A Funny Thing Happened on the Way to Rome: 
Explaining International Criminal Court Negotiations

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Abstract

The first proposal for the International Criminal Court (ICC) in 1994 envisioned a weak institution. Over the subsequent four years, states surprisingly strengthened the draft to create a robust ICC with novel enforcement authority. What happened and why? We argue that during negotiations governments adopted the positions of the international partners on whom they depend for a diverse set of goods that includes trade, security, and foreign policy success in international organizations. We label this set of partners a “dependence network.” In our approach, leaders watch closely how other governments behave within their dependence network and alter their own actions accordingly. We test this theory against a variety of other explanations on a new database that codes state negotiating positions relative to four key institutional features of the ICC. We find that trade networks substantially influence state negotiating positions on the ICC even taking into account an array of other factors.
At the end of World War II, some idealistic states and nonstate actors pushed for the creation of a permanent international human rights court that would build on the success at Nuremberg. Yet most states, concerned about their sovereignty, strongly resisted such a court, even for the most heinous crimes. Over the next 40 years, proponents kept proposals for a court alive in obscure United Nations (UN) study commissions but never made substantial progress. At the end of the Cold War and in the face of brewing human rights troubles in Yugoslavia and Somalia, a few states decided to make a renewed push for an international court. The UN General Assembly (GA) delegated the task of creating a draft statute to the International Law Commission (ILC), an expert body of legal scholars that had studied the issue on and off during the previous decades (Morton 2000). The Commission, well-experienced with state reluctance to actually do anything to protect human rights, produced an August 1994 draft statute that envisioned a relatively weak International Criminal Court (ICC) that would serve as an agent of the Security Council. Virtually everyone expected that only a relatively toothless Court that served the interests of powerful states could gain approval.

Over the next four years, however, a funny thing happened on the way to the Rome Statute for an International Criminal Court, adopted in July 1998. States unexpectedly strengthened the ILC’s proposal for a weak Court in several ways. In the end, states endowed the Court with an independent prosecutor able to initiate cases, prevented the Court from falling under exclusive Security Council control, granted the Court automatic jurisdiction upon state ratification of the statute, and granted relatively permissive conditions under which the Court could exercise its jurisdiction. None of these provisions existed in the ILC’s draft. We do not analyze state support for the ICC as a whole but rather state support for these central institutional features that most deeply affected state sovereignty and Court autonomy.
The reach and teeth of the ICC provoke a compelling question: Why did states create an institution to enforce international norms in such robust ways, even facilitating possible strong ICC action against high-level government officials? Such behavior is puzzling because states jealously guarding their sovereignty have traditionally been quite reluctant to support international institutions with the ability to enforce international norms. While the ICC is unusual, it is not unique: states have now created around 100 functioning judicial and quasi-judicial international institutions with independent, binding authority to adjudicate disputes about and identify violations of international norms (Romano 2006). Many of these institutions are able either to sanction violations themselves through verbal reprimands or legal rulings, or to authorize states to sanction violations. Some are among the most prominent international institutions, such as the World Trade Organization, the European Court of Human Rights (ECHR), and the European Court of Justice. Important differences of course exist between these various institutions; one important distinction is between courts that sanction states (such as the ECHR) and those that hold individuals accountable (such as the ICC). Despite their increasing numbers, international enforcement institutions are relatively uncommon because they are potentially costly to state sovereignty. States can use the ICC and other courts to their advantage, as Congo has in getting the ICC to prosecute renegade warlords, but the threat that the ICC (or other courts) will exercise its independence and binding decision-making power contrary to the wishes of particular states remains a real possibility. If we can explain such costly institutions, we are likely to improve our explanations of all types of international institutions.

We argue that governments support (or fail to support) international institutions because they care deeply about the potential reactions of the international partners on whom they depend for a diverse set of goods that range from trade and security to votes and support in international
organizations (IOs). We label this set of partners a “dependence network.” In our approach, leaders watch closely how other governments behave within their dependence network and alter their own actions to be more consistent with those of their partners. Leaders value approval from network partners as a way to be rewarded with other goods, such as political support for a foreign policy initiative, or to avoid punishments, such as the withdrawal of such support (Horne 2007).

For any given state, a dependence network is a set of partner states with whom it regularly engages in exchanges of valued goods, where those exchanges would be costly to break. We measure three dependence networks for any given state by examining that state’s trade partners, alliance partners, and international organization (IO) partners. We weight partners by their material capabilities (e.g., GDP, trade volume) in order to capture dependence and not just interaction. Within any given state’s network, larger states with more resources are more likely to exercise influence than smaller states with fewer resources.

Network partners do not always actually need to use their resources to reward or punish others’ behavior—though they of course do sometimes use them. In many cases, if governments care about the economic, security, and political goods their network partners provide, they can anticipate the likely reactions of their partners and behave in ways they expect their partners will approve (Centola, Willer, and Macy 2005; Posner 2000). We do not wish to imply that states are always clearly and explicitly rewarded or punished for their behavior by their network partners. Rather, we expect states to engage in “diffuse reciprocity” with their network partners where they reasonably expect some return for their behavior, but the contingency and equivalence of that return remains relatively ambiguous (Keohane 1986, 4-8).

This approach differs substantially from standard explanations for international
institutions. We test our explanation in this paper against these alternatives. Scholars most commonly consider the direct benefits and costs of international institutions (those accruing to the state due to the nature of the institution) and argue that states make expected utility calculations accordingly. The direct benefits of international institutions frequently occur by either reducing the transaction costs of states acting separately or by “locking in” current behaviors for the future (Abbott and Snidal 2000; Moravcsik 2000). Attention to direct costs suggests that states are less likely to commit when it appears expensive to change domestic policies in the short run, when they fear the unintended consequences of commitment, or when they want the flexibility to change policy in the future (Goodliffe and Hawkins 2006).

We also test our argument against common contentions in the literature that state commitment behavior is driven by other kinds of ties among states (Simmons 2000; Cole 2005; Landman 2005; Simmons, Dobbin and Garrett 2006). We examine a variety of possible ties in this paper, including geography, language, civilization, religion and colonial heritage.

To test these explanations, we have developed a new dataset of the positions that states adopted during ICC negotiations, 1992-98. These negotiations were enormously complex, involving dozens of governments and NGOs discussing innumerable issues over several years. We isolated four issues, detailed below, that best capture the ability of the ICC to impose high levels of obligation on states and to act independently of state control, two dimensions of legalization that give the ICC such strong enforcement power (Abbott and Snidal 2000). While a large literature has summarized and analyzed the negotiating process (Lee 1999; Benedetti and Washburn 1999; Scheffer 1999; Schabas 2001; Fehl 2004; Bassiouni 2005), no published works have systematically coded the universe of state positions on these key issues across time and analyzed their causes using quantitative methods. We seek to explain aggregate state positions on
these four issues as an indicator of overall state commitment to a strong ICC. We observe those state positions each year until the 1998 Rome Conference, where we observe them four times during the final negotiations. We do not include the final vote to adopt the ICC Statute in our analysis because we are interested in the strength of state support for the most politically important institutional features, a variable that is not captured by the all-or-nothing final vote.

**ICC Negotiations**

From 1992 to 1998, states debated and negotiated the proposed ICC at the United Nations and in related preparatory commissions. In this section, we provide a summary of those negotiations based on our own coding of the positions that states adopted in their oral and written comments and on secondary sources provided by participants.¹

As early as the first state comments in 1992, several small states like Uruguay and the Netherlands immediately expressed a desire for a strong, autonomous court. Some, like Brazil and China, said they favored its creation, but argued it was not politically feasible. Others were openly skeptical—most notably the United States who “believed that it was neither necessary nor desirable for the Sixth Committee or the General Assembly to request further work by the Commission on the possible establishment of an international criminal court….” (UN General Assembly 1992, 17). The horrific violence in the Balkans, however, prompted the GA to request that the ILC speed up the drafting process, which was completed in October 1994. In the meantime, the Security Council in May 1993 established the International Criminal Tribunal for Yugoslavia (ICTY). The ICTY addressed one regional conflict, but some states felt a stronger deterrent was necessary—a deterrent that could be best found in a permanent court.

As the proposal moved forward, four issues emerged that proved especially divisive—issues that would continue to be the most sensitive items of debate for the next three and a half
years. Though actual debate on each issue would ebb and flow, all four remained a source of
constant concern. The issues were, first, the role of the Security Council, second, the level of
independence granted to the prosecutor, third, the method by which states would accept the
Court’s jurisdiction, and fourth, the preconditions that needed to be met in order for the Court to
exercise that jurisdiction.

