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Attitudes toward Consent-Based and Non-Consent-Based International Law in a Regional Power Context

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ABSTRACT
International legal scholars have identified and argued for and against new forms of non-consent-based international law. We study variation in Brazilian public opinion about adherence to international law created in three different ways: through a consent-based multilateral treaty, by the U.N. Security Council with the participation of Brazil, and by the U.N. Security Council without the participation of Brazil. Information that Brazil has participated in creating the international legal obligation through a multilateral treaty or membership on the Security Council yields levels of support for adherence to the legal obligation that are similar to those found when the origins of the legal obligation are generic. Information that the international legal obligation was created without Brazil’s participation, on the other hand, results in reduced support for compliance. This difference, which is particularly concentrated among highly educated respondents, is not driven by reduced concerns about reputational consequences or sanctions. Our results suggest that the increased use of non-consent-based forms of international law might be challenged by a lack of public support for compliance.

KEYWORDS
Brazil; international law; public opinion; reputation; survey experiment

On 28 September 2001, the United Nations Security Council (UNSC) took an unprecedented action. On that day, the 15-member body used its powers under U.N. Charter Articles 25 and 48(1) to approve a resolution that imposed obligations on all states. Whereas previous UNSC resolutions had addressed particular states or situations or had passed non-binding resolutions that “call[ed] upon” or “urge[d]” states to do something, Resolution 1373 offered general, abstract, and binding mandates, using the language that “all states shall” take certain actions (Szasz 2002; Talmon 2005). Furthermore, the resolution did not specify a certain timeframe for its relevance, indicating an expectation that it would stand as binding international law from that moment onward (Szasz 2002). According to both international legal observers and international policy makers, the United Nations Security Council had entered a new “legislative phase” (Talmon 2005: 175).
International law historically has been viewed as a body of norms and rules produced through consent-based procedures.\(^1\) Both in theory and in practice, however, this understanding of international law is changing. On the theoretical side, some international legal scholars have begun to question the normative implications of relying exclusively on consent-based mechanisms for the production of international law. Noting that an international law must be Pareto-improving in order to gain widespread consent, Guzman (2012) proposed that this is normatively unappealing in a globalized world where transnational problems need to be dealt with quickly. He proposed that non-consent-based international law is appealing if we think in terms of Kaldor–Hicks efficiency where international law should produce outcomes that are better than the status quo for most states even if worse for particular states. Other scholars, however, take the view that non-consent-based international law faces legitimacy problems given its non-democratic origins (Johnstone 2008; Tallberg 2002; Zürn 2004; Zürn and Stephen 2010).

In practice, the European Union provides the most prominent example of an institution that produces non-consent-based international law. The European Union Parliament and Council can issue directives that are binding for all EU member states even if universal consent has not been obtained (Falkner et al. 2004, 2008; Toshkov 2008). As with theoretical concerns about the legitimacy of non-consent-based international law, the practical concerns about EU law and regulation have spilled over into the anti-EU politics underlying Brexit and the rise of other new political forces in Europe (Torreblanca and Leonard 2013; Treib 2014; Usherwood and Startin 2013).

In general, concerns about legitimacy are closely tied to concerns about compliance with non-consent-based international statutes. In the absence of an international enforcement mechanism, compliance with international law – whether it is traditional consent-based law or non-consent-based law – will depend on how states perceive their incentives to abide by its provisions. On the one hand, scholars have argued that states try to develop reputations for compliance that will facilitate their entry into future cooperative arrangements (Guzman 2005). Other scholars have emphasized how international treaties create focal points around which domestic constituencies can mobilize and by which those constituencies can judge the behavior of governments (Chaudoin 2016; Dai 2005, 2007; Simmons 2009). Beyond simply allowing preexisting pro-compliance constituencies to solve collective action problems, some argue that the existence of international law can change

