

Watching the Watchers:
Non-state Actor Monitoring of State Compliance with International Humanitarian Law

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ABSTRACT

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This dissertation examines monitoring of state compliance with international humanitarian law (IHL) conducted by the International Committee of the Red Cross (ICRC). In subjecting this particular monitoring regime to systematic analysis, the dissertation sheds light on the more general question of the effects of international law on state behavior.

The project first places the de facto monitoring regime that governs IHL in the broader context of other monitoring regimes in international politics. Here the decentralized nature of the monitoring regime that governs IHL is highlighted. The central role played by a non-state actor - the ICRC - in both the initial codification of the law and its monitoring is partial indication of the tepid interest of states in securing compliance with the law. This chapter likewise examines variation in the IHL monitoring regime across time to explain how exogenous changes in the nature of war in the post-World War II period led to the obsolescence of the institution of the protecting power and its replacement by an ad hoc monitoring system with the ICRC at its center. The informality of this institutional arrangement proved an asset, as it was not hamstrung by the same considerations that bedeviled its competitors, the protecting power and the International Humanitarian Fact-Finding Commission (IHFFC).

The dissertation proceeds to introduce an original dataset and to test via statistical analysis a set of hypotheses about the conditions under which states grant access to the ICRC as a monitor of IHL compliance. Though both regime type variables and variables related to the military-strategic context prove significant, there is substantial evidence that states make

strategic use of monitor access, for instance offering partial but incomplete access as a way to accrue at minimum cost the benefits of signaling compliance. There is further evidence that, while some indicators of military urgency decrease monitor access as realists would predict, other such indicators have the opposite effect. I read this as indication that offering a degree of access holds some political value to warring states and thus is an incentive for states to offer partial access even absent full commitment to the law. This intermediate level of access that appears so attractive to states is thus a potential moral hazard.

The next chapter examines the strategic decisions, not of states, but of the ICRC itself, probing in particular the circumstances under which it is most likely to break its confidentiality policy and "go public." Examining the full universe of ICRC press releases from 1995 - 2005, I find evidence that the organization is particularly likely to choose a policy of silence in situations in which states refuse it access. This decision may sometimes be problematic. As in the case of the Algerian civil war, the organization may hold its tongue during a civil war in which IHL violation is rampant only to happily announce that it has been welcomed back into the state once the opposition has been routed. This chapter also finds evidence for the relevance of a cultural variable. Because ICRC neutrality is particularly suspect in contexts in which a politicized strand of Islam is a salient conflict dimension, the ICRC tends toward a general policy of silence in such conflicts. A notable exception, nevertheless consistent with the general logic explicated here, is the Israeli-Palestinian conflict, in which the ICRC has been unusually critical of Israel in an attempt, I argue, to demonstrate the organization's credibility to Arab and Muslim audiences.

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DEDICATION

For my mother, Jennifer McElraff, whose compassion first taught me what it meant to be a humanitarian.

INTRODUCTION:

Non-state Actor Monitoring of State Compliance with International Humanitarian Law

In October of 2003, the International Committee of the Red Cross (ICRC) issued a public critique of the U.S. policy of holding Guantánamo Bay detainees indefinitely (Lewis 2003). In contrast, in November of 2004, after its confidential report on the treatment of prisoners at Guantánamo was leaked to the *New York Times*, the ICRC issued a statement refusing to validate the details of the leak and reiterating its commitment to the confidentiality of the results of its monitoring missions (Lewis 2004; ICRC 2004). During roughly the same time period, U.S. officials admitted to obstructing ICRC access to certain “ghost detainees” and delaying “unannounced” visits from the monitoring organization (Schmitt and Shanker 2004, Jehl and Schmitt 2004).

These incidents surrounding the Guantánamo controversy¹ offer just a snapshot of the contestation that takes place between states and those organizations tasked with monitoring state compliance with international humanitarian law, and it is this contestation that the dissertation seeks to probe. What explains variation in state decisions to grant access to humanitarian law monitoring organizations, particularly when the state expects to violate international humanitarian law? Conversely, what factors determine the strategic decisions made by the monitoring organizations themselves, such as the ICRC’s decision about when to maintain its general policy of discretion and when to “go public” about particular violations?

¹ As this example is merely intended to illustrate the types of political dynamics that inhere between governments and monitoring organizations, for now we can leave aside the question of whether or not the Guantánamo detainee dispute is properly considered a case of international humanitarian law monitoring (given debates about the detainees’ combatant status).

International humanitarian law (IHL) refers to a body of legal restraints on the means that may be used in war. Codified in the 1894 Hague Conventions, the 1929 Geneva Conventions, the 1949 Geneva Conventions, and the 1977 Protocol I Additional to the Geneva Conventions, IHL outlines guidelines for, among other things, the protection of civilians in wartime, the treatment of prisoners of war and the wounded, and the distinction between acceptable and unacceptable weapons (Dinstein 2004). In the just war tradition, these are known as *jus in bello* restrictions.² The extent to which this body of law exerts a meaningful effect on state behavior is of immense practical significance, given the extent of human suffering caused by war in general and the particularly insidious aspects of war that IHL attempts to limit in particular.³

In addressing questions related to the monitoring of international humanitarian law, this dissertation hopes to contribute to broader theoretical debates on the effects of international law, and the law of war in particular, on state behavior. Past research on international institutions and international law has featured a debate between rational institutionalists,⁴ who argue that legal or institutional arrangements can help overcome certain structural barriers to interstate cooperation, and those who cast doubt on the ability of such institutions to exert a significant effect on state behavior.⁵ In recent years this debate has centered primarily on the extent of state compliance

² One interesting question about the modern law of war is why questions of *jus ad bellum* have been superseded in importance by questions of *jus in bello*.

³ This is not to say that the tenets of IHL necessarily prohibit the largest sources of human suffering. A fascinating literature has emerged attempting to explain why some laws (or norms) come to be while other possible contenders never assume the status of law (or norm).

⁴ For instance Chayes and Chayes 1993, 1994; Keohane 1984; Keohane and Martin 1995; Morrow 2001, 2002, 2007; Simmons 2000, 2005.

⁵ Those scholars I (arguably) classify as critics of international law's efficacy are themselves a diverse lot. They include those who emphasize the endogeneity of institutions to the political context in which they are created (Downs, Rocke, and Barsboom 1996; Mearsheimer 1995; von Stein 2005), those who identify strategic motives for state ratification of law and general level of state compliance (Downes 2006; Hafner-Burton 2005; Hathaway 2002,

with international legal commitments, as well as on the causal indicators of state compliance level. This dissertation seeks to move beyond the narrow focus on compliance to consider instead the ways in which both states and international monitoring organizations strategically respond to the constraints created by law.

In addition to speaking to the general international law literature, the dissertation will likewise contribute to a small but growing literature on the causes and consequences of variation in monitoring regimes. Monitoring refers to arrangements that exist for the provision of information about states' level of compliance with international agreements. By reducing uncertainty and fear about cheating, monitoring is viewed by functionalists as a standard tool by which institutions are able to facilitate cooperation. Monitoring arrangements can vary from simple self-reporting to highly delegated systems of inspection and arbitration.⁶ Existing research has suggested that variation in the degree of delegation to monitoring regimes can be explained by the extent to which state interest aligns with the interests of the victims of noncompliance and the availability of these victims as low-cost monitors (Dai 2002). Domestic incentives for compliance (Jo 2008) and the preferences of particularly pivotal states (Brown 2006) have likewise been identified as central causes of variation in monitoring regimes.

Extant rationalist work on monitoring, however, generally neglects the law of war and fails to explain a notable characteristic of monitoring in the law of war regime: little to no *de*

Valentino 2004), and those who emphasize the role of organizational or domestic factors in determining state compliance (Humphreys and Weinstein 2006; Legro 1997; Neumayer 2005).

⁶ The International Monetary Fund (IMF), which itself undertakes highly centralized monitoring of member states, and Nuclear Non-proliferation Treaty (NPT), which delegates monitoring responsibilities to the International Atomic Energy Agency (IAEA), both rank high on the monitoring scale, while the human rights regime, relying primarily on self-reports from governments, ranks low.

*jure*⁷ delegation to monitors accompanied by significant – though varied – *de facto* cooperation with non-state monitors. One working from a rationalist perspective might view the lack of a centralized monitoring regime for the law of war as unsurprising, as states may have lacked incentive to accept significant sovereignty costs in exchange for the meager informational advantages monitoring would bring. Yet, if this is so, state acceptance of *de facto* monitoring by non-governmental institutions like the ICRC and Human Rights Watch becomes a puzzle. This dissertation aims to shed light on this disjuncture between law (*de jure* monitoring arrangements) and practice (*de facto* monitoring) while focusing primarily on the latter.

What activities constitute monitoring of international humanitarian law? As will be discussed in Chapter Two, precisely what monitoring activities are permitted by which organizations is a contentious issue that was the subject of much wrangling among states in the course of the formation of IHL. Thus, there is not a straightforward or static answer to that question. However, it is helpful to consider at this stage what range of activities are included under the rubric of IHL monitoring. At one end of the spectrum, one could imagine a highly centralized form of oversight in which monitors have real-time access to battle sites and freedom to object to specific means or methods of warfare observed in the course of this battle-time access. For the most part, such monitoring was not seriously considered by states or international organizations as within the realm of feasible options. Rather, the tasks that were more commonly considered included visits to prisoner of war and civilian detainee camps, post-battle examinations of territories and witnesses, and contact with military authorities as needed to discuss IHL-related concerns. It was also considered whether each of these activities might sometimes take place in the course of an enquiry procedure or investigation about possible IHL

⁷ Several attempts have been made to create *de jure* monitoring mechanisms for the law of war regime. These mechanisms, however, have typically been dead letter, as will be discussed in the next section.

violations. Though each chapter below will clarify what specific monitoring activities are of interest for particular questions asked in this dissertation, at a bare minimum "monitoring" requires some permission granted by the state for the organization to access military sites and personnel that would not normally be accessible by those outside the state apparatus for the purpose of obtaining information about the state's compliance with IHL.

This dissertation examines three related questions. Chapter Two examines in detail the unique de facto monitoring arrangement that exists for the law of war and seeks to place this monitoring arrangement in the context of other monitoring arrangements that serve particular regimes in the realms of international economy, international security, and human rights. When compared to monitoring regimes like that that exists for the International Monetary Fund (IMF) or Nuclear Non-Proliferation Treaty (NPT), the monitoring regime that exists for the law of war is notably less centralized. This lack of centralization is an expression of states' less salient interest in ensuring mutual compliance given the significant cost of delegating autonomy on this dimension. However, one notable anomaly here is the continued effort states and international actors have expended to produce more centralized monitoring mechanisms, like the International Humanitarian Fact-Finding Commission (IHFFC), which have nevertheless remained dead letter, much less utilized than the de facto monitoring undertaken largely under the initiative of non-governmental organizations. This apparent paradox is a reflection of a more profound disagreement among academics, states, and policymakers alike about the amenability of mankind's most pernicious problems - war, poverty, atrocity - to legalistic solutions. While normative entrepreneurs and a diverse though small set of states have sought to replace the de facto IHL monitoring regime with a more centralized - and presumably more effective - monitoring system, the significant inertia created by state interest and risk aversion has

constituted a daunting challenge to such efforts. Another way to read the apparent failure of the IHFFC is that the majority of states found the proposed alternative less conducive to state interest than was the system already in place.

Given this state of affairs, the next chapter turns its attention to the ways in which states adapt strategically to the terrain created by law and by the de facto monitoring regime that oversees state behavior in regard to law. By systematically exploring the conditions under which states are more or less likely to grant one particular but significant monitor of IHL - the ICRC - access, this chapter lays the ground for future work to more fully assess monitors' effectiveness. This chapter argues that state access decisions *are* strategic and are significantly determined by variables that live at both the second and third images. Mixed support is found for the realist contention that access is granted most in contexts in which it costs the least, particularly in contexts in which military-strategic incentives for law of war violation, perhaps always present, are relatively low. Though some variables indicative of a more dire military-strategic threat do decrease access, others exert the opposite effect. I argue that this is because signaling compliance - even if insincerely - is a source of political or ideological power, a source that realism may underestimate. Variables at the second image exert a significant influence as well, with general measures of the extent of democracy versus autocracy as well as more nuanced classifications of regime type proving significant. However, when the military-strategic and regime type variables interact, it is unerringly in the direction of military-strategic variables dampening the positive effects of regime type on access. This chapter also provides evidence that regimes in general and certain types of regimes in particular - namely presidential regimes - may employ an intermediate level of access as a way of obtaining some benefits from cooperation while minimizing the costs from delegation in sensitive areas, whether they be

geographic or issue-specific. Overall, this chapter warns observers not to equate access with commitment, as access decisions are driven by their own political logic.

Finally, Chapter 4 turns the tables to consider the strategic incentives faced by humanitarian monitors themselves. This chapter uses case study evidence to evaluate the circumstances under which the ICRC is most likely to maintain its policy of confidentiality or depart from this policy and instead "go public." This chapter finds that, as access is the overwhelming priority of the organization and its promise of confidentiality a key tool in securing such access from states, the organization is unlikely to "go public" about consistent refusal of states to grant access. This presents a certain risk to the organization's humanitarian efficacy - in cases like the Algerian civil war, discussed in this chapter, the organization may find itself staying silent while massive atrocities are committed only to announce, once the opposition is effectively routed, that it has now received an invitation from the state. This chapter additionally finds evidence for the relevance of a particular cultural variable to ICRC publicity decisions. I argue that, given the U.S.' role in the War on Terror, the neutrality claimed by the ICRC is particularly challenged in contexts in which politicized Islam is a salient feature of the conflict. This results in less access from Muslim majority states and, in general, greater reluctance on the part of the ICRC to use publicity in such contexts. However, the difficulty of demonstrating its neutrality in such contexts is also part of the explanation for the exceptional degree of negative publicity that the ICRC has directed against Israel in its conflict with Palestinian separatists. The other part of the explanation lies in the improbability that Israel, given its robust democracy and history of granting access to the organization, would retaliate by refusing the organization all access.

CHAPTER TWO:

International Humanitarian Law Monitoring in Context

Introduction

Since the late 1980s, scholars of international relations have taken increased interest in the variation that exists among institutions created by states, as well as the possible consequences of this variation. This chapter surveys variation in monitoring regimes in the international legal context, placing the monitoring regime that exists for the law of war in the context of other regimes that exist for legal commitments in international political economy and international security. This chapter will first briefly review the political science debate about institutions in general before zeroing in on the specific topic of monitoring as an empirical and theoretical puzzle with significant substantive consequences. This chapter then proceeds to investigate historical evolution in the de facto and de jure monitoring mechanisms that govern the law of war. The question of institutional change is one that has been given short shrift in the literature to date, partly due to the polarized way in which institutions - and particularly international institutions - have been considered.⁸ Yet, the historical trajectory of law of war monitoring presents an empirical arena from which insights about institutional change and institutional obsolescence might be gleaned. Lessons can be learned from the obsolescence of one monitoring institution (the protecting power), the failure of states to ward off this obsolescence with institutional innovation, the subsequent failure of a replacement institution (the International Humanitarian Fact-Finding Commission), and the rise instead of a vibrant de facto monitoring system with the ICRC at its center. Several questions arise from this tale of evolution : what factors affect the ability of an institution to weather dramatic exogenous changes? Under what

⁸ Martin and Simmons (1998) usefully address this polarization between the institutionalists who are optimistic that institutions can sometimes be effectual and the realists who are highly skeptical of such a position.

conditions do informal institutions have advantages over formal institutions? In order to enlighten this question, this chapter will make use of the historical record as well as primary documents from the International Committee of the Red Cross, particularly the official records of the Diplomatic Conferences in 1974, 1975, and 1976, that led to the 1977 Protocols Additional to the Geneva Conventions of 1949.

The primary purpose of this chapter is to place the monitoring regime that exists for IHL in broader theoretical and empirical context rather than to advance a causal claim about the nature of law of war monitoring. This exploration will set the stage for the consideration in later chapters of the ways in which monitoring unfolds under the extant regime. In addition, a close empirical evaluation of law of war monitoring is fertile ground from which to derive hypotheses about institutional evolution more generally.

The Great Institutional Debate

The end of the Cold War heralded a great deal of optimism about the potential for interstate cooperation facilitated by international institutions. Because this debate is well-known, I will summarize it only briefly here. Liberal institutionalists, drawing on the logic of cooperation under anarchy introduced by game theoretic investigations, argued that well-designed institutions could help to overcome many of the barriers to interstate cooperation presented by the anarchic nature of the international milieu. If inefficient outcomes in interstate relations were the product of mistrust and uncertainty about others' intentions, then institutions that helped to reduce uncertainty about these intentions and mitigate the negative consequences of being duped by another state (among other functions) could dramatically increase the degree of cooperation in the international system. From this perspective, much potential for mutual benefit was thwarted

by the unfortunate byproducts of anarchy, but institutions could play a central role in helping states to overcome these barriers to realize mutual benefit (Keohane 1984; Keohane and Martin 1995; Morrow 2001, 2002; Simmons 2000, 2005).

Realists, of course, took issue with each of these claims. They suspected that the institutionalists were naively exaggerating the potential for mutual benefit that existed in international relations. As Robert Jervis (1988) has usefully suggested, much of the disagreement between realists and institutionalists centers on a disagreement about how much unrealized potential for cooperation exists in the world. For institutionalists, there are many cases in which anarchy has tragically thwarted an agreement in which both parties could improve their positions. For realists the assumption is instead that in most cases, or at least most cases that matter, there is no way to improve one state's position within harming another's - states are already, so to speak, "on the Pareto frontier." Given this state of affairs, what most matters is not any magical innovation of institutional design but the straightforward distribution of power that prevails. There may be cases in which powerful states use institutions to their benefit, but in these cases it is the power underlying the institution that provides the critical causal impetus (Mearsheimer 1995).

Constructivists, in turn, criticize the assumptions about which realists and institutionalists tend to agree - the state as a unitary rational actor and power as a relatively unproblematic construct with an objective character. Rather than enumerate the rationalist functions institutions can potentially solve, constructivists might highlight the role that institutions can play in shaping state identities and interests. A constructivist might, for instance, remind us that an institution is after all a community and should be viewed as such (Finnemore 1996, 1999; Keck and Sikkink 1998).

Though these paradigms are useful for clarifying competing assumptions underlying scholars' claims, there are real limits to each paradigm's ability to enlighten important international political puzzles. Realists are at a loss to explain why the institutional order created during the Cold War remains remarkably undisturbed several decades later. Institutionalists struggle to integrate the vicissitudes of state power into their accounts of institutions' origin, growth, and consequences. Constructivists likewise struggle to explain why some norms come to exist while others do not. In his recent article on state compliance with the law of war, James Morrow (2007) includes a useful table (p. 569) in which he compares each of his article's results with claims deduced from the field's three competing paradigms. Unsurprisingly, he doesn't find a home run for any of the 3 contenders; rather, each paradigm enlightens some aspects of empirical reality and obscures others. I say unsurprisingly because it seems to be in the nature of the paradigms to frame the debate in overly stark terms that are difficult for the complexity of the empirical world to vindicate. Rather than being right or wrong, the paradigms might be better considered as a reflection of an individual scholar's personality and the types of question that fascinate him or her.

Where, then, does this work fall in regard to the warring paradigms? The nature of the questions being asked here belies an interest in the means states use to govern their relations that has an obvious affinity with institutionalism. Realist scholars tend not to devote their energy to studying the law of war except to debunk it, for instance by showing that typical realist strategic variables, rather than law itself, explain patterns of state wartime behavior (Valentino, Huth, and Croco 2008). Yet, it is certainly remiss to discount the centrality of power to outcomes in the international system, and, indeed, many traditionally realist variables keep popping up in this project. My argument here is that we should treat international institutions and international law

as parts of the strategic terrain that states face, neither discounting them as entirely epiphenomenal as some realists do nor lauding them as *the* solution to perennial problems of interstate relations as some institutionalists come close to doing. In this vein, international institutions of different stripes create diverse incentives for states - when these incentives trump other, more narrowly strategic incentives and when they do not is an important question for investigation, one this dissertation hopes to begin to enlighten.

Law as an Institution

In the seminal issue of *International Organization* devoted to institutional design, Koremenos, Lipson, and Snidal (2001) define international institutions as "explicit arrangements, negotiated among international actors, that prescribe, proscribe, and/or authorize behavior (762)." Though customary international law may not meet these criteria to the extent that it has not been explicitly negotiated,⁹ positive (codified) international laws, such as the body of treaties that constitute the law of war, surely do. To view law in this light, as an international institution, draws attention to questions about variation in design that might otherwise be overlooked. That is, international law is as appropriate a dependent variable as it is an independent variable. The literature on international institutions thus speaks to international law and vice versa.

Monitoring

According to institutionalist scholars of IR, international institutions help to serve a number of functions that make cooperation among states more likely. For instance, they help to reduce uncertainty by codifying certain expectations of mutual behavior and providing information about the degree to which states meet these expectations. Monitoring regimes often

⁹ In this light we might consider this a rather narrow definition of an institution.

play central roles in the fulfillment of these institutionalist functions. Monitoring regimes can be thought of as one response to the problem of asymmetrical information and incentives to misrepresent (Fearon 1995) in the domain of compliance with international legal commitments. Monitoring is separate from enforcement, but effective monitoring is often a necessary precondition for enforcement, as violation cannot be effectively punished or reciprocated if it goes undetected.

Monitoring regimes in international relations vary across a number of dimensions. They vary, firstly, in the nature of the entity with primary responsibility for monitoring. As Dai (2002, 2007) observes, monitoring may be undertaken primarily by states, victims of noncompliance, NGOs, and treaty organizations, as well as by combinations of the above. Additionally, as Brown (2008) argues, when monitoring is undertaken by a body other than the state, regimes vary in the nature and extent of delegation to the treaty body, as well as in the amount of resources available for the conduct of monitoring activities. Importantly, regimes also vary in the use that is made of procured information, to whom and how that information is disclosed, and the likely consequences of information about compliance and noncompliance procured via monitoring. As will become clear below, the *de jure* mechanisms in place for a particular monitoring regime may be quite different from the *de facto* mechanisms actually employed by states. When this occurs, a further explanation of this gap between *de jure* and *de facto* practices is warranted.

This chapter will first briefly describe the nature of IHL monitoring. Particular attention will be paid here to the distance between *de jure* monitoring mechanisms established by states and the *de facto* mechanisms that are most used. The next section will place IHL monitoring

mechanisms in broader context and review and assess the main competing explanations for the variation that exists across monitoring regimes in international law. The final section will explore in detail the evolution that occurred across time in the IHL monitoring regime.

International Humanitarian Law Monitoring

International humanitarian law (IHL) is a body of treaty law governing the means state use in warfare. In the broader domain of the law of war, IHL governs the area of *jus in bello* rather than *jus ad bellum*, which refers to the legality of engaging in war in the first place. The law and ethics of warfare have made a clear distinction between these two categories in order to mitigate the likelihood that arguments about the just cause of the war render mute any attempts to prohibit specific acts within war. Prior to the codification of IHL, restrictions on specific acts in war existed as customs tied to the institutions of knighthood and the Church that attempted to inspire restraint in the treatment of nobles in the one case and fellow Christians in the other.

The first major step in the multilateral codification of IHL came with the 1864 approval by sixteen states of the First Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, which, as its name indicates, focused primarily on the treatment of injured combatants. The 1899 Hague Conventions expanded the focus to include treatment of prisoners of war and appropriate policies for armistice and capitulation. As one might expect, subsequent developments in IHL tended to follow wars of systemic significance, with 1929 witnessing the codification of the Geneva Conventions Relative to the Treatment of Prisoners of War and on the Amelioration of the Condition of the Wounded and Sick and 1949 heralding four new conventions including one extending protection for the first time to civilians. The last major

change to codified IHL came with the 1977 Protocol I Additional, one of which attempted to extend the province of IHL to non-international armed conflicts (Dinstein 2004).

Though this broad body of treaty law covers a host of prescribed and proscribed state behaviors, Morrow and Jo (2006) have usefully classified the law according to nine issue areas. These include aerial bombardment, armistice/ceasefire, chemical and biological weapons, treatment of civilians, protection of cultural property, conduct on the high seas, prisoners of war, declaration of war, and treatment of the wounded.

Before one can understand the design of monitoring institutions for a specific legal area, one must first understand the nature of state interest in the codification of that law. At first glance, codification of law governing war appears surprising given the extent to which war is obviously a time when state security concerns are heightened and, as a result, should be an arena in which states are reluctant to surrender their sovereignty. However, upon further examination it becomes clear that war is an arena in which there are many inefficiencies that negatively affect state interest; as a result incentives exist to create collective institutions to ameliorate these inefficiencies. It is perhaps not surprising that the first area to be codified concerned the treatment of the wounded. This addressed an area in which state security interest might be advanced by remedying the situation in which injured soldiers - major tools of the state, after all - were left to suffer, spread infection, and die when the resource of the soldier's body might instead be better preserved for future use. Agreeing to constraints on specific means of warfare seemed attractive, therefore, to the extent that states would benefit from their enemy's reciprocal restraint. Yet, it is easy to see why monitoring would become relevant here - warring states would certainly possess incentives to gain advantage from violating the law while hoping to dupe

the enemy into unreciprocated compliance. Furthermore, in the "fog of war" it might be difficult to distinguish intentional policies of statecraft from the actions of isolated subordinates.

Of course, it might be a mistake to ascribe the wave of codification of IHL that occurred particularly in the twentieth century solely to a narrowly conceived view of state interest. Constructivists, among others, have drawn attention to the ways in which ideational variables at the supranational level can help to shape how states view their interests at a particular point in time. Colonization and decolonization, both occurring in waves and responding to normative and ideological concerns as well as to specific conceptualizations of state interest, are excellent examples of this phenomenon. In this view, the development of IHL must be put into a larger ideological context. This context must include the massive devastation caused by both World Wars and particularly the outrage of the World War II victors (at least after the fact) to the Holocaust. One might say that part of the zeitgeist of this era lay in legalization and multilateral efforts to reduce features of war that had once been considered inevitable.

Monitoring of IHL has been marked by the centrality of the International Committee of the Red Cross (ICRC) as well as by the creation of other monitoring institutions whose pragmatic utility has paled in comparison to that of the ICRC. The ICRC's involvement in IHL actually precedes the codification of the 1864 First Geneva Convention. In 1859 Henri Dunant, who would become one of the founders of the ICRC, witnessed the suffering of soldiers at the Battle of Solferino in the Austro-Sardinian War. He subsequently documented the carnage in a book entitled *A Memory of Solferino*, which he concluded with an impassioned plea for citizens to form an organization that would help to prevent and respond to such atrocities of war. It was with the urging of Dunant and four other Swiss citizens that the Swiss government convened the interstate conference that resulted in the 1864 Hague Declaration.

After its establishment, the organization carved out a niche for itself as provider of relief and protection to soldiers injured by war and quickly developed a reputation for its neutrality. In the 1929 Geneva Convention Relative to the Treatment of Prisoners of War the ICRC was explicitly mentioned as an organization that might consult on the development of the Central Information Agency (for POWs) or nominate a neutral party to serve as protecting power in the event of a dispute over the application of IHL. The Committee's role in IHL monitoring continued to be acknowledged in subsequent Geneva Conventions. The main tenor of these references to the ICRC was to acknowledge that states might call upon "the services of a neutral humanitarian organization, like the ICRC" if the other main institution that existed for this purpose, that of the protecting power (see below) proved insufficient. These treaties also acknowledged the "special position" of the ICRC as provider of relief and medical treatment near the battle field. Interestingly, these treaties also typically included a statement to the effect that the provisions within the treaties were not intended to constitute an obstacle to the humanitarian work of the ICRC or a similar organization (Forsythe 2005).

It might be easy to overlook how unusual was this explicit naming of the ICRC in international treaty law. This was after all a private organization with close ties to one state, although given its history of neutrality, Switzerland was, of course, not the average state. Yet, it must be observed how very different granting such a role to the ICRC is from granting the role to a body - like the IMF or the IAEA- that is ultimately responsive to the states who created the relevant law. One way of understanding states' willingness to make such a seemingly idiosyncratic choice is by noting how little *de jure* power the organization was given within the positive treaty law. Most of the references to the organization consisted of permissive statements that allowed states to make use of the ICRC if they so desired and other available institutions

(such as that of the protecting power) were found wanting. There was, then, little obliging states to employ the Committee's services if they did not wish to do so.

One of the mysteries of the law of war monitoring regime is that two institutions formally established to be monitors - the protecting power and the International Humanitarian Fact-Finding Commission - fell by the wayside, while the ICRC instead took on a vibrant monitoring role. Indeed, one might argue that, while the protecting power and the IHFFC have fallen short of their formally recognized duties, the ICRC has carved a de facto place for itself that even exceeds its rights and duties as enumerated in the treaty law, particularly when the issue of non-international armed conflict is considered. Before we investigate these mysteries in further detail, let us examine the features of the IHL monitoring system in comparison to other monitoring systems in international politics.

IHL Monitoring in Context

In this section, I briefly introduce several of the most significant monitoring regimes in international politics and compare these to the regime that governs IHL. The monitoring regimes considered here include those that monitor the GATT/WTO trade regime, the IMF monetary regime, several regimes (nuclear, chemical, and biological) in the broad domain of Weapons of Mass Destruction (WMD) regulation, and the human rights regime. See Table 2.1 for an overview of these monitoring regimes across several dimensions.

Nature of the Monitor

As Dai emphasizes and will be discussed at greater length below, monitoring regimes vary as to whether monitoring activities are primarily undertaken by a treaty body created by states, by states themselves, or by non-state actors such as individual victims of noncompliance or non-governmental organizations. Two monitoring regimes generally considered high

instances of centralization are the IMF Executive Board in the domain of monetary policy and the International Atomic Energy Agency (IAEA) in regard to the Nuclear Non-Proliferation Treaty (NPT). In contrast, less centralized monitoring is undertaken by state use of the dispute resolution mechanism in regard to GATT/WTO trade agreements, as well as by the NGOs that primarily monitor compliance with human rights agreements. There is a trade-off worth noting here - though more centralized monitoring regimes are typically considered more significant constraints on state action, these centralized monitoring mechanisms, as the creation of states, are typically accountable to states in significant ways. As for the decentralized monitoring mechanisms, states may avoid one type of sovereignty encroachment but surrender the opportunity to engineer monitors in ways consonant with state interest. The human rights monitoring conducted by NGOs is a case in point here.

Clearly in this domain the monitoring regime actually utilized for IHL (rather than the more or less dead letter IHFFC) falls on the less centralized end of the spectrum, with monitoring conducted primarily by an organization that is closer to an NGO than to a treaty body. This means that states retain a level of discretion about the extent of daily access to grant the ICRC even as they forego the opportunity to directly shape the actions of that monitoring organization in their interest.¹⁰

Monitoring Quality

Regimes vary not only in the nature of the actor that undertakes monitoring but also in the quality of the information produced by the monitoring mechanism. How effective is the information collected at identifying instances of non-compliance? GATT/WTO has a centralized monitoring mechanism, the Trade Policy Review Mechanism (TPRM) which, its centralization

¹⁰ This doesn't mean, of course, that states don't have indirect means of shaping the character that this monitoring organization assumes.

notwithstanding, "does not effectively reveal noncompliance" (Dai, 441). The reasons for this lie in the character of the surveillance reports themselves as well as in the (limited) capacity of the organization to create the reports with the frequency and detail that would render them most useful. In contrast, the decentralized monitoring undertaken by states (and particularly by producers in states) employing the GATT/WTO Dispute Resolution Mechanism results in high quality information even as there is necessarily an element of triage involved in the selection of violations considered serious enough to warrant resort to dispute resolution. This is indication that degree of centralization itself is not a perfect proxy for the quality of the information produced via monitoring.¹¹ Indeed, though more data is surely needed on this issue, it appears that the decentralized monitoring conducted by NGOs produces high quality information, though here the problem may be sorting through the mass quantity of information produced. Another limitation of the information collected by NGOs is that in most cases they are not granted privileged access to state arenas relevant to assessing compliance, being often forced instead to collect information in the face of significant state resistance to their monitoring activities.¹²

How does the ICRC as a monitor of IHL fare in this regard? Here, as with the NGOs discussed above, the major limitation to the quality of ICRC monitoring lies in the vagaries of state access. The organization is obviously not able to undertake monitoring absent state consent and, even when general consent is granted, the quality of monitoring may suffer due to state machinations that limit organization access to particular geographic areas or particular prisoners.

¹¹ Indeed, there is often question about how even the highly centralized and resource-rich monitoring organizations fare as identifiers of violation, as for instance when discovery of the Iraqi nuclear programme in 1991 raised skepticism about the reliability of IAEA monitoring (IAEA 1997).

¹² This occurs, for instance, when Human Rights Watch researchers face great difficulty securing visas or access to contested areas.

Another issue relevant to assessing the quality of information procured via monitoring is the level of publicity granted to this information, a topic to which I will now turn.

Publicity and Enforcement

Because one of the distinguishing features of the IHL monitoring system is the general confidentiality policy employed by the ICRC, the publicity granted by other monitoring organizations to the products of their monitoring missions is relevant. One of the problems that monitoring organizations aim to solve is the desire of states to protect sensitive information even as they wish to signal their general compliance with relevant agreements.¹³ Thus, monitoring regimes such as the IAEA may protect particular pieces of information even as they publicly release summary reports of interest to other states and international actors attempting to evaluate the threat of defection. Most of the monitoring organizations surveyed here employ, then, some degree of publicity. One (relative) exception is the annual Article IV surveillance conducted by the IMF, which is generally private, though some steps have recently been made in the direction of greater transparency. The Fund, with the consent of the relevant state, now frequently issues a Public Information Notice (PIN) that summarizes the results of its surveillance. Yet, the requirement of consent and the element of summary make this component of publicity relatively modest.

An interesting question here is how publicity interacts with the mechanisms by which monitoring is able to improve state compliance. In regard to the IMF, publicity may not be critical to improving state monetary policy as the IMF itself possesses significant sources of leverage over states, particularly debtor states. Thus, the monitoring entity is also the entity that controls access to goods - usually loans - that states desire, so that publicity is not the primary

¹³ On this, see my discussion below of Brown's argument (2008) about variation in monitoring regimes.

mechanism by which state behavior is likely to change. In contrast, for a number of the more decentralized regimes, publicity is the primary mechanism by which these regimes might hope to exert influence on state behavior. A case in point here are the NGOs that monitor state compliance with human rights' treaty obligations. Election monitoring, discussed further below, operates similarly, with its relative efficacy increased by the weight given to the public pronouncements of election monitors by powerful states.

Given this state of affairs, the IHL monitoring conducted by the ICRC appears especially as an outlier. Unsurprisingly, it lacks the mechanisms of influence, in the form of concrete and compelling material incentives, possessed by the IMF or the WTO. However, what is more surprising is that in the absence of such tools it foregoes the opportunity to employ publicity as a matter of course. On the face of it, this seems a recipe for irrelevance. Further investigation will be needed to determine if this is in fact the case.

Explanatory Frameworks

The above sections undertook the descriptive work of placing the IHL monitoring regime in the context of other monitoring regimes in international relations. In this section, I review three significant recent works that attempt to explain the variation that exists across these regimes. I then consider to what extent each explanation enlightens puzzles related to IHL monitoring. Interestingly, each of these works, though differing in the particular explanations they offer, adopts a primarily rationalist explanation and utilizes quantitative methods (statistical analysis, game theory, and sometimes a combination of the two) to usefully test the effect of central rationalist variables such as state interest or information costs. I will attempt to demonstrate, however, that an historically-informed, qualitative analysis is useful for understanding the IHL monitoring regime that emerged as a contingent outgrowth of exogenous

changes in both the nature of warfare and the international legal regime that governs it. I will articulate both what the dominant, rationalist accounts enlighten as well as what they leave unexplored.

Upon considering these works, it quickly becomes apparent that the type of monitoring system that currently governs IHL is outside the rather narrow categories imagined by these scholars. Thus, one contribution of this chapter is to describe an empirical phenomenon that has not previously been given sufficient attention and to explore the theoretical implications of this empirical oversight.

After reviewing the main argument of these three scholars, Ron Brown, Xinyuan Dai, and Hyeran Jo, I will briefly assess the ability of each explanation to enlighten the specific case of the law of war by considering 1) how each explanation might enlighten the de facto IHL system that exists today and 2) to what extent each explanation can explain the change over time that we have observed in monitoring in this area.

Ron Brown (2008) has tackled the puzzle of variation across international legal regimes with painstaking attention to empirical detail. Writing decisively from the rationalist institutionalist perspective, Brown uses analogies from cartel theory and principal-agent theory to construct a set of hypotheses about state delegation in the domain of Nuclear, Biological, and Chemical Weapons (NBCW). This is a two-tiered theory in which Brown first considers why states have incentives to create international agreements and then why they have incentives to delegate key aspects of that agreement to an international agency. In regard to the first task, Brown employs cartel theory to conceptualize the interests that states with high NBCW capability have in cooperating to prevent the proliferation of weapons technology beyond the

"cartel," as well as the collective action problems and distributional conflict that impede the formation of such a cartel. He then uses principal-agent theory to deduce the costs and benefits of delegation in the service of the cartel. He argues that international agencies can perform useful functions in bargaining, monitoring, and enforcement of international weapons' proliferation agreements. Most notably, such agencies can reduce search costs - the costs of collecting highly technical and detailed information about numerous and disparate search targets - as well as sovereignty costs - for instance, the risk of disclosing sensitive information to other states that possess incentives for the strategic use of this information.

Brown's empirical accomplishments are impressive. He develops a quantitative measure of delegation to international agents that takes into account the range of functions the agent fulfills, the resources the agent possesses for the fulfillment of these functions, and the formal and informal ability of the agent to exert influence over the principal (in this case, the states that create the international agency). He likewise attempts the difficult task of quantifying the annual threat level posed by each class of weapon and proceeding to test empirically each of his theoretical claims about delegation: claims about threat level, preference distribution, political and technical information costs, and enforcement. He finds partial support for each of his claims. In regard to threat level, he finds that higher threat predicts greater delegation for nuclear weapons but not for the biological and chemical weapons regimes. In the realm of preference distribution, he finds that the more similar are states' preferences, the more likely is delegation, with the preferences of the most powerful NBCW states mattering more than the preferences of other states. Again, though, this is much more clearly the case for the nuclear regime than for the other regimes under investigation. As for information, he finds some (mixed) support for a curvilinear relationship between information complexity and delegation. Complexity of

technical information and diffusion of information targets favors delegation but only to the point at which such complexity makes the start-up costs of international monitoring too high. Finally, he employs a case study of North and South Korean nuclear behavior before and after the institution of the NPT to argue that international organizations can reduce the costs to individual states of enforcing international agreements.¹⁴ Overall, Brown's argument is that states are more likely to delegate meaningfully to monitors when 1) there is a compelling objective to be achieved from cooperation; 2) states' preferences are closer together rather than further apart; 3) search costs are high (but not prohibitively high); and 4) sovereignty costs are high.

What are the implications of Brown's argument for monitoring of IHL? First, it is important to note that the nature of the problem faced by states in regard to law of war violation presents a distinct strategic logic from the problems that the regimes Brown considers are intended to solve.¹⁵ He considers a situation in which a cartel of states seeks to prevent the proliferation of dangerous materials to states outside the cartel. In such a case the factor most relevant to negotiating a monitoring regime is whether one is inside the cartel or outside. However, law of war issue areas like treatment of civilians or prisoners of war are not as clearly "cartel" issues. Though there may be predictable variation in states' capacity to engage effectively in anti-civilian strategies or to successfully refrain from such strategies, most states are capable of strategies of violation¹⁶ as well as of restraint.¹⁷ This was especially true at the time of the initial codification of the law of war in 1864, when few low capacity states were

¹⁴ Here he might be accused of falling prey to the functionalist fallacy of assuming that, if an institution performs a certain function, that function is key to explaining the origins of the institution.

¹⁵ Of course the issues Brown considers are in some ways subsidiary issues in the law of armed conflict.

¹⁶ One is reminded here of Mearsheimer's statement that states could even resort to their "bare hands" as offensive weapon if necessary.

¹⁷ This latter capacity is presumably rarer than the former.

party to the major multilateral agreements. Perhaps, however, the absence of this cartel logic might explain why there's less incentive to create centralized monitoring for the law of war in general than for regimes governing WMD. One might say that states are more likely to create centralized monitoring when they are primarily attempting to tie others' hands, rather than their own.

Still, if the cartel logic is not precisely relevant, Brown's insights about sovereignty costs and search costs may still well be. Brown predicts that, other things being equal, higher search costs and higher sovereignty costs create incentive for centralized monitoring regimes. Given the absence of such centralization for the law of war in general and the presence of such centralization for regimes such as the NPT, the implication is that search costs and sovereignty costs are lower for the former than the latter.

To what extent do these claims enlighten change over time in the IHL monitoring regime? If anything, with the increasing legalization of the law of war and the increasing technological sophistication of military armaments, what Brown terms search costs have risen over the course of the last half of the twentieth century. Sovereignty costs, too, have increased, particularly as the law of war has - if somewhat gingerly - entered the domain of non-international armed conflict via Common Article 3 and the Protocol II Additional. According to Brown's logic, these factors should have resulted in increased centralization of monitoring in the realm of the law of war. This has been the case, however, in form only, with the level of centralization of de facto monitoring remaining relatively static. Thus, at best Brown helps us to understand the absence of compelling state interest in law of war compliance and the absence of a relevant cartel as explanations for the relatively low centralization that characterizes this

regime; his argument does relatively little to enlighten the very real change over time that IHL monitoring has undergone.

Xinyuan Dai (2007) has likewise offered a useful analytic framework for thinking about the monitoring regimes that states establish for the international legal commitments they assume. Two variables, she argues, determine the type of monitoring regimes that states will establish. The first variable is whether state interest is aligned with the victims of noncompliance, and the second is the availability of victims as low-cost monitors. The first variable insightfully captures the reality that states might have varying levels of interest in ensuring compliance with the legal obligations they undertake. That is, it is not equally important to states that all of their international legal commitments are upheld. The second variable assumes that, even if states have an interest in assuring compliance, resource constraints create incentives for them to utilize low-cost monitors that might be available, such as victims and NGOs. If other actors are willing and able to do the monitoring work for states, then those states have little incentive to establish more centralized monitoring regimes, the creation and maintenance of which will inevitably impose some costs on the state.

What predictions does Dai's framework make in regard to law of war monitoring regimes, and are these predictions borne out in reality? The interest alignment variable is quite easy to apply to the law of war case, at least when the focus is on the law of *international* armed conflict,¹⁸ as is the primary (but not exclusive) focus here. Because the victims of a state's law of war violations are best viewed as opposing states themselves, these states can be considered, in Dai's language, good agents of themselves. There may be cases in which this assumption is

¹⁸ An interesting additional implication of Dai's work is that we would expect a different monitoring system for the law governing inter-state war than for that governing non-international armed conflict, as in the latter case state interest is clearly *not* aligned with the victims of noncompliance.

not warranted, but these cases should be rare. Mistreatment of another state's soldiers can clearly be viewed as a victimization of the state as a whole, as can (generally speaking) such actions as targeting civilians/cultural sites.¹⁹

It is less clear how the law of war fares on Dai's second variable, availability of victims as low cost monitors. Dai employs two indicators to assess the value of this variable: 1) whether violation is readily observable to victims and 2) whether victims can identify the source of the violation (pg 51). In many cases, victims should be able to observe noncompliance – incidences of indiscriminate attacks against civilians, poisonous gas attacks, etc. are more likely than not readily observable, despite some potential for noise to play a disrupting factor. Though mistreatment of prisoners of war may be observable to the victims, the victims may not be able to communicate this to their states. Furthermore, while states will most likely know the identity of the violating state (with possible exceptions in coalition wars), they may not be able to readily distinguish between violations that are state policy and violations that are the result of subordinates acting contra state orders (Morrow, 2007). It is, then, somewhat unclear how to appropriately classify the law of war on this variable. As a result, let us consider each possibility in turn. According to Dai's analytic framework, if victims are available as low cost monitors, we should see monitoring conducted by victims and states, as is the case with GATT/WTO dispute resolution system. If, on the other, victims are not so available, we should see monitoring undertaken by a centralized treaty organization, as is the case with the NPT, which utilizes the rather powerful IAEA as monitoring organization.

¹⁹ It's possible to imagine instances in which civilian targeting might not be viewed as opposed to the interests of the attacked state when viewed as a unified political unit – for instance, cases in which the civilians attacked are not of political concern to the state because of their ethnic or religious identity or for some other reason. Again, however, these instances should be rare, making valid the assumption that the victims of law of war violations are states themselves.

It is worth noting, of course, that neither of these alternatives describe the monitoring regime that in fact governs the law of war, as, clearly, the ICRC is not a victim of law of war violations. Neither is the organization properly conceived of as a treaty body, though on first glance such a view might be tempting. The ICRC is in fact a body with a rather unique legal status. The ICRC is explicitly named in the treaties that codify the international law of armed conflict as an actor whose monitoring services might be utilized. Yet, the organization existed prior to the codification of the law, and its locus of control lies external to the unity of state wills reflected in this codification. The ICRC might be thought, then, to be closer to a NGO, though its close ties to the Swiss Federation and, as mentioned above, its explicit mention in the relevant international treaties somewhat belie this classification. Still, NGO is a more accurate description of the ICRC than is treaty organization. If we accept this classification, the ICRC does not fall into the category predicted by Dai's analysis but instead falls into the cell predicted by a regime that does not reflect alignment between state and victims and in which victims are not available as low-cost monitors, the same cell to which Dai assigns human rights monitoring organizations.

One question that emerges from this discussion is whether Dai's mistaken prediction for the law of war regime is entirely the result of the ICRC's somewhat idiosyncratic status or whether it reflects a more significant failure of her analytic framework. Of course, a schema cannot account for all contingencies, and a great deal of parsimony and explanatory power would be lost if one tried to accommodate them. Yet, even when we allow for the ICRC's status and place it in the category best suited for it, Dai's framework falls short. Still, one way in which the ICRC monitoring regime is consistent with Dai's analysis is in the area of cost-effective monitoring. Though Dai can't have been expected to capture the full range of possible

monitoring arrangements, she highlights the resource constraints faced by states that make it appealing to delegate monitoring to other actors. Since, at the time of codification of the law of war, another actor was already established who was willing and able to undertake the business of monitoring and save states the costly and undesirable task of coordinating upon and establishing a centralized treaty regime, it makes sense that states would choose to utilize it. This reality, then, is not so damning to her analysis.

More problematic is the fact that Dai's interest alignment variable leads us astray here. The monitoring regime that exists for the law of war looks more like a regime that would exist for an issue area in which states were not the victims of noncompliance. What's interesting is that in the post-1945 period the law of war may have increasingly taken on this characteristic with the increase in the proportion of wars that are internal rather than interstate. However, this cannot of course explain the origin of structures that were created long before this empirical phenomenon manifested. Another possibility is that, following Dai's resource constraint logic, use was initially made by states of the convenient monitoring organization already existent at the time of law of war codification and that this initial decision then came to have quite significant consequences for the efficacy of the monitoring that ensued.

When we look to Dai's framework to explain the changes over time in IHL monitoring arrangements, we find that it offers little help. This is primarily because the significant changes that took place in this monitoring regime don't register as such in Dai's analytic schema. As discussed above, Dai considers 4 sets of monitoring arrangements: monitoring by treaty organization, monitoring by victims and states, monitoring by NGOs and states, and monitoring by NGOs. While leaving room for the fact that IHL monitoring fits rather uneasily in any of

these categories, it nevertheless appears that the changes that have occurred have not included a movement from one of these four categories to another. That is, the critical changes do not appear to have taken place along the main dimensions that Dai assesses. The primary change has been a shift from monitoring by external state actors selected on an ad hoc basis to monitoring via external non-governmental organization. Though this change indeed represents an increase in centralization, it does not represent a sufficient enough increase to "graduate" IHL monitoring to another of Dai's categories. Moreover, there does not appear to have been change on Dai's two main variables - alignment of interest between states and victims and availability of victims as low-cost monitors - over this time period. One important exception to this is in the domain of non-international armed conflict, the rise of which likely has led to a decrease in interest alignment between states and victims. However, Dai predicts that this variable should produce less centralization, not more, making the shift from states selected on an ad hoc basis to a neutral third-party organization somewhat surprising.

Finally, let us turn to the work of Hyeran Jo (2008), another scholar who has taken seriously the task of explaining variation in monitoring regimes established by states. In contrast to Dai's decision theoretic framework, Jo emphasizes the strategic difficulties posed by states' attempts to cooperate under conditions of informational uncertainty. Using an impressive combination of game theoretic modeling and rigorous empirical (statistical) analysis, Jo draws attention to the particular roles played by asymmetry and distributional conflict in the selection of a monitoring regime for a given international institution. Jo models the situation in which one state possesses private information about the conditions under which its violation occurred. The task of the observing state is to determine whether the violation occurred under normal conditions – in which case the violation was deterrable and should be punished – or under

difficult, extenuating conditions – in which case the violation was undeterrable and should be excused. An international monitoring body can help the state distinguish between these two conditions and can thus improve the prospects for long-term cooperation between the involved states. However, distributional conflict threatens to thwart the establishment of such a body in circumstances in which states face highly asymmetrical compliance environments. An asymmetric compliance environment exists when domestic or international factors make compliance much more costly for some states than for others. The straightforward prediction here is that, despite opportunities for long-term advantage from the establishment of centralized monitoring, states are less likely to successfully establish centralized monitoring bodies when compliance asymmetry is high.

One example that Jo considers in this regard is that of the Nuclear Non-proliferation Treaty (NPT). In this case, the so-called compliance environment of nuclear weapon states (NWS) is quite different from that faced by the non-nuclear weapon states (NNWS). Jo expects that, at least in the short term, centralized monitoring will tend to act contra the interest of the NNWS, even as all states might benefit over time from greater cooperation made possible by more centralized monitoring. One solution to the distributional problem created by such a scenario is in the form of side payments, which in this regime NNWS receive in the form of assistance with civilian-use nuclear technology.

How does Jo's work enlighten monitoring in regard to the law of war? One interesting point she makes is that, while more centralized monitoring arrangements are often in both states' interests in the long-term, distributional conflicts can sometimes prevent the development of these institutions. This suggests that insight into the lack of a more centralized monitoring

organization for the law of war might be found by exploring asymmetries extant at the time of codification. It is challenging to consider asymmetries in this area because the law of war itself covers a number of different issues areas. It's likely, for instance, that states possess different "compliance environments" for proper treatment of POWs than for protection of cultural property or protection of civilians. However, as noted above, one factor that might create asymmetry for law of war compliance across the board is state capacity. At any given time, there is variation in states' abilities to discipline and control their military forces. Asymmetry in states' capacity to enforce law of war adherence in their own militaries offers an additional possible explanation for the relatively decentralized monitoring of the law of war regime, in addition to the resource scarcity variable we previously gleaned from Dai. Another asymmetry apt to be relevant, especially once Protocol II comes into play, concerns the relative likelihood of a state falling prey to internal rebellion. However, though this is a plausible explanation for states' inability to create a more centralized monitoring system in regard to the law of non-international armed conflict, it fails to explain why this extended to the realm of international armed conflict. Moreover, it likewise leaves unexplained how and why states would permit the ICRC to perform monitoring functions, even in regard to the ever-contentious law of non-international armed conflict. Thus, though Jo's argument gives rise to an intriguing hypothesis about IHL monitoring, it also leaves a great deal unexplained.

It is somewhat curious that, while Jo cites Dai, she does not fully engage the implications of each of their theories for the other. As mentioned above, one key difference between the two works is Jo's game theoretic emphasis in contrast to Dai's primarily decision-theoretic analysis. Additionally, Jo tends to examine variation among agreements within a particular issue area. For instance, she considers a universe of 123 regional trade agreements and attempts to enlighten

why some evidence more centralized monitoring than others. In this respect, their two theories may be compatible. One factor that Jo recognizes that Dai somewhat neglects is that all monitoring arrangements are not equally efficacious at facilitating compliance. Dai views, for instance, the use of victims as low-cost monitors as a cheap strategy without taking into account that states may get what they pay for in terms of monitoring efficacy. Jo, in contrast, acknowledges the tendency of more centralized regimes to reap dividends for all relevant states in the long-term even though distributional conflict may thwart this cooperation in the short-term.

Each of these accounts has used a rationalist perspective to explain sources of variation across monitoring regimes in international politics. Each account usefully offers some insight into the relatively low centralization that has characterized IHL monitoring. Brown and Dai suggest, albeit in different ways, that states may have been insufficiently motivated to increase compliance via delegation, as state interest and compliance were not sufficiently aligned. Jo, on the other hand, while leaving open the possibility of long-term gain from delegation, suggests that distributional asymmetries at the time of negotiation may have prevented what could have become a mutually beneficial act of delegation. Though it is always dangerous to evaluate a comparative theory in terms of its ability to explain one particular issue area, each of these accounts rather uneasily captures the unique monitoring arrangement of the law of war. More importantly, none of these worthy accounts is able to articulate an explanation for the evolution of this monitoring regime over time. This is largely due to some limitations of the rationalist perspective and the methodological commitments that derive from it. The next section considers these limitations in more detail before zeroing in on the particular evolution of the law of war

monitoring regime and the lessons that can be gleaned from it about institutional delegation more generally.

The Limitations of Rationalism

With some notable exceptions (Finnemore, 1996, 1999; Carpenter 2003, 2006), the increased study of institutions in international relations has been predominantly a rationalist enterprise. This is in contrast with institutional studies in comparative politics, which have taken two distinct directions: one rationalist, and the other historical institutionalist. Whereas rationalist studies favor deductive methods and a focus on comparative statics, historical institutional studies privilege inductive methods and maintain an eye for the ways in which nuances of context shape the institutions that come to exist, as well as the short and long term consequences of those institutions (Steinmo, Thelen, & Longstrength, 1992). Each of the three important studies of monitoring institutions discussed above has employed a rationalist framework; this chapter takes a distinct perspective, highlighting the contingent historical factors that led to a particular monitoring constellation for the law of war. In this light, this chapter is more consistent with an historical institutionalist perspective.

A good example of the rationalist propensity to exaggeration of predictability and precision of explanation can be found in Brown's work. From the first chapter, he articulates an intriguing puzzle. The IAEA was formed in 1957, and its reach greatly expanded with the entrance into effect of the NPT in 1970. In contrast to the significant delegation that took place at a relatively early date in the nuclear context, the Convention on Biological and Toxin Weapons Convention was only concluded in 1972 without delegation to an outside agent; the Chemical Weapons Convention fell somewhat in between on the dimension of delegation,

entering effect only at the late date of 1993 but establishing provision for delegation to the OPCW. Brown thus poses a tantalizing puzzle of variation in the timing and nature of international NBCW agreements and promises to explain this puzzle. Yet, despite his careful hypothesis testing, at the end of the day these questions remain largely unanswered. He has given the reader a sense of some variables that influence the probability of delegation, but he has certainly not explained why an agreement on chemical weapons is made 40 years after a similar agreement on nuclear weapons. While Brown surely cannot be faulted for either his attempt to frame compellingly his research question or his inability to explain so neatly the complexity of empirical reality, ultimately the unrealistic expectation of predictability he sets up is intimately related to the limitations of the rationalist paradigm. While probabilistic insights about the circumstances under which delegation is more or less likely may be the best we can hope for, rationalists like Brown often hold out the tantalizing and unfulfilled promise of explaining far more than probabilistic patterns. Accordingly, in the sections that follow, I emphasize the contingent coalescence of variables that led to the flourishing of a specific type of IHL monitoring regime - a relatively decentralized, ad hoc system with the ICRC at its center.

The sections that follow offer an extended case study of institutional evolution in reaction to exogenous changes in the nature of war-fighting as well as in the political and legal ramifications of existing institutional structures. The case-study makes use of secondary historical material as well as primary source material in the form of the seventeen-volume *Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts* (Geneva, 1974-1977). Despite the obvious significance of the Additional Protocols produced in these conferences, relatively

little historical work has been done on these activities,²⁰ and even less work has examined in detail the negotiations on monitoring arrangements. Thus, this chapter attempts to probe the records of this momentous conference with an eye toward enlightening certain puzzling features of the monitoring arrangements that ensued.

Before proceeding with this literature review, it is important to review the specific type of empirical variation under exploration here. The focus here is change over time in the type of monitoring, *de jure* and *de facto*, that governs a specific issue area, the law of war. Thus, the logic of comparison is change across time, rather than across issue area or case. On the *de facto* level, the change is primarily from *de* centralized monitoring conducted by states (in the form of the protecting power) to *de* centralized monitoring conducted primarily by the ICRC. On the *de jure* level, the changes are more complex, as the *de facto* ascendancy of the ICRC as monitor is only imperfectly reflected in treaty law, and present are (failed) *de jure* attempts to both resurrect the protecting power and create a more centralized monitoring body.

Of course, there are limitations to the methodological strategy employed here and particularly to the emphasis placed on primary documents related to the negotiation of international law. First, though the Official Records contain a large amount of information and are thus highly instructive, the information contained therein is necessarily partial. Though the records are meant to be a thorough recounting of the activities of the Conferences that led to the acceptance of the two Protocols Additional, they are by no means exhaustive. Choices are surely made about the level of detail that warrants inclusion, and, absent direct participation, it is difficult to make judgments about the extent and direction of any censoring effect. Further, even were the notes comprehensive, the fact remains that delegates attending the Conferences were

²⁰ For a notable exception, see Levie, 1979 - 1981.

representing their governments and were thus engaged in political maneuvering. Thus, the same caveats attach to the statements made by governments as always attach to political discourse. That is, we can only comment on the arguments made by state representatives; we cannot assume that those arguments accurately reflect the motivations of states. Still, one assumption made by this kind of analysis is that, even if state delegates' public comments aren't the whole story, they are nevertheless a valuable story, as they reveal something about the values and considerations deemed appropriate for quasi-public political discourse.²¹ One might also argue that the statements made by delegates at a diplomatic conference are more reliable than statements made, for instance, to public audiences, as unsentimental arguments about state interest may be more acceptable in the former context than in the latter.

In the analysis that follows I argue that, though states were resistant to the encroachments of the ICRC on the duties of the protecting power as late as 1949, within ten to twenty years the ICRC had superseded the protecting power as de facto monitor for two primary reasons: first, the widening domain of non-international armed conflict served as a bright line beyond which the protecting power could not go; second, the increasing political and legal consequences from invocation of formal mechanisms such as the protecting power created incentives for state use of less formal means to achieve the ends of monitoring. Though these reasons explain the abandonment of the protecting power, its replacement by the ICRC in particular requires further explanation. Here the answer lies in the fact that - for longstanding historical and cultural reasons of its own - the ICRC had adopted a set of principles remarkably close to the preferences of states. However, lest one make the conclusion that the organization was little more than a

²¹ See Krebs, 2006 for a useful analysis of the relevance of the study of rhetoric to international politics.

sieve for state interest, it is important to acknowledge that the ICRC was ultimately able to craft a de facto role for itself - particularly in the realm of non-international armed conflict - that outpaced even the role states formally granted it via treaty law.²²

The Protecting Power

The rise and fall of the protecting power as institution is noteworthy for its parallels and distinctions to the ICRC's own monitoring trajectory. One might view this story partly as one of institutional competition, with the ICRC eventually prevailing over the protecting power at least as concerns humanitarian functions in war. The first striking similarity between the two institutions lies in temporal origin, with both created in the late nineteenth century. Just as the Austro-Sardinian War of 1859 provided Henri Dunant with the inspiration that would eventually lead to the formation of the ICRC, the Franco-Prussian War of 1870-1871 provided the context for the first modern use of the protecting power (Levie, 1961; Peirce, 1980). Yet, like those of IHL itself,²³ the origins of the institution were more deeply rooted in diplomatic custom, specifically in the practice of unofficial diplomatic protection of foreign interests in peacetime. During the late nineteenth century, the troubling practice of expelling diplomats in time of war, when the belligerent's nationals were plausibly at their most vulnerable, provided a clear rationale for an institution such as protecting power. The protecting power was a neutral state designated by one of the belligerent states to safeguard its interests within the opposing state, subject, of course, to that state's approval. In the Franco-Prussian War, for instance, the United States, Switzerland, and Russia protected the interests of various Prussian states within France,

²² On the self-promoting behavior of international institutions - in this case IGOs - See Johnson 2014 for an intriguing argument about the role of international bureaucrats in the expansion and insulation of IGOs from state influence.

²³ See Fazal and Greene, 2014.

while England was tasked with protecting the interests of France in the German states (Levie, 1961). The roles of the protecting power were multifarious and contentious and included such varied activities as stewardship of official property, protection of property of local persons, assistance in repatriation of nationals, disbursement of relief payments, and protection of prisoners of war and civil internees (Franklin, 1947). States and organizations concerned were sometimes inclined to speak of the political versus humanitarian functions of the protecting power. Political functions concerned, for instance, embassy protection, while humanitarian functions centered on prisoners of war and civilian internees. The humanitarian functions played by the protecting power themselves evolved over time, with, according to Peirce, the protecting power tending to take little action for humanitarian ends prior to the Russo-Japanese War of 1904 -1905 (p. 95).

Prior to and during World War II, the protecting power was an institution that evolved alongside the ICRC, with the latter sometimes assuming roles parallel to those of the former. For instance, the 1929 Geneva Convention explicitly outlined a role for both the ICRC and the protecting power in the active protection of POWs, though, to be fair, the duties of the protecting power were much more numerous than were those of the ICRC or the "relief societies" mentioned therein (Convention Relative to the Treatment of Prisoners of War, 27 July 1929). This didn't mean, however, that there was always an easy co-existence of these two actors. In the negotiations over the Geneva Conventions of 1949, there was considerable disagreement about whether, in the absence of the ability of warring states to agree on a protecting power, the ICRC could assume this role (more on this below). The ICRC was itself conflicted about its willingness to assume this title, due to fear that adopting the political functions of the protecting power would interfere with its humanitarian neutrality (Peirce, 1980; Levie, 1961). Conversely,

states assuming the role of protecting power sometimes appeared hesitant to fulfill humanitarian functions out of ostensible concern with how this might affect political neutrality. For instance, Peirce reports that early during its period of neutrality in World War I, the United States in its role as protecting power avoided issues related to prisoners of war for just this reason (p.98). After the Second World War, however, use of the protecting power declined markedly. The only uses of the institution in the post-war era were in the 1956 Suez Crisis, the 1961 Indian conflict over the Portuguese colony of Goa, the 1961 conflict between Tunisia and France over the territory of Bizerte, the 1971 India-Pakistani conflict that led to Bangladeshi independence, and the 1982 Falklands War between Argentina and the UK (Peirce).²⁴

There is a certain irony in the eventual obsolescence of the protecting power, as early in IHL history states demonstrated a clear preference for the protecting power over the ICRC when it came to most monitoring functions. In the draft version of the 1929 Geneva Convention that it presented at the Diplomatic Conference, the ICRC proposed that the ICRC itself be named as the actor that would oversee implementation of the convention (Levie, 1961, p. 32). However, states rejected this proposal, preferring instead that the protecting power fulfill this function. Thus, Article 86 of the 1929 Convention²⁵ states that the protecting power - and not the ICRC - should be permitted to visit any place where prisoners of war are held (Convention relative to the Treatment of Prisoners of War, Geneva, 27 July 1929). Yet, while at the time states seemed to

²⁴ However, the language of protecting power continued to be used occasionally in the post-World War II period to describe diplomatic relationships transpiring under political circumstances that, while tense, did not constitute instances of armed conflict. Unclassified state department documents (U.S. Department of State Foreign Affairs Manual Volume 7, March 2014), for instance, report five ongoing circumstances in which the U.S. uses a protecting power: Switzerland in Cuba (since 1961), Switzerland in Iran (since 1980), Sweden in the Democratic People's Republic of Korea (since 1995), the Czech Republic in Syria (since 2012), and France in the Central African Republic (since 2013). While several of these states are active conflict zones, they are not states in which the U.S. is a formal belligerent.

²⁵ Importantly, the 1929 Convention marked the first explicit mention of the protecting power in treaty law. The same was true for the ICRC, though unnamed "aid societies" had found a place in the 1906 Geneva Convention.

prefer that the role of guarantor of the Convention be played by the protecting power rather than the ICRC, just several decades later the ICRC would de facto replace the protecting power in this capacity.

How did this happen? Notably, the de jure status of the protecting power did not change significantly between the 1929 Convention and the 1949 Convention. The main concern of states at the time of the 1949 Diplomatic Convention was that in certain circumstances belligerent states were unable to agree on a protecting power. This was primarily because recognizing a neutral as protecting power for a warring party was thought to presuppose recognition of the warring party's statehood. For instance, during World War II the Soviet Union refused to accept a protecting power for Poland, as it did not recognize Poland as an independent state (Peirce, pg. 104). As a result, at the time of the 1949 Convention a great concern was how to provide for a substitute in cases in which a protecting power was not mutually agreeable. Though, as mentioned above, the ICRC was not itself keen to adopt what it considered the political functions of the protecting power (though it would change its mind on this point by the time of the Additional Protocols), it was willing to accept the humanitarian functions of the protecting power in cases in which such a power was not available for whatever reason. Thus, Common Article 10 of the 1949 Conventions provides for "a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention." (qtd. in Peirce p. 111)

One noteworthy development in the 1949 Conventions, however, would pave the way for the ICRC to overtake the Protecting Power as primary IHL monitor in the post-World War II context. At debate in the meetings of experts that took place in 1946 and 1947 was the

applicability of the Conventions during internal conflict. The primary conflict pitted the ICRC, which sought to protect victims of internal conflict, against states that feared that low-level rebellions would be granted recognition as international conflicts. The compromise solution was Common Article 3 which made certain basic humanitarian protections - protection of those "hors de combat," for instance, or prohibition of humiliating and degrading treatment - applicable "in the case of armed conflict not of an international character " (Levie, 1987). Importantly, Common Article 3 took a further step that would prove particularly significant in the post-war period: it sanctioned a role for the ICRC or another "impartial humanitarian body" as a provider of somewhat-vaguely- described "services" in internal conflicts. Notably, the Protecting Power was nowhere named in the text of Common Article 3, as its role, unlike the humanitarian role of actors like the ICRC, had been exclusively tied to interstate war.²⁶ Thus, a legal framework, however tenuous, was set for the ICRC to exert a role in armed conflict not of an international nature; notably, no such framework was outlined for the Protecting Power. This critical difference would set the stage for the virtual obsolescence of the protecting power in the post-World War II period.