The first two issues concern the level of delegation granted to the Court and the latter two
have to do with the level of obligation that states undertake when ratifying the Statute. From
1994-1998, states preferring low levels of delegation took the position that the Security Council
should have exclusive control over the Court’s agenda and that the Court should not have an
independent prosecutor capable of bringing cases. States preferring higher levels of delegation
favored a strong independent prosecutor who could initiate cases rather than waiting for state
referrals or Security Council action. With respect to obligation, states pushing for higher levels
of obligation favored inherent jurisdiction, or granting the court automatic jurisdiction by virtue
of ratifying the statute. They also wanted the Court to be able to act in particular cases with
relatively few preconditions. Those favoring low levels of obligation preferred a mechanism
where states would accept the Court’s jurisdiction on a case-by-case basis and, if they lost that
battle, wanted to impose a series of preconditions before the ICC could exercise jurisdiction. The
most restrictive preconditions would have required that all states with some claim to jurisdiction
in a particular case (based on the location of the crime, the nationality of the victim, the
nationality of the accused, and the state holding custody) must have accepted the Court’s
jurisdiction before the Court could act.

On all four issues, the 1994 ILC draft adopted a position favoring lower levels of
obligation and delegation and hence a weaker Court that was more subject to state control. In the
draft, the *Security Council* had the exclusive authority to refer cases to the court and to defer cases previously referred. The *prosecutor* had no power to bring cases before the court. The provisions regarding *acceptance of jurisdiction* were incredibly flexible, allowing states to opt into the Court’s jurisdiction upon ratification or at a later date. Moreover, states did not have to accept the Court’s jurisdiction across all time periods and crimes, but could do so selectively. Finally, the *preconditions on Court action* were strenuous. Although the Court could commence prosecution on genocide crimes at will, all other crimes required the consent of the custodial state (who held the suspect), the territorial state (where the alleged crime occurred), and any states requesting extradition of the suspect. Most states stayed on the sidelines, but, among those registering their opinions, skeptics of a strong Court (and thus those favoring the ILC draft) clearly held the upper hand in 1994.

In December 1994, the GA established an Ad Hoc Committee to revise the ILC’s draft in an effort to reach agreement on a statute. The ground began to shift 1995-96 as many states began to favor a stronger ICC, a trend apparent in the negotiating history and quantified in our overall scale of support for a strong ICC, which runs from $-4$ to $+4$ (with more positive scores indicating stronger support). We explain this coding scheme in detail later, but to summarize, we award each state one point for each of the four major issues where they explicitly favor a stronger ICC. We subtract one point for each of the four major issues where they explicitly oppose a stronger ICC. We sum these points at each moment in time when states have an opportunity to express their opinions, generally twice a year. In 1995, six of the world’s 20 most powerful states (as measured in GDP) scored a 1 or 2 on this scale (Argentina, Canada, France, Netherlands, Sweden, and Switzerland) and none scored higher. As importantly, the United States scaled back its objections from a $-4$ in 1994 to a $-1$ in 1995 while Russia remained
noncommittal either way at a 0. In 1996, ten of the 20 most powerful states—undoubtedly examining the prior shift in US position—recorded a positive score, and five of those registered very strong support with a 3 or a 4 (Argentina, Canada, Germany, Switzerland, and Sweden). The United States and Russia countered strongly in 1996 with a −4 and a −3 respectively and France hardened to a −1, but Japan, another important skeptic, relaxed its opposition from a -2 to a 0.

Substantively, many states approved of the Security Council’s ability to refer cases, but supporters of a strong ICC objected to its power to defer cases before the court—a provision that would become the main item of contention (Wilmshurst 1999, 131; UN General Assembly, 1995, 28). Given the number of states who do not share great love for the Security Council, it is little surprise that on this dimension ICC supporters first made the greatest headway. By 1996, supporters of an ICC free from Council control outnumbered opponents 49-5. In 1996, Germany was the first large state to support an independent prosecutor and was joined that year by a number of medium-sized states like Chile, Egypt, Denmark, Sweden and Poland, bringing the number of supporters to 15. On inherent jurisdiction, Germany was one of the first states to reverse its position and support the concept, in 1994, followed by Belgium, France, Austria, Norway, Sweden, Poland, Canada and Denmark, among others, in 1995. The issue of preconditions to the exercise of jurisdiction—the most sensitive for the United States—quickly became a complex intersection of overlapping proposals. Germany was also one of the first large states to support reducing the preconditons on the exercise of its authority, but here it was opposed by other major states like Britain and France. Not surprisingly, this issue was one of the last to be resolved in the Rome negotiations and was marked in the end by a complicated compromise.
After receiving the report of the Ad Hoc Committee in September 1995, and realizing the immense amount of work still to be done, the GA decided to create a Preparatory Committee (PrepCom) to continue negotiations from March 1996 to April 1998 (Schabas 2001, 14-15; Benedetti and Washburn 1999, 3). Most historical accounts of this period stress the emergence of the “like-minded states” (numbering about 40 by the end of the PrepCom) who worked in alliance with a large and vocal group of NGOs to strengthen the ICC (Bendetti and Washburn 1999, 16-23). While like-minded states were undoubtedly important, our coding of state positions in 1997 suggests that most states were still exercising substantial caution. Brazil, China, France, India and Russia all registered opposition to a strong ICC in 1996 while Japan and Britain remained noncommittal. It is thus perhaps not surprising that Argentina, Canada, Germany, Italy, the Netherlands, Sweden and Switzerland all dialed back their support for a strong ICC in 1997—sometimes even to neutral levels—despite the fact that all claimed to belong to the “like-minded” supportive group. Moderated support makes sense if those states were considering the preferences of powerful skeptics on whom they were partly dependent.

Substantively, conflict over the Security Council’s role continued to plague the delegates throughout the PrepCom process, with the Permanent 5 favoring Security Council control over the Court and others wanting to give the Court more independence (Benedetti and Washburn 1999, 19). A compromise emerged in December 1997 that allowed the Security Council to defer ICC action, but only with a positive vote and only for a year at a time. Britain broke with other permanent members of the Council to back this compromise, which was ultimately adopted (Yee 1999, 146-147). Those favoring an independent prosecutor steadily gained supporters after 1996, though a small but adamant group of opponents remained, including China, India, Iran, Israel, Japan, Russia, and the United States. In response, proponents promoted a series of checks on
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prosecutorial power, most of which were adopted (Holmes 2001, 32; Fernández de Gurmendi 1999, 184).

During the PrepCom, states also struggled to find mutually acceptable provisions regarding jurisdictional issues. Though a majority were already in favor of inherent jurisdiction over core crimes like genocide, many continued to fight for more restrictive measures including Brazil, China, India, Indonesia, Iran, Pakistan, Russia, and the United States. Germany countered with a proposal granting the ICC universal jurisdiction, which would eliminate the opt-in mechanism and all preconditions to the exercise of jurisdiction. Britain made the most decisive move when it threw its support behind inherent jurisdiction in early 1998 (Wilmshurst 1999, 131-133). Throughout the PrepCom, states continued taking polar positions on the preconditions to the exercise of jurisdiction. Some, like Germany, felt universal jurisdiction was justified. Others felt that all interested states should consent before a case could move forward, while the like-minded took the middle ground in accepting preconditions but fighting to keep them to a minimum (Hall 1998, 131-132). With many states still miles apart, the PrepCom ended in early 1998 without any viable compromises on the table.

Ultimately, the PrepCom delivered a draft statute for consideration at the upcoming Rome Conference, though the draft was riddled with contested text. On June 15, 1998, states convened in Rome to finalize the ICC Statute. Negotiating positions during the month-long conference were remarkably fluid as states toyed with compromises that might produce broader support for a somewhat weaker Court, but in the end supporters decided they had the votes to push through a very strong Court even if a few states strongly objected and others just went along. It is notable that only 64 of 163 states at the Rome Conference expressed support for all four dimensions of a strong Court at any of the four points where they went on record during the
Conference, yet the final Statute included all four of those dimensions. Some states, like Germany and the Netherlands, maintained consistent support for a strong ICC throughout the conference. Others, like the United States, began with soft opposition, undoubtedly hoping to find common ground with others and thus create a less powerful court, but hardened their opposition as compromise positions failed. Others, like Argentina and Canada, sometimes expressed strong support but other times backed off considerably (swinging from 3 or 4 to 0). Many states—most of them relatively small and torn by competing loyalties—stayed safely near the middle. For example, the Philippines, whose major trading partners in the mid-1990s included the United States, Japan (increasingly though moderately supportive of the ICC) and Germany, remained judiciously in the 0-1 range.

