

Casting a Shadow Over War Zones: The International Criminal Court's Impact on Rebel and Government Forces' Use of Violence Against Civilians

Jacqueline McAllister

Department of Political Science
Kenyon College
Horwitz House
Gambier, OH 43028

James Meernik

Department of Political Science
Castleberry Peace Institute
University of North Texas
1155 Union Circle #305340
Denton, TX 76203-5017

Draft date: 12 June 2016

**PLEASE DO NOT CITE OR CIRCULATE
WITHOUT PERMISSION OF THE AUTHORS**

ABSTRACT

The post-Cold War era has witnessed horrific violence against civilians. The founders of the International Criminal Court (ICC) hoped that it might curb such atrocities. However, we still know very little about its actual impact. We draw on an original dataset to evaluate how and when the ICC affected government and rebel forces' use of violence against civilians, for better *and* worse. Additionally, unlike previous work on the ICC (Jo and Simmons forthcoming; Appel 2016), our study employs micro-level data on violence against civilians, which enables us to ascertain the impact of discrete ICC actions on diverse combatant groups. We find only limited evidence that the ICC escalated attacks on civilians. Moreover, we find that government *and* rebel groups that seek support from liberal constituencies are particularly susceptible to the threat of criminal prosecution, de-escalating their attacks as a result of ICC investigations. With the permanent ICC, the shadow of criminal prosecution now extends to modern-day conflicts. It is thus essential that we broaden our understanding of how and when it might specifically escalate *and* de-escalate different armed groups' use of violence against civilians.

I. Introduction

The post-Cold War era has witnessed horrific violence against civilians. In the Democratic Republic of Congo (DRC) alone, tens of thousands of civilians have perished, not accounting for wider traumas wrought by rampant sexual violence and displacement. In Uganda the Lord's Resistance Army gained notoriety as a result of its brutal tactics, which, among other things, included severing limbs. Civil war continues to plague the Central African Republic (CAR), with thousands of civilian lives lost. And, to the north in Darfur, Sudan, the Janjaweed bore down on civilians on horseback, murdering thousands.

Alleviating the immense suffering associated with contemporary civil wars is of crucial concern to both policy-makers and international relations scholars. In the 1990s, officials launched a new generation of wartime international criminal tribunals (ICTs), which they hoped would deter violence against civilians. Specifically, members of the United Nations Security Council (UNSC) first established the International Criminal Tribunal for the former Yugoslavia (ICTY) for the purposes of prosecuting "serious violations of international humanitarian law committed in the territory of the former Yugoslavia," and thereby ensuring that "such violations are halted and effectively redressed."¹ The ICTY paved the way for the permanent International Criminal Court (ICC), the only other ICT whose jurisdiction extends to active war zones. Like its forbearer, the ICC aims to prevent serious international humanitarian crimes, especially in situations of ongoing or reoccurring civil wars, such as in the DRC, Uganda, CAR, and Darfur.²

However, over twenty years after the establishment of the first wartime ICT, scholars remain uncertain as to whether these institutions are in fact living up to the hopes of their

¹ United Nations Security Council, *Resolution S/Res/827* (New York, N.Y.: United Nations Security Council 3217th Meeting, 25 May 1993).

² UN General Assembly, *Rome Statute of the International Criminal Court (Last Amended 2010)* (17 July 1998).

founders. Skeptics argue that ICTs are unlikely to curb mass violence given that they lack their own police forces and face combatants with far weightier concerns than prosecution. Pessimists contend that the threat of criminal prosecution might prolong civilian suffering by giving leaders a reason to continue fighting until they secure some form of immunity. Optimists, on the other hand, maintain that ICTs can deter violence against civilians, especially when powerful actors back their efforts. Beyond offering contradictory assessments of ICTs' contribution to deterrence, the international justice literature overwhelmingly relies on anecdotal evidence. Moreover, the few studies that have begun to generate systematic empirical evidence³ have tended to rely on broad aggregate measures of violence against civilians, missing important micro-level trends.⁴ Additionally, scholars have tended to theorize in one direction, meaning the international justice scholarship has yet to explain the conditions under which ICTs might escalate and/or de-escalate violence against civilians.⁵ In short, there is still much to learn about ICTs' actual impact on violence against civilians.

In this article, we draw on an events-based dataset to systematically investigate how and when the ICC has affected government and rebel forces' use of violence against civilians in Africa's civil wars, the principal targets of ICC actions to-date. We concentrate on violence against civilians given that it represents one of two core tenets of international humanitarian law (IHL) violations that ICTs aim to prevent. We argue that the likelihood that conflict actors will commit acts of violence against civilians is strongly influenced by both the actions of the ICC

³ Exceptions include Meernik, "The International Criminal Court and the Deterrence of Human Rights Atrocities," *Civil Wars* 17, no. 3 (2015); Jo and Simmons, "Can the International Criminal Court Deter Atrocity?," Social Science Research Network, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2552820; Appel, "In the Shadow of the International Criminal Court: Does the Icc Deter Human Rights Violations?," *Journal of Conflict Resolution* (2016).

⁴ An exception is McAllister, "On the Brink: Understanding When Armed Groups Might Be More Susceptible to International Criminal Tribunals' Influence," in *American Political Science Association Annual Convention* (San Francisco, CA2015).

⁵ An exception is Krmaric, *The Justice Dilemma: International Criminal Accountability, Mass Atrocities, and Civil Conflict (Dissertation)* (Durham, NC: Duke University, 2015).

and the dynamics of the battlefield. We contend that in order to most accurately model the decision making of conflict actors we must examine the actions they take in the context of conflict. Our approach, in contrast to those who study conflict and human rights violations at the aggregate, annual level, is to develop a theory and set of expectations regarding when violence against civilians is most likely to occur centered on the conflict actors. We further contend that ICT officials have the best chance of *detering* war crimes when they confront centralized government and rebel forces that seek support from liberal constituencies, which place, or at least claim to place, a premium on human rights, as well as support war crimes tribunals. In such cases, ICT officials can generate both legal and social punishments, which can drastically lower the expected payoff of perpetrating IHL violations.

Our preliminary analysis reveals that the hopes of international officials vis-à-vis ICTs are not misplaced. First, in our analysis of conflict behavior in Africa we find only limited evidence that the ICC escalated violence against civilians. Second, we find evidence of deterrence. In particular, states that are members of the ICC are much less likely to perpetrate violence against civilians. Moreover, ICC investigations de-escalated violence against civilians by many rebel and government forces. Our results are robust to several alternative explanations of violence against civilians and the determinants of ratification (e.g. battlefield dynamics, rule of law, recent conflict history, and level of development). Thus, our results underscore that the ICC is making an important contribution to deterrence, contrary to pessimistic claims.

The article is organized as follows. Section I reviews previous research on ICTs' role in international criminal deterrence. In Section II, we draw on the vast civil wars and criminological literatures to present our argument about how and when ICTs might deter or escalate violence against civilians. Section III then presents our statistical evidence comparing

state and rebel forces' use of violence against non-combatants over time. Again, we find that the ICC has largely deterred violence against civilians, consistent with optimistic expectations. We conclude by linking our findings to previous research on international justice and suggesting how scholars might further investigate the effects of ICTs.

II. Perspectives on International Criminal Deterrence

How and when might ICTs deter violence against civilians? Emerging research on international criminal deterrence offers contradictory answers. *Skeptics* argue that ICTs are unlikely to exercise a deterrent effect. Specifically, because ICTs must rely on tenuous state cooperation in order to secure arrests, the chances that combatants will face prosecution are low. Thus, the threat of criminal prosecution will have little bearing on combatants' decision-making.⁶ Moreover, ICT punishments are not particularly severe. In particular, Farer 2000 underscores that the conditions at ICT prisons are far more humane than what suspects and convicted parties would face domestically.⁷ Consequently, landing in The Hague, the seat of wartime ICTs, is not necessarily something that combatants will necessarily fear given the alternatives. Some skeptics additionally point out that combatants are not necessarily rational actors capable of internalizing the threat of criminal prosecution. Instead, combatants operate in an emotional and

⁶ Wippman, "The Costs of International Justice," *The American Journal of International Law* 100, no. 4 (2006); Rodman, "Darfur and the Limits of Legal Deterrence," *Human Rights Quarterly* 30, no. 3 (2008); Rudolph, "Constructing an Atrocities Regime: The Politics of War Crimes Tribunals," *International Organization* 55, no. 3 (2001); Goldsmith, "The Self-Defeating International Criminal Court," *The University of Chicago Law Review* 70, no. 1 (2003); Meernik, "Justice and Peace? How the International Criminal Tribunal Affects Societal Peace in Bosnia," *Journal of Peace Research* 42, no. 3 (2005); Cronin-Furman, "Managing Expectations: International Criminal Trials and the Prospects for Deterrence of Mass Atrocity," *The International Journal of Transitional Justice* 7(2013).

⁷ Farer, "Restraining the Barbarians: Can International Criminal Law Help?," *Human Rights Quarterly* 22, no. 1 (2000).

even “paranoid” world.⁸ They might also have an outsize taste for “risk”⁹ or even over-estimate the likelihood that they can get away with a crime.¹⁰

Pessimists, however, argue that ICTs could worsen civilian killings. Specifically, the threat of criminal prosecution could delay an end to fighting by providing leaders with an additional incentive to continue fighting. ICTs might thus prolong violence against civilians.¹¹ Snyder and Vinjamuri 2003 provide an empirical test of this argument. Specifically, they use a medium-N analysis on the role of transitional justice in 32 civil wars between 1989 and 2003. They find that trials do more harm than good when spoiler groups are strong.¹² Krcmaric 2015 likewise underscores that the push for international criminal accountability has undermined leaders’ exile options. Consequently, leaders that are culpable for IHL violations are more likely to hold onto power and escalate killings as part of a gamble for resurrection.¹³

Optimists, on the other hand, underscore that the threat of criminal prosecution has the potential to undercut violence against civilians. In particular, ICTs can increase the likelihood that combatants will face some form of punishment, making international crimes costlier to perpetrate.¹⁴ Emerging empirical work lends support to the optimistic perspective. Specifically,

⁸ *ibid.*

⁹ Ku and Nzelibe, "Do International Criminal Tribunals Deter or Exacerbate Humanitarian Atrocities?," *Washington University Law Quarterly* 84, no. 4 (2006).

¹⁰ Triffterer, "The Preventive and Repressive Function of the International Criminal Court," in *The Rome Statute of the International Criminal Court: A Challenge to Impunity*, ed. Politi and Nesi (Farnham: Ashgate, 2001).

¹¹ Goldsmith and Krasner, "The Limits of Idealism," *Daedalus* 132, no. 1 (2003).

¹² Snyder and Vinjamuri, "Trials and Errors: Principle and Pragmatism in Strategies of International Justice," *International Security* 28, no. 3 (2003).

¹³ Krcmaric, *The Justice Dilemma: International Criminal Accountability, Mass Atrocities, and Civil Conflict* (Dissertation).