The logic of my argument parallels Fazal's (2012) argument about the dramatic decline in states' declaration of war over the same time period. Fazal argues persuasively that, with the marked increase in the costs of complying with IHL that accompanied the burgeoning demands of IHL in the middle of the twentieth century, states gained incentives to avoid declaring war as a way of increasing ambiguity about the applicability of IHL to their behavior. Two related reasons suggest a similar logic by which the Protecting Power met a fate basically identical to

²⁶ The Boer War is sometimes considered as an exception to this rule; here the United States reluctantly took limited action on behalf of British POWs. (Peirce, pg. 119 and 116, fn 80.)

that of war declaration. First, as Peirce persuasively argued and is discussed above, the utility of the Protecting Power was dramatically hampered by its *de jure* inapplicability to non-international conflicts given the increased proportion of all conflicts that were non-international in the post-World War II period. Though appointing a protecting power was viewed as equivalent to recognizing the legal status of one's combatants, granting access to the ICRC was not so viewed given its place in Common Article 3. However, this leaves open the question of why the protecting power did not continue to be used in wars clearly of an interstate nature. Here Fazal's logic is applicable. I argue that appointment of a protecting power constituted yet another type of legal "bright line" that made it difficult to maintain ambiguity about one's legal obligations under IHL. Indeed, appointment of a Protecting Power is possibly even a more direct statement of legal commitment than is declaration of war, as the former is explicitly expressed in codified law as a form of third-party surveillance of IHL implementation.

It is instructive in this regard to compare two sets of outliers: the post-1945 instances of war declaration and the post-1945 uses of the protecting power. As evident in Table 2.2, there is significant overlap, but not complete convergence, across these two categories. Post-1945 cases of war declaration include both India and Pakistan in their 1971 conflict over East Pakistan/Bangladesh and India in its 1962 conflict with China. The protecting power, on the other hand, was employed in the 1956 Suez Crisis, the 1961 Indian conflict over the Portuguese colony of Goa, the 1961 France-Tunisia conflict over Bizerte, the 1971 India-Pakistani conflict, and the 1982 Argentina-UK conflict over the Falklands (Peirce, 1980; Bugnion, 2003; Pfanner, 2009). Notably, the 1971 India-Pakistani conflict is in both categories. The degree of overlap here provides tentative support for the notion that the same mechanism explains the decline of the two institutions but also raises questions about the sources of the discrepant cases.

Interestingly, part of this discrepancy may hinge on one's definition of declaration of war. Fazal creates her own dataset of such declarations and defines declaration according to the formal mechanisms for declaration operant within each state. She argues that in Indian law declaring a state of emergency is equivalent to a declaration of war. Peirce, however, describes the 1962 Sino-Indian conflict as one in which no war was declared by either side and, in fact, diplomatic relations were maintained by both parties (p. 122). In fact, it was this continuation of normal diplomatic relations that China used to argue that a protecting power was unnecessary. Thus, what may constitute a declaration of war domestically may not be viewed by one's opponent as tantamount to such a declaration. Yet even China's argument in this case reinforces the notion that declaration of war and the appointment of a protecting power go hand and hand. What of the other four cases?

The Indian-Portuguese conflict and the France-Tunisia conflict do not meet the Correlates of War threshold of 1,000 battle-related casualties and so are not included in Fazal's dataset, though they remain instances of undeclared war. India had in peacetime named Egypt as its protecting power, and, upon the severance of diplomatic ties, Portugal appointed Brazil in this capacity (Peirce, pg. 124; Forsythe, 1976). The Suez conflict was similarly one in which the protecting power was employed absent a declaration of war, though an acceptable protecting power was not agreed upon for all warring parties, as Egypt refused to accept either a protecting power or the ICRC as protecting power substitute due to its contention that Israel was not a legitimate state (Peirce; Forsythe). It is difficult to understand why a state would choose a protecting power but refuse to declare war, insofar as, per Peirce's argument discussed above, a recognition of a protecting power may be viewed as recognition of a state of war. However, one possibility in this context is that states view the protecting power as an institution more likely to

safeguard their interests than to increase legal obligation. Yet, were this so, one would expect more frequent recourse to the institution in the post-WWII period than is in fact the case. It is perhaps notable that three of these outlier cases - no war declaration but use of the protecting power - take place relatively early in the post-war period and prior to the ratification of the Additional Protocols. This is compatible with the view that changes in the political context in the post-World War II period made use of the protecting power increasingly unlikely, though it took some time before the use of the traditional institution completely faded from the system. The recourse to the institution in the Falklands war appears, then, as more anomalous given its occurrence a decade after the previous use of the institution.

It is perhaps useful at this juncture to examine in more detail the relative costs and benefits of employing the protecting power versus employing the ICRC in a monitoring role. See Table 2.3 for a summary of the primary ways in which the two institutions differ. At issue here are organizational costs and political costs. One of the classic accounts of the utility of international institutions emphasizes the greater efficiency and lower transaction costs that accompany the establishment of a standing institution (Martin and Simmons, 1993). Thus, rather than negotiating on an ad hoc basis, states can benefit from the existence of a previously negotiated regime that applies to a large number of relevant cases. Interestingly, this organizational gain is often - but not always - accompanied by some significant degree of delegation to the institution, so that freedom from ad hoc negotiations also means the cession of some degree of state autonomy to make decisions on a case by case basis.²⁷ In the case of the ICRC, however, the degree of delegation remains largely the same, as states retain the freedom

²⁷ Of course, this is a relative difference, not an absolute one, as states never fully cede control and always retain the option of choosing to act contra the institutional imperative or institutional agreement.

to grant access on a case-by-case basis. What they gain is a go-to actor with some reputation for neutrality that has a good chance of being acceptable to the opposing state. Thus, it is likely that use of the ICRC constitutes a definite advantage in terms of the reduction in transaction costs as much less energy need be consumed in the choice of a state willing to assume the protecting power functions that is likewise acceptable to one's opponent. Additionally, this efficiency gain comes at little cost as there is no real delegation to the ICRC made a priori by states.

What, then, of the differential political costs of the two options? Here it is important to distinguish between political costs in intra-state wars versus political costs in inter-state wars. In intra-state wars at issue is legitimating domestic resistance and granting external actors interference in domestic affairs. Thus, it is not surprising that states would be reluctant to use an institution like the protecting power which has been explicitly codified for applicability only in international armed conflicts. Does the ICRC pose the same risk? As Peirce argues, the ICRC benefits from the ambiguity it is able to cultivate about the legal sources of its mandate for humanitarian action. Because, unlike the protecting power, the ICRC is legally able to monitor in both international and non-international armed conflicts, the organization can both justify its presence in a wide array of conflicts and side-step debates about the legal status of the belligerents. As Peirce argues, by failing to make explicit the legal source of its action in a particular conflict,²⁸ the organization can avoid paralyzing debates and can take advantage of a "thin wedge of access" to expand its reach as a conflict escalates, whereas in contrast the protecting power faces "threshold barriers" (p.126) to access. In an international armed conflict, the political implications of the choice of protecting power versus the ICRC are less stark,

²⁸ That is, whether the organization is acting under Common Article 3, in a non-international armed conflict, or under the remaining articles appropriate for an international armed conflict.

though here, as discussed above, it is likely that the more highly legalized role of the protecting power allows for less legal and political ambiguity than does use of the ICRC. Formality, it appears, can sometimes be a liability.

By the time of the negotiations that would become the 1977 Protocols Additional, the relative non-use of the protecting power put two issues squarely on the table: first, whether the role of the protecting power might be resuscitated, and, second, whether an organization might be created that could go beyond monitoring and into enforcement of international humanitarian law. Let us consider them in turn.

Last Gasp for the Protecting Power?

Faced with the virtual non-use of the institution of the protecting power in the post-World War II period, states at the Diplomatic Conferences of 1974, 1975, and 1976 were faced with the task of creating legal innovations that would sidestep the problems that had plagued the institution and rescue it from impending obsolescence. As mentioned above, a number of problems had conspired to produce the precarious position in which the institution found itself by the mid-1970s. Though, for reasons that will be discussed further below, the most formidable problem facing the institution - its inapplicability in conditions of internal conflict²⁹ - was not considered one that could be solved via institutional innovation, other problems were deemed potentially surmountable by wise institutional revision. These included the problems of warring states' inability to agree on acceptable protecting powers, as well as the increasingly frequent refusal of states to legally recognize their opponents and/or the condition of belligerency.

²⁹ More precisely, this problem was not one that states were willing to solve by dramatically expanding the scope of applicability of the protecting power, which had heretofore only been deemed applicable in conditions of international armed conflict.

The central question at hand was how to prevent the all-too-common situation in which a war was fought without the appointment of a protecting power, a state of affairs that left the duties of the protecting power unfulfilled. This was a problem that had been foreseen in 1949, and the solution arrived at then was to suggest that an "humanitarian organization, such as the International Committee of the Red Cross" might fulfill the humanitarian functions of the protecting power.³⁰ Yet, this solution had not proven sufficient to forestall the waning vitality of the wartime institution.

At the time of the 1974 conference, then, many states, among them Egypt and Norway, held the position that a more dramatic solution was necessary, one that would establish an automatic protecting power substitute in conditions in which states couldn't readily agree on a protecting power of their own accord (O.R. Vol. VI, pg. 77). Of course, other states - notably the Communist states - were more tightly wedded to traditional notions of state sovereignty and highly resistant to any notion of automaticity, which would necessarily supersede state discretion. Whereas the boldest proposals suggested the formation of a standing body to act as official substitute,³¹ at the other end of the spectrum were proposals that simply exhorted states to find an agreeable protecting power or substitute but made no concrete provision for the cases in which states failed to so act. Given this divergence of opinion, efforts to reach agreement unsurprisingly resulted in the dilution of the strongest proposals and movement towards the lowest common denominator.

³⁰ At the time, the organization was unwilling to adopt the title of full-fledged protecting power substitute, as it held that the non-humanitarian functions of the protecting power might clash with its humanitarian tasks. By 1974, however, the organization had changed its position on this issue.

³¹ For instance, Amendment *CDDH/I/83 proposed by Norway on 13 September 1974*.

In the end, the revised Article 5 of Protocol I made a number of rather modest improvements on Article 10 of the 1949 Conventions. As in the 1949 convention, the language used implies obligation, for instance through the invocation of states' "duty" to secure a protecting power and the statement that states "shall without delay" designate such a power. Beyond that, a contingency plan is developed for the cases in which a protecting power is not agreed upon. First, as recounted in paragraphs two and three, the ICRC is to play a role in helping the warring parties to find a state or states that each finds acceptable as protecting power. The specific procedure suggested is that the ICRC request a list from each state of five states it would find acceptable as its protecting power, as well as five states it would tolerate as its opponent's protecting power. From these sets of lists, the organization is to facilitate mutual agreement. As Peirce discusses, these sections of Article 5 were relatively undisputed. Matters became more contentious, however, when it came to the fall-back procedure to be used in the event that the ICRC's mediating role proved insufficient.³² It was here that the question of whether there would be an automatic substitute and, if so, who that substitute would be, was heatedly debated. The final version had the ICRC listed as possible official substitute, though only pending its own approval and the consent of the relevant states; the text also made clear that the mention of the ICRC did not preclude another neutral organization from undertaking this task. Over the course of negotiations, the possibility that the UN might play this role was considered, though some states - mostly members of the Western bloc - doubted the neutrality of the UN bodies.

One noteworthy aspect of these negotiations was the continued effort placed in the revitalization of the protecting power despite quite clear evidence that its days were numbered.

³² It's unclear whether, after decades of nonuse of the institution of the protecting power, the ICRC still attempts to facilitate the nomination of a protecting power as is its formal duty according to treaty.

This might be thought of as a sort of institutional stickiness - faced with the task of solving a problem previously played by a particular institution, states' default strategy seemed to be to "fix" the institution. Yet, they were unable to agree upon the very measures that might resuscitate the institution.

An additional way in which states attempted to resuscitate the protecting power was by attempting to make a legal distinction between the use of the institution and the legal recognition of one's opponents or of the state of war. Paragraphs 5 and 6 of Article 5 attempt to address this issue by stating, first, that designation of a protecting power has no bearing on the legal status of the warring parties and, second, that maintenance of diplomatic connections between parties is no barrier to the use of a protecting power. An observer can perhaps be forgiven for finding some naiveté in this statement - it is as though the political ramifications of an act can be willed away with the statement that such implications shouldn't follow.

One question that arose during negotiations was whether tasks of investigation and public reporting fell within the purview of the protecting power and, by extension, its substitute. Interestingly, the ICRC took a conservative stand on this question, arguing that the protecting power's duties did not extend that far; this was, in fact, part of the argument for a separate and distinct enquiry commission. The organization likewise took a cautious stance on the question of whether the protecting power's duties extended to direct monitoring of hostilities. Again, interpreting the role of the protecting power narrowly, with its tasks limited to those expressly stated in the Geneva Conventions, the organization argued that an active role in the combat theater was not within the protecting power's scope.

Interestingly, the ICRC was also a voice against a truly automatic protecting power substitute, insofar as it did not wish to operate absent express state consent. Further, it appeared

that it wanted to preserve its *own* autonomy, providing itself an opt-out clause in the event that performing in the capacity of a substitute would interfere with its other humanitarian tasks. Operating contra state consent would place the organization in a more confrontational role than it preferred to play vis-à-vis states in the course of its humanitarian efforts. One might marvel at the restraint the organization displayed in the face of these opportunities to expand its reach. It seemed the organization viewed such expansions of its powers as dangerous temptations that would likely reduce the organization's effectiveness in the long run.

As was the case with the IHFFC (see below), states seemed not to be under many illusions about the likely effectiveness of the "revised" protecting power. Several states that voted in favor of revised Article 5 - among them Canada, Mexico, Spain, and Greece - expressed in no uncertain terms their intense disappointment that an automatic system had not been established. The Greek delegate, for instance, described the resultant system as "not an efficacious development of the institution of Protecting Powers (O.R., Vol. VI, pg. 78)," while Egypt charged that "this consensus [on Article V] was basically between East and West, but not so much with the countries of the third world, the main victims of recent armed conflicts, which preferred a more compulsory system of implementation (O.R., Vol. VI, pg. 77)." Thus, that the revisions to Article 5 failed to make changes sufficient to resuscitate the institution of the protecting power was not a surprise but was foreseeable at the time of the Protocol I negotiations.

The IHFFC: Anatomy of a Failure

With the protecting power system falling prey to nonuse in the post-World War II period and attempts at revitalizing that institution falling short, potential hope lay in the establishment of a more centralized enquiry mechanism that would not share the seemingly fatal flaw of

requiring warring powers to agree on monitoring parties and procedures on an ad hoc basis. Given that this idea had been contentious when first introduced by the ICRC, that states managed to agree on the establishment of an International Humanitarian Fact Finding Commission at all is something of a victory. Yet, this victory would prove pyrrhic, as, at least as of 2014, there is little sign of the IHFFC being utilized in an efficacious manner - in fact, there is little sign of it being used by states at all. From an institutionalist perspective, this is a failure that states might wish to avoid repeating. Significant time and resources were consumed, initially in bargaining and later in the establishment of the institution, that did not reap the hoped for dividends in terms of efficacious monitoring or, more ambitiously, improved compliance. Thus, this account of the establishment of the IHFFC will have an eye for the sources of what we might call an institutional failure. It is also worth noting at this juncture that in one important respect IHL monitoring bears a certain resemblance to GATT/WTO monitoring: for both regimes, a more centralized mechanism would come to be dead letter, while a less centralized one would instead thrive.

In comparison to the protecting power, the International Humanitarian Fact-Finding Commission (IHFFC or the Commission) is a relatively recent institutional innovation in the realm of IHL monitoring. Though it was introduced in the 1977 Protocol I Additional to the Geneva Conventions, it did not receive the necessary state signatories to enter effect until 1991. The IHFFC is a permanent standing body charged with the power to investigate alleged breaches in IHL, though it can only conduct its mission when both involved states consent to the Commission's involvement.

What led to the inclusion of the IHFFC in Protocol I, and what explains the fifteen year delay in the Commission's entry into effect? The IHFFC was a compromise innovation designed

to help fill in the accountability lacuna that existed in the domain of IHL. There had long been interest in creating mechanisms for responding to massive violations of IHL on the part of states, but agreement on specific mechanisms had been difficult to come by. The 1929 Geneva Convention for the Amelioration of the Condition of the Sick and Wounded in the Battle Field contained one article (Art. 30) outlining in relatively vague language the possibility of establishing an "enquiry" into an alleged violation at the request of a belligerent in a manner to be decided by the involved parties (Kussbach 1994). In the 1930s, the ICRC increasingly advocated for a more automatic enquiry procedure. This issue was discussed at the 1937 Commission of Experts; at the 1947 Conference of Government Experts the organization recommended the formation of a Commission of Enquiry to be nominated by a "single, central, and permanent authority" (Pictet, 1952). However, states deemed this mechanism too "complicated" and accepted instead Common Article 149 of the 1949 Conventions, which is very similar to the text of the 1929 agreement, except this time there is recognition that it may be difficult for warring parties to agree on the procedures for the enquiry. In such cases, "the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed." Of course, why it should be possible for the warring parties to agree on the identity of an "umpire" is entirely unclear - we are left with the same problem that plagues the use of the protecting power mechanism, discussed above (Bothe 2007; Dormann 2007). At the time of Protocol I negotiations, then, the absence of a sound enquiry procedure remained a problem.

In its commentary on the Protocol I Additional, the ICRC highlights the contentious nature of the debate and vote on Article 90 establishing the IHFFC. The fact-finding commission was in fact the less rigorous of two proposed mechanisms, the other which was called the "Permanent Commission for the Enforcement of International Humanitarian Law" and

which was never passed. The ICRC describes the conflictual nature of the negotiations in no uncertain terms: "Voting [in Committee] took place almost paragraph by paragraph, and the text was finally adopted as a whole with 40 votes in favour, 18 against, and 17 abstentions (ICRC Commentary on the Additional Protocols, p. 1040)." Similarly, the tally in the plenary vote was 49 votes in favor, 21 against, with 15 abstentions.

Something of states' ambivalence about the Commission is surely captured by the fact that the necessary 20 states accepting the Commission's authority were not obtained until 1991. There were no real surprises among the first ten states to accept the Commission's competence. The first five states to do so were all Nordic, while the next five included several Western European states as well as a few of the Nordic stragglers.³³ Among the next ten states, however, were a few unexpected signatories, particularly Algeria and Russia,³⁴ which both accepted the Commission's competence in 1989. This is a pattern similar to the one noted by Simmons and Danner (2010) in their intriguing analysis of states committing themselves to the International Criminal Court (ICC). They find that two sets of unlikely bedfellows quickly ratified the ICC: on the one hand peaceful democracies extremely unlikely to face the prosecution of their nationals and, on the other hand, non-democracies with a recent history of civil conflict. These latter states, so the argument goes, signed in an effort to self-bind and to credibly commit to their domestic adversaries and audiences to "keep the gloves on" and refrain from use of violent means deemed criminal by the ICC's charter. Though I have not conducted an empirical test of this hypothesis with the IHFFC acceptance data, the decision of Algeria and Russia to consent to

³³ The first ten states to accept the Commission's authority were, in chronological order: 1. Sweden (1979); 2. Finland (1980); 3. Norway (1981); 4. Switzerland (1982); 5. Denmark (1982); 6. Austria (1982); 7. Italy (1986); 8. Belgium (1987); 9. Iceland (1987); 10. Netherlands (1987).

³⁴ Belarus and Ukraine joined the emerging Eastern European club acknowledging the competence of the Commission in 1989 and 1990, respectively.

the Commission's competence at a pivotal time of national political transformation is certainly consistent with the Simmons-Danner hypothesis.³⁵ Ukraine and Belarus are less clear examples, since they didn't suffer from the same history of internal conflict, but the sheer newness of their governments could certainly justify a hands-tying mechanism. Figure 2.1 depicts the number of states newly accepting the Commission's competence in each year since the entry into effect of Protocol I. There is an obvious peak in the number of new signatories in the period 1989-1993, with 1992 being the year in which the highest number of states (8) newly acknowledged the competency of the body. What is remarkable, however, is how clearly the number of states that recognizes the competence of the Commission declines after the mid-90s. The last decade has in particular been bleak for the organization, with only four states newly coming on board since 2006. Thus, though it may have appeared in the early '90s that something like a "normative cascade (Finnemore and Sikkink, 1998)" was taking place, in fact from our current vantage point the story looks quite different. There was a period in which the IHFFC possessed a real momentum - unsurprisingly it was the period of immense international political and domestic change ushered in by the collapse of the Soviet Union and the end of the Cold War - but this period was short-lived and did not have the effect of getting the vast majority of state actors on board. Today, 72 states have acknowledged the competence of the IHFFC, compared to 132 states that have ratified the Rome Statute of the International Criminal Court. When one considers how much more the ICC asks of states - how much greater the potential sovereignty costs are to states of the ICC compared to the IHFFC - this discrepancy becomes truly remarkable.

³⁵ Note that this proposes that the Simmons-Danner argument, which focuses on domestic governance, might also apply in interstate relations.

More damning than the relatively low number of states that have accepted the competence of the Commission is the poor use that has been made of the Commission by these and other states. To date, the fact-finding services of the IHFFC have not been used in a single conflict. In 2011 the IHFFC published a report of its work "on the occasion of its twentieth anniversary" (IHFFC) that had the character of a soul-searching enterprise. It reviewed the steps it had undertaken to prepare for fact-finding missions it might receive and described its new "proactive" approach. Earlier reports, too, sometimes took on an (unintentionally) comedic tone, for instance in the organization's statement that during the time period in question it had "almost" been asked to conduct a fact-finding mission, in this case in regard to the conflict in Colombia (Report of the International Humanitarian Fact-Finding Commission: 1997 - 2001).³⁶

There is again something puzzling about the innovation of a more centralized de jure monitoring mechanism only to have it continue to be over-shadowed by the decentralized monitoring mechanism already in place. That the IHFFC was proposed at all, let alone ratified and entered into effect, is indication that some actors were dissatisfied with the decentralized character of the status quo and wished to replace it with a standing body that would automatically have the jurisdiction to monitor IHL compliance in wars between signatory states. Yet, the failure of that body to replace in practice a legally weaker regime is also quite telling. The obvious reading of this state of affairs is that states preferred the ad hoc monitoring regime already in place to the alternative proposed by the IHFFC. To understand further how it came to happen that states created an institution that would utterly "fall by the wayside," let's consider in some detail the negotiations that led to the formation of the ill-fated institution.

³⁶ Involvement in the Colombian conflict, had it come to fruition, would have had far-reaching implications because this was a non-international armed conflict and so did not fall expressly under the IHFFC's mandate.

By the time of the 1974 Diplomatic Conference, the ICRC, perhaps mindful of how contentious the idea of a protecting power "replacement" had been in 1949, had moved on from the idea. Thus, tellingly, there was no suggestion of an enquiry commission in the draft convention submitted to states by the ICRC in 1972. Perhaps surprisingly, the initiative at the Red Cross Conference of 19 March 1975 for an enquiry commission initially came from states. The first proposal for such a commission (hereafter "The Four State proposal") was made by Denmark, New Zealand, Norway, and Sweden; Pakistan made its own proposal ten days later. As these proposals and the flurry of amendments and working papers that would accompany them were discussed in Committee, Working Group, and, finally, plenary meetings, a number of issues proved especially divisive. These included the mandatory or optional nature of the commission's competence, the breadth of issues about which the commission could inquire, and the degree of publicity that would be granted the results of the commission's work. Also at issue was the degree of neutrality that the commission could be expected to display. Each of these concerns is addressed below.

Mandatory Competence

The Four State Proposal held that the commission could enquire into alleged Protocol I violations either at the request of a party to the conflict or upon its own initiative. The Pakistan proposal made the criteria for launching an investigation somewhat stricter, limiting the competence of the commission to those situations in which either a party to the conflict or a protecting power called for an enquiry. Both proposals left open the possibility, however, that a state might find itself the subject of an enquiry without its consent. Unsurprisingly, this was a situation with which many states took issue. Indonesia, for instance, reiterated that it could not support a "compulsory international body (O.R. Vol. VI, pg. 335)." The result of these polarized

opinions was the significant dilution of the initial proposals, as the states in favor of a centralized Commission conceded to compromises in order to increase the likelihood that an enquiry commission in some form would receive approval. Perhaps the most far-reaching of these compromises was the requirement that a target state proffer consent on an ad hoc basis for the establishment of a formal enquiry about its wartime behavior. Obviously, this requirement dramatically decreased the extent to which states were meaningfully delegating authority to the IHFFC, as the body would be powerless to act without positive state consent.

Interestingly, the United States was itself the originator of a second compromise that appeared to be an attempt to assuage the states that had been firmly committed to mandatory competence. According to this proposal, (*CDDH/I/GT/119*; *CDDH/416*), states retained the option of making a declaration upon ratification of Protocol I that they "recognize *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the competence of the Commission"³⁷ to investigate alleged grave breaches of the Convention (the issue of the types of questions the Commission was deemed entitled to investigate is discussed further below). This innovation at least allowed for the possibility that a subgroup of like-minded states would delegate more significantly to the Commission, which might then be empowered to enquire into a wider array of conflicts. However, this amendment, in conjunction with the U.S.-proposed requirement that the Commission only enter into effect once twenty states accepted its competence, also had the effect of significantly delaying the entry into effect

³⁷ Article 2B of (*CDDH/I/GT/119*). Full text available in Annex 2 of Volume X of the Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts.

of the Commission, which Switzerland perspicaciously observed in its own response to the proposed amendment.³⁸

Scope of Competence

Another contentious issue concerned the scope of IHL matters that the Commission was tasked with investigating. As was the case with the issue of mandatory competence, both the Four State proposal and the Pakistani proposal envisioned a stronger Commission than other states were willing to accept. Both proposals tasked the Commission with investigating "any alleged violation of the Conventions and the present Protocol and other rules relating to the conduct of international armed conflict."³⁹ A number of states found this mandate to be far too broad - particularly the rather vague and potentially expansive addition of "other rules relating to the conduct of international armed conflict" - and preferred instead the limitation of the enquiry procedure to matters involving "grave breaches" of the Geneva Conventions and/or the Protocol I Additional. Among the states in favor of a narrower interpretation of the Commission's competence were, perhaps somewhat surprisingly, the Netherlands, Belgium, and Spain. Again, something of a compromise was reached as the final text provided for the competence of the Commission to enquire into both grave breaches and "other serious violations," though the reference to "other rules" was omitted.

There was also some debate about the temporal dimension of the Commission's competence, with some states - Japan, most notably - proposing that the Commission should not

³⁸ Delegate Bindschedler, representing the Swiss delegation, remarked that "the adoption of the amendment proposed by the United States would have the effect, in practice, of preventing the Fact-Finding Commission from being set up for another twenty years (Volume VI of the Official Records, pg. 311, paragraph 21)." In fact, it took fourteen years for the Commission to meet the criteria for constitution.

³⁹ CDDH/I/241 Paragraph 2(a) and CDDH/I/267, Paragraph 5(a). Both reproduced in full in Volume III of the Official Records, pg. 338-341.

be limited to investigating violations after their occurrence but should also be tasked with taking action to prevent violations.⁴⁰ Other states found this statement vague or feared the implication that the Commission might have authority to make decisions about situations that had not yet manifested. The Japanese proposal found its way into the final version in only a very minor form, as the Commission's competence to "facilitate, through its good offices, the restoration of an attitude of respect for the Conventions and this Protocol."⁴¹

Publicity of Findings

Particularly relevant to the topic of this dissertation is the issue of the publicity of Commission results. As is a consistent theme of this work, one of the most salient attributes of the ICRC is its general commitment to discretion, though there has been significant debate in the political science literature about the efficacy of publicity as an instrument with which to influence state behavior. In this light it is indeed instructive that states themselves demonstrated a great deal of concern about the publicity of enquiry results. Again, the original proposal was stronger than the final version, as the original Four State version provided for publicity of the Commission's findings as a default policy unless the Parties agreed otherwise (negative consent), while the final version enabled publicity only if the involved state parties expressly approved (positive consent). In this case, however, the Pakistani proposal was more modest than was the Four State Proposal, as the former made provision for the results to be submitted only to the involved parties and the Commission depositary.

What is striking in the debates about publicity is the consistency with which states treat publicity as a powerful - and potentially dangerous - instrument. Those states that most

⁴⁰ See the Japanese proposal, CDDH/I/316. Vol III., pg. 342 - 343.

⁴¹ Article 90, Paragraph 2c, ii.

vehemently advocated publicity - for instance, Sweden and Norway - tended to view publicity as, in the words of the Swedish delegate, "the best way of inducing compliance with international law" via "pressure from world public opinion" (Vol. IX, p. 192, Par. 12). On the other hand, states opposed to publicity, such as, notably, Switzerland, were concerned that publicity would lead to misuse, for instance via "propaganda and false accusations from each side" (Vol. IX, p. 205, Par. 74). Importantly, though the empirical literature is divided on the question of the efficacy of publicity as an instrument for inducing change in state behavior, states appear not to doubt that publicity is potentially a powerful weapon. They disagree, instead, about whether this is a weapon they wish to unleash. Given this state of affairs, another way in which the proposed enquiry commission became weakened over the course of negotiations was via the addition of stricter criteria about the circumstances in which the products of the fact-finding commission would be made public.

Relative Advantage

Unsurprisingly, during the debates over the proposed enquiry commission arose the question of what types of states might be systematically advantaged or disadvantaged by the proposed rules. Once the requirement of mutual state consent took mandatory competence off the table, a number of states expressed the belief that this requirement advantaged stronger states - would-be occupiers - over weaker states, the would-be occupied. As an attempt to address this problem, a large coalition of states, many of them part of the non-aligned movement, proposed Amendment CDDH/I/415, which held that, in cases of occupation, only the consent of the occupied state need be received to launch an enquiry commission. Predictably, reception to this proposal was highly divided, particularly among those states that professed commitment to the principle of mandatory competence. Some such states argued that the amendment was one step

closer to mandatory competence and thus an improvement over the original text, while other states thought that it suggested a muddled and ill-justified mockery of mandatory competence. Nigeria, Mexico, and Argentina were among those supporting the amendment; Italy, Canada, and Switzerland opposed it while professing continued support for a general principle of mandatory competence. Still other states - India, for instance - expressed their commitment to opposing occupation, but were not willing to support any step in the direction of mandatory competence. In the end, a roll-call vote failed to result in the needed two-thirds majority, though a simple majority of states favored the proposal; the final tally was 54 states in favor, 28 against, and 14 abstentions.⁴² Those in favor were so adamant that they immediately attempted to pass an almost identical amendment,⁴³ which met a similar fate. An occupation exception having failed twice, its - fairly numerous - supporters continued to profess fear that the requirement of mutual state consent would reinforce the ability of more powerful states to resist the efforts of other states to subject their wartime behavior to scrutiny.

Coalitions, Historical Contingency, and the Bargaining Process

Having considered the evolution of the proposed enquiry commission over the course of the bargaining process, we can now revisit the apparent puzzle of how states ended up creating an institution that would prove utterly ineffectual. In this section we will consider several factors that might explain this state of affairs.

Preferences of Powerful States

An obvious factor to consider when positing the failure of a regime is the interest of particularly powerful states. In this case, the opposition of one superpower and the ambivalence

⁴²Vol. VI, pg. 318.

⁴³ Sri Lanka attempted to hijack a U.S.-proposed amendment with an oral amendment that made an exception "in the case of a territory occupied as a result of aggression" (Vol. VI, pg. 322, para. 67).

of another seemed to be an inauspicious configuration. On one side, the Soviet Union - along with its communist brethren - was definitively opposed to the enquiry commission, which it viewed as an unacceptable violation of state sovereignty. Soviet Delegate Bobylev expressed his position unequivocally: "The international inquiry commission would, in fact be a supranational body, which might derogate from the national sovereignty of countries, especially in a non-international conflict,⁴⁴ and might constitute interference in their internal affairs" (O.R., Vol. IX, pg. 212, para. 36). He likewise referred to the Commission as leading to a "dangerous path." On the other side, the United States was far more sympathetic to the imperative, but even it was lukewarm about the most ambitious or centralized proposed variants of the commission. During the Working Group meeting of 13 May 1976, American delegate Mr. Dowling expressed a number of concerns about the technical details of the initial proposals, concerns that centered on insufficient assurances of the commission's neutrality based on the procedures at hand. In expressing such concerns he concluded that the American delegation "doubted whether a permanent commission was really necessary" and worried that "the commission might perhaps not have enough to do" (Vol. IX, pg. 213, para. 39). He likewise expressed the opinion that a flexible, as opposed to a permanent, enquiry commission might be better indicated. Despite these objections, the United States ultimately played a key role in the creation of the commission by engineering the *ipso facto* compromise discussed above. Still, with one superpower opposed and another supporting only a much weaker variant than was originally proposed, it is clear that a strong superpower coalition in support of a centralized enquiry mechanism was lacking. In this regard, the power preferences hypothesis successfully predicts the inefficacy of the commission.

An Inhospitable Context?

⁴⁴ This mention of non-international armed conflict is notable given that it is Protocol I that is being debated here.

At one level deeper than that of superpower preferences is the international power structure that perhaps gave rise to those preferences. Though the Cold War was still very much a reality in the mid-1970s, this was also the period that came to be known as detente, a period that reflected a relative cooling in inter-bloc tensions after the heightened strain of the Cuban Missile Crisis (Walker, 1995). Thus, though bipolarity may not have favored agreement, the specific state of relations between the poles may have been more auspicious at this time than at many other periods during the Cold War. However, this was also a time when the Non-aligned Movement continued its attempts to resist domination on the part of both poles (Roy, 1988), meaning that divisiveness and contention were not limited to inter-bloc rivalry. Indeed, the first session of the Diplomatic Conference, meeting in February 1974, devolved into political wrangling over, among other things, the rights of national liberation movements, with the result that only a tiny proportion of the proposed legal principles were agreed upon (Cantrell 1977; Baxter, 1975). In this light, it is perhaps instructive that, though formal agreement on the enquiry commission was reached at the 1977 conference, it was not until after the end of the Cold War that sufficient numbers of states acceded to the commission to permit its instantiation. Further, this variable of the divisiveness of the political context helps to shed light on the apparent puzzle that states were willing to grant so little power to an enquiry commission in 1977 but were willing to delegate much more meaningfully to a powerful International Criminal Court, adopted in 1998 and entering into force in 2002. That is, the adoption of Protocol I coincided with an international context in which state interests were more highly polarized and agreement on meaningful delegation to monitoring bodies likely to be rare.

Bargaining Woes

The two prior factors created a climate in which agreement meant dilution. Given many states' ambivalence about a strong enquiry commission, the process of developing a commission that would be accepted by the required two-thirds majority of states resulted in an undeniable dilution of the commission. As obvious from the disappointed statements of those that had desired a stronger commission, those most committed states reluctantly agreed to the watered-down version out of the hope that it might nevertheless be a small step towards the desired monitoring system. Still, it is unclear what alternative proposition, if any, might have rescued the IHFFC from obscurity. Given the decreasing number of international armed conflicts as a proportion of total wars and the much smaller role imagined for an enquiry commission in cases of non-international armed conflict (more on this below), even a relatively automatic enquiry commission is likely to have been uncommonly used. Still, more than any other decision, the requirement of mutual state consent likely hamstrung the commission. Using Brown's language, one might say that state interest in a centralized enquiry commission could not outpace the sovereignty costs that establishing a commission with mandatory competence would introduce. The only commission that would secure sufficient state agreement was one destined to be ineffectual.

One important question here is to what extent the creation of an ineffectual institution challenges the rationalist paradigm. According to Martin and Simmons (1998), predictability is a key factor for establishing the extent to which unintended consequences cast doubt on the rationalist institutional explanation. In their view, unintended consequences that were not predictable challenge rationalism far more than do unintended but predictable consequences. The question arises, then, of whether the ineffectual nature of the IHFFC was predictable at the time it was established. Though such a question is invariably difficult to answer, there is ample

evidence that, at the time of the Diplomatic Conference, the enquiry commission being created was unlikely to be efficacious. First, there are the mournful/lugubrious statements of those delegations who were committed to a stronger version of the commission. In fact, several states justified their vote in favor of the commission by expressing their hope that, despite the disappointing product of the negotiations, the commission was nevertheless a step forward. On the other side, there is the evidence that the commission ultimately established was approved by a number of delegations that had originally been skeptical of a stronger commission, such as the United States, France, and, in some respects, Switzerland. Thus, it seemed that, whether or not states supported a strong commission, they knew what they were getting in the end - a weak commission, unlikely to be efficacious.⁴⁵ In this respect, then, that states created an institution that would fall prey to obsolescence is not itself evidence against a rationalist institutionalist position.

An Overdetermined Outcome

After we've considered a number of factors that contributed to the constitution of a weak-at-best enquiry mechanism, it now appears far from surprising that states "got what they paid for," that is a highly inefficacious system that was never really expected to be otherwise. Yet, why did the ICRC prevail where the IHFFC failed? Here, again, the organization's relative informality was an asset, as its mechanisms of operation sidestepped intractable negotiations that left states unwilling to agree on more centralized formal mechanisms.

Far more surprising is that states formally created an even weaker legal monitoring regime to govern non-international armed conflict, though in the decades after Protocol I

⁴⁵ Of course, perhaps one could argue that states may not have predicted the full extent of the commission's obsolescence. Had they, it is hard to imagine they would have deemed its creation an efficient use of resources. Even so, the extent of the misfiring of this prediction is relatively mild.

negotiations de facto monitoring in the two realms would look remarkably similar. Let us turn, then, to the domain of non-international armed conflict.

The Non-International Armed Conflict Rub

If Protocol I negotiations resulted in a heavily diluted monitoring system, Protocol II negotiations, unsurprisingly given states' wariness of interference in matters of non-international armed conflict, resulted in absolutely no formal provision for monitoring. However weak it may have been, the final Protocol I introduced a much stronger monitoring mechanism than had been proposed in the original ICRC draft, while the final Protocol II stripped several important monitoring elements from the original ICRC draft. Clearly, states found IHL monitoring in situations of non-international armed conflict much more threatening than they did monitoring under conditions of international armed conflict.

To begin with, the ICRC draft had had modest aims, never daring to suggest anything like an enquiry commission. Instead, the organization hoped the text would further validate its right to offer its services in situations of non-international armed conflict, a right granted it in paragraph 2 of Common article 3 of the 1949 Geneva Conventions. This text stated, "An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict" (First Geneva Convention, 1949). In line with this organizational role, the original ICRC draft had proposed an Article 39, entitled "Co-operation in the observance of the present Protocol," which also held that parties to the conflict could call upon an organization "offering all guarantees of impartiality and efficacy, such as the International Committee of the Red Cross, to co-operate in the observance of the provisions of the present Protocol (Official Records, Vol. 1, pg 291)." The proposed article also went one critical step forward in sanctioning such an organization's right to offer its services to parties in

conflict. However, importantly, nothing in the article dared to impose an obligation on states but merely permitted an organization such as the ICRC to offer something to states which they remained free to reject.

The debate over Article 39 in committee was notable for the sheer extent of its polarization. On one side were states which feared dramatically destabilizing consequences from the way in which Article 39, they claimed, invited challenges to state sovereignty. Such states, with Mexico a particularly vocal proponent of this position, feared that an impartial relief organization's offer of services could empower domestic opposition groups and threaten the state's control of its territory and thus constituted "an intolerable interference in the internal affairs of a country" (Mexican Representative Caceres, O.R. Vol. IX, page 247, para. 56). On the other hand were a number of states - Greece and Belgium, for instance - that found the article quite unremarkable in that they viewed it as redundant with rights and duties already established in Common Article 3 (O.R. Vol. IX, pg. 248-249, para. 65 and 68).⁴⁶ For its part, the ICRC took a position somewhat in between these two extremes. It attempted a delicate balancing act, articulating the importance of the article even as it attempted to reassure states that its power was limited at best. The organization took the position that the article was primarily aspirational, as states would maintain the ability to refuse the offer of relief services. The ICRC was likewise unconvinced that a mere offer of services would unduly influence domestic power struggles (O.R., Vol IX, pg. 246, para. 52-55). Still, the organization was quite unequivocal about its disappointment when amendments began to whittle away at the article. During Working Group B (4 June, 1976), Vice President of the ICRC Pictet articulated the organization's "serious

⁴⁶ Interestingly, at issue in these debates was the extent to which Article 39 proposed a parallel institution to the protecting power. Though the Netherlands and the Republic of Korea tentatively evoked this comparison, Belgium argued that this comparison was rooted in a fundamental misunderstanding of the distinction between international and non-international armed conflict (O.R., Vol. IX, pg 248-249).

concern" in uncharacteristically bold language. He spoke of a "retrograde step" since 1949, a step that would be "a deplorable setback and an abdication" (O.R. Vol IX. Par 12, pg. 292). He likewise decried the fact that, contra its mention in the 1929 Conventions, the 1949 Conventions, and Common Article 3, the text then under consideration did not mention the ICRC at all.

What of the preferences of the major powers? The United States supported - if somewhat tepidly - Article 39. It was of the view that the article primarily reinforced the role for the ICRC outlined in Common Article 3, without imposing additional obligations on states. Still, the U.S. delegate, Mr. Bettauer, argued that the article would be useful in "providing a basis for action" for the ICRC (O.R. Vol. IX, pg. 247, Para. 58). The Soviet Union was not particularly vocal about this issue, though the Ukrainian Soviet Socialist Republic argued for the article's deletion (O.R., Vol. IX, pg. 249, Para. 67).

Somewhat curiously, the article survived Committee only to be rather unceremoniously "rejected by consensus" in plenary, along with Article 33 on relief societies, Article 36 on measures for execution, and Article 38 on special agreements to bring the Protocol into force. Each article was in some way a modest provision to encourage compliance with the treaty's provisions. State response to the Article 39's rejection mirrored the polarization of the earlier debates. Some states, such as Pakistan (which had, incidentally, proposed the vote to strike Article 39 and its sister articles), reiterated that the article had been unnecessary as it duplicated Common Article 3 (O.R., Vol. VII, pg. 151, Para. 65-66). Other actors, such as the Holy See, seemed to view the deletion of the article as a blow against the ICRC, one that didn't recognize the significant contributions the organization made to states (O.R., Vol. VII, pg. 159). The ICRC, for its part, was much more measured in its response after the decision had been made. It did, however, confirm its understanding that the deletion of the article in no way impaired the

organization's right of initiative as recognized in Common Article 3 (O.R., Vol VII, pg. 151, Para. 64).

The intensity of the negotiations over the role of ICRC -or any outside organization, for that matter - in non-international armed conflict makes clear that the mention of the organization in Common Article 3 was quite a coup. It sanctified a role for the ICRC that would become significantly less popular in the more divisive context of the late 1970s. Indeed, though some states justified their vote against Article 39 by invoking the still applicable Common Article 3, other states made no secret that they took issue with the common article itself. The Iraqi delegate, for instance, described it as "badly drafted" and stated that it "had led to difficulties in the past" (O.R. Vol. VII, pg. 152, para. 67).

In light of the ICRC's failure to ensure in Protocol II the desired reinforcement of its role in non-international armed conflicts, it is striking that this relative defeat seems to have affected its activities remarkably little, as the ICRC continues to seek - and to obtain - the ability to monitor in conditions of non-international and international armed conflict alike. This is particularly puzzling - how did the ICRC's de facto role come to outpace its formal one?

We Couldn't have created it better ourselves: ICRC Organizational Preferences and State Interest

Part of the story of how a relatively informal, decentralized monitoring system won out over a more centralized alternative lies in the combination of coincidence and strategy that made the ICRC particularly well-suited to navigate major exogenous changes in the nature of war in a manner highly consonant with state interest. First, particular aspects of the ICRC's functioning made it very much resemble the organization that states attempted to create via the IHFFC. As the discussion above on the negotiations over the IHFFC makes clear, states deeply valued the characteristics of neutrality and discretion in a would-be monitoring organization. These were

two characteristics that the ICRC already possessed to a high degree. Though the ICRC's neutrality was not beyond reproach - the Eastern Bloc, in particular, had its doubts about the true extent of the ICRC's professed neutrality (Forsythe, 1974) - it is nevertheless striking that the organization had more or less independently cultivated principles that were virtually identical to those preferences expressed by states in their deliberations over the IHFFC. The organization's default mechanism of operation both depended on ad hoc state consent and promised conditional, if not universal, confidentiality in regard to information gleaned during its monitoring missions. This meant that, for its own reasons, the organization lacked just those traits that were deemed most threatening to states.

In addition to having general modes of operation that were relatively unthreatening to states, the ICRC also possessed a way of thinking and acting in situations of non-international armed conflict that enabled it to navigate exogenous changes in the nature of war more adeptly than could other organizations. The ICRC had never accepted the hard-line distinction between international and non-international armed conflict that states themselves professed. From its earliest operations, the ICRC was eager to help victims of conflict whether the conflict was between warring state governments or was instead between a government and an organization that lacked statehood. The organization provided relief in 1882 in Bosnia, in 1885 in Peru, in 1890 in Argentina and the Transvaal, and in 1895, 1897, and 1912 in Cuba, among many others (Delupis, 2000; Moreillon, 1973; Jo, 2006).⁴⁷ For this reason, though the organization certainly took seriously the legal basis for its action (for instance, Common Article 3 vs. the laws applicable only in situations of international armed conflict), the involvement of the ICRC never developed the same association as did the protecting power to exclusively international armed

⁴⁷ Note that this involvement even proceeds a clear legal mandate for such action.

conflict. As Peirce notes, because of this, "threshold effects" were present for other types of institutions - the protecting power, potentially the IHFFC - that were not present for the ICRC.⁴⁸ All of this gave the ICRC an unusual degree of flexibility that allowed it to adapt to changes in the nature of war with minimal changes in the legal and political basis of its operations.

Though many of the attributes that so benefitted the ICRC during this time of immense international change are long-standing and may be thought of as intrinsic to the organization's culture, the organization was also, of course, evolving in response to a dynamic international environment. During the course of the negotiations that ultimately gave rise to the 1949 Geneva Conventions and, later, the Additional Protocols, the ICRC was continuing to grapple with the nature and limits of its international humanitarian role. The question of whether new roles - such as serving as replacement for the protecting power - might jeopardize its traditional humanitarian functions was particularly salient. As Peirce recounts, during the 1949 Diplomatic Conference, the ICRC was not willing to fulfill all of the functions of the protecting power, as it deemed at the time that not all of these were precisely humanitarian functions (p. 113). Professing the belief that performing all of the duties of the protecting power might jeopardize ICRC humanitarian neutrality, the ICRC was in 1949 only willing to provisionally substitute for some of the roles of the protecting power. By the time of the diplomatic conferences of the 1970s, however, the ICRC had changed its position in this regard and now held the view that all of the functions of the protecting power were humanitarian and thus within the ICRC's purview.

This issue also arose in the debate over the IHFFC. The initial Four State proposal envisioned the ICRC as a key player in the operation of the commission. The proposal tasked

⁴⁸ Even this, however, may be a matter of degree rather than a question of qualitative difference. Jo and Thompson, for instance, note that rebel groups may possess incentives for ICRC involvement in conflict that their state opponents do not possess.

the ICRC with appointing and administering the commission, though it added the qualification that the organization "shall in no way be responsible for the enquiries undertaken or the findings which emerge from them" (CDDH/I/241 and Add. 1, 19 March 1975, Paragraph 1). During debate in Committee I (12 May, 1976), the ICRC delegate expressed his approval of what he termed this "escape clause," which he hoped would protect the organization's humanitarian neutrality even if it undertook the role imagined in the proposal (O.R., Vol. IX, pg 195, para. 25). As it came to be, the organization's role as administrator of the IHFFC was phased out over the course of negotiations in favor of a commission president selected by states. Still, the picture that emerges here - of a cautious-yet-flexible actor ever attentive to the pitfalls of proposed innovations in its role - is instructive.

Further, that the ICRC's organizational culture in many ways aligned with state preferences does not mean that the organization was unwilling to push back at times against state interest. Nowhere was this clearer than in the case of non-international armed conflict. Though, as discussed above, the Protocol II that emerged in 1977 was a deep disappointment to the ICRC, the organization maintained from the start that this loss would not interfere with the organization's work in situations of non-international armed conflict, as it held the view that Common Article 3, which sanctioned a greater role for the organization in non-international armed conflict than did Protocol II, remained in effect. Indeed, the organization continued to seek out a role for itself in non-international armed conflict in the post-Protocol II era, consistent with its own reading of Common Article 3.⁴⁹

Discussion and Conclusion

⁴⁹ See Jo and Thompson (2013) and Jo and Bryant (2013) for helpful analyses of the patterns of rebel group cooperation with the ICRC.

This chapter has placed in greater historical and theoretical context the IHL monitoring regime and attempted to explain why the ICRC was able both to supersede an historical institution - the protecting power - and to thrive while a nascent competitor - the IHFFC - proved dead letter. The answer to this apparent puzzle lies in the affinity between ICRC organizational culture, particularly its long-established commitment to neutrality and discretion, and state interest, as well as the greater flexibility of the ICRC as an institutional actor in comparison to its competitors. This flexibility in terms of legal and political bases for action allowed the organization to navigate rather seamlessly dramatic exogenous changes in the nature of warfare, while its competitors were stymied by the ways in which their formal bases of action left them hamstrung. In some ways, the ICRC was ideally constituted to play this role - close enough to state interest that states found its continued existence and operation bearable, but independent and flexible enough that it did not simply become captured by states.

Theoretically and methodologically, this chapter has drawn attention to ways in which the rationalist account of institutionalism exaggerates the predictability of institutional consequences. One would have been hard pressed to predict in the pre-World War II era the eventual de facto replacement of the institution of the protecting power by the ICRC, as this era heralded dramatic changes in the nature of warfare - particularly the increased salience of non-international conflicts - and in the perceived ramifications of legal commitments made in the realm of war-fighting. To be clear, rationalist explanations cannot be faulted for failing to predict these changes, but rather for advocating a view of institutionalism that exaggerates the extent of this domain's predictability.

Benvenisti and Cohen (2014) have recently and convincingly argued that IHL was an innovation designed to resolve a principal-agent problem faced by militaries that struggled to

control unwieldy numbers of soldiers. One efficient solution to this problem, according to Benvenisti and Cohen, was cession to IHL, which helped to resolve the regulation problem by empowering third parties to serve as "fire alarm" indicators of violation, by creating a credible threat of external enforcement with which to keep agents in line, and by tying the civilian leadership's hands with legal commitment. Part of the evidence they provide for this is that states with large militaries originated IHL and constituted a large portion of early signatories. How well does this argument fare in light of the history presented here? On a general level, this argument neglects the role of non-state actors - particularly the nascent ICRC - in the creation of IHL. Though it is certainly indicative of state interest in codification that states followed the lead of actors like Henri Dunant, to put the origin of IHL only in the hands of states is a misreading of the history. What about the more specific aspects of IHL discussed here: how would Benvenisti and Cohen's argument explain the obsolescence of the protecting power, the failure of the IHFFC, and the (relative) success of decentralized monitoring by the ICRC? In their article they use the relatively late development of the law on internal armed conflict as supporting evidence, as, they contend, principals possessed relatively little desire to constrain their agents in such contexts. While this argument is not itself inconsistent with the argument advanced in this chapter, it misses a critical part of this story - that concern about the expansion of IHL in arenas of non-international armed conflict and the changing significance of IHL incentivized a reversal in degree of delegation to formal monitors. Does this mean that in the post-1945 period states had less need for external mechanisms to help regulate their armed forces? This is doubtful; rather, it is far more likely that greater incentives emerged to utilize a less formal external actor - the ICRC - rather than a more centralized one such as the IHFFC.

An important and related substantive implication of this chapter is that, though the literature often treats centralization or delegation as a component of a more effective institution, decentralization or institutional flexibility also possesses definite advantages. It was because the ICRC had been less definitively linked with a particular legal order - the order governing interstate war as a particular animal - that changes in the salience of that legal order proved far less devastating to the ICRC than it did to the protecting power.

CHAPTER THREE:

Open the Gates? De Facto Variation in State Monitoring Decisions

Introduction

The previous chapter has put the unique monitoring regime that exists for IHL in broader context and attempted to identify several factors that account for the particular form this monitoring regime has assumed. This chapter seeks to probe the uses states have made of this rich de facto monitoring system. A central contention of this chapter is that the decisions states make about the level of access to grant monitors constitutes an important dependent variable in its own right. This is because the answer to one important question - whether and to what extent the presence of monitors increases state compliance with the relevant law - cannot be successfully answered until this intermediate question about the circumstances under which states grant monitors access is answered. In this chapter, then, we are probing the selection effect, attempting to understand the strategic decisions that states make about when to let the monitors in, when to kick them out, and when to engage in an intermediate strategy that permits them partial but incomplete access. To the extent that monitor access is endogenous to other variables of importance, treating access as if it's exogenous will lead to erroneous conclusions, most likely the exaggeration of the independent effect of monitors on compliance.⁵⁰

Indeed, this chapter finds compelling evidence that states' access decisions *are* strategic. All states are not equally likely to grant monitors access. In particular, realist variables that approximate the potential security cost of granting access are highly statistically and substantively significant. However, there is also strong evidence for the significance of key

⁵⁰ Though, of course, if monitors were invited mainly in the hardest cases, the bias would operate in the opposite direction. This is just the argument that Page Fortna (2004) makes in regard to peacekeeping.

liberal institutionalist variables such as regime type and a measure that approximates reciprocity, and the direction in which strategic variables operate is sometimes contra realist expectation. What's more, narrowly strategic variables interact with regime type in compelling ways, with democracy exerting a more subdued effect on access when the military-strategic environment is more dire and, conversely, the strategic environment having a greater effect at higher levels of democracy. While realists get a lot right, they miss a critical part of the story as they fail to sufficiently appreciate the ways in which signaling compliance - even if insincerely - can itself be a source of political power.

This chapter also provides evidence that states may have incentives to offer monitors an intermediate level of access, allowing monitors in but placing some important limits on their independence, geographic range, or issue area coverage. In so doing, states may reap some level of reward for "good behavior" without having to cede control over the most controversial and potentially damaging aspects of wartime behavior. Moreover, though a tendency towards intermediate access is noted throughout the dataset, certain types of democratic regimes - presidential in particular - appear to create particularly compelling incentives for such behavior. In line with Krasner's (1999) argument about sovereignty, one might usefully think of intermediate access as a hypocritical or insincere statement of state commitment, in which states are able to "have their cake and eat it too."

This chapter proceeds as follows. The next section reviews the existing literature on law of war compliance and state monitoring decisions to formulate a set of hypotheses about the determinants of state decisions vis-à-vis one monitoring organization in particular, the International Committee of the Red Cross. Section III presents the original data set and the

results of the statistical analysis. Section IV concludes with a discussion of the statistical results and their implications for IHL monitoring.

Review of the Literature

Over the past decades the political science literature has become increasingly interested in the factors that influence state behavior in regard to international law. Here I review the most salient works, beginning with research that is highly skeptical of the ability of law to influence state behavior over and above more narrowly instrumental variables.

Because much of the relevant literature addresses the sources of state compliance or violation of IHL, it is worth discussing the relationship between compliance and access. Though the dependent variable of interest in this chapter is access, not compliance, the literature on law of war compliance is nevertheless highly relevant here. This is because a state's level of compliance is one variable highly likely to influence the costs and benefits of access. At the simplest level, if the conditions are such that compliance is low-cost, then granting access to monitors should likewise be low-cost. However, when compliance is costly, the costliness of monitor access will vary according to the specific institutional and political features of monitoring arrangements. Thus, it remains an open question the extent to which access is an accurate indicator of a state's intended level of compliance.

This relationship between access and compliance has been particularly enlightened by the game theoretic literature on signaling, previously discussed in Chapter 2. This literature has suggested that certain institutional arrangements create incentives that lead states to sort themselves by their level of commitment to compliance. Some institutions, often marked by costly signaling, create a separating equilibrium, in which highly committed states choose to

employ the costly signal while the less committed states do not. This is in contrast to a pooling equilibrium, in which both highly committed and less committed states employ a particular signal. One goal of this chapter is, by uncovering the determinants of states' access decisions vis-à-vis law of war monitors, to help illuminate whether the institutional features of this de facto monitoring regime are most likely to produce a separating equilibrium or a pooling equilibrium.

Realist Perspectives on the Law of War

Unsurprisingly, realists are skeptical of the ability of relatively "soft" variables like law to influence meaningfully state behavior, particularly in a realm as fraught and significant as that of security. Thus, the general realist expectation should be that compliance with the law of war is low and recourse to IHL monitors either rare, as states are reluctant to delegate aspects of sovereignty in such a sensitive area, or meaningless, with monitors' presence entailing little meaningful delegation.⁵¹ In addition to this general expectation of low compliance, realists also emphasize certain military strategic contexts that make compliance with the law of war in general or with specific aspects of the law particularly costly and therefore unlikely.

One law of war issue area that has been particularly well-researched in this regard is that of civilian targeting. A number of scholars have done careful empirical research on this topic and consistently found that certain military-strategic contexts create compelling incentives to engage in anti-civilian strategies. Though not all of these studies focus on compliance with IHL as such, they nevertheless use dependent variables that capture important sources of IHL

⁵¹ The very existence of IHL may constitute a challenge to some strands of realism. It might be explained as the efforts of the most powerful states to exert a certain type of (necessarily self-interested) moral influence, as an attempt (likely to fail) to reduce security costs, or as an example of state hypocrisy.

violation. Valentino (2005), for instance, studies mass killing, defined as the "intentional killing of a massive number of noncombatants" (p. 10), with "massive" operationalized as at least 50,000 noncombatants over five years or less. Such an action clearly constitutes a violation of principles of civilian protection codified in IHL. Downes (2006, 2008) has compellingly identified two strategic contexts that create strong incentives for anti-civilian military strategies: wars of attrition and wars with territorial aims. In wars of attrition, anti-civilian strategies may be a way of continuing to persevere in the military effort while assuming lower costs than are assumed by attacking military targets. Secondly, wars with territorial aims may create incentives to target civilians whose presence threatens the combatants' claim to and hold on the contested territory. Valentino, both alone (2005) and with his co-authors (2004, 2006), makes a complimentary argument, highlighting in particular the incentives for civilian targeting created by counterinsurgency wars. The strategic logic here is that, because guerillas often depend for their survival on obtaining resources from the civilian population, targeting this population can be an effective means of deterring such assistance and, if deterrence fails, "draining the sea in which the guerilla fish swim." The implications for the present project are obvious. In such military contexts, states have higher incentive to violate IHL; as a result, granting access to monitors will be more costly in these very settings. Several hypotheses thus arise from this strategic literature.

Hypothesis 1: States should be *less* likely to grant monitors access when they are engaged in wars of attrition.

Hypothesis 2: States should be *less* likely to grant monitors access when engaged in counterinsurgency wars.

In addition to these specific military contexts, other variables can be inferred from the general realist approach. Variables that capture the severity of the conflict - number of battle deaths, intensity, duration - should increase the incentives for IHL violation and therefore decrease the incentives for monitor access.

Hypothesis 3: States should be *less* likely to grant monitors access when they suffer higher numbers of battle deaths.

Hypothesis 4: States should be less likely to grant monitors access when engaged in wars with more powerful states.

Regime Type and Access

A second set of influential arguments looks to the second image, particularly to ways in which distinct domestic regime types might have implications for law of war compliance or IHL monitoring more broadly.

Why should we expect regime type to affect state willingness to grant access to monitoring organizations such as the ICRC? Because regime type is thought to influence a number of variables that should in turn affect a state's willingness to grant access to monitors in a sphere as central as that of security, it seems likely that regime type will exert at least an indirect effect on state access decisions. However, it is by no means clear in what direction regime type will influence access or even if regime type will be found to be a significant causal factor at all once other relevant issues are taken into account. Let us consider in turn the mechanisms by which regime type might affect access decisions, starting with the regime type

variable that has gotten the most consistent and impassioned consideration in the literature, that of democracy.

Democracy and Compliance

A lively debate has been underway about the effect, if any, democracy should have on the likelihood that a state will comply with international law in general and with the law of war in particular. Drawing on the democratic peace tradition, many thinkers have argued that democracy should lead to greater compliance with a range of international commitments. The reasons proffered for this consequence of democracy are several: the rule-bound nature of democracies makes them prone to taking legal commitments seriously (irrespective of the content of these commitments) (Morrow 2007; Neumayer 2005); democracies evidence a commitment to the normative ideals of respect for life and human dignity that many international agreements seek to impart (so the content of humanitarian agreements is important here) (Doyle 1983); democratic publics, particularly when kept informed by a free press, keep their governments honest when these governments attempt to engage in activities seen as contra democratic ideals (Merom 2003). Indeed, there has been limited empirical support for this theorized association between democracy and law compliance (Prorok and Appel, 2013; Simmons, 1998.).

Morrow (2007) conducts an impressive empirical review of law of war compliance and finds that democracy exerts a complicated and conditional effect on compliance. When they have not ratified the relevant law of war treaties, democracies fare worse than other states on measures of compliance. Yet, when they have so ratified and particularly when both they and their enemy have ratified, democracies become better compliers when compared to other types of

regimes. For Morrow, the primary mechanism of this effect is what he terms "institutional commitment." When the state publicly signifies its intention to abide by a particular agreement, democracies possess domestic features that incentivize upholding these commitments. From this perspective, democracies are not automatically good law of war compliers; however, when they choose to bind themselves by particular laws, they are unlikely to be insincere signatories.

It is not entirely clear precisely what features of democracy lead to this tendency, as argued by Morrow, for democracies to honor publicly made commitments. A mechanism that has been oft cited in this regard relates to audience costs. From this perspective, democracies are more likely than are other regimes to uphold their commitments because of the broad base of public support that democratic regimes need in order to survive. Failing to honor publicly made commitments, so the argument goes, is apt to have electoral consequences that militate against shirking. However, there is another, more direct, route by which audience costs might affect access decisions. It is possible that in at least some states failing to grant the ICRC access could have negative reputational costs for the government in power. That is, some domestic publics may expect their governments to grant the ICRC access such that there will be significant domestic reputational costs to government refusal to grant full access. Further, it seems that these costs are most likely to be experienced by democracies, particularly democracies with a history of granting access. This is because: 1) via the same mechanism elucidated above, democratic governments are especially beholden to popular opinion and 2) following the normative democratic peace arguments, democratic governments may be particularly likely to define themselves as states that grant access to organizations like the ICRC. This, then, is another mechanism by which we might expect democracy to influence access.

This argument, however, is not without its limitations. It may be prone to exaggerating the extent to which democratic publics both rate access to monitoring organizations positively and value this issue in comparison to other foreign policy issues. The American public, for instance, has evidenced some real ambivalence about internationalism and has been willing to countenance “go it alone” strategies when doing so seemed in American national interest. Perhaps a more realistic way of expressing the role domestic publics play in government access decisions is that in democracies it is likely that there is at least some domestic constituency that will find government failure to grant access to the ICRC undesirable and that will thus make this decision at least somewhat costly to the government. The result is that, other things being equal, we should expect more access from democracies than from other governments, but we should not expect this factor to consistently override other factors influencing the decision calculations of governments.

However, the claim that democracy incentivizes law of war compliance has certainly not gone uncontested. Alexander Downes (2006) has argued brilliantly that institutional features of democracy may in fact incentivize violation of the law of war, particularly in the area of intentional noncombatant deaths. In contrast to many of the exponents of the “democrats make better compliers” argument, who tend to highlight the normative strand of democracy, Downes draws attention to the structural strand emphasized by, among others, Bruce Bueno de Mesquita and his co-authors (1999). This strand stresses that the feature of democracy most important for understanding the international behavior of democratic governments is the mechanism by which leaders are held accountable to the citizenry. Because democracies are characterized by mechanisms by which the citizenry may punish leaders who engage in unpopular actions, democratic leaders face strong incentives to avoid a wartime defeat and/or “excessive” military

casualties in the service of a victory. As a result, democratic leaders may sometimes find it especially propitious to engage in anti-civilian strategies as a way of staving off defeat with a tactic that poses relatively low-risk to domestic soldiers. Indeed, in a careful research design that considers the intensity, rather than merely the incidence, of anti-civilian strategies and controls for all of the usual suspect confounders, Downes finds that democracies are no less likely to target civilians than are other states and that democracies in wars of attrition are especially likely to take anti-civilian measures.

Note that Downes is focusing in particular on democratic incentives in regard to the specific issue area of civilian targeting. Another issue area in which the level of compliance might be both pertinent to military outcomes and influenced by regime type is the treatment of prisoners of war. In this regard, the issue of torture is particularly relevant, as it is both timely in light of the recent controversy in regard to American treatment of enemy combatants and seemingly timeless as a recurring theme, à la Foucault (1975), of the enactment of state power upon individual bodies. What might be the relationship between democracy and torture? On the one hand, it is straightforward to see how the arguments considered above about the law-bound and constrained nature of democracies might lead to predictions about a general disinclination on the part of democracies to engage in practices of torture. In contrast, Darius Rejali (2009) has proposed a powerful refutation of this idea. He draws upon extensive and painstaking empirical research to demonstrate that, far from being blind to the possible uses of torture, modern democracies – in particular, Britain, France, and the United States of America – pioneered “clean torture” techniques designed to effectively inflict pain without leaving physical scars that might be evidence of maltreatment. In a nice illustration of the ways in which states respond strategically to the constraints they face, Rejali argues that democracies invented and perfected

such techniques in response to increased public monitoring of government treatment of prisoners and other people under state control. This is thus another argument to the effect that democracy may not lead unambiguously to motives for law of war compliance. One key difference between this argument and Downes' is that Rejali is not proposing that democracy incentivizes law of war violation per se but that it incentivizes disguising violations in a particular way. Thus for Rejali the motivation for violation comes outside the model and is not explained primarily by regime type.

In general, there are good reasons to be cautious about the assertion that democratic governments make better law of war compliers than do other regimes. Robert Jervis (1976) has written about the human propensity to avoid recognizing value conflicts. That is, instead of facing the complexity of empirical reality, in which a phenomenon typically has some outcomes we would rate positively and others we would rate negatively, humans have a tendency to fall prey to an "all good things go together" naiveté. Of course, that humans have this capacity does not mean that good things never go together. However, our awareness of human cognitive fallacies in this regard should remind us to hold ourselves to high standards when assessing a phenomenon that for whatever reason we tend to view positively. Secondly, and relatedly, there is often a tone of self-congratulation in this debate that should give pause to anyone who has an awareness of any of the unsavory actions in which democracies have engaged (see Barkawi and Laffey 1999).

Several opposing hypotheses arise from the literature on democracy and compliance.

Hypothesis 4: Democracies should be more likely to grant monitors access than should other regime types, particularly when they have ratified the relevant law of war treaties, as they are likely to be better law of war compliers.

Hypothesis 5: Democracies should be less likely to grant monitors access when engaged in conflicts that incentivize law of war violation, such as wars of attrition or counterinsurgency.

