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**UNITED STATES PUBLIC SUPPORT FOR THE  
INTERNATIONAL CRIMINAL COURT:  
A MULTIVARIATE ANALYSIS OF ATTITUDES AND  
ATTRIBUTES**

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ABSTRACT

*Analysis of United States foreign policy is a constant in academia and the media. Among the widely analyzed and hotly debated issues on U.S. foreign policy is its relationship with the International Criminal Court (ICC). Yet, there has been little research on American public opinion if the U.S. should be more involved with the ICC. This paper analyzes historical and contemporary U.S. foreign policy on the ICC as well as American public opinion regarding greater U.S. involvement with the court. To accomplish these goals, we analyze data from the Chicago Council on Global Affairs' June 2010 Global Views survey, a nationally representative survey of U.S. adults. The analysis focuses on various ICC-related topics, chief among them being whether the United States should join the ICC. In addition, we examine if support for the ICC varies across various demographic and attitudinal variables, such as age, sex, race, income, political ideology, and support for multilateralism. This issue is first examined at a bivariate level of analysis and then within a multivariate framework to identify the most salient predictors of support for the ICC.*

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## 1. INTRODUCTION

Since the fall of the Soviet Union there has been much debate over United States foreign policy, particularly its role as a superpower, its decision to enter into armed conflicts with Afghanistan and Iraq, its treatment of prisoners in Guantanamo Bay, and its overall policy concerning the war on terrorism. Included on this list is debate on United States foreign policy and the International Criminal Court (ICC).

The Rome Statute of the ICC was adopted on July 17, 1998, by a vote of 120 to 7.<sup>1</sup> While most United States' allies, such as the United Kingdom and France, voted in favor of the statute, the United States was one of the seven states that voted against its adoption.<sup>2</sup> And, while United States cooperation with the ICC has improved since the Rome Statute entered into force on July 1, 2002, its foreign policy remains the same, and there is no indication it will join the court in the near future.<sup>3</sup>

There has been overwhelming scholarship written on United States foreign policy and the ICC. However, little has been written on public opinion and the ICC, since much of the scholarship is found in legal journals. Indeed, as recently noted, "[T]he topic has been virtually ignored by social scientists."<sup>4</sup> Yet, this is an important issue to consider, as the position of the United States Government regarding the ICC may not necessarily be reflective of American public opinion. Unfortunately, it is a difficult task to attempt to assess public opinion of the ICC, as "barely any public opinion surveys have been conducted asking citizens about their attitudes towards the court."<sup>5</sup>

The goal of this paper is twofold. First, it seeks to determine if United States foreign policy on the International Criminal Court reflects the

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<sup>1</sup> U.N. Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, 9th plen. mtg. at ¶ 10, U.N. Doc. A/CONF.183/SR.9 (Jan. 25, 1999).

<sup>2</sup> See *Id.* ¶¶ 28, 51-52, 99 (detailing respectively, why the United States' voted against the Statute, the United Kingdom's interpretation of portions of the Statute, and France's decision to vote in favor of the Statute).

<sup>3</sup> Harry M. Rhea, *The United States and International Criminal Tribunals: An Introduction*, in 14 *Supranational Criminal Law: Capita Selecta*, 207-10 (2012).

<sup>4</sup> Erik Voeten, *Public Opinion and the Legitimacy of International Courts*, 14 *THEORETICAL INQUIRIES IN LAW* 411, 412 (2013).

<sup>5</sup> *Id.* at 426.

prevailing views of the American public. Second, it examines, in a multivariate manner, the demographic and ideological predictors of public support for various ICC-related activities. To accomplish these goals, we analyze data from the Chicago Council on Global Affairs' June 2010 Global Views survey, a nationally representative survey of U.S. adults. Prior to describing the data in greater detail and presenting the results of our analyses, we first provide a brief history of the ICC and U.S. foreign policy relating to it. We then discuss prior thinking and research pertaining to the manner in which political ideology, support for globalization, and multilateralism might be related to support for foreign policy in general and, in particular, the ICC.

## 2. BRIEF HISTORY OF U.S. FOREIGN POLICY AND THE ICC

The Allied and Associate Powers established the Commission on the Responsibility of the Authors of the War and on the Enforcement of Penalties on January 25, 1919 to report on which states were responsible for initiating the First World War and the constitution and procedure of a court appropriate for criminal prosecutions of war criminals.<sup>6</sup> The majority of states on the Commission favored establishing an international criminal tribunal for the prosecution of Wilhelm II, former Kaiser of Germany, who fled to the Netherlands. However, the United States argued against an international criminal tribunal and favored national and multinational trials.<sup>7</sup> Ultimately, its position prevailed and an international criminal tribunal was not established.

Twenty years after the end of the First World War, the League of Nations adopted the first treaty for a permanent international criminal court.<sup>8</sup> The purpose of the Convention for the Establishment of

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<sup>6</sup> Draft Resolution Relative to the Responsibility of the Authors of the War and the Enforcement of Penalties (1919), *reprinted in III Papers Relating to the Foreign Relations of the United States: The Paris Peace Conference 1919*, 202 (1958).

<sup>7</sup> Mark Lewis, *The Birth of the New Justice: The Internationalization of Crime & Punishment* 31-32, 48-49 (Simon Dixon et al. eds., 2014); Rhea, *supra* note 3, at 21-46; James F. Willis, *Prologue to Nuremberg: The Politics and Diplomacy of Punishing War Criminals of the First World War* 75-77 (Greenwood Press 1982); Harry M. Rhea, *The Commission on the Responsibility of the Author of the War and on Enforcement of Penalties and its Contribution to International Criminal Justice After WWII*, 25 *Crim. L.F.* 147, 165 (2014); Harry M. Rhea, *The United States and International Criminal Tribunals: An Historical Analysis*, 16 *ILSA J. Int'l & Comp. L.* 19, 20-21 (2009).

