alternative arguments. For example, international law arguments have been found to be more effective than arguments about economic effects in the area of trade;<sup>73</sup> international law arguments have been found to be more influential than arguments about policy effectiveness on national security issues;<sup>74</sup> and UN recommendations have been found to be more influential than references to foreign countries' practices in the areas of health, family, and employment law.<sup>75</sup>

## B. Empirical Limitations of Existing Work

There are several empirical problems that have made it difficult to identify the effect of international law on public opinion. First, these experiments could suffer from strong pretreatment effects. Across a broad range of survey experiments, researchers assume that survey respondents are blank slates — and that any information offered in the course of the experiment is new to survey respondents.<sup>76</sup> This assumption is problematic when respondents may have already incorporated the effects of legal obligations or legal decisions into their opinions. For example, information about women's rights, racial equality, and other human rights norms may have spread widely across societies in the post-WWII period. In such a context, the treatment the experimenter is offering is not news at all, but at best a reminder of familiar information. In expectation, this should bias treatment effects downwards, although there are circumstances when pretreatment leads to upwards bias.<sup>77</sup> That said, recent work that examines hypothetical, rather than actual events — in this case, hypothetical International Criminal Court investigations — are one way to make progress to minimize this pretreatment problem.<sup>78</sup> To further minimize pretreatment effects, it is also possible to conduct research in areas that are

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73 Stephen Chaudoin, *Audience Features and the Strategic Timing of Trade Disputes*, 68 INT'L ORG. 877 (2014).

74 Kreps & Wallace, *supra* note 55.

75 Linos, *Diffusion*, *supra* note 7; LINOS, DEMOCRATIC FOUNDATIONS, *supra* note 7; Chilton, *supra* note 12.

76 James N. Druckman & Thomas J. Leeper, *Learning More from Political Communication Experiments: Pretreatment and Its Effects*, 56 AM. J. POL. SCI. 875 (2012); Katerina Linos & Kimberly Twist, *Diverse Pre-Treatment Effects in Survey Experiments*, 5 J. EXPERIMENTAL POL. SCI. 148 (2018).

77 See Linos & Twist, *supra* note 76.

78 Chapman & Chaudoin, *supra* note 37.

unfamiliar to most respondents, such as technical aspects of treaties for which many do not have strong prior intuitions either way.

Second, repeated experiments on diverse themes have not been conducted in any country other than the United States. This is concerning because Americans may have idiosyncratic views about the importance of international law. That said, there has been an increase in experiments conducted outside the United States in recent years. Notable examples include studies of international law in Pakistan,<sup>79</sup> Turkey,<sup>80</sup> and Kyrgyzstan.<sup>81</sup> Importantly, two recent studies field the same experiment in a range of countries. When respondents in Australia, India, and the U.S. respond in the same way, one comparative experimental study concludes that “finding[s] from the U.S. sample about public attitudes can generalize to other, similar settings in other countries.”<sup>82</sup> However, the other comparative study finds positive effects in India, null effects in Argentina, and negative effects in Israel.<sup>83</sup>

These studies revealing backlash merit further attention. For instance, the Turkey study shows significant backlash to international law references, which is concentrated among lower-educated individuals supporting the ruling party.<sup>84</sup> In addition, the Kyrgyzstan study shows that support for an investigation significantly declines when this investigation is to be conducted in respondents’ home country, as opposed to abroad, which suggests that we should interpret results about support for international law in the abstract, rather than at home, with caution.<sup>85</sup> As surveys and sentiment thermometers suggest that support for the United Nations and other international bodies varies dramatically across countries, and tends to be significantly lower among developing countries in general (among countries that have experienced international intervention in particular), further research in such contexts is critical.

Third, the same results have not been replicated in studies on the effects of constitutional law. Notably, Chilton and Versteeg (2016) conducted an online survey experiment in the United States that closely tracked the research design of Wallace (2013), but instead of telling respondents that the use of torture violated international law, their experiment told respondents that it violated the constitution.<sup>86</sup> This constitutional law treatment had no discernable effects

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79 Anjum, Chilton & Usman, *supra* note 66.

80 Cope & Crabtree, *supra* note 61.

81 Chapman & Chaudoin, *supra* note 37.

82 Strezhnev, Simmons & Kim, *supra* note 9, at 1299.

83 Lupu & Wallace, *supra* note 63.

84 Cope & Crabtree, *supra* note 61.

85 See Chapman & Chaudoin, *supra* note 37.

86 Chilton, *supra* note 44; Wallace, *International Law*, *supra* note 9.



on opinion. Relatedly, Chilton and Versteeg conducted a survey experiment through face-to-face interviews in Turkey that asked about the government's decision to block access to the website Wikipedia for allegedly including false information about Turkey.<sup>87</sup> Again, respondents told about the constitution did not have notably different views about the legitimacy of blocking the website than respondents that were not told about the constitution. Of course, both sets of null results could be because people already know about the constitution, and thus there is not a clean control group. But these null results do suggest that more work needs to be done to understand exactly why positive treatment effects have been found for international law but not constitutional law.