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\(^1\) For the case of the U.N. Security Council, its ability to produce non-consent-based international law is rooted in the fact that U.N. member states have consented to the provisions of the U.N. Charter that allow it to do so. In addition, international law is increasingly recognized to include *jus cogens* (that is, peremptory norms that cannot be derogated and that have force simply as a result of their being international norms) (see Frowein 2013). *Jus cogens* rules (for example, a prohibition against international law allowing enslavement) have force without having been made explicit either in a consent-based treaty or in hierarchical law. We thank a reviewer for highlighting this.
public opinion in a way that creates these very constituencies; that is, the existence of international law leads the public to update their preferences about some issue in a way that it subsequently demands more compliance from the government on that issue (Chilton 2014; Wallace 2013). With non-consent-based law – where a state has not actively put its reputation on the line by explicitly committing to an international legal obligation and where the international statutes may more generally be regarded as illegitimate – it is not yet clear how public opinion will react and influence government decisions about compliance. In the case of non-consent based law, domestic public opinion arguably could still be relevant for shaping compliance. If, however, the public views non-consent-based law as a foreign intrusion or imposition on domestic sovereignty, then even these mechanisms might be less likely to come into play to induce compliance in the case of non-consent-based law.

To understand how the public reacts to non-consent-based international law in terms of its level of support for costly compliance with the law, we conduct a survey experiment in Brazil. Brazil is a regional power that has aspired to have greater international legal influence through its frequent participation and quest for permanent membership on the U.N. Security Council and that has questioned some impositions of international law on equity grounds. Using the specific context of compliance with international law about the monitoring of nuclear materials, we compare how Brazilians react to obligations brought about through typical consent-based law (that is, a multilateral treaty) versus non-consent-based law (that is, a mandate from the U.N. Security Council). Because of Brazil’s frequent participation on the U.N. Security Council and its participation in the approval of Resolution 1540, we truthfully vary whether or not respondents learn that Brazil was involved in the creation of the non-consent-based law to see if their reactions to this scenario are more similar to the consent-based scenario or to a world where non-consent-based law is viewed as a foreign imposition.

We find high levels of support for compliance with costly international legal commitments among Brazilians. We find that Brazilians draw few distinctions between a generic international legal commitment and an explicitly consent-based commitment. We also find no evidence of different reactions to a non-consent-based mandate produced while Brazil was on the Security Council. We do, however, find evidence that the Brazilian public is less likely to support costly compliance with a non-consent-based mandate when we make no mention of Brazil having been on the Security Council at the time the mandate was produced. Differential reactions across the conditions in select subgroups (that is, highly educated respondents and internationally oriented respondents) are the same as in the general population, although there is a higher average level of support for compliance among these groups. In considering possible mechanisms, we find that our respondents perceive similar reputational costs
and similar likelihood of international sanction for Brazil’s failure to comply with any of these forms of international law; this suggests that the negative reactions to the non-participatory non-consent-based law may originate in concerns about sovereignty. Our results should provide some pause about the likelihood of compliance with non-consent-based law because of domestic mechanisms alone.

**Generating Preferences for Compliance: The Influence of International Law on Public Opinion**

Traditionally, the terms of debate about the meaningfulness of international law have been somewhat stark. Skeptics argue that international law is simply a reflection of existing power arrangements and therefore can have no influence on state behavior (Mearsheimer 1994) or that states will only sign onto international law in which compliance will be incidental to the policies they anticipate enacting (Downs et al. 1996; Goldsmith and Posner 2005). Proponents, on the other hand, argue that states use international law in order to establish focal points for reciprocal relationships and that they are hesitant to violate international law because there may be reputational costs to doing so (Guzman 2005; Keohane 1984). While the empirical literature finds evidence that international legal obligations appear to have independent effects on state behavior after controlling for selection into the creation of obligations, even the most ardent believers in the independent effects of international law acknowledge that there remain many unsolved analytical problems in this field of research (Simmons 2010).

In the past 15 years, the literature has moved toward considering the way in which international law may mobilize domestic constituencies interested in compliance (Chaudoin 2016; Dai 2005, 2007; Simmons 2009). By creating international legal obligations and making relevant domestic actors aware of them, governments may be able to change or lock-in certain policies (Simmons 2010). An international legal framework might empower groups to mobilize by providing a focal point or a sense of legitimacy; might reveal relevant information to these groups for use in mobilization and lobbying; or might transform individual preferences in such a way as to strengthen these constituencies in terms of their sheer numbers and political force (Wallace 2013). A domestic constituency mechanism that relies on interest group organization and pressure might help explain why we find some evidence of differential compliance across democracies and non-democracies (Morrow 2007; see also Chilton 2015).