Democracy and Interest

Of course, as critics of the democratic peace argument have noted, it is quite possible that democracy itself is not exerting any significant effect on whatever – typically positive – outcome is under study but that it is instead proxying for another variable of interest. As Erik Gartzke (2000) has insightfully argued, it is possible that democracy itself is less important in bringing about outcomes like peace than are the general preferences currently shared by many of the world’s democracies. In regard to the question of monitoring access, what seems most relevant is the relationship of the ICRC to the world’s established western democracies. The roots of the ICRC are markedly Swiss. Because of this, it is possible that the organization best expresses the preferences of Western democracies, thus making their higher rates of access unsurprising. In this view, then, any association between democracy and higher rates of access could be a relic of the association that exists between democracy and the particular states that have been closely tied to the ICRC from its origin.

The temporal period of the data collected here, ranging from 1950 – 2000, is quite obviously dwarfed by the Cold War. Scholars have observed how efforts at internationalism and the use of institutions like the United Nations were significantly limited by the rigid division of the world into competing Eastern and Western blocs during this period. How might we expect

this reality to affect the phenomena investigated here? A (very) naïve observer might declare that, because the ICRC is a professedly neutral organization, the harsh reality of Cold War politics should have little effect on its activities. However, one doesn't have to think too hard to see the extent to which the ICRC, in spite of its most lofty neutral ambitions, is inextricably linked to the Western bloc. Why? First, though we don't wish to fall prey to the "fallacy of origins," the organization's roots in the Swiss federation, at least from the perspective of the Eastern bloc, are incriminating. Despite its historical commitment to neutrality, the government and economic system of Switzerland made it a de facto member of the Western bloc. Furthermore, evidence suggests the presence of strong anti-communist sentiment in both the Swiss Federal Council and the ICRC governing board (which had significant overlap) (Forsythe 2005). Second, it could be said that the very ideals of the ICRC - inviolability of the individual, for instance - possess an ideological affinity with the type of liberal individualism professed by the Western bloc (Forsythe).

Yet if the extreme position about the irrelevance of Cold War politics to understanding state access decisions is wrong, the opposite, and perhaps more tempting, extreme - in which Cold War politics trumps all the interesting questions - is equally misguided. Even if we accept prima facie the assumption that Western bloc states will be inclined to grant access and Eastern bloc states to deny access, some intriguing empirical puzzles present themselves. How, for instance, might we explain states that diverge from this pattern? A notable instance of this divergence is the China-North Vietnam border war of 1979, in which both parties granted the organization access. One feature of this conflict points to an interesting hypothesis in regard to when we should see behavior that departs from the expectation of access from Western Bloc states and access denial from Eastern bloc states. In conflicts along the "fault line" of the Cold

War – that is conflicts between a Western bloc state and an Eastern bloc state – states should behave as their ideological commitment predicts. Yet, in wars within a bloc, as in the war between China and North Vietnam, states may be more likely to depart from the expected behavior. Why? In this case, the ideological status of the ICRC may be less salient and other functional and reputational reasons for wishing to grant access may assume greater importance. The function of ICRC access as a signal of bloc membership is no longer needed, so its other roles may become more salient.

Hypothesis 6: During the Cold War, States allied with the Western bloc should be more likely to grant the ICRC access than should states allied with the Eastern bloc.

Hypothesis 7: Eastern bloc states should be particularly less likely to grant access when engaged in wars with Western bloc states.

Variants of Electoral System

Though the international relations literature has been keen to discuss the effects of regime type on foreign policy formation, it has been far less quick to draw on more nuanced discussions of variation in domestic political systems that are prominent in the comparative politics literature. In particular, the comparative politics discipline has highlighted the effect of key features of electoral systems – most notably, presidentialism versus parliamentarism – on such outcomes of interest as electoral stability and minority representation (see, for instance, Linz and Valenzuela 1994). That the significance of variation in electoral system has been of less note to scholars of IR may be the result of a) IR scholars' lower level of interest and expertise in the intricacies of domestic regimes as compared to comparativists and b) the centrality of the bright line distinction between democracy and autocracy in the minds of academics and policy makers

alike. However, I argue here that there are good theoretical reasons to expect foreign policy decisions of states to be influenced by a number of regime characteristics that shape the incentives held by political leaders.

The debate on the extent to which democracies will be effective belligerents also has implications for ways in which variation across democracies might influence foreign policy behavior. The basic logic of the argument that regime type matters for foreign policy outcomes is that the institutions that govern the formation of policy in a state make some types of outcomes more or less likely. Thus, for instance, democracies are less bellicose with each other because the larger size of the winning coalition relative to the selectorate encourages effective provision of public goods (Bueno de Mesquita et al. 1999), or more simply because regulated procedures for executive removal create incentives for cautious foreign policy behavior. By this logic, we should also expect different types of democratic regimes to behave differently depending on the concrete incentives the electoral regime establishes.

While there is far from consensus in the comparative literature on the effects of presidentialism versus parliamentarism, that these systems operate according to distinct political logics is clear. I will review below several ways in which parliamentary systems and presidential differ and the implications of this for foreign policy formation.

A) The Relationship Between the Executive and the Legislature

The defining characteristic of parliamentarian systems is the selection of the executive by the legislature. The implications of this are dramatic. The means of selection of the executive ensures a degree of coordination between the executive and the legislature that is often notably lacking in presidential regimes, where the president and the legislature are independently

selected. One effect of this is that parliamentary systems may be more efficient in that coalitions can more easily be formed to initiate dramatic changes in state policy. In contrast, presidential systems tend to encourage competition between the executive and the legislature that makes change more difficult and hence encourages a higher degree of stability in policy formation. How might such a difference influence foreign policy? One hypothesis is that parliamentary systems are prone to wider swings in foreign policy decisions compared to presidential. The characteristics of parliamentary systems that make them more efficient and less stable, provided (and this is an important qualification) that foreign policy is formed via the same institutional mechanisms as domestic policy, should result in more substantive shifts in foreign policy as a coalition is able to exert its influence for a time and then subsequently falls from power.

Relatedly, the somewhat lower efficiency of presidential systems in implementing significant policy changes may incentivize certain policy choices that we might call symbolic or, somewhat more controversially, hypocritical (Krasner 1999). Given the difficulty of securing a coalition that can implement policy change, policy makers may have incentives to engage in policy commitments that appease certain domestic and international constituencies without necessitating more meaningful and dramatic policy change. Emile Hafner-Burton (2005) has, for instance, highlighted the way in which signing international human rights treaties might fulfill such a function for states. This dissertation provides evidence that offering international election monitors an intermediate level of access may be a similar type of policy choice for states in that they may reap some level of reward for "good" behavior without having to cede control over the most controversial and potentially damaging aspects of wartime behavior.

B) A related feature distinguishing parliamentary systems from presidential is the fixed term limits of most presidential systems compared to the variable terms of parliamentary systems. This has direct consequences for the responsiveness of the executive to the electorate. While in both systems there are electoral checks on the actions of the executive and the legislature, in presidential systems these checks occur only at fixed intervals, giving elected officials more freedom of action in the interim period between elections. If public opinion disapproves of presidential actions, under a presidential system the electorate has little recourse until the president is up for reelection. In fact, one way of punishing the president, penalizing his party in legislative elections, may be one reason divided government is common in many presidential systems, such as the U.S. In parliamentary systems, in contrast, a sufficiently dissatisfied electorate can pressure the legislature to dissolve the government and initiate new elections. In terms of the principal-agent problem, the principal clearly has more control over the agent if the agent can be fired at will rather than only at fixed intervals (here I am heuristically conceiving of the electorate as the principal and the executive as the agent). One likely implication of this state of affairs for foreign policy is that foreign policy decisions may be more temporally stable in presidential regimes than in parliamentary, as foreign policy in parliamentary regimes is more quickly responsive to changes in public opinion. In the best scenario this may manifest as relatively quick learning in parliamentary regimes from adverse developments in foreign policy. One example of such a phenomenon is the decision of the newly elected Spanish government to withdraw from active participation in the American-led war against Iraq shortly after the Madrid bombings.⁵² In other words, if, as Reiter and Stam

⁵² For a somewhat different reading of this electoral result see Gordon, 2004.

(2002) have evocatively suggested, public support for war is an hourglass in democracies, the hourglass may be smaller and more quick to elapse in parliamentary regimes than in presidential.

A few caveats are in order here. Though much research has argued that presidential and parliamentarism have distinct effects, making causal claims about institutional variation is notoriously difficult. This is primarily because choice of regime type is likely endogenous to many other variables of interest. Shugart (1999), for instance, has noted that presidentialism is more likely to occur in large heterogenous states with complex histories, precisely the types of states that might benefit from presidentialism as a way of incentivizing public good provision in the absence of strong national parties. Thus, it may not be possible to tease apart the effects of institutional systems themselves from the effects of variables that make one institutional system more likely than another.

Moreover, though presidentialism and parliamentarism are distinct systems, significant heterogeneity exists within each governmental type. This variation may exert a significant effect on outcomes of interest. For instance, Elman (2000) classifies democratic regimes according to the degree to which they embody majoritarian principles. Parliamentary regimes that rely on coalitions fall on the low end of that spectrum, while Westminster-style parliamentary regimes fall on the high end. To the extent, then, that majoritarianism is the critical mediating variable, knowing simply whether a regime is parliamentary or presidential may not be sufficient. Similarly, Tsebelis (1995) argues that it is not presidentialism or parliamentarism that is significant per se but rather the number of veto players that exist in a given system. These players are "actors whose agreement is required for a change of the status quo." (p.289) The more veto players there are in a given system, the more difficult is policy change. In Elman's

language, coalition-style parliamentary systems may have many more veto players than Westminster, which again may have significant policy implications. It's unclear how the number of veto players should impact decisions in regard to law of war monitors. The answer to this question may depend on the locus of government in which decisions about delegation to monitors are made. Assuming that the executive has province over this decision, it is possible that a larger number of veto players may paradoxically incentivize delegation in cases in which the executive is genuinely committed to law of war compliance. This is because in governments in which there are large numbers of veto players an independent executive decision in this realm may have the effect of tying the hands of other governmental actors.

How might differential responsiveness to public opinion impact state behavior international monitors? This variable may operate in both directions. Heightened responsiveness may make delegating to monitors more costly to the extent that monitors' determinations exert meaningful effects on domestic audiences. That is, if an agency's finding of law of war violation is likely to reduce public support for the war effort AND a state's institutional structures create relatively high levels of responsiveness to public opinion, then states may have less incentive to delegate to monitors insincerely. In other words, in such a system delegating to monitors may be more of a costly signal than cheap talk. On the other hand, when state commitment to law of war compliance is high, meaningful delegation to monitors may be useful precisely for the signal it sends to domestic (and perhaps international) audiences.

Hypothesis 8: Presidential regimes will be more likely than parliamentary regimes to grant monitors access, especially in situations that incentivize violation.

The common retort to arguments about regime type and foreign policy is the so-called House on Fire analogy that suggests that, when it comes to foreign policy, second image variables like regime type will tend to be trumped by third-image security imperatives – when a house is on fire, you don’t need to know much about the characteristics of the persons inside to know that they will attempt to flee the house (see Jervis 1976). A more moderate version of this argument might suggest that, whatever differences may exist between/among electoral systems in policy formation, the effects of these differences are apt to be minimized in the realm of foreign policy as the security interests of the state come to trump other factors. I make both theoretical and empirical objections to such a claim. Theoretically, such a perspective exaggerates the objective nature of threats and the uniformity with which they can be recognized and responded to. What’s more, in the complex world of international relations, there inevitably exist more than one exit from the house, and second image characteristics may be relevant to predicting just what exit is taken. In regard to the variable highlighted here – presidentialism versus parliamentarism - it may matter whether the residents of the house can immediately punish the fire department for its faulty handling of the crisis or must wait two years for the bi-annual fire house review.

Non-Democratic Variation and Access Decisions

Recent international relations literature has made significant gains in differentiating among those non-democratic regimes that have typically constituted the unexplained “other” in the democratic peace literature. These regimes may be categorized by their level of regime consolidation (Eck and Hultman, 2007), by their use of a personalist, single-party, or military basis of power (Peceny, Beer and Sanchez-Terry, 2002), or even by the age of their leader (Horowitz, McDermott, and Stam, 2005). Goemans (2000) has also proposed the distinction

between authoritarian and mixed regimes on the basis of the extent of regime repression (mixed regimes use moderate levels of repression while authoritarian regimes use high levels) and the proportion of the population included in the policy making process (mixed-regimes typically include a larger proportion of the population than do authoritarian regimes). A few of these categories yield useful predictions in regard to law of war access decisions. Any predictions in regard to single-party regimes are dwarfed by the association of single-party regimes with communism. Because of the ICRC's ideological association (despite its best efforts to maintain strict neutrality) with the Western democratic countries during the Cold War, a negative association between single-party regime type and access is expected. One should note, however, that such a prediction says less about the structural mechanisms operant in single-party regimes than it does about the dynamics of ideology and interest during the Cold War.

As for military regimes, there are reasons to expect both higher than average levels of access and lower than average levels. Military regimes root their legitimacy in a martial ethos; as a result, they may be likely to grant law of war monitoring organizations access to illustrate the professionalism of the military and ideals of military honor. Note that such a motivation to illustrate military honor may contrast strikingly with the behavior of the military domestically, as illustrated by the paradox of Argentina's general compliance with the law of war in the Falklands War in stark contrast to the simultaneous devastation the military was wreaking on the domestic Argentine population. On the other hand, however, military regimes may be inclined to jealously guard military autonomy and so may doggedly resist granting access to external monitoring organizations. Given these competing imperatives for military regimes, we might expect them to act very differently in interstate wars than in colonial or civil conflicts. In conflicts of a partly internal nature, we might expect military regimes to act with their

characteristic ruthlessness to protect themselves from domestic enemies. In interstate conflicts, in contrast, the notions of military honor and dignity may prove more salient and create incentives for delegation to monitors as symbols of military commitment to the law of war.

Jessica Weeks (2008) has recently and usefully considered the vulnerability of disparate types of autocratic regimes to audience costs. Challenging the traditional wisdom that democracies possess a signaling advantage over autocracies due to their unique vulnerability to audience costs, Weeks provides theoretical and empirical evidence that most types of autocratic regimes are vulnerable to audience costs that are visible to foreign observers and thus conducive to signaling. Weeks distinguishes especially between regimes in which leaders can be punished by key domestic audiences - especially single-party regimes and military regimes - and regimes in which the leader is largely free of such domestic checks on his/her power, personalist or sultanist regimes. She likewise describes two distinct types of monarchy. Dynastic monarchies, she argues, provide some mechanism of domestic punishment of the leader in the form of the royal lineage, while nondynastic monarchies function more as personalist regimes. Though Weeks addresses these distinctions in the context of arguments about signaling in international dispute resolution, they also likely have relevance for monitoring decisions. To the extent that Weeks accurately identifies non-democratic sources of vulnerability to forms of domestic opposition, she may have also highlighted the types of regimes in which granting access to external monitors risks activating domestic channels of opposition. As with Weeks' primary topic, signaling, the domestic effects of delegating to international actors have been primarily emphasized in democracies. She draws our attention to the relevance of these processes in non-democratic regimes as well.

Hypothesis 9: Military regimes will be more likely to grant monitors access than other regime types during interstate wars.

Hypothesis 10: Single-party regimes will be less likely to grant monitors access than other regime types.

Regime Change and Transitioning Regimes

Mansfield and Snyder's prominent caveat to the democratic peace literature about the potential bellicosity of transitioning democracies (1995) reminds us of the importance of variation in level of regime consolidation. Nascent or unconsolidated democracies may bring about outcomes that are far from the rosy picture expected from mature or consolidated democracies, just as unstable autocracies are likely to function differently than stable ones. Chronic regime instability or a recent transition may increase the perceived risks of delegation to external actors, even as such events may create incentive for the regime to seek additional sources of legitimacy, of which admitting IHL monitors may be one.

Generally, there is reason to expect that higher levels of regime stability will increase the regime's willingness to grant monitors access. Recently transitioning regimes, however, may face competing incentives. They may be eager to demonstrate their ability to function effectively, but they also may be reluctant to unleash unpredictable forces into an already precarious situation. The direction of a recent regime change - whether in the direction of greater autocracy or greater democracy - may also exert an effect on access decisions, though it is difficult to predict the direction of such an effect. On the one hand, because democracy in general is held to be more conducive to access, democratic regime change may increase a state's willingness to admit monitors. There may also be a motive on the part of a newly democratic

regime to tie its hands and forestall an autocratic regression. On the other hand, it is possible that newly democratic regimes have alternative sources of legitimacy and are less in need of external signals than are regimes that have undergone a change in the direction of greater autocracy.

Hypothesis 11: Regimes will be more likely to grant monitors access the more stable the regime, as measured by length of time without major regime transitions.

Hypothesis 12: Regimes that have recently experienced a transition in the direction of greater autocracy will be less likely to grant monitors access than other regimes.

Hypothesis 13: Regimes that have recently experienced a transition in the direction of greater democracy will be less likely to grant monitors access than will other regimes.

The Strategic Calculus of Granting Access to IHL Monitors

The review of the literature has generated a substantial list of hypotheses that may explain the circumstances under which states are likely to grant the ICRC access as monitors of IHL. Before proceeding to outline the research design, I wish to return in a broader way to the question of what states gain and lose by granting access to IHL monitors. Of course, the competing paradigms in international relations will take distinct views on this question.

From the realist perspective, the primary interest of a warring state is to win at as little cost as possible. As a result, there is likely little that can be gained from granting an outside organization access. However, realism is not surprised if a state uses moral rhetoric insincerely or engages in low cost actions that might offer some political or ideological advantage. Thus, realism might be willing to concede that something can be gained from demonstrating one's commitment to IHL via the admittance of monitors, but this something is apt to be quite small and to pale in significance to the larger imperatives of military victory.

From the institutionalist perspective, a state that has bound itself by law likely has some interest in complying with this law. However, the extent to which committing to law captures sincerity of intent will vary dramatically according to the particular institutional arrangement that governs said law. When an agreement requires little in terms of actual compliance on the part of states, institutionalists, quite like the realists discussed above, will not be surprised if states make cheap commitments that are not ultimately fulfilled. Given this state of affairs, one incentive for granting monitors access is to increase the likelihood that the state and its enemies are able to abide by the law to the extent consonant with their interest. There are several mechanisms by which monitoring might increase the probability of compliance. By signaling one's intent to comply, it may facilitate the functioning of reciprocity, preventing the premature breakdown of reciprocity under conditions of noise (Morrow 2007). Thus, here the key audience of interest is one's opponent. Alternatively, monitoring may constitute a form of self-binding, a way of increasing the costs to one's self of renegeing on a commitment that is in one's long term interest even if in the short term there are ample incentives to shirk. For many institutionalists, a central avenue through which the costs of renegeing are raised lies in domestic audiences that may punish a regime for failing to fulfill certain commitments.

Of course, audiences - both domestic and international - may motivate the admittance of monitors under more sinister conditions. Rather than being simply a mechanism by which compliance is achieved, these audiences may also be an end in their own right. That is, granting access to monitors may be a way to convince domestic and international audiences of one's intent to comply, regardless of one's actual intent. Why might states wish to demonstrate their IHL commitment to these audiences? The political value of appearing to be in the moral right may be somewhat underappreciated in political science. Though realists are highly skeptical of the

significance of moral claims, the fact remains that regimes expend a great deal of energy convincing their publics, other states, key international actors, and possibly even themselves that they are in the moral or legal right⁵³ in a given case. Thus, even if admitting monitors does not effectively tie states' hands and increase the probability of compliance, doing so may be desirable if it can be used to signal one's "rightness" to audiences that matter.

How can we distinguish between these two possible roles for audiences, as mechanism for tying one's hands or as ends in themselves? One factor affecting the desirability of these competing strategies is the general costliness of admitting monitors. The costlier it is to delegate access in this way, the more likely it is that states will choose this option only when deeply committed. However, the lower the cost of granting access, the more tempting it will be to do so insincerely solely to earn "brownie points."

How costly is it, then, to grant access to the ICRC as law of war monitor? My contention is that granting some degree of access to the organization is a relatively low cost activity that creates some incentive for misuse, that is for making the signal absent genuine commitment. This is because the organization's default policy of confidentiality means that, even absent full compliance, granting the organization access is unlikely to result in a condemnation of the state's policies.⁵⁴ Because it is a relatively low cost activity, granting access is unlikely to be efficacious

⁵³ Though morality and legality are in fact quite distinct, they are often conflated.

⁵⁴ Of course, as will be considered in a discussion of "naming and shaming" humanitarian strategies in the next chapter, it's unclear that even an extremely critical statement from a monitoring organization is very costly to a state. However, if the likelihood of such a statement were high, it would significantly reduce the ability of a state to use access insincerely to gain political leverage.

as a way of binding one's hands.⁵⁵ It is, however, likely to be appealing as a way of gaining political capital.

I have perhaps given short shrift in this chapter to the constructivist view of costs and benefits of access. In some ways constructivism is harder to characterize than the other paradigms, as many of its assertions are highly context-dependent and lead to a certain theoretical indeterminacy. What's more, constructivism often gets over simplified, as for instance suggesting that compliance should be typical or that normative concerns should unambiguously trump instrumental ones. However, when thinking of the incentives that exist for monitor access, constructivism may help to enlighten why sending a signal of one's intention to comply with IHL might constitute a source of political power. That is, we may need to turn to constructivism for an explanation of why signals of IHL compliance might constitute a form of political or ideological power.

Research Design

This chapter tests the above hypotheses on an original dataset documenting state access decisions vis-à-vis the International Committee of the Red Cross in the time period 1950-2000. Through a procedure to be detailed below, states involved in warring conflicts in the relevant time period were assessed for their level of access. A few notes on the general research design follow.

Much Ado about Nothing?

An attentive social scientist may object that my exclusive focus in this section on state decisions vis-à-vis the International Committee of the Red Cross compromises both the

⁵⁵ However, this isn't to say that granting access has no cost or that access doesn't usher in dynamics that lead to improvements in state compliance. More on this in the next chapter.

generalizability and relevance of the research question. Let me address each of these concerns in turn. One reason the ICRC is a good candidate for study is that it maintains extensive operations with warring states over a long temporal period. As I note elsewhere, at least in the last several decades, the ICRC has aimed for involvement with all warring states to such an extent that we need not worry about selection effects in regard to the location of ICRC activities. Furthermore, the fact that the ICRC has been a central actor in the field of humanitarian law monitoring for the entirety of the twentieth century creates a rich empirical universe that can be usefully subjected to systematic study. This, of course, does not speak to the issue of whether what we find here can be appropriately generalized to other actors. After all, the ICRC likes to pride itself on being an organization with a rather unique status in international law. Yet, it is reasonable to expect that what we find in regard to the ICRC will shed light on other monitoring organizations as well. The arguments advanced here highlight the utility of variables that can be used to make predictions about state behavior vis-à-vis other organizations.

It is also important to note that good methodological concerns about comparability explain the decision to focus in this section exclusively on the ICRC. Because other monitoring organizations such as HRW or AI do not depend on state consent, there is no way to measure state decisions to grant access to these organizations⁵⁶ and hence, no clear variable to compare to ICRC access decisions.

The Problem of Secrecy

The same factor that makes the ICRC so intriguing as an object of study also poses significant challenges to the researcher. This is the quality of secrecy. In this section I'll

⁵⁶ Data on visas granted to, for instance, Human Rights Watch activists would be extremely useful, but thus far I have been unable to access such data.

consider the ways in which the confidential nature of the ICRC as a monitoring organization influences the tasks I'm attempting to complete.

Use of the Annual Reports

An attentive reader may note a certain tension in the claims I advance and the methods I use to evaluate these claims. On the one hand, I stress that the ICRC's unique *modus operandi* – its general policy of maintaining secrecy in regard to the findings of its monitoring missions – creates a particular set of incentives for states, raising interesting questions about both state strategy and the ultimate task of monitoring organizations. However, the means I utilize to study this organization rely primarily on public material, particularly the organization's own Annual Reports. How can this tension be reconciled? First, it is important to distinguish between secrecy about the simple fact of the organization's involvement with a particular state and secrecy about the content of its findings in the course of a monitoring mission in a particular state. The ICRC typically maintains strict secrecy, though with notable exceptions, in regard to the latter but not in regard to the former. For obvious reasons, states are not particularly sensitive to organization publicity to the effect that a state is granting some level of access to the ICRC. States are typically happy to advertise widely their willingness to work with the ICRC. And interestingly, by itself announcing the states in which it is working, the ICRC does partially embrace a publicity model, though in providing information that states generally find to be advantageous to their interests, one could say this is the "carrot" alternative to the punitive naming and shaming model. Of course, the organization does not in these reports unambiguously praise the extent of access granted by states. The general tenor of the reports is to provide information about the level of access offered by the relevant state and to gently and optimistically communicate its efforts to procure even greater levels of access from the state.

Generally the harshest statement that the ICRC will make in these reports is that “No reply to the request was received by the end of the year.”⁵⁷ Second, it is important to distinguish between the rather low level of publicity represented by a disclosure in the course of an annual report as compared to the type of extensive public pressure campaign that would be advanced by, say, Amnesty International or Human Rights Watch. It is also important to note that in referencing the secretive nature of the organization I do not mean to suggest that the information made publicly available is erroneous or deceptive. The ICRC recently took a significant step towards greater openness in reducing from sixty years to forty the amount of time required before the confidential materials housed in the archives would be made publicly available (Forsythe). Thus, the opened archive materials, as well as several histories written by scholars granted full access to the archives (such as Bugnion 2003), offer some evidence about the extent to which information revealed in the annual reports departs from reality. What we see is that published information is not blatantly false or misleading, but rather that this information is marked by a certain reservation about details.

Another criticism that might be made of my use of the annual reports centers not on the secrecy issue but on the extent of the empirical contribution made, as it may appear that I am simply using publicly available materials. The empirical contribution of this study, though admittedly modest, stems first from collecting the data and quantifying it in a way that makes it amenable to systematic analysis (Jo and Thomson 2013). Further, the secrecy of the organization also makes this a more difficult data collection exercise than it might seem at first glance. As even the published annual reports are not readily available in the U.S. for each year of interest in the dataset, this researcher collected the annual reports and supporting details

⁵⁷ Sometimes a harsher sentiment is expressed by a usually terse statement that the organization withdrew from the area in question because of reasons of safety or the conditions under which the state was willing to grant access.

during a month-long research trip to the Archives of the International Committee of the Red Cross (Geneva, Switzerland), where photographs were taken of relevant materials so that more systematic coding of the data could take place upon return to the States.

Universe of Cases

The universe of cases is gleaned from the *UCDP/PRIO Armed Conflict Dataset* (Version 4-2009). This dataset differs from the *Correlates of War* most notably by the lower threshold of casualties necessary to warrant a conflict's inclusion. Whereas COW uses a 1,000 battle-related casualties threshold, UCDP employs a more modest 25-casualties criterion. A more generous definition of conflict is justified in this case because the ICRC itself endeavors to assume its function as law of war monitor in a wide array of conflicts. It is possible that the organization prioritizes higher intensity conflicts. However, having a more inclusive definition of conflict will enable the testing of just this hypothesis, whereas a more exclusive definition of conflict assumes such a view without subjecting it to empirical verification.

The UCDP dataset classifies wars into four categories: 1) extra-systemic or extra-state (essentially anti-colonial wars); 2) interstate; 3) internal; and 4) internationalized internal. Because this dissertation focuses on the law of war applicable to international armed conflict, exclusively internal wars are excluded from the analysis. Interstate wars are, obviously, included. More ambiguous, however, are wars that fall in categories 1 and 4. Extra-systemic wars take place between states and non-state actors outside the state's territory. (CB, page 7) From the state's perspective, these wars typically have the character of internal armed conflict,

so the applicability of the international law of armed conflict is in question.⁵⁸ I include these types of wars because they constitute a unique pattern of conflict and thus may shed interesting light on the conditions under which states grant high levels of access to international monitors. Conflicts that fall into the fourth category, internationalized civil wars, are sometimes excluded and sometimes included in the analysis. Internationalized civil wars are included when they involve actual military conflict between an external state and a party to an internal armed conflict (either the government or opposition) in the relevant year. This is because these internationalized dimensions of internal conflict resemble interstate war in that a state is engaging in combat outside of its territory. However, an external state's provision of resources such as arms and money to either side in an internal war is not sufficient to warrant inclusion for that year. This is because indirect involvement on the part of a state in an internal conflict gives rise to obligations under international humanitarian law that are uncertain at best. Moreover, some of the conflicts coded as internationalized civil wars by PRIO in reality evidence exclusively civil war dynamics, in that the only direct violence that occurs is between a state and its local opposition; such conflicts are excluded from the universe of cases.

There is another mechanism by which states may be included among my universe of cases. Though PRIO codes only conflicts that are active for any given year, inactive conflicts may nevertheless sometimes give rise to monitoring activities on the part of the ICRC. The most common reason for ongoing monitoring in an inactive conflict is the continued holding of prisoners of war by one or more parties to the conflict. Intriguing variation may be observed in state decisions to grant the ICRC access in the context of a concluded or stalemated war; thus, it

⁵⁸ Though, to be fair, the opposition is normally challenging the legitimacy of state control over the territory in question and thus arguing precisely for the applicability of the international law of armed conflict.

would be unfortunate if such cases were excluded from the analysis. To prevent such omission, ICRC reports on states previously party to a PRIO conflict are monitored for 3 years after that state ceases to appear in the PRIO dataset as a party to an active conflict. If the reports provide indication that law of war monitoring activities related to the inactive conflict are on-going, the state is included in the dataset for that year. These “holdover” cases are coded as such so that we might evaluate whether access decisions for such conflicts differ significantly from access decisions for hot conflicts.

Measuring the Dependent Variable

A 5-point scale representing increasing state access was constructed. The scale used to assign these scores is displayed in Table 3.1. A score of 0 was granted to states that experienced a complete rupture with the International Committee of the Red Cross, refusing to permit the organization to undertake any activities within state borders. For states given this score in particular years, the ICRC report typically describes the organization’s many repeated and unsuccessful attempts to secure access. Such a score was assigned, for instance, to North Korea in 1950 – 1953 and, more recently, to Iran in 1992 in response to its ouster of ICRC delegates seeking to continue monitoring activities related to Iran’s stalemated conflict with Iraq.

States that permitted the organization to work within the state but that placed severe constraints on the activities the organization could undertake were given an access score of 1. Such constraints usually involved prohibiting the ICRC from undertaking any visits with persons detained in the state, thus completely denying the organization the ability to perform one of the activities clearly central to its mandate. States that did not permit ICRC access to a particular region or that otherwise granted the ICRC partial but incomplete access to places or persons falling under the organization’s mandate were given an access score of 2. A score of 3 was given

to states in which full access was granted after a significant temporal delay, while a score of 4 indicated full access. Table 3.2 lists the proportion of states given various access scores in the full and interstate only versions of the dataset. Notably an access score of 0 is the rarest score, with only 6.83% of cases receiving that score. The most common score is 1, with 28.05% of cases receiving that score, while the remaining scores are given to roughly 20% of the cases. Table 3.3 displays the scores given for each year included in the dataset. Particularly noteworthy is that scores of 0 become much less frequent after 1980, with 23 cases receiving a score of 0 before 1980, and only 5 receiving such a score after 1980. Of these 5, only 1 occurred in the 1990s.

In order to facilitate ordered logistical analysis, this 5-point scale of access was collapsed to create a 3-point scale displayed in Table 3.4.⁵⁹ The revised scale codes the original 0 and 1 cases as 0, indicating low access, and the previous 3 and 4 cases as 2, indicating high access. The cases formerly deemed 2 at the middle of the scale are recoded as 1 in the new system and continue to represent moderate access. The distribution of access scores for the revised measure is displayed in Table 3.5, with approximately 36% of cases scored as 0, 42% scored as 1, and 21% scored as 2.

In an intriguing recent article, Jo and Thomson (2003) utilize a dependent variable in some ways quite close to mine and in some ways quite distinct. They have coded the access decisions made by states in regard to ICRC prisoner of war monitoring conducted in civil wars during the time period 1991 - 2006. Obviously, this is a different temporal and substantive focus from mine. Furthermore, Jo and Thomson's dependent variable is exclusively based on prison

⁵⁹ Cells with small numbers of cases can pose problems for the convergence of ordered logit; as a result collapsing the scale to prevent such a problem can sometimes improve the accuracy of the statistical results.

visits undertaken by the ICRC.⁶⁰ This choice is logical insofar as prison visits are one of the defining tasks undertaken by the ICRC and represent a significant degree of delegation on the part of the state over a sensitive security domain. Yet, there are other ways in which the ICRC executes its monitoring function, the most straightforward of which is simply its presence in the state. Permitting the organization to maintain presence within the state may not seem like a significant act, but in fact it should be appreciated as such. Controlling who is permitted to enter the state is a privilege of state authority, one that is particularly relevant during wartime. Organization presence in and near warzones poses the risk that illegal behavior will be observed and commented upon, though ICRC statements in this regard tend to be mild and to avoid pinpointing blame, in line with its confidentiality policy.⁶¹ Organization presence also tends to invoke the injunction to respect the neutrality of humanitarian workers and the Red Cross emblem, thus risking negative press. Overall, the dependent variable I create is broader than that employed by Jo and Thomson.

One way in which states may grant access to the ICRC is not considered here as assent to a form of monitoring. Agreements made with the organization over the conditions of relief provision are considered to be distinct from acceptance of the organization's monitoring role. As Forsythe has noted, the ICRC sometimes draws too stark a line between its assistance (relief) activities and its protection (monitoring) activities, and we might be accused of doing the same here. Clearly, outlining the conditions under which the ICRC may provide relief supplies to one's population or on one's territory is a politically significant act and one that is likely subject

⁶⁰I make use of this data in the next chapter, as much ICRC publicity focuses on IHL in civil war contexts.

⁶¹There are, of course, exceptions, as will be discussed in the next chapter.

to strategic calculation.⁶² By excluding here we do not mean to claim that its status is somehow neutral or apolitical but rather that the acceptance of assistance is a distinct act from the acceptance of the organization's monitoring duties.

Independent Variables

Descriptive statistics for all independent variables in the model can be found in Table 3.6.

Dyadic Level Variables

Battle Deaths

The intensity of the conflict in the year of interest was captured by the number of war-related deaths experienced that year. These deaths were again coded from the PRIO Battle Deaths Dataset V 3.0 (Lacina & Gleditsch, 2005), which defines battle deaths as “deaths resulting directly from violence inflicted through the use of armed force by a party to an armed conflict during *contested combat* (Codebook, p.3).” Such a definition includes both soldiers and civilians that died as a direct result of fighting, but excludes indirect deaths from war-related disease or destroyed infrastructure, as well as direct deaths that took place “outside of the context of any reciprocal threat of lethal force (e.g. execution of prisoners of war).” Due to the difficulty of accurately calculating the number of battle deaths per year, the PRIO dataset produces 3 distinct measures: 1) a high estimate of annual battle deaths; 2) a low estimate of battle deaths; and 3) a best estimate of the battle deaths from available sources. Each of these measures was

⁶² Factors that may affect state willingness to permit ICRC relief operations include 1) the identity of the persons aided and their relevance to the conflict in which the state is engaged and 2) the state's regime type and other factors that influence in general how responsive the regime is to popular welfare. In some cases, relief operations may be viewed as aiding one's opponent, and, in such situations, we should not expect the state to permit relief operations.

employed here so that the impact of any discrepancy in battle death estimation on the outcome measures of interest could be determined. Though the best estimate measure has obvious appeal, because in many cases no best estimate can be determined, relying solely on this measure would have the undesirable effect of dramatically increasing the number of cases for which data was missing. The PRIO battle deaths measure has the significant advantage of measuring battle deaths annually, something that, due to its obvious difficulty, is quite rare. Annual measurement is particularly important for the task at hand here because the dependent variable is measured annually as are the majority of the independent variables. However, a major disadvantage of the measure is its dyadic rather than monadic nature - the measure estimates the total number of deaths caused by that conflict in the year at question but does not calculate the number lost by each side in the conflict, information that may well be relevant. One might expect, for instance, that a state may act differently vis-à-vis the law of war if it has borne the brunt of deaths in the conflict than if it has suffered a roughly equivalent number of deaths to its enemy. The dyadic nature of this measure, however, treats those two situations equivalently.

In order to capitalize on the annual nature of this data while also acquiring useful monadic-level information, the PRIO battle-death measure - annual but dyadic - is supplemented by the COW battle-deaths measure - monadic but summarizing battle deaths only for the total duration of the conflict. The COW definition of battle deaths is also narrower than the PRIO definition, as COW includes only "battle related deaths sustained by a participant's armed forces in the war." An additional limitation of this measure is that, as mentioned above, COW only includes conflicts in its dataset after the threshold of 1,000 battle-related deaths is reached. This means that the COW battle deaths measure is not available for a significant portion of conflicts in our sample - conflicts that meet the PRIO threshold but not the COW (206 of 694

observations). Though it's less than ideal, the fact that these conflicts meet the PRIO threshold of 25 but not the COW threshold of 1,000 gives us some information about battle deaths that can be used to form an estimate of total battle deaths for each side in the conflict. Splitting the difference, an estimate of 500 battle deaths was given for each of these sub-COW threshold warring states in one version of this variable to reduce the number of missing observations and make ample use of the information we do have about the number of these states' battle deaths.⁶³

Enemy Access Decisions

Given that each state is engaged in military conflict with at least one other state, it is plausible that each state's access decisions are at least partly influenced by the access decisions of the other party/parties in the warring dyad. Thus, the level of access granted by the enemy state is included as a variable of interest. It's expected that the higher the warring party's level of access, the more likely is a state itself to grant a high level of access. Some problems, however, are presented by the inclusion of this variable, most notably simultaneity bias. Because the other state's level of access is measured across the same unit of time (the same year) as is the primary dependent variable, it is impossible to state with any certainty that the one variable takes causal precedence over the other. Morrow (2007) has addressed this problem by the use of instrumental variables. Here, I have chosen to accept the limitations posed by the presence of simultaneity bias. Because it is more important, however, for me to note that a state's level of access tends to correlate with the access level of its warring party than it is for me to make a causal claim about the relationship between two parties' level of access, I will take the simpler step of including the

⁶³ There is a danger that using two measures of the same variable in the same model would introduce collinearity. This is tested in the empirical section - using the two measures together or using either variable alone does not significantly change the results. In fact, these two measures, while correlated, are not highly correlated ($r=.5$). This probably explains why problematic multicollinearity is not introduced by including both measures.

variable as is and making note of the limitations of this method due to the problem of simultaneity bias.⁶⁴ In addition, in a robustness check (see Appendix A), I employ one simple solution to this problem, using a lagged measure of enemy access.

Capability Asymmetry

Capability asymmetry is a dyadic variable capturing the extent to which the warring parties are equally capable. Following Beck (1999), the measure is calculated from Ray and Singer's (1973) formula as follows: $Asymmetry = \sqrt{2 * (\frac{Cap A}{Cap A + Cap B})^2 + (\frac{Cap B}{Cap A + Cap B})^2} - .5$. For ease of interpretation, this score is subtracted from 1 to create a measure of increasing symmetry. Scores closer to 1 reflect more symmetrical dyads, with power shared equally between the warring parties; scores closer to 0 reflect less symmetrical dyads.

Monadic Variables

Regime Type and Duration

Regime type was measured using the Polity IV dataset (Marshall and Jaggers, 2002). Following convention, the polity2 measure, which is calculated by subtracting a state's autocracy

⁶⁴ Data on the degree of reciprocity of access that existed between the pairs of warring states was also collected. This was done by taking the absolute value of the difference between one state's level of access and the other's. Scores were then reverse coded so that a higher score indicated a higher degree of reciprocity. The reciprocity scores are displayed in Tables 3.7 and 3.8. Note here that the norm tends to higher levels of reciprocity, that is it is relatively rare for there to be a large difference between the access score of a state and its enemy. When the measure of reciprocity is included in the ordinal level regression to be conducted later, both it and the enemy access score are significant. However, the presence of both of these measures in the statistical analysis simultaneously poses some difficulties. Most notably, when both variables are present at the same time, there is a tautology problem that complicates the interpretation of these variables. Consider, for instance, the case when the enemy access score is low and reciprocity between the two states is high. This suggests, by definition, that the current state has low access, so it's unclear what is gained in an explanatory manner by adding both to the data set (though predictive utility might be high). Because both variables together seemed illogical and because the effect of the enemy access measure dwarfed that of the reciprocity measure, in the statistical analysis included below only the enemy access measure is included.

score from its democracy score, was used.⁶⁵ This results in a scale that ranges from 10 to -10. The polity2 distribution for this dataset is displayed in Table 3.9. Polity IV assesses a state's degree of democracy across the following dimensions: openness and competitiveness of executive recruitment, the extent of constraints on the chief executive, and the competitiveness of political participation. Autocracy is assessed across the same dimensions, with one additional dimension, the regulation of political participation, also included. It is important to note that the decision to collapse these distinct variables into one unified measure, while extremely common in the quantitative literature on regime type, is controversial. Marshall and Jagers (2007) warn that "the simple combination of the original DEMOC and AUTO index values in a unitary POLITY scale, in many ways, runs contrary to the original theory stated by Eckstein and Gurr in *Patterns of Authority* (1975) and, so, should be treated and interpreted with due caution"(p. 17). The authors' main concern is that elements of autocracy and democracy can coexist side by side and that, consequently, assuming simplistically that one is the simple opposite of the other is problematic. To ensure that such an erroneous assumption did not compromise the accuracy and utility of this analysis, the democracy and autocracy measures were also used separately as robustness checks, as were the subsidiary components of these distinct variables.

In addition to regime type, measures of regime stability were also gleaned from Polity IV. The "durable" variable denotes the number of years that have passed since a major change in the state's regime. Change is defined as a movement of 3 or more points in a state's polity score over 3 years or less or movement out of one of the standardized authority scores (indicating a period of foreign control, interregnum, or transition). Thus, a state with a durable score of 15

⁶⁵ The polity 2 variable has the advantage over the original polity coding that it converts standardized codings, granted in cases of foreign interruption, interregnum, and transition, to the 21-point scale detailed below, thus reducing the number of missing data points. See the Polity IV Codebook, page 8.

hasn't experienced such a change of regime in the past 15 years. In addition, the "change" variable was utilized to evaluate whether or not a state had experienced a significant change in regime in the year of interest. This variable coded the change that had occurred since the state's last polity score provided that less than 3 years had passed since the previous score and that the change occurred exclusively in a positive or negative direction. Scores on this variable could thus range between 20 and -20, with scores of -66 and -77 reserved for cases of authority interruption and authority collapse, respectively. Because this variable was only coded when such a change had occurred, data was missing for most of the cases in the dataset. To correct this, a new variable was created, *autoregimechange*, which measured the extent of regime change in an autocratic direction since the last polity coding. States that experienced no significant regime change (and thus had no score on the polity change variable) were given a score of 0, as were states that had experienced change in a democratic direction (i.e. states that had positive change scores.) The resulting distribution of scores ranged from -13 to 0. A measure of democratic regime change was constructed via a parallel method.

In recent years scholars have displayed increased interest in distinguishing among types of political regime in a more nuanced manner than simply as autocratic or democratic. Scholars have argued that there is reason to be alert to both varieties of democratic governance, most notably presidentialism versus parliamentarism, and varieties of non-democratic regime. To explore these variations in regime type, Cheibub, Gandhi, and Vreeland's (2010) measure of regime type was utilized. Their "regime" variable is a six-fold variable that classifies regimes into one of the following categories: parliamentary democracy (0), mixed (semi-presidential) democracy (1), presidential democracy (2), civilian dictatorship (3), military dictatorship (4), and royal dictatorship (5). See the distribution of these variables in Table 3.10. To facilitate

quantitative analysis, this measure was converted into a series of binary variables⁶⁶, with a state receiving a score of 0 if it did not have the regime type in question and a score of 1 if it did.

Classification of a democracy as presidential, parliamentary, or mixed is done according to only two coding questions. The first assesses whether the executive is responsible to the assembly. If this is not the case, then the regime is necessarily classified as presidential. The second question asks if there exists a head of state "popularly elected for a fixed term in office (p.15)." If the first criterion is endorsed and the second is likewise, the regime is classified as semi-presidential or mixed. Endorsement of criterion 1 and rejection of criterion 2 leads to a classification as parliamentary. Here Cheibub, Gandhi, and Vreeland assert that the most important criterion in distinguishing presidential regimes from parliamentary is whether the executive, once elected, can be removed by the legislature by a vote of no confidence.

Cheibub and his co-authors classify non-democratic regimes in a straight-forward coding procedure that emphasizes the sources of the leader's power and the manner in which the "effective ruler" is apt to be removed from office. A regime is deemed monarchic if the effective ruler is called "king" AND the king has a hereditary successor or predecessor. If criteria for monarchic rule are not met, it is next considered whether the effective ruler is a current or past member of the armed forces (past service during World War II is not considered necessary indication of military affiliation due to the ubiquity of military service at this time, especially in Eastern Europe), in which case the regime is considered to be military. If criteria for neither monarchical regime nor military regime are met, the regime is classified by the residual category of civilian.

⁶⁶ The base category is civilian dictatorship. This makes sense as 223 (41.45%) of the 538 states in the dataset are so classified.

Tsebelis Veto Player Data

Tsebelis (1995) made an important and seminal contribution to the regime type literature through his focus on the number and quality of veto players across political systems. Rather than debate the relative merits of presidentialism versus parliamentarism, Tsebelis drew attention to the way in which, other things being equal, larger numbers of veto players - which he defines as "individual or collective actors whose agreement is required for a change of the status quo" (p.289) - decrease the likelihood of policy change and thus may increase government or regime instability. Henisz (2002) has created a dataset that quantifies the veto players present in a given political system according to criteria very similar to those identified by Tsebelis. Henisz created an algorithm, described fully in the 2002 article, that uses information on the institutional structures and political alignment of the legislative and executive branches of a state to create a quantitative measure of the degree of political constraint extant in the system. He calls this measure "polconiii." A full description of this measure is outside our scope. A lower score represents fewer political constraints/veto players while a higher score represents greater constraint. The measure ranges from 0 to .75, while in the dataset here the range is narrower, from 0 to .68, with a mean of .14 and a standard deviation of .21.

Methods: Generalized Ordinal Logit

The dependent variable of interest here is ordinal level. This means that, while the access score can reasonably be interpreted as indicating increasing levels of access, it cannot be assumed that the intervals between scores are equivalent. That is, the difference between a 0 score and a 1 score may not be equivalent to the difference between a 1 score and 2 score. Ordered logit or probit is the appropriate tool for analyzing such a variable. However, this

technique assumes that the effect of the independent variables is equivalent across different values of the dependent variable - the assumption of parallel lines. Straightforward statistical tests can be conducted in Stata to evaluate whether or not the parallel line assumption is met. The data here violate this assumption. This is to some extent unfortunate because it necessitates more complex methods that produce results that are less intuitively interpretable. Fortunately, however, generalized ordered logit/probit can analyze the ordinal level data without imposing the assumption of parallel lines.

Data were analyzed using user written software `gologit2` (Williams 2006), which has certain advantages over the original `gologit` software. For instance, the `autofit` function models the restricted version for those variables that do not violate the parallel lines assumption and the unrestricted version for those variables that do. This offers the best of both worlds - the more simplistic results for variables for whom these results are not misleading and the more complex output, distinguishing among values of the dependent variable, for variables for whom the parallel lines assumption is violated. Robust standard errors were employed, as was clustering by state ID. In order to facilitate the interpretation of the results, the user written `spost` commands were utilized (Long and Freese 2005).

Results

Results are displayed in Table 3.11. Remember that generalized ordered logit coefficients belie the relatively straightforward interpretations associated with OLS. To facilitate interpretation, odds ratios are reported. In normal ordered logit models, odds ratios measure the extent to which movement on the independent variable influences the likelihood that the dependent variable takes a specific score. For instance, the odds ratio of 295923 for the presidential variable would indicate that a presidential regime is 295923 times more likely to

grant an access score higher than 0 compared to a non-presidential regime. However, generalized ordered logit does not lend itself to as intuitive an interpretation. Thus, to interpret these coefficients more meaningfully, predicted probabilities are calculated at key levels of each independent variable while holding the other variables constant. See these predicted probabilities displayed in Tables 3.12 and 3.13 and graphed in Figure 3.1. Table 3.14 lists each hypothesis outlined above and the relevant results.

Recall that the violation of the parallel lines assumption indicates that the independent variables don't necessarily exert the same effects at low levels of the dependent variable as they do at higher levels. In other words, our independent variables of interest might differentially affect low access as compared to high access.

Military Urgency Trumps other Variables

Though on its own the odds ratios of the battle deaths variables are unimpressive (both perilously close to 1 at .99999), substantively this variable is the most significant. This is partly because the ranges of the battle death variables are by far the largest of the variables in the dataset. The annual-dyadic variable ranges from 0 to 763,000, while the monadic variable ranges from 0 to 750,000. This means that, while any single battle death has a marginal effect on a state's access decisions, collectively variation in battle deaths can have a profound impact on the access choices of states. Notably, this is one of only three variables in the dataset⁶⁷ powerful enough to change the level of access most likely for states in the dataset. For states that have the lowest levels of battle deaths, the most likely outcome is high access, with the probability of such an occurrence (holding other variables at their means) being .6543. See Figure 3.2. With battle

⁶⁷ The other variables are polity score and regime durability. For more on this, see below.

deaths at their mean values, however, the modal outcome is the intermediate access score, with the likelihood of high access now only .0220. This means, consistent with the realist expectation, if you were interested in predicting state access to international monitors by any one variable, your best bet would be the number of battle deaths suffered by the state in question.

Two other variables found significant in the model point to the relevance of the military-strategic context for understanding state behavior vis-à-vis monitors. These are capability symmetry and the level of access granted by one's enemy (see Figures 3.3. - 3.8). Increased capability symmetry - marked by opponents with more equitable rather than less equitable military capabilities - facilitates higher access across the board, though this variable is only statistically significant when predicting low access compared to medium or high. This result is somewhat puzzling in that higher levels of capability symmetry should also be indicative of a more compelling military threat, which should in turn decrease state willingness to grant monitors access.

This puzzling result may be at least partly the product of state expectations about the type of wars in which monitor participation is legitimate. In colonial wars, for instance, capability symmetry tends to be low; in these wars, also, the dominant power may have a propensity to deny the conflict the label "war" and, accordingly, to deny external bodies the ability to participate. Some support for this argument is found by the fact that capability symmetry is no longer significant when interstate wars are removed from the dataset. In contrast, when only interstate wars are included, the variable becomes even more substantively significant (see the interstate only results below).

However, the direction in which capability symmetry exerts an effect on access is also consistent with the argument that offering monitors access is a source of political power. Thus, the variable operates contra the direction realism predicts because realism assumes that access is only or primarily a burden, an added cost. That access might be a source of leverage, made more useful in wars that are more daunting, is not predicted by realism. Institutionalism would also be able to make sense of this finding, as one might have more need for the signaling or self-binding functions of monitors in more serious wars that would presumably create more incentive for violation. Still, it is somewhat puzzling that the battle deaths variable fits so neatly the predictions of realism while the capability symmetry variable does not. This is a pattern that will return in the interstate war analysis.

The significance of the enemy access variable might be interpreted in related ways. Higher access on the part of one's enemy makes likely higher access for the state in question. There are multiple ways of interpreting this effect. It's possible that whatever objective conditions make access on the part of one's enemy more likely also make more likely higher access for the state in question. In this case, the correlation between one's level of access and that of one's enemy would not necessarily have causal significance. On the other hand, it is also possible that the level of access granted by one's enemy has a causal effect on one's own access decisions. It is possible that one doesn't wish to deny monitors access while one's enemy grants this access, as such asymmetry might grant one's enemy a significant political or ideological advantage. In this way, then, enemy access is a variable that approximates reciprocity. From the quantitative analysis alone it is not really possible to mediate between the solely correlational and the causal interpretation of this variable. As mentioned above, one source of further information in this regard is gleaned from conducting the statistical analysis with the enemy

access variable lagged one year (see Appendix A). In the full version of the dataset, the lagged enemy access variable retains significance, thus providing some support for the idea that the level of access offered by one's enemy exerts a causal impact on one's own access decisions.⁶⁸

Regime Type

Though the battle deaths variable dwarfs other variables in its substantive significance, the results consistently tell a story in which many different aspects of a state's domestic regime impact its decisions vis-à-vis monitoring organizations. Several of the domestic variables exert a consistent effect across different levels of access, while others primarily exert their influence as floor effects - that is they reduce the likelihood that a state will demonstrate low access even as they have no significant effect distinguishing between moderate and high access.

Unsurprisingly, higher levels of democracy consistently result in greater access to law of war monitors, and the size of this effect is consistent across the range of the dependent variable. Higher levels of democracy increase the probability that a state will evidence moderate/high access over low access and high access over moderate/low access.

The durability variable is similarly consistent, with again the size of the effect consistent across levels of access (i.e. the parallel lines assumption is not violated for this variable). See Figures 3.9 - 3.11. As in the case of the battle deaths variable, though the size of the odds ratio is quite small, this variable assumes large substantive significance across the range of values that it takes (in this case 0 - 191). Along with the battle deaths variable and the polity variable

⁶⁸ Somewhat surprisingly, however, the lagged enemy access variable does not retain significance for the interstate only version of the dataset. This suggests that, at least for interstate wars, the correlation between enemy access and one's own access is likely the product of other factors, such as features of the war that influence the enemy's level of access as well as one's own. Still, that there is more evidence for the causal impact of enemy access decisions in the full version of the dataset than in the interstate only dataset is surprising as one would expect "reciprocity" to be more salient in wars decidedly between states.

(discussed above), it is one of the few variables considered here with the power to change the modal outcome variable. At durability values above about 100, the modal outcome becomes high access, whereas below 100 the modal outcome, holding other variables constant, is moderate access.

It is somewhat difficult to interpret the significance of the durability variable because in this data set durability and polity score covary significantly.⁶⁹ All of the states with durability scores above 100 are states with polity scores approaching 10 (unified command calculations put some of the scores between 9 and 10). Though in principle the inclusion of the polity variable "controls" for the effect of polity, the relationship between these variables complicates the interpretation. If, in the real world, extremely high durability is a consequence of democracy (as it appears to be) then to interpret this variable as if it is independent of democracy is fundamentally flawed. This is why I am somewhat less celebratory about the substantive significance of the durability variable as compared to the battle deaths variable, the independence of which is less ambiguous.

A number of the other regime type variables are significant only when the lowest level of access is compared to moderate and high access: these variables have the effect of decreasing the likelihood that a state demonstrate low access, though they do not significantly influence whether a state demonstrates moderate or high access. These variables include the measures of adverse regime change, presidentialism, and parliamentarism. The veto player measure is not statistically significant in this model, nor is military dictatorship.

⁶⁹ This is true though the model was not found to have problematic levels of collinearity.

Adverse regime change is statistically significant but substantively small. See Figures 3.12 - 3.14. Moving across the full range of that variable, from 0 to -13, is associated with about a .1 decrease in the probability of low access. There is an intriguing inverse relationship between this variable and access.⁷⁰ This is counterintuitive but is consistent with the idea that regimes that have experienced change in the direction of greater autocracy may be in particular need of mechanisms to demonstrate their legitimacy. However, this variable is only significant when comparing low access to moderate and high - the variable makes moderate access more likely but not high access. Regime change in the direction of greater democracy was not statistically significant, nor was a regime change summary variable that combined democratic and autocratic regime change.

Regime type variables presidentialism and parliamentarism likewise violate the parallel lines assumption and differentially influence low access compared to moderate and high. The size of their effect, however, is substantively greater compared to the adverse regime change variable. Presidentialism reduces the likelihood that states will evidence low access; parliamentarism has the opposite effect. These effects are only significant, however, when states with low access are distinguished from states with medium to high access.

The parliamentarism variable has odd effects that are partly the result of the limitations of the generalized ordered logit model. This model can under certain circumstances produce negative predicted probabilities, which are of course nonsensical; two observations in the model have this result. Here odd predicted probabilities result for this variable when other variables are held at their means: the predicted probability for low access is 1, while the predicted probability

⁷⁰ Note that, though the coefficient for this variable is negative, because states' scores on this variable are either 0 or negative, the net effect of a smaller score is higher (more moderate) access.

for moderate access is negative. This is partly the result of the fact that no parliamentary systems exist at the mean values of the other variables, as the minimum polity score obtained by parliamentary systems is 2, in comparison to the mean polity score of -2. In order to interpret this variable correctly, however, the significant interaction effect between parliamentarism and polity score must be considered.

The polity and parliament variables display an interaction effect such that, the lower the polity score, the greater the negative effect of parliamentarism on access decisions. At polity scores 5 and below, parliamentarism is associated with a very large increase in the probability of lowest access. However, in contrast, at the maximum polity score, parliamentarism has no significant effect on state access decisions. Thus, it's the not fully democratic parliamentary states that appear to be driving the negative effect of parliamentarism on access. See Tables 3.15 and 3.16.

Surprisingly, one of the most consistent results in the regime type section is that royal dictatorship consistently results in higher access decisions compared to other regime types. Unlike presidentialism, however, this effect is not limited to reducing the probability that states exercise low access but also increases the probability of high access decisions. The probability that a royal dictatorship will demonstrate high access is .12, compared to only .006 for a presidential regime. What might explain this counterintuitive finding? Interestingly, Jessica Weeks may have provided an explanation in her discussion of distinct regime types' ability to effectively signal. She identified personalist regimes as being particularly invulnerable to domestic opposition. As a result, they may not suffer the same types of audience costs to which other regimes must remain alert. That is, should high access result in a negative report from the

organization, royal regimes may have higher confidence in their ability to manage the fall-out without significant threat to the regime. However, Weeks would only expect such an effect for non-dynastic royal regimes, which, absent the check on power of the family, are more likely than are dynastic regimes to act according to a personalist logic.

Regime Type-Battle Death Interactions

Thus far we have obtained two sets of results that may seem at first glance to be somewhat in tension with each other. Features of the military-strategic context, most notably battle deaths, matter immensely, but so do a myriad of regime type variables. How might we integrate the second and third images? Though there is no inconsistency in stating that each set of variables matters independently, it is especially intriguing to consider how these variables interact. To this end an interaction term composed of the battle deaths and polity variables was included in the analysis. Results indicated that there was a negative interaction between these two variables, though this relationship was only statistically significant when high access was compared to medium and low. See Tables 3.17 and 3.18 and Figure 3.15. Simply, the higher the number of battle deaths, the smaller are the effects of the democracy variable on state access decisions. Though democracy tends to increase the probability of high state access decisions, this increase is smaller if battle deaths are high. If, for instance, battle deaths are at their minimum, a movement from the minimum polity score to its maximum increases the probability of high access by .86. If, on the contrary, battle deaths are at their maximum, an equivalent shift in polity score no longer exerts a statistically significant effect on high access. In fact, the predicted change in the probability of high access, though not significant, is negative at -.04. On the other hand, the (negative) effects of battle deaths on access are greater the higher is the state's

polity score. If polity is at its minimum score, moving from the smallest to the largest number of battle deaths decreases the probability of high access by only .09. If polity is instead at its maximum, such an increase in battle deaths decreases the probability of high access by .99.

The Selection Effect in Theory and Practice

As mentioned above, one of the reasons that studying the monitoring activities of the ICRC makes sense as an empirical strategy is because, for much of the time period covered here, the ICRC's activities are geographically expansive, with the organization seeking to have a role in the overwhelming majority of conflicts around the globe. This means that studying the ICRC is not plagued by the same selection effects that have necessitated innovative and methodologically sophisticated empirical approaches in the study of subjects such as peacekeeping (Fortna 2004). However, this methodological advantage is less true in the early decades studied here – the 1950s and the 1960s – when the organization had not yet achieved the geographic reach and substantive ambition it would come to hold. As a result, data was collected here that would permit the empirical examination of the conditions in which the ICRC was most likely to seek a monitoring role in a conflict situation.

Recall that the universe of cases was gleaned from the PRIO dataset of armed conflicts. This means that all conflicts that met the inclusion criteria enumerated above were entered into the dataset, regardless of whether or not the ICRC undertook monitoring missions in those states. A dichotomous variable, *icrcselect*, was created. Conflicts that met the PRIO criteria but were not objects of attempted monitoring by the ICRC (as indicated by the organization's account of its yearly activities in its Annual Reports) were coded as 0, while conflicts in which the ICRC sought a monitoring role were scored as 1. Note that this variable does not reflect the state's willingness to grant access to ICRC monitoring but only the organization's efforts to undertake

monitoring for the warring states. Of 680 directed dyads in the full dataset, 194 received a score of 0 indicating that the ICRC had not sought a role in the conflict at hand. Table 3.19 lists the distribution of the ICRC selection variable. As expected, the number of conflicts left unpursued by the organization declines each decade, with 76 directed dyads left unpursued by the organization during the 1950s, 56 in the 1960s, and just 2 in the 1990s.

Why is this potential selection effect such a concern? If not sufficiently corrected, a selection effect can significantly compromise the accuracy of the conclusions reached via quantitative empirical analysis. Logical inference in the human sciences is greatly complicated by the fact that the phenomena we study are not randomly assigned to the conditions of interest but instead select themselves in various ways into those conditions (Geddes 1990). This means that we must develop ways of modeling the selection effects plaguing our data if we wish to increase our chances of accurately estimating the effects of key independent variables. Here, especially for the decades in which the ICRC is not yet seeking a monitoring role with near uniformity in every conflict worldwide, we must first understand the factors that influence ICRC selection decisions before we can draw conclusions about state behavior vis-à-vis the ICRC more generally.

In order to empirically investigate the determinants of the ICRC's selection decisions, a number of measures were collected. These measures were primarily taken from the UCDP/PRIO armed conflict dataset. One measure of conflict intensity evaluated dichotomously whether or not at least 1,000 battle deaths occurred in the year under investigation. The UCDP/PRIO coding was altered slightly so that a score of 0 indicated less than 1000 battle deaths in the relevant year and a score of 1 indicated at least 1,000 such deaths. A second measure captured the cumulative intensity of the conflict – a conflict was given a score of 1 if it had since its inception resulted in

more than 1,000 battle deaths and a score of 0 if this threshold had not been surpassed during the entire duration of the conflict. In addition to these intensity measures the type of conflict was thought to be related to the ICRC's selection criteria. As mentioned above, the UCDP/PRIO dataset classifies armed conflict into 4 categories: extra-systemic, interstate, internal, and internationalized internal conflict (Codebook, p. 7). A cursory overview of the data suggested that a disproportionate number of extra-systemic wars were not selected for involvement by the ICRC. Though 27% of the observations in the dataset are classified as extra-systemic, 52% (102 observations) of those conflicts not selected for involvement by the ICRC were so classified. Only about 18% of extra-systemic wars were selected for involvement by the ICRC. To test whether this variable exerted a statistically significant selection effect once potential confounders were controlled, a dichotomous variable was created, with extra-systemic wars coded as 1 and all other war types coded as 0.

Heckman models (Heckman 1979) can be used to model the selection effects and correct for them in the estimation of the effects of the independent variables on the dependent variable of interest. If there are non-trivial, systematic differences between observed and unobserved values, then there may be confounders that need to be addressed in the model. Sample selection bias, in the Heckman framework, is considered a cousin of omitted variable bias, and this may mean the model results are generalizable to the unobserved conflict dyads. For instance, in this analysis, one could hypothesize that variables of conflict intensity, interstate conflict, and territorial conflict proxy unmeasured variables that predict our outcome of interest. In other words, these are latent variables that capture a probability or propensity of inclusion in the observed sample. As Achen (1986) notes, these variables should be modeled using a selection equation, as inclusion in the outcome equation may bias parameter estimates.

One challenge for the present study, however, is that Heckman models cannot be run with ordered logit. One solution to this dilemma is to treat the dependent variable as though it were continuous and run a Heckman model.⁷¹ The results of the Heckman analysis is somewhat surprising. Though the variables chosen for the selection equation do successfully predict ICRC selection,⁷² the overall model does not permit us to reject the null hypothesis that there is no statistically significant sample selection present. See these results in Table 3.20. This suggests that, while there is surely a “selection effect,” and while the variables that affect ICRC selection can be reliably identified, this selection effect has not systematically biased the results. This can only be because the relationships between the independent variables and the dependent variable do not differ significantly between the selected cases and the unselected ones. In sum, we can have confidence that our original models are not biased by a selection effect. Note, however, that we can only enjoy such confidence because we have taken care to gather data relevant to assessing the selection effect and to thoroughly run the available selection models.

Interstate Only Methods and Results

Interstate wars are studied separately for substantive and methodological reasons. Substantively, there is reason to expect wars between states to demonstrate distinct dynamics from other types of wars. Methodologically, measures exist for interstate wars that are not yet available for other types of wars. Most notably, the interstate only data permits here the study of

⁷¹ Other strategies are to dichotomize the dependent variable and use the Heckprob command or to use the Miranda and Rabe-Hesketh (2006) “wrapper” program, ssm, that uses gllamm (Rabe-Hesketh, Skrondal, and Pickles 2004) to model sample selection. Both alternatives were attempted here and did not result in substantially different results from Heckman.

⁷² See Brandt and Schneider (2004) for a compelling argument about the danger of running selection models with ill-chosen selection variables. Here we avoid this danger because 1) the variables used to predict selection are not the same variables used to predict the outcome of interest and 2) these variables are highly significant and explain a significant degree of the variation of the selector variable.

the effects of two fascinating variables on states' access decisions: law of war compliance and Cold War power politics. Descriptive statistics for the interstate only dataset are displayed in Table 3.21.

Compliance

Morrow and Jo (2006) have collected an impressive and useful dataset of state compliance with the laws of war in the twentieth century. Measuring law of war compliance is a daunting empirical task, one that Morrow and Jo approach systematically and with rigor. They employ four different variables - magnitude, frequency, centralization, and clarity - to evaluate law of war violations across nine issue areas. These four variables collectively serve to capture well the often contentious and ambiguous nature of evaluating law of war compliance. Magnitude and frequency are relatively straightforward measures of capturing the substantive and temporal intensity of violations. Centralization serves to evaluate the degree to which violations are clear elements of state policy or are instead the activities of rogue subordinates and the like. Clarity recognizes the significant variation that exists in the degree of legal consensus present on the permitted or prohibited status of a given act. Though these variables are richest in totem, following Morrow (2007) I employ a simpler conception of violation as the product of the magnitude and frequency of violations. An additional strength of the Morrow and Jo dataset is the availability of data quality measures that can be used to differentially weight observations according to the extent of the evidence available to justify coding decisions. These measures are employed here as robustness checks, with analyses conducted, for example, while excluding those observations with a data quality score of 0 (representing the standardized coding used in the absence of specific evidence on the case at hand) or 1 (indicating "sketchy" evidence).