<sup>8</sup> Convention for the Creation of an International Criminal Court, Nov. 16,

an International Criminal Court was to prosecute violations of the Convention for the Prevention and Punishment of Terrorism. The United States was not a member of the League of Nations and did not participate in the negotiations. The League of Nations' international criminal court never came to fruition as the Convention failed to receive a sufficient number of ratifications prior to the impending Second World War.<sup>9</sup>

Without an international criminal court to prosecute Nazis for their crimes during the Second World War, the United States initiated the development of the International Military Tribunal at Nuremberg, a multinational criminal court that shared jurisdiction with the United Kingdom, Soviet Union, and France for the prosecution of German war criminals.<sup>10</sup> The International Military Tribunal was not "international" per se; rather it was a multinational court, as only four States participated in the trial.<sup>11</sup>

The United Nations General Assembly affirmed the Nuremberg Principles on December 11, 1946, shortly after the International Military Tribunal completed its trial.<sup>12</sup> Genocide was affirmed an international crime on the same day.<sup>13</sup> The Convention on the Prevention and Punishment of Genocide was adopted on December 9, 1948.<sup>14</sup> The United States strongly supported its adoption, including a reference for an "international penal tribunal" in Article 6 with jurisdiction to prosecute perpetrators accused of committing genocide.<sup>15</sup>

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1937, 19 L.N.O.J. 37. The Rome Statute is often incorrectly cited as the first adopted statute for a permanent international criminal court. The Rome Statute is, however, the first statute of a permanent international criminal court to enter into force.

<sup>9</sup> William A. Schabas, *The International Criminal Court: A Commentary on the Rome Statute* 4 (2010); 1 M. Cherif Bassiouni, *The Legislative History of the International Criminal Court: Introduction, Analysis, and Integrated Text* 24 (2005); M. Cherif Bassiouni, *The Statute of the International Criminal Court: A Documentary History* 11 (1998).

<sup>10</sup> See U.S. Dep't of State, *Agreement for the Establishment of an International Military Tribunal*, 13 DEP'T ST. BULL. 222, 222-223 (1945) (detailing the ongoing goal of prosecuting German war criminals and outlining the creation of the International Military Tribunal).

<sup>11</sup> B.V.A. Röling, *The Law of War and the National Jurisdiction Since 1945*, in COLLECTED COURSES OF THE HAGUE ACAD. OF INT'L L. 329, 356 (1961).

<sup>12</sup> G.A. Res. 95 (I), U.N. GAOR, 55th plen. mtg., U.N. Doc. A/RES/95(I) (Dec. 11, 1946).

<sup>13</sup> G.A. Res. 96 (I), U.N. GAOR, 55th plen. mtg., U.N. Doc. A/RES/96(I) (Dec. 11, 1946).

<sup>14</sup> G.A. Res. 260 (III) A, U.N. GAOR, 179th plen. mtg., U.N. Doc. A/RES/260(III) (Dec. 9, 1948).

<sup>15</sup> Harry M. Rhea, *United States Foreign Policy and the International Penal Tribunal in the Genocide Convention: Article VI and Beyond*, 9 (2) GENOCIDE STUD. INT'L 186, 187

Consequently, the General Assembly initiated the study of an international criminal jurisdiction immediately following the adoption of the Genocide Convention.<sup>16</sup> The study was indefinitely placed on hold in 1954 due to the height of the Cold War and absence of a definition of the crime of aggression.<sup>17</sup>

Discussion of establishing the ICC was not resurrected again until 1989, when Trinidad and Tobago submitted its draft proposal for the General Assembly. The proposal was adopted on December 4, 1989, and the International Law Commission (ILC) was invited to study the possibility of establishing an international criminal court.<sup>18</sup> At the time the United States was suspicious of the ICC but thought it was worthy of discussion.<sup>19</sup>

The United States did not fully support the early reports of the ILC. Its responses complimented the ILC's hard work but criticized its lack of consideration of legal questions.<sup>20</sup> The United States showed the most support for the concept of the International Criminal Court in 1994, after the ILC adopted a draft statute for an international criminal court. According to David Scheffer, then Ambassador at Large for War Crimes Issues, the ILC's draft statute was a good starting point.<sup>21</sup>

The General Assembly established the Ad Hoc Committee and, subsequently, the Preparatory Committee on an International Criminal Court.<sup>22</sup> At this point, United States support for the ICC began to diminish. Non-government organizations played a large role in

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<sup>16</sup> G.A. Res. 260 (III) B, U.N. GAOR, 179th plen. mtg., U.N. Doc. A/RES/260(III) (Dec. 9, 1948).

<sup>17</sup> G.A. Res. 898 (IX), U.N. GAOR, 504th plen. mtg., U.N. Doc. A/RES/898(IX) (Dec. 4, 1954).

<sup>18</sup> G.A. Res. 44/39, U.N. GAOR, 72nd plen. mtg., U.N. Doc. A.RES/44/39 (Dec. 4, 1989).

<sup>19</sup> Rhea, *supra* note 3, at 156.

<sup>20</sup> See *Comments of Governments on the report of the Working Group on the question of an international criminal jurisdiction*, UN Doc. A/CN.4/452 (1993), reprinted in [1993] II(I) Y.B. Int'l L. Comm'n, at 141-143 (outlining the United States' comments including its opinion on the jurisdiction of the court and surrender of defendants to the court).

<sup>21</sup> Interview with David J. Scheffer, former Ambassador-at-Large for War Crimes Issues (June 24, 2008).