### C. Incomplete Theory

Although several of the articles discussed in Part II have advanced arguments for why international law may be likely to influence public opinion in a given setting, there is relatively little research trying to identify exactly why respondents update their views after being told that a given policy is, or is not, consistent with international legal obligations. There are, however, some exceptions. One exception is Chilton's (2014) study, which, after asking respondents about their views on solitary confinement while randomizing information on international law, asked three "mediation" questions to test which views the treatment may have changed.<sup>88</sup> Chilton (2014) found no evidence that being told that the use of solitary confinement violated international treaties that the United States had signed changed respondents' views because they thought honoring commitments was important or because solitary confinement was immoral.<sup>89</sup> Chilton (2014) did find, however, that respondents told about international law were more likely to think that solitary confinement was inconsistent with international standards.<sup>90</sup> This was interpreted as support for Simmons' (2009) study, which argued that one reason why ratification of treaties creates a compliance pull is that citizens become aware of a "rights gap" between the way they are treated and international norms.<sup>91</sup>

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87 CHILTON & VERSTEEG, *supra* note 18.

88 Chilton, *supra* note 9; Chilton & Versteeg, *supra* note 13, also used mediation analysis when examining an expanded set of arguments for why information about constitutional law may alter public opinion.

89 Chilton, *supra* note 9.

90 *Id.*

91 SIMMONS, *supra* note 2.

## D. How Opinion Change Turns into Policy Change

Theories of audience costs, in which public opinion influences leader choices, apply most directly to democratic regimes. However, important theoretical and empirical work on authoritarian regimes shows that audience costs can be powerful motivators in authoritarian states in which party mechanisms can serve as checks on leaders, as compared to person-centric or family-centric authoritarian regimes.<sup>92</sup> But this research could certainly be further developed.

To start, leaders might respond very differently than ordinary citizens to information about international law. An important experimental study on support for women's rights in Pakistan finds elite respondents to be much more likely to support women's rights proposals when they find out that these are supported by the United Nations.<sup>93</sup> Another experimental study in Turkey suggests that backlash to international law arguments is concentrated among the least educated.<sup>94</sup> At the same time, Wallace reports that information about law of war prohibitions resonated less among veterans than others, perhaps because veterans already were familiar with the relevant prohibitions.<sup>95</sup> As effects on elite opinion could be larger than those for non-elite opinion, because elites tend to be more favorable to international institutions, or smaller than expected, because elites have more stable opinions, further research on this topic is needed.

In one study of German parliamentarians, parliamentarians who were most likely to believe international law was legitimate were also most influenced by experimental treatments involving international law violations.<sup>96</sup> Interestingly, politicians exhibiting low, moderate, and high feelings of obligation towards international law were widely dispersed across the German political spectrum, and not concentrated in particular parties.<sup>97</sup> Again, further research along these promising lines would be useful.

We also believe that these attitudinal shifts depend on other respondent characteristics, as is the case with public opinion patterns more generally. To start, it seems likely that attitudinal shifts are moderated by the *strength of issue-area preferences*. For instance, in one study of the American public, respondents who expressed strong preferences over free trade, either in favor or against, did not change their views when told that a leader acted

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92 Jessica L. Weeks, *Autocratic Audience Costs: Regime Type and Signaling Resolve*, 62 INT'L ORG. 35 (2008).

93 Anjum, Chilton & Usman, *supra* note 66.

94 Cope & Crabtree, *supra* note 61.

95 Wallace, *Martial Law*, *supra* note 9.

96 Bayram, *supra* note 66.

97 *Id.* at 152.

inconsistently with his promises. In contrast, respondents who were not firm in their beliefs were much more likely to change their attitudes in response to arguments about treaty commitments.<sup>98</sup> The insight that informational prompts resonate most with people who have not made up their mind, and on issues that have not been extensively debated, is consistent with a large body of research on public opinion that indicates that attitudes among the undecided are particularly malleable.

Attitudinal shifts are also frequently moderated by *partisan preferences*. Wallace finds that international law has a larger impact on persons with liberal views.<sup>99</sup> Surprisingly, other studies show that it is Republicans, rather than Democrats, that are more likely to be moved by arguments about international law and international institutions.<sup>100</sup> Further research is necessary to ascertain why this is the case — for example, whether Democrats already had policy positions more consistent with international law (and thus had less room to move) or instead whether arguments about law resonate more with Republicans' worldviews.

Confidence in the United Nations has also been found to be a moderator of opinion shifts in public opinion studies in the U.S. and Pakistan.<sup>101</sup> This is consistent with research on German parliamentarians that suggests that cosmopolitanism is a key predictor of whether international law appeals will resonate.<sup>102</sup>

Finally, scholars have not systematically examined which international law sources are most likely to move public opinion. That said, treaties are generally much more precise than other forms of international law, such as customary international law, or general principles of international law. Importantly, experimental studies suggest that international law that is more precise is more likely to shift public opinion.<sup>103</sup> These experimental findings are consistent both with theoretical work on legalization,<sup>104</sup> and with high-quality observational research on the effects of precise agreements on state behavior.<sup>105</sup> Therefore, this literature points policymakers to expect that highly

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98 Chaudoin, *supra* note 60.