Here the compliance data in the issue areas of prisoners of war and treatment of civilians are employed as indicators of the relationship between compliance and access. The issue area of prisoners of war is a particularly relevant one considering that inspection of prisoner of war camps is one of the most salient aspects of the ICRC's work. Given this, there is great reason to expect that a state's expected level of compliance with the law of war relevant to prisoners of war will influence its willingness to grant monitors access. The issue area of treatment of civilians is also selected for consideration for several reasons. First, it is an issue area with great substantive significance, with compliance or violation dramatically influencing large numbers of human lives. Furthermore, though monitoring of the treatment of civilians is not as closely associated with the work of the ICRC as is visiting of POW camps, it is nevertheless a significant example of the other, more general law of war monitoring activities that the organization performs. Additionally, it is an issue area in which violation is common and in which strong military-strategic motivations for violation exist.

One obvious problem, however, attaches to the use of this compliance variable, the problem of endogeneity as relates to the directionality of the causal relationship. The model here assumes that the compliance variable is not caused by the access variable. Of course, it is entirely possible that this assumption is wrong. In fact, it is ostensibly because monitoring has an impact on compliance that monitoring has been created in the first place. Were annual compliance data available, one option for evaluating the extent of endogeneity would be to regress lagged measures of compliance against access. This would at least ensure the temporal precedence of the compliance variable. However, unfortunately, the excellent compliance data collected by Morrow and Jo understandably codes compliance for the conflict as a whole rather than on an annual basis. Given these empirical limitations, the potential for reverse causality

must be taken into account when interpreting the results. That is, it's not possible to definitively state that compliance causes access rather than the other way around. However, there are good reasons to think that the assumptions made here are more conservative than the alternative. Rather than assuming that the institution is efficacious in inducing compliance as (some) institutionalists would predict, the less contentious assumption is made that the extent of compliance - and hence how likely the state is to be identified as a violator - drives the decision about access. Moreover, because compliance is likely to be driven by many distinct factors related to the military and political terrain in which states find themselves, modeling it as exogenous and causally prior to access seems the more conservative assumption. Assuming the opposite - that access drives compliance - would be an extremely bold move absent some methodological innovation like the natural experiment that Hyde (2004) was able to design and conduct in regard to the presence of election monitors.

Cold War Alliance Data

As mentioned above, the temporal focus of this study is dwarfed by the Cold War. As a result, Cold War alliance dynamics is an obvious hypothesis when considering ways in which realist power politics might have exerted an influence on the access patterns studied here. Cold War influence seems especially likely when one considers the inevitable association that existed between the ICRC and the Western bloc, despite the organization's significant - and in some respects highly successful - aspirations towards neutrality. As a quintessentially Swiss organization (Forsythe 2005) and an organization espousing humanist values that might also be deemed Western, one might expect the so-called Eastern bloc states to be far less likely to grant access than were those states allied with the United States. Cold War history, particularly in the developing world, is complex and tumultuous. Surprisingly, no data set exists that lists states'

Cold War affiliation. Coding of states' Cold War affiliation proceeded in several steps. It was complicated by the frequent tension between states' formal affiliation and their de facto relations with the world's competing poles. Thus, the Correlates of War alliance dataset was first employed to note formal alliances between either the United States or the Soviet Union and the other states in the dataset, but attention was also granted to the extent to which the actual reality of dynamics on the ground mirrored these formal alliances. If the historical review found that the formal alliances accurately reflected states' geopolitical positioning, states formally linked to the Soviet Union were scored as a 2 on the Eastern Bloc measure, while states formally connected to the United States were scored as a 0 on this measure. Scores of 1 were given to states who were formally non-aligned or even formally aligned with the West but whose patterns of foreign relations, as indicated by, for instance, military assistance, evidenced a definitive "tilt East." A dichotomous version of the variable was also created.

Strategic Variables

Another advantage of studying interstate wars separately is the availability of more nuanced measures of key strategic variables that the literature suggests should be highly influential on law of war compliance and, by extension, monitor access. Here use is made of three variables from the Valentino, Huth, and Croco (2006) dataset. These authors initially categorized state military strategies according to six categories: attrition, mobility, counterinsurgency, guerilla, decisive engagement, and reactive defense (p. 362). Their theory, like the general literature we reviewed above, led them to conclude that attrition and counterinsurgency strategies would particularly create incentives for law of war violation. The attrition variable employed here captures the percentage of the conflict in which the combatant utilized an attrition strategy, which the authors define as one in which the combatant "seeks to

wear down the adversary's ability to fight by destroying or capturing large portions of the adversary's military forces in a large number of large-scale battles." (p. 362). The counterinsurgency variable measures the percentage of the conflict in which the combatant employs counterinsurgent tactics in response to the opponent's guerilla tactics. Their definition of counterinsurgency tactics highlights formal control of territory, small anti-guerilla mobile units, and population control measures. Valentino and his co-authors also created a dichotomous war aims variable, which awards the state a score of 1 if its goals include regime change or conquest and a score of 0 if its goals were other (prewar status quo, policy coercion, or limited territorial change).

Results

In general, the results of the interstate only analysis were consistent with the results of the analysis of the full sample. With the exception of a few of the more nuanced regime variables, all of the variables significant in the larger analysis remain significant here, and they assume the same sign. See Tables 3.22 and 3.23 and Figure 3.16.

Comparing the predicted probabilities of the interstate only version of the dataset to those found in the analysis of the full version (see Table 3.12), we find that the predicted probabilities are strikingly similar, with moderate access being the most likely outcome in both datasets when the independent variables are held at their means. Though the confidence intervals are overlapping, it appears that low access is slightly more likely in the full version of the dataset than in the interstate only version (with other variables at their means) and high access slightly more common in the interstate only version compared to the full version. Of course, this is likely partly due to differences in the mean values of the independent variables across these two datasets. The most noteworthy difference between the two, here, is that, as one might expect, the

mean number of battle deaths is higher for the interstate only wars. This is interesting as it should predict lower access, but this is not the pattern we see here. One possible explanation of this unexpected finding (higher battle deaths accompanied by higher access levels) is that states are more willing to grant access in interstate wars - in which the applicability of the relevant law of war is relatively uncontested - compared to colonial wars or internationalized civil wars. Aside from the battle deaths measure, other variables don't differ markedly at their mean levels between the full version of the dataset and the interstate only version.

Another striking feature of the interstate only results is that here moderate access is much more consistently dominant, with no variable having the power independently to move the most common access score to low or high. The variables that come closest to having this effect, however, are counterinsurgency and war goals. When each of these variables are at their highest, the probability of moderate access is at its lowest, at .67.

In the interstate only version of the dataset, unlike the full version, including the indicators of regime type - parliamentary, presidential, semi-presidential, royal dictatorship, and military dictatorship - alongside the polity measure caused problems in the model, most likely because of the significantly smaller sample size in the interstate only version (n=133 when all regime variables are included, compared to n= 251 in the full version).⁷³ As a result, the model was first run excluding these variables.

Here the battle deaths variable ceases to be statistically significant, most likely due to the inclusion of the three additional strategic variables.⁷⁴ It is retained, however, as a control

⁷³ More precisely, it appears that the problems occur not in the running of the model but in the use of the `spost` command to estimate the predicted probabilities.

⁷⁴ Indeed, when these variables are not included, battle deaths is again statistically and substantively significant.

variable. The three strategic variables are all statistically significant when low access is compared to moderate and high; counterinsurgency and war goals are statistically significant across the entire range of the dependent variable.

Importantly, however, two of these strategic variables operate opposite the predicted direction when low access is compared to medium and high. Counter the realist prediction, attrition and counterinsurgency strategies (Figures 3.17 and 3.18) both have the effect of increasing the likelihood that a state offers moderate or high access rather than low. Furthermore, both of these variables violate the parallel lines assumption, having distinct effects at different levels of the dependent variable. While the attrition variable ceases to be statistically significant when low/medium access is compared to high, the counterinsurgency variable remains statistically significant but exerts the opposite effect. While counterinsurgency strategy significantly increases the likelihood that a state demonstrate moderate access as compared to low, it significantly decreases the likelihood that a state demonstrate high access as compared to moderate. This is consistent with the idea that moderate access may be a cheaper strategy that states can use to gain political benefits with less cost than is posed by full access.

Absolutist war goals consistently decrease the probability that a state offers medium or high access, but the substantive effect is greater when low access is compared to moderate/high. As displayed in Table 3.24 and Figure 3.19, when war goals are absolutist, the probability of low access increases an order of magnitude from .03 to .3. Capability symmetry (see Figure 3.20) again has the effect of increasing access, though this time the effect is consistent across the full range of the dependent variable.

As in the full version of the dataset, we again find a puzzling pattern in which several of the military-strategic variables operate in the direction that realism would predict (in this model

war goals and, for some values of the dependent variable, counterinsurgency strategy) while others operate in the very opposite direction (attrition, capability symmetry). With the exception of the capability symmetry variable, however, these variables have a statistically significant effect in the direction opposite that which realism would predict only when low access is compared to moderate or high. This is consistent with my argument that intermediate access is a relatively low cost strategy that comes with some political benefit and is thus desirable in contexts that increase incentive for violation, while full access is a higher cost strategy and thus less desirable in these contexts. Two of the strategic variables have consistent effects across the full range of the dependent variable, though in opposite directions, with capability symmetry consistently predicting higher access and absolutist war goals consistently predicting lower access. This result is difficult to explain. One possible explanation lies in the intensity of incentives for law of war violation created by these disparate factors. It is possible, for instance, that war goals of regime change or territorial annexation create such high incentives for law of war violation that even the (under typical circumstances) relatively cheap option of granting intermediate access loses its appeal, as the attractiveness of violation increases the likelihood of a critical statement from the monitoring organization. Another, related, possibility is that states committed to such absolutist goals no longer have much to gain from attempting to signal their moral or legal goodness. Conversely, while increased capability symmetry may somewhat increase the incentives for law of war violation, these incentives may still be mild enough that granting access to monitors is a good gamble. This may be because increased capability symmetry increases the value of the political leverage gained by monitor access at a greater rate than it increases the incentives for violation.

The polity measure (Figure 3.21) is again statistically significant in the predicted direction. Across the full range of the dependent variable, higher polity score is associated with higher access. Enemy access (Figure 3.22) is again consistently associated with higher state access. Prisoner of war compliance (Figure 3.23) exerts a statistically significant negative effect across the full range of the dependent variable.⁷⁵ Each of these findings is consistent with an institutionalist perspective.

Interestingly, the variable measuring Eastern-bloc Cold War affiliation is not significant in the model. This may be because any effect that Eastern-affiliation has on access is primarily via other variables in the analysis, such as the regime type variables.

Interaction effects

As was the case in the full version of the dataset, significant interaction effects were again present between military strategy and regime type, this time between the polity variable and counterinsurgency. See Tables 3.25 - 3.28 and Figures 3.24 - 3.29. At higher polity levels the counterinsurgency variable exerts a larger effect on access decisions, particularly militating away from both low and high access towards moderate.

More Nuanced Regime Type Variables

A second model included the more fine-grained regime type measures discussed in the full version of the dataset. Here the differential effect of presidential versus parliamentary democracies found in the full version of the dataset ceases to be present. Instead all of the democratic regime types significantly increase the probability of moderate or high access compared to low. None of them, however, exert a significant effect on high access compared to

⁷⁵ Using protection of civilians as the law of war issue area produces comparable results, as does using a composite variable of prisoner of war and protection of civilian violations.

low or moderate. Somewhat surprisingly, royal dictatorship again consistently increases access,⁷⁶ though military dictatorship exerts no significant effect. That most (4/5) of the regime type variables included here increase the probability of moderate/high access compared to low says something about the base category of civilian dictatorships, which appear to evidence lower access on average than the other regimes.

De Facto IHL Monitoring Reviewed

Having explored the patterns of state access decisions vis-à-vis the ICRC, I now wish to reflect briefly on the general implications of these patterns in light of recent interesting work on another monitoring regime in international politics, that of election monitoring (Kelley 2008; Hyde 2011). Figures 3.31 and 3.32 display the number of states granting the ICRC low, moderate, and high access each year from 1950 to 2000. Though there are certainly years (1971, for instance) in which high access appears much more common than low or moderate access, there is no clear "cascade" apparent. Recall that Hyde and Kelley both find evidence for an election monitoring cascade after the end of the Cold War. Though the number of states granting low access to the ICRC does appear to decline in the 1990s, there remains a number of states choosing this option. Moreover, if one looks at the broad patterns of ICRC access during the fifty years studied here, one sees a number of peaks and valleys rather than a clear pattern of increased access. What, then, might explain why there was a cascade for election monitoring but not for IHL monitoring?

In her discussion of election monitoring, Hyde reviews the substantial body of empirical evidence that suggests that key international actors confer significant advantages on states that

⁷⁶ Interestingly, however, including the lagged version of the enemy access variable (See Appendix A, Table I B.) renders the royal regime variable no longer significant. This is the only context in which that variable is not consistent, but it suggests that its significance may be the result of a confounding variable.

demonstrate commitment to democracy (360). An obvious answer to the puzzle of why states don't evidence similar uniformity in regard to law of war monitoring is that powerful actors don't reward states for law of war compliance in the same way that they reward democracy. This is an intriguing puzzle in its own right, but not one that I cannot fully answer in this piece. I'll limit myself, then, to a few observations. First, it is not at all self-evident that states would view the regime type of other states as a more important signal than the law of war behavior of the state. After all, another state's level of compliance with the law of war is something that could directly affect you – it's a dyadic, interactive behavioral characteristic- whereas a state's choice of regime is a more narrowly monadic, domestic decision. Second, there is significant historical evidence that states once viewed other states' behavior vis-à-vis the law of war as a signal of the state's degree of civilization and belongingness in certain communities of states. Nineteenth-century Japan, for instance, made law of war compliance a priority as a means of showing itself worthy of membership in the club of great powers (Morrow and Jo 2006). The question, then, is why powerful states in the contemporary world view the democracy of other states as a variable of significant concern, while law of war behavior is deemed less relevant. One hypothesis is that this shift in priorities stems from the marked decline in the frequency of interstate war in the post-World War II period (Fazal 2007), such that powerful states now find others' law of war behavior to be unlikely to influence them. This may particularly be the case given the marked military superiority of the United States compared to the vast majority of the world's regimes. Alternately, the explanation may be the predominance of the belief that democracy proxies for a wide range of variables of interest to states, including but not limited to law of war behavior. The puzzle then becomes how this belief is maintained in light of significant evidence to the contrary.

Discussion and Conclusions

This chapter has explored the circumstances under which states grant access to the ICRC as a monitor of international humanitarian law. The original dataset demonstrates significant variation in states' decisions vis-à-vis monitors. As is increasingly common in political science scholarship, the evidence fails to offer a straightforward victory for any of the three dominant international relations paradigms. Though some military strategic variables reflect straightforward realist predictions, others prove to exert the opposite effect from that which realism would predict. I have argued that what realism gets wrong here is the way in which providing signals of compliance can be an important source of political leverage for states undergoing trying strategic circumstances. Moreover, realism is wrong to discount the importance of regime type, including more nuanced descriptors of electoral systems or systems of autocratic governance in addition to the more straightforward democracy-autocracy divide. The significance of these regime type variables, and particularly the consistently positive relationship between royal dictatorship and access, suggests that one key mechanism by which signaling becomes costly is via domestic audience costs.

Another central claim of this chapter has been that states in general and certain types of states in particular possess incentives to offer partial but incomplete access to monitors. This is a strategy by which states are able to manage the costs of monitor access while still gaining political leverage by appearing to cooperate. This suggests a potential moral hazard. Incentives may exist for states insincerely committed to law of war compliance to grant some level of access to monitors for largely instrumental reasons. How problematic this is from the perspective of law of war compliance will depend on the mechanisms by which access leads to

improvement in the presence and absence of publicity on the part of the ICRC. More on this in the next chapter.

CHAPTER FOUR:

Strategic Secrecy: Decision-Making in the ICRC

Introduction and Rationale

In keeping with its penchant for belying “all good things go together” naiveté, political science has recently witnessed a barrage of literature about the dark side of actors ostensibly committed to humanitarian goals. These actors can be driven by materialist incentives that distract them from their principled objectives (Bob 2005, 2002, Cooley and Ron 2002), adopt misguided priorities that hurt the very people they aim to help (Mallaby 2004), or blindly follow out-dated or irrelevant rules (Barnett and Finnemore 2004, 1999), to name a few. This body of work is right to strip humanitarian organizations of their halo and to consider the ways in which these “do-gooders” can be influenced (some might say corrupted) by the same forces – both material and ideational – that shape the activities of less noble organizations. Yet, even the most scathing critics recognize that, even if the tale of humanitarian organizations is not properly considered one of good triumphing unambiguously over evil, neither is it the reverse. This project hopes to speak to both the optimists and the skeptics by probing systematically the strategic choices faced by one humanitarian organization in particular, the International Committee of the Red Cross (ICRC).

The ICRC was founded in 1863 after Henri Dunant, a Swiss businessman, chronicled in *Un Souvenir de Solferino* the unnecessary misery he witnessed at the 1859 Battle of Solferino (in the Austro-Sardinian War). At the end of this work, which focused primarily on the suffering of wounded soldiers in the absence of sufficient personnel to provide medical care or even simple necessities such as food and water, Dunant issued a plea for the formation of an organization of citizens that would help to reduce wartime suffering. Upon Dunant’s behest, a meeting of

interested states was convened, a meeting which ultimately culminated in the drafting and ratification of the 1864 Geneva Conventions and the formation of the organization that would later become the ICRC. The ICRC thus crafted a place for itself as an entrepreneur of international humanitarian law (IHL or the law of war), a body of international law that places limits on the means states may use during war. Over time, the ICRC developed a niche as a monitor of state compliance with IHL, and it primarily fulfilled this duty in a manner that emphasized consensual relations with states and confidentiality in regard to the results of the organization's monitoring mission.

The ICRC is a good subject for systematic study for a number of reasons. With an average annual budget of approximately \$600 million dollars⁷⁷ and operations in five continents, the organization is an international actor to be reckoned with. The sheer breadth of its operations, then, makes the ICRC a subject of interest. Furthermore, as is often remarked, the security realm is one in which states are expected to cede little control to external actors, making the nature and extent of state delegation to the organization, with its jurisdiction primarily in the area of state wartime behavior, puzzling. Lastly, two noteworthy attributes of the organization - its general policy of confidentiality, as well as its willingness to occasionally breach this policy in the service of important objectives - create compelling variation that lends itself readily to study. One important strategic decision the organization must make is when to breach its policy of discretion or confidentiality in the service of other goals.

Why, then, should scholars and practitioners of international relations care about the strategic decision making of humanitarian organizations in general and of the ICRC in particular? This topic, I argue, speaks to the much discussed constructivist-rationalist divide in

⁷⁷ Forsythe 2005, p. 235.

the literature and, more practically, is relevant to assessing the likely efficacy of monitors in inducing desired changes in state behavior.

There have been numerous calls in the political science literature for scholars to move beyond the rigid dichotomy of rationalist versus constructivist theories of state behavior (see, for instance, Finnemore and Sikkink 2001, Checkel 1998). The specific topic of humanitarian organizations, I argue, is one that presents an intriguing opportunity to consider the interactions of these disparate motivations for actor behavior. On one hand, by definition, humanitarian organizations are motivated at least ostensibly by a normative concern or set of normative concerns, something that many rationalist theories of agent behavior have a difficult – though not impossible – time explaining. Yet, this does not preclude rational, strategic behavior on the part of the organization as it attempts to achieve these goals. Indeed, understanding how normatively motivated organizations make hard choices - and what empirical understandings of the world underlie such choices – is important to evaluating their efficacy.

There is also a second layer of rationalist-constructivist tension at work in the operation of humanitarian organizations. Scholars have remarked on two distinct senses in which the term “norm” may be employed. A norm, as I have used it above, may refer to a *normative* idea about what is desirable or right. On the other hand, a norm may refer simply to a habit, some behavior that has assumed a taken-for-granted status regardless of whether it embodies any distinct normative preferences.⁷⁸ One source of the so-called dysfunction that has fascinated recent scholars of the “dark side” of humanitarian organizations is in fact a norm in this sense – the particular rules, whether implicit or explicit, by which an organization functions. These norms –

⁷⁸ However some scholars might suggest that most norms in this latter sense embody – no matter how implicitly – some normative understandings. Raising one’s hand to be called on, for instance, may simply be a function of expectation and habit, though underlying this habit are implicit ideas about order and fairness that one reinforces by engaging in the practice, whether aware of it or not.

of styles of decision-making, preferences for one type of intervention over another, for example – may sometimes constitute obstacles to instrumental action designed to achieve the organization's goals.

In addition to this intriguing way in which the topic of humanitarian organizations speaks to key theoretical concerns of the discipline, probing the strategic decisions of these organizations may also have important practical applications. One of the central goals of the dissertation of which this paper comprises one part is to assess the diverse ways in which international law might influence state behavior, beyond the simple dichotomy of whether or not it induces compliance. Yet, to fully probe these effects we need to understand the strategic interaction that takes place between states and those entities attempting to influence state behavior. Quite simply, understanding how humanitarian organizations and states strategically reason in regard to one other will paint a fuller picture of the range of empirical effects exerted by international humanitarian law.

In relation to the specific case under study here, the International Committee of the Red Cross, accumulating systematic evidence about the circumstances under which it is most likely to breach its general policy of confidentiality is important for assessing the organization's potential efficacy as monitor and advocate of state compliance with IHL. Hafner-Burton (2008), for instance, has expressed significant doubt about the efficacy of naming and shaming strategies – in the realist world where material costs and benefits are the focus, shaming seems a relatively toothless strategy. This has particular relevance for the ICRC, which in the vast majority of cases does not avail itself of even this limited technique. Thus, it may be the case that, because of the ICRC policy of confidentiality, states view ICRC access as an extremely low-cost strategy by which to circumvent criticism about their wartime policies. However, another, opposing

possibility remains. Given the ineffectiveness of naming and shaming, the policy of confidentiality – in conjunction with continuous contact with states – may reap real dividends in terms of humanitarian outcomes. Understanding when the ICRC breaches its policy of confidentiality may be a clue as to which of these possibilities is most accurate. How often does the ICRC utilize this reserve option, and against what type of states?

As this chapter explores the conditions under which the ICRC violates its policy of confidentiality and "goes public," questions may arise about the significance of publicity. Perhaps it's the case that everyone already knows who's violating IHL, so that publicity has very little impact (in which case this chapter has posed an utterly irrelevant question). In fact, there is ample evidence that publicity is a powerful political tool that has far-reaching implications for states and for the ICRC. First, as discussed in chapter 2, there is the evidence that states themselves resist imbuing IHL monitoring organizations with the power of publicity. Second, recent history demonstrates two occasions in which "leaked" ICRC reports indicating significant IHL violations had dramatic impacts on international politics. An ICRC report detailing France's use of torture in the Algerian territories, leaked to *Le Monde* in January of 1960, is widely held to have been responsible for a dramatic change in French public opinion in regard to the continuation of the war (Lema 2005). Almost fifty years later a similarly leaked report about U.S. torture of detainees in Guantanamo had dramatic effects on American and international opinion (Danner 2009), even if it's difficult to pinpoint concrete consequences as readily as is possible in the French case. Absent an ICRC report detailing one's IHL violations, a state can at least benefit from plausible deniability; an unambiguously clear report of IHL abuse from an organization as respected as the ICRC is to say the least a public relations nightmare one would

certainly prefer to avoid. There is reason to expect, then, that the variable studied in this chapter is of importance to both states and to the organization.

Accordingly, this chapter proceeds as follows: Section II reviews the relevant literature on the political decisions of humanitarian organizations, Section III uses this research to generate research hypotheses, Section IV examines the funding structure of the ICRC, and Section V explores the hypotheses in light of several case examples.

The Strategies of Humanitarian Organizations

The burgeoning literature on the decisions of humanitarian organizations has identified three sets of factors apt to influence the behaviors of IGOs and NGOs tasked with humanitarian duties: material incentives, bureaucratic pathologies, and competing normative considerations. We can think of these variables as those considerations likely to cause organizations to depart from rational instrumental behavior designed to achieve the express goals of the relevant organization. For instance, these variables might explain why an election monitoring organization makes an election determination not entirely in accordance with the objective amount of fraud detected by the organization (Kelley 2009) or a humanitarian organization with a pacific agenda unwittingly permits the rearmament of alleged war criminals in camps organized and maintained by the organization (Cooley and Ron 2002). Less insidiously, these factors also might help us to understand how organizations trade-off short-term and long-term considerations.

Cooley and Ron (2002) draw much needed attention to the ways in which humanitarian organizations often have the same incentives as private organizations. Like other organizations, they are dependent on material sources for their survival. As a result, scholars should expect variation in organization behavior depending on the specific structure of funding faced by each

organization. Cooley and Ron argue, for instance, that the proliferation of humanitarian organizations, competitive funding, and short-term contracts create incentives for organizations to downplay program inefficiencies and continue ineffective activities because of fear that accurate reporting will cause the loss of contracts critical to the organization's survival. Thus, they argue, lessons about firm behavior derived from microeconomic theory should also be applied to organizations with a humanitarian agenda. They, like firms, must continue receiving financial assets in order to survive. Thus, in this view, it is useful to abstract away from the specific characteristics of the organizations themselves and to focus instead on the simple facts of the system through which they are funded.

Bob (2005, 2002) likewise highlights the material hurdles faced by actors struggling to gain attention for their causes. Far from being those organizations most deserving or necessitous of aid, the organizations that attract and sustain international attention and assistance are those that have managed to connect a local grievance with an international concern, gain the support of gate-keeping Western NGOs, and secure financial backing and symbolic victories such as awards and celebrity sponsorships.

Aside from the concrete and readily measurable indicator of funding sources, organizations may likewise be influenced by less tangible but no less significant political considerations. For instance, organizations may be reluctant to criticize powerful or geo-strategically significant actors for fear of backlash or loss of symbolic support. In tentative support for this hypothesis, Kelley (2008) finds that election monitoring organizations are more likely to endorse elections that take place in states that receive a large amount of foreign aid. Because the amount of foreign aid is likely endogenous to the interest of powerful states in a

specific country or region, this finding seems to indicate some degree of political consideration in the decisions of the electoral monitoring organizations.

Barnett and Finnemore (1999) similarly challenge the tendency of political science to view the decisions of international organizations as unproblematic. Yet, they focus not on material considerations but rather on the cultural attributes of the organizations as rule-governed bureaucracies. In this account ideas about how things are done are privileged over material factors, yet the consequences are similar - organizations can sometimes make choices that are at odds with their explicit objectives, leading to dysfunctionalities. They may, for instance, follow standard operating procedures even when they are ineffective or irrelevant (what the authors nicely term “the irrationality of rationalization”), attempt to apply a universal framework in vastly disparate and ill-fitting contexts, or normalize risky or problematic “exceptions” to the point that they become (misguided) rules of their own. This account presents a picture of bureaucratic stasis over strategic adaptation – certain behaviors or rules become a central part of the organization’s culture and guide behavior even when doing so is in tension with the objectives the organization is committed to achieving.

Though both Cooley/Ron and Barnett/Finnemore provide useful insights into the often puzzling behaviors of organizations, neither work helps to enlighten the way in which these actors strategize about how to maximize the empirical effects of their activities. Both works focus on the factors that lead organizations astray. Such an account surely explains humanitarian organization behavior a significant percentage of the time, yet it seems that these organizations might sometimes act, like states, as astute and creative political entities employing the strategies they expect to result in the greatest payoff in terms of goal achievement. Though it is important not to exaggerate individual or organizational propensity to maximizing strategies, as the

attractiveness of a satisficing strategy in many contexts is well-documented (March 2009), even Cooley/Ron and Barnett/Finnemore acknowledge the degree to which many actors within humanitarian organizations remain committed to achieving the humanitarian goals for which their organizations were created.

Kelley (2008) presents a rare example of research that probes the competing strategic factors that shape the decisions of humanitarian organizations. Her basic hypothesis is that states should be more likely to endorse elections the less frequent are electoral irregularities. This is consistent with electoral monitoring organizations' interest in creating incentives for states to hold reasonably free and fair elections. However, though providing accurate reports of the degree of fraud in a given election is one way of encouraging greater democratization in states, there may be other means to this end, means that may sometimes conflict with the basic goal of report accuracy. Thus, Kelley finds that electoral monitoring organizations may endorse less than pristine elections under several other circumstances: 1) when the election represents a significant degree of improvement over previous elections in the state or is some way a (positive) turning point in the state's democratization process; and 2) when significant levels of pre-election violence provide indications that condemnations of the election may only fuel violence and instability in the state. The way in which these considerations differ from those highlighted by Cooley/Ron and Barnett/Finnemore should be apparent. Acknowledging significant steps in the direction of greater democracy and attempting to prevent high levels of post-election violence are not necessarily inconsistent with the organizations' broader agenda of creating conditions that make stable democracies possible. Of course, one or more of these strategies

may be more effective than the others,⁷⁹ an empirical question that cannot be addressed here. However, the central point is that these considerations should be considered different paths to the organization's primary objective rather than competing concerns that can lead to dysfunction and failure to achieve core organizational objectives.

In addition to Kelley's work, a number of recent articles have found evidence that the "naming and shaming" decisions of NGOs and IGOs are at least partly influenced by the objective reality of the state's performance on the dimensions valued by the organization at hand. Lebovic and Voeten (2006) undertake a hard case in examining the shaming actions of the now defunct United Nations Commission for Human Rights (UNCHR), an organization long notorious for the politicization of its shaming decisions. Even here, though, they find evidence that increased severity of a state's human rights violations significantly increases the likelihood that it will be singled out by the UNCHR. In the post-Cold War period, there is also a significant positive correlation between the severity of a state's human rights violations and the severity of the action taken by the organization, with public condemnation by the Commission as a whole deemed more severe than either a public statement by the chair or a private investigation of the state's performance. Of course, evidence of "politicization" is present as well, particularly in the significant differences that manifest during and after the Cold War. In assessing these results, however, it is important to keep in mind that an intergovernmental organization functions via a political logic quite distinct from the organizational imperatives of a non-governmental organization. Yet, that even here the "objective" performance of the state exerts an influence - albeit certainly not a deterministic influence - on the organization's shaming decisions is

⁷⁹ For instance, it may be possible (or not) that some degree of violence is a good, rather than a bad, thing for democratization. Thus, by tempering their post-election reports out of a desire to prevent high levels of post-election violence, the organization may be hampering, rather than hastening, democratization. The jury's still out.

significant. Other noteworthy results from this work include the finding that states that are more actively involved in the international community - proxied here by state contributions to international peacekeeping operations - are less likely to be targets of shaming campaigns.

Returning to the realm of nongovernmental politics, several scholars have examined the determinants of Amnesty International (AI) publicity campaigns. Examining the frequency of AI press releases and background reports on specific states from 1986 to 2000, Ron, Ramos, and Rodgers (2005) find, like Lebovic and Voeten, a significant relationship between the severity of human rights abuses in the relevant state and the extent of organization publicity, but again this relationship is probabilistic and not deterministic. Many of the most repressive states were also most frequently the subject of AI publicity, but a number of highly repressive states, like Afghanistan and Somalia, were not so often highlighted by AI. Other factors found to have an effect included state power, as reflected by wealth and the size of the state's military, and U.S. military aid contributions. Unsurprisingly, the authors also find that the organization is more likely to report frequently on a state when it did so in the previous year.

Meernik and his co-authors (2012) likewise analyze the determinants of AI publicity, but they focus on the urgent action (UA) campaign, a particular type of publicity in which organization members are encouraged to write letters to a foreign government in protest of a particular human rights violation. Drawing on the "boomerang effect" logic first introduced by Keck and Sikkink (1998), these scholars emphasize the availability of human rights organizations within the target state as a significant cause of increased publicity in the form of UA reports. They predict a non-linear relationship between this domestic variable and publicity, with the increased presence of domestic human rights organizations increasing publicity until a certain (indeterminate) threshold is reached, after which publicity is expected to decrease as the

human rights record of the state becomes increasingly beyond reproach. Interestingly, their argument lies in direct opposition to the findings of Ron et al., who find *no* significant effect of domestic human rights organizations on publicity outcomes. It is possible, however, that this discrepancy is explained by the distinct types of publicity the authors evaluate, with Meernik and co-authors explicitly choosing a mode of publicity they expect to be especially responsive to the local context. Interestingly, Ron et al. also find evidence that distinct forms of publicity might operate according to distinct logics, as several of the variables for which they find support (state power, U.S. military aid) evidence significance in regard to one type of publicity (i.e. either press release or background report) but not the other.

Democratic Outliers

Several of the works reviewed here have noted an apparent paradox in nongovernmental naming and shaming coverage. It is not uncommon for states like the United States and the United Kingdom to top the list of an organization's targets, despite having generally positive human rights records on a number of indicators (a high Polity score as a measure of political freedom, or a low political terror score as a measure of extra-institutional violence). For instance, the United States ranks *first* on Ron et al.'s list of targets of AI press releases during the time period 1986-2000⁸⁰ - above Indonesia, China, the Former Yugoslavia, and Rwanda - and fourth on the background report list (p. 568), despite having the highest possible Polity score (10) and either the lowest or second lowest Political Terror (a 1 or 2 out of 5) rating during the time period in question. There are several possible reasons for this strange turn of events. First, the power and influence of these states make their human rights records potentially important symbols/signals to other states. Second, because of the close relationship of many human rights

⁸⁰ Israel and the Occupied Territories ranks second. More on Israel below.

organizations like AI to these states, given their origins in many cases in the United States and western Europe, these organizations may be particularly hard on such states to avoid accusations of bias. Additionally, organizations like AI may have particular normative commitments, such as opposition to the death penalty, that make the United States, for instance, a particularly appropriate target. Finally, via a logic similar to that advanced by Meernik et al. above, it is possible that attributes of such states, like their robust democracy, active civil society, and numerous human rights organizations (attributes that, anyway, tend to go together), make them particularly responsive targets. Though disentangling these factors may not be so easy, for now it is important to keep them all in mind.

Competing Strategies of Humanitarianism - the Bullhorn vs. the Blackboard ?

One of the reasons the ICRC is such a fascinating organization to study concerns the unique humanitarian philosophy it employs and enacts. Many human rights and humanitarian law organizations have sought to improve state behavior via a naming and shaming logic. In this vein, they publicly castigate states for "bad" behavior in an effort to make the continuation of such behavior costly. The precise logic by which such a strategy is expected to work varies according to theorist. In some views, these tactics are most effective when states have publicly accepted the commitments they are suspected of violating, for instance in the form of ratifying relevant international treaties. In such situations, activists can vocally demonstrate the distance that exists between the commitments the states have made and their actions. Such an argument has obvious affinities with institutionalist theories. Still, once the distance between commitment and action is verbalized, it is not altogether clear what considerations motivate the state to improve given that the current policy of violation most likely exists because it is consonant with state interest in pertinent ways. Audience costs often play a role in this story, though it's often

unclear which audiences are sufficiently interested in the state's noncompliance that they will impose costs on the state in response. International audiences may be relevant when the state is a member of valuable international institutions and noncompliance on a particular dimension is apt to have reputational costs that are quickly translated to material costs (Hafner-Burton 2005). On the other hand, domestic audience costs may be more salient in certain domestic contexts, particularly contexts already democratic enough for human rights organizations to be relatively empowered.

Yet, there are good reasons to be skeptical of the efficacy of a naming and shaming strategy. First, naming and shaming may be a cheap strategy that is attractive to states and humanitarian organizations because it is a relatively low-cost way of signaling one's moral or political objection to a certain policy or policies. In other words, it may be a way to earn brownie points without attempting more costly - and possibly more efficacious - strategies. Additionally, the empirical consequences of such a strategy are complex and multifarious and by no means unerringly positive. As Hafner-Burton (2008) has persuasively argued, aggressive naming and shaming campaigns may create incentives for states to make improvements in one domain - often political rights - while counteracting these improvements in another domain, often in the sphere of political terror. For instance, a state may announce elections but use violence to squelch the opposition. Additionally, such shaming might embolden the domestic opposition, which could in turn lead to increased violence on the part of the state. This is not to say that naming and shaming is never efficacious, as the empirical evidence remains contested,⁸¹ but that there are reasons to doubt that is unambiguously and uniformly so.

⁸¹ For a recent argument that naming and shaming can be effective in reducing the severity of genocide or politicide, see Krain, 2012.

As should be obvious at this point, naming and shaming is a strategy in which activists assume a confrontational stance vis-à-vis states. The goal is to use publicity to impose sufficient costs upon states that they are coerced into reforming their behavior. The main dilemma facing such a strategy is whether and in what circumstances publicity alone is able to usher in dynamics that lead to the desired policy change. The strategy preferred by the ICRC, however, operates according to a quite distinct logic. First, the organization asserts that publicity is much less efficacious than is commonly believed. As evidence, it points to the numerous occasions in which vocal criticism has not been met with swift response, with Rwanda during the 1994 genocide being an especially salient - and tragic - example there. It is worth noting that the ICRC was far from quiet during the early weeks of the genocide. Though, in typical organizational fashion, it did not use particularly inflammatory language - "genocide" was never explicitly mentioned - it left little doubt about what was unfolding there, mentioning, for instance, "systematic carnage" and "the extermination of a large part of the civilian population" (qtd. in Kellenberger, p. 602). The inaction of key international actors powerful enough to halt the genocide, despite this publicity, has been well documented (Power 2002).⁸² Additionally, publicity threatens the organization's access to the victims, which is especially problematic because the organization is much more optimistic about the ability of access to lead to meaningful changes in state behavior.

Given its belief that publicity is inefficacious and even potentially harmful, the organization opts instead for a cooperative policy in which consistent contact between the state and the organization is thought to be potentially transformative. The organization believes that

⁸² However, as Forsythe (2006) notes, the ICRC sometimes appears to underestimate instances in which publicity did have a significant effect on state policy. A notable example in this regard is the Algerian War for Independence, when ICRC documents demonstrating the use of torture and other unsavory means by the French government were leaked to the press, having a significant effect on public opinion and subsequent French policy (see Francoise and Bugnion 2011; Lema 2005).

by having regular contact with the state and approaching it privately about aspects of its behavior that it finds unsatisfactory, the organization can teach it to be a better state and, particularly, a better law of war complier. The bargain that is made here is that publicity is given up in exchange for access. ICRC President Jakob Kellenberger describes the way in which such a policy may be out of touch with the culture of the times. He writes, "In an age when people are quick to pass judgment and histrionic expression of concern and condemnation are highly rated regardless of their actual impact on conditions, this reticence may alienate some or disturb others because it does not fit with widely held expectations (Kellenberger 2004, p. 600)." Thus, there is a potential public relations cost to the organization's policy of discretion. A second, perhaps more significant, danger is that the organization will be captured by the state, unable to effect change yet equally unable to vocalize its dissatisfaction. Given this dilemma, the organization's reservation of the right to "go public" in certain exceptional circumstances can be viewed as one line of defense against being captured by insincere states, as is discussed further below.

Still, one might ask the same question about mechanisms of transformation that was asked in regard to the efficacy of naming and shaming. How precisely does access lead to changes in state behavior? Though in general I've suggested that the confidential advocacy of the ICRC is akin to a constructivist, educative logic of change, rationalist motives for change are also operant here. This is perhaps most obvious in regard to prison visits, a key part of the organization's monitoring activities. Such visits allow the organization to make note of the identities of particular detainees and to continue monitoring their well-being over time. Thus, a straightforward accountability mechanism is at play, as the death of a registered detainee will be

noted and the state asked to account for it.⁸³ This is consonant with the organization's descriptions of its work as pragmatic. By having boots on the ground in conflict zones, the organization is able to take concrete steps on behalf of victims that other organizations, left to resort to the bullhorn far from the sidelines, cannot. Moreover, to the extent that noncompliance is the result of a lack of knowledge or capacity on the part of a state (Chayes and Chayes 1993), the organization's presence may help to improve compliance by educating the state about violations and shoring up its capacity - through, for instance, relief provision to detainees - to fulfill its IHL obligations. It's possible also that a more subtle socialization process takes place here, in which contact with people ideologically committed to IHL influences the commitment of the state to the law.

Another dilemma with which the ICRC must struggle is how to balance the potential benefits of publicity in a particular case with the potential damage such publicity may pose to its ability to gain access in other conflicts. As Kellenberger asks, "By going public about the conditions in country A are we denying ourselves access to the victims in Country B or C ? (p. 604)." This is, obviously, a very difficult question to answer. It evokes questions about how states make judgments about the reputations of other states or, in this case, organizations. Though Jonathan Mercer (2010) has argued that states make much more nuanced and context-dependent assessments of other states' actions than was previously thought, it is possible that such nuance does not transfer to states' judgments about non-governmental or inter-governmental organizations because the incentives for cooperating with such actors might generally be lower. That is, if the incentives to grant access to a humanitarian actor in the particularly sensitive realm of security are already quite low, the state may not engage in complicated assessments of the

⁸³ Of course, a negative unintended effect of such a policy is the possible incentive to slaughter prisoners before they are registered by the ICRC.

likelihood of the organization violating its confidentiality policy in this context as opposed to that.

From one perspective, the reservation of the "going public" option might be thought to be something of a paradox given the organization's reported belief that naming and shaming is not generally efficacious. If naming and shaming doesn't generally work, what is the point of resorting to such a strategy at moments of crisis? It is likely that the organization is alert to the possibility of being "taken for a ride" by states. In this regard, then, it retains the option to resort to public measures at times when its confidential procedures are grossly misused by states. In this way publicity is a punishment and a disincentive to misuse of the organization's pedagogical services. It is also possible that, though the organization does not expect its publicity to be efficacious when used against recalcitrant states, such publicity is a signal to important audiences - other states, international organizations, and NGOS - that it has not been captured.

Methodological Approach and Research Hypotheses

The methodological approach employed in this chapter is appropriate to a particular area - the publicity choices of the ICRC - about which there has been relatively little empirical work. The strategy here is to gather systematically sufficient empirical information so that exploratory work can be done on a number of preliminary hypotheses. This work will help to enlighten whether or not additional data collection necessary to undertake quantitative analysis is justified. Though statistical analysis will not be employed in this chapter, the logic of data collection and preliminary hypothesis testing undertaken here does draw upon the basic positivist logic as expressed, for instance, in King, Keohane, & Verba (1994). I systematically gather data on a full universe of cases for a ten year period and use 2-by-2 tables to compare patterns across cells and to find evidence of correlations that are greater than would be expected by chance. Obviously,

unlike statistical analysis, such a strategy is unable to control for other variables that might be confounding the relationship under investigation. However, it provides tentative evidence to justify larger scale data collection and statistical analysis. Furthermore, this systematic empirical collection permits zeroing in on cases for further qualitative examination that are apt to be particularly illuminating or instructive (per Gerring 2006).

Given this methodological approach, let us turn to the hypotheses about the strategic decisions of the International Committee of the Red Cross that can be drawn from recent work. Cooley/Ron and Bob highlight the importance of organizations' sources of funding to their general mode of operation. Two possible hypotheses in regard to ICRC functioning can be derived from this one insight. The first highlights the effect of the general source of the organization's funding in the contributions of states. This suggests that the organization may demonstrate a pro-state bias given that it is beholden to states for its financial survival. Indeed, Jo (2006) has suggested that one source of the distinct strategies organizations like the ICRC and Human Rights Watch have taken towards states is their discrepant revenue sources, with the former state-funded and the latter eschewing such funds. This issue may arise in particular when states are engaged in wars with non-state actors.

Hypothesis 1: Given its dependence for states on its financial survival, the ICRC may demonstrate a pro-state bias in wars in which states are pitted against non-state actors.

Of course, this hypothesis highlights the general source of the organization's funding, rather than the specific sources, that is specific states. A second hypothesis would locate the potential for bias in the specific state or states (such as, in recent history, the United States) that disproportionately provide financial contributions to the organization.

Hypothesis 2: The ICRC may be less likely to “go public” against states, such as the United States, that contribute a significant percentage of its overall funding.

See below for a more detailed consideration of the ICRC's financial profile in the post-1950 period and the possible ramifications of this profile.

However, the accuracy of this prediction may depend on whether or not the organization's most significant donors can credibly commit to the withdrawal of part or all of their funding. The literature on audience costs might suggest, for instance, that robust democracies cannot credibly threaten to withdraw funding or access from humanitarian organizations, leading to another hypothesis.

Hypothesis 3: This funding effect may not hold for contributors that are robust democracies with a history of supporting the organization, as they may not be able to credibly commit to withdraw funding from the organization.

Given insufficient empirical evidence about the existence and salience of audience costs, it is worth examining in detail the assumption that certain states cannot credibly threaten to withdraw aid from the ICRC. What, in concrete, terms, would the United States lose by withdrawing, or significantly reducing, its support for the ICRC? Though such benefits are inherently difficult to measure, it seems highly likely that the United States gains some positive reputational points from its support of the ICRC. This association may be particularly beneficial for the U.S. when it is engaged in controversial or unpopular conflicts, such as the recent war in Iraq. Yet, it's difficult to evaluate in concrete terms the costs the U.S. would suffer from its withdrawal of support. Furthermore, it seems foolish to argue that there are no circumstances under which the U.S would risk such costs, given that circumstances have existed in which the United States has risked significant international costs by a “go it alone” policy – consider for

example, John Bolton's handling of the United Nations (Bolton 2008). History suggests that under the appropriate circumstances, the United States would be willing to risk international backlash and able to convince a sufficiently large percentage of the domestic population that going it alone was the correct strategy. In fact, as will be discussed further below, some Republican politicians responded to ICRC criticism of American policy in Guantanamo with a call to cut American funding of the organization.

Another cost from withdrawing support from the ICRC is the loss of whatever leverage it might gain over the actions of the organization from its role as primary financier. Of course, because this sort of benefit is not easily measured, the costs the U.S. would suffer from withdrawal of support are equally enigmatic. It is clear that the ICRC aims to be as unbiased as possible and thus avoids actions that would create the impression of it being captured by states, particularly states as powerful as the U.S. Yet, there remains the potential that the U.S. exerts a subtle influence over the actions of the organization, preventing it from doing things it might otherwise do.

Aside from financial considerations, Barnett and Finnemore point to the importance of considering cultural or ideational attributes of the organization that might affect its decision-making process. The ICRC's non-confrontational approach to humanitarian advocacy, discussed above, offers some clues as to the circumstances in which the organization is most likely to "go public." According to the ICRC itself, there are two types of circumstances that warrant a resort to publicity: 1) persistent refusal of the state to grant the ICRC access under the conditions it sets and 2) gross violations of international humanitarian law (Kellenberger 2004). From the above discussion of the organization's humanitarian philosophy, it is apparent which of these should be more troubling to the ICRC: while the organization is no doubt deeply disturbed by extreme

violations of IHL, state refusal to grant the ICRC access is more troubling because it disrupts the pathway by which the organization expects states to improve their levels of compliance with IHL. Thus, I predict that, assuming that access refusal and gross violations happen at equivalent rates, something that will necessitate empirical investigation, the ICRC will be more likely to “go public” about persistent state refusal to grant the organization access than about gross violations on the part of states.

However, gross violations may threaten the organization’s philosophy of change inducement under certain conditions. Specifically, if the ICRC has maintained a relationship with a particular state for a significant amount of time and the state’s high level of violations has continued unaltered, then this might be an indication that the state is somehow a bad student or resistant to being taught. In such cases, the ICRC might reluctantly decide to resort to a more coercive strategy. One might compare this to the mischievous student who receives detention and a letter home to mom in order to make him or her more amenable to the teacher’s instructions at a later date.

Hypothesis 4: Controlling for the relative frequency of these phenomena in the empirical world, the ICRC is more likely to “go public” about persistent state refusal to grant the organization access than about gross violations on the part of states.

Hypothesis 5: Other things being equal, the longer a state has had contact with the ICRC, the more likely is the ICRC to “go public” in regard to violations committed by that state.

Aside from considering the humanitarian philosophy of the ICRC itself, Cooley and Ron point to the importance of considering the overall organizational matrix of which the ICRC is a part. These authors raise the possibility of competition developing across humanitarian organizations over scarce resources such as financial contributions and popular support. From

this perspective, another consideration influencing the ICRC's publicity decisions may be its perceptions of other organizations' decisions and the implications of these decisions for the organization's status in the eyes of important audiences. If other key organizations - HRW, AI, MSF - are highlighting the atrocities of a particular regime, then one can imagine that the ICRC faces competing considerations. On the one hand, its own publicity is apt to have marginal impact given the active publicity of others.⁸⁴ In this case, the long list of reasons for which the organization generally prefers to stay quiet should seem particularly convincing given the small likelihood that its additional voice will add much to the chorus of criticism already taking place. On the other hand, however, staying quiet in such a situation may contribute to the impression on the part of some actors that the organization has been "captured" by powerful states.

Aside from the intricacies of organizational competition, Kelley's work reminds us that the overall normative preferences of the organization are apt to exert influence on its key strategic decisions. Recall her argument that election monitors are sometimes motivated by concerns other than accurately reporting the amount of fraud observed in a given election – for instance, they seek to reward significant steps in the direction of greater democratization and to avoid contributing to post-election violence. In application to humanitarian law monitoring, the larger objective of the ICRC is to contribute to an international environment in which states comply with IHL most of the time. In making decisions about which activities are likely to advance this overall objective and which are not, the organization is likely to take into account the existence of other organizations operating with a similar goal but perhaps disparate strategies. In particular, the ICRC is apt to take into account the existence and activities of organizations

⁸⁴ This neglects, though, the additional impact that ICRC publicity may have on certain audiences *because* it represents a departure from the organization's standard operating procedure. This additional impact, though, is very difficult to quantify.

that regularly use the tool of publicity in their monitoring missions. However, the particular way in which the ICRC responds to the action of shaming organizations could take several different forms.

There are two main differences between these hypothetical worlds. One concerns the ICRC's beliefs about the empirical effectiveness of naming and shaming. In one world, the ICRC believes it to be an effective strategy but would rather another actor undertake it; in the second world, the ICRC does not find it efficacious and is happy if no one undertakes it.

The second difference concerns whether the reputational costs of the greatest concern to the ICRC stem from the states it monitors or from other international audiences evaluating its effectiveness as a humanitarian organization. These different strategic worlds in which ICRC policies may reside is depicted in Table 1, and the implications of these strategic considerations for ICRC "go public" decisions are displayed in Table 2.

One should note that the bandwagoning outcome has more affinity to the picture painted by Cooley and Ron than do the other outcomes. In this world dysfunctional outcomes are produced by organizations duplicating behavior, although in this case the motivation is reputational rather than material (although, of course, the two cannot be fully separated).

In some respects this is a theoretical exercise because 1) we know that generally speaking the ICRC is (at least publicly) skeptical of the efficacy of naming and shaming⁸⁵ and 2) it is rarely the case that the naming and shaming organizations aren't doing what they do best, that is being vocal about violations. In regard to the second point, though it might sometimes be the case that certain states are not receiving attention from the "naming and shaming" organizations that is entirely proportional to their violations, it is unlikely that the ICRC is so placed to identify

⁸⁵ It is difficult to know, however, to what extent this belief is genuinely held by important organizational actors or to what extent it is simply a justification for the organization's standard operating procedure.

such cases and respond to them. Given these considerations, the factor that is most likely to vary is the audience that is foremost in the ICRC's strategic calculations at a given moment.

Hypothesis 6: The ICRC will "bandwagon" with naming and shaming organizations in situations in which signaling that it is not captured by a particular state is important for key audiences.

That the ICRC might sometimes be motivated by a type of audience costs raises an obvious question about the identity of the salient audiences. The ICRC highly values its neutrality and works hard to embody its neutral ideals. However, the organization's particular history and identity make its claims of neutrality more contentious in some contexts than others. During the Cold War, for instance, the connection of the ICRC to the Western Bloc was a liability that it expended a great deal of effort to overcome, with mixed success. Though the Cold War and its fixation on East and West is now a thing of the past, new geopolitical dimensions of conflict pose a similar challenge to the organization's claims of neutrality. In particular, conflicts in which at least some major actors invoke radical strands of Islam to challenge the secularism and imperialism of the West pose a dilemma for the organization. In a context in which some political organizations essential to the conflict identify the ICRC as an agent of the enemy, the ICRC is particularly hard pressed to provide evidence to the contrary. Thus, I predict that the ICRC will be less likely to utilize publicity in conflicts in which politicized Islam is a salient dimension.

Hypothesis 7: The ICRC will be less likely to go public in conflicts in which a major strand of contestation centers around extremist Islam.

Because this variable, being quite subjective, is particularly prone to post-hoc bias, I also employ a more objective indicator and suggest that the organization will be less likely to go public against Muslim-majority countries.

Hypothesis 8: The ICRC will be less likely to go public in conflicts taking place in Muslim-majority states.

The Consequences of ICRC Funding Structure

As Cooley/Ron and Clifford Bob remind us, to understand the operations of an organization, its financial structure is a good first place to look. One central way in which the ICRC is distinguished from other law of war monitoring organizations, such as Human Rights Watch, is by its primary reliance on government funds. Many other advocacy organizations explicitly refuse to accept such funds; the ICRC, in contrast, not only accepts these funds but is dependent on them. This dependence on the very parties (states) that the ICRC is tasked with monitoring may strike some as a conflict of interest, one that could have detrimental implications for the efficiency of ICRC monitoring operations. Given the plausibility of such an argument and its importance to understanding the question under investigation here, this section examines in detail the ICRC financial structure in the post-1950 period.

The close connection of the ICRC to the Swiss Confederation has been oft noted and cited as both a primary guardian of and threat to the organization's neutrality. Its relationship to the Swiss Confederation is supportive of the organization's neutrality insofar as the Confederation itself is a neutral actor avoiding as much as possible the messy world of real politick. However, as Forsythe (2005) and others have noted, the very neutrality of the Swiss Confederation may at times place limits on the independence of the organization, particularly when the action of the organization might endanger the Confederation's claims for neutrality. Of

course, the most salient example of this potential conflict of interest occurred in World War II, when the ICRC, sharing several members of its ruling board with the Swiss executive council, held its tongue about the Holocaust out of fear that, were the organization to take a more confrontational role against the German state, this would compromise Swiss neutrality and possibly lead to the German seizure of Switzerland (Forsythe 2005).

However, if financial connections to the Swiss government are a cause for concern, how much more should dependence on states with more active geopolitical roles arouse suspicion? A good realist, when considering (briefly) the significance of such an organization, would expect a significant correlation between the chief contributors to the organization and the major powers in the international system. The relatively privileged geographic position of Switzerland and its fortunate history might explain its interest in humanitarian causes (as might the interest of the Swiss in carving out a niche area in which they can exert influence, as their narrow military-strategic influence on world politics is, to say the least, rather circumscribed), but other states might be expected to have more concrete interests in contributing to the organization.

A committed humanitarian may be of two minds concerning the role of great power states as primary funders of a humanitarian organization. On one hand, history suggests that institutions fare better when the great powers are stake holders. Voeten (2005) has written usefully about the function that the Permanent 5 serve in the UN Security Council, and a central lesson from the failure of the League of Nations was that the absence of major powers was a significant handicap to the successful functioning of organizations. However, the organizations for which such arguments are made are those tasked with system-wide power maintenance functions, rather than the more narrowly humanitarian tasks assumed by the ICRC and others. Still, another reason that great power involvement may be good for humanitarianism is related to capacity – such

states may simply be better equipped than smaller powers to make meaningful contributions, financial and otherwise, to the organization. The validity of this argument, however, may depend on the extent to which economic and political/military power co-vary.

On the other hand, however, going to bed with powerful states may have detrimental consequences for humanitarianism. Such states are not disinterested actors, if indeed such things exist, and they may use their financial contributions – particularly if significant – as a means by which to exert leverage on the organization. As a result, ostensibly humanitarian activities may increasingly be marked by the tinge of donor state political ambitions. Importantly, it may be difficult to pinpoint concrete instances in which a donor state shaped organization policy – such influence is apt to be more subtle, agenda-setting power, which may make it all the more insidious.

What, then, does one find in the post-1950 financial history of the ICRC that might speak to the possibility of pernicious real politick influences on humanitarian policy? The place to start, it seems, is with the donation patterns of the contending powers at various stages of their predominance. Most political scientists are familiar with the general power distribution that characterized the post-World War II international system. Given the devastation of the European powers, there was a power vacuum on the European continent. The United States and the Soviet Union, then, emerged as the major great power contenders, and tensions soon developed between the erstwhile allies (Walker 1995). Was this power distribution reflected in the patterns of ICRC financing in the early post-war period? Interestingly, the answer is no.

In the early 1950s, in the immediate post-war years, the major state donors to the ICRC were, as one might expect, Switzerland, France, and the U.K. Switzerland was by far the largest donor,

contributing 500,000 CHF of the 800,000 CHF total granted by state governments.⁸⁶ Interestingly, the United States as such did not make any contribution, while the United States' national Red Cross society offered a major contribution of approximately 107,000 CHF, representing one fourth of the total donations the organization received from national Red Cross societies. Perhaps already indicative of Cold War divisions, the USSR was contributing very little – like the U.S., it did not make any direct governmental contributions, while, unlike the U.S., its indirect national society donations were also paltry at about 16,000 CHF. Of course, it's possible that this relatively small contribution has more to do with the extent to which Soviet Red Cross funds were needed at home than with geopolitical considerations.

A few milestones in the ICRC financial history are worth highlighting. 1966 is the first year that the United States made an official *governmental* contribution to the permanent structure of the ICRC (though in previous years, it had made donations of gifts in cash or kind in response to emergency needs). This first contribution was 216,000 CHF. At this time, the U.S. surpassed all donors other than Switzerland⁸⁷ to become the second largest single contributor to the organization. U.S. donations continued apace until 1974, when the U.S. and the ICRC made an agreement that, beginning the following year (1975), the U.S. would make an annual contribution to the permanent structure of the ICRC of U.S. 500,000.⁸⁸ In actuality, U.S. donations in the 1970s exceeded this agreed amount, as the U.S. began to make substantial donations to ICRC special operations happening in specific parts of the world. For instance, in 1978, in addition to contributing approximately CHF 1 million to the ICRC permanent structure,

⁸⁶ All financial information is taken directly from the ICRC Annual Reports, which list in detail the contributing donors.

⁸⁷ At the time Switzerland was donating 1 million CHF per year; in 1968 this would increase to 2.5 million CHF.

⁸⁸ Note that this is a highly significant increase from the CHF 200,000 that the U.S. had been donating, considering the CHF-dollar conversion rate at the time.

the U.S. also contributed roughly CHF 7 million to ICRC special operations, mostly in Africa and Lebanon. It is in 1976 that U.S. donations to the permanent infrastructure and special operations first exceed those of the Swiss government. With the exception of 1978, the U.S. would be the ICRC's chief donor until 1987, and it would again assume this title consistently in the 1990s.

This year – when the U.S. assumed its position as chief donor to a humanitarian organization tasked with neutrality – is a milestone of special significance in the history of the organization. One of the world's primary geopolitical competitors – and one engaged in a vicious partisan struggle with its Soviet great power counterpart – was now primary financial contributor to an organization committed to remaining above the melee of international political struggles. Although the ICRC has always belied blanket characterizations as being simplistically or unambiguously “in the pocket” of power, this still must raise serious questions about the paradox of neutrality given the reality of financial dependence.

This conundrum is not, of course, unique to the ICRC. Scholars of human rights have investigated at length how the funding patterns of major international human rights organizations affect the details of their activism. Though many human rights organizations, like Human Rights Watch or Amnesty International, explicitly refuse government funds, they nevertheless receive the vast majority of their funds from organizations and citizens in “Western” – that is wealthy and democratic – nations and thus are not entirely immune from the bias question. Evidence suggests, however, that these organizations take great care to highlight the human rights inadequacies of Western states, even as the scale and nature of their atrocities often differ strikingly from those observed in the developing world. This provides some indication that

assuming straightforward bias on the part of a normatively-motivated organization because of its funding pattern may be misguided.

There are several distinct ways in which a state's financial contributions might exert an influence on organizational policy. We might characterize them as the obvious, the counterintuitive, and the subtle. The obvious hypothesis suggests that financial influence from major political actors causes the organization to “go easy” on those actors that constitute significant donors. The counterintuitive hypothesis suggests that, in contrast, the organization may “go hard” on these states precisely because it is aware of the potential for being perceived as “captured” by financial interests. That is, the organization may over-compensate by being particularly tough on these actors. Finally, the subtle (or chameleon) hypothesis suggests an effect somewhat in between these two extremes. Rather than resulting in straightforward bias in readily observable outcomes, the influence of major financial donors may shape the priorities of the organization (the so-called agenda setting effect) in significant but less readily measurable ways. Another challenge in assessing the significance of financial dependence is teasing apart the effects of funding from other aspects of the organization's relationship with a particular state. In the case of the United States, for instance, the question would be what aspects of its influence stem from its financial contribution as opposed to its general geopolitical position and its particular history with the ICRC.

Another area in which ICRC financial history might be telling concerns Cold War dynamics. It is common knowledge that a great deal of internationalism – not least in the United Nations – was circumscribed by the Cold War stalemate. To what extent did this affect the international humanitarianism attempted by the ICRC? Not surprisingly, funding patterns were polarized along Cold War lines. In the immediate post-World War II period, the USSR did not contribute

as such, but, remember, neither did the United States. However, the difference in funding patterns between the Eastern and Western blocs becomes apparent in the remarkably distinct levels of aid offered by the respective U.S. and U.S.S.R. national societies. Throughout the 1950s and '60s, the USSR national society consistently contributed about CHF 16,000 a year; in contrast, the U.S. national society contributed about CHF 106,000. In 1966, this difference becomes even more significant, as the U.S., but not the USSR, begins to make direct governmental donations. Interestingly, the first year of a direct governmental donation from the USSR was 1988, a year of significant moves towards liberalization on the part of the USSR. The USSR contribution at that time was CHF 130,000; by comparison, in that year the U.S. contributed CHF 41 million. The USSR repeated this CHF 130,000 donation in 1989. In 1990, with the dissolution of the USSR, small donations from the national societies of the former Soviet republics emerge, but Russia does not begin to contribute until 1995.

Data Collection and Analysis

In order to evaluate the hypotheses discussed above via case studies, primary documents from the ICRC were reviewed as comprehensively as possible for one decade of the general time period under investigation in this project (the post-1950 period). The time period of 1995 - 2005 was chosen for a number of reasons. First, taking place after the internet revolution, it permits the use of large amounts of data available online. During this time period the organization was posting its news releases online as a matter of standard practice. This provides a degree of empirical detail that is not readily available for the earlier years, given the forty year delay before archival material is made publicly available. Thus, case studies can be selected with greater attention to the larger context in which they occur, so that potentially pernicious selection effects can be avoided. The relatively recent nature of this time period is also a strength insofar as the

study will be able to give a window into political dynamics that are likely to still be relevant and illuminating. Still, though, this choice of time period is conservative in that it stops short of considering the very recent past, within the past five years, when there may remain a great deal of uncertainty about a number of variables of interest.

In thinking about this post-Cold War sample, it is worth considering ways in which the political strategies of the ICRC might have been impacted by the end of the Cold War. In some obvious respects the end of the Cold War freed the organization from one potential source of politicization. The organization was no longer in as much danger of appearing to take sides in a highly polarized geopolitical context. Thus, in much the same way that the end of the Cold War opened up the potential for the United Nations to take action that had been heretofore blocked by the gridlock between the superpowers, this new geopolitical context freed the organization from one particularly difficult constraint. On the other hand, as realists have noted, it was an uncertain new environment in which, in the absence of bipolar stability, it was unclear what if anything would be the new organizing principle. The wave of conflicts in the former Soviet territories was a clear sign that the end of the Cold War did not mean the end of acute security problems. The time period of 1995-2005 is also interesting in that it straddles the game-changing September 11, 2001 attacks that heralded significant changes in the security strategy of the system's most powerful actor.

In order to determine a list of the occasions in which the ICRC "went public," the organization's online search engine was utilized. The following search terms were utilized for the time period 1995 - 2005: compliance, violation(s), (gravely) (deeply) concerned, condemn(s), deplore(s), and denounce(s). These particular terms were chosen after perusing the organization's news releases to get a sense of the language by which it typically "went public."

For the time period 2000 - 2005, there were 38 news releases using the word "violations," 56 using the term "compliance," 19 using the term "condemns," 9 using the term "deplores," 2 using "denounces," 11 using "gravely concerned," and 202 using the more generic "concerned." For the time period 1995 - 1999, there were 30 new releases using "violations," 24 using "compliance," 14 using "condemns," 17 using "deplores", 30 using "gravely/deeply concerned" and 172 using "concerned." These news releases were then read, with those selected that appeared to criticize a country or a conflict (the later more likely, given the organization's reluctance to single-out countries for criticism) however vaguely for either noncompliance or limited access. All of the selected news releases are listed in Tables 4.3 and 4.4.⁸⁹

A 3-point scale was then used to rate the degree to which these releases indicated publicity on the part of the ICRC. To adequately capture the essence of publicity, these scores were determined from the content of the news release's title alone, though statements that employed a statement of criticism in the text were also included in the table with note made of this more subtle form of publicity. A score of 1 was assigned to those statements that indicated the most direct and obvious form of publicity, with language akin to "condemns" or "deplores" utilized. An example of such a headline is "ICRC condemns deliberate targeting of civilians in Jerusalem," news release number 95/41. A score of 2 was assigned when the headline mentioned an act or activity that implied some concern or criticism on the part of the organization but without such concern being explicitly vocalized. For instance, "Bosnian Serbs evacuate members of Croat and Muslim minorities," news release 95/40, earned such a score. The score of 3 was assigned when the organization vocalized a generic reminder or appeal for compliance

⁸⁹ All of these news releases were accessed directly from the ICRC website at www.icrc.org. Date of last access was 30 June 2013. The headlines and identifying numbers of all reports are listed in Tables 4.3 and 4.4.

on the part of the warring parties. The headline, "Ecuador/Peru: ICRC calls for compliance with Geneva conventions," news release number 95/21, received such a score.

This scale captures only imperfectly the significance of the statement at hand as an instance of rare ICRC publicity. Consider, for instance, the example listed above as level 2 publicity, in which the ICRC states that the Bosnian Serbs are evacuating ethnic minorities within their territory. When the ICRC announces the completion of an action that is obviously a violation of humanitarian law, it is unclear that the absence of the explicit language of condemnation is so significant. That is, the ICRC stating that it believes a violation to have occurred should perhaps be considered an instance of "going public" even if the language of violation and the explicit normative condemnation of that violation are absent. Another example illustrating such ambiguity is the statement, "Escalation of indiscriminate shelling in Kabul," made in news release 95/5. Is it really qualitatively different from the statement "ICRC strongly condemns shelling of civilians in Tuzla," made in news release 95/18 and which was coded as 1 on this scale? The scale was designed to capture variation in the nature and intensity of the language used by the organization, but it is not always so clear what should be made of this variation. However, because the hypotheses of these chapter are being investigated qualitatively, it is not necessary that any one indication of publicity be considered the most important. This measure of the extent of publicity will be used in conjunction with other variables qualitatively assessed from the reviewed news releases.