<sup>22</sup> G.A. Res. 49/53, U.N. GAOR, 84th plen. mtg., U.N. Doc. A/RES/49/53 (Dec. 9, 1994) (establishing ad hoc committee); G.A. Res. 50/46, U.N. GAOR, 87th plen. mtg., U.N. Doc. A/RES/50/46 (Dec. 11, 1995) (establishing preparatory committee).

molding the legal procedures of the ICC. Many States and non-government organizations did not approve of the Court being closely related to the Security Council and wanted an independent prosecutor to be free to open investigations proprio motu.<sup>23</sup> The United States favored a larger role for the Security Council and greater checks and balances on the prosecutor.<sup>24</sup> These issues were unresolved, and the United States delegation at Rome was instructed to vote against the adoption of the Rome Statute.<sup>25</sup>

Bill Clinton signed the Rome Statute on December 31, 2000, but refused to submit it to the Senate for advise and consent for ratification, stating that there were many concerns with the statute that needed to be addressed before the United States could become a State Party to ICC.<sup>26</sup> The Rome Statute entered into force on July 1, 2002, after the ratification of sixty States as required under Article 126.<sup>27</sup> Consequently, George W. Bush's administration submitted a letter to the Secretary-General of the United Nations informing him that the United States did not intend to become a State Party to the ICC and that the United States had no legal obligations arising from Clinton's signature.<sup>28</sup> The United States Senate subsequently passed laws that prevent funding the ICC and allows the United States to use any means necessary to regain custody of a United States national being held for prosecution.<sup>29</sup>

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<sup>23</sup> Rep. of the Ad Hoc Comm'n on the Establishment of an International Criminal Court, Apr. 3, 1995-Apr. 13, 1995, Aug. 14, 1995-Aug. 25, 1995, UN Doc. A/50/22, 50th Sess., Supp. No. 22 (1995), at ¶¶ 25, 113, 114. See also Silvia A. Fernandez de Gurmendi, *The Role of the International Prosecutor*, in *THE INTERNATIONAL CRIMINAL COURT: THE MAKING OF THE ROME STATUTE* 175, 176-77 (Roy S. Lee ed., 1999); SCHABAS, *supra* note 9, at 176-77.

<sup>24</sup> *Is a U.N. International Criminal Court in the U.S. National Interest: Hearing Before the Subcommittee on International Operations of the Committee on International Operations of the Committee on Foreign Relations*, 105th Cong. 147 (1998) (statement of the United States Delegation). See SCHABAS, *supra* note 9, at 178 ("Department of State spokesman James Rubin had warned: 'If neither the Security Council nor any state endorses action by the Court, the prosecutor would act without a critical and essential base of international consensus.'").

<sup>25</sup> David Scheffer, *All the Missing Souls: A Personal History of the War Crimes Tribunals* 224 (Eric D. Weitz ed. 2012).

<sup>26</sup> Schabas, *supra* note 9, at 28.

<sup>27</sup> *Id.* at 23; Rome Statute of the International Criminal Court, art. 126, July 17, 1998, 2187 U.N.T.S. 90.

<sup>28</sup> Letter from John R. Bolton to the Secretary-General of the United Nations Regarding the Rome Statute of the International Criminal Court (April 27, 2002), in 41 I.L.M. 1014 (2002).

<sup>29</sup> See e.g., Schabas, *supra* note 9, at 30-31 (quoting the American Service Members' Protection Act of 2002 in which its preamble states several ways that the U.S.

## 3. THE INTERNATIONAL CRIMINAL COURT

The ICC is an affirmation by the international community that the most serious crimes shall not go unpunished.<sup>30</sup> The crimes within the ICC's jurisdiction are genocide, crimes against humanity, war crimes, and the crime of aggression.<sup>31</sup> There are three ways the Court may exercise its jurisdiction: first, a State Party to the Rome Statute may refer a situation to the Office of the Prosecutor; second, the United Nations Security Council may refer a situation to the Office of the Prosecutor using its Chapter 7 authority under the United Nations Charter; third, the Prosecutor can open an investigation at his or her discretion if there is sufficient evidence from reliable sources that one of the crimes under Article 5 has been committed.<sup>32</sup>

The ICC operates under the principle of complementarity.<sup>33</sup> States have jurisdiction over their territories and nationals, and the ICC cannot interfere with a situation if national courts are willing and able to investigate and prosecute international crimes. However, if a national court is either unable or unwilling to prosecute, then the ICC's jurisdiction is triggered under the principle of complementarity. Therefore, the ICC is a court of last resort so that perpetrators of the most serious international crimes do not go unpunished.

Currently the ICC has not lived up to the expectations of its supporters. As of August 2014, the Court has only completed three trials: two of the verdicts were guilty and one was an acquittal.<sup>34</sup> The lack of success may not be the fault of the Court, as it does not have the resources that most national jurisdictions enjoy. For example, there is no international police force to enforce arrest warrants and apprehend the accused. The Court also lacks sufficient financial support from the Assembly of States Parties, the governing body of the Court. The Security Council has referred two situations to the Office of the Prosecutor that prohibit the use of United Nations

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is prohibited from cooperating with the International Criminal Court).

<sup>30</sup> Rome Statute of the International Criminal Court, *supra* note 27, at Preamble.

<sup>31</sup> *Id.* at art. 5.

<sup>32</sup> *Id.* at art. 13.

<sup>33</sup> *Id.* at Preamble, art. 1.

<sup>34</sup> *Situations and Cases*, INT'L CRIMINAL COURT, [https://www.icc-cpi.int/en\\_menus/icc/situations%20and%20cases/Pages/situations%20and%20cases.aspx](https://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/Pages/situations%20and%20cases.aspx) (last visited Nov. 10, 2015).

funds to support the investigations.<sup>35</sup> Moreover, the African Union has lost confidence in the Court and claims it is biased against Africa as all of its investigations are in the region.<sup>36</sup>

#### 4. CURRENT UNITED STATES - ICC RELATIONS

The United States relationship with the ICC is friendlier today than in the past. While United States law prohibits funding the ICC, it supports the Court when they share a common goal. For example, the United States established its War Crimes Rewards Program in 2013. Under the War Crimes Rewards Program the United States offers rewards up to \$5 million to persons who provide information regarding certain persons who have been charged with international crimes, including those wanted by the ICC.<sup>37</sup>

The United States also recently supported a draft resolution to the Security Council referring the situation in Syria to the ICC.<sup>38</sup> However, United States support for the proposal has been criticized since it supported sending the situation in Syria to the ICC after China and Russia confirmed they would veto the proposal.<sup>39</sup> While this support would not have occurred during the Bush administration, it does not indicate that the United States supports, or is working towards joining, the ICC.