In the end, states adopted decisions favoring a strong ICC on all four of the dimensions considered here. They guaranteed the Court’s independence by imposing a one-year limit (renewable) on the amount of time the Security Council could defer cases (Yee 1999, 152) and by moving forward with an independent prosecutor, albeit with checks on his power (Fernández de Gurmendi 1999, 187-188). States also increased their levels of obligation by requiring inherent jurisdiction, though not before allowing a seven-year opt out period on war crimes, at the insistence of France (Wilmhurst 1999, 134-138). Regarding exercise of jurisdiction, most states endorsed a compromise proposal that required the Court to obtain either the consent of the territorial state or the state of the nationality of the accused before it could act (Kim 1999, 67-68). This compromise was insufficient to satiate US demands and many delegates left Rome frustrated that the United States had weakened the statute and still rejected it. Despite such compromises, the final statute created an ICC that was far more independent and obligatory than the 1994 draft or than most advocates had dared hope.
Why Create a Strong ICC?

By creating the ICC, states delegated authority to a centralized institution to carry out enforcement against norm violators. Negotiating positions favoring a strong ICC can be seen as early commitments to centralized norm enforcement. Of course, negotiating the ICC did not guarantee it would ever come into existence or utilize its enforcement power. Realizing they could back off later by refusing to ratify or participate, some states undoubtedly adopted negotiating positions that were “cheap talk.” Yet there are good reasons to believe that most negotiating positions were more than cheap talk, that they represented state commitments to enforce (or not) international human rights norms. As discussed above, the ICC imposes fairly high sovereignty costs on states and can even potentially impose some costs on states that do not ratify the agreement or participate in the institution. States and NGOs realized this from the start, which is one reason the ICC attracted so much more attention than most international treaty negotiations. If negotiating positions were nothing but cheap talk, more states should have supported a strong ICC from the beginning, in order to reap the rewards of championing justice and human rights; there would no reason to hold back. If negotiating positions had no consequence, the United States and other opponents would have supported a strong ICC and welcomed the support of others. By adopting positions supportive of a strong ICC during negotiations, governments told others that certain kinds of human rights violations would be prosecuted. Why, then, did states adopt those positions?

Dependence Networks

Our explanation draws from new sociological research that demonstrates the importance of exchange networks for understanding norm enforcement (Horne 2007; Horne and Cutlip
Goodliffe and Hawkins 2002). It shows that actors’ ties with others critically affect their own behavior. The central insight is that actors consider the likely reactions of their network partners when making enforcement decisions.

They do not place equal weight on all such potential reactions, however. An important characteristic of network relations is dependence. Dependence refers to the value that actors place on the goods they can obtain through an exchange relation, taking into account their alternative sources of those goods (Emerson 1962; Molm 1997). The goods that actors value could be tangible (trade, military support) or intangible (credibility, social status). Research suggests that actors care about maintaining relations with those on whom they are dependent, and they not surprisingly prefer positive rather than negative responses from them. If an individual is not dependent on others, then she does not care whether others react positively or negatively and does not have to worry about maintaining a relationship. If she is dependent, however, she wants others to react positively and she cares about maintaining relationships. Dependence, then, increases the extent to which actors consider the likely reactions of their exchange partners, and in turn engage in behavior that is pleasing to those partners—including committing to enforcement institutions (Horne 2007).

Dependence is a structural relationship between states that facilitates and increases the importance of rewards and punishments from network partners. For dependence to have an effect, those rewards and punishments do not need to be either clearly contingent on or of equivalent value to the behavior being rewarded or punished. States need not make any explicit rewards or punishments or even any promises or threats for others who are dependent on them to behave in similar ways. Network partners need only anticipate possible rewards or punishments or observe (or believe they observe) such rewards or punishments for themselves or others.
Rewards or punishments do not need to be material in nature; they may involve rhetorical support or condemnation.

Our argument here echoes Keohane’s classic distinction between specific and diffuse reciprocity (Keohane 1986, 8; Lepgold and Shambaugh 2002). Specific reciprocity involves exchanges where the contingent nature of that exchange is explicit and specific and where the equivalency of the exchange is high (each side gains equally). The classic example involves reciprocal tariff structures. In diffuse reciprocity, contingency is looser and equivalency is rougher, as when states have granted most-favored-nation trading status without any conditions on other states reciprocating but with a general belief that others will reciprocate in some fashion. One exchange partner engages in a behavior for which she expects to be rewarded, but when and how the reward occurs and the magnitude of that reward is left undefined. Dependence structures facilitate loose contingency and equivalency because they ensure ongoing interactions on issues of importance to states within a given network and hence generate many opportunities for rewards or punishment.

What does this argument suggest about state behavior relative to the ICC? To the extent that a government is dependent on other countries, it will want to appear both responsible and responsive to its partners. It will want both positive reactions and maintenance of relations. Thus, the government will try to anticipate how its partners might view its behavior. If governments claim that human rights matter, but no government acts on this claim, this would suggest that governments are not truly concerned about enforcement and, thus, there is little pressure on others to commit to an enforcement mechanism. On the other hand, if governments not only say that human rights matter, but they also commit to costly international norm enforcement by favoring a strong ICC during negotiations, then this behavior suggests they believe that it is
important for states to commit to the punishment of human rights violators. If a government is completely independent (it does not need anything from anybody), then it can freely ignore the opinions of others. But, if the government depends on countries that have committed to a strong ICC, leaders will likely conclude that their partners will react positively to those who also commit to punish human rights violators. Thus, the government will be more likely to take a position favoring a strong ICC. This holds even if the leaders themselves have not internalized human rights norms or only believe in them superficially.

Thus, for any particular government, the larger the proportion of its network partners that strongly supported the ICC, the stronger the pressure of committing to the ICC as an enforcement mechanism, and the greater the likelihood that the government would commit. This is because the larger the proportion of network partners who commit, the greater the positive feedback a country is likely to get if it commits, and the greater the risk of negative feedback (pressure) if a country does not commit. As noted, not all network partners are created equally. Dependence matters because states can impose rewards and punishments, either material or social, on others. Network partners with larger resources and with more interactions are likely to have greater influence than partners with fewer resources and interactions.

The causal factor and mechanisms that we advance need to be distinguished from other theoretical explanations. A new wave of research examines the diffusion of policies from one country to another. Simmons and Elkins (2004) examine a variety of causal mechanisms for the spread of neoliberal economic policies by focusing on competition, information transmission, and reputation. Of these, reputation is most closely related to our argument about dependence networks. In the competition mechanism, states respond to policies adopted by their competitors, not their network partners, in order to maintain a competitive edge in the global economy. In the
information mechanism, states learn good policies by observing the success of others, an argument that obviously differs from our emphasis on dependence. In the reputation mechanism, states respond to overall global trends in order to maintain their reputation. We agree that states value their reputations or status and hence want to behave in ways that garner the approval of others. We specify this argument further, however, by focusing on network partners who possess important material resources that can be used to reward and punish others and by arguing that states do not care about reputation as an end in itself but rather worry about maintaining positive relations with partners on whom they depend.

Other studies have recently focused on networks, but highlight issues such as prestige and structural equivalence within a network (Hafner-Burton and Montgomery 2006). Prestige refers to social status and competence where others take your advice because you are believed to be an expert or an authoritative voice, a mechanism that is conceptually distinct from dependence. Structural equivalence refers to actors who share the same types of ties with similar other actors (e.g., two states who occupy dominant positions in their respective networks) and is thus also different from dependence. More recently, Simmons, Dobbin, and Garrett (2006) expanded Simmons’ set of causal mechanisms driving diffusion to include “coercion,” a broad category that might possibly include dependence networks. Yet their approach undertheorizes coercion and fails to consider dependence networks. The associated papers in the “symposium” of the journal *International Organization* focus mostly on the mechanism of competition without conducting any empirical tests of network dependence as a likely form of “coercion.”

The key causal concept in our theory, dependence networks, is similar to the notion of “interdependence” in international relations, as long as that term is defined in classic terms as “need fulfillment that would be costly to forgo” (Baldwin 1980, 476; see also Keohane and Nye
Our central refinement of most of the scholarly work on interdependence is to conceptualize dependence as existing within a network. Most existing studies either measure interdependence dyadically or omnidirectionally. Examples of the dyadic approach abound in the literature on international conflict, where common measures of interdependence include the ratio of bilateral trade to GDP and the real value of bilateral trade (Russett and Oneal 2001, 140-141; Mansfield and Pevehouse 2000, 784-795). Others conceptualize dependence omnidirectionally, as when Domke (1988) measured the dependence of each state by examining exports as a proportion of GNP, the change in exports as a proportion of GNP, and exports as a proportion of GNP corrected by economic size. Both approaches are sensible for particular kinds of questions, but they also obscure a key question that we centralize: On which set of states is a state most dependent?