¹⁴ Akhavan, "Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities," *American Journal of International Law* 95, no. 1 (2001); "Are International Criminal Tribunals a Disincentive to Peace?: Reconciling Judicial Romanticism with Political Realism," *Human Rights Quarterly* 31, no. 3 (2009); Alexander, "The International Criminal Court and the Prevention of Atrocities: Predicting the Court's Impact," *Villanova Law Review* 54, no. 1 (2009); Kim and Sikkink, "Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries," *International Studies Quarterly* 54, no. 4 (2010); Olsen, Payne, and Reiter, *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy* (Washington, D.C.: United States Institute of Peace, 2010); Orentlicher, "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime," *Yale Law Journal* 100, no. 8 (1991); Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing*

in a large-N analysis Jo and Simmons find that the ICC has deterred violence against civilians by government forces, as well as by rebel groups seeking legitimacy.¹⁵ McAllister 2015 provides the first causal analysis of international criminal deterrence by conducting careful within and across-case comparisons of ICTY situations. Her study further underscores that extant work has largely under-estimated ICTs' contribution to deterrence. Specifically, pessimists have failed to account for the informal sanctions, or social costs that ICTs can bring to bear. When ICT officials confront government and rebel forces that seek support from liberal constituencies, they can deter violence against civilians given that the 'war criminal label' can grievously undercut *both* government and rebel forces ability to mobilize crucial wartime support.¹⁶ Moreover, Meernik 2015 finds that signatories of the Rome Statute who are committed to the domestic and international rule of law tend to decrease their involvement in human rights violations.¹⁷ Appel 2016 similarly finds that leaders from states that have ratified the Rome Statute commit lower levels of human rights abuses than non-ratifier leaders.¹⁸

The cumulative knowledge of the international justice literature suggests that ICTs may well exercise no, negative, *or* positive effects on violence against civilians. Beyond presenting a contradictory and polarized picture of international justice, extant work is also largely "characterized by an absence of empirical evidence."¹⁹ Others have additionally observed that research on deterrence tends to feature "a chasm between theory and practice."²⁰ Our purpose is

World Politics (New York: W. W. Norton & Company, 2011); Landman, *Protecting Human Rights: A Comparative Study* (Washington: Georgetown University Press, 2005); von Holderstein Holtermann, "A 'Slice of Cheese'--a Deterrence-Based Argument for the International Criminal Court," *Human Rights Review* 11(2010).

¹⁵ Jo and Simmons, "Can the International Criminal Court Deter Atrocity?"

¹⁶ McAllister, "On the Brink: Understanding When Armed Groups Might Be More Susceptible to International Criminal Tribunals' Influence."

¹⁷ Meernik, "The International Criminal Court and the Deterrence of Human Rights Atrocities."

¹⁸ Appel, "In the Shadow of the International Criminal Court: Does the Icc Deter Human Rights Violations?."

¹⁹ Cronin-Furman, "Managing Expectations: International Criminal Trials and the Prospects for Deterrence of Mass Atrocity," 435.

²⁰ Goldsmith and Krasner, "The Limits of Idealism," 55.

to help bridge this chasm, as well as fill the empirical void. Specifically, in the next section, we turn to the extensive civil wars and criminological literatures to explain how and when ICTs might de-escalate *and* escalate violence against civilians. We then test our hypotheses using an events-based dataset. Unlike previous studies, our analysis looks at monthly, versus yearly incidents of one-sided violence by both state and non-state forces. This is important for determining whether deterrence is actually occurring given that armed groups might employ an array of tactics vis-à-vis civilian populations. Thus, our study aims to provide a more nuanced theoretical and empirical understanding of international criminal deterrence by examining the impact of the ICC on conflict actors' specific actions.

III. Explaining ICTs' Contribution to Deterrence: A Theory

Criminologists underscore that crime, including the international crimes (war crimes, crimes against humanity, and genocide) that ICTs regulate²¹, results from a unique blend of motive and opportunity, along with the absence of controls. Motive consists of the “drives that lure and entice a given organization and/or organizational actor toward offending.”²² Opportunity concerns the “social interactions where the possibility for a crime to be committed emerges and presents itself to a potential offender.”²³ Controls are a stronger form of constraint, which have the ability to limit or entirely prevent criminal action. They also address violations after-the-fact.²⁴ ICTs are the main controls on international crime as they are charged with

²¹ Smeulders and Haveman, *Supranational Criminology : Towards a Criminology of International Crimes* (Antwerp: Intersentia, 2008).

²² Mullins, *Blood, Power, and Bedlam : Violations of International Criminal Law in Post-Colonial Africa*, *New Perspectives in Criminology and Criminal Justice*,; V. 2; (New York: Peter Lang, 2008), 11.

²³ *ibid.*, 12.

²⁴ *ibid.*, 13.

punishing IHL violations. The tribunals established by the international community—most especially the ICTY and ICC—were designed to advance justice, deterrence, and peace amidst active civil wars. While their powers and reach to enforce international law are fairly rudimentary in comparison to domestic criminal justice systems, the very act of their creation and the justice they dispense are intended to reduce the level of violence that runs afoul of international law.

We seek to explain how and when ICTs, as controls, might affect violence against civilians (for better or worse) occurring in the context of civil wars. ‘Violence against civilians’ represents one of two core tenets of IHL violations that ICTs punish.²⁵ We adopt the standard definition of ‘civil war’ as “armed combat within the boundaries of a recognized sovereign entity between parties subject to a common authority at the outset of hostilities.”²⁶ As we argued in our review of the literature, we aim to advance our understanding of the contribution of international justice to the frequency of these actions by developing a more fully specified model of violence against civilians during civil wars. By assessing the impact of international justice in conjunction with these other powerful forces, we hope to identify when international justice can either hinder the commission of violent crimes against civilians, and when it may actually increase the likelihood of such actions. Toward this end we look to the extensive literature on the dynamics of military conflict as well as socio-political accounts to understand the propensity for civil war actors to engage in violence against civilians.

Before proceeding, it is also important to note that for the ICC to serve as a control, it must be in a position to take action. Specifically, the ICC needs to have jurisdiction over a

²⁵ Besides violence against civilians, the other core tenet of IHL concerns protections for non-combatants. Henckaerts, "Study on Customary International Humanitarian Law: A Contribution to the Understanding and Respect for the Rule of Law in Armed Conflict," *International Review of the Red Cross* 87, no. 857 (2005).

²⁶ Kalyvas, *The Logic of Violence in Civil War* (Cambridge: Cambridge University Press, 2006), 5.

situation and have the ability to investigate alleged violations in order for it to engender the sorts of punishments necessary to control the incidence of international crime. Given this, we assume that the ICC can potentially serve as a control in states that are party to the Rome Statute. In particular, the Court's jurisdiction covers war crimes, crimes against humanity, and genocide primarily committed in the territory of, or by the nationals of state parties to the Rome Statute. State parties are additionally required to cooperate with the ICC. Moreover, should member states prove unwilling or unable to prosecute egregious IHL violations, the ICC assumes jurisdiction. Thus, the ICC can serve as a control on the worst international crimes occurring within member states, or committed by their nationals. The ICC can also prosecute violations as a result of a UNSC referral, or in the event that a non-state party lodges a declaration of acceptance of jurisdiction with the ICC.²⁷ Given this, we additionally assume that the ICC can serve as a control when it manages to launch an investigation into a situation. Moreover, once an investigation is underway, the potential for punishment—whether legal (e.g. a trial or jail time) or social (e.g. social stigmatization for being labeled a '(suspected) war criminal')—becomes real. In the hypotheses that follow, we thus assume that the ICC can potentially serve as a control—for better or worse—in ICC member states and in situations where its officials are able to launch an investigation.

A. Military Dynamics: Motive, Opportunity, and the ICC as a Non- or Adverse Control on Violence Versus Civilians

The extensive civil wars literature—in conjunction with emerging criminological research—can illuminate the conditions under which ICTs' may affect the level of violence against civilians during civil wars. Many civil wars scholars explain violence against civilians in terms of the motives or opportunities generated by the *military dynamics* of such conflicts, or

²⁷ Columbia University, "Jurisdiction of the Icc," <http://www.amicc.org/icc/jurisdiction>.

each party's efforts to enhance their power relative to an adversary. In terms of *motive*, rebel and regime forces perpetrate violent acts for a variety of reasons. First, civil war actors use such violence to secure control of territory and its population.²⁸ Targeted killings of civilians in areas of an ethnic adversary can also be useful when actors lack information on people's sympathies and so use ethnicity as a shorthand for determining whether someone is an enemy. Fjelde and Hultman 2014 additionally argue, "warring actors have incentives to strategically target civilian co-ethnics of the enemy as a means to deny the enemy a civilian support base."²⁹ By sowing terror in the population, parties to a civil war can keep populations in a state of insecurity that may dissuade them from disobeying these organizations or joining forces with their adversaries. Violence against civilians may also be the easiest route for confronting any kind of challenge to their power. Rather than surrendering any power or resources to maintain control, civil war actors eliminate dissent in whatever fashion will most easily cow the population.

Violence against civilians can also be a bargaining strategy pursued by civil war actors designed to enhance their prospects at the negotiating table. Such violent strategies can signal resolve³⁰, force concessions from an adversary³¹, and undermine the other side's prospects for

²⁸ Mueller, "The Banality of 'Ethnic War'," *International Security* 25, no. 1 (2000); Azam and Hoeffler, "Violence against Civilians in Civil Wars: Looting or Terror?," *Journal of Peace Research* 39, no. 4 (2002); Vinci, "The Strategic Use of Fear by the Lord's Resistance Army," *Small Wars & Insurgencies* 16, no. 3 (2005); Seifert, "The Second Front: The Logic of Sexual Violence in Wars," *Women's studies international forum* 19, no. 1; Sharlach, "Rape as Genocide: Bangladesh, the Former Yugoslavia, and Rwanda," *New political science* 22, no. 1; Sullivan, "Blood in the Village: A Local-Level Investigation of State Massacres," *Conflict Management and Peace Science* 29, no. 4 (2012); Kim, "What Makes State Leaders Less Brutal? Examining Grievances and Mass Killing During Civil War," *Civil Wars* 12, no. 3 (2010).

²⁹ Fjelde et al., "Weakening the Enemy: A Disaggregated Study of Violence against Civilians in Africa," *Journal of Conflict Resolution* 58, no. 7 (2014): 1232.

³⁰ Boyle, "Bargaining, Fear, and Denial: Explaining Violence against Civilians in Iraq 2004-2007," *Terrorism and Political Violence* 21, no. 2 (2009); Hultman, "Battle Losses and Rebel Violence: Raising the Costs for Fighting," *ibid.* 19(2007); "The Power to Hurt in Civil War: The Strategic Aim of Renamo Violence," *Journal of South African Studies* 35, no. 4 (2009); Salehyan et al., "External Rebel Sponsorship and Civilian Abuse: A Principal-Agent Analysis of Wartime Atrocities," *International organization* 68, no. 3 (2014).

³¹ Balcells, "Continuation of Politics by Two Means: Direct and Indirect Violence in Civil War," *The Journal of Conflict Resolution* 55, no. 3 (2011); Fjelde et al., "Weakening the Enemy: A Disaggregated Study of Violence against Civilians in Africa."

victory.³² As Valentino, Huth, and Croco 2006 argue, indiscriminate killings of innocent civilians are a “calculated military strategy designed to achieve victory by coercing the adversary or by undermining the war-related productive capacity of his civilian population.”³³ Strategies of violence against civilians also make sense when rebels seek concessions from government that they are too weak to extract on the battlefield.³⁴ Hultman 2009 contends that conflict actors adopt a strategy of indiscriminate violence to demonstrate the “power to hurt.”³⁵ The commission of atrocities can demonstrate the continuing relevance of those actors whose military fortunes may be ebbing.