There were expectations that the Obama Administration would change United States foreign policy towards the ICC.<sup>40</sup> This has not been the case. There has been no change in federal law preventing financial support for the Court, and the United States continues to

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<sup>35</sup> S.C. Res. ¶ 4-8, 1970, U.N. Doc. S/RES/1970 (Feb. 26, 2011); S.C. Res. 1593, ¶ 1, U.N. Doc. S/RES/1593 (Mar. 31, 2005).

<sup>36</sup> Charles Chernor Jalloh, *Africa and the International Criminal Court: Collision Course or Cooperation*, 34 N.C. CENT. L. REV. 203, 209 (2012); Kurt Mills, *Bashir Is Dividing Us: Africa and the International Criminal Court*, 34 HUM. RTS. Q. 404, 432 (2012).

<sup>37</sup> *War Crimes Rewards Program*, U.S. DEP'T OF STATE, <http://www.state.gov/j/gcj/wcrp/index.htm> (last visited Nov. 10, 2015).

<sup>38</sup> Colum Lynch, *U.S. to Support ICC War Crimes Prosecution in Syria*, THE CABLE (May 7, 2014), <http://foreignpolicy.com/2014/05/07/exclusive-u-s-to-support-icc-war-crimes-prosecution-in-syria/>.

<sup>39</sup> See, e.g., Mark Kersten, *Unnecessary and Counter-Productive: Samantha Power Explains US Position on ICC & Syria*, JUST. IN CONFLICT (May 28, 2014), <http://justiceinconflict.org/2014/05/28/unnecessary-counter-productive-samantha-power-explains-us-position-on-icc-syria/> (outlining inconsistencies in the U.S. explanation for putting forward the resolution).

<sup>40</sup> RHEA, *supra* note 3, at 200-01.

protect itself from its jurisdiction although it supports ad hoc international criminal tribunals established by the UN Security Council.<sup>41</sup> These courts have limited temporal and territorial jurisdiction over certain crimes. The support for ad hoc tribunals has resulted in the misperception that the United States inconsistently supports international criminal courts, when in fact its foreign policy on a permanent international criminal court has been consistent since the First World War.<sup>42</sup>

## 5. AMERICAN PUBLIC OPINION AND THE ICC

Thus far most of the scholarship written on United States and ICC relations focuses on law, foreign policy, and international relations. What is missing from scholarly debate is American public opinion on the ICC and an examination of the factors that correlate with support for it. As one scholar has written, ". . . [W]e know surprisingly little about public support for international courts . . . [T]he topic has been virtually ignored by social scientists."<sup>43</sup> However, there are exceptions to this. For example, in 2003, the Pew Global Attitudes Survey asked citizens in the United States and four European countries if the International Criminal Court should have the opportunity to prosecute national military personnel accused of war crimes if their governments refused to prosecute them.<sup>44</sup> In an analysis of this data, Voeten found that a minority of Americans (37%) was supportive of ICC prosecutions as described.<sup>45</sup>

In addition to the 2003 Pew Survey, Gallup's 2005 Voice of the People study surveyed citizens from sixty-seven countries and the province of Kosovo.<sup>46</sup> Similar to Voeten's analysis of the 2003 Pew

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<sup>41</sup> The United States has strongly supported temporary international criminal tribunals established by the Security Council, including the International Criminal Tribunal for the former Yugoslavia, International Criminal Tribunal for Rwanda, Special Court for Sierra Leone, and the Special Tribunal for Lebanon. See RHEA, *supra* note 3, at 201.

<sup>42</sup> See generally RHEA, *supra* note 3.

<sup>43</sup> Voeten, *supra* note 4, at 412.

<sup>44</sup> PEW RESEARCH CTR. FOR THE PEOPLE & THE PRESS, VIEWS OF A CHANGING WORLD 101 (2003), available at <http://www.pewglobal.org/files/2003/06/Views-Of-A-Changing-World-2003.pdf>. See also Voeten, *supra* note 4, at 426 (reaffirming the questions asked in the Pew Global Attitudes Survey).

<sup>45</sup> Voeten, *supra* note 4, at 426.

<sup>46</sup> Gallup Int'l Ass'n, *Voice of the People, 2005*, INTER-UNIVERSITY CONSORTIUM FOR POL. AND SOC. RES. (July 16, 2007), <http://dx.doi.org/10.3886/ICPSR04636.v1>.

Survey, among participants of the Gallup study from the United States, a greater percentage held unfavorable views of the ICC than favorable views. In addition, Voeten found that citizenries who were more favorable toward the United Nations, and perhaps global governance more generally, tended to hold more favorable opinions of the International Criminal Court.<sup>47</sup> Outside of Voeten's analysis of the 2003 Pew study and 2005 Gallup study, we are unaware of any other academic publications that have examined U.S. public opinion of the ICC and its correlates.

## 6. THE CURRENT STUDY

In light of the limited attention given to U.S. public opinion of the ICC and the factors that predict support for the ICC in the academic literature, additional research is warranted. To that end, we analyze U.S. public opinion data focused on various ICC-related topics, chief among them being whether the United States should join the ICC. In addition, we examine if support for the ICC varies across various demographic and attitudinal variables, such as age, sex, race, income, political ideology, and support for multilateralism. This issue is first examined at a bivariate level of analysis and then within a multivariate framework to identify the most salient predictors of support for the ICC.

Given that public opinion of international courts, including the ICC, strongly correlates "with attitudes towards the international organizations most closely associated with a particular court and with legal values more generally,"<sup>48</sup> we anticipated that individuals who support globalization, who feel the U.S. should play a more prominent role in world affairs, and who more strongly support a multilateral viewpoint would be more likely to indicate support for the ICC and its functions. Conversely, we anticipated that individuals who more strongly identify themselves as Republican would be less likely to indicate support for the ICC. The attitudes of Ameri-

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*See also* Voeten, *supra* note 4, at 427 (reaffirming the scope of the Voice of the People survey).