Accordingly, data from the news releases was gathered on several other dimensions as well. First, note was made of whether or not a particular actor was identified as the source of a law of war or access violation. This variable sought to distinguish between reports in which the ICRC clearly charged a state with a potential violation, for instance when it charged Israel with

violations of the 4th Geneva Conventions for policies it adopted in the occupied territories, and reports in which no actor was clearly identified. Second, a variable coded whether or not any criticism of an actor was asymmetrical, that is was made in a context that singled out one actor in a warring dyad for misconduct but not the other actor. This is quite distinctive from news releases in which both parties in a warring dyad (or none) are named. Third, note was made about whether a state or non-state actor was the primary target of the statement. Fourth, as will be detailed further below, the topic of the news release - particularly whether it concerned access, IHL violation, humanitarian neutrality, or humanitarian assistance - was coded. Finally, in cases in which significant statements about violation or access were mentioned in the text that were not apparent from the headline, these were recorded in the notes section.

A potential objection to my conceptualization of publicity in this chapter is that I have classified a range of distinct actions as instances of publicity, including instances in which the ICRC voices displeasure about commonly known IHL violations and does not necessarily make use of restricted information to which it is privy. Though it is correct that I include different levels of publicity in this study, I argue that this is an acceptable analytic strategy for several reasons. Though it is certainly the case that certain types of "going public" are more aversive to states and thus more damaging to ICRC professions of neutrality and discretion than are others, it is my contention that all of the instances of critique examined here are departures from ICRC business as usual, are in tension with the identity the organization attempts to cultivate vis-à-vis states, and are thus somewhat risky actions worthy of exploration. Though in theory it is highly plausible that states respond more severely when the ICRC reveals information that it alone possesses, in practice it is quite difficult to determine which ICRC statements make use of information it has obtained via privileged access granted by the state in question and which do

not. That is, one would need an unrealistic amount of information -about actual state action, the knowledge possessed by the ICRC, and the knowledge possessed by other international actors - in order to make judgments about this in more than an ad hoc manner. Moreover, in this chapter I attempt to distinguish among different types of publicity employed by the organization using a 3-point severity scale and other indicators of the qualitative nature of publicity. Though admittedly the severity scale does not capture the degree of "private information" possessed by the organization - a variable that, for reasons discussed above, it is extremely hard to systematically code - it does usefully capture other dimensions of "publicity," such as identification of the violating state, tenor of criticism, etc. The variable of asymmetric criticism is likewise informative in this regard. Thus, while there are certainly limits to the way publicity is conceptualized here, it is my contention that the variation captured here illustrates something powerful about the strategic decisions of the ICRC.

Surveying the Empirical Terrain

The completed tables, 4.3. and 4.4, reveal several interesting facts about the circumstances in which the ICRC resorts to publicity. First, though admittedly a quite generous definition of publicity has been employed here, it should be obvious that the organization is in fact quite prolific in the rendering of news releases about circumstances of violent conflict. It is not nearly as silent as the organization's commitment to confidentiality might lead one to predict. Second, there is quite significant variation in the tone of the organization's pronouncements, with humble, conservative language being somewhat more common than more definitive condemnatory language, though the latter is certainly present. Further, consistent with the changing parameters of war in the post-World War II era, far more news releases addressed intrastate wars than addressed interstate. In the time period 1995-1999, 65 news releases met the

criteria for publicity articulated above; of these, only five concerned inter-state wars. Similarly, of the 139 news releases of the period 2000 - 2005, only 28 concerned interstate wars.

Variation and the Dogs that Don't Bark

One might object to the method of investigation employed here insofar as it appears to fall prey to the cardinal social science sin of selecting on the dependent variable. Never fear, as redemption is at hand. First, within this table of news releases, substantial variation already exists across the dimensions discussed above. Variation exists in regard to the intensity of publicity (as measured by the 3-pt scale developed earlier), whether or not a particular actor is identified, whether the publicity is symmetrical or asymmetrical, and whether the publicity concerns violation, access, or humanitarian neutrality. Further, particular conflicts vary in the number of releases to which they are subject. See Table 4.5 for a summary of the conflicts that received the highest number of releases in the time period under study here.

Though each of these variables reveal potentially enlightening information about the circumstances of ICRC publicity, in this chapter I make particular use of the variable of asymmetrical criticism. I code a news release as reflecting asymmetrical criticism when it exclusively or overwhelmingly criticizes the behavior of one actor in a warring dyad, failing to mention or only briefly mentioning any equally illegal activity on the part of its enemy. Thus, a news release issued April 12, 2002 with the headline "Movement expresses deep concern about humanitarian situation on the West Bank" is coded as an asymmetrical criticism because it enumerates in twelve separate paragraphs the violations committed by Israel, even though in one (two sentence) paragraph at the end suicide bomb attacks against civilians are also condemned. Note that a news release granting attention to violations committed by both sides was only coded as asymmetrical criticism when the attention was, as in this case, disproportionately focused on

one party. In most of these cases, as in this one, the headline also makes clear which party is the target of the organization's criticism. I submit that asymmetrical criticism is a particularly informative variable as it entails the risk of perceived or actual departure from neutrality. Though it is not the only relevant type of publicity employed by the organization, it is the form that is most costly to targeted states. Thus, there are good reasons to focus on asymmetrical criticism as a particularly informative and significant form of ICRC publicity.

Still, this data is limited insofar as it only tells us about the news releases that were issued. To really understand the factors shaping the organization's publicity decisions, we must consider also the conflicts for which such news statements were not issued, the so-called "dogs that don't bark." A list of all conflicts meeting Correlates of War (COW) criteria for interstate or intrastate wars in the time period 1995 - 2005 was collected. This gives us a sense of the total universe of cases in regard to which the organization might have employed the strategy of publicity. Comparing this list to the list of news releases, we can construct a list of cases in which the organization did not employ the publicity strategy. See this list in Table 4.6a. Because many scholars use the UCDP (Gleditsch et al, 2002) dataset - with its lower battle death threshold of 25 - for intrastate wars, a list of low-intensity intrastate wars (i.e. wars meeting UCDP criteria, but not COW) in which there was no ICRC publicity is included for reference as Table 4.6b. However, the work that follows focuses on the higher intensity conflicts (the list in Table 4.6a).

One thing that becomes apparent here is that it's not the case that publicity is occurring equally across conflicts. Nor is it the case that publicity maps neatly onto the deadliest conflicts or the conflicts in which violations of international humanitarian law are most severe. For instance, Angola's deadly civil war hardly registers as a blip here, while Israeli's skirmishes with

the Palestinians, which don't even meet the Correlates of War annual battle deaths criterion during the time period studied here, constitute the single greatest subject of publicity. Similarly, a number of conflicts known for their significant violations of IHL, such as the Algerian civil war of the mid 1990s, are barely mentioned until several years after the conclusion of the civil war. This provides further indication that the organization's pronouncements are not explained neatly by empirical reality but instead are the product of more complex factors that need to be articulated.

Sudan is an astonishing case in point here. Though the Sudanese government, embroiled in a war with domestic opposition starting in 2003, soon become responsible for a host of atrocities against civilians, primarily through its support of the Janjaweed militias, the ICRC was far less critical (in terms of public publicity) of this regime than it was the Israeli. The same month the conflict began, in February of 2003, the organization issued a news release praising the government's announcement of a national commission on IHL (ICRC, News Release 03/21). In fact, this news release came only two days after the date that several commentators cite as the official start of the conflict, February 26. Clearly, the organization was unaware at this time of the extent of violations that would ensue, but this rare act of praise on the part of the ICRC is striking given what would come after. Once the atrocities became widely known, the ICRC released only one clear critique of the government, mentioning "serious violations of IHL" that had taken place "under the responsibility of the government" in an announcement of ICRC President Jacob Kellenberger's visit to Sudan in November of 2004 (ICRC, News Release 04/71). To be fair, several other press releases, though lacking specific criticism, did contain the generic enjoinders about IHL compliance of which the ICRC appears so fond (see discussion

below). Again, though, this is astonishing given the 15 asymmetrical criticisms of Israel made during the same time.

Evaluating the Hypotheses

Pro-state bias

Recall that Hypothesis 1 predicted a general pro-state bias on the part of the ICRC because of the source of the organization's funding. This hypothesis is somewhat difficult to assess because of the possible pro-state bias of international humanitarian law itself, the body of law that the ICRC is charged with monitoring. Because IHL was the creation of states acting to advance their interests, it should come as no surprise that states are granted a privileged status in this legal landscape. This privileged status is evident, for instance, in the definition of war as a legal condition that exists between two or more internationally-recognized states. It is further reflected in the criteria militias must meet - carrying arms openly, wearing a uniform or insignia - in order to be eligible for privileges like prisoner of war status to which only lawful combatants are eligible.⁹⁰ This pro-status quo character of IHL complicates the assessment of the ICRC's own strategic imperatives insofar as it makes it difficult to tease apart whether the organization itself has a bias or whether instead the body of law it is tasked with enforcing carries this bias.

We will explore this hypothesis first by examining the relative frequency with which the ICRC engages in asymmetrical criticism against non-state actors as compared to states. Recall the variable asymmetrical criticism mentioned above. Of the 35 news releases coded as asymmetrical criticisms during the time period 1990 - 1995, 25 of these (71%) were aimed at

⁹⁰ Of course, this is not to say that the substance of IHL, including the extent to which it upholds the interests of states, especially dominant states, is uncontested or static. The ICRC itself plays a role in the articulation and evolution of the requirements of IHL. The organization's role as normative entrepreneur is not highlighted in this work, but should not be discounted.

non-state actors, most often terrorist organizations that committed acts of violence directed at civilians. This trend is less stark for the time period 2000 - 2005, but, as will be discussed below, this is largely due to the many asymmetrical critiques the organization made against one state, Israel. Though only 49% of the asymmetrical statements were made against non-state actors, once one removes the 15 (!) statements made against Israel, the proportion of critiques directed against non-state actors rises to 73%.

It is not self evident, however, how these statistics should be interpreted, given the general pro-state bias of international humanitarian law discussed above. It may be that the organization appears to criticize non-state actors more frequently than it criticizes states because non-state actors are more often gross violators of the law. Though the empirical evidence that would be needed to assess fully this claim is not yet available, there is certainly ample evidence that states violate IHL with alarming frequency (Downes 2006, Valentino, Huth, and Croco, 2006). However, it's possible that wars between states and non-state actors, in which the asymmetry of capability is often extremely large, create distinct incentives that have implications for law of war monitoring. Such asymmetry may create military incentives in which unambiguous violation - for instance through anti-civilian acts of terror - is viewed as the most likely route to efficacy for the weaker party.⁹¹ Conversely, states, in a superior military position, may be more able to comply in the most overt ways, for instance, through avoiding the direct targeting of civilians, creating a situation in which non-state actors' noncompliance is more overt and unambiguous than that of states. Consider the difference between the bombing of a market and a state's attack on a military target that might have resulted in avoidable civilian casualties. To the extent that the organization's publicity tends to spotlight the former rather than the latter,

⁹¹ Of course, this doesn't mean that this strategy pays. See Abrahms (2006) for a compelling argument that terrorism doesn't work.

it might be said, like international humanitarian law more broadly, to demonstrate a pro-state bias.

Of course, arguments can also be made in the opposing direction. As Jo and Thomson (2013) have documented, in civil war contexts the organization often attempts to develop a working relation with rebel groups so that it may, for instance, visit detainees held by rebels. Insofar as such an act bestows a form of recognition on these actors, it is often welcomed by them and denounced or begrudgingly accepted by states.

Overall, though questions remain about how this pattern should properly be interpreted, there is evidence that publicity is more often directed against non-state actors than states.

Hypothesis 2 predicted that the ICRC would treat more gingerly states that provided a significant source of its funding. As mentioned earlier, the United States is the ICRC's number one state supporter for the entire decade evaluated here. Though it is difficult to assess the counterfactual, that is the level of publicity that would be expected were the United States not the organization's chief donor, it is clear that the organization's indebtedness to the United States does not prevent it from occasionally using publicity against it. From 1995-1999 there were no asymmetric criticisms of the United States, though during the intervention in Kosovo one ICRC press release noted with concern an increase in the number of civilian casualties caused by NATO attacks (ICRC, Press Release 99/15). Unsurprisingly, the number of asymmetric criticisms increased markedly after 2001 when U.S. international behavior became much more contentious with the invasions of Afghanistan and Iraq and the IHL concerns that accompanied the war on terror more broadly. Three press releases during this time were considered asymmetric criticisms of the U.S., though this may somewhat underestimate the attention granted to possible violations on the part of the U.S., given the existence of a number of additional

statements that, while not exclusively critical of the U.S., did explicitly challenge aspects of U.S. policy. Moreover, if one compares the number of news releases issued about American wars to the number issued in regard to other interstate wars (see Table 4.7), it is clear that the ICRC is much more prolific in its publicity when the United States is involved. Fourteen statements were issued about the conflict in Iraq and eight about the conflict in Afghanistan, compared to only two about the conflicts with the next highest level of publicity, the Eritrea-Ethiopia border war and the NATO-Serbian war (in which, of course, the United States was involved). Thus, the ICRC appears willing to challenge its chief governmental donor. What about the organization's other top contributors? To take one year, 2002, the top governmental contributors were, in order, the United States, the United Kingdom, Switzerland, the Netherlands, Germany, Japan, and Canada. Quite obviously, the U.S. aside, this list does not include states that tend to be actively involved in military conflicts, though all except Switzerland and Japan are members of NATO and thus were involved in the Kosovo intervention in some form. Thus, with the significant exception of the United States, the states that constitute the organization's greatest contributors tend not to be involved in wars and thus not at great risk of ICRC publicity.

Thus, while some evidence appears to exist for a state-centric bias on the part of the ICRC, no clear evidence exists that the organization is biased towards the specific sources of its funding. Again, the caveat remains that it is impossible to definitively state that greater publicity wouldn't take place were the U.S. less financially significant to the organization. If we accept, however, that at least U.S. funding doesn't fully motivate the ICRC to stay quiet, there is still a question of how to interpret this state of affairs. It may be that the ICRC doesn't find it likely that the U.S. will withdraw its funding and so doesn't fear this particular consequence, or it may be that these financial considerations exert less impact on organizational decision-making than

predicted. Despite the general evidence that the ICRC isn't fully silenced by the U.S.'s financial contributions, in a later section I consider one case in which it appears that U.S. power and financial contributions, while not completely silencing the organization, may have reduced the degree of publicity wielded by the organization.

Access vs. Publicity

Recall, from above, the hypothesis that the ICRC would be more likely to "go public" about refusal to grant access than about persistent violations, as access is the main avenue by which the organization expects to exert influence on state behavior. Here evidence pointed in the contrary direction, with the ICRC being more likely to "go public" about violation than about access. Thus, the initial hypothesis was rejected in favor of its opposite. First, consider the numerical patterns of ICRC new releases. Return again to Tables 4.2. and 4.3. News releases were classified according to the relevant subject(s) which they addressed. Releases that mentioned IHL violations or warned about the danger of possible violations were coded with a "V," while those that addressed the state or warring group's provision of access to the ICRC or other humanitarian organizations were coded with an "A." Review of the empirical material also suggested two other topics that had not been considered in the preliminary hypotheses. Releases that addressed potential violations of humanitarian neutrality, for instance attacks on vehicles bearing the Red Cross emblem, were coded as "HN." Those that focused exclusively or primarily on the provision of humanitarian relief or assistance were coded as "Hum." Releases that addressed more than one of these elements were assigned all of the applicable designations. Table 4.8 displays the number of news releases that received each designation. The vast majority concerned issues of violation, while significantly fewer addressed issues of access or humanitarian neutrality. One should interpret these statistics cautiously, as they don't control for

the relative frequency of these phenomena in the empirical world. That is, if states are more likely to commit egregious violations than they are to deny the ICRC access, then the more frequent statements of publicity in regard to violation may say relatively little about the strategic decisions made by the organization. Yet, given the significant number of states that deny the organization access, especially in civil war contexts, it is unlikely this is the case. Further support for this hypothesis is found in proportions - of the five conflicts examined here in which the state demonstrates low access, the ICRC "went public" about only one (20%) of them. This case, the first Russia-Chechnya conflict, will be discussed in more detail later. It is something of an outlier because, though Russia granted no access early in the conflict, rebel groups granted partial access, which may have changed the strategic calculations faced by the ICRC. In contrast, of the high access conflicts, publicity was used in 6 out of 16 conflicts (37.5%). It is not altogether clear how this difference should be interpreted, especially given the possibility that the high access conflicts differ from the low access conflicts in significant ways. However, as will be discussed below, one main way in which these conflicts differ, by the average number of battle deaths suffered within, does not appear to exert a significant influence on publicity decisions. The primary potential confounding variable is the culturalist variable related to Islam, which will be discussed further below. Still, thus far the evidence supports the contention that the ICRC is more likely to respond to lack of access with silence than with publicity, contra my earlier prediction that publicity should be particularly likely in response to a state's denial of access.

What led the initial hypothesis astray? While the recognition of the centrality of access to the organization's humanitarian philosophy was clearly correct, what was incorrect was the assumption that the organization would consider publicity an effective tool by which to increase

access. Instead, it appears that, particularly for states that are reluctant to grant access, it may be especially important for the ICRC to demonstrate its commitment to confidentiality and discretion.

It is also worth highlighting here the significant percentage of news releases that concern violations of humanitarian neutrality, for instance attacks on Red Cross employees or violations of the Red Cross emblem. Though publicity in regard to violations of humanitarian neutrality was not part of the original hypotheses, such violations appear to be one circumstance in which the organization is particularly likely to "go public." 16% - 17% of the news releases issued during the time period studied here concern such violations. Somewhat unsurprisingly, the organization is likely to respond to such acts with particularly strong language, using such terms as "shocked," "appalled" and "deplored" far more frequently than is the case for other occasions. Though the original hypotheses highlighted access and violations, echoing the justifications for "going public" identified by the ICRC, the organization's emphasis on violations of humanitarian neutrality, which might be thought of as one particular breed of violation, seems highly sensible in light of the organization's priorities. This is because violations of humanitarian neutrality threaten the ability of the organization to do its work to a greater extent than do other types of violations. This is particularly the case when such violations are extensive enough that they jeopardize the ability of the organization to responsibly stay in the field at acceptable cost to the security of its staff and resources. It is not uncommon for the organization to announce its horror at the death of a member of its staff (or even the staff of another humanitarian organization) and announce a withdrawal from the geographic area in which this event took place. For instance, the ICRC withdrew from East Timor in 2000 after the killing of several members of the staff of the UN High Commission for Refugees (UNHCR) (ICRC, News Release 00/33). At their worst,

such acts can hinder not only the ICRC's IHL monitoring activities but also its substantial relief activities. Such violations of humanitarian neutrality are also intriguing because they often present particular conundrums for the attribution of responsibility. On the one hand, in cases of intrastate conflict, the perpetrators of violence against protected humanitarians is most often - though certainly not always - committed by non-state actors. However, the state is not completely off the hook in such cases because of the expectation that the state provide security guarantees for humanitarians operating in its territory. To the extent that the state is unable to provide this, it is not quite fulfilling its state duties. Of course, it is little surprise if in cases of civil war the state is only imperfectly able to provide such guarantees.

A related context in which the organization appears highly likely to issue a press statement concerns state misuse of ICRC documents or information. For instance, the ICRC publicly criticized Eritrea in the spring of 1999 for attempting to use the ICRC to buttress its claim that a prisoner of war held by Ethiopia had died partly because of the mistreatment he received at the hands of the Ethiopian authorities. The ICRC stated that it "deplored" this misuse of its information, as it had visited this prisoner and was in a position to state that the "allegations as to the death causes are unfounded" (ICRC, News Release 99/12). The organization has long reserved the right to release its confidential reports if a state erroneously cites ICRC reports or quotes from documents in a misleading or politicized manner. Such an action is another type of threat to the organization's humanitarian neutrality, and this is a violation to which the organization again tends to respond strongly. In the empirical world this violation of humanitarian neutrality appears to be less frequent than attacks on humanitarian staff, most likely because this is an action much more amenable to centralized control. In most cases a state or rebel group (more rarely) has to actively decide to misuse ICRC reports in this way, though

violence against humanitarian staff or property is easily committed by individual actors absent the sanction of the state or rebel group.⁹²

Another type of news release frequently issued by the ICRC warrants further examination here. There are numerous examples in the list of news releases collected here of the ICRC issuing rather generic reminders to the belligerents of their obligations under IHL. To some extent, these reminders might be viewed as indications of violations, though they typically avoid the politically contentious task of identifying particular parties as violators. Still, it seems that the ICRC is particularly likely to issue these pleas for compliance when there is evidence of intense fighting and likely IHL violations. If it's unclear to what extent "naming and shaming" is an efficacious strategy for improving compliance, it is even harder to imagine that these general exhortations toward IHL compliance are effective. Perhaps they are intended to remind states that someone is watching and that there will be repercussions for noncompliance. Yet, it's unlikely that these soft reminders would exert an effect if the more tough-minded statements of the "naming and shaming" organizations do not. There are two other possible explanations for this behavior. One focuses on the particular psychology (or organizational culture, depending on the unit of analysis) of the organization as an explanation for action; the other focuses on the larger audiences for the activities of the organization. On the one hand, it is obvious that the leadership of the ICRC is normatively committed to facilitating compliance with IHL and is pained by its violation. Thus, it may be quite difficult to do nothing in situations in which violation occurs, even if the strategic milieu does not justify "going public" in a more direct way. Thus, these somewhat vague reminders may be a way for the members of the organization to do

⁹²This is again consistent with Morrow's (2007) hypothesis about the relationship between centralization and compliance, with compliance more likely in law of war issue areas - such as the use of chemical or biological weapons - most amenable to state control.

something in situations that are obviously problematic. On the other hand, it may be that the organization is less motivated by its own psychological needs and more concerned by the conclusions key audiences will draw from the organization's silence in the face of known violations.

Algeria: A Case of Silence in the Absence of Access

To further illuminate the relationship between access and publicity, an illustrative case of ICRC silence in the face of persistent state refusal to grant access is discussed. Table 4.9. sorts cases on two dimensions: the level of access the state grants to the ICRC (high or low) and the degree of ICRC publicity employed in the conflict (high or low). Note that, for simplicity's sake, cases displaying a mixed level of state access - sometimes high and sometimes low - are excluded from this table, though these cases are sometimes considered below as additional sources of information. The access data was obtained from the Jo and Thomson (2013) civil war dataset, which codes the level of access granted by states and rebel groups to ICRC prisoner of war monitoring.⁹³ As Table 4.9 demonstrates, there are four low access/low publicity cases: the Second Turkish Kurds War, the Algerian Civil War, the First Congo Brazaaville War, and the Tajikistan Civil War.⁹⁴ Of the four cases, the First Congo Brazaaville War involved far fewer combatant deaths than did the other three and is thus not a good choice for an illustrative case analysis. I choose here to consider the Algerian case because, like the Tajikistan war, it was a major war for control of the state and displayed a high number of IHL violations. Importantly,

⁹³ Note that this is a narrower definition of access than that which I employed in the previous chapter.

⁹⁴ Note that, with 3 news releases issued in regard to the civil war in Tajikistan, it is not entirely clear that it should be considered a low publicity case. However, two of these statements bemoan attacks on UN staff members and the taking hostage of two ICRC employees. As noted above, publicity in regard to such violations of humanitarian neutrality operates according to a somewhat distinct logic from the organization's general publicity decisions. Thus, I continue to classify Tajikistan as a low publicity case. Still, the existence of some ambiguity over this classification constitutes good reason not to use Tajikistan as the illustrative case of interest.

sufficient information is available about the evolving relationship between the ICRC and the Algerian state during this conflict.

Algeria is an excellent example of a case in which, in the midst of significant and horrifying humanitarian violations, the ICRC was granted little to no access to the warring parties, but largely stayed mum about it. Here it is important to make a distinction among types of publicity. In this chapter, publicity has been defined as the organization's active recourse to media outlets via the particular medium of the news release. Recall that the previous chapter focused, not on publicity per se, but on access as measured by the organization's statements in its annual reports. In that chapter I grappled with the paradox of writing about a confidential organization while making use of publicly available materials. Here that paradox returns although in a somewhat distinct manner. Though what is written in the annual reports is certainly a public statement of sorts and should be viewed as such, it is nevertheless different from the types of sustained publicity campaigns that organizations that employ a "naming and shaming" logic commonly utilize. I also contend here that these reports are qualitatively different from the ICRC's own news releases, made in an ad hoc manner and in a way that draws singular attention to the state or conflict at hand. The annual reports are generally designed to serve a purpose distinct from naming and shaming. They provide publicity, not to particular governments, but to the organization as a whole, often providing impressive figures about the nature and extent of the organization's operations. The reports may also serve some - albeit soft - accountability mechanisms, as disclosure of the sources of the organization's funding and detailed breakdowns of that year's expenditures are also regular features of these reports. These reports are likely also used in quite different ways by journalists in comparison to the news releases, as the annual reports are not written in a format that lends themselves to sound bites.

For example, the 2012 report is over 550 pages. Even with the division of the document by geographic region, a journalist would have to be motivated to wade through a large amount of text in hopes of stumbling upon a good story. The news releases, in contrast, are often just a few hundred words and are often released as part of press conferences obviously designed by their nature to attract publicity. Thus, there is good reason not to think of the content of the annual reports as akin to the content of the news releases defined here as indicators of a "going public" strategy.

This distinction is important for evaluating the hypothesis made above about the organization's tendency to "go public" about access versus violation. Algeria in the midst of its brutal civil war is a good contender for both types of publicity. The widespread violations of IHL made by both the regime and the opposition have been well-documented (Kaylvas 1999, Stora 2001, Hafez 2004), and for many years the regime refused to grant the ICRC access. Why, then, in such a context, did the organization remain silent? It is consistent with the organization's belief that access is paramount that it treat tentatively states already reluctant to grant access. There may be an expectation (a reasonable one, at that) that "shaming" states about their refusal to grant access is unlikely to persuade them that granting access is in their interest. At stake here is the credibility of the organization's commitment to confidential operations, which is its primary source of leverage when attempting to persuade states to grant access within the delicate arena of security. How can one convince the state that the organization will treat the results of its monitoring missions confidentially except in extremely exigent circumstances if one is already shouting from the mountain about the state's refusal to grant access? Note that, absent statements made by the organization in regard to this question, I am left to make inferences about the strategic rationale for the organization's choices. Such a strategic logic is suggested,

however, by the organization's apparent reluctance to "go public" in regard to blatant refusal to grant access.

In 1992 the ICRC's monitoring work in Algeria was halted at the request of the Algerian authorities after a series of disagreements between the state and the organization over the terms of its visits to detainees. The organization maintains a set of standards for its detention visits that includes the ability to speak with detainees privately without witnesses, visit the entire detention facility, and make repeat visits to the same facility (ICRC News Release 98/28). These criteria were objectionable to the Algerian authorities, as they dramatically reduced the state's ability to control the information obtained via monitoring. After the Algerian request to halt its operations, the ICRC ceased maintaining a permanent presence in country, but continued to advocate bilaterally for the resumption of detention visits. Algeria agreed in principle to the resumption of detention visits in 1998; the first round of renewed visits took place in November and December of 1999. In the interim years the ICRC did not issue press releases about the Algerian situation, but chose instead to maintain its quiet diplomacy. The one exception to this came in the form of fairly guarded statements made in the annual reports. For instance, in the 1996 annual report, the ICRC acknowledged the "serious violence" that was taking place in country and mentioned its dialogue with the authorities over detention visits, reporting that "only very limited progress was achieved" (ICRC Annual Report 1996). Once the regime agreed in principle to the resumption of visits, a statement was made to this effect.

Though a potential rationale for the organization's discretion in this case is obvious, also obvious are the potential unintended consequences of such a policy. The Algerian state in effect kicked out the ICRC at the height of its civil war and invited it back in once it had virtually eliminated the opposition. In response to such action, the ICRC remained quiet until invited

back in, an outcome that the organization then celebrated. It is this dynamic that leads critics to worry that the policy of discretion employed by the ICRC allows it to be captured by powerful states. In such cases, rather than incentivizing greater compliance with IHL, the ICRC may instead find itself granting a rubber stamp of approval to a regime in the aftermath of widespread and pernicious violations. On the other hand, it may be that there is little monitors can do to halt violation when military strategic incentives for it are so high. In such a situation, perhaps the best the ICRC can do is wait until the incentives for violation are lower and seek to improve state behavior on the margins in this more benign context. Of course, this is certainly not the agenda the organization would wish to endorse. Also, one wonders if sustained publicity to demand access - something the organization seems reluctant to do - might sometimes be efficacious.

The Empowering Effect of Consistent Access

There is another side to the access story. Though the organization is particularly quiet with states that do not grant it access, it is on the other hand quite loquacious in regard to states with a firm history of granting access. In the time period studied here, there are two states that stand out as being particularly likely to be targets of ICRC publicity. As noted above, in the small sample of interstate wars addressed during this time period, wars involving the United States are subject to far more publicity than are other wars. In the domain of intrastate wars, as will be discussed in far more detail below, Israel is the clear outlier. Both of these states are robust democracies with a long history of granting access to the organization. Though it is certainly not the case that these states always grant perfect access, it is perhaps quite unlikely that either state will retaliate against ICRC criticism by completing withdrawing its access. This awareness in turn emboldens the organization vis-à-vis these states. Note that I have highlighted two features of a state as significant in this regard - regime type, in the form of robust

democracy, and the state's particular history of contact with the organization. This raises the question of which of these two variables is most significant. As will be discussed further below, there is no evidence that democracy itself predicts either state access or ICRC publicity decisions. Some states consistently coded as democracies, such as India, demonstrate low or intermittent access. Consistent with the logic articulated above, the ICRC tends to remain relatively quiet about such states. It's less clear whether consistent access in the absence of democracy produces any particular effect. Among the nondemocratic countries granting the ICRC a high level of access - Iraq, Rwanda, and Liberia, among others - there are examples of both high and low publicity, with these outcomes being more or less equally likely. Thus, the evidence so far is most consistent with the argument that it is the combination of democracy and access, rather than either of these variables alone, that results in increased publicity on the part of the ICRC.

Another source of evidence on the relationship between access and publicity can be found in recurring conflicts that allow us to observe how ICRC publicity decisions might change over a period of consistent interaction with a state. As Table 4.10 indicates, there are eight examples during the time period examined here of conflicts that end and then recur at a later date, such as the First and Second Sierra Leone War or the Second and Third Aceh War. Given the degree to which the ICRC values contact and employs a logic of humanitarian change in which interaction leads to improvements in humanitarian outcomes, these instances in which the relationship between the state and the ICRC unfolds across several periods of conflict are potentially quite instructive. As the table indicates, the most common outcome is for the level of

publicity to hold constant across iterations of conflict.⁹⁵ However, there are several instances in which the ICRC increases its level of publicity in subsequent iterations of a conflict, often in parallel with increasing access on the part of the warring state. This pattern is demonstrated, for instance, across the two Sierra Leone wars and three Liberian wars included in this sample. Notably, there are no examples of the reverse pattern, that is of the organization employing less publicity in subsequent iterations of conflict. While this evidence is somewhat ambiguous, it suggests that a dynamic of increasing access and publicity can sometimes unfold between states and the ICRC over time. In such instances, continued access makes the ICRC more, not less, prone to use publicity. This is consistent with the earlier arguments I've made about the consequences of access and the lack thereof.

Neutrality, Islam, and the ICRC

Hypotheses 7 and 8 predicted particular restraint on the part of the ICRC in conflicts in which a politicized strand of Islam constituted a salient dimension. Here I evaluate the evidence for this hypothesis in the context of the main competing hypotheses.

Review Table 4.9, which sorts cases according to level of state access and level of ICRC publicity. Tables 4.11 through 4.15 display relevant statistics for cases in each quadrant. What is most striking here is how difficult it is to find any pattern that explains publicity versus silence. The obvious contenders - number of casualties, level of democracy, extent of compliance with the law of war - fall short. Table 4.11 lists those conflicts alongside

⁹⁵ The notion of "iterations of conflict" may be somewhat misleading insofar as it is not uncommon for the nature and character of the warring parties - particularly the opposition - to change significantly over time. The use of this term should not then be interpreted as implying that the distinct "iterations" of the conflicts are somehow identical. However, that *Correlates of War* has chosen to name the conflicts sequentially is indication of some common thread across these conflicts that has consequences for the relationship that the ICRC develops with the warring parties, particularly with the affronted state.

information about the number of battle deaths suffered in each conflict.⁹⁶ As is consistent with the results from the previous chapter, it appears that access is less likely in conflicts with larger numbers of battle deaths. The average number of battle deaths in the low access conflicts was slightly over 13,000, compared to an average of about 2,600 in the high access conflicts. However, this variable doesn't appear to have a dramatic effect on publicity decisions. On average, the low publicity conflicts evidence higher numbers of battle deaths, though the difference is sufficiently small (about 1,200 casualties) that it's difficult to know if it would be significant were the data subjected to statistical analysis. Interestingly, the apparent relationship between lower battle deaths and publicity is largely driven by the low access conflicts, as the high access, high publicity conflicts actually have on average more battle deaths than the high access but low publicity conflicts. That is, the way in which low access dampens publicity appears again to be evident here.

Democracy similarly falls short in distinguishing cases of access versus publicity, and here there is not even evidence for an effect of the variable on access. As Table 4.12 demonstrates, states across the range from highly autocratic to highly democratic are present in each of the quadrants, with the exception of the sparsely attended (only 1 case) low access/high publicity quadrant, and the mean polity level in each cell, again with that one exception, approaches equivalence at around -2. One pattern that does manifest here is that a much larger number of high access cases receive a standardized authority score from Polity. These scores are assigned for one of three conditions: control over the state apparatus is usurped by foreign influence, state authority has collapsed into anarchy, or a regime transition is underway that makes classifying the government type impossible (Marshall and Jaggers 2007). The assignment

⁹⁶ Data on fatalities was obtained from Sarkees and Wayman 2010. When they listed the data as missing, the UCDP battle deaths measure was used instead.

of these codes may be viewed as indication of higher conflict severity insofar as they indicate that the state has been radically transformed and, at least in the former two cases, is no longer able to fulfill the essential functions of statehood. That a measure of higher conflict intensity would predict higher access is something of a surprise and consistent with the argument made in the previous chapter that states may sometimes have incentive to use access insincerely to obtain political benefit. However, again, though the variable appears to be associated with access, it doesn't appear to explain publicity versus silence. In the high access/low publicity quadrant, there are three cases that received standardized authority codes, in this case all the interregnum score indicative of complete collapse of authority. In the high access/high publicity quadrant, there are also three cases receiving an interregnum score but in addition two cases receiving a transition score. There is thus a slightly higher number of cases receiving a standardized coding when publicity is employed compared to when it isn't, though it is difficult to judge in this case the significance of this fact. Interestingly, when one includes the conflicts in which states engaged in mixed access, sometimes high and sometimes low, during the course of the conflict, one again finds this pattern in which higher proportions of the "publicity" cases have received a standardized coding from Polity. This may provide some evidence that this particular measure of the severity of conflict - unlike a proxy like number of battle deaths - is correlated with ICRC publicity decisions.

Nor does it appear that a straightforward measure of compliance explains the patterns of access and publicity evident here. While data on civil war compliance as thorough and well-documented as that provided by Morrow and Jo for interstate war is not yet available, some useful data fortunately exists. First, the CIRI (Cignranelli, Richard, and Clay 2013) physical integrity variable was used as a rough proxy of the extent of extrajudicial violence employed by

the state.⁹⁷ Additionally, details about the extent of anti-civilian strategies employed by governments and rebel groups were gleaned from Jessica Stanton's dissertation on civil wars (2008). As the treatment of civilians is an important law of war issue area having significant substantive impact on the quality and quantity of human life, focus on this aspect of the law of war is justifiable even though it is obviously only part of the broader domain of the law.⁹⁸ As Table 4.13 indicates, these measures of law of war compliance do not explain patterns of access or publicity on the part of the ICRC. A number of wars in each quadrant employ the anti-civilian strategies of coercion and cleansing, and average CIRI scores for high publicity, low publicity, high access, and low access conflicts, respectively, all hover near 1 (indicative, unsurprisingly of a very low level of respect for physical integrity rights), with a range of 1.04 to 1.39.

Drawing on the recent and intriguing work of Jo and Thomson (2013), the possible effects of rebel group access on state and publicity access decisions were also considered, with relevant data displayed in Table 4.14. Consistent with an expectation of reciprocity, rebel access appears to be more likely when the state itself grants a high level of access.⁹⁹ It's important to note, however, that this could be an artifact of the circumstances in which the ICRC itself attempts to secure access from rebel groups, as there is significant variation in this regard and the

⁹⁷ This measure is obviously not identical to law of war compliance, as its focus is on domestic human rights compliance rather than specifically law of war compliance. However, in the absence of more specific data this measure does provide some clue about the state's propensity toward extrajudicial use of violence. In some contexts, as when the opposition is a significant cross-section of the citizenry, the CIRI measure and law of war compliance will be very closely related; in all civil war contexts violations of the law on civilian targeting should be reflected in the CIRI score.

⁹⁸ Note that only some of the conflicts considered here were classified in the Stanton dissertation. Where her classifications are available, they are included in the table. What is noteworthy here is that there are several examples of anti-civilian strategies (coercion, cleansing, and restrained coercion) in each of the quadrants.

⁹⁹ However, it is not altogether clear that reciprocity is the expectation in civil wars, as there is a fundamental legal and political inequality between the contending parties that might render implausible some of the institutionalist predictions that are relevant for interstate wars. For instance, given rebel groups' interest under certain conditions in accruing legitimacy points by adopting some of the behaviors expected of states, there may sometimes especially be incentive for rebel groups to grant the ICRC access even if the state against which they are contending does not.

"none" category here elides both cases in which access was sought but not received and cases in which access was not sought. That is, it is possible that the ICRC is more likely to seek access from rebel groups when some minimum level of access from the state has already been secured. However, it is worth noting that in two conflicts in which states consistently denied access - the Turkish-Kurds War and the Algerian Civil War - some partial access from rebel groups was obtained. In comparing the patterns of rebel access across ICRC publicity decisions, there is modest evidence that higher levels of rebel access may be associated with greater organization publicity. The primary piece of evidence in this regard is the comparatively higher percentage of high publicity conflicts (approximately 43%) in which rebel groups consistently grant full access compared to the percentage of low publicity conflicts (approximately 21%) in which such a pattern is evident. This finding is consistent with the argument made earlier about the way in which access can be empowering to the ICRC. Once full state access and rebel access are secured, it stands to reason that one source of restraint in regard to publicity - remaining quiet so that the organization's promise of confidential operation is credible - is removed.

Though battle deaths, democracy, and law of war compliance all prove unable to explain patterns of access versus compliance, the salience of politicized Islam does appear to exert a significant effect on both access and publicity.¹⁰⁰ First, note the way in which Islam appears relevant to state access decisions. Four of the five cases of low access (80%) are cases in which Islam is culturally relevant, either because the state is a Muslim majority state (in the case of Turkey), because politicized Islam is a central dimension of the conflict (in the case of Chechnya), or because both of these conditions hold (in the case of Algeria and Tajikistan). In comparison, only 40% of the high access states meet these conditions. This suggests that the

¹⁰⁰ See Table 4.16 for a review of the main hypotheses and results addressed in this chapter.

ICRC may indeed face a credibility problem in the Muslim world. Moreover, this variable, unlike the battle deaths variable, not only exerts an effect on access but also exerts an effect on publicity. 57% of the low publicity conflicts meet the criteria stated above, while only a third of the high publicity conflicts do. This may actually underestimate the effect of politicized Islam on publicity insofar as several of the high publicity cases took place in Muslim majority countries engaged in conflicts in which a politicized variant of Islam was not salient. I employed the Muslim majority criterion for reasons of consistency and to mitigate post-hoc bias, to which a variable like salience of politicized Islam is highly vulnerable. Yet, it is really the salience of a strand of politicized Islam in a conflict that I expect to be most relevant to the ICRC's decisions, not such objective characteristics as the proportion of a state's population that identifies with a particular religious affiliation. Such an objective fact, however, may be useful as a quick proxy for the conflicts in which a particular cultural or ideological conflict is more likely to be activated.

Why is the salience of politicized Islam in a conflict relevant to ICRC publicity decisions? The origins of the ICRC in European civil society pose a certain liability and a potential obstacle to the acceptance of its claims of neutrality.¹⁰¹ This liability, ever potentially present, may nevertheless pose greater challenges in some contexts compared to others. Conflicts in which some of the contenders employ - either sincerely or strategically - broad critiques of "Western" imperialism, secularism, and decadence may create particular dilemmas for the organization. This dilemma may be especially salient in wars that pit Western powers against Islamists. In contexts in which at least some belligerents reject any Western influence as imperialist, the organization is hard pressed to demonstrate its independence from Western

¹⁰¹ For an insightful and reflective consideration of the cultural and ideological commitments embodied in international humanitarianism, see the *Medecins Sans Frontieres* volume edited by Abu-Sada (2012).

powers such as the United States and Israel. Thus, given the likelihood that these robustly democratic Western states are unlikely to abruptly discontinue relations with the ICRC, incentives shift towards using publicity as a way of demonstrating that the organization is not decidedly in the pocket of the Western powers. This highlights the important point that the ICRC's much-touted and highly valued neutrality, if in fact it can be said to exist, is not a natural state of affairs but instead a hard-won and continually imperiled achievement.

Let me be clear here lest I be read as endorsing Huntington's controversial "clash of civilizations" argument (1996). I do not agree that there are essential and fundamental differences among the groups that Huntington classifies as "civilizations," nor do I agree that differences among such groups will necessarily be central sources of conflict in the near future. However, I do believe that at least some of the actors involved in salient recent conflicts, such as the U.S.' war in Iraq, either believe or wish to be seen as believing that the conflict is partially or largely a conflict between the forces of the West and the forces of Islam. This makes this dimension of conflict salient to at least some of the important actors in the conflict and also puts the ICRC in the position of needing to demonstrate its independence from the Western pole if it wishes to be able to work productively in this context.

Moreover, I do not claim that there is any "natural" tension between the humanitarian work of the ICRC and Islam. The red crescent as an alternative to the red cross was first used in the 1877 conflict between the Ottoman Empire and Russia, and there is a long history of cooperation between the ICRC and the Muslim world. Rather than being an inevitable conflict, the salience of the organization as a representative of the "West" is largely the result of particular political contexts in which some insurgent groups adopt an ideology that views actors like the ICRC as representative of the Western imperialism, secularism, and modernization. The

increased salience of such views is indicated in the increase in the number of humanitarian workers that have been killed in recent decades, often as the result of intentional targeting strategies (see, for instance, the Aid Worker Security Report 2012).

Evidence exists that the ICRC is itself concerned about its perception in the Muslim world. In a 2005 essay in the *International Review of the Red Cross*, Andreas Wigger, ICRC Deputy Director of Operations, addressed the obstacles to effective humanitarian operations that exist in political contexts in which many organizations - the ICRC included - associated with the West are inherently suspect. He notes that, "depending on the context [international organizations] may be suspected of proselytizing, acting as agents for western governments or promoting secularism and selective human rights (p. 365)." Unsurprisingly, Wigger notes that these problems were exacerbated by the U.S. invasions of Afghanistan and Iraq. He also identifies the Israeli-Palestinian conflict, the war in Chechnya, and the conflict over Kashmir - several of the conflicts highlighted in this chapter - as particularly polarizing contexts that create acute dilemmas for the ICRC. Of course, Wigger doesn't suggest that these obstacles are insurmountable for the organization but rather argues that the organization must work especially hard to prove its neutrality in such contexts. I argue here that one way in which it may do so is via astute decisions about the use of publicity.

Still, the general prediction made above of less publicity in conflicts in which Islam is politically salient overlooks the potential for the ICRC to strategically use publicity in these contexts in order to accrue capital with Muslim audiences. For instance, in contexts such as Algeria in which the state faces Islamist opposition, the assumption that the ICRC is concerned with Muslim audiences might lead to a prediction of publicity directed against the government, rather than a prediction of silence. That this pattern does not appear to manifest in general, with

the exception of the Israeli-Palestinian conflict (see below), is somewhat puzzling. There are several possible answers to this puzzle. First, given the organization's general preference for silence over publicity, silence may be a less risky means of avoiding charges of either anti-Muslim bias or its opposite. Moreover, given that being vocal in a particular direction is apt to come with the risk of alienating other key audiences and compromising perceptions of one's neutrality, such a move may only appear worthwhile in conflicts with a high degree of salience internationally. This is a key part of the explanation for the organization's unusually high degree of publicity vis-à-vis Israel, discussed further below.¹⁰²

The ICRC and Israel

The extent to which the organization has openly criticized Israel is something of a surprise. As noted above, in the 2000 - 2005 period, the number of "asymmetrical criticisms" welded against Israel far surpasses the number directed against any other state. In that period, 33% of all "asymmetrical criticisms" and 65% of asymmetrical criticisms directed against states (which, per the discussion above, are generally rarer than are asymmetrical criticisms of non-state actors) were directed against Israel. This is the case though the violence occurring there was far below the COW threshold of 1,000 battle-related deaths per year. It's also worth noting that the extent of the organization's publicity against Israel greatly increased from the 1995-1999 period, when there was only one asymmetric criticism directed against them.

Indeed, ICRC publicity in the late 1990s looks quite different from coverage after about the year 2000. As the hypothesis above about a state-centric bias would lead one to expect, what is most common in the late '90s is the occasional criticism of attacks on civilians committed by

¹⁰² A second possibility is that, rather than being a strategic choice, the organization's apparently greater tendency towards silence in conflicts in which Islam is politically salient may be an artifact of 1) the lower tendency of states engaged in such conflicts to grant the organization access and 2) the organization's reluctance to use publicity in the absence of access.

non-state actors against Israel. Two such criticisms were made in 1995 and 1996 (ICRC News Releases 95/41 and 96/8), though also in 1996 one statement criticized Israel for shelling in Lebanon, taking issue with Israel's warning that an entire region should be evacuated to avoid civilian casualties (ICRC News Release 96/14). An additional statement released that year rather even-handedly criticized both the launching of rockets into Israel and Israeli retaliation in Lebanon (*International Review of the Red Cross* No. 312). 1997 witnesses one sole Israeli-centered press release, again a criticism of deaths caused by attacks committed by non-state actors in Israel (ICRC News Release 97/22).

However, the tenor of coverage changed markedly after the year 2000, with the ICRC targeting Israel in an increasingly heavy-handed manner. Notably, this increased tenacity against Israel coincided with the start of the second Intifada, or Palestinian uprising, in September of 2000 (Pressman 2003; Schweitzer 2010). Though two statements issued in 2000 continue the even-handed policies characteristic of the 1990s, a statement released in October of 2000 is representative of a definitive shift in the tone of the ICRC vis-à-vis Israel. This statement, ostensibly an operational update, praises the work of the Palestine Red Crescent Society (PRCS) for "working tirelessly to alleviate suffering and to save lives, despite dramatically depleting means (ICRC News Release 00/01)." The same release criticizes Israel, though not by name, for preventing the PRCS from entering certain areas or travelling between cities and mentions, though again without identifying a perpetrator, that a number of PRCS ambulances were hit by rubber bullets as well as by live ammunition. During the next fifteen months, an intriguing controversy plays out in ICRC headlines around the PRCS, though throughout it the ICRC retains a remarkable degree of consistency in its support for the humanitarian work conducted by the PRCS, despite significant evidence that the organization was not always abiding by the tenets

of neutral humanitarianism. Just a few weeks after releasing this statement of praise, the ICRC publicly acknowledges claims made by the Israeli Defense Forces (IDF) that the PRCS had been involved in shooting incidents and expresses its "grave concern" about these accusations. Still, in this brief press release, the organization acknowledges the accusation but also notes the PRCS' denial of any such involvement, mentioning also that only one week previous the PRCS had been the first to treat two Israeli soldiers injured in an accident (ICRC News Release 01-11-2000). Though no later public statements ever offered any resolution to these disputes, another cycle of similar accusations and acknowledgements took place the following year when this time an ICRC delegate was there to witness the confiscation of explosive material from a PRCS ambulance. The ICRC statement that it was "shocked and dismayed" by this development came just weeks after several statements reporting the deaths of PRCS workers and criticizing Israel in no uncertain terms for the actions that had led to these deaths (ICRC News Release 27-03-2002). Moreover, just a day after registering its shock about this development, the organization issued a statement detailing the "disastrous" effect of the Israeli-imposed closure of Der Ibzi'e (ICRC News Release 02/13). Issuing a statement critical of Israeli policy one day after a damning accusation is made against the PRCS constitutes curious timing to say the least. Moreover, just a week later, in a statement regretting injuries of medical personnel on both sides, the organization again registered its "alarm" at the conditions imposed by the IDF on the PRCS as well as on the ICRC itself. By April 12, the ICRC returned its focus decidedly to Israeli violations of humanitarian neutrality, condemning "the humiliations imposed" on the PRCS medical staff by the Israeli forces and charging Israeli soldiers with use of PRCS staff as human shields (ICRC News Release 12-04-2002). Thus, in a situation in which serious and credible charges of violations of humanitarian neutrality are made against the PRCS, the ICRC, while certainly

acknowledging these accusations, continues to highlight the successes of that organization and to direct its criticism primarily to Israeli activities. While this does not amount to unambiguous evidence that the ICRC is "biased," it does point to particular strategic choices made by the ICRC. Given the circumstances, some might argue that Israeli restrictions on ambulances constitute a reasonable security precaution. Thus, for the ICRC to be so vocal in this controversy and so consistent in its support for the PRCS and its criticism of Israeli security measures is noteworthy.

Another indication of the tone of ICRC coverage in regard to Israel at this time is the frequency with which the organization criticizes Israeli state policies as violations of IHL. As discussed above, it is rare for the organization to entertain these types of policy critiques. Yet, in the Israeli case, the ICRC increasingly vocalizes its displeasure with security measures taken by Israel in the Occupied and Autonomous Territories. The Israeli policies criticized by the ICRC are numerous: closure and curfews imposed upon Palestinian villages (04/12/2002), mistreatment of medical personnel and ambulances, detention of Palestinians outside occupied territory (08/15/2002), targeted killings (09/10/2003), the erection of the West Bank barrier (02/2004), and widespread destruction of homes (05/2004). The ICRC is not shy about labeling these actions as violations of IHL and goes so far as to attribute the general collapse of the Palestinian economy to illegal Israeli policies in the occupied territories (06/2003). Additionally, the tone of several of these statements departs from the understated objectivity that is characteristic of ICRC news releases, as the ICRC begins to employ the journalistic tools of personalization and narrative to emphasize the plight of the Palestinians. For instance, in October of 2003, the ICRC reported on a wedding celebrated under relief tents for several groomsmen whose homes had been destroyed by the IDF in Rafah (ICRC News Release

03/134). In another statement issued around the same time, the organization quotes at length a 61-year-old man who lost the home in which he had been living with fourteen members of his family (ICRC News Release 03/129). Thus, ICRC publicity in regard to Israel is atypical according to both quantitative and qualitative criteria. Such an outlier clearly demands an explanation.

Importantly, the ICRC was certainly not compensating for the reluctance of other organizations to "name and shame" Israel. Alongside the United States, Israel consistently tops the list of states targeted by the naming and shaming efforts of human rights organizations (Ron et al. 2005). This makes the ICRC's actions even more puzzling. Why jeopardize access by violating its confidentiality policy when other organizations are clearly performing this function? Why bandwagon in this way?

One possible explanation is that the organization is motivated to demonstrate to important audiences that it is not captured by this powerful state. In this case, in a conflict polarized along what Huntington (1996) would call civilizational lines, the goal may be to avoid charges of bias against the "Arab-Islamist" community. As mentioned above, it is also possible that the organization targets Israel to such a degree because it knows that such behavior will not result in Israel's refusal to continue granting access. However, though this might explain why the ICRC is not sufficiently deterred from going public against Israel, it still doesn't explain what positive end it hopes to gain in so doing, especially considering the organization's general skepticism about the efficacy of publicity. What's more, there remains the question of why the organization would risk compromising access in other parts of the world by demonstrating all too much willingness to resort to publicity in this particular case. It is possible that particular aspects of the conflict in Israel and the Occupied Territories reduce the likelihood that states will draw damaging

conclusions about the organization's general policy from its particular behavior in that context. Perhaps just as during the Cold War it was imperative that the ICRC signal that it was not captured by the West, so too given the most salient dimensions of conflict today the ICRC believes it imperative to demonstrate a lack of bias against Muslims or in favor of powerful "Western" states such as Israel and the United States.

Comparing ICRC Publicity in Israel and Turkey

In evaluating the intensity of the organization's criticism of Israel, it is useful to compare the organization's criticism here to its degree of publicity against another state engaged in a domestic conflict with some parallels to the Israeli situation. Turkey has faced armed resistance from Kurdish separatist militants since 1984.¹⁰³ Like Israel, it has faced competing demands between the incentives for anti-civilian strategies created by its separatist opponents and the constraints imposed on its domestic military operations by both its own democratic institutions and the watchful eye of key international actors. Indeed, in her thoughtful analysis of the circumstances under which both states and rebel groups engage in anti-civilian strategies or, alternately, strategies of restraint, Stanton (2008) classifies Turkey and Israel similarly as democratic states that have used restrained strategies of coercion against civilians. This somewhat paradoxical notion of "restrained coercion" describes government destruction of homes and villages of the separatists' co-ethnics, on the one hand, alongside attempts to prevent mass civilian casualties on the other. For instance, the Turkish government would arrive at a Kurdish village, force the civilians to flee, and then burn the village to the ground, sometimes sparing one solitary home (Amnesty International, 30 June 1993). How similar are the two conflicts in terms of the intensity of the security challenged faced? Though Turkey has suffered

¹⁰³ For further information on the Turkish-Kurd conflict, see Gunter 1997, Kirisci and Winrow 1997, and Panico 1995.

more casualties than Israel since 1990, the Israeli casualties constitute a greater percentage of Israel's total population. Still, there is no indication that these conflicts are radically different in terms of level of military intensity or strategic threat.

Despite significant similarities between the nature of the military challenge faced by the two states and the means with which they have attempted to respond to this challenge, the ICRC has responded to the two states with dramatically different degrees of publicity. As noted above, the ICRC has directed an unusual amount of publicity against Israel, particularly after year 2000. In contrast, during the ten year period surveyed here (1995-2005), the ICRC released only one news release about the situation in Turkey, in March of 1995. The headline of the release was a generic "call for compliance," and the text was equally gentle, with the exception of reiterating the applicability of the Fourth Geneva Convention in occupied Iraqi territory and the general applicability of common Article 3, which applies to non-international armed conflicts (ICRC News Release 1797).¹⁰⁴

What explains the dramatically different ways in which these two conflicts were addressed by the ICRC? I argue that two distinctions between these cases explain this difference, though in practice it may be hard to disentangle these two factors and determine which is causally more significant. First, Turkey is a case in which the occupying state possesses a Muslim majority, in stark contrast to the Israeli case in which the separatists hold this identity. Second, in contrast to Israel, which has a history of consistently granting some degree of access to the ICRC, Turkey did not at any time during the duration of the conflict grant the organization access. This is consistent with the argument I made earlier that the ICRC is likely to be gentler

¹⁰⁴ Note that the format of ICRC news release identification numbers is not always consistent. Here I employ the number listed on the news release, even though there appears to be a formatting mistake.

with countries that deny it access so that its bilateral negotiations with the state might be more efficacious in improving access.

This is not to say that the ICRC is never willing to criticize Muslim-majority countries. Rather, it appears that a key motivation for its scathing criticism of Israel - gaining credibility in the Arab/Muslim¹⁰⁵ world as an actor willing and able to criticize the humanitarian violations of "Western" countries - was absent from Turkey's conflict with its own separatists.

Of course, there are other differences between these two warring states that could account for the ICRC's divergent behavior in regard to publicity. Obviously, the geopolitical locations of these two states is vastly different. While facing a daunting military environment, Israel benefits from a unique relationship with the United States. Turkey, one of Huntington's "torn countries," is poised precariously between the Middle East and Europe. Its attempts to seek recognition and acceptance (and the concrete material benefits attached to those things) from Europe create additional incentives for restraint (Inter Press Service, 26 April, 1995). Thus, another possible explanation for the ICRC's disparate publicity strategies in this case is that the ICRC was influenced by its awareness that Israel lacked geo-political sources of restraint, which Turkey possessed in spades. I find this explanation less compelling than the explanation I have proffered for several reasons. First, as elaborated above, the humanitarian philosophy of the ICRC is skeptical of the utility of publicity as an instrument of change. Thus, it is unlikely to expect that its publicity alone can compare to the institutional pressure exerted, for instance, by the Council of Europe on Turkey. Second, though Israel may indeed occupy a privileged geopolitical position in some respects (though not necessarily an enviable one given its security challenges),

¹⁰⁵Of course these two terms, "Arab" and "Muslim" are not synonymous. Though it appears that these problems are most acute in the Arab world, as Wigger himself acknowledges, they are likely to be relevant in any context in which a polarized identity features one primary actor with which the ICRC can be plausibly affiliated.

there is surely no shortage of criticism against Israel from the more vocal humanitarian organizations. Again, this bandwagoning on the part of the ICRC is particularly puzzling given its commitment to discretion. Because of this I think that this behavior on the part of the organization is best viewed as the hard work of demonstrating one's neutrality in a context in which the very idea of neutrality is challenged.

To appreciate what might have been driving ICRC decision making here one must recognize the unique, polarizing salience of the Israeli-Palestinian conflict in much of the Arab world. For reasons not altogether clear, the conflict has assumed a symbolic significance far beyond the contested territory.¹⁰⁶ This means that the organization stands to gain a great deal from the efforts it takes in this context to demonstrate its distance from Israel, a state that, again for complex reasons, has become closely associated with the United States and the "West" more broadly. Though, as mentioned above, the ICRC must weigh the possible benefits of publicity against its potential costs.

Comparing ICRC Publicity between Israel and the United States

The time period studied here features major military conflicts on the part of just two stable democracies with a history of granting the ICRC access. This includes Israel, discussed above, and the United States, involved in major conflicts in Afghanistan and Iraq. Table 4.7 reviews the few interstate wars taking place during the time period studied here. Obviously, if just measured by the number of news releases, it is obvious that the ICRC is particularly loquacious in regard to the United States. However, while the ICRC is quite chatty in regard to both the United States and Israel, it is far harder on Israel. In comparison to the 15 asymmetrical

¹⁰⁶ For instance, Telhami 2008 reports the results of surveys conducted in six countries between 2002 - 2008. She finds, somewhat to his surprise, that two-thirds to three-fourths of respondents consistently rate the Israeli-Palestinian conflict among the top 3 of their priorities.

criticisms made against Israel, it made only three against the United States. If one counts all critical statements (whether or not they asymmetrically focus on one party in the conflict), the United States is criticized in two statements in regard to the invasion of Afghanistan and three in regard to Iraq and the larger War on Terror. The number of criticisms increases if one includes the six statements made in the course of the Iraqi invasion to the effect that the ICRC was concerned about the plight of civilians. In comparison, eighteen such statements are made against Israel. What's more, the tenor of the statements is quite distinct, with the emotional narrative language (discussed above) evident in the criticism of Israel largely absent from the criticisms of the U.S., which are generally rather gentle.

What might explain why the ICRC would be harder on Israel compared to the United States? Here the most compelling explanation concerns power. We must return to the important fact that the United States contributes annually a significant percentage of the ICRC's entire budget. Thus, its geopolitical power is not just an abstract consideration but a fact directly manifest in the ICRC's pragmatic material reality. Thus, one highly plausible explanation for the disparate treatment of these two states concerns the greater potential cost of challenging the United States. Throughout this chapter, I have suggested that it may not be credible for certain actors with a long history of cooperation with the ICRC to withdraw support from the organization. In regard to the significant funding the organization receives from the U.S., it is worth noting that, in response to the ICRC's criticism of U.S. practices in Guantanamo in 1995, the Senate Republican Policy Committee released a report calling for the U.S. to desist contributing funds to the organization (Pierce 2005). Though the suggestion was not acted upon, that it was made at all is indication that such an action is not unthinkable and that there is some constituency in the U.S. - how large is an open question - that is willing to entertain the idea that

the organization has run amok and is no longer worthy of continued U.S. financial support.¹⁰⁷ Though the public response of ICRC President Kellenberger was to accuse the senators of misrepresenting the organization, one wonders how this threat might influence ICRC decision-making over the medium to long term. In sum, it may yet be too early to assert that there is no threat of the U.S. withdrawing support from the organization. However, doing so would likely be a costly move and so not a high probability outcome.¹⁰⁸

Another question in regard to the distinction between the Israeli and U.S. case is how the organization's treatment of the U.S. affects audiences' perceptions of its neutrality. I have argued above that the likely cause of the ICRC's intense public criticism of Israel is its attempt to defend itself against accusations of bias, particularly in wars in which radical Islam is a salient mobilization device. Obviously, such a motivation would also apply to the two conflicts in which the U.S. was involved during this time period. In addition, the more generic motivation of illustrating that it is not captured by the world's most powerful state may come into play, particularly as being so captured is one of the primary risks of the organization's humanitarian philosophy. Though it is not possible to answer this question definitively with the data available, my suggestion is not that these considerations do not matter to the ICRC but that they are balanced against certain political realities. I suggest that the ICRC is striving to maintain a very delicate balance in regard to the U.S. On the one hand, it wishes to use publicity when its preferred methods don't work, not least to show to other states and international audiences that it is able to fight for compliance even against a goliath like the U.S. On the other hand, it wishes to

¹⁰⁷ This raises the question of the democratic deficit (Keohane 1998), a problem that plagues most international organizations. In the case of the ICRC, however, this problem may be particularly acute, as the ICRC is an independent body and is not composed of delegates from the states it monitors.

¹⁰⁸ What would the cost be? That the United States is the largest contributor to this humanitarian law monitoring organization sends a strong signal that the United States is committed to compliance. This humanitarian signal may in turn be important to some domestic constituencies.

avoid antagonizing an actor that can in a very concrete way - materially - either facilitate or impede its work. In this regard, it is possible that one of the reasons for the intensity of its criticism of Israel is that it is a way to demonstrate its capacity for neutrality while targeting an actor that is much less politically central to the organization's mission.

Another variable that might explain the difference between these two conflicts relates to the duration of the relevant conflicts. Recall that the ICRC employs a strategy in which it works bilaterally with the state to improve compliance over time. Because the organization hopes to induce change through its confidential representations to the state, inevitably some time must pass before it can conclude that its representations aren't working and that it must resort to publicity. That the conflict in Israel has been underway, in some form, for decades and that the ICRC has been present there continuously since 1967 presumably makes it clearer in what circumstances private reproaches are apt to be efficacious and in what circumstances they are not. Thus, another explanation for the organization's greater publicity in regard to Israel is the relatively shorter duration of the conflicts engaged in by the United States, which would presumably increase the organization's willingness to continue attempting to secure improvements via its confidential bilateral mechanism.

Exploring an Outlier - the Case of Chechnya

The case of the Russia/Chechnya conflict - about which the ICRC was quite prone to publicity - is an outlier in two respects. As Table 4.9 demonstrates, it is the one example of high publicity in the absence of access from the state. Additionally, it is a case in which - to various degrees and in various manifestations - politicized Islam is relevant, again making the ICRC's significant publicity in regard to this case somewhat surprising. In discussing this case as an

outlier, our focus is primarily on ICRC publicity directed against the Russian state and not on publicity directed against the Chechen rebels.

How might this outlier case be explained? First, it is worth remembering that most hypotheses in the social sciences are probabilistic rather than deterministic, with the result that it is not altogether surprising if a hypothesis doesn't appear to hold in a specific case. Still, examining such outlier cases can often shed some light on the strengths and limitations of the prevailing hypothesis. One potential explanation for the ICRC's high degree of publicity in this case lies in the degree of attention that Russia received from the international community in the aftermath of the collapse of the Soviet Union. As Ron et al. note, Russia was at this time, like the United States and Israel, consistently at the top of lists of states targeted by human rights organizations. Thus, the ICRC's use of publicity in this case might be yet another example of a tendency to bandwagon with the larger humanitarian community in certain circumstances. Additionally, it is possible that the transitional status of the government, along with the needs for legitimacy that often accompany such status, made it appear as a potentially receptive target to the organization's public ministrations. As noted above, another relevant factor might have been the intermittent access that was granted to the ICRC by the Chechen opposition at the same time that the Russian state was denying such access. Perhaps the existence of some access from the opposition created some additional pressure on the state to grant comparable access, such that publicity in the absence of state access was less risky than it might otherwise be. Though it certainly stands to reason that asymmetrical access from the opposition would change the strategic calculations made by the state and the ICRC, I'm somewhat skeptical of the ultimate significance of this variable because of the existence of two other cases of asymmetrical rebel

access without comparable levels of ICRC publicity, namely the cases of Tajikistan and Turkey (recall Table 4.14).

In regard to the cultural variable of Islamism, several aspects of the Chechen case are relevant. First, it is important to remember that variables such as the salience of politicized Islam in a conflict are not static features but rather are dynamic and prone to evolution over the course of a conflict. Indeed, there is evidence that the significance of radical Islam to Chechen separatism increased in the late 1990s as a result of, among other things, the intense hardships caused by the First Chechen War and the utility of Islamism as a mobilizing device for the Chechen opposition (Hughes 2007; Lapidus 2002). Thus, though Chechen separatists and their civilian population were overwhelmingly Muslim, it was not always the case that political Islam was a significant force in the conflict. Second, there is the issue of the connection of Chechen separatism to the larger international jihadi movement and the salience of the Chechen conflict to important international audiences. In discussing the publicity granted by the ICRC to Israel, I emphasized the particular salience of the Israeli-Palestinian conflict in much of the Muslim world. The Chechen conflict lacks comparable *câché*. This may be because the non-Arab identity of the Chechens alienates them from the Arab Muslim community that is perhaps a more politically significant international audience. Another factor may be that Russia is a less historically polarizing enemy than is Israel. Whatever the reason, the implication is that it may be less important for the ICRC to demonstrate its "neutrality" vis-à-vis Muslims in this context than in the Israeli conflict.