99 Wallace, *International Law*, *supra* note 9.

100 Chilton, *supra* note 9; Chilton, *supra* note 12; LINOS, DEMOCRATIC FOUNDATIONS, *supra* note 7; Linos, *Diffusion*, *supra* note 7.

101 Linos, *Diffusion*, *supra* note 7; LINOS, DEMOCRATIC FOUNDATIONS, *supra* note 7; Anjum, Chilton & Usman, *supra* note 66.

102 Bayram, *supra* note 66.

103 Wallace, *International Law*, *supra* note 9.

104 Kenneth W. Abbott et al., *The Concept of Legalization*, 54 INT'L ORG. 401 (2000).

105 Katerina Linos & Tom Pegram, *The Language of Compromise in International Agreements*, 70 INT'L ORG. 587 (2016); Katerina Linos & Tom Pegram, *What*

precise agreements are more likely to bring about shifts in state behavior, in part because they can more easily generate public support. On the flip side, treaties and other binding agreements are particularly hard to reach, whereas standard-setters around the world have been developing indicators and naming-and-shaming techniques more rapidly. As both international law and international norms and standards have been shown to carry weight with national publics, one area for advocates to focus on may be the development of precise, if nonbinding, international standards.

## CONCLUSION

A moderate literature across a broad range of issue areas reports that information provided to ordinary persons that a policy is required by international law shifts opinion in favor of that policy by 5-10 percentage points, and sometimes up to 20 points. Conversely, information that a policy is inconsistent with international obligations reduces support. Similarly, information that a policy is consistent with UN recommendations or international norms, even when these norms are nonbinding, leads to significant increases in support for the policy. The studies we have discussed in this Article have produced evidence that, at least in certain circumstances, commitments to international law alter the preferences of the general public. But there is still considerable research to be done to determine exactly whether these changes in preferences materialize outside of highly artificial research settings, and if they do materialize, what impact these changes in preferences have on behavior and policy. Here, we briefly outline a few next steps that research should take to help answer these broader questions.

First, researchers should endeavor to make the conditions of their experiments more realistic. As previously noted, many of these experiments have been vignette studies that ask online audiences about their reaction to hypothetical scenarios. However, a few articles have asked about current, ongoing events, and at least some research has tried to assess respondents' reactions to information other than standard vignettes or multiple-choice questions.<sup>106</sup> These efforts should be expanded on to try to ensure that experiments are as realistic as possible and, to the extent possible, that concerns over external validity are minimized.

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*Works in Human Rights Institutions?*, 111 AM. J. INT'L L. 628 (2017).

106 Chapman & Chaudoin, *supra* note 37; Chilton & Versteeg, *supra* note 13; McEntire, Leiby & Krain, *supra* note 9; Katerina Linos, Laura Jakli, & Melissa Carlson, *Fundraising for Stigmatized Groups: A Text Message Donation Experiment*, 115 AM. POL. SCI. REV. 14 (2021).

Second, researchers should try to work with advocacy organizations that utilize information on international law in their work. This could be an important avenue for future research for several reasons. For one, it would be valuable to know why advocates believe leveraging international law is useful to their work, and when they believe it is likely to change public opinion.<sup>107</sup> Moreover, the concerns about external validity that we discussed above would be minimized if researchers could work with these organizations to develop field experiments that closely mirror their standard advocacy work.

Third, researchers should expand their theories of how law influences preferences to not only focus on individuals, but on organizations. After all, it is critical not only that individuals comply with the law, but that corporations, schools, churches, labor unions, and other bodies do so as well. In this endeavor, the literature on compliance with international law may be particularly helpful, as it takes into account that states have multiple constituencies, and that when international law shifts beliefs in one such group — be it voters, elected leaders, industry group associations, or others — a change in the entire state's behavior might well follow, but not in a straightforward, direct way.

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107 See, e.g., Hafner-Burton, LeVeck & Victor, *supra* note 5.

**ONLINE APPENDIX TO  
“PREFERENCES AND COMPLIANCE WITH INTERNATIONAL LAW”**

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**ANJUM, CHILTON & USMAN (2020):**

The experiment asked respondents about four policies that were recommended by the UN Human Rights Committee on the Elimination of Discrimination Against Women in their 2013 review of Pakistan's compliance with CEDAW.

Table I. Policy questions for the endorsement experiment

<i>Question wording</i>	
1. Legislative quotas	... increasing the quotas allocated for women in the National and Provincial Assemblies and in the Senate from 17% to a minimum of 33%.
2. Honor crime pardons	... repealing all laws that allow perpetrators of so called honor crimes to negotiate a pardon from the victims' families.
3. Marriage age	... raising the minimum age for marriage for girls from 16 to 18.
4. Election re-polling	... re-polling any location where women cast less than 10% of votes during an election.

**Treatment on UN as source of policy proposal:**

A recent proposal calls for.... **OR** A recent proposal by the United Nations calls for ...

**Question:** How do you feel about this proposal?

**Questions on how likely respondents were to increase respect for women's rights with action:**

- 1) If a woman runs for election to the National Assembly of Pakistan, how likely are you to consider voting for a woman in the election, all else equal?
- 2) If a political party were to make improving women's rights one of its main goals, how likely would you be to vote for the party in an election, all else equal?
- 3) If you were asked to sign a petition calling for the government to improve women's rights in Pakistan, how likely would you be to sign it?
- 4) Do you support the government providing funding to organizations aimed at improving women's rights?