<sup>47</sup> Voeten, *supra* note 4, at 427. This was a macro-level (country-level) analysis and not based on individual-level data. *See Id.* at 428 (displaying data points as countries and not by individual).

<sup>48</sup> *Id.* at 413.

cans regarding the ICC often correlate with political ideology. Media outlets and literature perceive more Democrats than Republicans support greater American participation in multilateral institutions. Most conservative groups that support the Republican ideology, including the Heritage Foundation and the American Enterprise Institute, support no U.S. involvement in the International Criminal Court.

### 6.1. *Data*

Data for the current study come from the Chicago Council on Global Affairs' June 2010 Global Views survey,<sup>49</sup> conducted by Knowledge Networks. Participants for the Global Views survey were recruited using a combination of random-digit dialing (RDD) and addressed-based probability sampling methods to produce a nationally-representative sample of U.S. adults ages 18 and older. Administration of the surveys took place online; participants were provided with access to the Internet and hardware if needed. The survey elicited valid data from approximately 2,600 respondents. As reported by Knowledge Networks, the response rate was 66%.

For some of the items on the survey, a random selection of half of the participants were asked to provide responses. This was true of the items relating to the ICC. Thus, the current analysis focuses on information reported on by approximately 1,300 respondents. As was expected given the random nature of selection, a t-test examination of mean level differences in participant age, race, gender, education, and income between the randomly selected participants who responded to the ICC survey items and those who were not selected revealed no statistically significant differences. All analyses to be presented were executed using the post-stratification sampling weight provided by Knowledge Networks to account for the complex nature of the sampling design.

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<sup>49</sup> Marshall M. Bouton, Steven Kull, Benjamin Page, Silvia Veltcheva, & Thomas Wright, *Global Views 2010: American Public Opinion and Foreign Policy*, RESOURCE CTR. FOR MINORITY DATA (Dec. 6, 2011), <https://www.icpsr.umich.edu/icpsrweb/RCMD/studies/31022>.

### 6.2. ICC Variables

Three items on the survey pertained to public sentiment regarding the ICC. The first item asked, "Based on what you know, do you think the U.S. should or should not participate in the agreement on the International Criminal Court that can try individuals for war crimes, genocide, or crimes against humanity if their own country won't try them?" Potential responses included "Should Participate," "Should Not Participate," and a category indicating the respondent was not sure or refused to answer. Of the 1,277 participants queried, 70.3% said the U.S. should participate, 26.2% indicated the U.S. should not participate, and 3.5% refused or were not sure. Thus, by this measure of Supporting Participation in the ICC, the vast majority of the U.S. public supports participation, despite the fact that the U.S. does not currently participate.

The second item on the survey relating to the ICC read, "Some say that because of the increasing interaction between countries, we need to strengthen international institutions to deal with shared problems. Others say this would only create bigger, unwieldy bureaucracies. Please tell me if the ICC needs to be strengthened." Potential responses included, "Yes, Needs to Be Strengthened," "No, Doesn't Need to Be Strengthened," and a category for "not sure" and refusals. Of the 1,300 respondents queried, 50.1% said the ICC needs to be strengthened, 41.5% indicated the ICC doesn't need to be strengthened, and 8.4% refused or were not sure. Thus, while less dramatic than the differences in the distribution of responses to the first measure, the Support for Strengthening the ICC measure reveals that a majority of the U.S. public does feel the ICC needs strengthening, if only by a modest margin.

The third item on the survey relating to the ICC read, "In order to combat international terrorism, please say whether you favor or oppose the trial of suspected terrorists in the International Criminal Court." Potential responses included, "Favor," "Oppose," and a category for "not sure" and refusals. Of the 1,278 respondents queried, 75.0% said they favor the trial of suspected terrorists in the ICC, 20.0% indicated they do not favor it, and 5.0% refused or were not sure. Thus, as with the first ICC-related measure, the Support for the ICC Trying Terrorists measure shows that a clear majority of the

American public endorses the ICC, at least with regard to trying suspected terrorists.<sup>50</sup>

### *6.3. Demographic Variables*

In order to assess whether various demographic variables are related to responses to the three ICC-related items on the survey, the present analysis includes information on respondent age, gender, race, education, income, and political identification. Respondent age is a continuous measure provided in whole years; gender is coded as male and female (female is the reference category = 0 in the multivariate models); race is categorized into White and Nonwhite, as 75% of the sample was White (White is the reference category = 0 in the multivariate models). Respondent education is a four-category ordinal measure with four response options of "less than high school" (=1); "high school diploma" (=2), "some college" (=3), and "bachelor's degree or higher" (=4). Income is an ordinal measure with nineteen categories ranging from "Less than \$5,000" (=1) to "\$175,000 or more" (=19). Last, political identification was measured using a seven-category scale that asked respondents, "Do you generally think of yourself as..." Responses ranged from "Strong Republican" (=1) to "Strong Democrat" (7). Thus, higher scores for this item indicate a respondent who more closely identifies as being a Democrat.

### *6.4. Worldview Variables*

In addition to considering the relationships between responses to the ICC measures and the demographic variables, we also drew on items included in the survey to capture aspects of respondent attitudes and opinions concerning international affairs. First, respondents were asked, "Do you believe that globalization, especially the increasing connections of our economy with others around the world, is mostly good or mostly bad for the United States?" Re-

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<sup>50</sup> For the bivariate and multivariate analyses to follow, the small number of refusals and responses of "not sure" were treated as missing, enabling us to provide a more straightforward method of investigating how support/lack of support for different aspects of the ICC are related to the variables to be described shortly.

sponses options included, "Mostly Good," "Mostly Bad," and a category for "not sure" or refusal to answer. For the multivariate analysis, refusals/responses of "not sure" were treated as missing, and "Mostly Bad" was treated as the reference category (= 0) for the Support for Globalization measure. Second, respondents were asked, "Do you think it will be best for the future of the country if we take an active part in world affairs or if we stay out of world affairs?" Response options included, "Active Part," "Stay Out," and a category for "not sure" or refusal to answer. For the multivariate analysis, refusals/responses of "not sure" were treated as missing, and "Stay Out" was treated as the reference category (= 0) for the Active in World Affairs measure.