Aside from its outlier status, the Russia/Chechnya example is further interesting because it evidences a degree of change in organizational strategy over time that lends itself nicely to study. Though the ICRC never engages in the type of publicity with Russia that it does vis-à-vis

Israel, the organization is far tougher on the Russian state in the 1995-1999 period than it is in the 2000-2005 period. In March of 1996 the ICRC issued a news release with the exasperated headline, "Enough is Enough (ICRC News Release 96/10)." Though this statement is critical of all warring parties it is particularly hard on Russia, describing the Russian authorities as having "remained deaf" to the organization's humanitarian pleas and unwilling to grant access to places of detention. In August of that year the organization again "went public" to request that the Russian government extend the amount of time given for the civilian population of Grozny to flee before increased fighting would occur (ICRC News Release 96/27). After the year 2000, however, the tenor of the ICRC's pronouncements change markedly, with statements issued praising the Russians' commitment to cooperating with the ICRC. One headline celebrated "Ten years of ICRC presence in the Northern Caucasus," while another praised the newly-elected Putin for his commitment to facilitating the work of the organization (ICRC News Releases 00/04; 03/84). At the same time, asymmetrical criticisms of non-state actors, namely the Chechen rebels, increased markedly, though in true ICRC fashion these critiques often did not directly identify the IHL violator. Instead, they identified acts, like the bombing of a marketplace, for which the Chechen rebels later claimed responsibility (ICRC News Release 02/18).

What accounts for this apparent change in the approach to publicity taken by the ICRC vis-à-vis the Russian state? Three salient changes occurred at this time that might account for this shift. First, changes in the Russian regime were underway in the direction of increased democracy. While Russia earned a Polity score of 3 in the late 1990s, by 2000 it was coded as a 6, reaching the score that scholars have come to use (somewhat arbitrarily, as the Polity authors stress) as a cut-off for a dichotomous variable capturing democracy (Marshall and Jaggers 2002).

This change reflects the alternation in power that took place as Yeltsin stepped down in 1999 and Putin, having served as acting president for three months after the resignation, was elected in 2000. This change in regime was accompanied by a change in approach on the part of the Russian leadership towards the ICRC. While Russia had been reluctant to grant the organization access in the 1990s, earning a public expression of the organization's exasperation at this situation, Putin committed himself early in his presidency to cooperation with the ICRC, a commitment with which he soon followed through in the form of the granting of access to state detainees. These two variables may be related, with a more democratic government more inclined towards a policy of openness.

However, a third variable also changed at this time, further complicating the interpretation of the sources of change in ICRC publicity policy. As Abrahms (2006) has documented, 1999 was a watershed year for the military policy of the Chechen rebels. Whereas they had previously been exclusively attacking military targets, in September of 1999 they ushered in an anti-civilian strategy with a series of bombings on civilian apartments. Thus, at the same time that the Russian government was acting in a means likely to be viewed more favorably by the ICRC, its Chechen opposition was resorting to methods of war more directly in conflict with the imperatives of IHL. This suggests the possible relevance of an additional factor in ICRC publicity decisions, the direction of change in the levels of compliance and access offered by the various parties in the conflict, particularly whether the relevant actors might be viewed as making progress, remaining stagnant, or regressing on these dimensions from the perspective of the ICRC. To the extent that the state was acting in increasingly favorable ways and the opposition in increasingly objectionable ways, it is not surprising that the ICRC's public announcements were increasingly positive towards the state and negative towards the opposition.

However, it is important to distinguish between the ways in which the behavior of the Russian government was improving and the ways in which it was not. The Russian government demonstrated more willingness to grant access to the ICRC in the Second Chechen War compared to the first, though even in the Second War this access was not without limits. As was noted above, at this time also there appeared to be improvements in the direction of greater democracy of the regime as a whole. However, importantly, there were not dramatic changes in Russia's compliance with the law of war in this period, as Russia continued in the Second Chechen War the anti-civilian strategies - primarily indiscriminate bombardments of villages thought to be sympathetic to Chechen separatism - that it had used in the First (Stanton 2008). As Stanton notes, what the regime did better in this conflict compared to the previous was control media access so that there were significantly fewer reports of violations of IHL in the domestic media, something that had implications for public support for the anti-Chechen war effort. It is significant, then, that Russia's decision to grant greater access to the ICRC, combined perhaps with positive changes in domestic governance, resulted in less negative publicity and more positive publicity from the ICRC, even as the regime continued military tactics that were earning significant condemnation from mainstream human rights organizations.

Discussion and Conclusions

This chapter has subjected to systematic examination one particular decision of the International Committee of the Red Cross, the choice to maintain its policy of confidentiality or instead break from this policy and "go public." It has probed the sometimes opaque operations of the organization on the assumption that such inner workings reveal decisions of political significance. The circumstances under which the organization maintains silence or instead

breaks this silence offer insight into the contestation that is taking place between states and this organization.

Further, though not a direct test of the efficacy of the philosophy of humanitarian change employed by the organization, this chapter does offer insight into the practical manifestations of this philosophy in a way that provides clues about potential strengths and weaknesses of this approach. The evidence collected here demonstrates the primacy of access to the humanitarian philosophy employed by the ICRC. This is logical insofar as access to states is the organization's comparative advantage in the field of law of war monitoring organizations and the mechanism by which the organization expects to have influence. Yet, this primacy of access may also pose certain vulnerabilities to the organization, particularly opportunities to be "captured" by states.

One scenario in which the ICRC is at particular risk of being "captured" by insincere states is represented by Algeria, an IHL-violating state that refuses the organization access. In such cases, the risk is that the organization remains silent to increase the likelihood that it will secure access at a later date, thereby staying quiet in the face of massive IHL violations only to happily embrace the state after it has routed its opposition by any possible means. In such a case its silence may resign the organization to irrelevance in a context in which its monitoring services would be most needed.

Another potential humanitarian dilemma illustrated in this chapter concerns the organization's credibility problem with certain audiences and the compensatory behavior this problem may incentivize. This chapter has provided evidence that the organization's claim of neutrality may be particularly suspect in certain contexts, namely contexts in which a politicized strand of Islam challenges elements - secularism, democracy, liberalism, and the like - associated with the "Western" world. Evidence provided here indicates that during the time period of 1995

- 2005 Muslim majority states and states involved in conflicts featuring politicized Islam as a salient dimension were particularly unlikely to grant the ICRC access. Moreover, when access was granted by such states, the ICRC was particularly unlikely to employ publicity. However, one notable exception that proved the rule was the ICRC's voracious criticism of Israel for its policies in its conflict with the Palestinian insurgency. Here an almost unprecedented level of publicity on the part of the ICRC was explicable by the particular salience of the Arab-Israeli conflict in the Muslim world and the unlikelihood that Israel would withdraw access from the organization.

What is the significance of this state of affairs for the ICRC's IHL monitoring? On the one hand, it simply provides evidence that maintaining the appearance of neutrality is work and not something that the organization can take for granted. In this light, it's not surprising if certain contexts constitute more challenge to the presumption of neutrality than others. The more interesting question is whether and to what extent the organization's efforts to increase its credibility in these contexts may sometimes compromise its work. By being so critical of Israel, for instance, has the ICRC foregone an opportunity to utilize its influence to further improve the compliance of the Palestinian opposition? It is difficult to evaluate the net impact of such a policy on the humanitarian outcomes of concern to the ICRC. The ICRC has likely chosen such a policy because it expects that being critical of Israel in this particular context may result in increased credibility and therefore increased access in other conflicts in the Muslim world. Though there is not yet sufficient evidence to know if the calculations ultimately work in the organization's favor, there is at least a potential for actors like the Palestinian opposition to exploit the organization's attempts to secure credibility with audiences that may be skeptical of ICRC neutrality.

How do these findings speak to the debate about humanitarian politics discussed above? There has been relatively little direct support in this chapter for the narrowly materialist organizational considerations emphasized by such scholars as Clifford Bob and Alexander Cooley. Though there is some tentative evidence of a pro-state "bias" on the part of the ICRC, it is impossible to call this a true organizational bias as opposed to the product of a more general pro-status quo bias on the part of international humanitarian law itself. The more interesting question is whether the dynamics observed here are better considered akin to the organizational dysfunction highlighted by Barnett or instead as tactical tradeoffs made in the service of the larger humanitarian objective, as in Kelley's election monitoring example. That is, are these decisions ultimately destructive or constructive from the perspective of the ICRC's self-defined humanitarian objectives? Though it is impossible to give a definitive answer to this question based on the empirical work offered here, I will venture some thoughts. First, as the Algeria example illustrates, it is the maintenance of silence in the face of repeated violation and non-access that is the most likely to set back the humanitarian objective. The privileging of access as humanitarian tool may well be justified, but it leaves the organization impotent in the face of widespread violation committed by those states who have succeeded in keeping the organization out. While evidence of what we might paradoxically call bias in the service of neutrality may be more damaging in the eyes of potential audiences, it seems to me less damaging to the overall humanitarian enterprise. Why? First, this "bias" is a response to a realistic expectation of bias in the opposite direction given the historical affinity between the organization and certain sets of states, particularly the Western European states. Because of this, demonstrating its willingness to go after its friends may be an important source of organizational credibility. Second, because some of these "friends" of the organization are extremely powerful international actors who are

engaged in conflict, they are appropriate targets of the organization's less restrained action. Though it certainly warrants further investigation, the claim that earning credibility with skeptical states and skeptical audiences ultimately serves the cause of humanitarianism is highly plausible.

There are, of course, methodological limitations to the research described here. This chapter presented what can be thought of as early empirical work, systematically collecting data across a specific time period in an empirical area that has been relatively little studied. Though positivist logic is employed in evaluating this data, it is simply not possible to replicate certain features of statistical analysis, particularly its ability to control so effectively for other variables. However, this limitation notwithstanding, this work has carefully evaluated potential relationships among key variables and has found sufficient evidence of intriguing relationships to justify at a later date more comprehensive empirical work that will permit quantitative analysis. Based on the work here, I propose that data be collected on ICRC publicity decisions for the full time period of 1950 - 2005. This broader historical focus will, of course, necessitate moving beyond online sources to consider forms of publicity prior to the internet age. The argument made in this chapter justifies particular examination of the patterns of publicity in regard to access and violation across this historical period, as well as the patterns of behavior relevant to the work that the ICRC must undertake in regard to neutrality. A particularly intriguing question to investigate concerns the parallels and differences between the ICRC's approach to the Eastern bloc states during the Cold War and its approach to Islamic actors in the post-Cold War period.

CHAPTER FIVE: Conclusion

This dissertation has systematically examined the ways in which states and humanitarian monitors respond to the empirical terrain created by international humanitarian law. As Chapter Two makes clear, monitoring in this regime is more decentralized than many other monitoring regimes in international politics, with monitoring conducted primarily by a non-state actor, the ICRC, which receives access from states on an ad hoc basis. Moreover, in adopting a general policy of confidentiality the ICRC forgoes one tool for inducing greater state compliance in exchange for another, that of occasional and conditional access. Yet, that IHL monitoring is decentralized does not render it unimportant as a political phenomenon. Indeed, this dissertation has found evidence that states and the ICRC alike are engaged in a great deal of contestation over the terms of access, indication that such access has political significance.

For their part, states benefit from the ad hoc monitoring system that they have clearly chosen over more centralized alternatives. There is some evidence that states offer access when its price is cheapest, for instance when the intensity of conflict as measured by number of battle deaths is low or when states seek moderate as opposed to absolutist war goals. Interestingly, though, there is also counter evidence that some indicators of military-strategic threat - attrition or counter-insurgency strategies, for instance - increase states' willingness to offer access, especially intermediate access. I have argued that this pattern suggests that states perceive some political or ideological advantage from granting monitors access, though further research is needed to verify that this is in fact the mechanism at play. Yet, even here it is telling that such incentives, if they do exist, do not tend to motivate states to offer full access but are limited to incentivizing moderate access over low. Indeed, there is evidence that offering an intermediate level of access may be a relatively cheap strategy for states that offers some potential benefit at

low cost. As a result, there may be a moral hazard here, with states insincerely committed to IHL compliance possessing incentive to grant partial but incomplete access.

This dissertation has also taken seriously the strategic decisions made by the ICRC itself, thus making an assumption that such organizations are political actors worthy of study in their own right. The unique humanitarian philosophy employed by the organization highlights the potential for access and instruction to induce change in state behavior. However, such a philosophy entails a certain risk of "capture." In particular, this dissertation has offered evidence that the priority the ICRC places on access can sometimes be a liability, as it renders the organization powerless in the face of violating states that refuse to grant it access. Here, because its primary claim to access is its promise of confidentiality, the best the organization can do is engage in gentle bilateral diplomacy in the hopes that its presence in country will eventually be permitted. Conversely, the organization is often toughest on those states from whom some degree of access is virtually guaranteed.

Another access problem faced by the ICRC occurs in contexts in which its professed neutrality is particularly suspect. In recent international political life the organization's association with "Western" democracy is a particular liability in conflicts in which central actors employ politicized Islam against the forces of modernism, secularism and democracy, forces with which the ICRC easily appears allied. I have offered evidence that the ICRC faces a credibility problem in the Muslim (particularly, but not exclusively, the Arab Muslim) world and that the organization partly employs its publicity decisions in an attempt to ameliorate this credibility problem. Thus, the organization generally holds its tongue in such conflicts but is particularly loquacious in regard to the Israeli-Palestinian conflict. Here the organization is

unusually critical of Israel due to, I argue, the unique salience of this conflict in the Arab world and the credibility problem discussed above. This is another potential arena, then, in which the organization is vulnerable to capture, though it's difficult to assess the long-term effects of this situation on IHL compliance, especially if, as the organization appears to think, such a move increases the number of actors in the Arab world willing to grant the ICRC access and cooperation.

What are the implications of this dissertation for debate among the competing paradigms in international relations? First, as should be obvious, there is no easy victory for any one paradigm. Though realism gets a great deal right in highlighting the strategic context, it underestimates the way in which signaling one's commitment to compliance can have instrumental value for states. This can only be because some important audiences value the appearance of commitment to IHL.

This dissertation also continues to find that regime type plays an important but complex role in state access decisions. On the one hand, democracy is consistently associated with higher access, as the ample literature on democracy and international law compliance would predict. On the other hand, democracy displays a complicated interaction effect with strategic variables such that democracy is much less influential when the relevant strategic variables - battle deaths, counterinsurgency - are at their most intense. This finding in particular is consistent with Downes' work on democracy and civilian targeting, though here democracy never exerts a negative effect on access but only a less significant positive effect in certain strategic contexts. This chapter also provides evidence that the field would be wise to continue exploring more nuanced domestic regime indicators than simply level of democracy, as type of electoral system

and type of autocracy exert a statistically significant effect on access. In addition to regime type, this chapter provides some modest evidence for the significance of two institutionalist variables - the level of access granted by one's enemy and one's own level of compliance.

Chapters Three and Four each employ a decision theoretic approach to consider the decisions made by key actors in the game of IHL monitoring. This leaves open the question of strategic interaction - how do the choices of states influence the choices of the ICRC and vice versa? Though I will not attempt here a full strategic model, I will consider briefly the implications of the evidence found here for strategic interaction between states and the ICRC. The ICRC is surely not unaware of the incentives states possess to offer partial but incomplete access. Given this awareness, the organization faces a dilemma. On the one hand, it could raise the cost of intermediate access, for instance by applying more intense public pressure to attempt to persuade the state to increase the level of access offered. However, such a course of action risks increasing the number of states that offer no access to the organization and may not be effective at increasing the number of states that offer full access. The ICRC's other option is to continue its bilateral approaches to the state in the hope that access will develop over time as the state becomes further convinced of the credibility of the organization. However, as noted above, the danger here is that neither the state's level of access nor its compliance with IHL improves over time. Thus far, evidence suggests that the ICRC tends to take the second course of action rather than the first, as access is the only means by which the organization can hope to exert an effect.

What are the implications for states of the evidence found here about ICRC resort to publicity? First, states that wish to bypass ICRC scrutiny by simply refusing the organization

access will tend to find this an effective strategy. On the flip side, states with the most consistent history of granting the organization access should expect the organization to be willing and able to employ publicity, sometimes voraciously. Further, the cultural variable discussed above suggests that actors in the Muslim world, particularly the Palestinian separatists, may be able to use in their favor the organization's efforts to demonstrate its "neutrality" in polarized contexts.

Though this project was not designed to answer the question of the general efficacy of IHL monitoring, the evidence found here does have implications for this important question. In general, much of the evidence found here may be disheartening to an activist who wished to see state compliance with IHL improve. For one, monitors in this decentralized system possess only limited means by which they can hope to facilitate improved compliance. The limited tools at the disposal of the ICRC are the educative impact it hopes to have through its bilateral relationship with states and the (limited) threat of publicity it can employ if a state is not sufficiently responsive to its educational attempts. Moreover, there is ample indication that states respond to this monitoring terrain adeptly, employing access in ways that minimize the state's loss of policy discretion. There is also evidence that the ICRC is sometimes doomed to impotence in the wake of massive violation (as in the Algerian civil war) or driven to act to protect its credibility with important audiences at the expense of other policy considerations.

Yet, there is also another side to this story. There is strong evidence that democracy increases access. More surprisingly, there is evidence that states facing dire military-strategic contexts sometimes have incentive to offer the ICRC at least a modest degree of access. If, as I have conjectured, this is because offering access is associated with a political or ideological advantage, this is indication that some audiences of import care about IHL compliance. At the

very least, it seems that states would prefer to be thought of as compliant. While this is certainly not the same as true commitment to compliance, it is perhaps one weapon that actors that are normatively committed to the law can wield to their advantage. Of course, the ICRC may not be the actor best placed to utilize this weapon. The reason for this may lie in the two roles that the organization has adopted since the beginning: relief for victims on the one hand, monitoring activities on the other. In prioritizing access above all else, the organization is able to provide direct assistance to millions of victims every year. Yet, this also places definite limits on the terms under which the organization can interact with states. However, given doubts about the ultimate efficacy of a "naming and shaming" strategy, it is not altogether clear that the organization has made the wrong choice.

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TABLES AND FIGURES

Figure 2.1. Number of States Accepting the Competence of the IHFFC, by Year

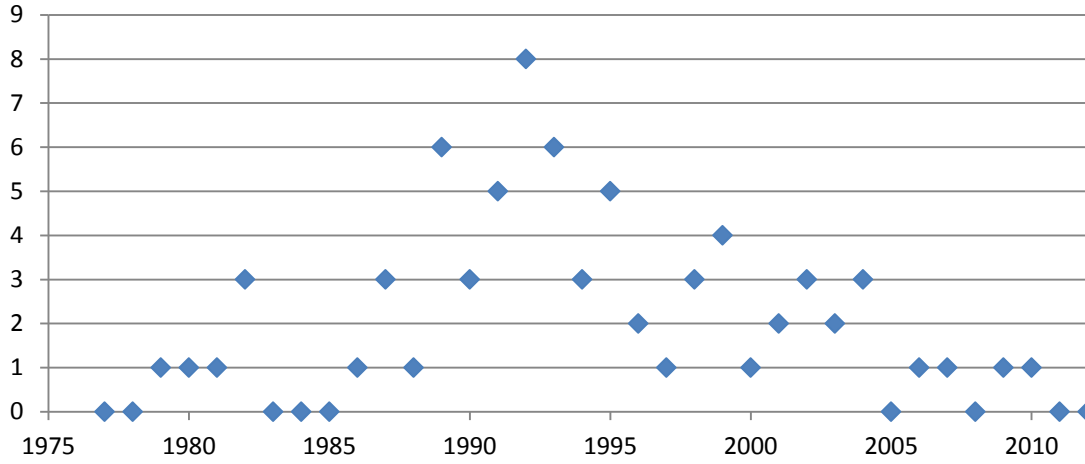


Table 2.1. Variation Across Monitoring Regimes in International Politics

Regime	Monitoring Entity	Nature of Monitoring	Quality of Monitoring	State Representation on Body	Treatment of Collected Information
Bretton Woods Trade Regime	Trade Policy Review Mechanism (TPRM)	GATT report at intervals proportional to share of world economy	Low; Reports are late; Reports do not effectively reveal compliance	Yes	Public
Bretton Woods Trade Regime	States, especially producers in states	Decentralized	Triaged but High	Yes	Public
Bretton Woods Monetary Regime	IMF Executive Board	Centralized, Annual Surveillance	High	Yes	Generally private (PIN released with state consent)
Nuclear Non-Proliferation Treaty (NPT)	International Atomic Energy Agency	Regular state reports, routine inspections, special inspections	High	Yes, with most advanced nuclear states guaranteed representation	Annual publicly released summary statement
Biological and Toxic Weapons Convention	Conference of State Parties	Report of conference every five years	Low	Yes	Public but general
Chemical Weapons Convention	Organization for the Prohibition of Chemical Weapons	Annual report, regular inspections, special inspections	Moderate. Fewer resources than IAEA.	Yes	Annual summary report
Human Rights	Victims and NGOs	Decentralized	Moderate, Contingent on Access	No	Yes
International humanitarian law (IHL)	ICRC	Decentralized	Moderate, Contingent on Access	No	No, with exceptions

Table 2.2. Post-1945 Declarations of War and Use of the Protecting Power

Declaration of war	Protecting Power Employed	
	Yes	No
Yes	<ul style="list-style-type: none"> - India, 1971 (India-Pakistan) - Pakistan, 1971 (India-Pakistan) 	<ul style="list-style-type: none"> - India, 1962 (Sino-Indian)
No	<ul style="list-style-type: none"> - France, UK, Egypt, 1956 (Suez Conflict; nonrecognition of Israel) - Indian-Portuguese Conflict (Goa), 1961 - Bizerte conflict, 1961 (France, Tunisia) - Argentina (Brazil) and the UK (Switzerland) in the Falklands War, 1982 	<ul style="list-style-type: none"> - Majority of post-1945 conflicts

Table 2.3. Comparing Political Costs of the Protecting Power vs. the ICRC

Protecting Power	ICRC
States as Monitoring Body	Neutral humanitarian organization as monitoring body
State chosen on an ad hoc basis, subject to approval of opposing state	Standing body, with terms of access negotiated on an ad hoc basis
Traditional political functions as well as humanitarian ones	Exclusively humanitarian functions
Legally applicable only in international armed conflicts	Legally applicable in a range of armed conflicts

Table 3.1. Measuring the Dependent Variable - Access

Access Score	Meaning
0	Full breach in relations; Organization not permitted to work within state borders.
1	Organization permitted in state, but severe constraints on activities – e.g. no detainee visits permitted.
2	Regional restrictions on access; Partial access to detainees
3	Full access after significant temporal delay
4	Full access granted

Table 3.2. Proportion of Access Scores across Dataset

Access Score	Number in Total Dataset N = 440	Number in Interstate Only Dataset
0	36 (8.18%)	13 (6.02%)
1	122 (27.73%)	53 (24.54%)
2	102 (23.18%)	44 (20.37%)
3	87 (19.77%)	41 (18.98%)
4	93 (21.14%)	65 (30.09%)

Table 3.3. Access Scores by Year

Access Score

Year	0	1	2	3	4	Total
1950	2	1	0	3	0	6
1951	2	1	2	1	0	6
1952	3	0	2	1	0	6
1953	2	0	6	2	0	10
1954	0	0	0	2	0	2
1955	0	2	1	0	2	5
1956	2	4	1	2	1	10
1957	1	0	1	1	4	7
1958	2	0	6	0	0	8
1959	0	0	2	1	1	4
1960	1	1	1	0	0	3
1961	1	3	0	2	2	8
1962	1	3	1	0	5	10
1963	0	3	3	0	2	8
1964	0	2	0	3	2	7
1965	0	3	2	3	3	11
1966	0	4	1	4	4	13
1967	0	5	2	1	6	14
1968	2	7	4	2	1	16

1969	3	3	0	4	2	12
1970	2	6	5	5	0	18
1971	2	2	7	3	4	18
1972	0	6	5	7	4	22
1973	2	5	5	3	3	18
1974	0	2	2	3	1	8
1975	0	2	0	2	0	4
1976	1	0	0	0	2	3
1977	0	1	1	2	1	5
1978	1	2	2	1	1	7
1979	1	8	0	2	1	12
1980	0	1	1	3	2	7
1981	1	5	1	0	1	8
1982	0	2	3	0	3	8
1983	0	1	4	0	2	7
1984	0	4	2	0	3	9
1985	2	2	1	1	2	8
1986	1	2	2	4	2	11
1987	0	6	3	2	0	11
1988	0	7	4	0	2	13
1989	0	2	1	0	6	9
1990	0	2	3	1	2	8
1991	0	5	0	0	3	8

1992	1	1	4	3	0	9
1993	0	1	4	2	1	8
1994	0	1	0	2	1	4
1995	0	0	2	1	2	5
1996	0	1	2	2	1	6
1997	0	1	3	1	0	5
1998	0	1	0	1	4	6
1999	0	0	0	3	2	5
2000	0	1	0	1	2	4
Total	36	122	102	87	93	440

Table 3.4. Reduced Access Measure

Access Score	Meaning
0	Major or Total Constraints on ICRC Activities within State
1	Significant Access with Minor Restrictions
2	Full Access

Table 3.5. Proportion of Access Scores (Reduced) Across Dataset

Access Score	Number in Total Dataset	Number in Interstate Only Dataset
0	158 (35.91.%)	66 (30.56%)
1	189 (42.95%)	85 (39.35%)
2	93 (21.14%)	65 (30.09%)

Table 3.6. Descriptive Statistics, Variables in Full Version of the Dataset

Variable	Obs	Mean	Std. Dev	Min	Max
Battle Deaths Annual	708	49306.06	143051.4	0	763002
Battle Deaths Monadic	694	63754.72	178977.7	0	750000
Polity Score	577	-1.494047	7.624804	-10	10
Durability	590	26.81906	36.32744	0	191
Auto Regime Change	710	-.1028169	.8787528	-13	0
Presidential	538	.0501859	.2185315	0	1
Parliamentary	538	.2527881	.435015	0	1
Mixed	538	.0241636	.1536997	0	1
Military Dictator	538	.204461	.4036825	0	1
Royal Dictator	538	.0539033	.226037	0	1
Civil Dictator	538	.4144981	.4930937	0	1
Enemy Access	440	.8522727	.7415396	0	2
Capability Symmetry	468	.4348345	.2999449	.0040921	.9998167
Polity-Parl Interact	533	2.249531	3.938868	0	10
Polity-Battle Deaths Interact	575	-63984.25	1315583	-6000000	7630020

Table 3.7. Distribution of Reciprocity Scores, Full Version Dataset

Reciprocity Score	Number	Percent
0	2	.55
1	46	12.64
2	88	24.8
3	96	26.37
4	132	36.26

Table 3.8. Distribution of Reduced Reciprocity Measure, Full Version Dataset

Reciprocity Score	Number	Percent
0	48	13.19
1	184	50.55
2	132	36.26

Table 3.9. Proportion of Polity Scores Across Dataset

Regime Type Score	Number	Percent
-10	5	.87%
-9	93	16.12%
-8	41	7.11%
-7	146	25.30
-6	32	5.55
-5	8	1.39
-4	7	1.21
-3	17	2.95
-2	3	.52
-1	4	.69
0	18	3.12
1	6	1.04
2	3	.52
3	4	.69
4	10	1.73
5	11	1.91
6	0	0
7	9	1.56
8	19	3.29
9	46	7.97
10	95*	16.48

* Includes 8 cases that fall between 9.5 and 10, due to reasons of unified command

Table 3.10 Proportion of Regime Type Scores Across Dataset

Regime Type	Freq	Percent
Parliamentary	136	25.28
Presidential	27	5.02
Mixed (Semi-presidential)	13	2.42
Civil Dictatorship	223	41.45
Military Dictatorship	110	20.45
Royal Dictatorship	29	5.39

Table 3.11 Generalized Ordered Logit Results

Variable	Odds Ratio
mleq1	
Battle Deaths Annual	.9999969** (1.39e-06)
Battle Deaths Monadic	.9999974** (8.66e-07)
Polity Score	1.38*** (.08)
Durability	1.040*** (.01)
Auto Regime Change	.0001294*** (.0000875)
Presidential	677545.4*** (694083.1)
Parliamentary	7.10e-18*** (1.19e-17)
Mixed Regime	2.32e+07*** (1.74e+07)
Royal Dictator	4.04e+08*** (3.38e+08)
Military Dictator	1.66 (.70)
Enemy Access	1.74* (.50)
Polity-Parl Interact	398.00*** (99.20)
Polity-Battle Deaths Interact	.9999997 (2.16e-07)
Capability Symmetry	14.82*** (11.49)
Constant	1.28 (.54)
mleq2	
Battle Deaths Annual	.999916* (.0000347)

Battle Deaths Monadic	.9999974** (8.66e-07)
Polity Score	1.38*** (.08)
Durability	1.04*** (.01)
Auto Regime Change	1.11 (.12)
Presidential	.29 (.35)
Parliamentary	5.46 (20.74)
Mixed Regime	.06*** (.04)
Royal Dictator	5.83*** (2.23)
Military Dictator	1.66 (.70)
Enemy Access	3.14*** (.75)
Polity-Parl Interact	.54 (.24)
Polity-Battle Deaths Interact	.9999915* (3.75e-06)
Capability Symmetry	2.19 (1.5)
Constant	.26*** (.11)
N	251

*p ≤ .05, **p ≤ .01, ***p ≤ .001

Table 3.12. Predicted Probabilities of Access Scores Holding Variables at their Means

	Predicted Probability	95% Conf. Interval	
Pr(access=0)	0.1062	0.0410	0.1714
Pr(access=1)	0.8718	0.7617	0.9819
Pr(access=2)	0.0220	-0.0451	0.0891

Battle deaths Annual= 62,611.47 (mean); Battle deaths monadic = 89,611.22; Polity = -2*; Durable = 29.14; Auto Regime Change = 0*; Presidential = 0*; Parliament = 0*; Mixed Regime = 0; Royal dictator = 0*; Military dictator = 0; Enemy Access = 1*; Capability Symmetry = .45; Polity-parliament interact = 0; Polity-battle death interact = -125,222.94. * Because the variable is ordinal and not continuous, a meaningful unit closest to the mean has been chosen in lieu of the actual mean.

Table 3.13. Predicted Probabilities of Access Variable Given Various Levels of the Independent Variables

Variable and Value	Access=0	Access = 1	Access = 2
Battle Deaths = Min (Annual = 0; ; Monadic =0; Interact = 0)	0.0744 [0.0207, 0.1281]	0.2713 [0.1481, 0.3946]	0.6543 [0.4902, 0.8177]
Annual = 100; Monadic = 100 (Interact = -200)	0.0744 [0.0207, 0.1281]	0.2729 [0.1500, 0.3958]	0.6527 [0.4896, 0.8158]
Annual = 31,305.74; Monadic = 44,805.61; Interact = -62,611.47	0.0890 [0.0298, 0.1483]	0.7399 [0.5144, 0.9653]	0.1711 [-0.0346, 0.3769]
= Mean (Annual = 62,611.47; Monadic = 89,611.22; Interact=-125,222.94)	0.1062 [0.0410, 0.1714]	0.8718 [0.7617, 0.9819]	0.0220 [-0.0451, 0.0891]
Annual = 412,806.74; Monadic= 419,805.61; Interact = -825,613.48	0.4024 [0.2167, 0.5881]	0.5976 [0.4419, 0.7833]	0.0000 [-0.0000, 0.0000]
= Max (Annual = 763,002; Monadic = 750,000; Interact = -1,526,004)	0.7923 [0.5646, 1.0200]	0.2077 [-0.0200, 0.4354]	0.0000 [-0.0000, 0.0000]
Polity			
= -9 (Interact = -563,503.23)	0.4886 [0.3289, 0.6483]	0.4207 [0.2185, 0.6230]	0.0907 [0.0011, 0.1802]
= -2 (Interact = -125,222.94)	0.1062	0.8718	0.0220

	[0.0410, 0.1714]	[0.7617, 0.9819]	[-0.0451, 0.0891]
= 0 (Interact = 0)	0.0615 [0.0137, 0.1092]	0.9240 [0.8392, 1.0089]	0.0145 [-0.0421, 0.0711]
= 10 (Interact = 626,110.47)	0.0033 [-0.0025, 0.0091]	0.9949 [0.9784, 1.0114]	0.0018 [-0.0128, 0.0163]
Durable			
= 0	0.2707 [0.1666, 0.3747]	0.7222 [0.6076, 0.8368]	0.0072 [-0.0156, 0.0299]
= 29.1	0.1062 [0.0410, 0.1714]	0.8718 [0.7617, 0.9819]	0.0220 [-0.0451, 0.0891]
=80.875	0.0155 [-0.0091, 0.0401]	0.8391 [0.4388, 1.2394]	0.1455 [-0.2571, 0.5480]
= 135.94	0.0018 [-0.0031, 0.0068]	0.4039 [-0.4914, 1.2992]	0.5943 [-0.3033, 1.4919]
= 191	0.0002 [-0.0006, 0.0010]	0.0733 [-0.2294, 0.3760]	0.9265 [0.6232, 1.2298]
Auto Regime Change			

= 0	0.1062 [0.0410, 0.1714]	0.8718 [0.7617, 0.9819]	0.0220 [-0.0451, 0.0891]
= -7	0.0000 [-0.0000, 0.0000]	0.9896 [0.9492, 1.0300]	0.0104 [-0.0300, 0.0508]
=- 13	0.0000 [-0.0000, 0.0508]	0.9945 [0.9681, 1.0210]	0.0055 [-0.0210, 0.0319]
Parliament			
= 0	0.1062 [0.0410, 0.1714]	0.8718 [0.7617, 0.9819]	0.0220 [-0.0451, 0.0891]
= 1 (Polityparlinteract=-2)*	1.0000 [1.0000, 1.0000]	-0.2938 [-2.1019, 1.5142]	0.2938 [-1.5142, 2.1019]
Presidentialism			
= 0	0.1062 [0.0410, 0.1714]	0.8718 [0.7617, 0.9819]	0.0220 [-0.0451, 0.0891]
= 1	0.0000 [-0.0000, 0.0000]	0.9936 [0.9779, 1.0094]	0.0064 [-0.0094, 0.0221]
Royal dictator			
= 0	0.1062 [0.0410, 0.1714]	0.8718 [0.7617, 0.9819]	0.0220 [-0.0451, 0.0891]

=1	0.0000 [-0.0000, 0.0000]	0.8840 [0.5329, 1.2350]	0.1160 [-0.2350, 0.4671]
Enemy Access			
= 0	0.1717 [0.0816, 0.2617]	0.8212 [0.7221, 0.9203]	0.0071 [-0.0153, 0.0295]
= 1	0.1062 [0.0410, 0.1714]	0.8718 [0.7617, 0.9819]	0.0220 [-0.0451, 0.0891]
= 2	0.0638 [-0.0007, 0.1282]	0.8701 [0.6534, 1.0868]	0.0661 [-0.1271, 0.2594]
Capability Symmetry			
= .009328 (Min)	0.2804 [0.1314, 0.4295]	0.7039 [0.5508, 0.8569]	0.0157 [-0.0353, 0.0667]
= 0.453 (Mean)	0.1062 [0.0410, 0.1714]	0.8718 [0.7617, 0.9819]	0.0220 [-0.0451, 0.0891]
= .98100215 (Max)	0.0276 [-0.0061, 0.0613]	0.9394 [0.8247, 1.0540]	0.0330 [-0.0638, 0.1298]

*This pairing never occurs in the dataset. Parliamentary systems in the dataset have a minimum polity score of 2.

Figure 3.1. Predicted Probabilities of Access Scores Holding Variables at Their Means

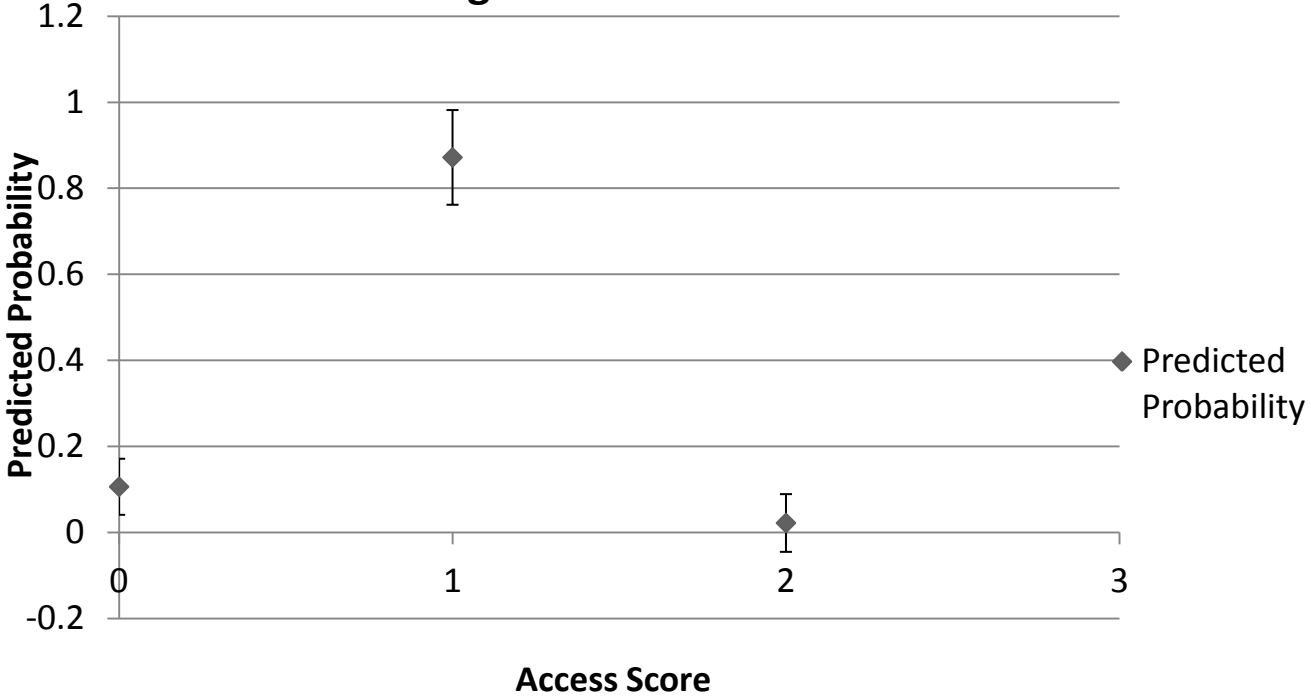
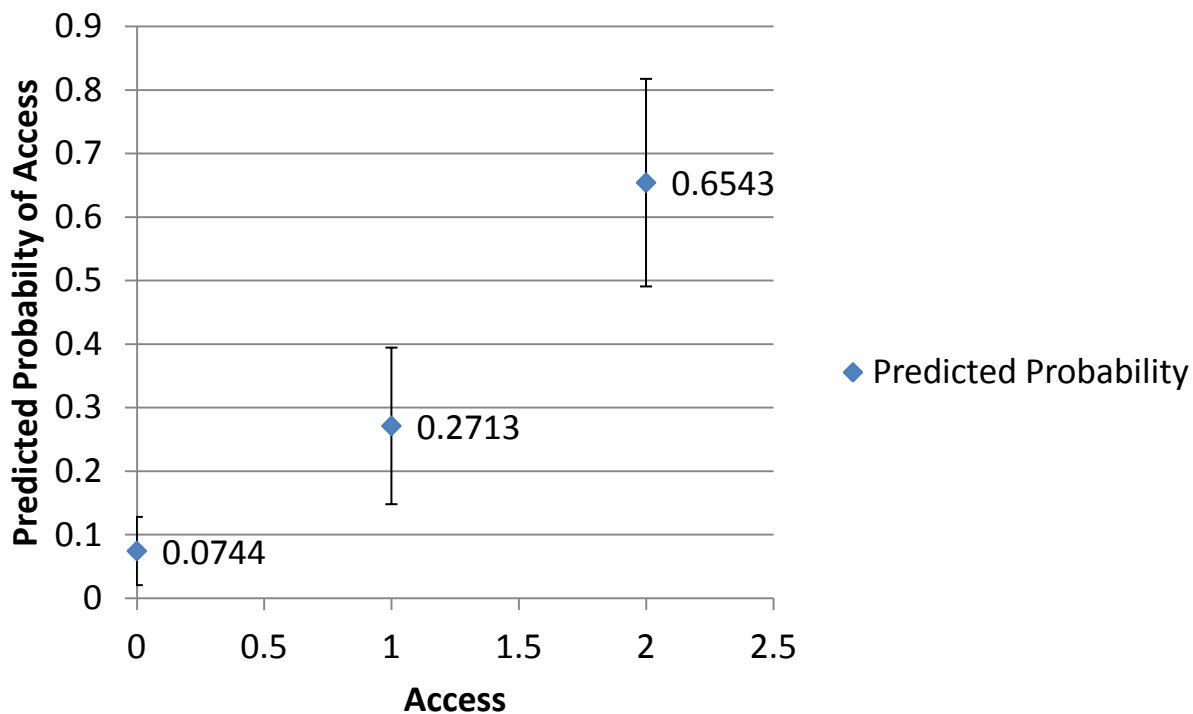


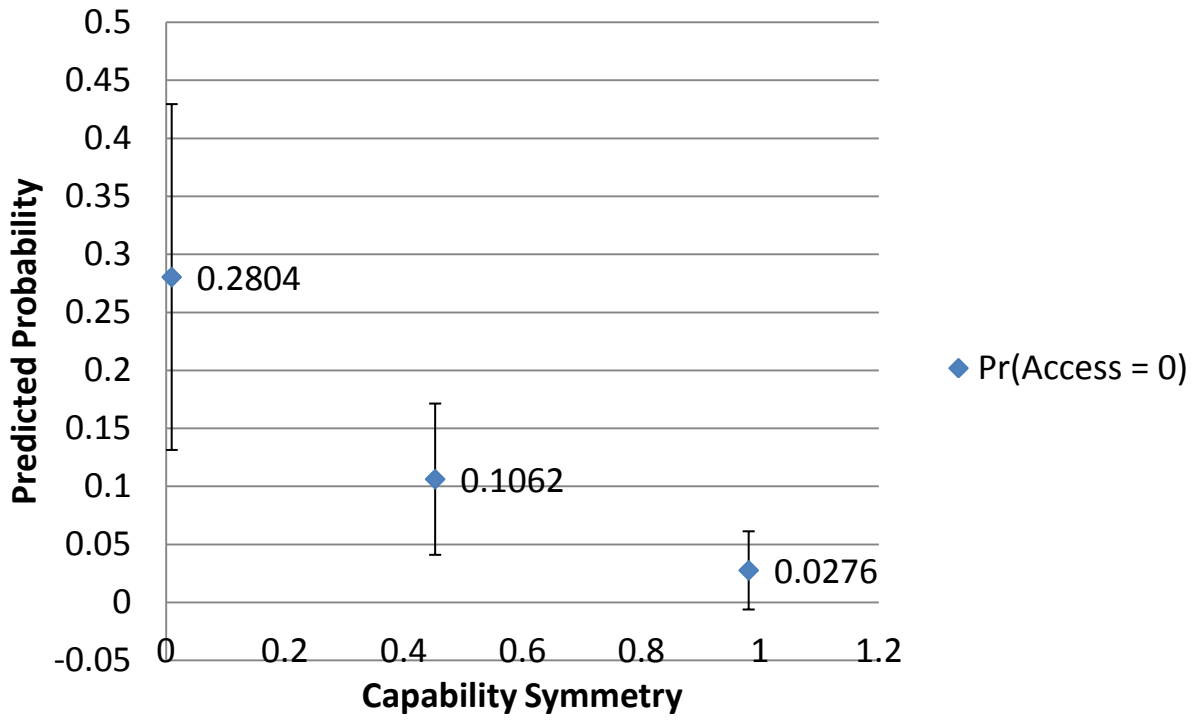
Table 3.14. Hypotheses and Results

Variable	Direction Predicted	Full Version	Interstate
Wars of Attrition	Less access	NA	Increased access
Counterinsurgency Wars	Less access	NA	Increased probability of moderate access; Decreased probability of high access.
Battle Deaths	Less access	Less access	Insignificant
Capability Symmetry	Less access	More access	More access
Democracy	More access	More access	More access
Democracy -Strategy Interaction	Less access	Less access	Increased probability of moderate access; Decreased probability of high access.
Eastern bloc	Less access	NA	Insignificant
Inter-Bloc Conflict (Cold War)	Less access	NA	Insignificant
Presidential regime	More access	Increased moderate access	Increased moderate access
Military regime	More access in interstate	Insignificant	Insignificant
Royal regime	More access	Increased access	Increased moderate access
Regime stability (Durability)	More access	More access	Insignificant
Autocratic Regime Change	Less access	More access	Insignificant
Democratic Regime Change	Less access	Insignificant	Insignificant

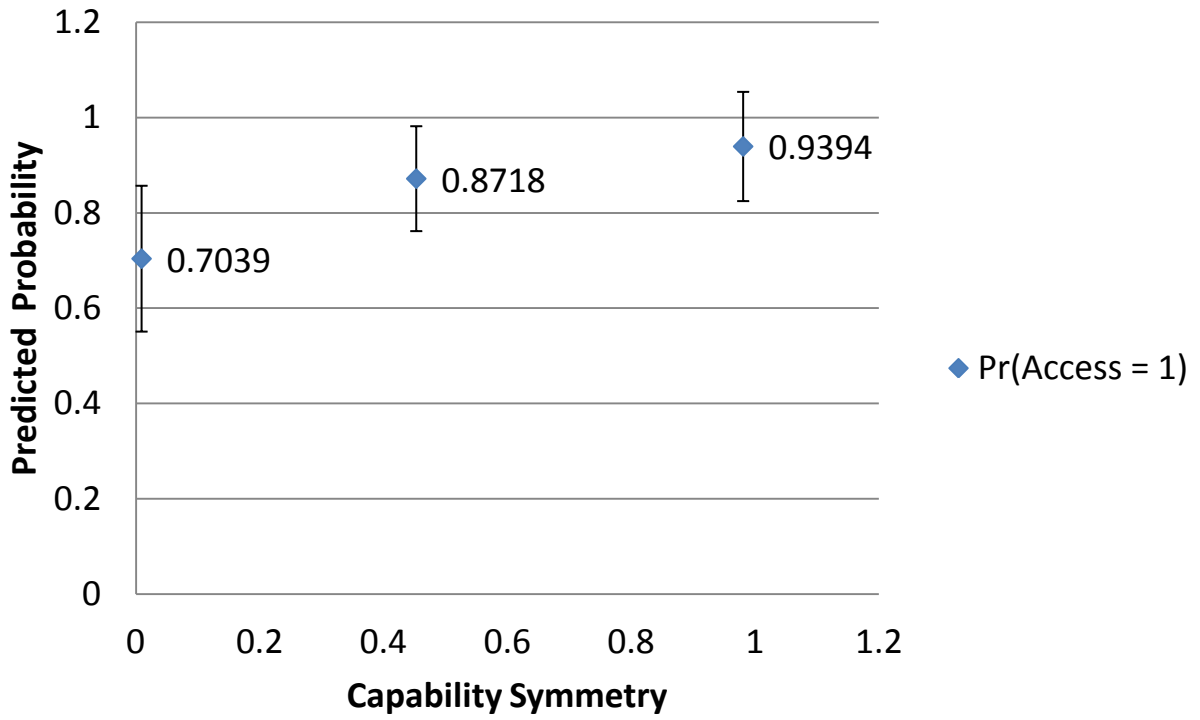
Figure 3.2. Predicted Probability of Access Level at Minimum Battle Deaths



**Figure 3.3. Capability Symmetry vs.
Pr(Access = 0)**



**Figure 3.4. Capability Symmetry vs.
Pr(Access = 1)**



**Figure 3.5. Capability Symmetry vs.
Pr(Access = 2)**

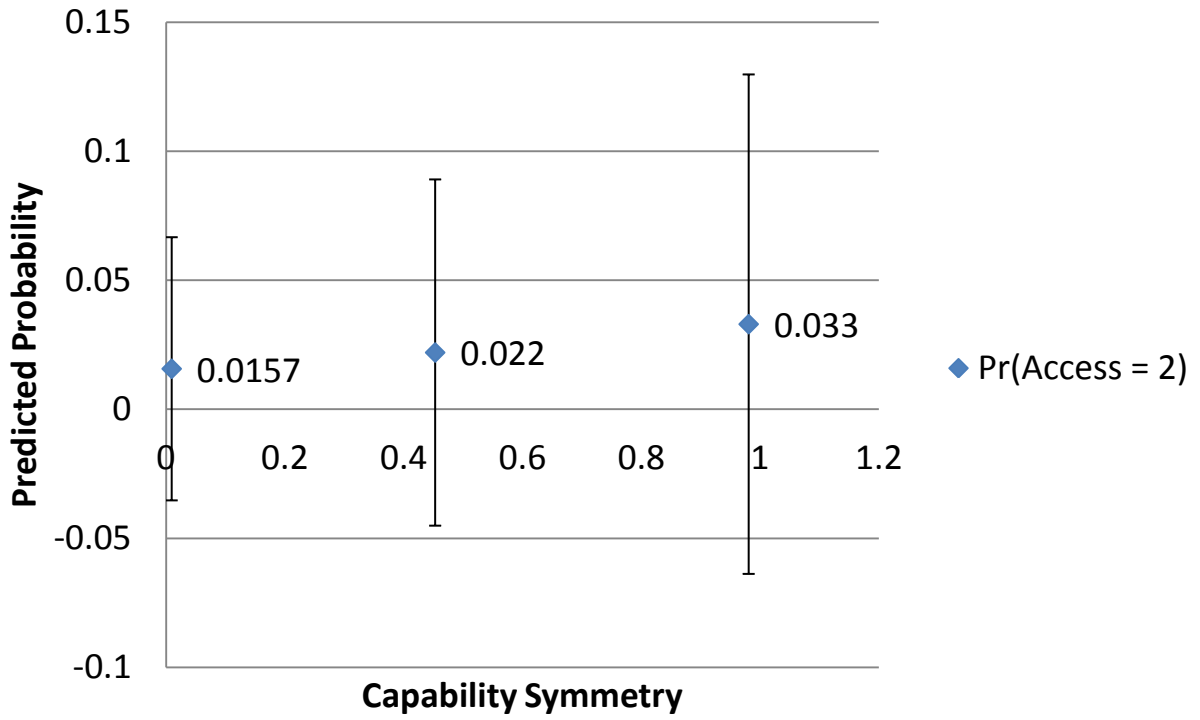


Figure 3.6. Enemy Access vs. Pr(Access = 0)

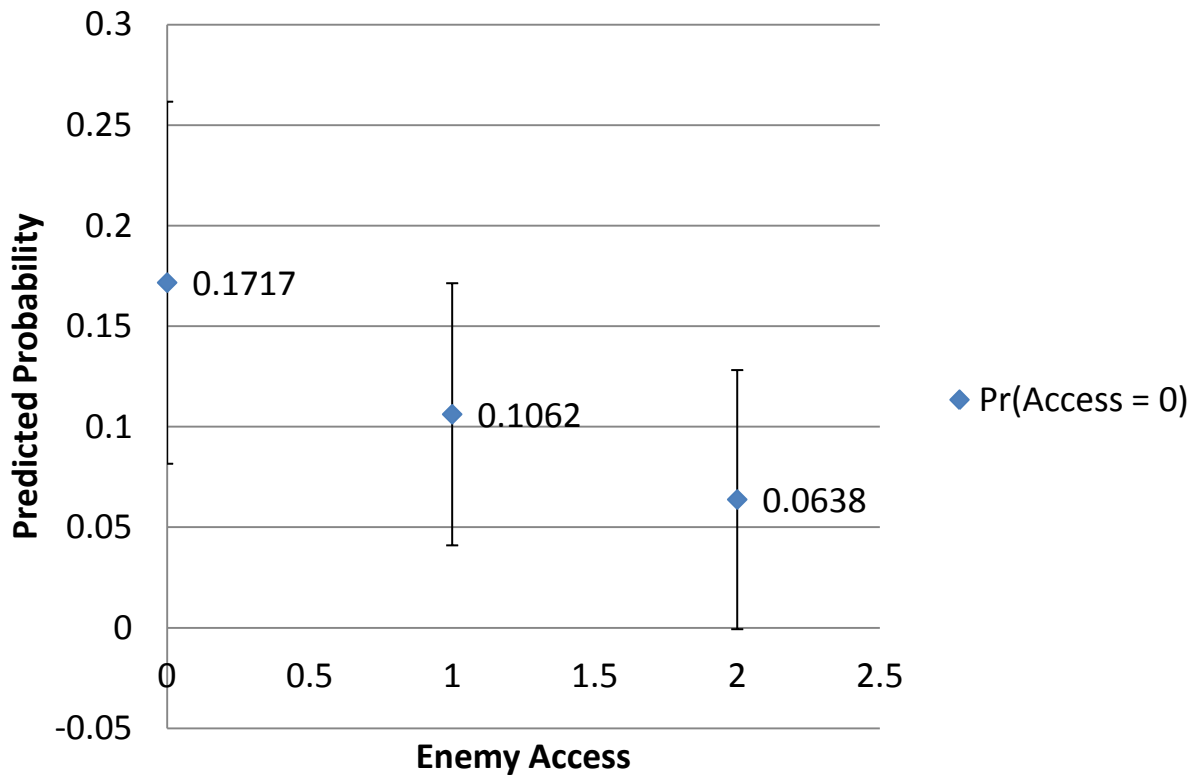


Figure 3.7. Enemy Access vs. Pr(Access = 1)

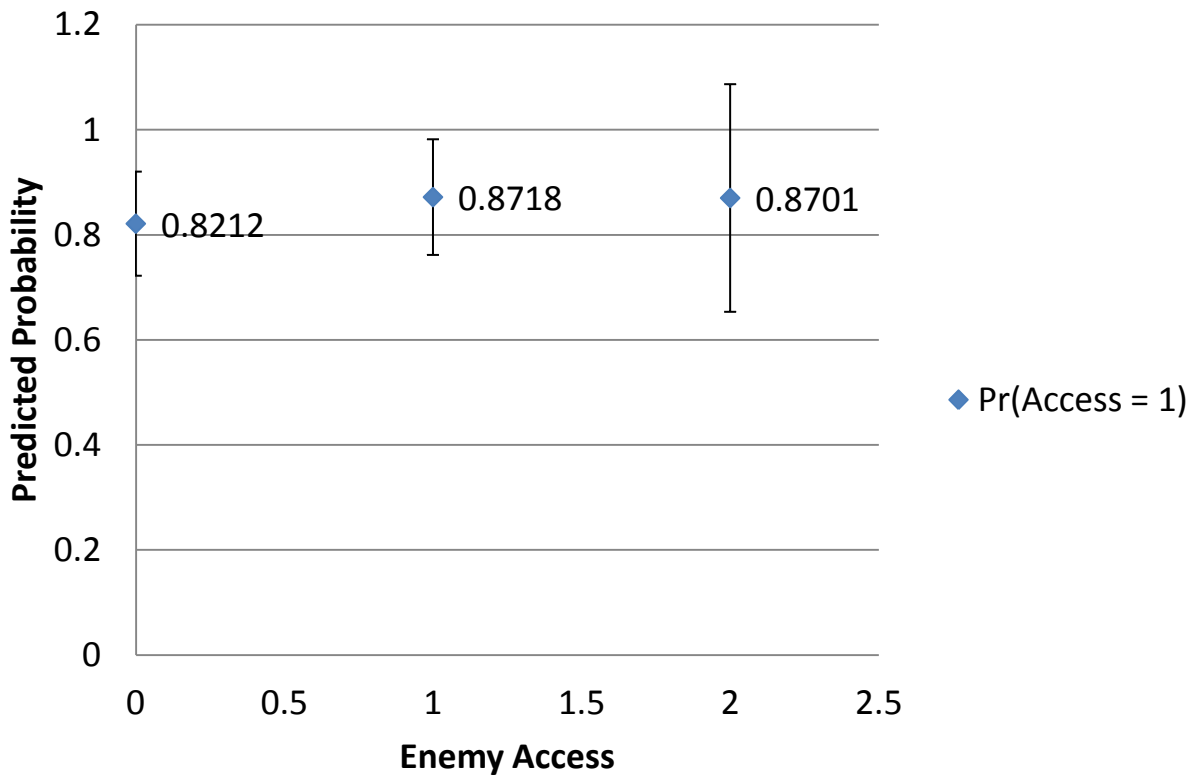


Figure 3.8. Enemy Access vs. Pr(Access = 2)

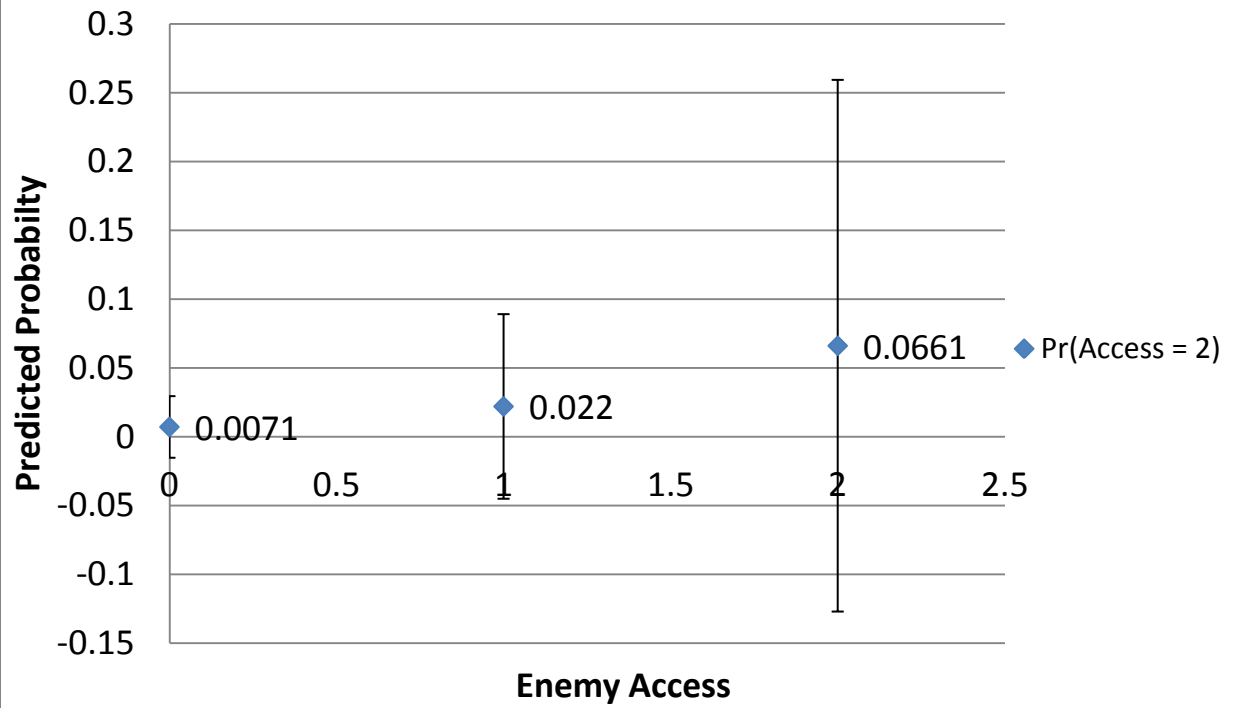


Figure 3.9. Durability vs. Pr(Access = 0)

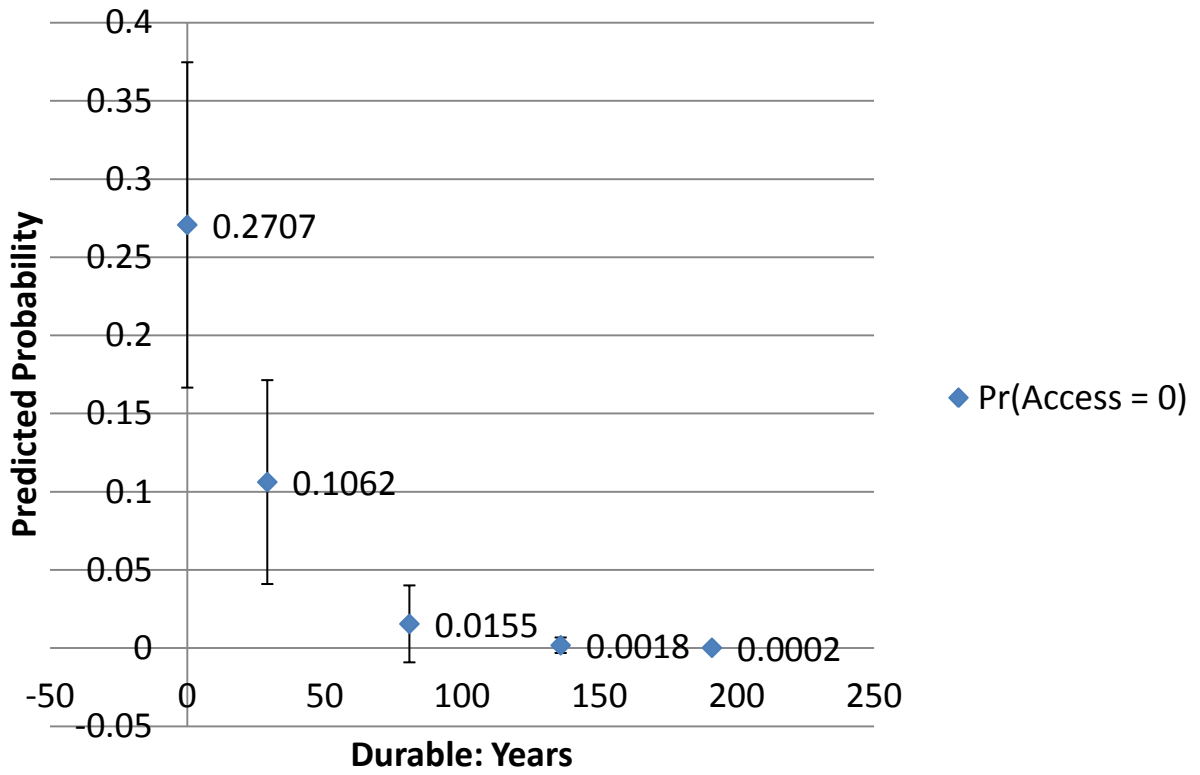


Figure 3.10. Durability vs. Pr(Access = 1)

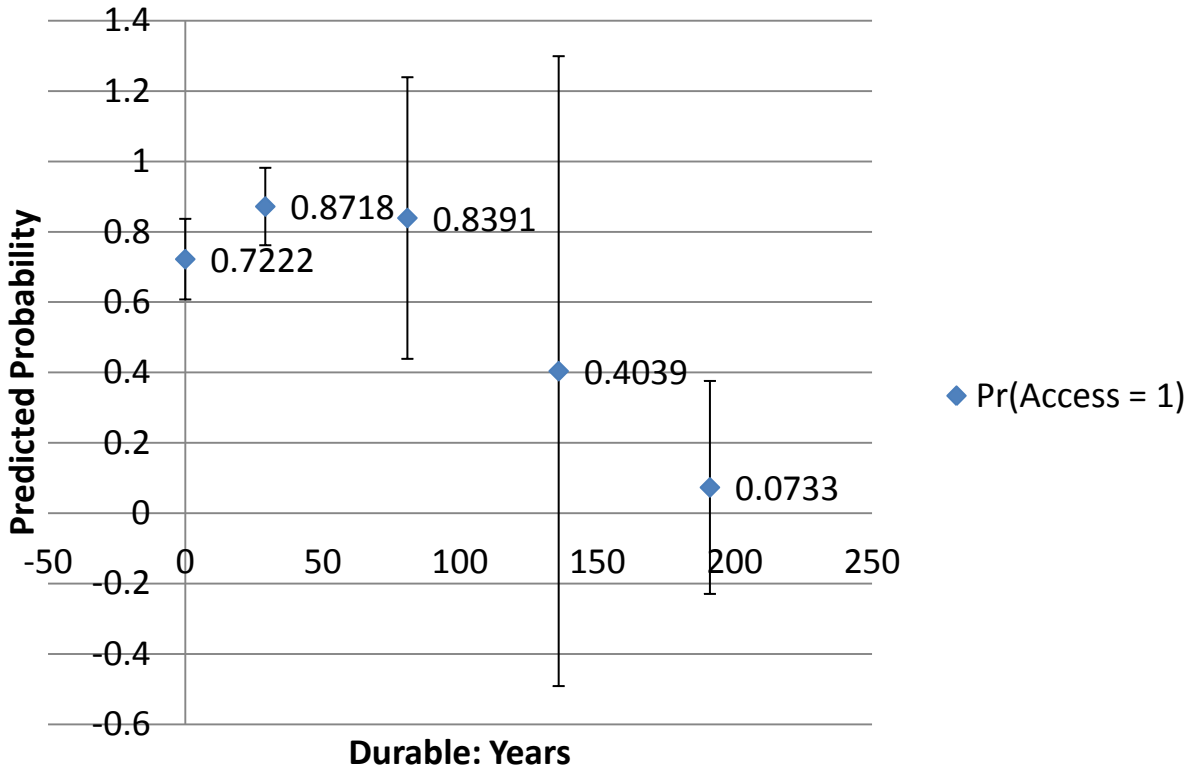
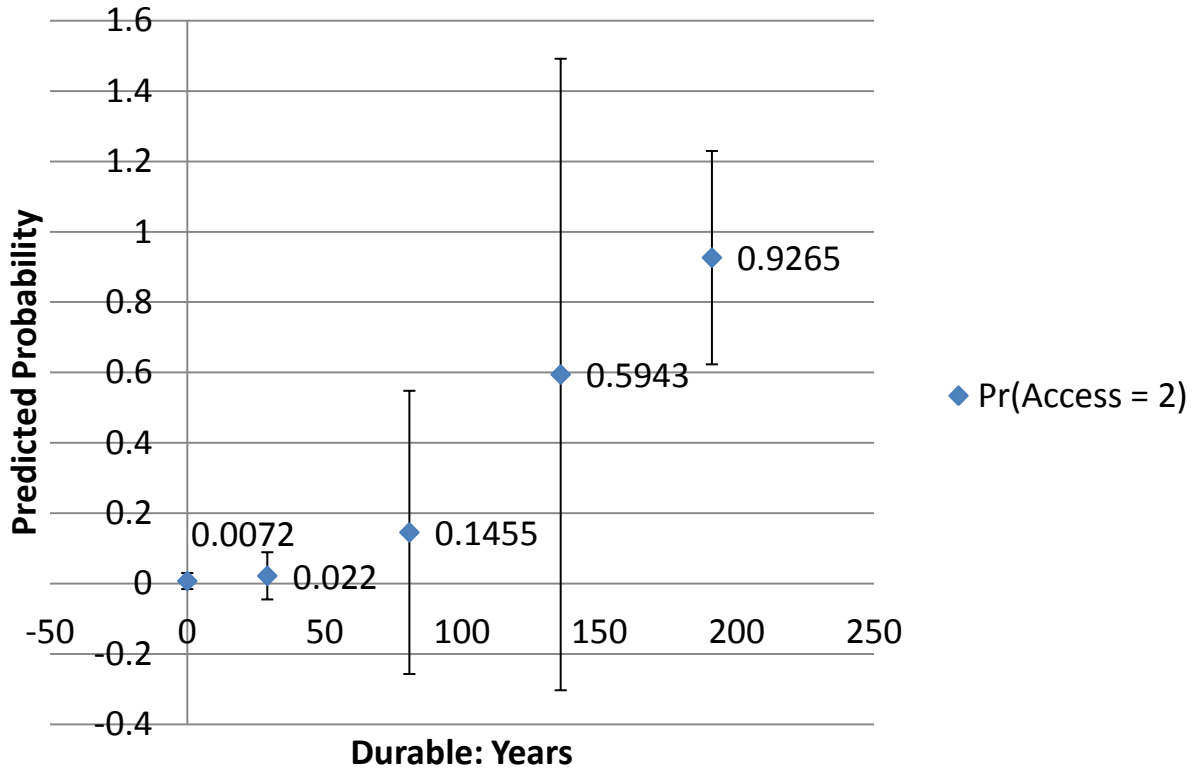