**BAYRAM (2017):****Five-item Index constructed with the following questions (provides an Obligation score)**

Asks participants how much importance they personally place on Germany's compliance with its international legal duties.

The second item gauges a respondent's belief in international law's right to rule. Participants are first told that there are several reasons that countries might comply with international law and subsequently asked about how much value they place on upholding international law for its own sake, namely because laws need to be upheld. Actors guided by a sense of legal obligation should express a commitment to upholding international law even when the law is at odds with their country's self-interest.

The next item measures the extent of this commitment. First, parliamentarians are told that compliance with international law is sometimes difficult and hurts a country's material interests. Subsequently, they are asked about their support for costly compliance.

The fourth question on the legal obligation scale is a measure of cognitive dissonance. I assume that individuals motivated by a sense of legal obligation will experience cognitive discomfort in case of a violation. Parliamentarians are asked how uncomfortable they would feel if Germany were to break international law.

Measure of Accountability. I asked parliamentarians to indicate how justified other countries would be in criticizing Germany if it were to break international law.

**Measuring cosmopolitan self-categorization:** Respondents asked about the degree to which they identify with the international community. Also asked about belief in sharing a common fate, future, and goals with other people and countries.

**Experimental Treatment 1:**

"These days, there are many economic challenges countries face. Imagine that some German experts have proposed developing a new economic plan. This plan will give a [tremendous or slight] boost to the German economy and bring down the current unemployment rate from around [8.5% to 3.3 or 7.8 %]. If Germany implements this plan, however, it will be violating



international law. Germany has signed on international treaties that prohibit the proposed economic measures.”

Compliance scenario that imposes high costs on Germany **OR** Compliance scenario that imposes low costs on Germany

**Experimental Treatment 2:**

“Given increasing concerns over the environment, countries are developing new environmental protection plans and turning them into international law. Imagine that Germany has recently signed onto an international environmental agreement. Compliance with this treaty, however, will cost Germany [90 million Euros **OR** 900 million] Euros.”

**Question:** After reading this scenario, parliamentarians were asked about their likelihood of supporting compliance with the environmental treaty in question.

**CHAUDOIN (2014):**

For the main experiment, respondents were presented with a hypothetical situation involving a fictional U.S. company:

“This company manufactured metal brackets, which, as respondents were told, US construction companies used in construction. Respondents were then told that a European company had recently begun producing similar brackets at a lower price, and that US construction companies had begun buying the foreign brackets instead of the US-produced brackets. Respondents were then told that the president had to decide whether to impose a policy restricting imports of foreign made brackets, and that ‘analysts’ had lobbied the president in favor of and opposed to import restrictions.”

Each respondent then received a standard pro-import restriction argument: “Some analysts have lobbied the president in favor of restricting imports of metal brackets from Europe. They argue that when US construction companies buy foreign produced brackets, Arena Inc will be forced to lay off some of its employees.”

**Treatment with cons of restrictions:**

1) **International agreement treatment:** Some analysts have lobbied the president against restricting imports of metal brackets from Europe. They argue that import restrictions violate free trade agreements between the United States and Europe, and Europe would sue the United States at the World Trade Organization.

2) **Economic treatment:** Some analysts have lobbied the president against restricting imports of metal brackets from Europe. They argue that when US construction companies have to buy more expensive US brackets, construction companies are forced to lay off some of their employees.

3) **Placebo treatment:** Some analysts have lobbied the president against restricting imports of metal brackets from Europe. They argue that such restrictions would have adverse consequences and that the benefits of the restrictions do not outweigh the costs involved in the measures.

4) **Null treatment** (no con argument)

**Question:** Respondents were then asked if they approved or disapproved of the way the president handled the situation.

**CHAUDOIN (2019):**

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.”

**Control Group:** 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.”

**Treatment Group:** 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.”

**Question:** Do you think that these investigations would be a good or bad thing?

**CHILTON (2014):****Vignette on use of solitary confinement:**

“The United States often subjects prisoners to solitary confinement for extended periods of time. These periods can last years. When in solitary confinement, prisoners are held in their cell for up to twenty-three hours a day and are deprived of human contact. Supporters of the use of solitary confinement argue that its use is necessary to maintain prison discipline and ensure the safety of prisoners and guards alike.”

**Treatments:**

Control: baseline

Placebo: claims solitary confinement is a violation of human rights but no concrete source  
International Law: refers to a specific international human rights treaty that would be violated by solitary confinement

**Question:**

“American lawmakers have been considering reforms that would eliminate the use of solitary confinement except in extreme circumstances where keeping the prisoner in the general population would pose immediate safety risks.”  
Approve or Disapprove?

**Second Group of Treatments/Mechanism Questions:**

1) **Commitment:** “The United States often makes international commitments with other countries and the international community by signing treaties. Do you believe that the United States should change its domestic policies to honor international legal commitments?”

2) **Morality:** “Is the use of solitary confinement immoral?”

3) **International Standards:** “Should the United States’ treatment of prisoners conform to international standard?”