As regards to *opportunity*, leaders might sanction violence against civilians as a form of payment for services.³⁶ The resources that combatants have access to can also generate opportunities for violence. Specifically, Weinstein 2006, along with Humphreys and Weinstein 2007, find that resource-rich groups tend to attract opportunistic fighters who are more likely to resort to civilian abuse.³⁷ Relatedly, if leaders lack command and control over their fighters, they are likely to perpetrate more violence against civilians.³⁸ Moreover, when rebel or regime forces are losing, they are more likely to perpetrate violence against civilians.³⁹ In addition, reciprocal killing is common in internal armed conflicts. In particular, Balcells 2010 finds that

³² Wood and Kathman, "Too Much of a Bad Thing? Civilian Victimization and Bargaining in Civil War," *British Journal of Political Science* 44, no. 3 (2014).

³³ Valentino, Huth, and Balch-Lindsay, "Draining the Sea: Mass Killing and Guerilla Warfare," *International Organization* 58, no. 2 (2004): 340.

³⁴ Hultman, "Battle Losses and Rebel Violence: Raising the Costs for Fighting."

³⁵ "The Power to Hurt in Civil War: The Strategic Aim of Renamo Violence," 823.

³⁶ Azam, "Looting and Conflict between Ethnoregional Groups: Lessons for State Formation in Africa," *Journal of Conflict Resolution* 46, no. 1 (2002); "On Thugs and Heroes: Why Warlords Victimize Their Own Civilians," *Economics of Governance* 7(2006).

³⁷ Weinstein, *Inside Rebellion : The Politics of Insurgent Violence*, Cambridge Studies in Comparative Politics (Cambridge ; New York: Cambridge University Press, 2007); Humphreys and Weinstein, "Handling and Manhandling Civilians in Civil War," *American Political Science Research* 100, no. 3 (2006).

³⁸ Weinstein, *Inside Rebellion : The Politics of Insurgent Violence*; Sinno, *Organizations at War in Afghanistan and Beyond* (Ithaca, N.Y.: Cornell University Press, 2009).

³⁹ Wood, Kathman, and Gent, "Armed Intervention and Civilian Victimization in Intrastate Conflicts," *Journal of Peace Research* 49, no. 5 (2012); Hultman, "Battle Losses and Rebel Violence: Raising the Costs for Fighting."

during the Spanish Civil War, direct violence was more likely and more intense in places where there was greater victimization in previous periods of the war.⁴⁰ In their study of Peru's civil war, Fielding and Shortland 2012 find that violence against civilians was strongly correlated with an increase in similar behavior by the other side.⁴¹ Moreover, Schneider et al. 2012 highlight that violence against civilians in the Bosnian War increased in response to such acts by the opposing side, suggesting a retaliatory logic.⁴² Finally, Kalyvas' influential 'control-collaboration' model recognizes that both motive and opportunity are important for understanding patterns of violence against non-combatants. He argues that warring actors jointly produce violence in order to secure information. Specifically, where armed groups (state or insurgent) maintain partial control, they can identify and target civilian supporters of their opponent; where they have no control and hence no information, they tend to target civilians indiscriminately.

The common theme running throughout this literature is that regime and rebel forces are instrumental actors. They all aim to maintain power and influence, whether in the form of territorial control, information, or bargaining leverage. The extent to which they can act on such motives is in turn shaped by opportunities on the ground, mainly the balance of power and available resources. In effect, civil war actors perceive conflict and violence against civilians through the dominant lens of military necessity. If the instrumental use of violence against civilians were a critical tool whose employment depends merely on its utility in a given situation, the prospects for curbing its usage would appear rather dim. Specifically, because ICTs lack

⁴⁰ Balcells, "Rivalry and Revenge: Violence against Civilians in Conventional Civil Wars1: Rivalry and Revenge," *International Studies Quarterly* 54, no. 2 (2010).

⁴¹ Fielding and Shortland, "The Dynamics of Terror During the Peruvian Civil War," *Journal of Peace Research* 49, no. 6 (2012).

⁴² Schneider et al., "The Dynamics of Mass Killings: Testing Time-Series Models of One-Sided Violence in the Bosnian Civil War," *International interactions* 38, no. 4 (2012).

their own police forces, combatants are unlikely to take the threat of prosecution seriously, especially given more pressing military concerns.⁴³ Therefore, ICTs could very well have no impact on violence against civilians, as *skeptics* imply:

Hypothesis 1 (no impact): ICTs are unlikely to have an impact on violence against civilians given that the threat of criminal prosecution is a far less compelling threat than those posed by failing to respond to military dynamics.

- *Hypothesis 1a:* Regardless of whether government and rebel forces are from a state that is a member of the ICC, the Court is unlikely to have an impact on violence against civilians given military dynamics.
- *Hypothesis 1b:* Regardless of whether government and rebel forces are fighting in a situation under ICC investigation, the Court is unlikely to have an impact on violence against civilians given military dynamics.

Likewise, military explanations shed insight into how ICTs might escalate violence against civilians. In particular, as abovementioned, military explanations emphasize that when regime or government forces are losing, they tend to deploy more violence against civilians.⁴⁴ The threat of criminal prosecution could explain *why* armed groups perpetrate more violent acts against civilians in such situations. Specifically, as pessimists suggest, the threat of criminal prosecution could diminish combatant leaders' post-war prospects. Consequently, and especially if they have a prior history of IHL violations, they might target civilians to generate leverage that they can use to secure some sort of amnesty agreement. In this way, they might gamble for their resurrection.⁴⁵ The threat of prosecution may also leave some leaders, perhaps most especially those with the lowest threshold for violence who are most likely to attract the attention of ICTs, with few alternatives than to continue their military campaigns. If the process or resolution of

⁴³ Goldsmith and Krasner, "The Limits of Idealism."; Snyder and Vinjamuri, "Trials and Errors: Principle and Pragmatism in Strategies of International Justice."

⁴⁴ Hultman, "Battle Losses and Rebel Violence: Raising the Costs for Fighting."; Wood, Kathman, and Gent, "Armed Intervention and Civilian Victimization in Intrastate Conflicts."

⁴⁵ Krcmaric, *The Justice Dilemma: International Criminal Accountability, Mass Atrocities, and Civil Conflict (Dissertation)*.

negotiation results in an enhanced risk, it is quite possible that such leaders may either shun conflict mediation or act as spoilers in the event peace is reached.⁴⁶ Hence, as *pessimists* suggest, there is substantial reason to suspect that, at least for some conflict actors who possess motive and opportunity to engage in acts of violence against civilians, the threat of international prosecution may exacerbate rather than ameliorate such crimes.⁴⁷ Specifically, we suggest:

Hypothesis 2 (negative effect): ICTs will tend to exacerbate conflict and will tend to be associated with an increase in attacks against civilians.

- *Hypothesis 2a:* When government and rebel forces are from a state that is a member of the ICC, violence against civilians will increase.
- *Hypothesis 2b:* When government and rebel forces are fighting in a situation under ICC investigation, ICC involvement will lead to an increase in attacks against civilians.

The military dynamics scholarship also suggests several alternative explanations for violence against civilians. Specifically, in terms of territorial contestation, it suggests:

Hypothesis 3a.1 (alternative explanation—territorial contestation, battlefield gains): Regardless of ICT involvement, government and rebel forces are less likely to perpetrate violence against civilians if they maintain territorial control (through battlefield gains).

Hypothesis 3a.2 (alternative explanation—territorial contestation, battlefield losses): Regardless of ICT involvement, government and rebel forces are more likely to perpetrate violence against civilians if they lose territorial control (through battlefield losses).

Hypothesis 3a.3 (alternative explanation—territorial contestation, inconclusive battle outcomes): Regardless of ICT involvement, government and rebel forces are less likely to perpetrate indiscriminate violence against civilians in territory where battle outcomes are inconclusive.

⁴⁶ Greig and Meernik, "To Prosecute or Not to Prosecute: Civil War Mediation and International Criminal Justice," *International Negotiation* 19, no. 2 (2014).

⁴⁷ Snyder and Vinjamuri, "Trials and Errors: Principle and Pragmatism in Strategies of International Justice."

Finally, the military dynamics literature underscores that reciprocity is important for understanding patterns of violence against civilians:

Hypothesis 3b (alternative explanation—reciprocity): regardless of ICT involvement, government and rebel forces are more likely to perpetrate violence against civilians if their opponents are doing so.

B. Socio-Political Dynamics: Motive, Opportunity, and the ICC as a Positive Control on IHL Violations

More recently, civil war scholars—echoing insights from unfolding criminological research on international crime⁴⁸—have found that *socio-political dynamics* also matter for explaining rebel and regime forces’ use of violence against civilians. Such research additionally helps explain how and when ICTs might deter such acts, as optimists argue. Socio-political accounts underscore that military-driven explanations are based on the assumption that all insurgent and government forces are essentially alike: given similar imperatives and capacities, they will all employ similar levels of violence against civilians. However, many armed groups do not fit this mold.

Turning to *motive*, Sanin and Wood 2014 underscore that the military dynamics perspective “echo[es] the standard social science micro-foundations emphasizing self-regarding preferences with little role for other-regarding or ethical motives.”⁴⁹ Yet, there is mounting evidence that other-regarding, or even ethical concerns matter a great deal, especially when explaining patterns of violence versus civilians. For instance, Jo 2015 finds that rebels seeking legitimacy in the eyes of domestic and international audiences that care about the humanitarian

⁴⁸ Mullins, *Blood, Power, and Bedlam : Violations of International Criminal Law in Post-Colonial Africa*; Rothe, *Symbolic Gestures and the Generation of Global Social Control : The International Criminal Court*, (Lexington Books, 2006); Smeulers and Haveman, *Supranational Criminology : Towards a Criminology of International Crimes*.

⁴⁹ Sanin and Wood, "Ideology in Civil War: Instrumental Adoption and Beyond," *Journal of Peace Research* 51, no. 2 (2014).

consequences and human rights are more likely to exercise restraint vis-à-vis civilians.⁵⁰ Stanton 2009 and 2013 similarly underscores that rebels who require international support to achieve their core war aims are more likely to exhibit restraint.⁵¹ Hoover-Green 2011 finds that norm-driven recruits, or recruits that are socialized to respect humanitarian norms, tend to deploy less violence versus civilians than their counterparts.⁵² Weinstein 2007, along with Humphreys and Weinstein 2006, additionally underscore that resource-poor groups rely on social rewards to recruit norm-driven recruits who subsequently demonstrate restraint vis-à-vis civilians.

Socio-political versions further emphasize that motives for violence stem directly from actors' social context, or *opportunities*. All armed groups require support in order to achieve their war aims. 'Support' can include recognition, aid, resources, and recruits. Government and insurgent leaders might seek out support from any number of constituencies, domestic and/or foreign. Constituencies are essentially groups of people bound by an ideology, or "a set of more or less systematic ideas that identify a constituency, the challenges the group confronts, the objectives to pursue on behalf of that group, and a (perhaps vague) program of action."⁵³ Ideology, in other words, provides "blueprints" for action for members of a group, or those who seek to gain support or recognition from it.⁵⁴ Thus, rebel and government leaders must tap into, activate, and/or conform to these ideologies in order to garner necessary support for their cause. Once leaders do so (whether because they intrinsically identify with an ideology, and/or because they see instrumental value in doing so), it will constrain subsequent actions. In particular, as Sanin and Wood 2014 underscore, "because ideology implies particular skills, routines,

⁵⁰ Jo, *Compliant Rebels: Rebel Groups and International Law in World Politics* (Cambridge: Cambridge University Press, 2015).