Third, we constructed a measure tapping respondent Multilateralism based on responses to three items ( $\alpha = .63$ ).<sup>51</sup> Specifically, respondents were asked, "Below is a list of possible foreign policy goals that the United States might have. For each one please select whether you think that it should be a very important foreign policy goal of the United States (=3), a somewhat important foreign policy goal (=2), or not an important goal at all (=1)." The three goals we included to measure respondent multilateralism were: protecting weaker nations against foreign aggression, strengthening the United Nations, and promoting and defending human rights in other countries. The measure for multilateralism was created by taking the average of the scores for the 3 items; higher scores represent greater support for multilateralism.

### 6.5. Analysis Plan

The analysis proceeded in two steps. First, we constructed a series of bivariate cross-tabs as a preliminary means to assessing the association between each of the three ICC measures and the demographic and worldview variables; F-tests were used to determine whether these bivariate associations were statistically significant. The second part of the analysis involved conducting a series of logistic regressions to assess the extent to which each of the demographic and worldview variables predict support for each of the

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<sup>51</sup> Given that alpha values are partially a function of the number of items included in a scale, failure to meet the conventional threshold of 0.70 is not unexpected. Further, as we will demonstrate, the three-item measure is related to the ICC measures in expected ways.

three ICC-related measures while controlling for each of the other demographic and worldview variables simultaneously. As responses to each of the ICC-related items we have described can be viewed as implicitly endorsing or failing to endorse the ICC, the responses of "Should Participate," "Does Need Strengthening," and "Favor" that correspond to each of the respective ICC items are coded as values of 1, while "Should Not Participate," "Doesn't Need Strengthening," and "Oppose" are coded as values of 0. Because refusals and "not sure" responses have been set to missing values, logistic regression is justified when analyzing variables with only two values (i.e., 0 and 1).

## 7. RESULTS

### *7.1. Bivariate Analyses*

Table 1 provides the results of the cross-tab analysis describing the percent of respondents who support U.S. participation in the ICC. As can be seen, across each of the variables, a substantive majority of U.S. adults are in favor of the U.S. participating in the ICC. At the same time, significant differences did emerge across certain variables. Specifically, respondents with more education, who identify themselves and increasingly aligned with Democrats, who view globalization as a good thing, who feel the U.S. should play a more active role in world affairs, and who hold a more multilateral viewpoint are statistically more likely to support U.S. participation in the ICC. For example, whereas only 61% of respondents with less than a high school diploma support U.S. participation in the ICC, that percentage rises to 72% among respondents who have at least a bachelor's degree. Likewise, only 65% of respondents with a score for multilateralism of 2.00 or less support U.S. participation in the ICC, whereas 85% of respondents with a maximum score of 3.00 for multilateralism support U.S. participation in the ICC.

**Table 1. Percent of Respondents Supporting U.S. Participation in the ICC by Various Attributes**

<b>Age (N=1236)</b>		<b>Political Identification (N=1236)</b>	
18-24	73.16%	Strong Republican	60.72%
25-39	73.55%	Not Strong Republican	70.52%
40-59	72.20%	Leans Republican	67.49%
60+	72.85%	Undecided	70.23%
* Measure collapsed for simplification		Leans Democrat	84.21%
* F-test not significant		Not Strong Democrat	78.47%
		Strong Democrat	81.88%
		* F-test significant at p<.001	
<b>Gender (N=1236)</b>		<b>View of Globalization (N = 1210)</b>	
Male	72.00%	Mostly Bad	67.12%
Female	73.73%	Mostly Good	77.14%
* F-test not significant		* F-test significant at p<.01	
<b>Race (N=1236)</b>		<b>Opinion on World Affairs (N=1223)</b>	
White	71.74%	Stay Out	62.59%
NonWhite	75.48%	Play Active Part	77.40%
* F-test not significant		* F-test significant at p<.001	
<b>Education (N=1236)</b>		<b>Multilateralism (N=1234)</b>	
Less than H.S.	61.09%	1.00 - 2.00	64.59%
H.S. Diploma	74.82%	2.01 - 2.99	81.55%
Some College	76.41%	3.00	84.94%
Bachelors +	71.90%	* Measure collapsed for simplification	
* F-test significant at p<.05		* F-test significant at p<.001	
<b>Income (N=1236)</b>			
\$0 - \$24,999	72.90%		
\$25,000 - \$49,999	75.96%		
\$50,000 - \$84,999	73.21%		
\$85,000+	68.85%		
* Measure collapsed for simplification			
* F-test not significant			

Responses of "not sure" and refusals were set to missing

Table 2 provides the results of the cross-tab analysis describing the percent of respondents who support strengthening the ICC. Unlike the broad consensus for U.S. participation in the ICC, overall public sentiment as to whether the ICC needs to be strengthened is more equivocal. However, significant differences are evinced across various personal attributes and opinions of respondents. In particular, females, Nonwhites, participants who are increasingly aligned with Democrats, and those holding a more multilateral position are

more likely to feel the ICC needs strengthening (there are marginally significant differences for the globalization and world affairs variables). Conversely, respondents with more education and who have a larger income are less likely to feel the ICC needs strengthening.