**CHILTON (2015):**

**Vignette** where the American president has to decide whether to halt a bombing campaign. If the bombing were to continue, it would result in excessive loss of civilian life.

“[i]n a country that is a strategic ally of the United States, a rebel group has controlled an outlying region of the country for a long time. As a result of recent instability in the country, the rebels have left the areas they control and launched an attack on the country’s capital in an effort to overthrow the government. “[t]he U.S. president responded by launching air strikes in support of our ally. After suffering initial casualties from the air strikes, the rebel forces took shelter in areas heavily populated with civilians. This made the U.S. military unable to continue air strikes while distinguishing rebel targets from civilian targets. Any continued bombing would result in excessive civilian casualties. This forced the U.S. president to consider whether to continue the bombing campaign.” “[i]f the U.S. were to halt the bombing campaign, it is likely that the rebel forces would overthrow the government, and that the country would no longer be an ally of America.”

**Treatment 1:**

1) **Control Treatment:** None

2) **International Law Treatment:** “On the other hand, continuing the bombing of civilians would violate international law. It is a violation of international law and treaties that the United States has signed to continue a bombing campaign when the expected loss of civilian life is excessive relative to the military advantage gained.”

3) **Morality Treatment:** “On the other hand, continuing the bombing of civilians would be immoral. It is immoral to continue a bombing campaign when the expected loss of civilian life is excessive relative to the military advantage gained.”

4) **Combined Treatment:** “On the other hand, continuing the bombing of civilians would violate international law. It is a violation of international law and treaties that the United States has signed to continue a bombing campaign when the expected loss of civilian life is excessive relative to the military advantage gained. Additionally, continuing to bomb civilians is not only a violation of international law, it is immoral. It is also immoral to continue a

bombing campaign when the expected loss of civilian life is excessive relative to the military advantage gained.”

**Treatment 2:**

Respondents informed whether the rebels were committed to international law [Reciprocity **OR** No Reciprocity]

**Question:** “[u]ltimately, the president decided to continue the bombing campaign against the rebel forces because failing to do so would result in the loss of a strategic ally.” Agree or Disagree

The following table is useful in understanding the treatments and effects.

Table 3: Mean Responses and 90% Confidence Intervals

	Control	Int'l Law	Morality	Combined	Total
No Reciprocity	3.18 (2.96, 3.40)	2.63 (2.42, 2.83)	2.74 (2.53, 2.96)	2.61 (2.39, 2.83)	2.80 (2.69, 2.91)
Reciprocity	2.76 (2.54, 2.97)	2.54 (2.33, 2.76)	2.65 (2.43, 2.87)	2.33 (2.13, 2.52)	2.57 (2.46, 2.67)
Total	2.98 (2.83, 3.14)	2.59 (2.44, 2.74)	2.70 (2.54, 2.85)	2.47 (2.32, 2.61)	2.69 (2.61, 2.76)

**CHILTON AND VERSTEEG (2016):****Vignette**

“Throughout history, people have plotted to overthrow or sabotage the government, and have resorted to the use of violent means to do so. Occasionally, the military captures people that are conspiring to overthrow or sabotage the government through violent means. These individuals may have information of interest about the conspiracy, such as the location of other conspirators or plans for future attacks. Some government officials believe interrogating these people through a variety of methods is a useful way to obtain this information.” “[t]he interrogation methods could involve torture, meaning they would cause severe pain or suffering to the people they are used on. The information may, or may not, be accurate or relevant to the conspiracy.”

**Treatments:**

1) **Control:** (No further information)

2) **International Law:** “The interrogation methods would violate international law. The United States has signed international treaties that do not allow the use of these methods under any circumstances.”

3) **Constitutional Law:** “The interrogation methods would violate the constitution. The United States’ Constitution includes a provision that does not allow the use of these methods under any circumstances.”

4) **Combined:** “The interrogation methods would violate the constitution and international law. The United States’ Constitution includes a provision that does not allow the use of these methods under any circumstances, and the United States has signed international treaties that do not allow the use of these methods under any circumstances.”

**Question:**

“To what extent do you agree or disagree with the following statement: The United States should use interrogation methods involving torture on people that have plotted to overthrow or sabotage the government.”

## COPE AND CRABTREE (2018):

All respondents given a vignette:

Figure 2: English Translation of Short Paragraph

You know people are migrating to other countries because of the civil war in Syria. Turkey has already accepted more than 3 million refugees. But people still continue to migrate to Turkey and other countries. This issue has been discussed very much in Turkey. Suppose that the government of Turkey has decided not to accept any new refugees, and if this policy is passed, from the next month, Turkey will close the doors to the newly arrived Syrians and force them to return to Syria or to seek refuge elsewhere.