⁵¹ Stanton, "Strategies of Violence and Restraint in Civil War" (ProQuest, UMI Dissertations Publishing, 2009); Stanton, "Terrorism in the Context of Civil War," *The Journal of politics* 75, no. 4 (2013).

⁵² Hoover Green, "Repertoires of Violence against Noncombatants: The Role of Armed Group Institutions and Ideologies" (ProQuest, UMI Dissertations Publishing, 2011).

⁵³ Sanin and Wood, "Ideology in Civil War: Instrumental Adoption and Beyond," 220.

⁵⁴ *ibid.*

institutions, and rules of thumb, adoption of an ideology generates strongly path dependent dynamics.”⁵⁵ In other words, “because ideologies identify goals but also prescribe strategies and institutions, they are (to varying degrees) ‘sticky’.”⁵⁶

Constituencies might identify with any number of specific ideologies. However, rebel and government groups that seek support from constituencies that identify strongly with human rights—or the idea that all individuals, on the basis of their humanity, as entitled to protections that afford them the opportunity to live a life of dignity—are potentially more susceptible to social constraints.⁵⁷ Specifically, recent civil wars research suggests that armed groups who solicit support from such constituencies are likely to exhibit greater restraint vis-à-vis civilians.⁵⁸ Such work is consistent with criminological research on international crime, which underscores that combatants that disregard international reactions to their efforts tend to perpetrate more violent acts.⁵⁹ Socio-political accounts thus help to explain why not all armed groups (state or insurgent) will respond the same way to military dynamics: some armed groups face normative constraints stemming from their efforts to secure support from constituencies that place a premium on respect for IHL and human rights.

⁵⁵ ibid.

⁵⁶ ibid.

⁵⁷ Neier, *The International Human Rights Movement: A History* (Princeton, NJ: Princeton University Press, 2012); Lauren, *The Evolution of International Human Rights: Visions Seen* (Philadelphia: University of Pennsylvania Press, 2011).

⁵⁸ Jo, *Compliant Rebels: Rebel Groups and International Law in World Politics*; Wood, "The Social Processes of Civil War: The Wartime Transformation of Social Networks," *Annual Review of Political Science* 11(2008); McAllister, "On the Brink: Understanding When Armed Groups Might Be More Susceptible to International Criminal Tribunals' Influence."; Petersen, *Understanding Ethnic Violence* (Cambridge: Cambridge University Press, 2002).

⁵⁹ Mullins, *Blood, Power, and Bedlam : Violations of International Criminal Law in Post-Colonial Africa*; Rothe, *Symbolic Gestures and the Generation of Global Social Control : The International Criminal Court*; Smeulers, "What Transforms Ordinary People into Gross Human Rights Violators?," in *Understanding Human Rights Violations: New Systematic Studies*, ed. Carey and Poe (Aldershot, England: Ashgate, 2004); "Perpetrators of International Crimes: Towards a Typology," in *Supranational Criminology : Towards a Criminology of International Crimes*, ed. Smeulers and Haveman (Antwerp: Intersentia, 2008).

Socio-political accounts' emphasis on social constraints also helps to explain how and when ICTs might deter violence against civilians. Specifically, ICTs represent authorities on appropriate wartime behaviors, especially vis-à-vis constituencies who place a premium on human rights and humanitarian norms.⁶⁰ As such, as soon as an ICT launches an investigation, it can potentially generate real consequences for combatants. As McAllister 2015 underscores, the '(suspected) war criminal' label can convey that a combatant and his/her group are not "in good standing," or the sort of actor that states or domestic constituencies might want to deal with.⁶¹ Actors—especially those who place a premium on IHL and human rights—might subsequently curtail their dealings with the combatant and/or his/her armed group; deny them access to diplomatic negotiations or fora; halt aid; and/or threaten to arrest indictees should they travel. For rebel and regime leaders that seek out support from humanitarian-minded, or liberal constituencies, these consequences can be particularly weighty. Such leaders might include those who are fighting in states that are party to the Rome Statute, as well as those who are under investigation. In particular, Simmons and Danner 2010 find that autocratic governments with a recent history of civil war join the ICC to facilitate credible commitments with their adversaries, who are concerned about their post-war fates and own human rights. The "exposure to prosecution by an independent international institution acts as an implicit promise by governments that they will foreswear particularly heinous military options, and it endows that promise with a credibility that such governments would otherwise lack."⁶² Thus, if government forces do not live up to their commitments under the Rome Statute (as first evinced by the launch

⁶⁰ Bass, *Stay the Hand of Vengeance : The Politics of War Crimes Tribunals*, Princeton Studies in International History and Politics (Princeton NJ: Princeton University Press, 2000).

⁶¹ McAllister, "On the Brink: Understanding When Armed Groups Might Be More Susceptible to International Criminal Tribunals' Influence."

⁶² Simmons and Danner, "Credible Commitments and the International Criminal Court," *International Organization* 64, no. 2 (2010): 234.

of an ICT investigation), it can undermine their ability to cut deals with their wartime opponents. Similarly, any signals that a government is breaking international legal commitments can make it more challenging for it to strike deals with foreign officials.⁶³ Likewise, rebels who fail to live up to a government's international legal commitments can undermine their credibility vis-à-vis the domestic and international constituencies that pushed for ratification. Consequently, these constituencies might question whether rebels are in fact capable of governing.⁶⁴

It is important to underscore that leaders who seek support from humanitarian-minded constituencies might still order or permit violence against civilians. For instance, leaders might seek out support from multiple constituencies that are not on the same page regarding how to fight. They might also think they can get away with war crimes, or simply rationalize them as a necessary, yet unfortunate consequence of war. Or, they might simply lack control over their forces, meaning they do not play a decisive role in decision-making on both local and organizational levels.⁶⁵ Nonetheless, the threat of criminal prosecution will force liberal support-seeking leaders to think twice before ordering or permitting their forces to perpetrate violence against civilians at any point in hostilities. Their armed groups should thus demonstrate more restraint vis-à-vis civilians. We therefore expect:

Hypothesis 4 (positive effect): ICTs will tend to be associated with a decrease in attacks against civilians.

- *Hypothesis 4a:* When government and rebel forces are from a state that is a member of the ICC, violence against civilians will decrease.

⁶³ Gibler, "The Cost of Reneging: Reputation and Alliance Formation," *Journal of Conflict Resolution* 52, no. 2 (2008).

⁶⁴ Jo, *Compliant Rebels: Rebel Groups and International Law in World Politics*.

⁶⁵ We derive our definitions of centralized versus decentralized armed groups from Sinno, *Organizations at War in Afghanistan and Beyond*.

- *Hypothesis 4b:* When government and rebel forces are fighting in a situation under ICC investigation, ICC involvement will lead to a decrease in attacks against civilians.

IV. Empirical Analysis of the ICC's Effects

A. Sample and Dependent Variables

To test our hypotheses, we rely on several data sources. Our dependent variable is derived from the Armed Conflict Location and Event Database (ACLED)⁶⁶ and is an aggregate, monthly count of the number of violent attacks perpetrated against civilians by conflict actors in African states. We separately model the monthly number of attacks perpetrated by both governmental and non-governmental actors. We use these data for all states in Africa experiencing civil war so as to reduce the influence of states in which there was little or no such violence or unrest.⁶⁷ To-date, these situations have constituted the ICC's principal focus. Previous studies have largely relied on annual measures of human rights scores, civil war violence, peace, and other concepts that are aggregated at the nation-state level of analysis, which makes ascertaining the impact of events on such violence problematic. The ACLED data are an ideal way to test the impact of not only international justice on conflict behavior, but also other determinants of attacks on civilians that pertain to the dynamic nature of civil war battlefields. This will enable us to make more precise claims regarding the impact of international justice on conflict dynamics and violence against civilians.

⁶⁶ These data are found at <http://strausscenter.org/acled.html>. There are eight types of events that the ACLED data cover. Raleigh, "Introducing Acled-Armed Conflict Location and Event Data," *Journal of Peace Research* 47, no. 5 (2010).

⁶⁷ Specifically, we include situations recorded as having at least ten ACLED events of any type.

Several of our key dependent variables regarding military dynamics are also derived from the ACLED data. There are eight types of events ACLED data cover, although we focus on the outcomes of military engagements. These are the three types of military battles in which 1) government forces gain an advantage; 2) rebel forces gain an advantage; and 3) neither side gains an advantage. We use the first variable to measure when government forces are victorious; the second variable to measure when rebels win; and the third variable to measure inconclusive engagements.

B. Independent Variables

To measure the impact of the ICC on the level of violence against civilians we utilize several measures. First, we use one variable that simply measures whether a nation was a state party to the Rome Statute of the ICC. This is coded “1” for the year of a state’s ratification and all subsequent years. We also employ two variables that measure ICC investigations. In particular we look at the year and month in which the ICC launched investigations into the conflicts in the DRC, Uganda, the Sudan and the CAR. Our assumption is that once an investigation is launched, individuals in these conflict zones are essentially put on notice that their behavior is being monitored. If the ICC is exercising a deterrent impact, we should find that violence against civilians declines after such investigations are begun. More specifically, we look to see if there are short-term and long-term deterrent effects of these investigations by using two measures. The short-term investigation variable is coded “1” for the month the investigation begins and the next 12 months, while the long-term variable is coded “1” for when the investigation is launched and for all subsequent months.

To evaluate whether states that have closer ties to nations with a strong interest in democracy and human rights that might seek to discourage their allies from engaging in acts of violence against civilians, we look to the percentage of the state's gross domestic product that is a result of foreign direct investment (FDI). The use of this variable does not represent an explicit test of our expectations regarding the importance of external support on conflict behavior. It does, however, provide us with additional insight into the impact of foreign involvement in civil war states. We recognize that the data we presently have on FDI includes all states whose businesses invest in other states, which means there will be some, such as China, that will have little concern for human rights. We believe, however, that regardless of the origin of FDI, businesses will have a preference for investing in states that are more stable and do not engage in acts of violence against their civilians on a routine basis as this would suggest an unsafe and unreliable investment environment.⁶⁸ Therefore we believe that while the interests of the large community of democratic states will be most prominent in investing in Africa, the greater the level of all such investment, the more likely recipient states will seek to curb acts of violence against civilians in order to maintain an attractive investment environment.

We include two control variables from the World Bank World Development Indicators database.⁶⁹ These are a measure of the rule of law in a state, where higher values connote greater respect for the rule of law, and a measure of gross domestic product per capita in constant US dollars. These and all other variables are lagged one year.

⁶⁸ Ruggie, *Just Business : Multinational Corporations and Human Rights* (New York: W. W. Norton & Company, 2013).

⁶⁹ As found at <http://data.worldbank.org/data-catalog/world-development-indicators> .

C. Statistical Analysis

To conduct our analyses we run several sets of estimates of our main dependent variable, the number of monthly acts of violence against civilians in Africa. The method we use is a negative binomial regression procedure in Stata 13.0 that is expressly designed to estimate a model where the dependent variable is a count of some event, particularly where the conditional variance exceeds the conditional mean, as it does in our data. We run these estimates using robust standard errors clustered on the conflict actor to avoid issues with heteroscedasticity. The first portion of our analysis encompasses all African states and is divided into four sets of results. We ran models for both government acts of violence against civilians and non-governmental actors' violence against civilians. Each of these two sets of analyses was further divided into models where the impact of the opening of ICC investigations was measured as a temporary (13 month) effect and a second set of models where the ICC investigation was measured from the month it was launched until the end of the data series. We begin by looking at government violence against civilians.