Differences in the percent of respondents feeling the ICC needs strengthening are particularly pronounced according to respondent political alignments: Only 36% of participants who view themselves as strong Republicans feel the ICC needs to be strengthened, whereas 67% of participants who view themselves as strong Democrats feel the ICC needs to be strengthened. A similar contrast is seen across scores for multilateralism: only 43% of respondents with

**Table 2. Percent of Respondents Supporting Strengthening the ICC by Various Attributes**

<b>Age (N=1205)</b>		<b>Political Identification (N=1205)</b>	
18-24	51.94%	Strong Republican	35.72%
25-39	58.27%	Not Strong Republican	54.53%
40-59	52.65%	Leans Republican	34.78%
60+	54.63%	Undecided	59.33%
* Measure collapsed for simplification		Leans Democrat	65.33%
* F-test not significant		Not Strong Democrat	58.44%
		Strong Democrat	66.98%
		* F-test significant at p<.001	
<b>Gender (N=1205)</b>		<b>View of Globalization (N = 1189)</b>	
Male	49.87%	Mostly Bad	50.75%
Female	59.52%	Mostly Good	57.47%
* F-test significant at p<.01		* F-test significant at p<.10	
<b>Race (N=1205)</b>		<b>Opinion on World Affairs (N=1188)</b>	
White	50.97%	Stay Out	49.61%
NonWhite	63.47%	Play Active Part	56.52%
* F-test significant at p<.01		* F-test significant at p<.10	
<b>Education (N=1205)</b>		<b>Multilateralism (N=1205)</b>	
Less than H.S.	57.15%	1.00 - 2.00	42.59%
H.S. Diploma	61.78%	2.01 - 2.99	61.43%
Some College	52.46%	3.00	83.98%
Bachelors +	48.87%	* Measure collapsed for simplification	
* F-test significant at p<.05		* F-test significant at p<.001	
<b>Income (N=1205)</b>			
\$0 - \$24,999	66.07%		
\$25,000 - \$49,999	56.82%		
\$50,000 - \$84,999	49.62%		
\$85,000+	45.68%		
* Measure collapsed for simplification			
* F-test significant at p<.001			

Responses of "not sure" and refusals were set to missing

a score of 2.00 or less feel the ICC needs to be strengthened, while 84% of respondents with a maximum score of 3.00 feel the ICC needs to be strengthened.

Table 3 provides the results of the cross-tab analysis describing the percent of respondents who support having the ICC bring suspected terrorists to trial. As was true regarding support for having the U.S. participate in the ICC, the overwhelming majority of the U.S. public supports having the ICC bring suspected terrorists before the court. Even among participants who call themselves strong Republicans, 70% of such individuals support bringing suspected terrorists before the ICC. Still, we do find evidence of meaningful

**Table 3. Percent of Respondents Supporting Having the ICC Try Terrorists by Various Attributes**

<b>Age (N=1215)</b>		<b>Political Identification (N=1215)</b>	
18-24	82.13%	Strong Republican	70.00%
25-39	79.15%	Not Strong Republican	74.58%
40-59	77.00%	Leans Republican	70.72%
60+	80.69%	Undecided	79.27%
* Measure collapsed for simplification		Leans Democrat	87.28%
* F-test not significant		Not Strong Democrat	83.46%
		<b>Strong Democrat</b>	<b>86.40%</b>
		* F-test significant at p<.01	
<b>Gender (N=1215)</b>		<b>View of Globalization (N = 1190)</b>	
Male	75.84%	Mostly Bad	70.71%
Female	81.74%	Mostly Good	84.59%
* F-test significant at p<.05		* F-test significant at p<.001	
<b>Race (N=1215)</b>		<b>Opinion on World Affairs (N=1199)</b>	
White	79.20%	Stay Out	73.45%
NonWhite	78.48%	Play Active Part	81.45%
* F-test not significant		* F-test significant at p<.05	
<b>Education (N=1215)</b>		<b>Multilateralism (N=1213)</b>	
Less than H.S.	74.99%	1.00 - 2.00	73.14%
H.S. Diploma	76.68%	2.01 - 2.99	88.60%
Some College	83.56%	3.00	78.43%
Bachelors +	78.70%	* Measure collapsed for simplification	
* F-test not significant		* F-test significant at p<.001	
<b>Income (N=1215)</b>			
\$0 - \$24,999	77.01%		
\$25,000 - \$49,999	81.28%		
\$50,000 - \$84,999	81.35%		
\$85,000+	76.02%		
* Measure collapsed for simplification			
* F-test not significant			

Responses of "not sure" and refusals were set to missing

differences across individual attributes. Females, those who increasingly align with Democrats, those who feel globalization is a good thing, those who feel the U.S should play a more active role in world affairs, and those who score higher on multilateralism are statistically more likely to support bringing suspected terrorists before the ICC, though the association for multilateralism appears to be non-linear, as greatest support was found at the mid-range of scores.

### *7.2. Multivariable Analyses*

Having examined how support for the ICC varies across a number of demographic attributes and ideological stances at the bivariate level, we next examined these associations in multivariate logistic regression models. Because bivariate analyses cannot rule out the potential that the statistically significant associations revealed in Tables 1-3 are spurious, multivariate models that can take into account the potential confounding influence of multiple variables simultaneously are needed. As stated earlier, logistic regression was chosen given that each of the ICC variables are dichotomous indicators. Results are presented and discussed with regard to the Odds Ratios (ORs), with ORs statistically larger than 1.00 indicating higher scores on predictor variables are associated with greater support for the ICC, and ORs statistically smaller than 1.00 indicating higher scores on predictor variables are associated with less support for the ICC. Each of the three models to be discussed included each of the demographic and worldview variables in order to assess the direct effect of each variable on the corresponding ICC-related outcome after parceling out the influence of each of the other variables.

Model 1 of Table 4 presents the Odds Ratios for predicting respondent support for having the U.S. participate in the ICC. Three of the eight ORs are statistically significant. In particular, participants who increasingly align themselves with Democrats (OR = 1.18), who feel the U.S. should take an active part in world affairs (OR = 1.57), and who have an increasingly multilateral viewpoint (OR = 2.59) are more likely to feel the U.S. should participate in the ICC. The previously significant effects for respondent education and views on globalization found in Table 1 have been reduced to non-significance. Turning attention to Model 2 predicting respondent beliefs that the ICC needs to be strengthened, three of the eight ORs are statistically significant. Specifically, respondents who make

more money are significantly less likely to feel the ICC needs strengthening (OR = 0.96), while those who increasingly align themselves with Democrats (OR = 1.13) and who have a more multilateral viewpoint (OR = 3.17) are significantly more likely to feel the ICC needs strengthening. These results are consistent with those reported in Table 2. However, the effects for gender, race, and education have been reduced to non-significance.