<Treatment>

**Note:** Text in <> represents randomly assigned elements.

To test hypothesis, five treatments:

Table 1: Treatments (English version)

Treatment	Text
1. CONTROL	<i>[None]</i>
2. INTERNATIONAL LAW	<i>Regardless, Turkey is obligated under international law to accept all arriving refugees in situations like this.</i>
3. NO INTERNATIONAL LAW	<i>Regardless, Turkey is not obligated under international law to accept all arriving refugees in situations like this.</i>
4. OTHER COUNTRIES	<i>Regardless, many countries in the Middle East — such as Egypt, Lebanon, Jordan — and many countries in Europe — such as Germany and Sweden — have collectively accepted millions of Syrian refugees into their countries and plan to continue doing so in the coming years.</i>
5. PROMISE	<i>Regardless, Turkey is one of many countries that has promised other countries to accept all arriving refugees in situations like this.</i>

**Note:** Treatments were included in the <Treatment> area of the vignette, as show in Table 2. Treatments were completely randomized with each participant having an equal probability of receiving any individual treatment.

**Question:** What do you think about the Turkish government’s proposed new policy to start returning refugees? [5-point scale answer]



**KREPS AND WALLACE (2016):**

Table I. Experimental groups

Source	International law		
	Sovereignty	Civilians	Military effectiveness
International organization	Con	Con	Con
Nongovernmental organization	Con	Con	Con
Government	Pro	Pro	Pro

An additional baseline control group receives none of the source or issue frame treatments.

**All subjects were initially given the same background information:**

“There has been a lot of recent discussion about the use of unmanned aerial vehicles, also known as drones, by the United States to target suspected militants.”

**Treatment 1:**

1) Whether strikes are effective at eliminating militants [“the strikes have been instrumental in killing suspected militants and making Americans safer”]

2) Whether they are consistent with prevailing international legal commitments (*jus ad bellum* or *jus in bello*). [“these strikes violate international law because they break the sovereignty and territorial integrity of the country where the attack takes place” or “these strikes violate international law because they do not take necessary measures to prevent the death of civilians”].

\*Note: Pro and Con frames used as associated with pro-government position and con-IO opinions

**Follow Up Study on Mechanisms:**

1) **Control:** same vignette as previous controls

2) **Treatment:** stronger language. Instead told respondents that drone strikes had led to civilian deaths. Said source was human rights groups [since NGOs and IOs both share relatively equal trust among respondents].

**Question:** Do you approve of drone strikes?

**LINOS (2013):****Experiment 1:**

Respondents in the first group were asked only the “baseline” question: “To what extent do you agree or disagree with the following statement: ‘The United States government should increase taxes in order to provide health insurance to all Americans.’”

**Treatments:** Other groups received the same baseline question, but had distinct introductions:

- 1) **Group 2:** “Most developed countries provide health insurance to all their citizens.”
- 2) **Group 3:** “The United Nations recommends that all countries should provide health insurance to all their citizens.”
- 3) **Group 4:** “Many American health policy experts believe that the United States government should provide health insurance to all its citizens.”

**Experiment 2:**

Respondents in group 1, the baseline group, were only asked: “To what extent do you agree or disagree with the following statement: ‘The United States should increase taxes in order to provide mothers of newborn children with paid leave from work.’”

**Treatments:** Other groups received the same baseline question, but had distinct introductions:

- 1) **Group 2:** “Canada provides mothers of newborn children with paid leave from work.”
- 2) **Group 3:** “Most Western countries provide mothers of newborn children with paid leave from work.”
- 3) **Group 4:** “The United Nations recommends that all countries should provide mothers of newborn children with paid leave from work.”
- 4) **Group 5:** “American family policy experts recommend that the United States should provide mothers of newborn children with paid leave from work.”

**LUPU AND WALLACE (2019):**

All respondents were first presented with an introductory statement providing some background on contentious politics in general.

“The following questions are about the [Indian/Israeli/Argentine] government’s relations with groups that oppose the government. Around the world, some opposition groups like the Scottish National Party or the World Wild Fund for Nature have taken more of a non-violent approach; others like the Irish Republican Army and the Earth Liberation Front have instead used violence. Different governments have, in turn, handled these sorts of groups in different ways. You will read about a situation our country has faced many times in the past and will probably face again. The situation is general, and is not about a specific opposition group in [India/Israel/Argentina] in the news today. We will describe one approach the government has taken, and ask whether you approve or disapprove.”

**Treatment 1:**

OPPOSITION TACTICS [Non-Violent / Violent]

**Non-Violent:** An opposition group recently began challenging the [Indian/Israeli/Argentine] government’s authority. Members of the opposition group have organized and conducted several peaceful protests and worker strikes.

**Violent:** An opposition group recently began challenging the [Indian/Israeli/Argentine] government’s authority. Members of the opposition group have organized and conducted several violent attacks against civilians and government officials.

**Treatment 2:**

GOVERNMENT RESPONSE [Non-Violent / Violent]

**Non-Violent:** The government responded with significant restrictions on the media, such as newspapers and television stations, imposing curfews that require people to remain in their homes after dark, and restricting the ability of people to travel within and outside the country.

**Violent:** The government responded by arresting without charge, beating, and torturing suspected members of the opposition group.

**Treatment 3 (International Law Treatment)**

The government’s actions violated international law. The government had previously signed international treaties that do not allow the use of these actions.