Tables 1 and 2 about here

i. ICC Impact Across African Conflicts

As we see in Table 1, the impact of the ICC on the level of violence perpetrated by governments against civilians exhibits interesting trends, suggesting that ICC involvement—contrary to Hypothesis 1—does have an effect on violence against civilians. In general, those states that are members of the ICC are less likely to commit acts of violence against civilians, consistent with Hypothesis 4a. In both government models the coefficient for this variable is

negative and statistically significant. The states in Africa that have joined the ICC are less likely to engage in this sort of behavior. We cannot establish here whether this restraint was the result of an underlying state preference against such behavior, or whether membership in the ICC induced states to eschew acts of violence against civilians. But ICC members are distinctly less likely to engage in the sort of behavior that would run afoul of international law as others are beginning to find.⁷⁰ We should also note that because we are analyzing those states experiencing civil war (or, at least ten ACLED events over time), ICC members who are not involved in any of the armed conflict type events captured by ACLED are not included, which makes this a hard test for our hypothesis. On the other hand, we see that the impacts of the ICC investigation variables (Hypothesis 4b) on state forces—whether measured as a temporary or permanent effect—are negligible and their coefficients, statistically insignificant. We checked to determine if there were any interaction effects occurring where ICC states might be more likely to reduce their level of violence against civilians when the ICC has launched an investigation, but found little evidence to conclude that ICC states modify their behavior given such investigations.

We also see in Table 1 that state behavior at one point in time predicts state actions at subsequent points in time. Those states that do not commit such violence at one time tend to continue refraining from such behavior in subsequent time periods. This may well suggest that once a state begins down the path of committing human rights violations against civilians, it continues to employ such tactics. The statistical significance of the coefficient for the lagged endogenous variable would seem to suggest that state preferences regarding violence against civilians tend to be part of a pattern and practice that endures over time. This finding squares with one of our alternative explanations: Hypothesis 3b, which suggests that violence against civilians

⁷⁰ Appel, "In the Shadow of the International Criminal Court: Does the Icc Deter Human Rights Violations?"; Jo and Simmons, "Can the International Criminal Court Deter Atrocity?"

is reciprocal. Whether state leaders opt to continue violence against civilians because they are already ‘culpable’ and thus have nothing left to lose in continuing to commit such acts (Hypothesis 2) is a question that we plan to explore in future versions.

In these first sets of estimates, however, we do not find consistent evidence that state actions are directly related to battlefield outcomes. When we look at just the behavior of states in Table 1 we see that two of three territorial contestation variables (those measuring state and rebel gains in battles) are statistically insignificant, meaning it is possible to partially disconfirm our alternative hypothesis on territorial contestation (e.g. Hypotheses 3a.1 and 3a.2). Thus, for the broad cross section of states that have experienced some level of armed conflict, battlefield dynamics related to winning and losing do not appear to play a role. However, the coefficient for the variable measuring inconclusive battle outcomes is negative and statistically significant. In other words, when states are involved in battles or actions that result in neither side emerging with military or political gains, the number of incidents involving violence against civilians tends to decrease, consistent with Hypothesis 3a.3. Later, we analyze these dynamics for those states that have been subject to ICC jurisdiction to see if such forces do play a role in these especially violent nations.

We find that the percentage of a state’s GDP that comes from FDI does not appear to play a role in tamping down violence against civilians. We had suggested that states that were heavily reliant on outside capital would be more likely to curb the proclivity of their forces to engage in acts of violence against civilians for fear of scaring away investors. We note, however, that the coefficient for the World Bank indicator of a state’s commitment to rule of law is negative and statistically significant. Those states that score high on this criterion engage in less violence against civilians. This may also indicate that not only do states that demonstrate

commitment to the rule of law commit less violence because such actions are adjudicated and punished, they may also be the very types of states that are deemed good investment opportunities because of this commitment. The coefficient for the other control variable, per capita gross domestic product is statistically insignificant.

In Table 2 we present the model estimates for just those cases involving non-governmental actors. Many of the relationships we saw above hold true here as well, most especially the impact of the lagged dependent variable. In both sets of estimates for rebels the coefficient for this variable is positive and statistically significant. Whether non-governmental actors are behaving violently toward civilians or exercising restraint, their past behavior tends to predict their present behavior, consistent with the alternative hypothesis on reciprocal civilian killings (e.g. Hypothesis 3b). Specifically, those that tend to refrain from committing acts of violence tend to continue to exhibit restraint, while those that have grown accustomed to such violence tend to keep perpetrating such acts. These results would also suggest that there might be something of an underlying proclivity to engage in such behavior that we may wish to explore more deeply. Moreover, as with state forces, whether non-state forces continue to perpetrate violence against civilians because they are already culpable and therefore have nothing left to lose (Hypothesis 2) is something that we will explore in future research.

Similarly, rebel forces across the whole of Africa tend not to change their behavior in light of ICC investigations no matter how their impact is measured. The only exception is the coefficient for the ongoing impact of the CAR investigation by the ICC, which seems to coincide with a period of increased attacks by non-governmental actors against civilians during this period (May 2007 onward). The coefficient for the ICC state variable is also statistically insignificant for rebel forces. Thus far, we have found that while ICC member state forces engage in fewer

acts of violence against civilians (consistent with Hypothesis 4a), the ICC investigations themselves do not appear to have changed behavior for the better across the population of armed groups fighting in states involved in some level of conflict (e.g. no support for Hypothesis 4b). Moreover, there is some evidence to suggest that ICC involvement might increase violence against civilians (consistent with Hypothesis 2) by rebel groups.

There are also some interesting trends in the analyses of non-governmental actors vis-à-vis the impact of military dynamics. Violence against civilians by rebel forces tends to decline after they win, lending some support to Hypothesis 3a.1, at least for non-state forces. Most interestingly, even when governments gain land, and presumably rebel forces have more of an incentive to demonstrate strength and resolve, we see that whatever they may do to improve their fighting chances, it does not appear to lead to increased attacks on civilians, meaning we find no support for Hypothesis 3a.2 for either rebel or government forces. In addition, unlike with government forces, military stalemates appear to have no impact on rebel forces' use of violence against civilians, contrary to Hypothesis 3a.3. Thus, decisive battles only appear to impact rebels' use of violence against civilians: whether they win or lose, they engage in fewer, subsequent attacks on civilians (consistent with Hypothesis 3a.1, but not 3a.2). Government forces only appear to curb their use of such acts after inconclusive battles (consistent with Hypothesis 3a.3). So, the territorial contestation explanation only offers a partial answer as to why combatants do and do not perpetrate violence against civilians.

Interestingly, we also see that in states where there are greater levels of FDI and in states where there is better rule of law, non-governmental actors are less likely to commit acts of violence against civilians. The pacifying effects of such conditions would not appear to be limited to just states. Perhaps in states where there is a greater concern in general for protecting

human rights and maintaining a good investment climate (even when there is some level of conflict), there is a greater expectation that all sides will refrain from engaging in behavior that would violate these norms. We will return to these issues when we examine conflict behavior in those states targeted by the ICC.

Tables 3 thru 10 about here

ii. ICC Impact on Conflicts in the DRC, Uganda, Sudan, and CAR

For the next set of analyses we used our model to predict attacks against civilians in the four states that have been subject to ICC jurisdiction: the DRC (or just “Congo”), Uganda, Sudan, and CAR. We are most interested in determining whether conflict actors in those states that have been investigated by the ICC for quite some time would alter their conflict behavior. First, we begin by pointing out that the lagged dependent variable does not reach statistical significance in most of the models, which would seem to indicate that there is more of a random rather than enduring logic to attacks against civilians. This, in turn, might suggest that such attacks occur not so much as an ongoing practice and pattern of government and rebel behavior, but take place under random or perhaps more predictable situations than we may be able to model. Only in the models estimating the behaviors of rebels in the Congo and the government in Uganda do we see evidence that attacks, or lack thereof, in one period explains attacks in subsequent periods. Thus, in specific conflicts, reciprocity is not as useful for explaining violence against civilians, meaning there is limited support for Hypothesis 3b for the DRC, Ugandan, Sudanese, and CAR conflicts.

There is some evidence, however, that the launching of an ICC investigation has a deterrent effect on both rebel and regime forces, consistent with Hypothesis 4b. When we examine the impact of the temporary ICC investigation variable (which codes the month the investigation begins and 12 subsequent months as “1”), we see that it is associated with negative and statistically significant coefficients in several of the models. Specifically, this variable decreases attacks against civilians in the model estimates for the DRC government, the Uganda rebels and for both the Sudanese government and Sudanese rebel forces. The ongoing investigation variable is also negative and statistically significant in the model estimates for the Uganda rebels, the Sudanese rebels and the CAR government.

The only discordant note comes in the estimates for the CAR rebels, who increase their attacks in the 13-month period after the ICC began its first investigation into that country’s conflict situation in May 2007. At the start of the ICC’s investigation, Chief Prosecutor Luis Moreno-Ocampo indicated that while his office would focus on crimes related to fighting in 2002 and 2003, they would nonetheless “continue gathering information and monitoring allegations of crimes being committed” in northern CAR.⁷¹ Thus, even though the rebel Union of Democratic Forces (UFDR) had secured a general amnesty agreement through the Birao Agreement, which they signed with the government in April 2007, they could not be entirely certain that they could skirt prosecution before the ICC.⁷² The UFDR’s attacks on civilians only declined after they formed a unity government in early 2009. The timing suggests that the UFDR potentially used violence against civilians to increase their bargaining leverage so as to gain enough political cover to dodge prosecution. This finding lends preliminary support to Hypothesis 2, at least for select rebel forces.

⁷¹ ICC Office of the Prosecutor, "Background: Situation in the Central African Republic," https://www.icc-cpi.int/NR/rdonlyres/B64950CF-8370-4438-AD7C-0905079D747A/144037/ICCOTPN20070522220_A_EN.pdf.

⁷² United Nations Peacemaker, "Accord De Paix De Birao," <http://peacemaker.un.org/car-birao-accord2007>.

Ultimately, while the results are not always consistent, we see that in many cases across the two ways of measuring ICC impact, the effect is to diminish conflict behavior, consistent with Hypothesis 4. Equally as important, we find only one case where an ICC investigation is associated with increased violence as suggested by Hypothesis 2. These findings suggest that future work continue to focus on elaborating the conditions under which the ICC is likely to deter, as well as escalate violence against civilians.

We turn next to assessing the impact of territorial contestation on attacks against civilians (e.g. Hypotheses 3a.1, 3a.2, and 3a.3). First, we see across the various models that when rebel or non-governmental forces achieve a positive battle outcome and gain land, the results for civilians are mixed. The attacks decline in the models estimating the behavior of Congolese, Ugandan, and Sudanese rebels, as well as the CAR government. Having achieved victory on the battlefield, there appears to be less motive or perhaps opportunity for rebels to engage in such violations of international law, consistent with Hypothesis 3a.1. On the other hand, in the models for the Sudanese and Ugandan government, their attacks against civilians tend to increase in the aftermath of a rebel victory. Thus, when government forces lose to rebels, they tend to perpetrate more violence against civilians, lending support to Hypothesis 3a.2. Such attacks may be a method of securing civilian collaboration, communicating resolve or strength, or simply the result of losing government troops taking out their frustrations on innocent civilian populations. It is also possible that such attacks are taking place due to pressure on government leaders to respond with force, versus negotiate with rebels.