The implication is that any given state does not just ask what its most important bilateral partner is doing or what states generally are doing. Rather, each state will consider the positions of its whole set of partners on any given issue and weight those partners by their importance. We explain this in more detail in the operationalization section, but the conceptual point here is also crucial. Because preferences within a set of states are likely to vary, any given state will be pulled in multiple directions by its partners. The more important the partner, the greater the pull. It is possible that some states will be conjoined in a fairly tight-knit network where all states network with each other rather than outsiders and all share similar opinions. In that case, the network will simply reinforce their already existing preferences. But most states are unlikely to have a network of states with homogenous preferences and hence most states will be looking to split the difference among various partners. As their partners shift positions, they will look to
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react to those shifts. They of course have independent reasons for positions, but their positions are also influenced by their network partners, weighted by the importance of those partners.

We test our dependence network explanation of international institutions alongside other explanations that are well-established in the literature: the costs and benefits of the institution and identity and geographical ties among states. Network dependence theory does not by itself predict either a strong or a weak ICC and thus is complementary to other influences on state positions. It would be a mistake to assume, however, that network dependence does not influence states who are among the first to adopt clear negotiating positions. Suppose State A strongly favors a strong ICC, yet also worries about its network partners’ positions. It is likely to take a relatively neutral position in the earliest negotiating round while observing the positions of others. As the network partners’ positions are also likely to be relatively neutral, the following year State A will move only a little farther toward its preferred position (rather than all the way), exercising caution because it observed relatively neutral positions from its network partners. In this way, even positions at the earliest stages of negotiations are likely to be influenced by dependence networks in conjunction with other factors, which we now specify.

**Direct Benefits and Costs**

The first set of explanations focuses on the direct benefits and costs of the institutions themselves, an approach adopted by a large number of analysts (Abbott and Snidal 2000; Koremenos et al. 2001). On the benefits side, scholars routinely argue that international institutions can help cut transaction costs (Keohane 1984). States that pursue collective goods like international justice and peace on their own are likely to pay much higher costs than if an international institution could provide those goods cooperatively. Along these lines, those who negotiated the ICC treaty often argued that the costs of the Yugoslav and Rwandan Tribunals
were too high and they needed to be replaced with a more permanent and hence more cost-effective institution (Fehl 2004). A second possible direct benefit of international institutions is to lock in existing behavior for the future. In particular, Moravcsik argued that the primary proponents of binding international human rights institutions are the governments of newly established or unstable democracies and specifically suggested that his theory was applicable to the ICC (2000, 245). These governments fear the possible return to authoritarian rule and are seeking to “lock in” democratic principles. In this logic, established democracies will only offer lukewarm support for binding international human rights treaties because the costs of reduced sovereignty outweigh the benefits of the commitment. Additionally, authoritarian governments will not support international human rights institutions for obvious reasons.

While international institutions offer benefits, they also incur costs that vary from one state to the next in systematic ways. Following Goodliffe and Hawkins (2006), we identify three types of costs: policy change, unintended consequences, and limited flexibility. Policy change costs refer to the argument that the higher the congruence between a state’s policy and the international treaty, the lower its policy costs in committing to the treaty and the more likely it is to commit sooner (Downs, Rocke, and Barsoom 1996). Significant unintended consequences from treaty ratification are more likely to occur when states have a common law judicial system (Powell and Mitchell 2007) or are resource-poor. Flexibility costs occur when states face security threats and are likely to want to use human rights violations as a policy tool to respond to those threats (Davenport 2000; Poe, Tate, and Keith 1999).

**Geographical and Identity-Related State Ties**

It is possible that states are influenced by others because of other kinds of interactions or associations they have beyond dependence networks. The literatures on diffusion and on state
commitment to international institutions (including human rights treaties) are both useful guides here. Much of the diffusion literature is driven by the observation that state policies and practices tend to cluster geographically (Simmons, Dobbin and Garrett 2006). Studies of human rights and democracy have demonstrated that region is an important predictor of state behavior (Goodliffe and Hawkins 2006; Landman 2005; Gleditsch and Ward 2006) but the causal mechanism is unclear. States might be learning from nearby states, might feel pressured to conform to those near them, might be expressing underlying preferences, or might be shaped by regional norms.

A variety of theorists have advanced the argument that states share understandings, values and beliefs and that those understandings constitute state behavior. As particular beliefs become part of the set of shared understandings among states, states begin to act in ways that reflect those understandings. While this argument is often applied at a global level to all states who share identities as states (Cole 2005), it can also be applied to other groups of states. Finnemore and Sikkink (1998, 891) have argued that “There is general agreement on the definition of a norm as a standard of appropriate behavior for actors with a given identity.” In this view, norms—including human rights norms—are likely to be associated with particular state identities. In the same vein, Simmons, Dobbin and Garrett (2006) note that “sociocultural linkages (common language, history, religion, and so on) may contribute to ‘psychological proximity’ among nations. Indeed, many cross-national analyses of diffusion find significant effects of cultural similarities. . . .” Again, while there may be uncertainty about the particular causal mechanism, the general hypothesis emerging from this theoretical reasoning is that states who share particular sociocultural linkages related to identity are likely to also share similar practices, especially on normatively related issues like human rights.
Measurement

To test our hypotheses we develop a measure of the dependent variable, strong support for the ICC during negotiations, on the four issues discussed above and for four types of independent variables: dependence networks, benefits of commitment to the ICC, costs of commitment to the ICC, and geographical and identity ties among states.²

Support for the ICC

We coded support for a strong ICC on each of the four dimensions discussed above from 1992-98. States could Support or Oppose a strong ICC (on each dimension), or say they were Neutral, or say nothing at all (or not attend the negotiations). In most years, states had two opportunities to state their positions on the ICC, though in some years they only had one chance and in 1998, while at Rome, they had four chances. Especially in the early years, states infrequently stated their positions. Hence from 1992-97, we collapse multiple observations within a year into a single observation to avoid the misleading implication that support and opposition dwindled dramatically during most of the year only to swell in October and November when states met at the UN. For 1998, we preserved all four moments when states were asked to clarify their positions during the Rome negotiations. We had at least two students code every statement, oral or written, made by states across these seven years. Our data include every state comment made during the entire period of negotiations on the ICC including the early years when states were commenting on the work of the ILC, which had been delegated drafting responsibilities. Intercoder reliability ran above 90 percent, with differences resolved first by discussion among the coders and ultimately by one of the authors.
Because we wish to explain change in overall state support for a strong ICC, we created an aggregate measure that combined the four dimensions into one variable. We set Support equal to +1, Oppose equal to −1, and Neutral (or no position) equal to 0. We then summed the four measures together to create an Aggregate Position variable, which ranged from −4 to +4, where positive scores show greater support for a strong ICC. The average Aggregate Position moves from 0 in 1992 to 1.2 in 1998, with the standard deviation increasing from 1.0 to 2.1. The greatest movement of Aggregate Position in one year is from 0 to 4. Conceptually, this approach makes sense because these four issues taken together determine the overall ability of the ICC to actually enforce international norms. The four issues are of roughly equal importance in determining enforcement ability: a Court without one of the four features would be about as equally impaired as if it were missing one of the other features. Empirically, this approach is justified because negotiators kept these issues together during negotiations and states explicitly discussed their overall position on these four issues, even trading off support in one issue for compromise in another and so forth. Once it became apparent that proponents of inherent jurisdiction would prevail, for example, opponents supported inherent jurisdiction but also hardened their opposition to loosening the conditions on exercising jurisdiction. If the issues were analyzed separately, we would miss the fact that a state’s increasing support for one of the dimensions does not necessarily reflect increasing overall support for a stronger Court.

**Dependence Networks**

Dependence is a structural factor that is difficult to observe directly. In the laboratory, one can manipulate dependence. In natural settings, we have to measure it by examining interactions—this approach makes sense because interactions vary with dependence structures. States that are dependent on one another are likely to interact more extensively. Hence, we can
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read dependence off of interactions. Interaction is obviously not a perfect measure of dependence, but it is better than alternatives such as asking state elites what they value and on whom they depend, or by reading statements from states about what relations they value—such self-reported data have well-known weaknesses.

The question then becomes what kinds of interactions to measure. In sociological experiments, dependence is typically operationalized using money; interactions involve monetary exchange. This does not mean that dependence is always about material resources; scholars use money because it is likely that everyone values it—money is fungible and therefore can be exchanged for other desirable (including idiosyncratic) goods (Hechter 1994; Molm 1997). In international relations, states might be dependent on another country for a natural resource (oil), for people (soldiers to help fight a war), political support (to help pressure other nations, provide cover at home), etc. Basically, whatever a nation values or needs can be a source of dependence.