Therefore, a recent strand of the international law literature has shifted the level of analysis to mass public opinion. Such studies concentrate on what is the necessary first step in a domestic compliance story about the effectiveness of international law: they seek to show that public opinion is responsive to the
existence of international law. In general, these studies find that the public shifts its policy preferences when issues are framed with regard to international law, although these effects are sometimes concentrated in particular segments of the population and sometimes are indistinguishable from other types of appeals that do not mention international legal obligations.

The effect of references to international law on policy preferences has been demonstrated across several substantive domains. Tomz (2008) found a striking 17% point drop in support for trade sanctions when respondents are told that the sanctions would violate an international agreement. Chaudoin (2014) found a 10% point drop in support for import restrictions motivated by economic interests when those import restrictions are described as violating international law. Wallace (2013) showed a six percentage point drop in support for torture when international law is referenced, although Chilton and Versteeg (2016) failed to reproduce this overall result. Chilton (2014) found more support for reforming policies about solitary confinement in U.S. prisons when international law is mentioned. Chilton (2015) found that respondents are less likely to support bombing areas with civilian populations when the laws of war are mentioned.

In several of these U.S.-based studies, stronger effects have been found among liberal respondents, who are presumed to be more receptive to appeals to international law. Wallace (2013) showed that the six-percentage-point average drop in support for torture when international law is referenced is the composite of an 11-percentage-point drop among liberal respondents (whereas conservative respondents are essentially unaffected by the treatment). Chilton and Versteeg (2016), despite not finding a statistically significant overall difference, almost exactly replicated these results in the ideological subsets of their study, showing an 11.5-percentage-point difference for Democrats against a very small and statistically insignificant difference for Republicans. Chilton (2015), on the other hand, found stronger treatment effects for references to the laws of war among Republicans.

Chaudoin (2014), meanwhile, found that an international law framing is most persuasive for individuals who do not have a strong ex ante pro-trade or protectionist leaning. He argues that these individuals will be influenced by any argument, showing evidence that they even respond to arguably contentless “placebo” treatments. In a similar vein, Chilton (2015) showed that an appeal to the immorality of bombing civilians decreases support for risky military action to the same extent as reference to international law.

These results for placebo framings raise the question of why the international law framings are persuasive. In the online Appendix for his article, Chaudoin (2014) found extremely similar levels of reaction to three variations in the reference to international law: one emphasizing how the policy would imply breaking a commitment, one emphasizing how the policy might lead to retaliation, and one emphasizing the legal nature of the international commitment (see...
Chaudoin 2013). He concludes that “respondents’ reasons for disapproving of violations of international agreements are likely to be multifaceted, not simply based on a dislike of inconsistency” (Chaudoin 2013, 5).

Public Reactions to International Legal Obligations of Different Origins

We contribute to this literature on public responsiveness to international legal obligations in two ways. First, we introduce variation in the origin of the obligations, looking to see if people are more responsive to some forms of international legal obligation than others. In particular, we want to see if people have the same preference for compliance with explicitly non-consent-based international law as they have with international law that is either explicitly consent-based or else of generic origin in the existing studies. Second, collecting data outside of the United States allows us to provide insight into attitudes toward international law in the context of a regional power, rather than the context of the single global superpower. In this section, we describe what we think we can learn from variation in the origins of legal obligations. In the following section, we describe in greater depth what we can learn from the Brazilian case and the use of international law related to nuclear materials in our experimental vignettes.

As is often noted, a key distinction between international law and domestic law is that there is no international entity akin to domestic judicial systems responsible for enforcing international law. Compliance with international law, therefore, is not brought about through the threat of direct punishment in the way that compliance with domestic law typically is (Chayes and Chayes 1993). This leads inevitably to the question of why states would ever comply with international law when it is costly to do so. The reputational theory of international law proposes that states will comply with international law in the short-term even if it is costly because they want to maintain their long-term reputations for compliance in order to facilitate other beneficial international interactions (Guzman 2005; Tomz 2008). If states do not follow through with commitments they have made under international law, they may be considered less likely to follow through with other international commitments and therefore may be presented with fewer opportunities for beneficial cooperation in the future.