**Table 4. Logistic Regressions of Support for ICC**

Variable	Model 1: Support for U.S. Participation in the ICC (N = 1200)		Model 2: Support for Strengthening the ICC (N=1176)		Model 3: Support for Bringing Terrorists Before the ICC (N = 1178)	
	OR	SE	OR	SE	OR	SE
Age	1.00	0.01	1.00	0.01	1.00	0.01
Male	0.97	0.17	0.83	0.13	0.76	0.15
Nonwhite	0.92	0.20	1.12	0.22	0.61*	0.13
Education Level	1.10	0.12	0.99	0.09	1.11	0.13
Income	1.00	0.02	0.96*	0.02	1.00	0.03
Alignment with Democrats	1.18**	0.06	1.13**	0.05	1.18**	0.06
Support for Globalization	1.17	0.21	0.99	0.16	1.96**	0.38
Active U.S. in World Affairs	1.57*	0.31	1.03	0.19	1.18	0.24
Multilateralism	2.59***	0.49	3.17***	0.54	2.39***	0.52
F-Statistic		7.92***		9.83***		7.62***

OR = Odds Ratio; SE = Standard Error; \*p<.05, \*\*p<.01; \*\*\*p<.001

The final model of Table 4 (Model 3) presents the results of the logistic regression predicting support for having suspected terrorists brought before the ICC. Four of the eight ORs are statistically significant. While Nonwhites are less likely to support having terrorists brought before the ICC (OR = 0.61), respondents who increasingly align themselves with Democrats (OR = 1.19), who feel globalization is a good thing (OR = 1.96), and who have a more multilateral viewpoint (OR = 2.39) are significantly more likely to support having terrorists brought before the ICC. The previously significant effect for views on U.S. involvement in world affairs reported in Table 3 has been reduced to non-significance.

## 8. DISCUSSION AND CONCLUSION

This paper has attempted to determine if United States foreign policy on the ICC reflects American public opinion as of 2010. This is a very important question to address, since the ICC is the only permanent court established to prosecute the most serious crimes of

international concern, and United States foreign policy should reflect the positions of the American people.

According to the results of our analysis of the 2010 Global Views survey, current U.S. foreign policy does not appear to reflect American public opinion on U.S. participation in the ICC. In particular, we found that a clear majority of the U.S. public supports U.S. participation in the ICC. This was true even among individuals who identify themselves as strongly Republican. Even greater support among the U.S. public was found for having the ICC try terrorists. These findings are notable, given prior studies (the 2003 PEW Study and the 2005 Gallup Study) found that a majority of the U.S. public was unsupportive of the ICC. Thus, within the span of only a decade, there appears to have been a notable shift in public sentiment surrounding the ICC.

When examining support for U.S. participation in the ICC, strengthening the ICC, and having the ICC try terrorists within a multivariate framework, two variables were consistent predictors. Specifically, individuals who increasingly align themselves with Democrats and who have an increasingly multilateral viewpoint are more likely to support the ICC, believe it needs to be strengthened, and agree that it should try terrorists.

The findings of this study should be considered in light of a number of factors. First, there is the question of how much the participants, as well as the American public, are aware of the ICC's legal jurisdiction and procedure. For example, would support for U.S. involvement with the ICC diminish if participants were aware that the ICC does not include some U.S. Constitutional protections, such as a trial by jury and protection against double jeopardy? While these are sacred protections provided for in the U.S. Constitution, the Rome Statute is a mixture of legal practices within the international community, and many states do not practice jury trials.

Another important factor to consider is if the public's opinion of domestic courts reflects its opinion of international courts. According to credible commitment theorists, public support for international courts should be high when support for their national courts are low.<sup>52</sup> Yet, it is the contrary. "[B]oth across and within countries citizens who trust their domestic courts more also have more trust in international courts," thus "citizens see international courts not as substitutes for, but as extensions to the domestic rule of law."<sup>53</sup>

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<sup>52</sup> Voeten, *supra* note 4, at 414.

<sup>53</sup> *Id.*

While many members of minority groups show less confidence, most Americans “have at least a moderate amount of trust” in United States domestic courts.<sup>54</sup> American public opinion of the ICC reflects its opinion of domestic courts. Therefore, Americans who support greater U.S. participation in the ICC may see the court as an extension to American domestic courts rather than a separate international institution with its own rule of law.

In addition, despite our effort, there still remains relatively little academic research concerning U.S. public opinion of the ICC. Our research is only a small piece of the puzzle, and there are important things to consider moving forward. In particular, future research should inform survey participants of the Rome Statute’s substantive and procedural laws prior to inquiring about their support for the ICC and its functions. This should include describing the Rome Statute’s complementarity principle and its lack of U.S. Constitutional protections, as well as potential consequences on U.S. military operations if the court were to have jurisdiction over government officials and military service men and women. Taking these steps may provide us with a more valid understanding of the public’s informed opinion of the ICC.

In conclusion, this paper’s findings demonstrate that American public opinion of the ICC is positive, which indicates that United States public sentiment has shifted in recent years. However, it is unlikely that United States foreign policy on the ICC will be reversed in the foreseeable future. For now, the United States continues to work with the ICC when there is common interest. In the meantime, more public discussion is needed between government officials and their constituents to work towards a proper foreign policy on the ICC that represents the American public opinion. To this end, academic researchers have a responsibility to better inform government officials of research focused on public opinion.

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<sup>54</sup> *Public Trust and Confidence, Resource Guide*, NAT’L CENTER FOR ST. CTS., <http://www.ncsc.org/Topics/Court-Community/Public-Trust-and-Confidence/Resource-Guide.aspx> (last visited Dec. 20, 2015).