When it is the governments that gain land as a result of a battle, we see that violence against civilians by the Ugandan government and the CAR government, as well as the CAR rebels tends to decline. Violence by the Congolese government, however, tends to increase,

although we only see this result in the model estimates using the temporary ICC investigation variable. The finding that violence generally declines by government forces that gain territorial control through battlefield victories is consistent with Hypothesis 3a.1. However, the finding that CAR rebels use less violence when they are losing is inconsistent with Hypothesis 3a.2. To summarize: on the whole, we find that forces that are successful on the battlefield tend to use less violence against civilians (which is consistent with Hypothesis 3a.1). However, unlike in the all Africa models and with the exception of CAR rebels, forces that are losing tend to use more violence against civilians (which squares with Hypothesis 3a.2)

When the battlefield outcome is indeterminate and neither side gains, we find mixed results. Consistent with Hypothesis 3a.3, attacks against civilians tend to diminish after such events in the cases of the Ugandan government, the Ugandan rebels (although the coefficient just misses statistical significance of one set of these results), and the CAR government. However, it does not appear that stalemates have an impact on other forces' use of violence against civilians, suggesting the need for more disaggregated research on armed groups' use of violence against civilians.

Finally, we note that while we included the variables measuring GDP, FDI, and rule of law in each of these models we do not expect that these variables would change much over time in these state level models. Hence, we are not inclined to draw any kind of substantial conclusions regarding their impact on attacks against civilians in these country-specific models. We do note that increasing rule of law in some countries is associated with decreasing numbers of attacks on civilians (Congo government, Uganda rebels) although this is counter-balanced by the finding that higher levels of this variable are associated with increased attacks in other cases (Uganda government). As we would expect, the principal determinants of attacks on civilians

are those variables that are more reflective of changing conditions on the battlefield and the efforts of the ICC. We discuss these findings and suggestions for continuing research below.

V. Conclusion

Deterrence is a relationship. It could be a relationship between two states seeking to prevent the other from launching a nuclear attack. It could be a relationship between a government and an individual who is at risk of committing criminal mischief. In this paper we have examined the deterrent relationship between an international organization and state leaders. The ICC is designed not only to bring justice in those situations where deterrence has failed and violations of international law have occurred, it is also intended to reduce the likelihood that other, would-be law breakers will be tempted to engage in such criminal behavior. We have sought to demonstrate in this paper that if our aim is to understand the effects of the ICC on rebel and regime forces' use of violence against civilians, we should focus on their motives and opportunities. The ICC is but one factor among many that may influence these actors as they engage in offensive and defensive actions on the battlefield in the quest for economic gain, political power, or whatever else may be motivating them. By properly contextualizing this deterrent relationship by making these conflict actors the unit of analysis, we can begin to parse out the impact of the ICC from other forces impinging on conflict actors' decision-making strategies. Previously, the focus of most research has been on analyzing conflict behavior and human rights aggregated to the annual, nation-state level of analysis. While such modeling strategies begin to reveal some aspects of the deterrent relationship, they do not reveal the event-

based and actor-based strategies found below the surface. By focusing on the visible tip of the iceberg we have not properly accounted for its greater substance lurking beneath the water.

The ICC is, in effect, a foreign intervention into ongoing conflicts that seeks to change their course. We have shown in this paper that in this struggle to change the direction of conflict behavior away from violence against civilians, the ICC has often, although certainly not always, helped reduce the frequency of attacks when it launches investigations into conflict situations. Many scholars have been skeptical⁷³ if not critical⁷⁴ of the effects of international justice on conflict behavior and have suggested that such interventions may undermine respect for human rights. Others have been more optimistic about the prospects of an international justice deterrent effect.⁷⁵

Our results suggest that in general, the ICC does have a deterrent effect. We note that while the investigation variables did not exercise statistically significant effects on our model estimates of states and non-state actors in conflicts in Africa, we do find that attacks against civilians by governments occur less frequently in states that are members of the ICC. In the sixteen separate models we ran for government and non-governmental actors in four states

⁷³ Wippman, "The Costs of International Justice."; Rodman, "Darfur and the Limits of Legal Deterrence."; Rudolph, "Constructing an Atrocities Regime: The Politics of War Crimes Tribunals."; Goldsmith, "The Self-Defeating International Criminal Court."; Meernik, "Justice and Peace? How the International Criminal Tribunal Affects Societal Peace in Bosnia."; Cronin-Furman, "Managing Expectations: International Criminal Trials and the Prospects for Deterrence of Mass Atrocity."; Farer, "Restraining the Barbarians: Can International Criminal Law Help?."

⁷⁴ Goldsmith and Krasner, "The Limits of Idealism."; Snyder and Vinjamuri, "Trials and Errors: Principle and Pragmatism in Strategies of International Justice."; Krcmaric, *The Justice Dilemma: International Criminal Accountability, Mass Atrocities, and Civil Conflict (Dissertation)*.

⁷⁵ Akhavan, "Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities."; "Are International Criminal Tribunals a Disincentive to Peace?: Reconciling Judicial Romanticism with Political Realism."; Alexander, "The International Criminal Court and the Prevention of Atrocities: Predicting the Court's Impact."; Kim and Sikkink, "Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries."; Olsen, Payne, and Reiter, *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy*; Orentlicher, "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime."; Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics*; Landman, *Protecting Human Rights: A Comparative Study*; von Holderstein Holtermann, "A 'Slice of Cheese'--a Deterrence-Based Argument for the International Criminal Court."

(Congo, Uganda, Sudan and the CAR) and using two different methods of operationalizing the impact of ICC investigations we found only one instance where such involvement was associated with an increase in attacks against civilians (the case of rebel forces in the Central African Republic). On the other hand, we found seven instances where such investigations were related to a reduction in attacks against civilians, while in eight of these models there was no statistically significant impact. While these findings may not lead us to conclude that ICC investigations exercise a consistent deterrent impact and help improve human rights, they suggest that international criminal justice intervention into conflict situations does not generally appear to make matters worse. Moreover, our finding that ICC investigations escalated short-term rebel attacks on civilians in CAR suggests that scholars need to look at both the positive and negative impacts that the ICC is having.

We also demonstrated that by focusing our analysis on the actions of individual actors and their incentives and disincentives for engaging in violence against civilians, we not only gain a better appreciation of why such violence occurs, we are also able to make more robust claims regarding the influence of the ICC. Our results demonstrated that, in addition to the influence of ICC investigations, often the decision to engage in such actions is related to prior outcomes on the battlefield. Victories for governmental and non-governmental forces were, in many cases, related to a proclivity to refrain from such actions against civilians. In eight of the sixteen analyses, the rebel victory variable was statistically significant and negative, while in four models it was positive. When government forces gain land on the battlefield we find that such outcomes are associated with six cases of violence reduction and one of an increase in violence. Hence, for the most part, whether the outcome is positive or negative for government or anti-government forces, attacks against civilians are more likely to decrease than increase. More

generally we see that both the impact of the ICC and battlefield outcomes is to diminish violence against civilians.

Most crucially, our study underscores the need to drill deeper into the conflict behavior of regimes and rebels. We believe that the most fruitful areas of inquiry are those that focus on events data and continue to try to better understand conflict dynamics from the perspective of the specific actors. Moreover, scholars should employ both quantitative and qualitative data analysis to disentangle and typologize the mix of motives, opportunity, and controls that are most critical in shaping armed groups' use of violence. Scholars should also examine the reform efforts, if any, of those governments most at risk for committing human right abuses to determine what type of influence membership in the ICC is exercising any effect on their human rights practices. Ultimately, the effects of the ICC and the conflict behavior of regimes and rebels are probably best captured as an ongoing and dynamic series of behaviors and interventions that shape and shift conflict strategies. Our research efforts are most likely to bear fruit if we focus them on these actor-level actions over time.

Table 1
Negative Binomial Regression Estimates of Frequency of Attacks on Civilians by States

All States, Temporary ICC

Impact

All States Ongoing ICC Impact

Variable	Coeff.	Standard Error	Z Statistic	P Value	Coeff.	Standard Error	Z Statistic	P Value
Lagged Dependent Variable	0.088	0.035	2.500	0.013	0.087	0.036	2.430	0.015
Battle No Change	-0.032	0.017	-1.860	0.063	-0.032	0.017	-1.810	0.070
Battle Rebels Win	0.137	0.097	1.410	0.157	0.147	0.099	1.490	0.136
Battle Govt. Wins	-0.027	0.036	-0.740	0.460	-0.024	0.036	-0.660	0.508
Congo/Uganda Investigation	0.031	0.141	0.220	0.827	-0.225	0.214	-1.050	0.293
Sudan Investigation	-0.222	0.167	-1.330	0.183	-0.162	0.125	-1.300	0.193
CAR Investigation	-0.118	0.183	-0.640	0.520	-0.006	0.139	-0.040	0.966
ICC Member	-0.417	0.199	-2.100	0.036	-0.472	0.203	-2.330	0.020
Foreign Direct Investment	-0.009	0.012	-0.780	0.433	-0.007	0.011	-0.680	0.495
GDP Per Capita	0.000	0.000	0.370	0.712	0.000	0.000	0.430	0.668
Rule of Law	-0.573	0.221	-2.600	0.009	-0.539	0.217	-2.480	0.013
Constant	-0.497	0.248	-2.010	0.045	-0.156	0.315	-0.500	0.620

N = 1918

Table 2
Negative Binomial Regression Estimates of Frequency of Attacks on Civilians by Rebels

All Rebels Temporary ICC

Impact

All Rebels Ongoing ICC Impact

Variable	Coeff.	Standard Error	Z Statistic	P Value	Coeff.	Standard Error	Z Statistic	P Value
Lagged Dependent Variable	0.134	0.037	3.610	0.000	0.131	0.037	3.520	0.000
Battle No Change	0.006	0.021	0.290	0.774	0.008	0.021	0.390	0.700
Battle Rebels Win	-0.091	0.054	-1.670	0.095	-0.100	0.054	-1.840	0.066
Battle Govt. Wins	-0.103	0.047	-2.210	0.027	-0.111	0.050	-2.230	0.026
Congo/Uganda Investigation	-0.137	0.126	-1.090	0.275	-0.264	0.244	-1.080	0.280
Sudan Investigation	-0.151	0.130	-1.160	0.246	-0.143	0.139	-1.030	0.303
CAR Investigation	0.208	0.215	0.970	0.331	0.291	0.139	2.100	0.036
ICC Member	0.030	0.201	0.150	0.881	0.086	0.163	0.530	0.599
Foreign Direct Investment	-0.021	0.010	-2.050	0.040	-0.022	0.010	-2.150	0.032
GDP Per Capita	0.000	0.000	-0.340	0.732	0.000	0.000	-0.300	0.762
Rule of Law	-0.718	0.252	-2.850	0.004	-0.734	0.253	-2.900	0.004
Constant	-0.755	0.264	-2.860	0.004	-0.636	0.447	-1.420	0.155

N = 5874

Table 3

Negative Binomial Regression Estimates of Frequency of Attacks on Civilians by DRC Govt.