Testing the reputational theory of international law has been difficult because of the fact that most international law is consent-based, and states may sign onto international law only in those cases where compliance behavior only minimally differs from what states would do in the absence of the law (Downs et al. 1996; Tomz 2008; although see Hollyer and Rosendorff 2011). If states enter into international legal commitments only
when they expect to comply – such that their reputations will never be put at risk – how then can we observe cases where the reputational risk may vary?

One possibility is researching the extent to which violations of international law would raise concerns about a state’s international reputation among its mass public. The literature described above examines whether the mass public views issues differently when they have been framed in terms of a state’s international legal commitments. In most cases, however, the authors have not explicitly identified whether respondents are thinking about a state’s reputation per se in reacting to the information about international legal commitments. Chaudoin (2014) found that reputation matters as much as other plausible mechanisms.

Recent work by Reynolds (2011) highlights the possibility of looking at non-consent-based international law – specifically international legal obligations produced by U.N. Security Council resolutions – as counterfactual scenarios where international law exists but the state has not publicly staked its reputation on its adherence to the law by signing on to the law. Consent-based law, non-consent-based law with participation, and non-consent-based law without participation, theoretically could activate different levels of concern for international reputation. Whereas publicly signing a treaty or otherwise helping to create international law may put a state’s reputation on the line when it comes to future compliance, this is less clearly the case when international law is mandated from above by the U.N. Security Council.

Indeed, beyond just failing to motivate a concern for a state’s reputation among the public, it is plausible that non-consent-based law will motivate a disinclination to comply with the international legal commitment because of the sense that it is being imposed by external actors, something that may be a signal of how the commitment does not accord with the state’s own interests. In a world where there is no widespread ceding of domestic sovereignty to international bodies, it is plausible that this less-common form of international law will be met with calls for non-compliance, similar to the type of non-compliance with taxation that we expect to see when citizens do not perceive a government as legitimate (Levi and Sacks 2009).

In sum, if presented with a question about complying with a costly international legal obligation, we expect the public to be most hesitant about endorsing compliance when the international law has been mandated without a state’s direct participation as compared to cases where the state has participated either in the creation of traditional consent-based law or else non-consent-based law (H1). We also expect the public to be more willing to comply with consent-based law or non-consent-based law with participation as compared to a generic international legal obligation (that is, where we have not provided information about its origins) (H2) because of concerns about the reputational consequences of non-compliance with something where one’s
own state has participated in the creation of the commitment. We expect to see
the origins of these preferences reflected in the concerns that citizens express
about a state’s reputation suffering from non-compliance (H3).

A future-oriented concern for maintaining a national reputation is not the
only reason why members of the public might react negatively to the idea of
their government violating international legal commitments that it or one of
its predecessors has made. It is easy to imagine that citizens – rightly or
wrongly – might fear retaliation from other states or international organiza-
tions if their country fails to live up to its international obligations. This
again seems most likely in the case where the state has voluntarily entered
into the international legal commitment through consent. In these scenarios,
we expect to see citizens expressing greater concerns about retaliatory sanc-
tions for non-compliant behavior than in the scenarios where the interna-
tional legal commitment has been mandated or is of indeterminate origin
(H4). Alternatively, it might be the case that citizens think that retaliatory
sanctions are more likely when an international legal mandate is associated
with a specific international organization (for example, the United Nations)
as compared to when it comes from a consent-based agreement with either
no institutional administrator or else a less-well-known one (H5).

**Brazil as a Rising Author of International Law**

While studies of state compliance with international legal commitments have
drawn on state behavior from around the world, studies of mass public
opinion about international law have been largely concentrated in the United
States. Yet given its superpower status, the United States is perhaps the
country that is the least likely to be concerned about material consequences
that could follow from violating international law. By extending the study of
mass public opinion about international law to other countries, we can see if
citizens in countries where international law might present more of a con-
straint think in ways that are consistent with theories of international law.

Brazil is an intriguing case, especially when compared to the United States,
for structural and historical reasons. Since the 1960s, the country has con-
ceived of itself as an intermediate power not aligned with the great world
powers and has crafted its foreign policy accordingly. In the past two decades
in particular, Brazil has made a concerted effort to influence international
decision making, to shape regional and global institutions, and to counter-
balance the power of the United States and other traditional great powers

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2Among the growing list of exceptions are Anjum et al. (2016), Chapman and Chaudoin (2017), and Lupu and
Wallace (2017). Lupu and Wallace (2017) show different effects on government support of international law
violations across three different contexts: Argentina, India, and Israel.