Figure 3.11. Durability vs. Pr(Access = 2)



**Figure 3.12. Adverse Regime Change vs.
Pr(Access = 0)**

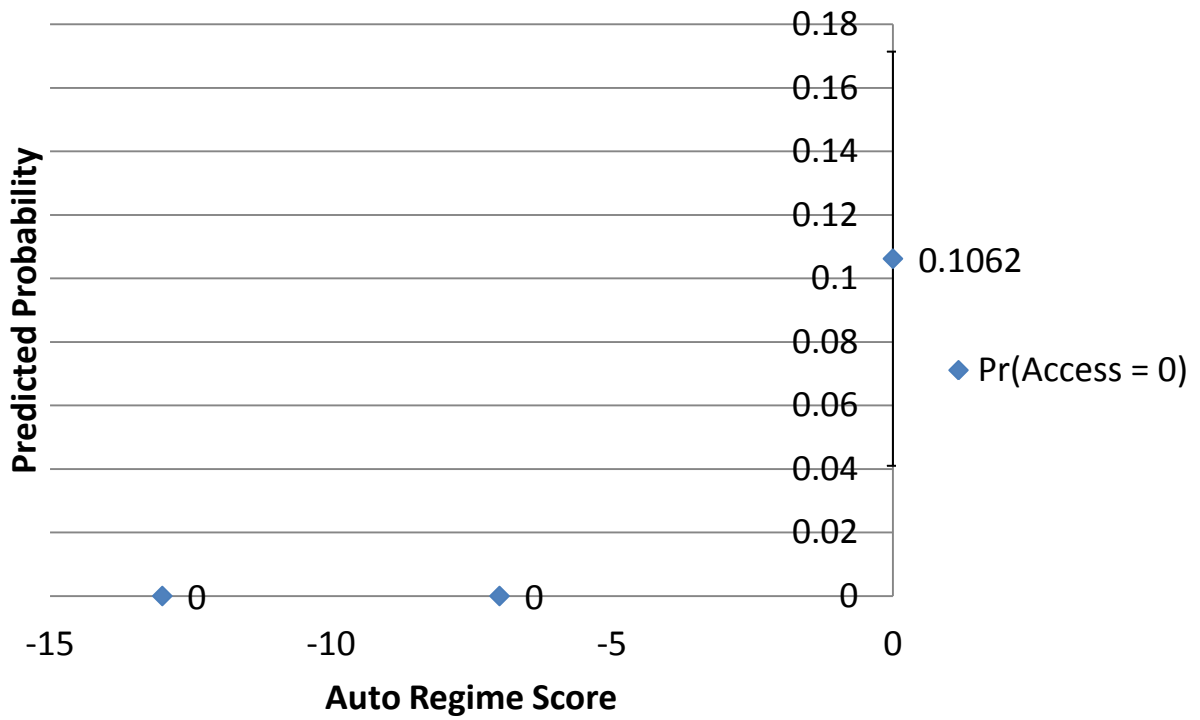
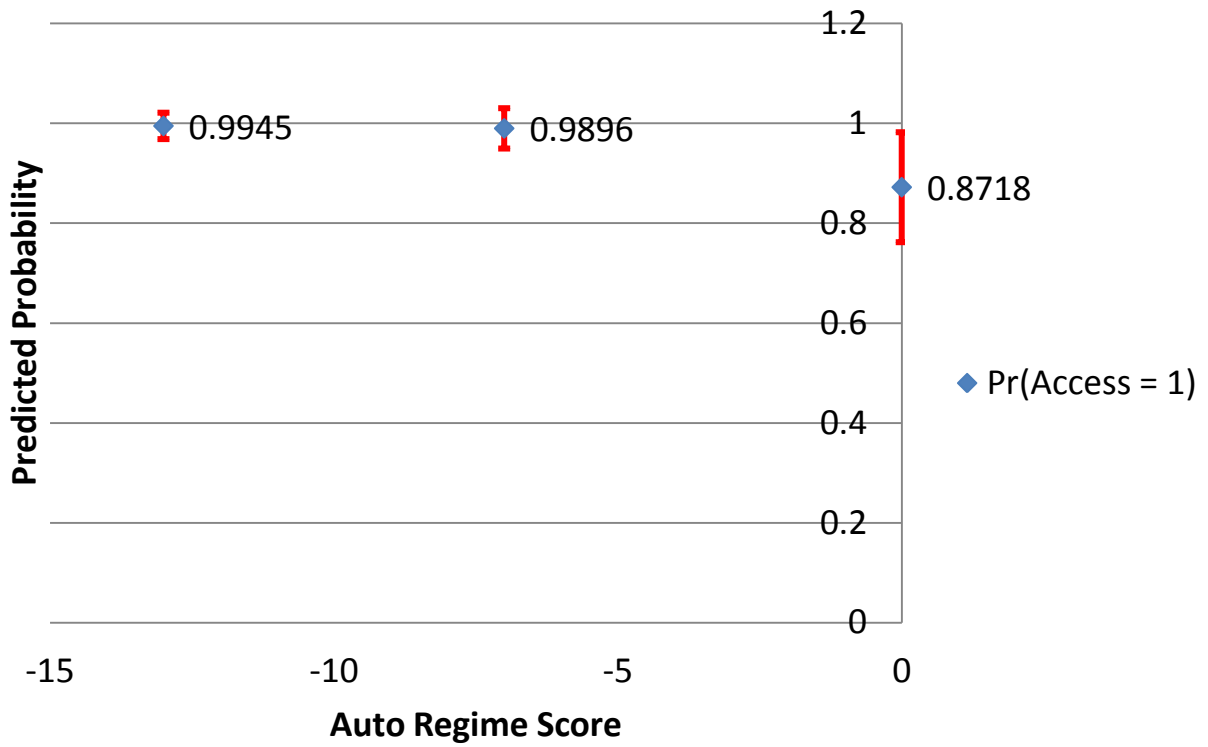


Figure 3.13. Adverse Regime Change vs. Pr(Access = 1)



**Figure 3.14. Adverse Regime Change vs.
Pr(Access = 2)**

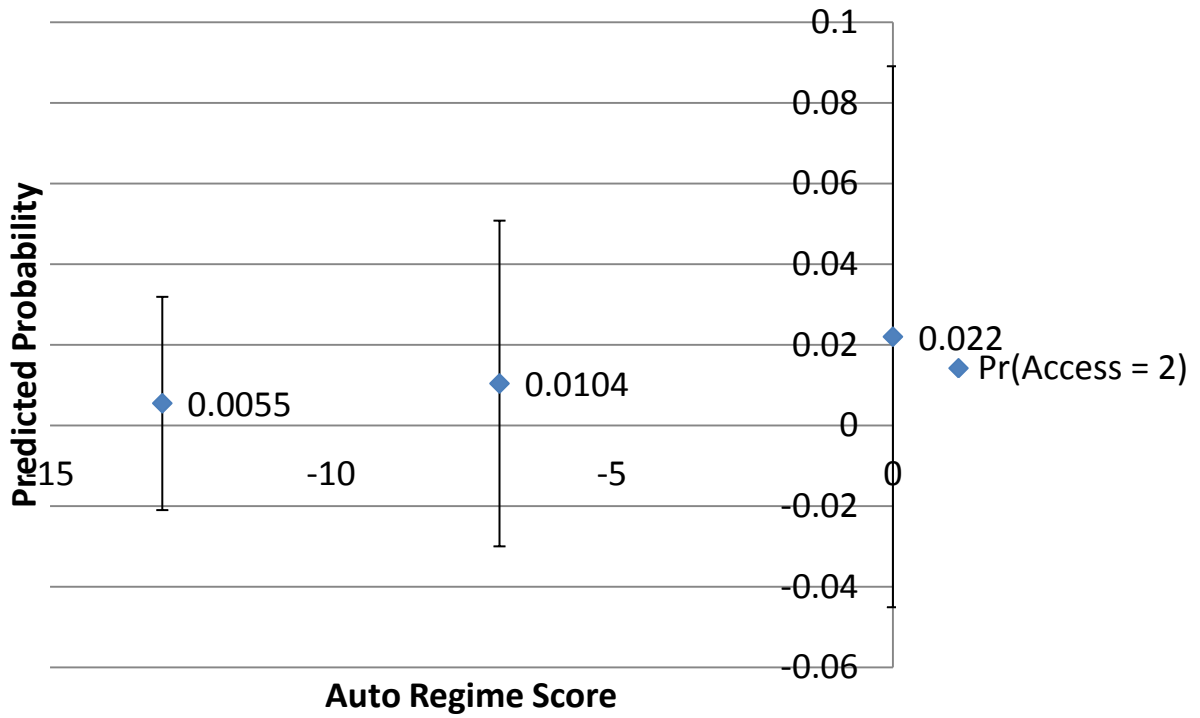


Table 3.15. Effects of parliamentarism at various levels of polity

Change in probability when going from not parliamentary to parliamentary

Variable and Value	Access=0	Access = 1	Access = 2
Polity = 2	0.9652 [0.9318, 0.9986]	-0.9710 [-1.0629, -0.8790]	0.0058 [-0.0767, 0.0882]
Polity = 5	0.9807 [0.9616, 0.9997]	-0.9769 [-1.0100, -0.9438]	-0.0037 [-0.0281, 0.0207]
Polity = 8	-0.0060 [-0.0153, 0.0033]	0.0086 [-0.0140, 0.0312]	-0.0026 [-0.0216, 0.0165]
Polity = 10	-0.0033 [-0.0091, 0.0025]	0.0051 [-0.0113, 0.0214]	-0.0017 [-0.0161, 0.0126]

Table 3.16. Effects of polity at various levels of parliamentarism

Change in probability when moving from polity =2 to polity = 10

Variable and Value	Access=0	Access = 1	Access = 2
Parliamentary = 0	-0.0315 [-0.0594, -0.0037]	0.0393 [-0.0081, 0.0867]	-0.0078 [-0.0388, 0.0232]
Parliamentary = 1	-1.0000 [-1.0000, -1.0000]	1.0153 [0.9209, 1.1097]	-0.0153 [-0.1097, 0.0791]

Battle Deaths/ Polity Interaction

Table 3.17. Effects of Battle Deaths Variable at Various Levels of Polity

Change in Probabilities when going from Min to Max Battle Deaths

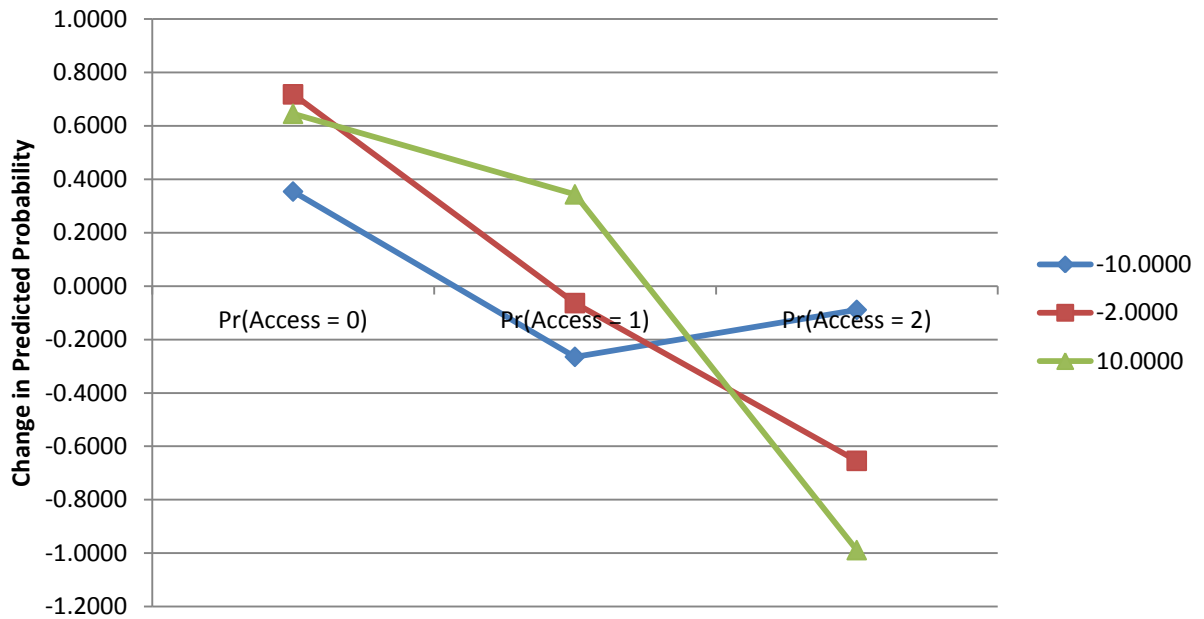
Variable and Value	Access=0	Access = 1	Access = 2
Polity = Min (-10)	0.3540 [0.0572, 0.6507]	-0.2649 [-1.0831, 0.5533]	-0.0891 [-0.7171, 0.5390]
Polity = Mean (-2)	0.7180 [0.4753, 0.9607]	-0.0637 [-0.3265, 0.1992]	-0.6543 [-0.8177, -0.4909]
Polity = Max (10)	0.6452 [-0.1879, 1.4782]	0.3435 [-0.4814, 1.1683]	-0.9886 [-1.0105, -0.9668]

Table 3.18. Effects of Polity Variable at Various Levels of Battle Deaths Score

Change in probability when going from min polity score to max

Variable and Value	Access=0	Access = 1	Access = 2
Battle Deaths = Min	-0.5058 [-0.6759, -0.3358]	-0.3542 [-0.4647, -0.2438]	0.8601 [0.7668, 0.9534]
Battle Deaths = Mean	-0.5594 [-0.7330, -0.3858]	0.6674 [0.4441, 0.8907]	-0.1080 [-0.2352, 0.0192]
Battle Deaths = Max	-0.2146 [-1.2497, 0.8204]	0.2541 [-1.2234, 1.7317]	-0.0395 [-0.6367, 0.5577]

Figure 3. 15. Effects of Battle Deaths Variable at Various Levels of Polity : Change in Probabilities when going from Min to Max Battle Deaths



Note: 10 = democracy; -10 = autocracy; -2 = somewhat autocratic (mean polity score in sample)

Table 3.19 ICRC Selection by Year

	icrcselect		
year	0 (Not selected)	1 (Selected)	Total
1950	10	6	16
1951	8	6	14
1952	10	6	16
1953	8	10	18
1954	12	2	14
1955	0	10	10
1956	6	12	18
1957	10	8	18
1958	6	10	16
1959	6	6	12
1960	6	4	10
1961	0	10	10
1962	4	12	16
1963	6	10	16
1964	14	8	22
1965	6	12	18
1966	2	20	22
1967	8	14	22
1968	2	18	20
1969	8	14	22
1970	4	18	22

1971		4		20			24
1972		4		24			28
1973		6		18			24
1974		6		10			16
1975		6		4			10
1976		2		4			6
1977		4		6			10
1978		8		8			16
1979		0		14			14
1980		2		8			10
1981		0		10			10
1982		0		8			8
1983		4		8			12
1984		2		10			12
1985		0		10			10
1986		2		12			14
1987		4		14			18
1988		0		14			14
1989		2		12			14
1990		2		12			14
1991		0		10			10
1992		0		10			10
1993		0		10			10
1994		0		6			6
1995		0		6			6

1996	0	8		8
1997	0	6		6
1998	0	8		8
1999	0	6		6
2000	0	4		4

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Total	194	516		710
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Table 3.20 Heckman Selection Results

Heckman selection model	Number of obs	=	445
(regression model with sample selection)	Censored obs	=	194
	Uncensored obs	=	251
	Wald chi2(12)	=	134.71
Log likelihood = -421.1753	Prob > chi2	=	0.0000

	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]	
Access						
Battle Deaths Annual	-8.40e-07**	2.94e-07	-2.86	0.004	-1.42e-06	-2.65e-07
Battle Deaths Monadic	-7.85e-07**	2.59e-07	-3.03	0.002	-1.29e-06	-2.77e-07
Polity Score	.0465567***	.0110627	4.21	0.000	.0248742	.0682392
Durability	.0046345**	.0014637	3.17	0.002	.0017656	.0075033
Auto Regime Change	-.0091717	.0307813	-0.30	0.766	-.0695019	.0511584
Presidential	-.478128*	.2350704	-2.03	0.042	-.9388576	-.0173984
Parliamentary	-.3151442	.1871651	-1.68	0.092	-.681981	.0516926
Mixed Regime	-.1381045	.2124867	-0.65	0.516	-.5545708	.2783619
Royal Dictator	.562813*	.2281086	2.47	0.014	.1157284	1.009898
Military Dictator	.0535398	.1030388	0.52	0.603	-.1484126	.2554921
Enemy Access	.2741465***	.0527757	5.19	0.000	.170708	.377585
Capability Symmetry	.5095476**	.1542652	3.30	0.001	.2071935	.8119018
Constant	.7012244***	.1214454	5.77	0.000	.4631958	.939253

ICRC Selection						
Intensity		1.678773***	.1572869	10.67	0.000	1.370496 1.987049
Interstate conflict		1.438375***	.1701889	8.45	0.000	1.10481 1.771939
Territorial conflict		-.7657789**	.2210669	-3.46	0.001	-1.199062 -.3324957
Constant		-.6489327***	.1949397	-3.33	0.001	-1.031007 -.266858

-----+-----

/athrho		-.1686952	.1577764	-1.07	0.285	-.4779313 .1405409
/Insigma		-.5126335	.0454719	-11.27	0.000	-.6017568 -.4235102

-----+-----

rho		-.167113	.1533702			-.4445854 .1396228
sigma		.5989163	.0272339			.5478483 .6547445
lambda		-.1000867	.0928589			-.2820869 .0819135

LR test of indep. eqns. (rho = 0): chi2(1) = 1.14 Prob > chi2 = 0.2853

Table 3.21**Descriptive Statistics, Interstate Only Version of the Dataset**

Variable	Obs	Mean	Std. Dev	Min	Max
Access Measure	247	.931	.770	0	2
Battle Deaths Monadic	336	126,698.5	241,902.3	0	750000
Polity Score	330	-1.818	7.439	-10	10
Centered Polity Score	330	-1.21e-07	7.439	-8.18	11.818
Presidential	306	.072	.259	0	1
Parliamentary	306	.225	.419	0	1
Mixed	306	.009	.099	0	1
Military Dictator	306	.222	.416	0	1
Royal Dictator	306	.059	.236	0	1
Civil Dictator	306	.412	.493	0	1
Enemy Access	247	1.93	.770	1	3
Capability Symmetry	340	.417	.297	.004	.994
Eastern Bloc	278	.734	.842	0	2
Eastern Bloc Binary	278	.478	.500	0	1
POW Violation	240	6.608	4.413	1	16
Attrition	217	38.065	40.161	0	100
Counterinsurgency	217	8.664	23.874	0	80
War Goals	210	.319	.467	0	1
Polity-COIN	206	35.866	164.687	-240	800

Table 3.22. Interstate only Results, Regime Variables Excluded

Variable	Odds Ratio
mleq1	
Battle Deaths	-2.86e-06 (1.84e-06)
Polity Score	.09*** (.02)
Enemy Access	.74* (.32)
POW Violation	-.14* (.06)
Capability Symmetry	2.33* (.91)
Attrition	.03** (.01)
Counterinsurgency	.34*** (.02)
War Goals	-2.75*** (.52)
Polity-COIN Interact	.04*** (.004)
Constant	-.20 (.78)
mleq2	
Battle Deaths	-2.86e-06 (1.84e-06)
Polity Score	.09*** (.02)
Enemy Access	.74* (.32)
POW Violation	-.14* (.06)

Capability Symmetry	2.33* (.91)
Attrition	.005 (.007)
Counterinsurgency	-.20*** (.01)
War Goals	-17.55*** (.63)
Polity-COIN Interact	.0007 (.001)
Constant	-2.57** (.85)
N	158

*p ≤ .05, **p ≤ .01, ***p ≤ .001

Table 3.23 Predicted Probabilities of Access Scores Holding Variables at their Means, Interstate Only, with Regime Scale Variables Excluded

	Predicted Probability	95% Conf. Interval	
Pr(access=0)	0.0300	0.0116	0.0484
Pr(access=1)	0.9246	0.8875	0.9618
Pr(access=2)	0.0454	0.0156	0.0751

Battle Deaths = 243,442.4 Polity = -2*; Enemy Access = 2*; POWViolation= 7; Capability Symmetry = .47; Attrition = 41; Counterinsurgency= 7; Waraims = 0*; Regime-Counterinsurgency Interaction = -14*

* because the variable is ordinal and not continuous, a meaningful unit closest to the mean has been chosen in lieu of the actual mean.

Figure 3.16. Predicted Probabilities of Access Scores Holding Variables at their Means, Interstate Data Only, Regime Type Data Excluded

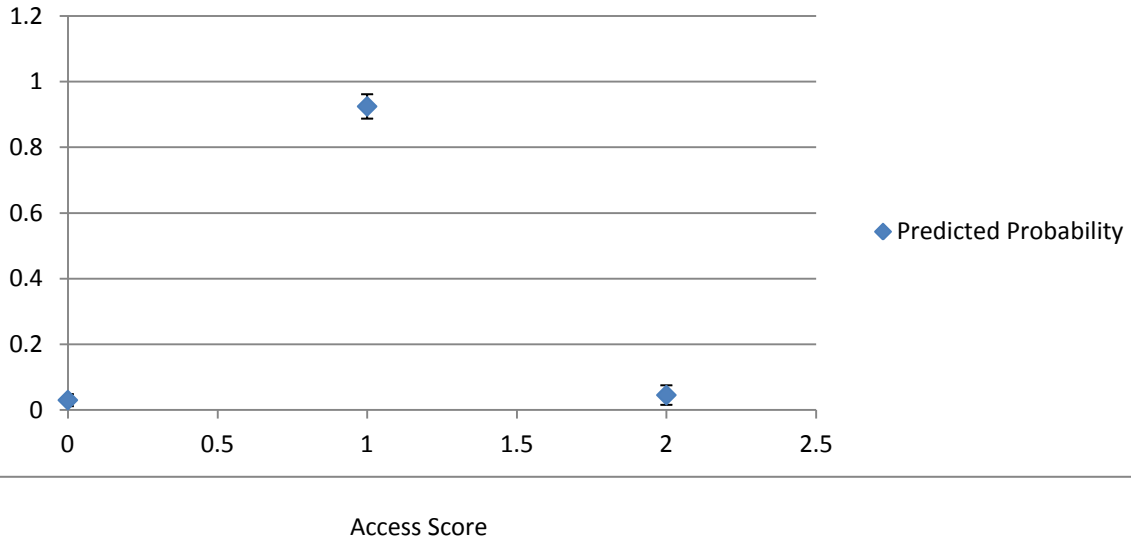


Table 3.24. Predicted Probabilities of Access Variable at Various Levels of the Independent Variables, Interstate only, with Regime Scale Data Excluded

Variable and Value	Access=0	Access = 1	Access = 2
Polity			
= -9 (Interact = -63)	0.2608 [0.0921, 0.4295]	0.7149 [0.5431, 0.8868]	0.0243 [0.0072, 0.0414]
=-2 (Interact = -14)	0.0300 [0.0116, 0.0484]	0.9246 [0.8875, 0.9618]	0.0454 [0.0156, 0.0751]
= 4 (Interact = 28)	0.0038 [0.0012, 0.0064]	0.9197 [0.8674, 0.9719]	0.0765 [0.0239, 0.1291]
= 10 (Interact = 70)	0.0005 [0.0000, 0.0009]	0.8733 [0.7778, 0.9688]	0.1262 [0.0305, 0.2218]
POW Violation			
= 1 (min in sample)	0.0133 [0.0025, 0.0242]	0.8885 [0.8272, 0.9499]	0.0982 [0.0361, 0.1602]
= 7 (mean)	0.0300 [0.0116, 0.0484]	0.9246 [0.8875, 0.9618]	0.0454 [0.0156, 0.0751]
= 16 (Max)	0.0967	0.8898	0.0135

	[-0.0190, 0.2123]	[0.7883, 0.9913]	[-0.0063, 0.0334]
Enemy Access			
= 1	0.0610 [0.0213, 0.1007]	0.9169 [0.8737, 0.9600]	0.0221 [0.0075, 0.0367]
= 2	0.0300 [0.0116, 0.0484]	0.9246 [0.8875, 0.9618]	0.0454 [0.0156, 0.0751]
= 3	0.0145 [-0.0005, 0.0294]	0.8946 [0.8094, 0.9797]	0.0910 [-0.0020, 0.1839]
Capability Symmetry			
= .009 (Min)	0.0413 [-0.0184, 0.1009]	0.9257 [0.8900, 0.9614]	0.0330 [-0.0199, 0.0859]
= .47 (Mean)	0.0300 [0.0116, 0.0484]	0.9246 [0.8875, 0.9618]	0.0454 [0.0156, 0.0751]
= .99 (Max)	0.0091 [0.0005, 0.0177]	0.8530 [0.7604, 0.9455]	0.1379 [0.0426, 0.2333]
Attrition			
= 0	0.0838	0.8786	0.0376

	[0.0086, 0.1589]	[0.8222, 0.9351]	[-0.0020, 0.0772]
= 41	0.0300 [0.0116, 0.0484]	0.9246 [0.8875, 0.9618]	0.0454 [0.0156, 0.0751]
= 100	0.0064 [-0.0025, 0.0154]	0.9342 [0.8877, 0.9807]	0.0594 [0.0140, 0.1047]
Counterinsurgency			
= 0 (Interaction = 0	0.1641 [0.0759, 0.2522]	0.6721 [0.5302, 0.8140]	0.1639 [0.0661, 0.2616]
= 7 (Interaction = -14)	0.0300 [0.0116, 0.0484]	0.9246 [0.8875, 0.9618]	0.0454 [0.0156, 0.0751]
= 80 (Interaction = -160)	0.0000 [-0.0000, 0.0000]	1.0000 [1.0000, 1.0000]	0.0000 [-0.0000, 0.0000]
War Aims			
= 0	0.0300 [0.0116, 0.0484]	0.9246 [0.8875, 0.9618]	0.0454 [0.0156, 0.0751]
= 1	0.3253	0.6747	0.0000

[0.1220, 0.5287]

[0.4713, 0.8780]

[-0.0000, 0.0000]

Figure 3.17. Attrition vs. Predicted Probability of Access

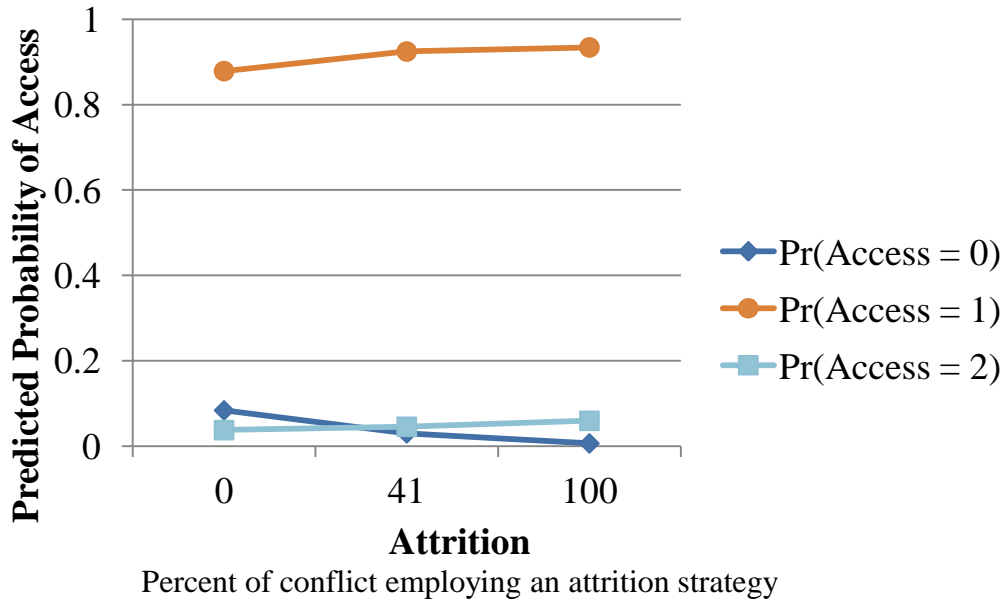


Figure 3.18. Counterinsurgency vs. Predicted Probability of Access

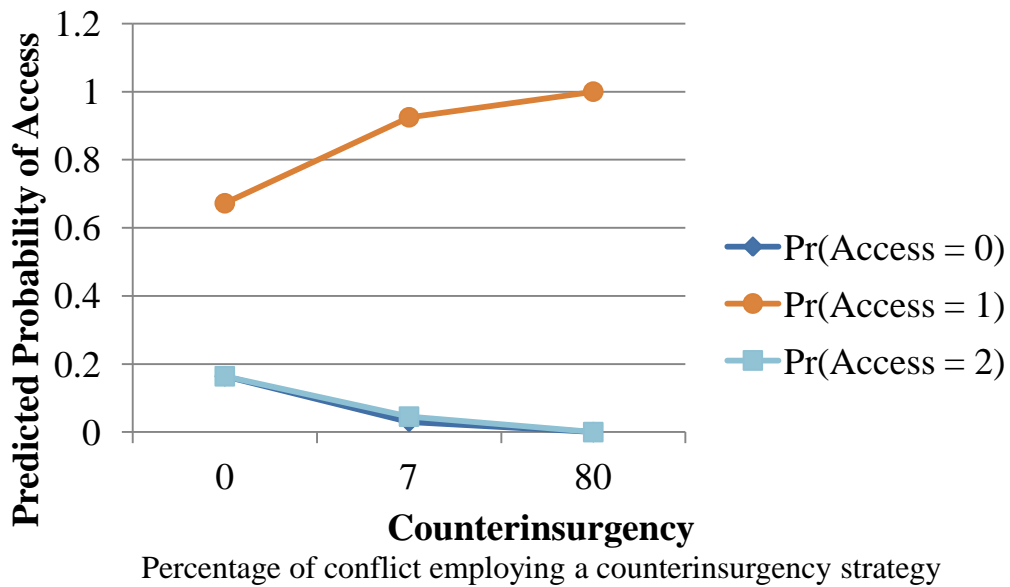


Figure 3.19. War Aims vs. Predicted Probability of Access

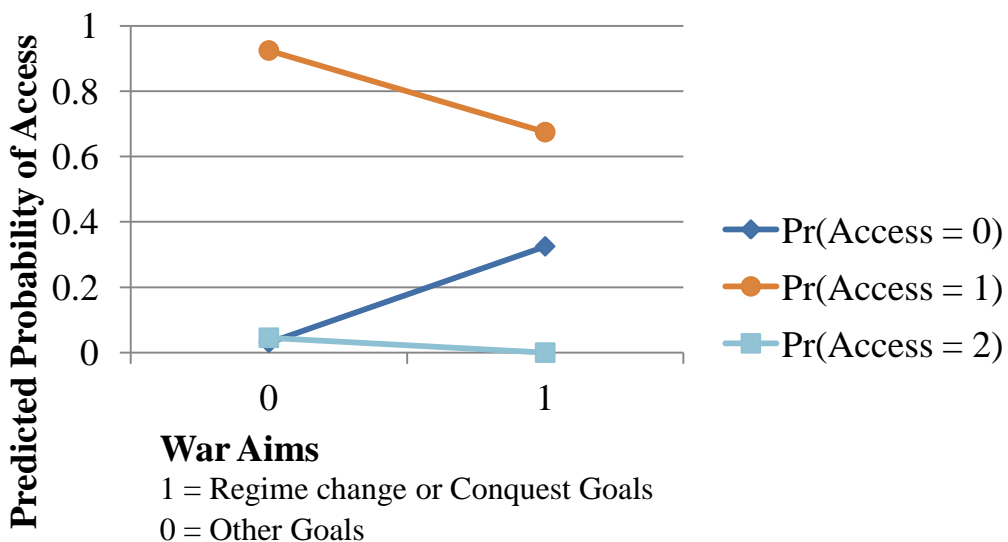
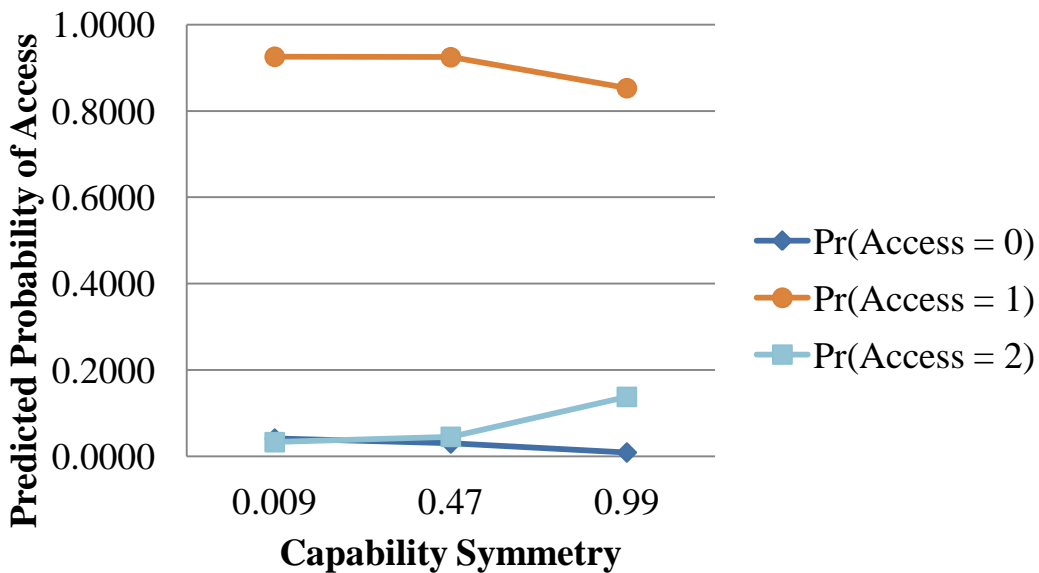


Figure 3.20. Capability Symmetry vs. Predicted Probability of Access



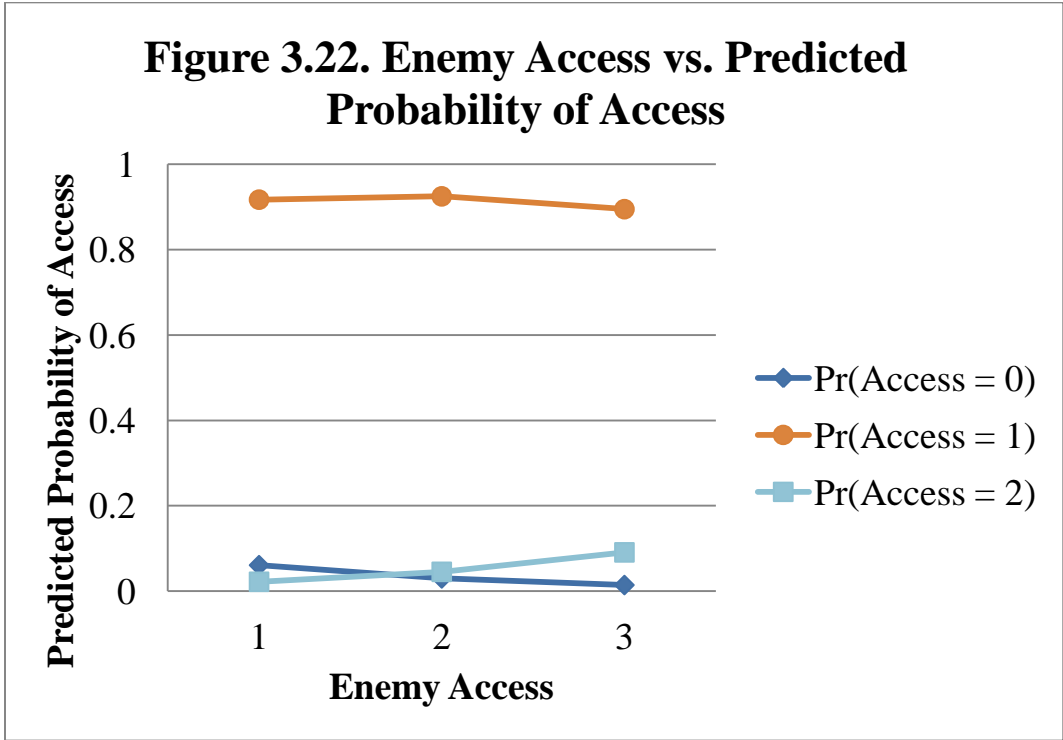
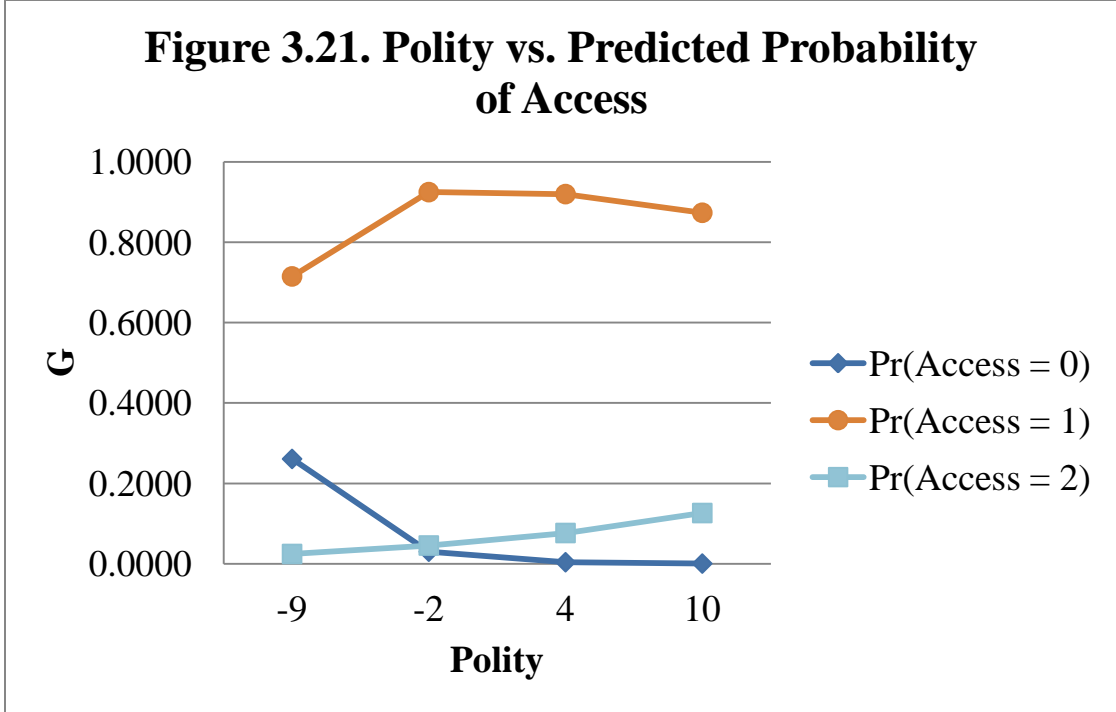


Figure 3.23. POW Violation vs. Predicted Probability of Access

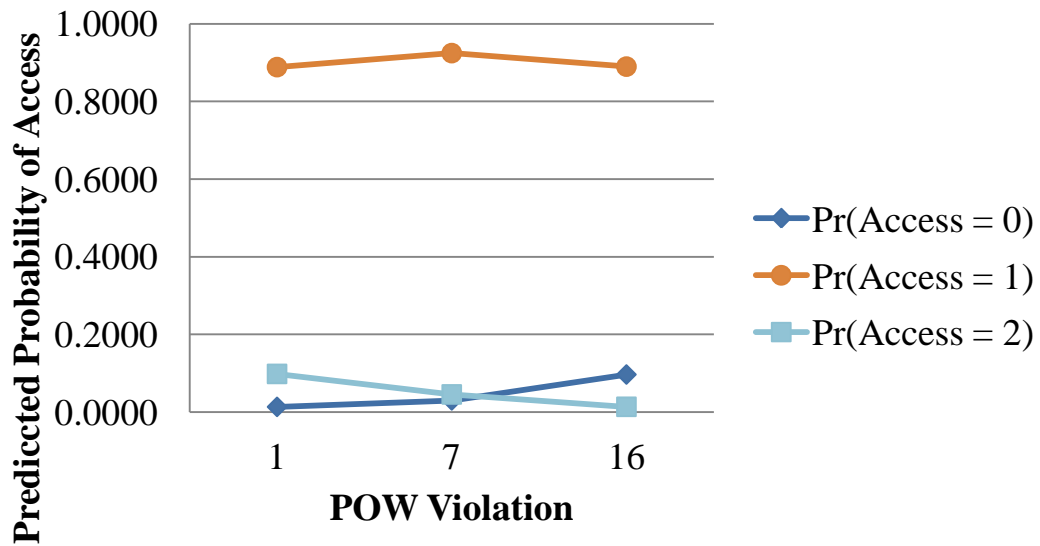


Table 3.25 Polity-Counterinsurgency Interaction Effect.

Effects of Counterinsurgency at Various Levels of Polity Variable

Variable and Value	Access = 0	Access = 1	Access = 2
Polity = -9 AND			
COIN = 0	0.2663 [0.1141, 0.4186]	0.6379 [0.4760, 0.7998]	0.0958 [0.0338, 0.1578]
COIN = 7	0.2608 [0.0921, 0.4295]	0.7149 [0.5431, 0.8868]	0.0243 [0.0072, 0.0414]
COIN = 24	0.2477 [-0.0578, 0.5531]	0.7516 [0.4458, 1.0573]	0.0007 [-0.0001, 0.0016]
COIN = 80	0.2077 [-0.6050, 1.0203]	0.7923 [-0.0203, 1.6050]	0.0000 [-0.0000, 0.0000]
Polity = -2 AND			
COIN = 0	0.1641 [0.0759, 0.2522]	0.6721 [0.5302, 0.8140]	0.1639 [0.0661, 0.2616]
COIN = 7	0.0300 [0.0116, 0.0484]	0.9246 [0.8875, 0.9618]	0.0454 [0.0156, 0.0751]
COIN = 24	0.0003	0.9981	0.0015

	[0.0001, 0.0006]	[0.9968, 0.9995]	[0.0003, 0.0028]
COIN = 80	0.0000 [-0.0000, 0.0000]	1.0000 [1.0000, 1.0000]	0.0000 [-0.0000, 0.0000]
Polity = 10 AND			
COIN = 0	0.0640 [0.0265, 0.1015]	0.5760 [0.3691, 0.7830]	0.3600 [0.1519, 0.5681]
COIN = 7	0.0005 [0.0000, 0.0009]	0.8733 [0.7778, 0.9688]	0.1262 [0.0305, 0.2218]
COIN = 24	0.0000 [-0.0000, 0.0000]	0.9947 [0.9896, 0.9998]	0.0053 [0.0002, 0.0104]
COIN = 80	0.0000 [-0.0000, 0.0000]	1.0000 [1.0000, 1.0000]	0.0000 [-0.0000, 0.0000]

Table 3.26 Polity-Counterinsurgency Interaction Effects. Effects of Polity at Various Levels of Counterinsurgency

Variable and Value	Access = 0	Access = 1	Access = 2
COIN = 0 AND			
Polity = -9	0.2663 [0.1141, 0.4186]	0.6379 [0.4760, 0.7998]	0.0958 [0.0338, 0.1578]
Polity = -2	0.1641 [0.0759, 0.2522]	0.6721 [0.5302, 0.8140]	0.1639 [0.0661, 0.2616]
Polity = 4	0.1038 [0.0485, 0.1591]	0.6469 [0.4846, 0.8093]	0.2493 [0.1027, 0.3958]
Polity = 10	0.0640 [0.0265, 0.1015]	0.5760 [0.3691, 0.7830]	0.3600 [0.1519, 0.5681]
COIN = 24 AND			
Polity = -9	0.2477 [-0.0578, 0.5531]	0.7516 [0.4458, 1.0573]	0.0007 [-0.0001, 0.0016]
Polity = -2	0.0003 [0.0001, 0.0006]	0.9981 [0.9968, 0.9995]	0.0015 [0.0003, 0.0028]
Polity = 4	0.0000 [-0.0000, 0.0000]	0.9972 [0.9950, 0.9993]	0.0028 [0.0007, 0.0050]

Polity = 10	0.0000 [-0.0000, 0.0000]	0.9947 [0.9896, 0.9998]	0.0053 [0.0002, 0.0104]
COIN = 80 AND			
Polity = -9	0.2077 [-0.6050, 1.0203]	0.7923 [-0.0203, 1.6050]	0.0000 [-0.0000, 0.0000]
Polity = -2	0.0000 [-0.0000, 0.0000]	1.0000 [1.0000, 1.0000]	0.0000 [-0.0000, 0.0000]
Polity = 4	0.0000 [-0.0000, 0.0000]	1.0000 [1.0000, 1.0000]	0.0000 [-0.0000, 0.0000]
Polity = 10	0.0000 [-0.0000, 0.0000]	1.0000 [1.0000, 1.0000]	0.0000 [-0.0000, 0.0000]

Table 3.27. Effects of polity at various levels of Counterinsurgency

Change in probability when moving from polity min to polity max

Variable and Value	Access=0	Access = 1	Access = 2
COIN= 0	-0.2023 [-0.3389, -0.0657]	-0.0619 [-0.1882, 0.0645]	0.2642 [0.0896, 0.4388]
COIN = 7	-0.2603 [-0.4291, -0.0916]	0.1584 [0.0174, 0.2994]	0.1019 [0.0145, 0.1893]
COIN = 80	-0.2077 [-1.0203, 0.6050]	0.2077 [-0.6050, 1.0203]	0.0000 [-0.0000, 0.0000]

Table 3.28. Effects of counterinsurgency at various level of polity

Change in probability when moving from counterinsurgency min to counterinsurgency max

Variable and Value	Access=0	Access = 1	Access = 2
Polity = -9	-0.0587 [-0.8673, 0.7500]	0.1545 [-0.6399, 0.9489]	-0.0958 [-0.1578, -0.0338]
Polity = -2	-0.1641 [-0.2522, -0.0759]	0.3279 [0.1860, 0.4698]	-0.1639 [-0.2616, -0.0661]
Polity = 10	-0.0640 [-0.1015, -0.0265]	0.4240 [0.2170, 0.6309]	-0.3600 [-0.5681, -0.1519]

Figures 3.24 - 3.29 Polity-Counterinsurgency Interaction Effects

Figures 3.24 - 3.26 Effects of Polity at Various Levels of Counterinsurgency

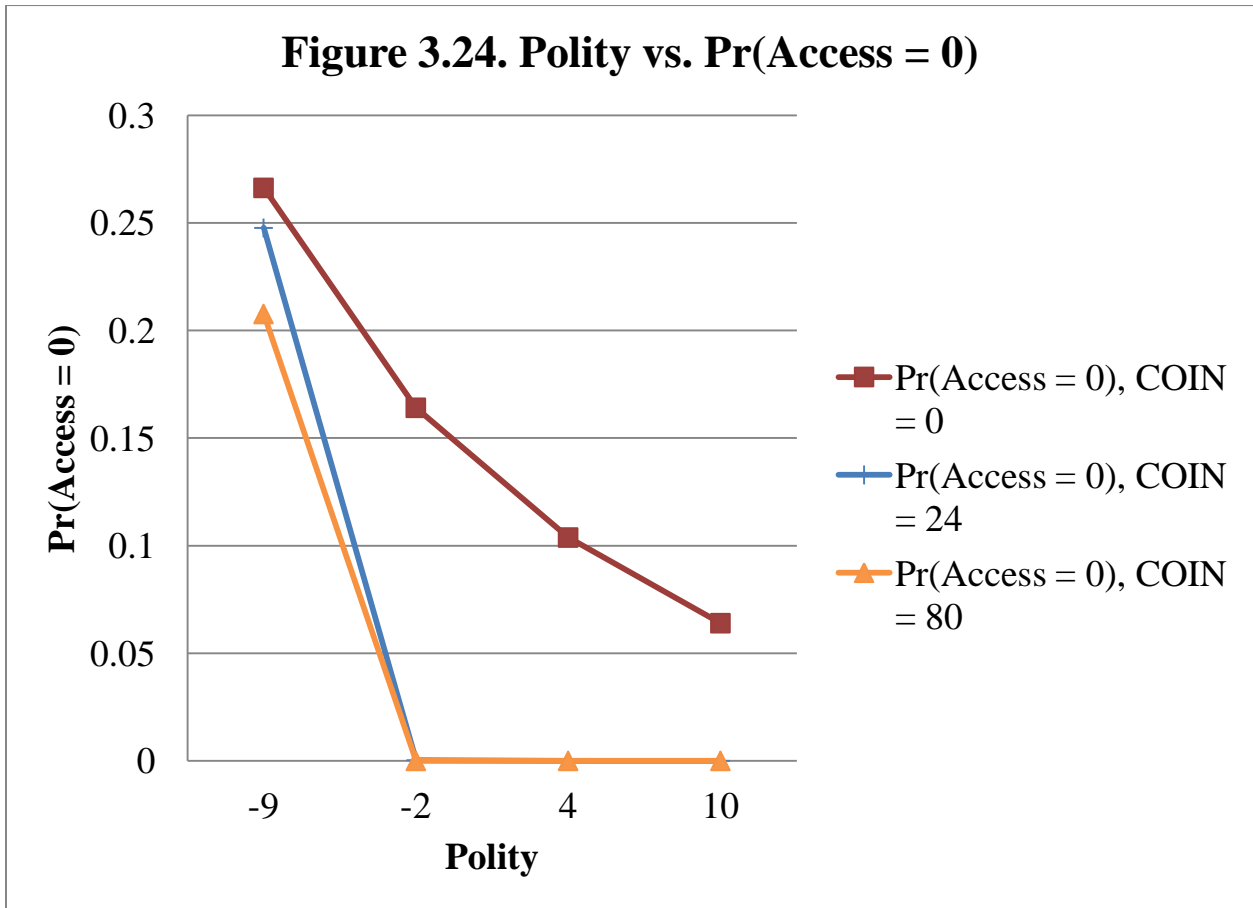


Figure 3.25. Polity vs. Pr(Access = 1)

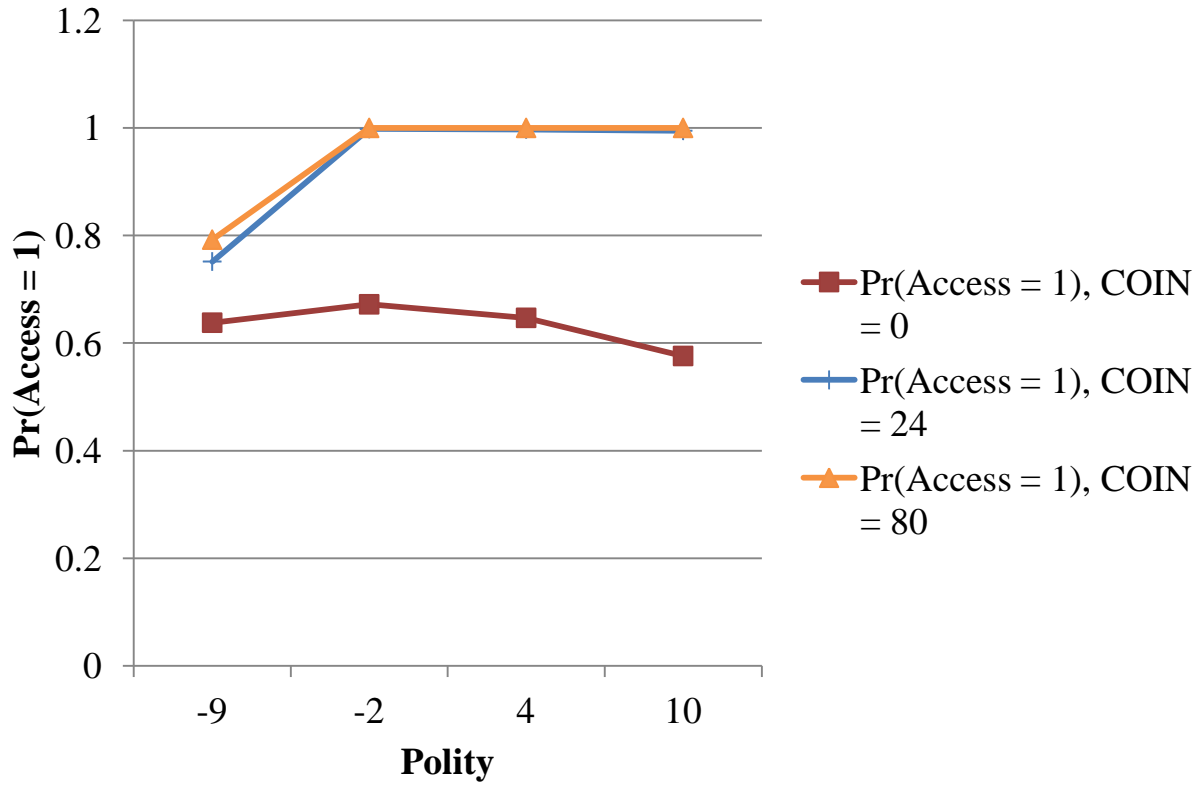
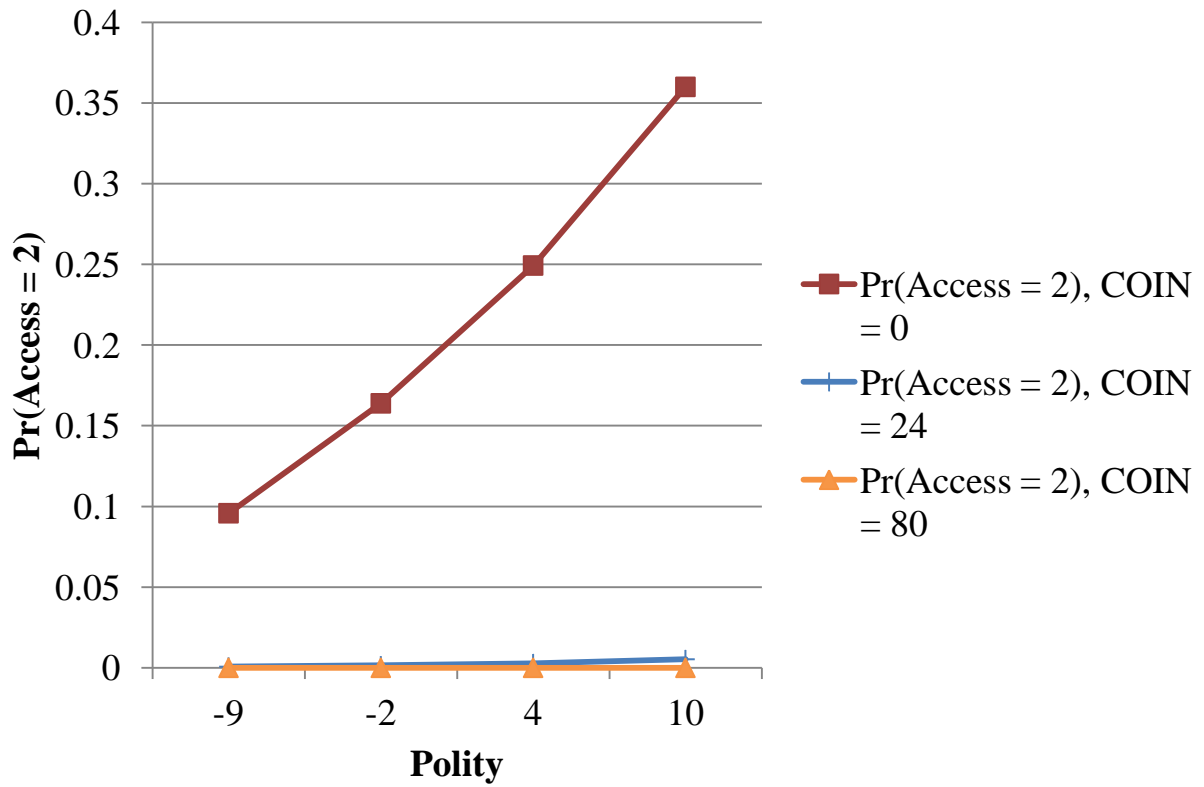


Figure 3.26. Polity vs. Pr(Access = 2)



Figures 3.27 - 3.29 Effects of Counterinsurgency at Various Levels of Polity

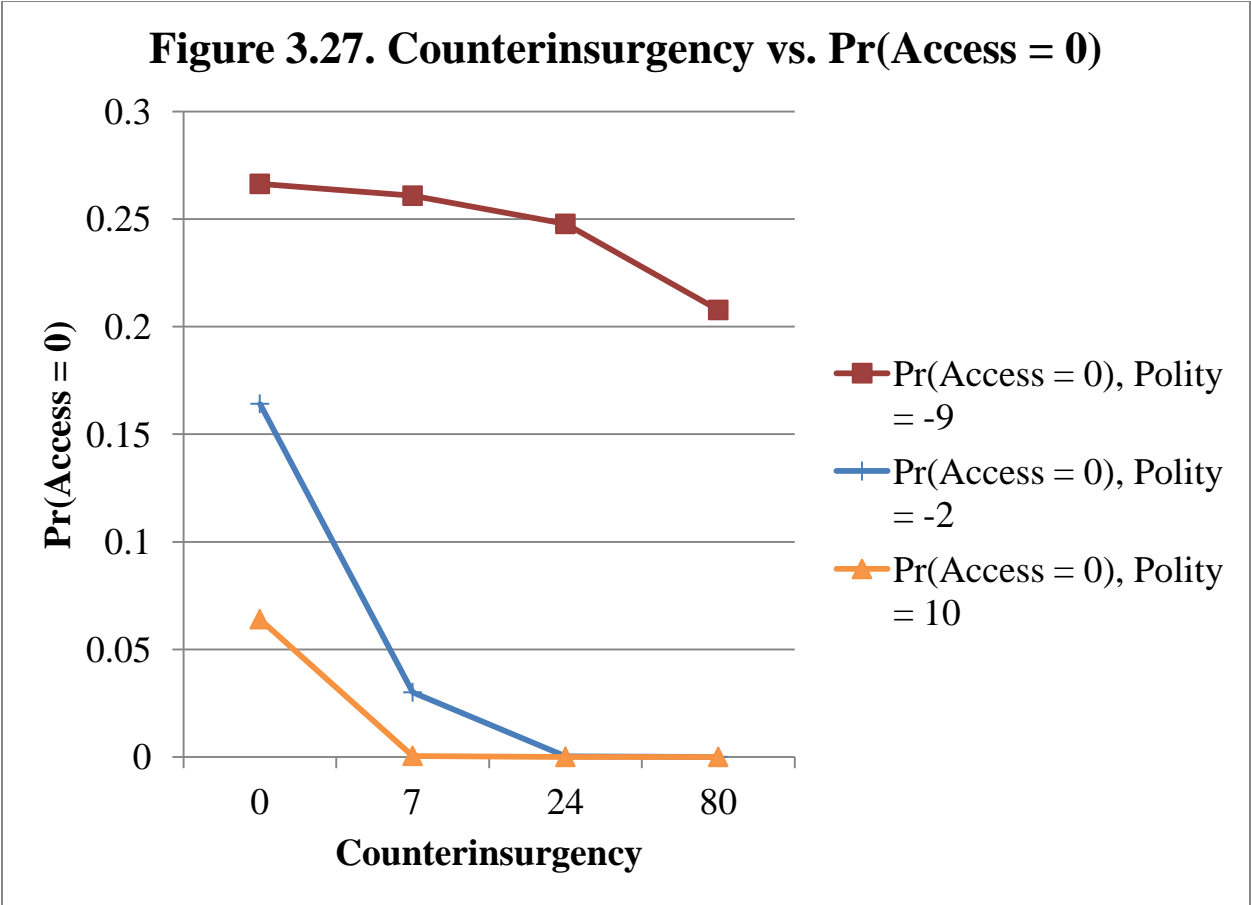


Figure 3.28. Counterinsurgency vs. Pr(Access = 1)

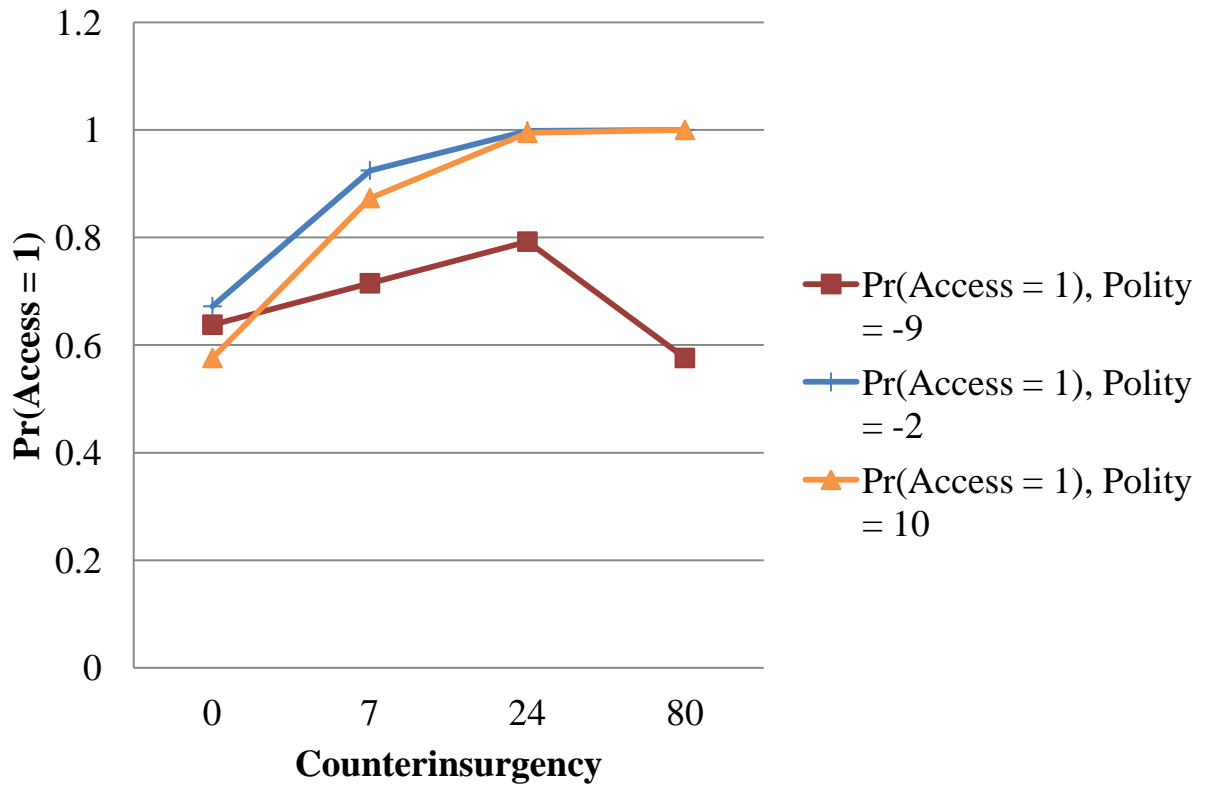


Figure 3.29. Counterinsurgency vs. Pr(Access = 2)

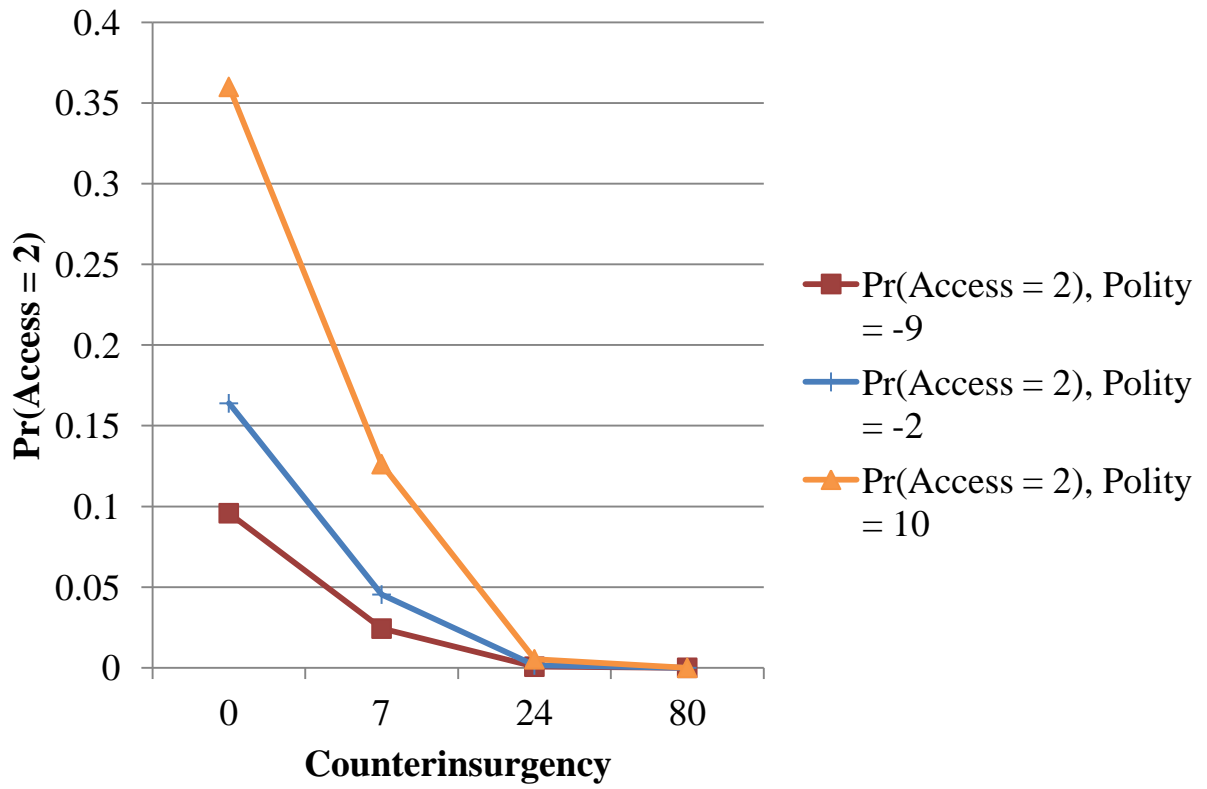


Table 3.29. Interstate Only Statistical Results, with Regime Data Included

Variable	Coefficient
mleq1	
Battle Deaths Monadic	8.72e-08 (4.80e-06)
Centered Polity Score	.34* (.16)
Parliamentary	11.97*** (2.31)
Presidential	16.42*** (2.00)
Mixed Regime	11.93*** 1.78
Royal Dictator	17.12*** (1.26)
Military Dictator	1.94 (1.05)
Enemy Access	.53 (.32)
POW Violation	-.21** (.08)
Capability Symmetry	2.43 (1.62)
Attrition	.03 (.01)
Counterinsurgency	35.55*** 4.35
War Goals	-3.81* (1.67)
Polity-COIN Interact	-3.01*** (.369)
Constant	.71 (.85)

mleq2

Battle Deaths Monadic	8.72e-08 (4.80e-06)
Centered Polity Score	.34* (.16)
Parliamentary	-4.39 (2.40)
Presidential	-2.79 (1.84)
Mixed Regime	-2.52 (1.86)
Royal Dictator	.57 (.94)
Military Dictator	.58 (.96)
Enemy Access	.53 (.32)
POW Violation	-.21** (.08)
Capability Symmetry	2.43 (1.62)
Attrition	-.002 (.009)
Counterinsurgency	6.19* 3.15
War Goals	-17.84*** (1.45)
Polity-COIN Interact	-.54* (.27)
Constant	-.68 (.91)

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Figure 3.30. Number of States Granting ICRC Low, Moderate, and High Access Across Time, 1950 - 2000, Scatter

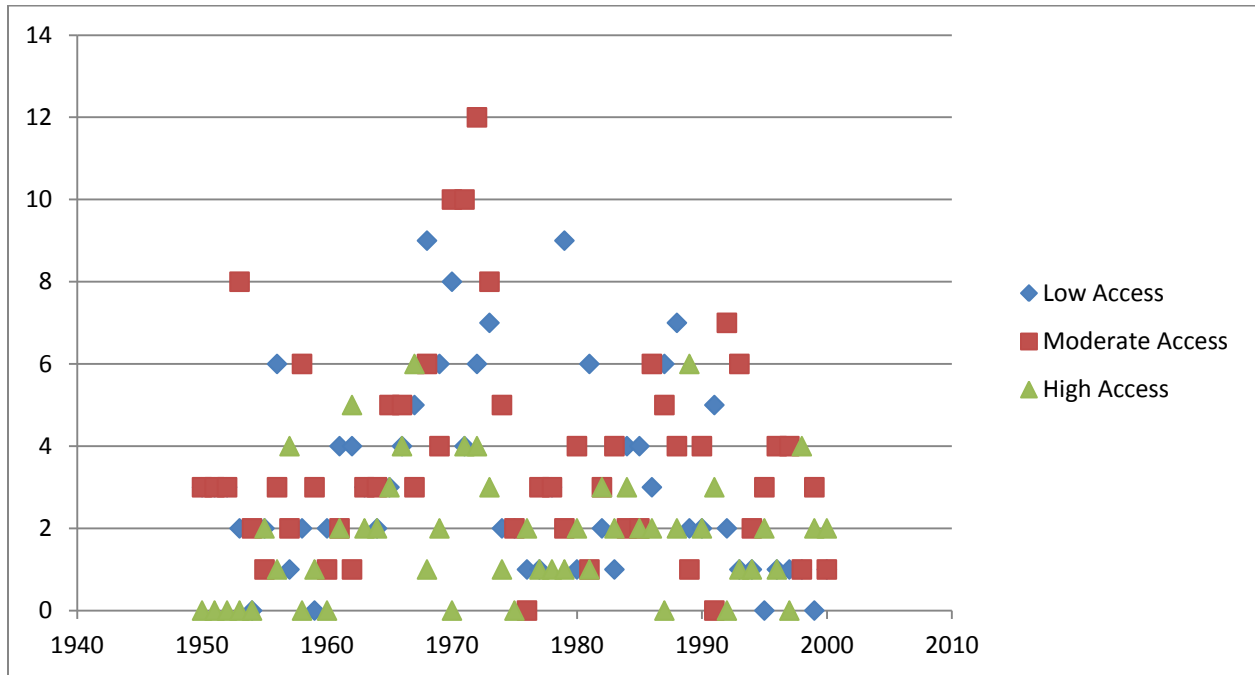


Figure 3.31. Number of States Granting ICRC Low, Moderate, and High Access Across Time, 1950 - 2000, Line

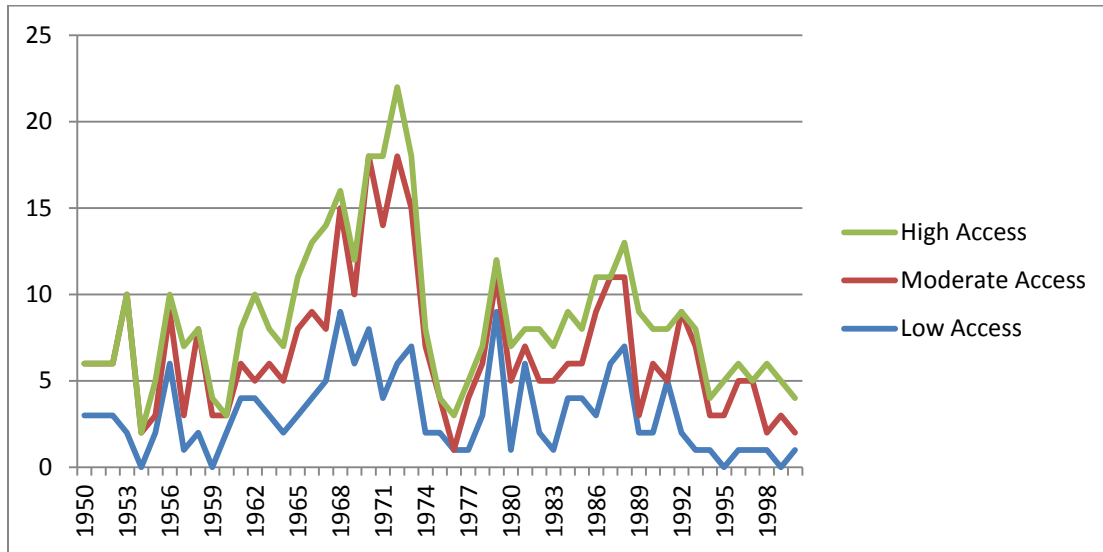


Table 4.1. Possible ICRC Strategic Considerations

Organization’s Beliefs about the Empirical World	Organization’s Primary Audience/Concern
Naming and Shaming Works	Individual States being Monitored (Avoid breaking its confidentiality policy)
Naming and Shaming Does Not Work	International humanitarian community (Avoid appearing to be captured by states)

Table 4.2. Implications of ICRC Strategic Considerations for “Going Public”

Decisions

	N & S is Efficacious	N & S Doesn’t Work
Humanitarian Community as Audience (Don’t Appear to be Captured)	Bandwagon. Go public when other organizations do.	Bandwagon. Go public when other organizations do.
Individual States as Audience (Avoid breaking policy)	Last Resort. Go public when other organizations do not	Stay quiet!