We attempt to capture different dimensions of what states value by examining security alliances, trade relations and shared memberships in international organizations. For each state, we calculate its *Aggregate Position*, as explicated above. To calculate the role of dependence networks, we take a weighted average of the *Aggregate Position* scores of a state’s network partners. We measure *Security Networks* by examining formal alliances. Where State A is in an alliance to come to the defensive aid of State B, we call this a security partnership that creates mutual dependence. We then calculate the average *Aggregate Position* of all of State A’s security partners, where each partner is weighted by its capabilities (as calculated by the Correlates of War project; see Data Appendix). For *Trade Networks*, we calculate the *Aggregate
Position of all of State A’s trade partners, where each partner is weighted by its proportion of total trade (imports and exports) with State A.

For IO Networks we examine IOs with a significant bureaucratic apparatus whose functions are either multi-purpose, security provision, or oriented to general economic welfare (see Data Appendix for details). This excludes less institutionalized IOs that are little more than arenas for state meetings and IOs that deal with issues of lesser importance to states such as industry-specific agreements, education and research institutions or standard-setting organizations. In other words, we include only the most important IOs where dependence is likely to occur. We expect states to seek the votes and budget commitments of others in these IOs to accomplish their foreign policy goals, and states are therefore dependent on other members of these IOs. For each state, we calculate the average Aggregate Position of its partners, where each partner is weighted by the number of shared memberships and by the proportion of the UN’s general budget contributed by that partner. In the absence of data on financial contributions of all states to all IOs, UN budget contributions provides a measure of the state’s importance and influence in IOs generally and hence other states’ dependence on them.

In weighting partners by capabilities, we better capture the essence of dependence and better approximate a state’s ability to reward or punish others. By focusing on the conjunction of power resources and preferences, we increase confidence in our claim that the causal mechanism is dependence rather than something else like shared identities or just linkages. To illustrate how a trade dependence network works, suppose a state does 25 percent of its trade with Germany, 25 percent with the Netherlands, and 50 percent with the United States. If Germany and the Netherlands strongly support the ICC (+4 each) and the US opposes it a little less strongly (−3), then the position of that state’s trade dependence network is 0.5 (= 0.25×4 + 0.25×4 + 0.50×−3).
If the state was influenced through trade dependence, we would expect that country to move toward 0.5. Similar calculations apply to the other networks. The limitation to this operationalization is that it treats all states as equally dependent on others in the aggregate without accounting for a state’s ability to act on its own without any partners. It suggests, in other words, that Great Britain is just as dependent on its trade partners as El Salvador is dependent on its trade partners. We do not view this assumption as especially problematic. Great Britain begins with much higher expectations than El Salvador of where it should be in terms of security and wellbeing and is quite dependent on others to maintain this level. If it were more efficient for Britain to attain its security and well-being without exchanging goods and services with others, it would. The fact that it engages in such widespread exchanges suggests it is dependent on others and thus even large, important states have dependence networks. What makes large states relatively more important is that they are more central to the dependence networks of a number of other states and are weighted by their size.

For these network measures, we do not expect that a state will be able to react instantaneously to the positions of its network partners. And if they could, we would be worried about reverse causality. Thus, we will lag the dependence measures one time period (one year from 1992-1997, one negotiating session in 1998).

**Direct Benefits and Costs**

We examine the transaction costs argument by measuring the dollar amount that states were assessed by the UN for the Yugoslav and Rwandan Tribunals. States frequently invoked the high *Tribunal Budgets* as an argument in favor of creating the ICC, thus echoing scholarly arguments about the benefits of a centralized institution decreasing transaction costs. The Tribunals’ costs escalated over the years, beginning around $43 million in 1995 and topping
$120 million in 1998. We measure each state’s assessed contribution to the tribunals’ budgets to estimate state interest in reducing transaction costs. This measure also captures state commitments to international organizations generally since the tribunal assessments were based primarily on the UN’s regular budget. The measure can also proxy for other benefits offered by IOs, such as burden-sharing. Trying war criminals is something that only the most powerful states are capable of; by creating the ICC they gain the benefits of having others contribute toward the costs of this task. Weighting by contribution thus also proxies for the comparative benefits that states receive from burden-sharing. It is possible that states might have supported a permanent tribunal as a way to lower costs, but just not this particular Court (especially as the details of the Court became clear). If so, we underestimate the size of this effect because some motivated by a transaction costs logic would have opposed a strong court in favor of a weaker court. Details on this and all other variables are found in the Data Appendix.

We examine the lock-in benefits by focusing on three factors, each of which captures a different dimension of Moravcsik’s argument—new democracies, unstable democracies, and political volatility. A New Democracy experiences a transition from authoritarian or quasi-democratic rule to high levels of democracy (a 7 or higher on the Polity scale ranging from −10 to +10) and remains a new democracy for ten years or until it falls back from high levels. Unstable Democracies are those that have undergone a transition to democracy but then have fallen back at any point since 1975, thus suggesting the potential that democracy will again be undermined. We interact this measure with the Polity measure since unstable states should be likely to commit to the ICC in periods of democracy. Regime Volatility occurs when a state’s political system tends to change a lot over time (measured by the standard deviation of the Polity
score from 1975-2003). Since we expect volatile countries to commit to the ICC while they are democratic, we interact volatility with the Polity score.

With respect to policy change costs, we expect that countries with high levels of democracy, high levels of citizen empowerment, low levels of human rights abuse, and leftist executives are more likely to support a strong ICC sooner because that position is already consistent with their policies and practices. We measure level of democracy with the Polity Score. Empowerment and human rights abuse are measured by the Empowerment Rights Index and Physical Integrity Rights Index. As we are worried about simultaneity of these scales with state positions, we lag those measures one year. Left Party Executives generally favor higher levels of government involvement in society and hence find it easier to include support for international institutions within their policy framework.

Unintended consequences can create additional costs for states, especially for states with a Common Law Legal System (measured as a dummy variable) and for states with a low GDP (measured with the natural logarithm of real GDP), as theorized above. Another type of cost is the cost of foreclosing policy options in the face of uncertainty and threat. We measure two different kinds of imminent threats, interstate disputes, using Militarized Dispute data, and internal unrest and civil war, using the State Failure Index data. In addition, states may be less likely to expose themselves when they have Forces Abroad, so we include the natural logarithm of that as a measure. Finally, because poverty is often associated with internal violence and war, we also examine (the natural logarithm of) real GDP per capita as a measure of latent threat.

**Geography, Identity and NGOs**

We include variables for Global Trends and Regional Trends. For each variable, we create one measure for the average Aggregate Position for all states in the world and another
measure for the average *Aggregate Position* of states within a particular geographical region, always leaving out the scores of the state whose position we wish to explain. We measure identities through *Colonization Networks*, *Language Networks*, or *Civilization Networks*. For each state, we calculate the average *Aggregate Position* of a state’s partners in those networks (always leaving out the scores of the state whose position we wish to explain). We also explore whether religious views matter by including dummy variables for *Catholic*, *Protestant*, and *Muslim*. Similar to the dependence measures, we do not expect that a state will be able to react instantaneously to the positions of others. And if they could, we would be worried about reverse causality. Thus, we will lag the dependence measures one time period (one year from 1992-1997, one negotiating session in 1998).

The conventional wisdom among observers is that NGOs (both national and international) played a crucial role in negotiating the Rome Statute. It is very difficult to measure NGO influence on individual state positions, however, because observers and theorists make few claims about which states are more susceptible to NGO efforts. We test one possibility: that NGOs influence the states in which they are located because state negotiators will be attentive to the domestic costs and benefits of an international deal. Because there is no systematic data on NGO size or importance, we use a proxy: for each country, the *Number of NGOs* (whether “domestic” or “international” in scope) who participated in the Rome conference and also had headquarters in that country. This measure is an improvement on typical measures that examine only whether a given NGO, usually Amnesty International, has an active organization in a given country because it focuses specifically on the Rome Statute and on a variety of NGOs, not just Amnesty. It seems likely that any NGOs present at Rome would have been pushing states toward a stronger ICC for some time prior to those final negotiations.\(^\text{5}\)
Methodology

Identifying the reasons why states adopted their positions is a methodologically tricky task. Close observers of the ICC may be skeptical of our argument about dependence networks because the negotiations focused on appropriate principles and rules with relatively little attention to politics or to issues of who was trying to please whom. Yet it is important not to equate the polite discourse observable in official negotiations with the totality of the political process. David Scheffer, chief US negotiator for the ICC, has argued that states definitely spent a lot of time looking at each other’s positions in a process he characterized as “state peer pressure,” one of the most prominent dynamics in the negotiations. He was less certain which states were looking at which—exactly the issue we address in this paper.6

Using qualitative methods to peer behind the curtain of official statements by government negotiators is quite difficult, but the available glimpses suggest a process in which officials attempted to lobby each other and made reference to outside sources of leverage in the process. News reports of the negotiations say very little about states lobbying each other, perhaps because states suspected lobbying would fail if it was public and perhaps because such lobbying was so routine. One diplomat cited U.S., French, Chinese and Russian pressure on the British position but attributed it to “normal co-ordination between the permanent five.”7 Scheffer, in testimony to Congress immediately after the negotiations concluded, said that he raised the issue of future US troop presence with a number of countries but in a relatively oblique way. He testified that he told others “it would be logical to assume that the consequences of our future posture in other countries is not only on our mind, but needs to be on their minds as well.”8 These efforts never made it into the newspapers and we would never know about them (at least not until the relevant documents are made public in a couple of dozen years) save for specific and persistent questions
that Scheffer faced in his Senate testimony. It is possible that no other state hinted at linkages between voting positions on the ICC and other kinds of rewards or punishments. But it is also possible that other states made linkages. Even if the linkages offered by other states were even more opaque and less contingent, it seems likely that states asked themselves what kind of payoff or penalty they might receive for the positions they took.