## STREZHNEV, SIMMONS & KIM (2020):

**Treatment:** Vignette given, followed by 3 potential treatments:

- 1) **Law Cue** (different for each country)
- 2) **Leader Cue** (also unique to each country)
- 3) **Combined Law and Leader Cue**

**Questions** about opinion/beliefs (excerpts included below)

**Table 1: Summary of the Three Survey Experiments**

	USA	Australia	India
1. Issue vignette	“There is currently a debate about whether the United States should limit the entry of refugees from certain predominantly Muslim countries.”	“There is currently a debate about whether the Australian government should continue to detain refugees and asylum seekers attempting to reach Australia by boat in processing centers located in Papua New Guinea and Nauru.”	“There is currently a debate about whether the Indian government should deport about 40,000 Rohingya refugees and asylum seekers who have crossed into India from Myanmar without authorization by the Indian government.”
2. Law cue	“Discrimination against refugees on the basis of nationality is outlawed by the Refugee Convention of 1951 and its 1967 protocol, legally binding international treaties to which the United States is committed.”	“According to a report by the United Nations Human Rights committee, this policy violates the International Covenant on Civil and Political Rights, an international treaty which Australia has ratified.”	“According to the United Nations High Commissioner for Human Rights, expelling Rohingya would violate principles of customary international law by returning refugees to a country where they face the threat of violence.”
3. Leader cue	“During the 2016 Election campaign, President Trump advocated for limiting the entry of refugees from certain predominantly Muslim countries on the grounds that these measures are necessary for the national security of the United States and to protect the citizens of the United States from terrorist attacks.”	“The Government of Prime Minister Malcom Turnbull, leader of the Liberal party, has defended this policy on the grounds that it is necessary to secure the border and deter human smugglers.”	“The Government of Prime Minister Narendra Modi, a member of the Bharatiya Janata Party (BJP), supports deportation, arguing that the unauthorized immigration of Rohingya migrants to India threatens India's national security.”
4. Both law <i>and</i> leader cues [Order of the two sentences is randomized.]	“A comprehensive and indefinite bar of refugees from a particular country to the U.S. is outlawed by Refugee Convention of 1951 and its 1967 Protocol, which the U.S. has ratified. Barring entry of Syrian refugees has been advocated by President Trump as a way to enhance the security of Americans.”	“The Government of Prime Minister Malcom Turnbull, leader of the Liberal party, has defended this policy on the grounds that it is necessary to secure the border and deter human smugglers. According to a report by the United Nations Human Rights committee, this policy violates the International Covenant on Civil and Political Rights, an	“The Government of Prime Minister Narendra Modi, a member of the Bharatiya Janata Party (BJP), supports deportation, arguing that the unauthorized immigration of Rohingya migrants to India threatens India's national security. According to the United Nations High Commissioner for Human Rights, expelling Rohingya would violate

		international treaty which Australia has ratified.”	principles of customary international law by returning refugees to a country where they face the threat of violence.”
5. Policy attitude question [Answers: Definitely yes, probably yes, probably no, definitely no.]	“Do you think the United States should limit the entry of refugees from certain countries, even if it means turning away vetted refugees?”	“Do you think the Australian should end its policy of detaining refugees and asylum seekers in these offshore processing centers even if it means that more refugees and asylum seekers might attempt to arrive in Australia?”	“Do you think the Indian government should expel all Rohingya who have entered India without authorization?”
6. Belief question:	“In the first question, you were asked to consider if the United States government should limit the entry of refugees from certain countries. Do you consider restrictions on allowing refugees to enter the United States that are made on the basis of a refugee's country of nationality to be illegal under international law?”	“In an earlier question, you were asked to consider whether the Australian government should end its policy of detaining refugees and asylum seekers in offshore processing centers in Papua New Guinea and Nauru. Do you consider this detention policy to be illegal under international law?”	“In an earlier question, you were asked to consider whether the Indian government should deport about 40,000 Rohingya refugees and asylum seekers who have crossed into India from Myanmar without the Indian government's permission. Do you consider the deportation of Rohingya in India to be against international law?”

**TINGLEY AND TOMZ (2013):****Treatment 1 (5 scenarios):**

If most of the other countries in the world increase their use of fossil fuels by a large amount, what should the United States do?

What should the United States do if foreign countries increased their use by a small amount?

...if foreign countries kept their use at current levels?

...if foreign countries decreased their use by a small amount?

...if foreign countries decreased their use by a large amount?

**Answer is a score of 0-100 to capture whether respondent wanted the U.S. to increase its consumption of fossil fuels.**

1) 100: increase by large amount

2) 50: increase by small amount

3) 0: maintain US consumption at current levels

4) +50: decrease consumption by small amount

5) +100: decrease consumption by large amount

**Experiment 2 on International Law:****Treatment 1:**

Five years ago, a country said that it would reduce its use of fossil fuels and work with the United States and other nations on the problem of global warming. In the past five years, the country has increased its use of fossil fuels by a large amount, and it is refusing all efforts to reduce the use of fossil fuels. The country is now encouraging businesses to drill for more fossil fuels. Experts think that the country's use of fossil fuels will double over the next twenty years. The country has high levels of trade with the United States.

**Treatment 2:**

Five years ago, the country signed a treaty, in which it promised **under international law** that it would reduce its use of fossil fuels. In the past five years, the country has increased its use of fossil fuels by a large amount, and it is refusing all efforts to reduce the use of fossil fuels. The country is now encouraging businesses to drill for more fossil fuels. Experts think that the country's use of fossil fuels will double over the next twenty years. The country has high levels of trade with the United States.