Temporary ICC Impact					Ongoing ICC Impact			
Variable	Coeff.	Standard Error	Z Statistic	P Value	Coeff.	Standard Error	Z Statistic	P Value
Lagged Dependent Variable	0.019	0.036	0.520	0.603	0.024	0.027	0.890	0.376
Battle No Change	-0.003	0.006	-0.500	0.619	-0.008	0.006	-1.370	0.172
Battle Rebels Win	-0.010	0.039	-0.250	0.804	0.005	0.045	0.120	0.904
Battle Govt. Wins	0.034	0.010	3.390	0.001	0.024	0.016	1.570	0.118
Congo Investigation	-0.739	0.351	-2.110	0.035	-0.086	0.858	-0.100	0.920
Foreign Direct Investment	-0.002	0.059	-0.040	0.971	-0.003	0.026	-0.110	0.910
GDP Per Capita	0.075	0.028	2.650	0.008	0.083	0.007	12.680	0.000
Rule of Law	-24.520	5.269	-4.650	0.000	-23.601	4.954	-4.760	0.000
Constant	-57.696	12.052	-4.790	0.000	-57.929	8.652	-6.700	0.000

N = 73

Table 4**Negative Binomial Regression Estimates of Frequency of Attacks on Civilians by Rebels in DRC**

Temporary ICC Impact					Ongoing ICC Impact			
Variable	Coeff.	Standard Error	Z Statistic	P Value	Coeff.	Standard Error	Z Statistic	P Value
Lagged Dependent Variable	0.081	0.044	1.840	0.065	0.080	0.043	1.850	0.065
Battle No Change	0.027	0.035	0.780	0.436	0.032	0.033	0.960	0.332
Battle Rebels Win	-0.239	0.103	-2.330	0.020	-0.237	0.105	-2.260	0.024
Battle Govt. Wins	-0.274	0.235	-1.170	0.242	-0.269	0.228	-1.180	0.238
Congo Investigation	0.053	0.207	0.260	0.798	0.240	0.338	0.710	0.476
Foreign Direct Investment	0.012	0.043	0.270	0.789	0.015	0.044	0.350	0.726
GDP Per Capita	0.015	0.016	0.920	0.359	0.010	0.020	0.490	0.622
Rule of Law	-1.571	2.789	-0.560	0.573	-1.671	2.572	-0.650	0.514
Constant	-5.768	7.056	-0.820	0.414	5.070	7.691	-0.660	0.509

N = 330

Table 5
Negative Binomial Regression Estimates of Frequency of Attacks on Civilians by Uganda Govt.

Temporary ICC Impact					Ongoing ICC Impact			
Variable	Coeff.	Standard Error	Z Statistic	P Value	Coeff.	Standard Error	Z Statistic	P Val
Lagged Dependent Variable	0.163	0.073	2.230	0.026	0.225	0.002	95.580	0.0
Battle No Change	-0.682	0.126	-5.420	0.000	-0.698	0.113	-6.160	0.0
Battle Rebels Win	0.542	0.006	89.760	0.000	0.571	0.079	7.270	0.0
Battle Govt. Wins	-14.238	1.068	-13.330	0.000	-12.149	1.005	-12.090	0.0
Congo/Uganda Investigation	0.631	-1.280	0.200		-0.731	0.595	-1.230	0.2
Foreign Direct Investment	-0.127	0.001	-158.250	0.000	-0.116	0.017	-6.610	0.0
GDP Per Capita	-0.005	0.003	-1.420	0.157	0.003	0.002	1.840	0.0
Rule of Law	1.926	0.137	14.020	0.000	2.043	0.445	4.590	0.0
Constant	2.757	1.150	2.400	0.017	0.637	0.138	4.610	0.0

N = 62

Table 6
Negative Binomial Regression Estimates of Frequency of Attacks on Civilians by Uganda Rebels

Temporary ICC Impact					Ongoing ICC Impact			
Variable	Coeff.	Standard Error	Z Statistic	P Value	Coeff.	Standard Error	Z Statistic	P Value
Lagged Dependent Variable	0.078	0.054	1.460	0.146	0.080	0.050	1.580	0.113
Battle No Change	-1.190	0.706	-1.690	0.092	-1.267	0.710	-1.780	0.074
Battle Rebels Win	-4.652	0.277	-16.780	0.000	-4.225	0.276	-15.330	0.000
Battle Govt. Wins	Omitted				Omitted			
Congo/Uganda Investigation	0.244	-3.120	0.002		-0.960	0.301	-3.190	0.001
Foreign Direct Investment	0.022	0.123	0.180	0.857	0.058	0.150	0.390	0.700
GDP Per Capita	-0.007	0.011	-0.620	0.538	0.008	0.010	0.810	0.419
Rule of Law	-7.176	1.890	-3.800	0.000	-8.245	2.163	-3.810	0.000
Constant	-1.088	3.613	-0.300	0.763	-5.948	3.151	-1.890	0.059

N = 211

Table 7

Negative Binomial Regression Estimates of Frequency of Attacks on Civilians by Sudan Govt.

Temporary ICC Impact					Ongoing ICC Impact			
Variable	Coeff.	Standard Error	Z Statistic	P Value	Coeff.	Standard Error	Z Statistic	P Value
Lagged Dependent Variable	0.068	0.066	1.030	0.305	0.079	0.053	1.470	0.141
Battle No Change	0.042	0.036	1.170	0.243	0.048	0.031	1.530	0.126
Battle Rebels Win	0.489	0.131	3.730	0.000	0.438	0.144	3.050	0.002
Battle Govt. Wins	-0.178	0.137	-1.300	0.193	-0.124	0.149	-0.830	0.405
Congo/Uganda Investigation	-0.483	0.142	-3.410	0.001	-0.810	0.551	-1.470	0.142
Foreign Direct Investment	-0.006	0.031	-0.190	0.848	-0.017	0.029	-0.580	0.559
GDP Per Capita	-0.012	0.001	-14.240	0.000	-0.007	0.004	-1.640	0.100
Rule of Law	0.740	1.206	0.610	0.539	0.684	0.877	0.780	0.435
Constant	9.325	1.366	6.830	0.000	6.191	2.575	2.400	0.016

N = 67

Table 8

Negative Binomial Regression Estimates of Frequency of Attacks on Civilians by Sudan Rebels

Temporary ICC

Impact

Ongoing ICC

Impact

Variable	Coeff.	Standard Error	Z Statistic	P Value	Coeff.	Standard Error	Z Statistic	P Value
Lagged Dependent Variable	0.041	0.030	1.360	0.174	0.041	0.030	1.360	0.174
Battle No Change	-0.084	0.063	-1.330	0.182	-0.083	0.065	-1.280	0.197
Battle Rebels Win	-0.820	0.323	-2.540	0.011	-0.812	0.314	-2.590	0.010
Battle Govt. Wins	-0.412	0.281	-1.470	0.143	-0.451	0.274	-1.650	0.100
Congo/Uganda Investigation	-0.260	0.154	-1.690	0.090	-0.408	0.130	-3.140	0.002
Foreign Direct Investment	0.028	0.017	1.670	0.095	0.025	0.017	1.520	0.127
GDP Per Capita	-0.001	0.002	-0.350	0.724	0.002	0.002	0.990	0.321
Rule of Law	-0.317	0.594	-0.530	0.593	-0.213	0.658	-0.320	0.743
Constant	0.084	1.625	0.050	0.959	-1.138	1.414	-0.800	0.421

N = 263

Table 9
Negative Binomial Regression Estimates of Frequency of Attacks on Civilians by CAR Govt.

Temporary ICC Impact					Ongoing ICC Impact			
Variable	Coeff.	Standard Error	Z Statistic	P Value	Coeff.	Standard Error	Z Statistic	P Value
Lagged Dependent Variable	-0.328	0.257	-1.270	0.203	-0.145	0.267	-0.540	0.587
Battle No Change	-0.586	0.038	-15.390	0.000	-0.576	0.095	-6.090	0.000
Battle Rebels Win	-1.224	0.378	-3.240	0.001	-1.070	0.328	-3.270	0.001
Battle Govt. Wins	- 12.638	1.360	-9.290	0.000	- 14.025	1.323	-10.600	0.000
Congo/Uganda Investigation	0.273	0.513	0.530	0.595	-0.919	0.429	-2.140	0.032
Foreign Direct Investment	-0.021	0.190	-0.110	0.914	0.092	0.118	0.780	0.437
GDP Per Capita	-0.004	0.032	-0.120	0.908	0.016	0.033	0.470	0.636
Rule of Law	1.773	0.967	1.830	0.067	1.307	0.811	1.610	0.107
Constant	4.562	12.337	0.370	0.712	-2.993	12.722	-0.240	0.814

N = 59

Table 10**Negative Binomial Regression Estimates of Frequency of Attacks on Civilians by CAR Rebels****Temporary ICC
Impact****Ongoing ICC Impact**

Variable	Coeff.	Standard Error	Z Statistic	P Value	Coeff.	Standard Error	Z Statistic	P Value
Lagged Dependent Variable	0.025	0.024	1.060	0.291	0.042	0.042	1.010	0.314
Battle No Change	-0.072	0.110	-0.660	0.510	-0.128	0.143	-0.890	0.371
Battle Rebels Win	-0.159	0.388	-0.410	0.683	-0.170	0.448	-0.380	0.704
Battle Govt. Wins	⁻ 21.570	1.246	-17.320	0.000	⁻ 19.132	1.304	-14.670	0.000
Congo/Uganda Investigation	1.071	0.213	5.040	0.000	0.457	0.545	0.840	0.401
Foreign Direct Investment	0.111	0.108	1.030	0.304	0.105	0.138	0.770	0.444
GDP Per Capita	0.007	0.010	0.720	0.470	0.004	0.017	0.260	0.794
Rule of Law	-1.781	1.799	-0.990	0.322	-2.119	2.184	-0.970	0.332
Constant	-5.729	5.999	-0.950	0.340	-5.128	8.465	-0.610	0.545

N = 69

Bibliography

- Akhavan, Payam. "Are International Criminal Tribunals a Disincentive to Peace?: Reconciling Judicial Romanticism with Political Realism." *Human Rights Quarterly* 31, no. 3 (2009): 624-54.
- . "Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities." *American Journal of International Law* 95, no. 1 (2001): 7-31.
- Alexander, James F. "The International Criminal Court and the Prevention of Atrocities: Predicting the Court's Impact." *Villanova Law Review* 54, no. 1 (2009): 1-56.
- Appel, Benjamin J. "In the Shadow of the International Criminal Court: Does the Icc Deter Human Rights Violations?". *Journal of Conflict Resolution* (2016): 1-26.
- Azam, Jean-Paul. "Looting and Conflict between Ethnoregional Groups: Lessons for State Formation in Africa." *Journal of Conflict Resolution* 46, no. 1 (2002): 131-53.
- . "On Thugs and Heroes: Why Warlords Victimize Their Own Civilians." *Economics of Governance* 7 (2006): 53-73.
- Azam, Jean-Paul, and Anke Hoeffler. "Violence against Civilians in Civil Wars: Looting or Terror?". *Journal of Peace Research* 39, no. 4 (2002): 461-85.
- Balcells, Laia. "Continuation of Politics by Two Means: Direct and Indirect Violence in Civil War." *The Journal of Conflict Resolution* 55, no. 3 (2011): 397-422.
- . "Rivalry and Revenge: Violence against Civilians in Conventional Civil Wars1: Rivalry and Revenge." *International Studies Quarterly* 54, no. 2 (2010): 291-313.
- Bass, Gary Jonathan. *Stay the Hand of Vengeance : The Politics of War Crimes Tribunals*. Princeton Studies in International History and Politics. Princeton NJ: Princeton University Press, 2000.
- Boyle, Michael J. "Bargaining, Fear, and Denial: Explaining Violence against Civilians in Iraq 2004-2007." *Terrorism and Political Violence* 21, no. 2 (2009): 261-87.
- Columbia University, Institute for the Study of Human Rights. "Jurisdiction of the Icc." <http://www.amicc.org/icc/jurisdiction>.
- Cronin-Furman, Kate. "Managing Expectations: International Criminal Trials and the Prospects for Deterrence of Mass Atrocity." *The International Journal of Transitional Justice* 7 (2013): 434-54.
- Farer, Tom J. "Restraining the Barbarians: Can International Criminal Law Help?". *Human Rights Quarterly* 22, no. 1 (2000): 90-117.