Qualitative evidence suggests other countries clearly paid careful attention to US positions, and it seems safe to assume they paid attention to the positions of other important states as well. In April 1998 the Pentagon feared that other militaries were not worried enough about the possibility of a strong ICC and so it summoned more than 100 foreign military attaches to issue a warning about the pending negotiations. According to a chief UN diplomat, “The attaches got scared, sent home cables and got everyone in a tizzy.”\textsuperscript{9} As the Court became closer to reality, the US government increased its lobbying efforts. In the final days of negotiations, the Pentagon advised European allies it might withdraw troops from Europe if a strong ICC was approved.\textsuperscript{10} President Clinton sent a message to the prime minister of Italy, host to the Rome conference, expressing his wish that the agreement address “critical U.S. concerns.”\textsuperscript{11} The Pentagon threat to withdraw troops is the only reported instance of a specific, contingent threat by any state. Clinton’s message expressing strong concern was probably more typical of state-to-state communications, where the threats or rewards are unspecified and only implicit. The Pentagon’s specific threat was especially forceful and it seems unlikely that other states resorted to that level of specificity. Of course, they may have: We only know of the Pentagon’s threat because the message was leaked.

The effect of these efforts on other states is difficult to discern. States predictably decried the Pentagon’s “meddling” and its “strong-arm” tactics. They denied that the Pentagon’s efforts
had any influence on their positions. Yet the Canadian chairman of the negotiating conference decided not to pursue Germany’s proposal for universal jurisdiction the day after the Pentagon sent its message, citing a lack of support for Germany’s position.\textsuperscript{12} We are not suggesting a direct cause-and-effect between the US threat and the chairman’s decision. Any U.S. influence probably would have been more subtle. It is possible that Germany’s position never gained much ground in the days preceding the decision because some states picked up signals of strong US opposition and responded. Although states overwhelmingly approved the Rome Statute, a number complained about how it was watered down by the opposition of the United States and others.

At one level, an assertion that states responded to strong US position by searching for compromise is unremarkable: of course they did; that is what negotiations are about. Our contribution goes beyond this banality to identify \textit{who responded to whom}. In the absence of reconstructing all private conversations and thoughts, we can make an initial cut at this question through a quantitative analysis of state positions. How frequently do state positions coincide with those of other states on whom they are dependent? Is it frequent enough that the relationship is unlikely to be one of chance?

We are interested in the positions that a country takes on a strong ICC over the course of negotiations. In our data set, we observe over 150 countries over ten periods.\textsuperscript{13} Thus, we have “time-series–cross-sectional” data, where the serial dimension is much larger than the temporal dimension. In addition, we treat our dependent variable, \textit{Aggregate Position}, as interval-level data to use more sophisticated models that are available for such data.

We employ three models to estimate the effects of the independent variables and the robustness of those estimates. As we are concerned with unobserved heterogeneity (due to
culture, etc.), our first two models include fixed effects (Green, Kim, and Yoon 2001; Wilson and Butler 2007). We choose to employ the fixed-effects model proposed by Arellano (1987), who extended the Huber/White robust standard errors to the fixed-effects model, and are consistent in the presence of heteroskedasticity and serial correlation. In a Monte Carlo study, Kristensen and Wawro (2003) found that this estimator performed better than regular fixed-effects errors and panel-corrected standard errors in the configuration closest to our data. We call this model the Arellano Robust Fixed Effects model.

As others have noted, an unfortunate consequence of including fixed effects is that the effects of any time-invariant variables cannot be estimated, as they are collinear with the included fixed effects. Plümper and Troeger (2007) propose the Fixed Effects Vector Decomposition model to split the fixed effects into two parts: the part explained by the time-invariant variables, and a remaining unexplained part. In this way, both the effects of the time-variant and time-invariant variables can be estimated while controlling for country fixed effects. This is our second model.

It is important to note that by including fixed effects, we are now explaining changes in the dependent variable, Aggregate Position, over time within a country.

Time-series–cross-section data are a kind of hierarchical data, in that the multiple observations over time can be grouped by country. Instead of attempting to control for unobserved fixed effects (heterogeneity in intercepts), one can instead allow the effects of variables to vary across countries (heterogeneity in slopes). One such model that estimates this is the Random Coefficients model. Although not frequently used in political science, Beck and Katz (2007) find that the model performs well, even in less-than-ideal conditions. This is our third model.
Before proceeding to the application of these models, we first address the issue of serial correlation. After conducting a Breusch-Godfrey Lagrange Multiplier (LM) test on our models, we found there was some serial correlation remaining. In time-series analysis, one often controls for serial correlation by quasi-differencing (e.g. Prais-Winston) or including a lagged dependent variable. As Beck and Katz (2004) show, these methods are mathematically equivalent, except for the speed of adjustment of the dependent variable. We tried both methods of controlling for autocorrelation, and then used the same LM test to see whether there was any remaining serial correlation. For either method of correction, there was as much or more serial correlation remaining after the correction than before. Various estimates of the uncorrected serial correlation were about 0.1. We thus conclude that the existing cures are worse than the disease in our case, and do not include a lagged dependent variable or quasi-difference in our analysis. Nevertheless, the results are qualitatively similar if we do include a lagged dependent variable or quasi-difference the data.

In addition to the methodological considerations, this has an interesting preliminary substantive implication. The very low serial correlation implies that a state’s previous position did not affect its current position, once the independent variables in our study are taken into account. In other words, states changed positions freely, which is consistent with the literature on the negotiation process.

Findings

Table 1 displays the results of the analysis. In all three models, a positive coefficient indicates that increasing the independent variable increases the country’s support for a strong ICC. The first model reported is the Fixed Effects Vector Decomposition. The second model is the Arellano Robust Fixed Effects. And the third model is the Random Coefficients Model. The
coefficients are most similar between the Fixed Effects models. In fact, most of the coefficients are the same; it is only the standard errors that differ. The coefficients are different where the Vector Decomposition model treats a slow-moving variable as invariant. Coefficients of invariant variables are also estimated in the Vector Decomposition model, but not in the Arellano Robust model. The standard errors differ because they use different assumptions on the independence of standard errors.

There are two variables that are statistically significant across all three models: Trade Network, and Military Disputes. They are also substantively significant, as discussed in more detail below. As a country’s trading partners increase their support for a strong ICC, that country will increase its support as well. Although Military Disputes is statistically significant, it is not in the hypothesized direction: Countries engaged in interstate disputes are more likely to support a strong ICC. Since these two factors are significant in all models, we consider these to be our most robust findings.

Two variables are significant in the two fixed effects models: Empowerment Rights and Civilization Network. As expected, countries with high empowerment rights are more likely to support a strong ICC. In addition, as a country’s civilization partners increase their support for a strong ICC, that country will increase its support as well. These are also strong substantive effects. Tribunal Budget and GDP are statistically significant in the Vector Decomposition and Random Coefficients models. As hypothesized, increasing a country’s obligation to support the ad hoc human rights tribunals increases the support that country gives to a strong ICC. GDP has a sign opposite of what we hypothesized: countries with high GDP are less likely to support a strong ICC. All other statistically significant variables are only significant in the first model. We thus have only weak evidence of their importance.
To assess the substantive significance of different variables, we compare the predicted Aggregate Position, changing one independent variable at a time. Following the suggestion of Gelman (2008), we increase each independent variable by two standard deviations, even for those variables that are binary or discrete. Doing so allows us to make a direct comparison of the relative strength of each effect. To make this comparison, we use the estimates from the Fixed Effects Vector Decomposition model.