Table 4.3a. ICRC News Releases, 1995 - 1999

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Conflict	Year	Going Public Severity	Perp Identified	Asymmetrical Criticism ?	Target is State?	Headline	Notes	I.D.	Topic
Afghanistan	1995	2	0	1	NSA	Afghanistan: Indiscriminate bombing of civilians	"No apparent military objective"	47	V
Afghanistan	1995	2	0	0	NSA	Afghanistan: escalation of indiscriminate shelling in Kabul	Appeals made to the belligerents ; artillery fire on city increased	95/5	V
Afghanistan	1996	2	1	1	NSA	Afghanistan: Kabul under fire	Taliban militia blamed; violation of ihl claimed	96/26	V
Afghanistan	1997	1	1	0	Northern Coalition; Taliban	Afghanistan: ICRC deeply concerned about failure to respect basic humanitarian principles	Concern for civilians; not granted access to detainees (but the actor denying access not named)	97/23	V; A
Afghanistan	1997	3	0	0	All warring parties	Afghanistan: ICRC calls on all parties to protect civilians		97/27	V
Afghanistan	1998	2	0	0	No party identified	Afghanistan - ICRC regrets NGO's departure from Kabul	Hopes for a compromise enabling ngos to return	98/30	A
Armenia-Azerbaijan	1997	2	1	1	Nagorny-Karabakh authorities	Nagorny-Karabakh conflict:10 detainees released under the ICRC auspices	N-K authorities have not followed up on their part of the	97/09	V

							agreement		
Bosnia-Herzegovina	1995	3	1	1	Bosnian serb forces	Bosnia-Herzegovina: ICRC action in enclaves crisis	Not granted access to detainees held by bosnia serb forces since srebrenica	95/30	A
Bosnia-Herzegovina	1996	1	1	1	NSA - ABIH	Bosnia-Herzegovina: release of prisoners, ICRC plan of action not yet signed by one of the three former warring parties		96/2	A
Bosnia Herzegovina	1995	2	0	1	Unclear - NSA	Sarajevo market shelled again		95/42	V
Bosnia-Herzegovina	1995	1	0	1	NSA	Bosnia-Herzegovina: ICRC strongly condemns shelling of civilians in Tuzla	Army of Republika Srpska later claimed responsibility	95/18	V
Bosnia-Herzegovina	1995	1	1	1	State	Bosnia-Herzegovina: ICRC denounces population displacements	Identifies responsibility of Serb authority	95/31	V
Bosnia-Herzegovina	1996	2	0	0	States and non-state actors	Bosnia-Herzegovina: and for prisoners still detained		96/05	Hum
Burundi	1995	2	0	0	Unclear	Burundi: more civilian victims of violence	Concerned by civilians victimized	95/32	V
Burundi	1996	2	0	1	Unclear - NSA	Three ICRC delegates killed in Burundi		96/20	HN
Chechnya	1996	1	0	1	NSA	ICRC in shock: six delegates assassinated in Chechnya	ICRC withdraws from region in response	96/38	HN

Chechnya	1996	3	0	0	State and opposition	Russian Federation / Northern Caucasus : ICRC appeals to the warring parties in Chechnya		96/23	V
Colombia	1997	2	0	0	Unclear; NSA	Colombia: emergency aid in Yondo-Antioquia area	Civilian consequences of the internal conflict	97/02	Hum
Colombia	1999	2	1	1	ELN hostages	Colombia : ICRC forwards Red Cross messages for Avianca hostages		99/22	Hum
Democratic Republic of Congo	1998	1	0	1	Non state most likely	ICRC denounces killing of employee in Kinshasa		98/02	HN
Democratic Republic of Congo; Sri Lanka	1998	1	0	1	"Armed criminal elements"	The ICRC condemns and deplors two serious security incidents		98/02	V
Democratic Republic of the Congo	1998	3	0	0	No party identified	Democratic Republic of the Congo: ICRC appeals for compliance with humanitarian rules	Some violations implied by enumerating prohibited acts		V
Democratic Republic of the Congo	1998	3	0	0	All parties concerned	Democratic Republic of the Congo: ICRC appeals for compliance with humanitarian rules		98/32	V
East Timor	1999	3	0	0	Insurgents	East Timor: ICRC deeply concerned about plight of civilians	Red cross headquarters attacked; delegated exited	99/50	V; HN
East Timor	1999	3	0	0	No party identified	East Timor: ICRC urges respect for civilians and aid workers		99/47	V; HN
Ecuador/Peru	1995	3	1	0	States	Ecuador/Peru: ICRC calls for		95/21	V

						compliance with Geneva conventions			
Eritrea/ Ethiopia	1999	3	0	0	States	Eritrea/Ethiopia: ICRC urges respect for humanitarian rules		99/11	V
Eritrea/ Ethiopia	1999	1	1	1	State	Eritrea/Ethiopia: ICRC deplors public use of its information	Eritrea misusing ICRC info	99/12	HN
Former Yugoslavia	1995	2	1	1	State	Bosnian Serbs evacuate members of croat and muslim minorities	Explicit use of language of violation	95/40	V
Former Yugoslavia	1995	3	1	0	State and opposition	Former Yugoslavia: simultaneous release of prisoners: ICRC insists on fulfilment of agreements		4	V
Former Yugoslavia	1995	2	1	1	Bosnian Serb Army	ICRC evacuates 88 wounded from Bratunac and Potocar	Requests access to all detainees	95/32	Hum; A
Former Yugoslavia	1995	3	1		Serb army; Croatian authorities	Former Yugoslavia: assistance and protection, ICRC president on mission	Concerned by large numbers of armed serb soldiers among refugees ; Concerned about civilians trapped by croatian offensive	95/32	Hum; V
Former Yugoslavia	1999	3	0	0	No party identified	Yugoslavia crisis: statement by the International Committee of the Red Cross			Hum
Indonesia	1996	2	1	1	NSA - OPM	Irian Jaya: ICRC contacts OPM	ICRC as neutral intermediary	96/8	Hum

							over OPM hostage issue		
Israel	1995	1	0	1	Perp non- state actor	ICRC condemns deliberate targeting of civilians in Jerusalem		95/41	V
Israel	1996	1	0	1	Non-state	Israel ICRC condemns killing of civilians		96/8	V
Israel	1996	1	1	1	State - Israel	ICRC condemns shelling of civilians in southern Lebanon		96/14	V
Israel/Lebanon	1996	3	0	0	No party identified	ICRC appeals for respect for civilian population in Lebanon and northern Israel	Symmetrical violation implied		V
Israel/Lebanon	1996	3	1	0	No party identified	ICRC appeals for respect for civilian population in Lebanon and northern Israel	Symmetrical violation implied		V
Kosovo	1999	3	1	0	NATO; Yugoslav authorities; KLA	The Balkan conflict and respect for International Humanitarian Law	Civilian deaths from NATO strikes up; lack of access to u.s troops held by yugoslav forces; albanians driven from their homes	99/15	V; A
Liberia	1996	3	0	0	Unclear	Liberia: work continues with Liberian Red Cross staff and volunteers	Reference to previous statement reporting violations; suggestion that hasn't improved	96/39	V
Liberia	1996	2	0	0	Unclear	Liberia: ICRC compelled to withdraw Monrovia delegation	Statement that anarchy prevails;	96/31	A

							no actor in charge		
Morocco/ Western Sahara	1998	2	1	1	NSA (Polisario Front)	Morocco/Western Sahara: ICRC visits Moroccan prisoners held by Polisario front	Concerned about long duration of captivity (15 yrs)	98/50	V
Peru	1998	2	1	1	NST - MRTA	The Lima hostage crisis: some comments on the ICRC's role as a "neutral intermediary"	Opposition group takes civilians hostage	IRCR No. 323	V; Hum
Republic of Congo	1997	3	0	0	State-rebel dyad	Republic of Congo: ICRC urges respect for humanitarian rules	Some violations implied by enumerating prohibited acts	97/18	V
Russia/ Chechnya	1995	3	0	0	Unclear	Chechnya: concern for the civilian population in the south		95/22	V
Russia/ Chechnya	1996	2	1	1	State - Russia	Russian Federation/Chechnya: ICRC calls on federal authorities to extend ultimatum		96/27	V
Russia/ Chechnya	1996	1	1	0	Both Russian forces and the opposition	Northern Caucasus: "Enough is enough !"	Russia won't grant access to civilians; neither side giving access to detainees	96/10	A
Russia/North Caucasus (Chechnya)	1999	3	0	0	All parties involved	Russian Federation/Northern Caucasus: ICRC urges respect for civilians		99/58	V
Rwanda	1995	3	0	1	"authorities concerned" Rwandan	Rwanda : ICRC warns about possible human disaster in southern camps		95/11	V

					patriotic army id-ed.				
Sierra Leone	1995	2	1	0	RUF; gov't also named in regard to gov't held towns cut off from resources	Sierra Leone: serious malnutrition in the rebel regions	The need to allow in	95/43	Hum; A
Sierra Leone	1998	3	1	1	Non-state rebels	Sierra Leone: ICRC calls on former junta and allied rebel forces to respect civilians	Identifies violations of ihl	98/22	V
Sierra Leone	1998	3	1	0	Junta in power and ECOMOG forces	Sierra Leone: ICRC urges respect for civilians		98/06	V
Sierra Leone	1999	1	0	0	All warring parties	Sierra Leone: Grave concern about civilians in Freetown	Misuse of redcross emblem - red cross vehicles stolen	99/01	V; HN
Sierra Leone	1999	2	1	1	Sierra Leone gov't	Sierra Leone: ICRC pulls out of Freetown	Gov't requested ICRC to withdraw	99/02	A
Somalia	1998	1	0	1	NSA	Somalia: ICRC and International Federation extremely concerned by the plight of abducted staff	Concerned by public spectacle, subjecting hostages to public curiosity	98/16	V; HN
Somalia	1998	2	0	1	NSA	Somalia: Red Cross/Red Crescent hostage crisis enters second week		98/16	V; HN
Sri Lanka	1995	2	1	1	Sri Lankan gov't	Sri Lanka: displaced civilians killed in air strike	Civilians killed in offensive against	95/32	V

							LTTE		
Sri Lanka	1995	2	0	0	LTTE ops identified, but discussion general	Sri Lanka: increase in military activity and humanitarian needs		95/27	Hum
Sri Lanka	1996	1	0	1	NSA	ICRC condemns bomb attack in Colombo		96/5	V
Sri Lanka	1998	1	0	1	NSA	ICRC condemns bomb attack in Kandy	LTTE later claimed responsibility	98/04	V
Tajikistan	1996	3	1	0	Gov't And Opp	Tajikistan: suffering ignored	Cease-fire Dead letter	96/34	V
Tajikistan	1997	2	1	1	Non state actor Local commander	Two ICRC workers taken hostage in Tajikistan		97/02	HN
Tajikistan	1998	1	0	1	NSA	ICRC shocked by murder of four UN staff members in Tajikistan		98/29	HN
Turkey/Northern Iraq	1995	3	1	1	1	ICRC calls for compliance with international law in Turkey and Northern Iraq	Critical of Turkey; 4th GC	1797	V
Zaire/Rwanda/Burundi	1995	1	1	1	Zaire army	Zaire / Rwanda / Burundi: ICRC voices acute anxiety		95/34	V

Table 4.3b. ICRC News Releases, 2000 - 2005

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Conflict	Year	Going Public Severity	Perp Identified	Asymmetrical Criticism?	Target is State?	Headline	Notes	I.D.	
Afghanistan	2001	3	0	0	All warring parties	Afghanistan: ICRC calls on all parties to comply with international humanitarian law	Mention of public statements made by leaders (not identified) that no quarter would be taken.	01/58	V
Afghanistan	2001	3	0	0	All warring parties	Developing situation in Afghanistan: ICRC meets urgent needs	Concerned about reports of summary executions of prisoners	01/54	V
Afghanistan	2001	3	0	0	Warring parties	Afghanistan: Preparing to help the most vulnerable through the winter	Concerned about lack of access to rural areas	01/44	A
Afghanistan	2001	3	0	0	All warring parties - both states (U.S.-led coalition) and non-state	Afghanistan: ICRC calls on all parties to conflict to respect international humanitarian law		01/47	V

					actors				
Afghanistan	2001	3	0	0	No actor identified	Afghanistan: Concern about growing mine threat		01/39	V
Afghanistan	2001	2	1	0	State identified but also non-state actor	Bombing and occupation of ICRC facilities in Afghanistan	U.S. criticized for dropping bomb on ICRC building (for second time) after having been notified of ICRC location. Armed men also looted another office.	01/48	V; HN
Afghanistan	2002	2	0	0	State and non-state actor	Afghan Conflict - Budget Extension Appeal - 6 May 2002	Fragmented authority makes difficult to know who is responsible for civilians; in areas where Coalition forces are active impossible to monitor condition of civilians	30-05-2002	A
Afghanistan	2003	1	0	0	No actor identified	Red Cross / Red Crescent deplores killing of aid workers in Afghanistan		03/57	HN
Algeria	2002	2	0	0	State	Algeria: Sixth series of	Wants to "step up discussions" to help	02/18	A

						detainee visits	ensure that detainees are protected "from the moment of arrest"		
Algeria	2002	2	1	0	State	Algeria: Seventh series of ICRC visits to detainees	Just statement of access to detainees. No criticism made.	02/47	A
Bolivia	2003	2	0	0	All warring parties	Bolivia: ICRC response	Generic plea for restraint	03/69	V
Bosnia Herzegovina	2005	2	1	1	Bosnian Serb army	Bosnia-Herzegovina: Ten years after fall of Srebrenica, families of missing persons continue to suffer	Bemoans lack of knowledge about fate of missing; condemns Srebrenica massacre	05/60	V
Burundi	2002	2	0	0	No actor identified	Burundi: tragic death of an ICRC staff member	"Uncontrolled availability of light weaponry" identified as causal factor	02/59	HN
Burundi	2003	2	0	0	Gov't and opposition groups	Burundi: Assistance for war-wounded in Bujumbura	Generic reminders about IHL	03/52	V
Burundi	2004	2	0	1	No actor	Gatumba refugee camp	Condemns attack on	04/96	V

					identified		refugee camp		
Central African Republic	2003	2	0	0	State parties agreed	Central African Republic: ICRC evacuates 25 religious personnel	Evacuated from Central African Republic to Chad	3/04	Hum
Colombia	2000	1	1	0	Two insurgent organizations	Colombia: ICRC condemns grave breaches of international humanitarian law, suspends medical evacuations of wounded combatants	IDs two insurgent organizations that killed wounded being evacuated by ICRC (with advance notice); ICRC suspending evacuations.	00/37	V
Colombia	2002	2	0	0	State and insurgents	Colombia: Monitoring the situation	Reminding of IHL obs given breakdown of negotiations bw Colombia and FARC	02/09	V
Colombia	2002	2	0	0	All parties	Colombia : Aid for people affected by fighting in the river Truandó area		02/43	Hum
Colombia	2002	2	0	0	State and insurgents	Colombia: September 2002	Mention of 504 allegations of ihl reported to icrc; 365	19-09-2002	V

							cases followed up		
Cote d'Ivoire	2002	3	0	0	All parties to conflict	Côte d'Ivoire: ICRC appeals for humanitarian principles to be respected		22-09-2002	V
Cote d'Ivoire	2002	2	0	0	All belligerents	Côte d'Ivoire: ICRC concerned by growing number of civilian casualties		19-12-2002	V
Cote d'Ivoire	2002	2	0	1	Some implicit criticism of rebel access	Côte d'Ivoire: Assistance for victims of insurrection	Negotiating security guarantees to enter towns held by rebels	02/39	A
Cote d'Ivoire	2002	3	0	0	All arms bearers	Côte d'Ivoire: ICRC urges respect for humanitarian law	Reminder about prohibition of summary executions without a trial	02/49	V
Cote d'Ivoire	2002	3	0	0	Warring parties	Côte d'Ivoire: ICRC reiterates its appeal	Mentions allegations of summary executions after mass graves found	02/77	V
Cote d'Ivoire	2004	3	0	0	No actor	Côte d'Ivoire: ICRC calls on armed forces to respect		04/60	V

					identified	international humanitarian law			
Cote d'Ivoire	2004	2	0	0	No party identified	Côte d'Ivoire: Public utilities disrupted	Humanitarian consequences of disruption in water and electricity	04/13 6	Hum; V
Cote D'Ivoire	2004	2	0	0	State	Côte d'Ivoire: Distribution of emergency aid	Authorities responsible for security of displaced persons	04/13 9	Hum; V
Cote d'Ivoire	2004	2	0	0	No actor identified	Côte d'Ivoire: action to help victims of the demonstrations	Very concerned by indiscriminate nature of violence	04/45	V
Cote d'Ivoire	2004	2	1	1	NSA	Côte d'Ivoire: What the Red Cross is doing	Identification of two rebel groups that impeded its work	04/13 3	Hum; A
Democratic Republic of the Congo (Uganda vs. Rwanda)	2000	3	0	0	States	Democratic Republic of the Congo: Fighting in Kisangani - ICRC urges respect for civilians		00/19	V

Democratic Republic of the Congo	2001	2	0	1	Unidentified assailants	Six ICRC staff killed in Democratic Republic of Congo		01/14	HN
Democratic Republic of the Congo	2002	2	0	0	All weapons' bearers	Democratic Republic of the Congo: Urgent medical aid in Uvira	Reminders about IHL	17-10-2002	Hum
Democratic Republic of the Congo	2003	2	0	0	No actors identified	Democratic Republic of the Congo: two Red Cross volunteers killed in Bunia	Second time in the region; 6 dead in 2001.	03/31	HN
Eritrea/ Ethiopia	2000	3	0	0	States	Eritrea/Ethiopia: ICRC urges respect for humanitarian law		00/14	V
Ethiopia	2002	2	0	0	States	Ethiopia: Release of last prisoners of war and civilian internees visited by the ICRC in connection with the conflict between Ethiopia and Eritrea	Last detainees released by Ethiopia	02/72	Hum

Former Yugoslavia	2001	2	0	0	No actor named	Former Yugoslav Republic of Macedonia: ICRC continues to help conflict victims	Concerned about isolated civilians, esp isolated elderly ethnic Macedonians	01/33	Hum
Former Yugoslavia	2001	2	0	0	No actor identified	Former Yugoslav Republic of Macedonia: ICRC brings food to civilians in Lipkovo	Concerned about villages cut-off from supplies	01/39	Hum; A
Georgia/ Ossetia	2004	1	0	0	NSA	ICRC appeals for immediate release of hostages in North Ossetia	"is well acquainted with the suffering of the population there" but the taking of hostages, esp. children, is never justified.	04/49	V
Georgia/South Ossetia	2004	3	0	0	Warring parties	ICRC calls for respect for international humanitarian law in Georgia-South Ossetia conflict zone	IHL reminders	04/47	V
Haiti	2004	2	0	0	No actors id-ed	Haiti: Situation alarming	Concerned by armed men breaking into hospitals	04/14	V

Haiti	2005	2	0	0	Unidentified	ICRC staff member abducted and found dead in Haiti		05/37	HN
India-Pakistan	2000	1	0	0	States; All weapons bearers	ICRC deplores civilian deaths in Jammu and Kashmir		00/28	V
Indonesia	2000	1	0	0	Unclear	Indonesia: ICRC deeply shocked by killings of UNHCR staff in West Timor	In response ICRC withdrew from East Timor.	00/33	HN
Indonesia	2002	2	0	1	Unidentified actor	Indonesia: Red Cross response to Bali bombing	Condemns act of terrorism	02/42	V
Indonesia	2005	2	0	0	No party identified	Indonesia Bulletin No. 7 - 26 May 2005	Mention of prison visits taking place acc to icrc conditions	26-05-2005	Hum; A (+)
Iraq	2000	2	0	0	No party identified	Update 01 on ICRC activities in Iraq	Critical of humanitarian consequences of embargo	12-04-2000	Hum

Iraq	2003	2	0	0	All warring parties	Iraq: Water supply partly re-established in Basra	Parties involved granted security assurances to permit icrc to work	03/21	Hum; A (+)
Iraq	2003	1	1	0	Coalition forces and opposition	Iraq: ICRC calls urgently for protection of the civilian population and services and of persons no longer fighting	Critical of the Coalition Forces for not adequately controlling occupied territory; critical of opposition for not granting access to detainees	03/28	V; A
Iraq	2003	1	0	1	Unidentified actor	Iraq: ICRC condemns attack		03/58	V
Iraq	2003	2	0	0	Unidentified actor	Iraq: Two ICRC employees killed in Baghdad bomb attack	The org will be reassessing its working conditions in the region	03/71	HN
Iraq	2003	2	0	0	No actor identified	ICRC support for hospitals in Najaf	Appalled by increasing numbers of indiscriminate attacks	03/61	Hum; V
Iraq	2004	2	0	0	No actor identified	Iraq: Emergency medical aid reaches Najaf	Concern about civilians bc of heavy fighting in populated areas	04/94	Hum

Iraq	2004	2	0	0	All warring parties	Iraq: ICRC delivers emergency humanitarian aid to Samarra	Expresses concern about civilians	04/11 7	Hum
Iraq	2004	2	0	0	State and NSA	Iraq : Emergency humanitarian assistance provided to the inhabitants of Falluja	Concerned about civilians	04/12 5	Hum
Iraq	2004	3	0	0	All belligerents	Iraq: Civilians must be spared and the sick and wounded treated	Concerned by reports that wounded cannot receive adequate medical care	04/62	V
Iraq	2004	3	0	0	All warring parties	Iraq : ICRC calls for greater respect for basic tenets of humanity		04/13 8	V
Iraq	2004	2	0	0	State	Iraq: What the Geneva Conventions say about the future of persons deprived of their freedom	Clarifying ICRC's position on this. Corrects media reports - ICRC doesn't think that all Iraqi POWs should be immediately released	04/42	V
Iraq	2005	3	0	0	All warring	ICRC concerned about the		05/26	V

					parties	plight of civilians in Iraq			
Iraq	2005	2	0	1	Unidentified actor	Iraq: ICRC staff member killed		05/03	HN
Israel	2003	2	1	1	State	Gaza Strip: Group wedding celebrated under relief tents	Wedding celebrated by those who had homes destroyed <i>by</i> Israeli ops	03/13 4	Hum; V
Israel	2001	3	1	1	State	Conference of High Contracting Parties to the Fourth Geneva Convention: ICRC participation and statement	Reaffirming applicability of 4th GC to territories occupied by Israel	01/65	V
Israel	2001	2	1	1	State	Israel and the occupied/autonomous territories: The ICRC starts its "Closure Relief Programme"	Views policy of isolating whole villages as contrary to IHL 4th GC	26-02-2001	Hum; V

Israel	2002	1	1	0	Israel; palestinian actors	ICRC: Civilians must not be attacked	Critical of both sides for harming civilians	23- 07- 2002	V
Israel	2003	2	1	1	State - Israel	Israel and West Bank: ICRC extends emergency relief	Text is highly critical of Israel	03/42	Hum; V
Israel/ Palestine	2004	1	1	1	State	Gaza Strip: ICRC deeply concerned over house destructions in Rafah	Finds destruction of homes as a general security precaution to be violation of 4th GC	18- 05- 2004	V
Israel/ Lebanon	2000	3	0	0	States and NSA	Lebanon and northern Israel: ICRC appeals for civilians to be spared and respect for civilian infrastructure		00/10	V
Israel/	2000	2	1	1	State	Update 00/01 on Activities of the	Critical of Israel's role in blocking access of	00/01	V; A;

Palestine						International Red Cross and Red Crescent Movement in Israel/occupied territories/autonomous territories	the PRCS to the injured. Labels this a violation of the GC. Also mentions some vandalized Israeli ambulances (Magen David Adom)		HN
Israel/ Palestine	2000	2	0	0	All warring parties	Israel/Occupied Territories/Autonomous territories: Red Cross and Red Crescent Movement urges respect for civilians and for all medical personnel		00/37	V
Israel/ Palestine	2000	3	0	0	Non-state	Israel/Occupied Territories/Autonomous Territories: Respect for medical personnel	IDF reports of shooting from PRCS vehicle; PRCS denies. ICRC acknowledges history of cooperation w PRCS	01/11 /00	V; HN
Israel/ Palestine	2000	3	1	1	Mainly state	ICRC appeal to all involved in violence in the Near East	Highly critical of Israeli policy in occupied territory, particularly Israeli settlements, curfew, and cordoning off of areas.	00/42	V

Israel/ Palestine	2001	2	1	0	Israel	Palestine Red Crescent official killed	Also mentioned Israelis that have died while providing medical assistance	02/17	HN
Israel/ Palestine	2002	1	1	1	Israel	Movement expresses deep concern about humanitarian situation on West Bank	Movement bemoans lack of access due to nature of israeli checkpoints	12/04 /2002	A
Israel/ Palestine	2002	2	1	1	State	Israel and the occupied/autonomous territories: Living under closure	Humanitarian consequences of "closure"	02/13	Hum; V
Israel/ Palestine	2002	2	0	0	Abduction by NSA; PA role in release mentioned	Gaza Strip : Abducted ICRC delegate released	Thanks Palestinian Authority for its assistance in making this happy outcome	02/63	HN; A (+)
Israel/ Palestine	2002	3	0	0	State and NSA	Civilian life must be respected under International Humanitarian Law	Mention again of the applicability of 4th GC	04- 03- 2002	V
Israel/ Palestine	2002	3	1	1	State	Israel and the occupied and autonomous	Very critical of Israel; responsible for deaths	02/19	V; HN

Palestine						territories:ICRC appeals for protection of medical staff	of PRCS medics		
Israel/ Palestine	2002	3	1	1	NSA - PRCS	The ICRC calls for respect of the medical mission	Explosive material found in PRCS ambulance by Israeli authorities	27-03-2002	HN
Israel/ Palestine	2002	3	0	0	All parties	The ICRC urges respect for medical services	Critical of restrictions put on PRCS and ICRC by Israel	02-04-2002	HN; V; A
Israel/ Palestine	2002	1	0	0	All warring parties	ICRC condemns bomb attacks on civilians	Fairly balanced in criticism of both sides	02/29	V
Israel/ Palestine	2002	2	0	0	State and NSA	Israel and the occupied and autonomous territories: Red Crescent ambulance driver saved by bullet-proof vest	Details near-death of one ambulance driver and many other deaths. Mentions Israeli renewal of security guarantees.	02/12	HN; A (+)
Israel/ Palestine	2002	2	0	0	No actors identified	Israel, the occupied and the autonomous territories. Facts and figures on recent ICRC	Upsurge of violence resulting in increased civilian casualties	21/2002	V

						activities			
Israel/ Palestine	2002	2	0	0	Warring parties	Israel, the Occupied and Autonomous Territories: June-September 2002	Increasing civilian casualties; 55 representations made to authorities bw June and Sept. Israel placing restrictions on family visits	05-10-2002	V
Israel/ Palestine	2003	3	0	0	State and non-state	The medical mission must be respected and protected	Reiterates sanctity of medical services	06-11-2003	V; HN
Israel/ Palestine	2003	1	1	0	State and NSA	Israel and the occupied and autonomous Palestinian territories: Deliberate attacks on civilians must stop	Condemn targeted killings by israel, as well as attacks on civilians by terrorist groups ; highlights applicability of 4th GC	03/63	V
Israel/ Palestine	2003	2	1	1	State	Gaza Strip: ICRC aids hundreds of families after homes destroyed	No explicit criticism	03/12 9	Hum
Israel/ Palestine	2003	2	1	1	State	Gaza Strip: Urgent distribution of food and	Israeli operation sealed off Beit Hanoun; no explicit criticism	03/61	Hum; A

						water in Beit Hanoun			
Israel/ Palestine	2004	3	1	0	State and non-state opposition	Israel and the occupied / autonomous territories: ICRC urges respect for international humanitarian law	Stresses the applicability of the 4th gc in the occupied territories. But also makes general statements applicable to both sides.	04/11 6	V
Israel/ Palestine	2004	3	1	1	State	Gaza Strip: civilians must be respected under international humanitarian law	Critical of israeli military ops resulting in civilian deaths	19- 05- 2004	V
Israel/ Palestine	2004	1	1	1	State	Israel/Occupied and Autonomous Palestinian Territories: West Bank Barrier causes serious humanitarian and legal problems	Highly critical of West Bank barrier; argues the barrier violates IHL	04/12	V
Israel/Lebanon	2004	2	0	0	State and NSA	Israel / Lebanon: Repatriation of human remains completed	Playing intermediary role in german- brokered agreement bw Israel and	04/06	Hum

							Hezbollah		
Liberia	2003	3	0	0	Warring parties	Liberia: ICRC urges respect for international humanitarian law	Mention of bombing in capital previous day	03/44	V
Liberia	2004	3	0	0	No actor identified	Liberia: ICRC concerned about riots in Monrovia	Concern	04/12 9	Hum
Morocco/ Western Sahara	2001	2	1	1	NSA (Polisario Front)	Morocco/Western Sahara: ICRC once again visits Moroccan prisoners of Polisario Front	Objects to long duration of detainees' imprisonment (20 yrs)	01/21	V
Morocco/ Western Sahara	2002	2	1	1	NSA	Morocco / Western Sahara: ICRC visits 396 families of Moroccan prisoners held by the Polisario Front	Concerned about the length of these prisoners' detention	02/08	V
Morocco/ Western Sahara	2002	2	1	1	NSA	Morocco / Western Sahara - New visit to Moroccans held by Polisario Front	Concerned about duration of captivity, given the age of the detainees.	02/23	V

Morocco/ Western Sahara	2002	2	1	1	State and NSA	Morocco/Western Sahara: 101 Moroccan prisoners released and repatriated	Concerned about Moroccans still held.	02/38	V
Morocco/ Western Sahara	2003	2	1	1	Polisario Front; NSA	Morocco / Western Sahara: ICRC visits Moroccan prisoners in Polisario hands	Calls for immediate release of detainees held for over 20 years	03/56	V
Nepal	2002	2	0	0	No actor identified	Nepal: ICRC helps victims of conflict	Bemoans lack of access to medical facilities for civilians and the ICRC	02/16	A
Nepal	2003	3	0	0	Unidentified actor	Nepal: Red Cross emblem must be respected		03/65	HN
Nepal	2005	2	1	1	NSA - Communist Party of Nepal- Maoist	Nepal: Red Cross helps victims of bus attack, urges respect for civilians	Attack on civilian bus	05/47	V
Peru	2002	1	0	1	NSA - actor not yet identified	ICRC condemns Lima attack	Attack on civilian shopping mall	23- 03-	V

								2002	
Philippines	2005	3	0	0	All warring parties	Philippines: ICRC and Philippine National Red Cross remain concerned about plight of Sulu civilians		05/56	Hum
Philippines	2005	3	0	0	State and NSA	Philippines: ICRC urges respect for humanitarian law		05/10	V
Republic of Congo	2002	2	0	0	Armed men	Republic of the Congo: ICRC calls for swift release of two abducted staff members		02/78	HN
Republic of the Congo	2002	2	0	0	Parties concerned	Republic of the Congo: ICRC evacuates wounded and urges respect for humanitarian law	Received cooperation from police authorities so able to complete work without hindrance; special mention of protection of women in ihl.	02/35	V; A (+)
Republic of the	2002	2	0	1	NSA -	Republic of the Congo:		02/75	HN

Congo					unidentified	two ICRC staff members abducted			
Russia	2000	2	0	0	State and NSA	Russian Federation: President Putin meets ICRC President	Mentions of Russia's commitment to providing ICRC security guarantees; mention of reports of IHL violations	00/04	V; A (+)
Russia	2002	2	0	0	No actor identified	Russian Federation: After a bomb blast	Providing aid after an attack on marketplace	02/18	Hum
Russia	2002	2	0	0	No actor identified	Abduction of NGO representatives in northern Caucasus		02/43	HN
Russia	2002	2	0	0	Hostage-taking done by NSA	Russian Federation: ICRC staff evacuate eight children from Moscow theatre	Clarifying that despite reports it is not involved in negotiations between gov't and rebels.	02/61	Hum
Russia	2002	2	0	1	Actor not identified	Russian Federation: ICRC provides humanitarian aid for Moscow hostages	Condemns taking of hostages	02/60	Hum; V

Russia	2002	1	0	1	Unidentified actor	Russian Federation / Chechnya: ICRC condemns killing of civilians, helps medics		02/85	V; Hum
Russia	2003	2	0	0	Cooperation from local government	Russian Federation: Ten years of ICRC presence in the Northern Caucasus	Praise of high level of support from authorities in the region	03/84	A (+)
Russia	2003	2	0	1	Unidentified actor	Russian Federation / Chechnya: ICRC provides vital assistance in the wake of bomb attack	Condemns bomb attack	03/55	V
Russia/ Chechnya	2001	2	1	1	State (Russia)	ICRC local employee wounded in Chechnya	ICRC employee with red cross emblem shot by Russian authorities; suspending work in chechnya until details are clarified	31/05 /21	HN; V
Russia/ Caucasus	2003	2	0	0	Warring parties	The North Caucasus and the south of Russia: May 2003	Condemns bomb attacks that killed civilians	31-05-2003	V

Russia/ Chechnya	2004	2	0	0	Unidentified armed individuals	Russian Federation / Chechnya: Red Cross still without news of abducted employee		02- 02- 2004	HN
Sierra Leone	2000	3	0	0	Non-state	Sierra Leone: ICRC helps displaced amid concerns over child-soldiers		00/19	Hum
Sri Lanka	2000	3	0	0	States and non-state opposition	Sri Lanka: ICRC urges both parties to respect civilians		00/13	V
Sudan	2001	2	0	0	Non state but not criticized	Sudan: release of 21 prisoners	Rebel group releases prisoners.	01/64	Hum
Sudan	2001	2	0	0	Armed groups	Sudan: ICRC resumes its flights	Resumes flights after concludes that shooting of plane was not deliberate	01/18	Hum; A
Sudan	2003	2	0	0	No party identified	Sudan: Emergency aid for people displaced by fighting in Darfur	Reminder about IHL	03/70	V

Sudan	2003	1	1	1	State	Sudan: Major step to implement humanitarian law	Praise	03/21	V (+)
Sudan	2004	2	0	0	No party identified	Sudan: ICRC and SRCS strive to deploy meaningful action in Darfur	In response to appeal of sudanese authorities to increase aid to civilian population; ICRC trying to increase presence in region	04/32	Hum
Sudan	2004	3	1	1	State	Sudan: ICRC president insists on the respect of international humanitarian law	Mention of "serious violations of IHL" occurring "under the responsibility of the government" of Sudan.	04/71	V
Sudan	2005	2	1	1	State and NSA	ICRC and Sudan agree terms of detainee releases	Gov't has signed agreement; waiting on SPLA to sign	05/8	Hum; V
Sudan	2005	2	0	0	All warring parties	Sudan: food shortages and aid dependence set to continue in Darfur	Dire economic situation the result of violations of IHL	05/28	Hum; V
U.S.	2001	1	0	1	NSA	United States: ICRC	09/11 attacks	01/30	V

						condemns attacks			
U.S. and the War on Terror	2004	2	1	1	State	The ICRC's work at Guantanamo Bay	Won't confirm or deny the leaked report; Still concerns about problems at Guantanamo that haven't been sufficiently addressed	04/70	V
U.S. in Iraq	2004	2	1	0	State	Report by the ICRC on the coalition forces' treatment of persons held in Iraq	Disturbed report was made public without ICRC consent; acknowledges serious concerns about treatment of detainees	04/35	V
U.S. War on Terror	2004	1	1	1	State	United States: ICRC president urges progress on detention-related issues	Bemoans lack of progress on indefinite detention issue in Guantanamo and elsewhere; says certain improvements in conditions not made	04/03	V
U.S. war on terror	2004	2	0	0	State	ICRC reactions to the Schlesinger Panel Report	Correcting certain misunderstandings on part of U.S. of the ICRC position on IHL	08-09-2004	V
Uganda	2005	2	0	0	No actor	Uganda: ICRC distributes aid in fire-ravaged camp	A possible pattern of fires set in refugee	05/10	V

					identified	for the displaced	camps		
Uganda	2005	2	0	0	Agreement signed with Ugandan state	Uganda: ICRC operations, resumed in 2004, set to grow in 2005	Resumed ops in 2004 after death of six ICRC staff members in 2001 caused withdrawal	14-04-2005	A (+)
Uzbekistan	2002	2	1	1	State	Uzbekistan: Joint ICRC-Red Crescent relief operation in Surkhandariya region	Reiterates Uzbek state's responsibility for meeting needs of populace	02/10	Hum
Uzbekistan	2002	2	1	1	State	Uzbekistan: ICRC encounters difficulties in visiting places of detention	Conditions of detention visits unfulfilled; visits suspended by ICRC.	02/25	A
Yugoslavia	2000	3	0	0	Serbian prisons with Kosovar Albanian detainees	Yugoslavia: ICRC responds to the crisis in detention places in Serbia	Response to mutinies in 3 serbian prisons	00/45	V
Yugoslavia	2001	2	0	0	No party identified	Yugoslavia / Kosovo: Second edition of the	Reiterates rights of families to know fate of the missing	01/15	V

						"Book of Missing Persons"			
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Table 4.4 Descriptive Statistics on Publicity Data

	Going Public Severity (1 - 3)	Perpetrator Identified (0 - 1)	Asymmetrical Criticism (0 - 1)
Mean	2.11	0.34	0.38
Standard Deviation	0.67	0.47	0.49
Median	2.00	0	0
Mode	2.00	0	0
Skewness	-0.14	0.67	0.49

Table 4.5. Civil Conflicts Receiving the Most ICRC Publicity, 1995 - 2005

Conflict	Number of News Releases
Bosnian Serb Rebellion of 1992 - 1995	4
Second Burundi War of 1993-1998	3
First Chechnya War of 1994-1996	5
Croatia-Krajina War of 1995	4
Second Sierra Leone War of 1998-2000	4
Africa's World War of 1998-2002	4 (all directed at D.R. of Congo)
Second Chechnya War of 1999 - 2003	12
First Nepal Maoist Insurgency of 2001-2003	3
Invasion of Afghanistan, 2002	8
Cote d'Ivoire Military War of 2002-2004	10
Darfur War of 2003-2006	6
Invasion of Iraq, 2003	14
Israeli-Palestinian conflict	36

Table 4.6a. Wars Receiving No ICRC News Releases, 1995 - 2005

Kargil War of 1999
Algerian Islamic Front War of 1992-1999
Second Liberia War of 1992 - 1995
Second Cambodian Civil War of 1993-1997
Iraqi Kurd Internecine of 1994-1995
Sixth Iraqi Kurds War of 1996
Fifth DRC War of 1996-1997
Third Rwanda War of 1997-1998
Guinea-Bissau Military War of 1998-1999
Fourth Chad (Togoimi Revolt) War of 1998 - 2000
Third Angolan War of 1998 - 2002
Second Congo (Brazaaville) War of 1998 - 1999
First Nigeria Christian-Muslim War of 1999-2000
The Oromo Liberation War of 1999 (Ethiopia)
Second Philippine-Moro War of 2000 - 2001
Third Aceh War of 2003-2004
Waziristan War of 2004-2006 (Pakistan)
Second Nigeria Christian-Muslim War of 2004
First Yemeni Cleric War of 2004-2005
Fifth Chad War of 2005-2006

Table 4.6b. Low-Intensity Civil Wars Lacking ICRC Publicity, 1995 - 2005

Bangladesh	Chittagong Hills	1975 - 1997
Burma	Karens/KNU	1948 - ongoing
Burma	Shan/SSA	1959 - ongoing
Central African Republic	Military factions	1996 - 1997
China	Xinjiang	1991 - ongoing
Egypt	al-Gamaa al-Islamiyya	1993 - 1998
Guatemala	URNG	1966 - 1995
Mali	Tuaregs	1990 - 1995
Pakistan	MQM	1990 - 1996
Papa New Guinea	BRA	1989 - 1998
Senegal	Casamance/MFDC	1990 - 2003
United Kingdom	PIRA	1970 - 1999

Table 4. 7. News Releases Issued in Interstate Wars, 1995 - 2005

War	Combatants	Number of News Releases
Cenepa Valley War of 1995	Ecuador, Peru	1
Badme Border War of 1998-2000	Eritrea, Ethiopia	2
War for Kosovo of 1999	Serbia, NATO	2
Kargil War of 1999	India, Pakistan	0
Invasion of Afghanistan of 2001	Afghanistan, United States	8
Invasion of Iraq of 2003	Iraq, United States and Allies	14

Table 4.8. ICRC News Releases by Topic, 1995 - 2005

Topic	Number of Releases, 1995 - 1999	Number of Releases, 2000 - 2005
Access	10	23
Violation	46	86
Humanitarian Neutrality	11	24
Humanitarian Assistance	10	36

Table 4.9. State Access and ICRC Publicity Decisions

	Low access		High access	
Low publicity	Second Turkish Kurds War		Second Liberia	
	Algerian Civil War		Sixth Iraqi Kurds	
	First Congo Brazaaville		Fifth DRC War	
	Tajikistan Civil War		Third Rwanda War	
			Kosovo Independence	
			Guinea Bissau Military War	
			Second Philippine Moro War	
			Fourth Rwanda	
			Third Aceh War	
			Fifth Chad War	
High publicity				
	First Chechnya War		Croatia-Krajina War	
			Third Liberia War	
			Second Sierra Leone War	
			Africa's World War	
			Third Burundi War	
			Cote D'Ivoire Military War	

Table 4.10. Access and Publicity Patterns in Recurring Wars

War	Access Level	Publicity Level	Publicity Pattern
First Sierra Leone	Mixed	Low	↗
Second Sierra Leone	High	High	
Second Liberia	High	Low	↗
Third Liberia	High	Medium-High	
Fourth Liberia	Medium-High	High	
Second Burundi	High	High	→
Third Burundi	High	High	
Third Rwanda	High	Low	→
Fourth Rwanda	High	Low	
First Nepal Maoist	Mixed	High	→
Second Nepal Maoist	Mixed	High	
Second Aceh War	Mixed	Low	→
Third Aceh War	Mixed	Low	
First Congo Brazaaville	Low	Low	→
Second Congo Brazaaville	Mixed	Low	
Fourth Chad	Mixed	Low	→
Fifth Chad	Low	Low	

Table 4. 11. Access and Publicity Data with Number of Battle Deaths

	Low access		High access	Avg
Low publicity	Second Turkish Kurds War Turkey: 3,500 Kurds: 13, 300 Total: 16,800		Second Liberia War (.)	Low publicity Average: 5,785.46
	Algerian Civil War: 15, 016		Sixth Iraqi Kurds Combatant deaths: 2,500	
	First Congo Brazaaville Total Combatant: 4,000		Fifth DRC War: 4,000	
	Tajikistan Civil War: 20,000		Third Rwanda War 3,300	
			Kosovo Independence KLA: 800 Yugoslavia: 400 Total: 1,200	
			Guinea Bissau: Military War 2,000	
			Second Philippine Moro War: 2,700	
			Fourth Rwanda: 1,045	
			Third Aceh War GAM: 1,400 Indonesia: 150 Total: 1,550	
			Fifth Chad War FUDC: 1,000 Chad: 100 Total: 1,100	
	Cell Average: 13,954		Cell Average: 2,155	
High publicity				
	First Chechnya War Chechnya: 6,000 Russia: 4,000 Total : 10,000		Croatia-Krajina War: 858	High Publicity Average: 4,527
			Third Liberia War	

			3000	
			Second Sierra Leone War 3568	
			Africa's World War 7036	
			Cote D'Ivoire Military War Rebels: 2500 Cote d'ivoire: 200 Total: 2700	
	Cell Avg: 10,000		Cell Avg: 3,432.40	
Average:	Low Access Average: 13,163.2		High Access Average: 2,611.21	

Table 4.12 Access and Publicity Data with Democracy Score

	Low access		High access	
Low publicity	Second Turkish Kurds War : 7.78		Second Liberia War: -77, polity2 = 0	Low publicity Avg: -1.87
	Algerian Civil War: -4.5		Sixth Iraqi Kurds: -9	
	First Congo Brazaaville : -6		Fifth DRC War: -77; polity2= 0	
	Tajikistan Civil War : -5.83		Third Rwanda War: -6	
			Kosovo Independence: -6	
			Guinea Bissau Military War: -77, -88; polity 2 =1.5,	
			Second Philippine Moro War: 8	
			Fourth Rwanda: -4	
			Third Aceh War: 7	
			Fifth Chad War: -2	
	Cell Avg: -2.14		Cell avg excl standardized codings: -1.71	
			-77 scores: 3	
			-88 scores: 1	
	Range -7:9		Range: -9:8	
High publicity				
	First Chechnya War: 3		Croatia-Krajina War: -5	High publicity Avg = -.11
			Third Liberia War: -88; polity2=0	
			Second Sierra Leone War -77; polity2 = 0	
			Africa's World War -77, polity2=0	
			Third Burundi War: -88; polity2 = 1.67	
			Cote D'Ivoire Military War: -77, polity2=0	

	Cell Avg: 3		Cell Avg: -1.67	
			-77 scores: 3	
			-88 scores: 2	

Table 4.13. Access and Publicity Data, with Compliance Information

	Low access		High access	
Low publicity	Second Turkish Kurds War: .8 <i>Restrained Coercion</i>		Second Liberia : .	Low publicity average: 1.29
	Algerian Civil War: 1.4 <i>High Coercion</i>		Sixth Iraqi Kurds : 0	
	First Congo Brazaaville: 1 <i>Cleansing</i>		Fifth DRC War: .	
	Tajikistan Civil War: 0		Third Rwanda War: 1	
			Kosovo Independence : .	
			Guinea Bissau Military War: 3	
			Second Philippine Moro War: 1	
			Fourth Rwanda : 3	
			Third Aceh War: 1 Restrained Coercion (Improvements, but abuse continues)	
			Fifth Chad War: 2 Cleansing	
	Cell Average: .8		Cell Average: 1.58	
High publicity				
	First Chechnya War: 2 <i>Coercion</i>		Croatia-Krajina War: 2 <i>Cleansing</i>	High publicity Average: 1.28
			Third Liberia War: 0	
	Cell Average: 2		Second Sierra Leone War: . <i>Restrained coercion</i>	
			Africa's World War: 1 (. from 1998 - 2000)	
			Third Burundi War: .33	

			Cote D'Ivoire Military War: 2.33	
			Cell Average: 1.13	
	Low Access Average: 1.04		High Access Average: 1.39	

Table 4.14. Access and Publicity Data, with Level of Rebel Access

	Low access		High access	
Low publicity	Second Turkish Kurds War (Mixed - partial, null, full)		Second Liberia War (Full)	Low publicity percentage None: 50%
	Algerian Civil War (None)		Sixth Iraqi Kurds (Full)	Low publicity percentage partial: 7.14%
	First Congo Brazaaville (None)		Fifth DRC War (Mixed: Missing, Full)	Low publicity percentage mixed, sometimes full: 21.43%
	Tajikistan Civil War (Partial)		Third Rwanda War (None)	Low publicity percentage full: 21.43%
			Kosovo Independence (Mixed: Full, Missing)	
			Guinea Bissau Military War (Full)	
			Second Philippine Moro War (None)	
			Fourth Rwanda (None)	
			Third Aceh War (None)	
			Fifth Chad War (None)	
	Cell Percentage None: 50%		Cell Percentage None: 50%	
	Cell Percentage Partial: 25%		Cell Percentage Partial: 0%	
	Cell Percentage Mixed, Sometimes Full: 25%		Cell Percentage Mixed, Sometimes Full: 20%	
			Cell Percentage Full: 30%	
High publicity				
	First Chechnya War (Mixed: Full, partial)		Croatia-Krajina War (Full)	High publicity percentage

				None: 42.86%
			Third Liberia War (Full)	High publicity percentage partial: 0%
			Second Sierra Leone War (None)	High publicity percentage mixed, sometimes full: 14.29%
			Africa's World War (Full)	High publicity percentage full: 42.86 %
			Third Burundi War = (None)	
			Cote D'Ivoire Military War = (None)	
	Cell Percentage None: 0%		Cell Percentage None: 50%	
	Cell Percentage Partial: 0%		Cell Percentage Partial: 0%	
	Cell Percentage Mixed, Sometimes Full: 100%		Cell Percentage Mixed, Sometimes Full: 0%	
			Cell Percentage Full: 50 %	
	Low access percentage None: 40%		High access percentage None: 50%	
	Low access percentage partial: 20%		High access percentage partial: 0%	
	Low access percentage mixed, sometimes full: 40%		High access percentage mixed, sometimes full: 12.5%	
	Low access percentage full: 0%		High access percentage full: 37.5%	

Table 4.15. Access and Publicity Data, with Cultural Variable (Salience of Politicized Islam)

	Low access		High access	
Low publicity	Second Turkish Kurds War (Muslim majority, non-Muslim separatists)		Second Liberia War.	Percentage of Low Publicity Conflicts Meeting Criteria: 57%
	Algerian Civil War (Muslim majority, Islamist opposition)		Sixth Iraqi Kurds (Muslim majority country; some role for politicized Islam in conflict, but not primary.	
	First Congo Brazaaville		Fifth DRC War	
	Tajikistan Civil War (Muslim majority; Islamist opposition)		Third Rwanda War	
			Kosovo Independence (Separatists are Muslim majority, though politicized Islam didn't play large role in conflict)	
			Guinea Bissau Military War (Large Muslim community, but not majority; Islam doesn't play role in war)	
			Second Philippine Moro War (Radical Islamist opposition)	
			Fourth Rwanda	
			Third Aceh War (Muslim Majority Country, Some Role of Disputes over Interpretations of Islam in Aceh	

			separatism)	
			Fifth Chad War (Muslim majority country, Politicized islam not central to conflict. Connected to situation in Sudan.)	
	Cell Percentage: 75%		Cell Percentage: 50%	
High publicity				
	First Chechnya War (Islamist opposition)		Croatia-Krajina War (Politicized Islam not Salient)	Percentage of High Publicity Conflicts Meeting Criteria: 33%
			Third Liberia War (Politicized Islam not Salient)	
			Second Sierra Leone War (Muslim majority country; Islam not salient in conflict)	
			Africa's World War (Politicized Islam not salient)	
			Cote D'Ivoire Military War: (Politicized Islam not salient)	
	Cell Percentage: 100%		Cell Percentage: 20%	
	Percentage of Low Access Conflicts Meeting Criteria: 80%		Percentage of High Access Conflicts Meeting Criteria: 40%	

Table 4.16 Summary of Hypotheses and Results

Variable	Direction Predicted	Results
H1 Pro-State Bias	Publicity more often against non-state actors	Tentative support
H2 Major Funder Bias	Publicity less frequent against major donors	No support
H3 Democratic States with history of access	Publicity more common against such states	Support; Evidence for the Combination of these two Factors
H4 Lack of access vs. Violation	Publicity more likely about lack of access than about violation	No support; Evidence in tentative support of opposite pattern.
H5 Duration of Access	Increases publicity	Tentative support
H6 Bandwagoning when International Audiences Key	Increases publicity	Not tested; Perhaps illustrated in Israel example
H7 Political Islam	Publicity less likely in such conflicts	Tentative support
H8 Muslim-majority states	Publicity less likely against such states	Tentative support

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Appendix A. Robustness Checks on Statistical Regressions

I. Robustness Checks, Full Version Data

A. Including Lagged Version of Dependent Variable

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-----
Generalized Ordered Logit Estimates      Number of obs = 213
                                         Wald chi2(22) = 8499.07
                                         Prob > chi2   = 0.0000
Log pseudolikelihood = -166.86792      Pseudo R2    = 0.2591
-----

```

	Robust					
Access Measure	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]	
-----+-----						
mleq1						
Lagged Access Measure	-.1642486	.3024195	-0.54	0.587	-.7569799	.4284826
Battle Deaths Annual	-2.63e-06	1.74e-06	-1.51	0.130	-6.04e-06	7.75e-07
Battle Deaths Monadic	-2.86e-06	1.04e-06	-2.75	0.006	-4.89e-06	-8.24e-07
Polity Score	.1682712	.0786132	2.14	0.032	.0141921	.3223503
Durability	.0219003	.0103037	2.13	0.034	.0017054	.0420952
Auto Regime Change	-12.80389	.7559154	-16.94	0.000	-14.28546	-11.32232
Presidential	17.04919	1.051798	16.21	0.000	14.98771	19.11068
Parliamentary	-39.56466	1.383953	-28.59	0.000	-42.27716	-36.85216
Mixed Regime	16.60581	.8071376	20.57	0.000	15.02385	18.18778
Royal Dictator	18.39278	.7778544	23.65	0.000	16.86822	19.91735
Military Dictator	-.0966064	.4792705	-0.20	0.840	-1.035959	.8427466
Enemy Access	.8802396	.309786	2.84	0.004	.2730702	1.487409

Capability Symmetry		1.672635	.6830165	2.45	0.014	.3339468	3.011322
Polity-Parl Interact		6.138386	.2247754	27.31	0.000	5.697834	6.578938
Polity-B. Deaths Interact		-3.29e-07	2.34e-07	-1.40	0.160	-7.88e-07	1.30e-07
Constant		.3479307	.4577552	0.76	0.447	-.549253	1.245114

-----+-----

mleq2							
Lagged Access Measure		.5327376	.3250823	1.64	0.101	-.104412	1.169887
Battle Deaths Annual		-2.63e-06	1.74e-06	-1.51	0.130	-6.04e-06	7.75e-07
Battle Deaths Monadic		-2.86e-06	1.04e-06	-2.75	0.006	-4.89e-06	-8.24e-07
Polity Score		.1682712	.0786132	2.14	0.032	.0141921	.3223503
Durability		.0219003	.0103037	2.13	0.034	.0017054	.0420952
Auto Regime Change		.366389	.4607942	0.80	0.427	-.536751	1.269529
Presidential		-1.97527	1.259384	-1.57	0.117	-4.443617	.4930763
Parliamentary		-12.22827	7.322737	-1.67	0.095	-26.58057	2.124027
Mixed Regime		-1.768362	1.008095	-1.75	0.079	-3.744192	.2074681
Royal Dictator		1.080395	.4571995	2.36	0.018	.184301	1.97649
Military Dictator		-.0966064	.4792705	-0.20	0.840	-1.035959	.8427466
Enemy Access		.8802396	.309786	2.84	0.004	.2730702	1.487409
Capability Symmetry		1.672635	.6830165	2.45	0.014	.3339468	3.011322
Polity-Parl Interact		1.123978	.7754071	1.45	0.147	-.3957924	2.643747
Polity-B. Deaths Interact		-3.29e-07	2.34e-07	-1.40	0.160	-7.88e-07	1.30e-07
Constant		-2.658687	.67151	-3.96	0.000	-3.974823	-1.342552

B. Including Lagged Version of Enemy Access Variable and Lagged Version of Dependent Variable

Generalized Ordered Logit Estimates Number of obs = 216

Wald chi2(22) = 5348.75

Prob > chi2 = 0.0000

Log pseudolikelihood = -141.3181 Pseudo R2 = 0.3787

	Robust					
Access Measure	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]	
-----+-----						
mleq1						
Lagged Access Measure	-.273614	.2501431	-1.09	0.274	-.7638854	.2166574
Battle Deaths Annual	-1.37e-06	1.63e-06	-0.84	0.402	-4.57e-06	1.83e-06
Battle Deaths Monadic	-1.14e-06	6.14e-07	-1.86	0.063	-2.35e-06	6.17e-08
Polity Score	.1699481**	.0603792	2.81	0.005	.051607	.2882891
Durability	.0138643	.0081487	1.70	0.089	-.0021068	.0298355
Auto Regime Change	-11.50961***	1.350737	-8.52	0.000	-14.157	-8.862212
Presidential	15.81665***	1.049536	15.07	0.000	13.75959	17.8737
Parliamentary	-304.2721***	12.14231	-25.06	0.000	-328.0705	-280.4736
Mixed Regime	17.03346***	.7494734	22.73	0.000	15.56452	18.5024
Royal Dictator	-.000329	.517522	-0.00	0.999	-1.014653	1.013995
Military Dictator	.3149802	.4780529	0.66	0.510	-.6219862	1.251947
Lagged Enemy Access	1.885378***	.5082376	3.71	0.000	.8892503	2.881505

Capability Symmetry		1.807388**	.6912685	2.61	0.009	.452527	3.16225
Polity-Parl Interact		35.40804***	1.42471	24.85	0.000	32.61566	38.20042
Polity-B.Deaths Interact		1.93e-07	2.17e-07	0.89	0.373	-2.32e-07	6.19e-07
Constant		-.3686782	.4172576	-0.88	0.377	-1.186488	.4491316

-----+-----

mleq2							
Lagged Access Measure		.4050956	.2967202	1.37	0.172	-.1764653	.9866564
Battle Deaths Annual		-.0000233*	9.74e-06	-2.39	0.017	-.0000424	-4.18e-06
Battle Deaths Monadic		-1.14e-06	6.14e-07	-1.86	0.063	-2.35e-06	6.17e-08
Polity Score		.1699481**	.0603792	2.81	0.005	.051607	.2882891
Durability		.0138643	.0081487	1.70	0.089	-.0021068	.0298355
Auto Regime Change		.2817902	.2138494	1.32	0.188	-.137347	.7009274
Presidential		.7606486	1.004921	0.76	0.449	-1.20896	2.730257
Parliamentary		-23.01044*	10.67365	-2.16	0.031	-43.93042	-2.09046
Mixed Regime		-1.712619*	.7604744	-2.25	0.024	-3.203122	-.2221166
Royal Dictator		-.000329	.517522	-0.00	0.999	-1.014653	1.013995
Military Dictator		.3149802	.4780529	0.66	0.510	-.6219862	1.251947
Lagged Enemy Access		1.885378***	.5082376	3.71	0.000	.8892503	2.881505
Capability Symmetry		1.807388***	.6912685	2.61	0.009	.452527	3.16225
Polity-Parl Interact		2.247839	1.171906	1.92	0.055	-.0490553	4.544733
Polity-B.Deaths Interact		1.93e-07	2.17e-07	0.89	0.373	-2.32e-07	6.19e-07
Constant		-3.560009***	.9050842	-3.93	0.000	-5.333942	-1.786077

Polity-B. Deaths Interact		-5.51e-08	3.11e-08	-1.77	0.082	-1.18e-07	7.35e-09
Constant		.6590054***	.1330211	4.95	0.000	.3919543	.9260564

D. Random Effects Ordered Probit Results

Random Effects Ordered Probit	Number of obs =	256
	LR chi2(8) =	95.30
Log likelihood = -211.05399	Prob > chi2 =	0.0000

Access Measure		Coef.	Std. Err.	z	P> z	[95% Conf. Interval]
eq1						
Battle Deaths Annual		-2.20e-06*	1.12e-06	-1.97	0.049	-4.38e-06 -1.07e-08
Polity Score		.0846217**	.0298045	2.84	0.005	.0262059 .1430375
Durability		.0010548	.003708	0.28	0.776	-.0062128 .0083225
Auto Regime Change		-.0175487	.0798545	-0.22	0.826	-.1740607 .1389634
Lagged Enemy Access		1.008546***	.1192662	8.46	0.000	.7747885 1.242303
Capability Symmetry		.7816918*	.3434337	2.28	0.023	.1085741 1.454809
Polity-Parl Interact		-.0829645	.0528508	-1.57	0.116	-.1865502 .0206213
Polity-B.Deaths Interact		5.47e-08	1.21e-07	0.45	0.650	-1.82e-07 2.91e-07
_cut1						
_cons		-.0275755	.2712436	-0.10	0.919	-.5592031 .5040521