**Question:**

After presenting the scenario, we listed several ways the United States could respond and asked respondents to “check all actions that you think the United States should take in this situation.”

*The options were:*

- 1) not take any action in this situation
- 2) increase U.S. use of fossil fuels
- 3) criticize the other country publicly
- 4) cut off trade with the country
- 5) take military action against the country
- 6) take some other action

(\*Participants who selected “some other action” were invited to describe it)

**WALLACE (2013):****Scenario:**

“In conflicts ranging from World War I to the present, the United States has often captured combatants from the opposing side. These combatants may have information of interest for the conflict, such as plans for future attacks. Some U.S. officials believe interrogating these combatants through a variety of methods is a useful way to obtain information. The interrogation methods would involve torture, meaning they would cause severe pain or suffering. The information may, or may not, be accurate or relevant.”

**Experiment 1 Treatments:**

- 1) **Control Group:** no additional treatment
- 2) **International law treatment group:** “The interrogation methods would violate international law. The United States has signed international treaties that do not allow the use of these methods under any circumstances.”
- 3) **Nature of the Prisoner treatment:** insurgents vs regular combatants (control)
- 4) **US prisoner treatment prompt:** told adversary is abusing US prisoners vs no prompt (control)

**Question for both experiments:**

To what extent do you agree or disagree with the following statement: “The United States should use interrogation methods involving torture on captured combatants.”

**Experiment 2 Treatments:**

- 1) **High obligation treatment:** told the U.S. had signed international treaties prohibiting torture
- 2) **Low obligation treatment:** torture against general international values
- 3) **High level precision:** terms of the agreement do not allow the use of torture under any circumstances
- 4) **Low level precision:** cautions the agreement might or might not allow for the use of torture against prisoners
- 5) **High delegation:** if U.S. officials used torture then an international court could prosecute them for war crimes
- 6) **Low delegation:** even if U.S. officials used torture, no international court could prosecute them for war crimes



**WALLACE (2014):**

All respondents were presented with the following hypothetical scenario: “In conflicts ranging from World War I to the present, the United States has often captured combatants from the opposing side. These combatants may have information of interest for the conflict, such as plans for future attacks. Some US officials believe interrogating these combatants through a variety of methods is a useful way to obtain information. The interrogation methods would involve torture, meaning they would cause severe pain or suffering. The information may, or may not, be accurate or relevant.”

**Post-Treatments Question for Experiments 1 and 2:**

“To what extent do you agree or disagree with the following statement: The United States should use interrogation methods involving torture on captured combatants.”

**Experiment 2 Treatments:**

- 1) **High obligation treatment:** told the U.S. had signed international treaties prohibiting torture
- 2) **Low obligation treatment:** torture against general international values
- 3) **High level precision:** terms of the agreement do not allow the use of torture under any circumstances
- 4) **Low level precision:** cautions the agreement might or might not allow for the use of torture against prisoners
- 5) **High delegation:** if U.S. officials used torture then an international court could prosecute them for war crimes
- 6) **Low delegation:** even if U.S. officials used torture, no international court could prosecute them for war crimes

## WALLACE CONDONING OR CONDEMNING? (2019):

Here Wallace reviews numerous questions from an ICRC survey to determine the general attitude towards wartime violence. He does this by employing factor analysis. An example of the civilian abuse and prisoner abuse factor analysis is in Table 1 below, which was used to generate overall and category-specific scores.

**TABLE 1.**  
**Questions Used to Construct Support for Wartime Abuse Indices**

Item
<i>Civilian Abuse</i>
<input type="checkbox"/> General willingness to attack enemy combatants vs. civilians
<input type="checkbox"/> Target civilians providing food and shelter to the enemy
<input type="checkbox"/> Target civilians transporting ammunition to the enemy
<input type="checkbox"/> Deprive civilians of food and water
<input type="checkbox"/> Attack enemy combatants in populated villages
<input type="checkbox"/> Planting land mines even if kills civilians
<i>Prisoner Abuse</i>
<input type="checkbox"/> Save the life of a surrendering/wounded combatant
<input type="checkbox"/> Allow prisoners to contact relatives
<input type="checkbox"/> Torture prisoners
<input type="checkbox"/> Allow visits to prisoners by outside representatives
<input type="checkbox"/> Kill prisoners
<input type="checkbox"/> Allow prisoners to die

Wallace also relies on a pair of questions within the survey to capture exposure to IHL.

### Questions:

“Have you ever heard of the Geneva Conventions?”

If they answered affirmatively, this was followed by an open-ended question:

“Could you tell me what the Geneva Conventions are about?”

**WALLACE SUPPLYING PROTECTION (2019):**

All respondents presented with a scenario where civilians from a foreign country are being attacked in the midst of a civil conflict.

**Treatment 1:** 3 options on who intervenes

- 1) United States
- 2) Other governments
- 3) United States and other governments

**Treatment 2:** UN approval

- 1) **control:** UN does not support intervention
- 2) **treatment:** UN supports intervention

**Question:** To what extent they agree that the relevant force should intervene to protect citizens.