To compare the substantive effects more easily, we have graphed the predicted effects and their 95% confidence intervals in Figure 1 (following Gelman, Pasarica, and Dodhia 2002). For confidence intervals that include zero, the effect is not statistically different than zero at a 0.05 level. For variables that have a multiplicative term in the model, the predicted change includes the effects of the constitutive and multiplicative terms, and the confidence interval includes the covariance of the coefficients (Brambor, Clark, and Golder 2006).

The five most substantively important variables (those that caused a movement in the Aggregate Position of 0.4 or more) were also statistically significant in two or more models: Civilization Network, Trade Network, Tribunal Budget, Empowerment Rights, and GDP.

Increasing the Civilization Network by 1.3 (2 standard deviations on the $-4$ to $+4$ scale) increases a given state’s Aggregate Position by 0.54, with a 95% confidence interval of (0.31, 0.77). Increasing the Trade Network by 1.8 (2 standard deviations) increases the Aggregate Position by 0.45, with a slightly narrower (0.27, 0.63) 95% confidence interval. Increasing the Tribunal Budget by $950,000$ (2 standard deviations, converted to unlogged values), increases the Aggregate Position by 0.42, with a 95% confidence interval of (0.25, 0.60). Increasing Empowerment Rights by 6.48 points (2 standard deviations) increases Aggregate Position by
0.40. Finally increasing GDP by $256 billion decreases Aggregate Position by 0.58 points, found at the bottom of Figure 1. A variety of other variables have substantive effects of moderate size.

While not without weaknesses, these findings offer important support for our network dependence argument. Trade Networks was one of only two statistically significant variables across all three statistical models, a demanding and rigorous test, and its substantive significance is comparable to Tribunal Budget, GDP, and Civilization Network. ICC negotiations offer a difficult case for the importance of trade networks because few if any observers would expect trade networks to have anything to do with the ICC. While states almost certainly did not link trade specifically to positions on ICC, it does seem likely that states observed the positions of other states before adopting their own positions and that they paid special attention to network partners with whom they interact regularly and with whom they hope to maintain good relations.

We are not sure why trade was the only influential form of dependence. It seems possible that security alliances are too important to use as rewards and punishments on the ICC negotiations, even in an implied or anticipated fashion. Regarding IO dependence, it seems more plausible that states would worry about how their position in ICC negotiations would affect support for their position in another IO. Yet the sheer number of issues considered in a variety of IOs may allow dependent states to slide by with lower levels of conformity on any particular vote in any particular IO. To probe the possibility that states use trade to reward or punish those with similar human rights positions, we conducted a preliminary analysis on a specific trade mechanism: Preferential Trade Agreements. (PTA) We collected data on PTAs and when different countries signed various human rights treaties from 1966-2000.18 Controlling for the proportion of trade between countries, the more human rights treaties that a country-dyad had both ratified, the more likely that the country-dyad would sign a PTA, and sign it sooner.
Similarly, the more treaties that a country-dyad had both failed to ratify, the more likely that the country-dyad would sign a PTA, and sign it sooner. Thus, we have evidence that countries consider commitments to human rights when making decisions about trade. This further suggests that countries will consider their trade partners’ reactions when considering commitments to human rights.

**Conclusion**

Although only a few years old, the ICC has already attracted the development of a fairly robust conventional wisdom about its creation from both analysts and participants. Much of that wisdom focuses on the largest donor states who did not wish to continue footing the bills for the ad hoc tribunals created by the Security Council, on regional blocs of states staking out common positions, and on the role of NGOs in pushing the negotiations forward (Benedetti and Washburn 1999; Fehl 2004). We find mixed evidence for this conventional wisdom. Evidence for the influence of the largest donors is substantively strong and somewhat robust across different models, though the evidence presented here does not clarify whether those donors wanted to cut tribunal costs or whether they simply support strong international institutions of all sorts, or, more likely, both. Regional groupings were not significant in any model, but they are significant if identity variables are removed. This is a striking finding that suggests that geographical region may be proxying for identity-related factors and that scholars would do better to focus more directly on those factors. We found civilization groups to be the most statistically robust and substantively important identity-oriented variable. In the absence of a theory about which states are most likely to be subject to NGO influence, it is difficult to test whether NGOs matter, but we did find evidence that states were not influenced by the number of NGOs attending from their own countries.
Other factors thought to influence state commitments to international institutions, however, received little support. Two measures of new democracy achieved statistical significance in the hypothesized direction and one in the wrong direction, but these only occurred in one of the three models. Hence, there is not strong evidence for Moravcsik’s lock-in hypothesis. Nor is there much evidence that costs mattered. Most cost measures were significant in only one of the three models. Most surprising, perhaps, is the lack of correlation between level of democracy and support for the ICC. This may reflect a calculation among less democratic and repressive states that they could save face somewhat in negotiations and evade the Court later. Also somewhat surprising is the absence of significant effects from the global trend in favor of the Court, casting doubt on theoretical claims that all states share the same identities and cognitive scripts. Participants in the negotiations often talk about the growing enthusiasm for the Court over time; however, our results suggest that the enthusiasm was driven by other factors and did not feed its own success. We expected states with large GDPs to support the Court, knowing they could use their resources to evade it later, but it appears the opposite is true. States with high GDPs were less supportive of the Court, controlling for other factors, perhaps because those states also tend to be militarily active and hence susceptible to targeting by the Court.

Our most striking conclusion is that even in the face of these numerous control variables, trade networks still mattered and in fact exerted as large of a substantive influence as the better-known and more widely discussed factors. The evidence for trade networks is remarkably robust, surviving multiple models where other variables failed, suggesting that state positions on the ICC were influenced by their trade partners. We do not know with certainty why states adopted similar positions to their trade partners, but it seems reasonable to suggest that states worried about pleasing their partners because they were dependent on them. States that have routinely
interacted with each other are likely to want to maintain reputations as good partners so that they can be repaid in future interactions of similar scope and magnitude. Because we weight trade partners by their importance, we are capturing state dependence on them and not just diffusion of information through interaction.

Evidence for trade networks is also substantively significant, around the same magnitude as other substantively important factors. Equivalent changes in these variables moved overall state negotiating positions by about the same amount, around 0.5 points. While this amount may seem small on a 9-point scale, it is actually rather substantively important. A country moving 0.5 points in each of two time periods would move one point. Each one point move on the scale represents dropping opposition to or endorsing one of the key institutional features of the ICC. Each of these features is highly contentious and each is substantively important on its own.

Consider the exercise of jurisdiction dimension, which allows the ICC to prosecute when a crime is committed on the territory of a member state, even without the approval of the state where the accused is a citizen. The fact that US citizens could thus be tried without US approval has led the United States to threaten to invade the Netherlands if it holds US citizens for trial at the ICC and to cut military and economic assistance to ICC supporters if they fail to reach separate agreements with the United States. Hence, supporting this institutional feature—a movement of only 1 point in state positions on the scale—has helped drive key US reactions. Alternatively, consider the counterfactual: an ICC without just one of these four institutional features. An ICC without an independent prosecutor, for example, would not be nearly so strong and would be subject to Security Council or state control. Hence, jurisdictional issues would matter less because states would have less to fear from the ICC. Likewise, if the ICC needed state approval to exercise jurisdiction, an independent prosecutor would not be nearly as threatening or
important. In other words, changing any one of these features has large spillover effects on the other institutional features and on likely state reactions.