- Fielding, David, and Anja Shortland. "The Dynamics of Terror During the Peruvian Civil War." *Journal of Peace Research* 49, no. 6 (2012): 847-62.
- Fjelde, Hanne, Lisa Hultman, vetenskapsområdet Humanistisk-samhällsvetenskapliga, fakulteten Samhällsvetenskapliga, universitet Uppsala, and konfliktforskning Institutionen för freds- och. "Weakening the Enemy: A Disaggregated Study of Violence against Civilians in Africa." *Journal of Conflict Resolution* 58, no. 7 (2014): 1230-57.
- Gibler, Douglas M. "The Cost of Reneging: Reputation and Alliance Formation." *Journal of Conflict Resolution* 52, no. 2 (2008): 426-54.
- Goldsmith, Jack. "The Self-Defeating International Criminal Court." *The University of Chicago Law Review* 70, no. 1 (2003): 89-104.
- Goldsmith, Jack, and Stephen D. Krasner. "The Limits of Idealism." *Daedalus* 132, no. 1 (2003): 47-63.
- Greig, J. Michael, and James D. Meernik. "To Prosecute or Not to Prosecute: Civil War Mediation and International Criminal Justice." *International Negotiation* 19, no. 2 (2014): 257-84.
- Henckaerts, Jean-Marie. "Study on Customary International Humanitarian Law: A Contribution to the Understanding and Respect for the Rule of Law in Armed Conflict." *International Review of the Red Cross* 87, no. 857 (2005): 1-38.
- Hoover Green, Amelia. "Repertoires of Violence against Noncombatants: The Role of Armed Group Institutions and Ideologies." ProQuest, UMI Dissertations Publishing, 2011.
- Hultman, Lisa. "Battle Losses and Rebel Violence: Raising the Costs for Fighting." *Terrorism and Political Violence* 19, no. 2 (2007): 205-22.
- . "The Power to Hurt in Civil War: The Strategic Aim of Renamo Violence." *Journal of South African Studies* 35, no. 4 (2009): 821-34.
- Humphreys, Macartan, and Jeremy M. Weinstein. "Handling and Manhandling Civilians in Civil War." *American Political Science Research* 100, no. 3 (2006): 429-47.
- ICC Office of the Prosecutor. "Background: Situation in the Central African Republic." https://www.icc-cpi.int/NR/rdonlyres/B64950CF-8370-4438-AD7C-0905079D747A/144037/ICCOTPNB20070522220_A_EN.pdf.
- Jo, Hyeran. *Compliant Rebels: Rebel Groups and International Law in World Politics*. Cambridge: Cambridge University Press, 2015.
- Jo, Hyeran, and Beth A. Simmons. "Can the International Criminal Court Deter Atrocity?" Social Science Research Network, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2552820.

- Kalyvas, Stathis N. *The Logic of Violence in Civil War*. Cambridge: Cambridge University Press, 2006.
- Kim, Dongsuk. "What Makes State Leaders Less Brutal? Examining Grievances and Mass Killing During Civil War." *Civil Wars* 12, no. 3 (2010): 237-60.
- Kim, Hunjoon, and Kathryn Sikkink. "Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries." *International Studies Quarterly* 54, no. 4 (2010): 939-63.
- Krcmaric, Daniel. *The Justice Dilemma: International Criminal Accountability, Mass Atrocities, and Civil Conflict (Dissertation)*. Durham, NC: Duke University, 2015.
- Ku, Julian, and Jide Nzelibe. "Do International Criminal Tribunals Deter or Exacerbate Humanitarian Atrocities?". *Washington University Law Quarterly* 84, no. 4 (2006): 58.
- Landman, Todd. *Protecting Human Rights: A Comparative Study*. Washington: Georgetown University Press, 2005.
- Lauren, Paul Gordon. *The Evolution of International Human Rights: Visions Seen*. Philadelphia: University of Pennsylvania Press, 2011.
- McAllister, Jacqueline. "On the Brink: Understanding When Armed Groups Might Be More Susceptible to International Criminal Tribunals' Influence." In *American Political Science Association Annual Convention*. San Francisco, CA, 2015.
- Meernik, James. "The International Criminal Court and the Deterrence of Human Rights Atrocities." *Civil Wars* 17, no. 3 (2015): 318-39.
- . "Justice and Peace? How the International Criminal Tribunal Affects Societal Peace in Bosnia." *Journal of Peace Research* 42, no. 3 (2005): 271-89.
- Mueller, John. "The Banality of 'Ethnic War'." *International Security* 25, no. 1 (2000): 42-70.
- Mullins, Christopher W. Rothe Dawn. *Blood, Power, and Bedlam : Violations of International Criminal Law in Post-Colonial Africa* [in English]. New Perspectives in Criminology and Criminal Justice,; V. 2;. New York: Peter Lang, 2008.
- Neier, Aryeh. *The International Human Rights Movement: A History*. Princeton, NJ: Princeton University Press, 2012.
- Olsen, Tricia D., Leigh A. Payne, and Andrew G. Reiter. *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy*. Washington, D.C.: United States Institute of Peace, 2010.
- Orentlicher, Diane. "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime." *Yale Law Journal* 100, no. 8 (1991): 2537-615.

- Petersen, Roger D. *Understanding Ethnic Violence*. Cambridge: Cambridge University Press, 2002.
- Raleigh, Clionadh, Andrew Linke, Håvard Hegre and Joakim Karlsen. "Introducing Acled-Armed Conflict Location and Event Data." *Journal of Peace Research* 47, no. 5 (2010): 1-10.
- Rodman, Kenneth A. "Darfur and the Limits of Legal Deterrence." *Human Rights Quarterly* 30, no. 3 (2008): 529-60.
- Rothe, Dawn Mullins Christopher W. *Symbolic Gestures and the Generation of Global Social Control : The International Criminal Court*. Lexington Books, 2006.
- Rudolph, Christopher. "Constructing an Atrocities Regime: The Politics of War Crimes Tribunals." *International Organization* 55, no. 3 (2001): 655-91.
- Ruggie, John G. *Just Business : Multinational Corporations and Human Rights*. New York: W. W. Norton & Company, 2013.
- Salehyan, Idean, Salehyan Idean, Siroky David, and M. Wood Reed. "External Rebel Sponsorship and Civilian Abuse: A Principal-Agent Analysis of Wartime Atrocities." *International organization* 68, no. 3 (01/2014 2014): 633-61.
- Sanin, Francisco Guterrez, and Elisabeth Jean Wood. "Ideology in Civil War: Instrumental Adoption and Beyond." *Journal of Peace Research* 51, no. 2 (2014): 213-26.
- Schneider, Gerald, G. Schneider, M. Bussmann, and C. Ruhe. "The Dynamics of Mass Killings: Testing Time-Series Models of One-Sided Violence in the Bosnian Civil War." *International interactions* 38, no. 4 (2012): 443-61.
- Seifert, Ruth. "The Second Front: The Logic of Sexual Violence in Wars." *Women's studies international forum* 19, no. 1 (01/1996): 35.
- Sharlach, Lisa. "Rape as Genocide: Bangladesh, the Former Yugoslavia, and Rwanda." *New political science* 22, no. 1 (01/2000): 89-102.
- Sikkink, Kathryn. *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics*. New York: W. W. Norton & Company, 2011.
- Simmons, Beth , and Allison Danner. "Credible Commitments and the International Criminal Court." *International Organization* 64, no. 2 (2010): 225-56.
- Sinno, Abdulkader H. *Organizations at War in Afghanistan and Beyond*. Ithaca, N.Y.: Cornell University Press, 2009.
- Smeulers, Alette. "Perpetrators of International Crimes: Towards a Typology." In *Supranational Criminology : Towards a Criminology of International Crimes*, edited by Alette Smeulers and Roelof Haveman, xv, 593 p. Antwerp: Intersentia, 2008.

- . "What Transforms Ordinary People into Gross Human Rights Violators?". In *Understanding Human Rights Violations: New Systematic Studies*, edited by Sabine C. Carey and Steven C. Poe. Aldershot, England: Ashgate, 2004.
- Smeulers, Alette, and Roelof Haveman. *Supranational Criminology : Towards a Criminology of International Crimes* [in English]. Antwerp: Intersentia, 2008.
- Snyder, Jack, and Leslie Vinjamuri. "Trials and Errors: Principle and Pragmatism in Strategies of International Justice." *International Security* 28, no. 3 (2003): 5-44.
- Stanton, Jessica. "Strategies of Violence and Restraint in Civil War." ProQuest, UMI Dissertations Publishing, 2009.
- Stanton, Jessica A. "Terrorism in the Context of Civil War." *The Journal of politics* 75, no. 4 (28/2013 2013): 1009-22.
- Sullivan, Christopher. "Blood in the Village: A Local-Level Investigation of State Massacres." *Conflict Management and Peace Science* 29, no. 4 (2012): 373-96.
- Triffterer, Otto. "The Preventive and Repressive Function of the International Criminal Court." In *The Rome Statute of the International Criminal Court: A Challenge to Impunity*, edited by Mouro Politi and Giuseppe Nesi. Farnham: Ashgate, 2001.
- UN Generaly Assembly. *Rome Statute of the International Criminal Court (Last Amended 2010)*. 17 July 1998.
- United Nations Peacemaker. "Accord De Paix De Birao." <http://peacemaker.un.org/car-birao-accord2007>.
- United Nations Security Council. *Resolution S/Res/827*. New York, N.Y.: United Nations Security Council 3217th Meeting, 25 May 1993.
- Valentino, Benjamin, Paul Huth, and Dylan Balch-Lindsay. "Draining the Sea: Mass Killing and Guerilla Warfare." *International Organization* 58, no. 2 (2004): 375-407.
- Vinci, Anthony. "The Strategic Use of Fear by the Lord's Resistance Army." *Small Wars & Insurgencies* 16, no. 3 (2005/09/01 2005): 360-81.
- von Holderstein Holtermann, Jakob. "A "Slice of Cheese"--a Deterrence-Based Argument for the International Criminal Court." *Human Rights Review* 11 (2010): 289-315.
- Weinstein, Jeremy M. *Inside Rebellion : The Politics of Insurgent Violence*. Cambridge Studies in Comparative Politics. Cambridge ; New York: Cambridge University Press, 2007.
- Wippman, David. "The Costs of International Justice." *The American Journal of International Law* 100, no. 4 (2006): 861-81.

- Wood, Elisabeth Jean. "The Social Processes of Civil War: The Wartime Transformation of Social Networks." *Annual Review of Political Science* 11 (2008): 539-61.
- Wood, Reed M., and Jacob D. Kathman. "Too Much of a Bad Thing? Civilian Victimization and Bargaining in Civil War." *British Journal of Political Science* 44, no. 3 (2014): 685-706.
- Wood, Reed M., Jacob D. Kathman, and Stephen E. Gent. "Armed Intervention and Civilian Victimization in Intrastate Conflicts." *Journal of Peace Research* 49, no. 5 (2012): 647-60.