Given their statistical and substantive importance, dependence networks should be included in future analyses of state positions on international institutions. This is especially true because the ICC provides a difficult case for our argument. Most observers would not expect trade relations to affect ICC negotiations and most would argue that the ICC was driven by principles at least as much as by politics (Fehl 2004). We do not doubt that principles were a factor during ICC negotiations, yet there is still much variation to be explained regarding which states supported the ICC, how strongly, and how quickly. The evidence suggests that a strong correlation exists between trade networks and negotiating positions, and we have suggested that dependence networks explain why this is so. If trade networks can affect state positions on negotiations for the ICC, they can probably influence state positions on most other kinds of international institutions. The next step in the research process involves testing this explanation on other institutions to determine if trade networks influence state positions on them. Nor is there any reason to limit the influence of trade networks to international institutions. Research has demonstrated that domestic policies and even entire domestic political systems, such as democracy, are influenced by the actions of other states in their geographic region. In theory, trade networks might also influence state domestic choices and this explanation thus deserves to be tested in other contexts.
References


Goodliffe and Hawkins


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<table>
<thead>
<tr>
<th>Independent Variables</th>
<th>Fixed Effects Vector Decomposition</th>
<th>Arellano Robust Fixed Effects</th>
<th>Random Coefficients</th>
</tr>
</thead>
<tbody>
<tr>
<td>Network Variables</td>
<td>Coefficient (s.e.)</td>
<td>Coefficient (s.e.)</td>
<td>Coefficient (s.e.)</td>
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<tr>
<td>Trade Network (lagged)</td>
<td>0.250 (0.051)</td>
<td>0.250 (0.089)</td>
<td>0.187 (0.067)</td>
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<td>Security Network (lagged)</td>
<td>−0.310 (0.450)</td>
<td>−0.310 (0.627)</td>
<td>−1.069 (2.286)</td>
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<td>IO Network (lagged)</td>
<td>−0.034 (0.100)</td>
<td>−0.034 (0.097)</td>
<td>−0.039 (0.097)</td>
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<td>Benefit Variables</td>
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</tr>
<tr>
<td>ln(Tribunal Budget)</td>
<td>0.637 (0.134)</td>
<td>0.367 (0.360)</td>
<td>1.928 (0.539)</td>
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<tr>
<td>New Democracy</td>
<td>0.486 (0.108)</td>
<td>0.486 (0.280)</td>
<td>0.149 (0.140)</td>
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<tr>
<td>Unstable Democracy × Polity Score</td>
<td>−0.067 (0.016)</td>
<td>−0.067 (0.043)</td>
<td>0.000 (0.021)</td>
</tr>
<tr>
<td>Regime Volatility × Polity Score</td>
<td>0.006 (0.003)</td>
<td>0.006 (0.017)</td>
<td>−0.004 (0.003)</td>
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<tr>
<td>Cost: Policy Change Variables</td>
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<td></td>
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<tr>
<td>Polity Score</td>
<td>−0.018 (0.011)</td>
<td>−0.023 (0.120)</td>
<td>0.002 (0.014)</td>
</tr>
<tr>
<td>Empowerment Rights Index (lagged)</td>
<td>0.061 (0.019)</td>
<td>0.087 (0.034)</td>
<td>0.032 (0.024)</td>
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<tr>
<td>Physical Integrity Rights Index (lagged)</td>
<td>0.055 (0.020)</td>
<td>0.055 (0.042)</td>
<td>0.031 (0.024)</td>
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<td>Left Party Executive</td>
<td>0.183 (0.070)</td>
<td>0.183 (0.242)</td>
<td>0.036 (0.010)</td>
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<tr>
<td>Cost: Unintended Consequences Variables</td>
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<tr>
<td>Common Law Legal System</td>
<td>0.040 (0.083)</td>
<td>−a</td>
<td>−0.071 (0.126)</td>
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<tr>
<td>ln(GDP)</td>
<td>−0.160 (0.035)</td>
<td>2.057 (1.211)</td>
<td>−0.116 (0.050)</td>
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<td>Costs: Flexibility Variables</td>
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<td>Military Disputes</td>
<td>0.081 (0.019)</td>
<td>0.081 (0.036)</td>
<td>0.049 (0.024)</td>
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<td>State Failure Index</td>
<td>−0.084 (0.035)</td>
<td>−0.084 (0.053)</td>
<td>−0.047 (0.048)</td>
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<td>ln(Forces Abroad)</td>
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<td>0.020 (0.033)</td>
<td>0.020 (0.016)</td>
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<td>ln(GDP/capita)</td>
<td>0.087 (0.054)</td>
<td>−0.850 (1.473)</td>
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<td>Geographical and Identity Variables</td>
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<td>Regional Trend (lagged)</td>
<td>0.021 (0.094)</td>
<td>0.021 (0.169)</td>
<td>0.031 (0.123)</td>
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<td>Global Trend (lagged)</td>
<td>−0.261 (0.130)</td>
<td>−0.261 (0.177)</td>
<td>0.081 (0.151)</td>
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<td>Civilization Network (lagged)</td>
<td>0.404 (0.088)</td>
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<td>0.209 (0.130)</td>
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<td>Colonization Network (lagged)</td>
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<td>−0.153 (0.121)</td>
<td>−0.186 (0.126)</td>
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<td>Language Network (lagged)</td>
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<td>0.187 (0.109)</td>
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<td>Catholic Country</td>
<td>0.398 (0.096)</td>
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<td>0.091 (0.134)</td>
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<td>Protestant Country</td>
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<td>−0.172 (0.189)</td>
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<td>Muslim Country</td>
<td>0.104 (0.095)</td>
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<td>−0.018 (0.134)</td>
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<td>Other Variables</td>
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<td>ln(NGO)</td>
<td>−0.240 (0.065)</td>
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<td>Unstable Democracy</td>
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<td>Regime Volatility</td>
<td>−0.067 (0.021)</td>
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<td>0.018 (0.028)</td>
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<td>constant</td>
<td>2.726 (0.719)</td>
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<td>Number of Countries</td>
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<td>152</td>
<td>152</td>
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<td>Akaike Information Criterion</td>
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<td>4756</td>
<td>4841</td>
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</table>

Notes: Dependent variable is Aggregate Position for a state during negotiations on strengthening the International Criminal Court. Coefficients in the first two models are least squares estimates, with fixed effects included but coefficients not reported. Coefficients in the third model are restricted maximum likelihood estimates. Standard errors are reported in parentheses. Statistically significant variables (p < 0.05, two-tailed) are shaded. The Akaike Information Criterion compares the fit of the models, taking into account the number of independent variables; smaller numbers are “better” models. 

*a Variable omitted that is constant within a country for the observation period (collinear with country fixed effect).
Figure 1: Predicted Change in Aggregate Position on Increasing ICC Strength

Predicted Effect on Aggregate Position of Moving 2 Standard Deviations (with 95% Confidence Intervals)

Notes:
Predicted changes calculated from Fixed Effect Vector Decomposition coefficients in Table 1.
Variables ordered by predicted effect.
[+] or [--] indicates hypothesized effect.
Unstable Democracy, Regime Volatility and Polity Score include effects of change from constitutive and multiplicative terms.
Effect of NGO disappears when United States is dropped from the data set.
Example: Increasing a country's Civilization Network by 1.3 increases that country's Aggregate Position by 0.54, with a 95% confidence interval of (0.31, 0.77).
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For helpful comments and suggestions, we thank Neal Beck, Thomas Plümper, Vera Troeger, Andrew Gelman, Neal Tate and Greg Wawro. For generously sharing their data, we thank Emilie Hafner-Burton and Paul Ingram. Anna Sanders, Chris Harvey, Katie King and Celest Allred provided outstanding research assistance and Anna helped write a prior version of this paper.
Notes

1 A list of the documents coded and the coding rules are available from the authors.

2 We give more details on coding schemes in the Data Appendix, found at http://goodliffe.byu.edu/papers/.

3 In many time periods, countries did not state a position on all issues. If we exclude countries that stated a position on one issue but not another, we lose the information of their stated position in the aggregate measure (because we must exclude that entire observation). We expect that by coding no position as neutral, we are weakening the measure since we are coding those countries that have an unstated positive or negative position as neutral. Thus, our results are conservative. Countries that did not attend are coded as missing.

4 See Goodliffe and Hawkins (2006) for details.

5 An alternative would be to measure which states at Rome included NGO affiliates in their delegations, but no systematic information on state-NGO affiliations at the conference has been preserved.

6 Interview, 23 Feb. 2006.


12 “US troops will quit,” cited above.

13 We do not include the final vote at the Rome Conference because we cannot code for strength of support as in the previous moments.

14 Beck and Katz (2004, 20) state: “We know from decades of time series experience that one can freely ignore a small amount of serial correlation at almost no cost.” Dropping the fixed effects raises the serial correlation to about 0.5.

15 We discuss various robustness checks and more technical details in the Appendix found at http://goodliffe.byu.edu/papers/.

16 The GDP coefficients in the two fixed effects models approach standard levels of statistical significance, but are of opposite signs. The Arellano Robust model estimates the effects of GDP, controlling for country fixed effects. In the Vector Decomposition model, GDP is treated as an invariant variable (as it moves very slowly overall for a given country). It estimates the effects of GDP controlling for the part of country fixed effects left unexplained by invariant and slow-moving variables, including GDP. In essence, the Arellano Robust model estimates the effects of GDP varying within a country, and the Vector Decomposition model estimates the effects of GDP across countries.
17 The United States is an outlier that drives the statistical significance of the NGO result, which is in the opposite direction of the hypothesis. When the US is dropped, the result is no longer significant.

18 The treaties were International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination against Women; Convention against Torture; Convention on the Rights of the Child; and Convention on the Protection of the Rights of All Migrant Workers. Emilie Hafner-Burton kindly supplied the data.