3On the other hand, since the United States plays a prominent role in writing international law, it may be more
concerned than the average state about violations by other states.
Zürn and Stephen (2010) described a common pattern among rising powers: on the one hand, these powers embrace long-standing international institutions, seeing them as cooptable and usable for their advantage, but at the same time, they may also see such institutions as designed for the advantage of more established powers, leading to their opposition.

In our specific substantive domain of nuclear non-proliferation, Brazil withheld its ratification of the Nuclear Non-Proliferation Treaty (NPT) until 1997 out of a concern that the treaty was “freezing world power” (Garcia 1998). Even though Brazil included a ban on the development of nuclear weapons – thereby complying with the main component of the NPT – in its 1988 Constitution, memories of the debate over entrance into the NPT linger, perhaps due to high levels of awareness among the public about the issue. In the most recent survey data available, 70% of Brazilians say that combatting nuclear proliferation is “important” or “very important” (IRI-USP 2015). We, therefore, have chosen an international legal issue that has a perhaps surprising salience among the population that we study.4

With regard to the United Nations, Brazil has served more frequently as a rotating member of the U.N. Security Council than any other country in the world except Japan. The country’s campaign for reforming the U.N. Security Council followed a logic similar to its non-ratification of the NPT. Brazilian leaders argued that the Cold War-era distribution of power should not be reified in Cold War-era international institutions. Brazil situated its demands for a seat on a reformed Security Council in terms of the country’s legitimacy as a sub-regional, South American, and Latin American leader (Arraes 2005).

This interest in the United Nations does not mean, however, that Brazilians will simply accept mandates from the United Nations. Brazilians were almost evenly divided on a question about whether or not Brazil should accept U.N. decisions even if it does not like them: 47% agreeing with the statement and 52% disagreeing (IRI-USP 2015). When asked to agree or disagree with the statement that international laws should be superior to national laws, 39% of respondents who provided an answer agreed, while 59% disagreed.

With regard to both the NPT and Security Council reform, a structural understanding of international law has entered Brazilian public discourse. Both the legitimacy of the international system and Brazil’s reputation as a rising international power perhaps have penetrated more deeply into the thinking of Brazilian citizens than is typical for citizens in other countries

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4Our main reason for choosing nuclear proliferation as a substantive domain is the existence of international law generated through the three mechanisms that we study: consent, a non-consent-based mechanism in which Brazil participated, and a non-consent-based mechanism in which Brazil did not participate. This lets us truthfully vary the source of international law in our experimental vignette.
where public opinion toward international law has been studied. As Brazil has recently assumed major leadership roles in international trade negotiations as a member of the G20 group of developing nations and in international development as a new source of financing for sub-Saharan African countries (Cabral and Weinstock 2010; Oliveira and Onuki 2012; Wolford and Nehring 2015), the country is increasingly placing itself in a position to author international law in the form of bilateral, regional, or global treaties, meaning that public opinion about international law may be particularly relevant for the country.

**Research Design**

To better understand Brazilian public opinion about international law and to test our hypotheses about how the public will react to various forms of international law, we conducted an embedded survey experiment in Brazil. Between 17 and 21 October 2015, IBOPE surveyed 2,002 individuals age 16 or older as part of its monthly omnibus survey. The survey uses probability-proportional-to-size sampling to choose cities from 25 of the 27 federal units that define Brazil followed by probability-proportional-to-size sampling of census tracts within those cities. Individual respondents are then recruited using a quota sampling scheme that produces a sample representative of the overall Brazilian population.

After two initial questions about their interest in and opinions about international affairs, respondents were randomly assigned to one of four survey conditions describing Brazil’s international legal commitments to monitor nuclear materials. In the first condition, these legal commitments were described generically. In the second condition, they were described with reference to the Nuclear Non-Proliferation Treaty. In the third and fourth conditions, they were described with reference to a U.N. Security Council Resolution. Although the third condition did not make reference to the membership of the U.N. Security Council at the time that the resolution was passed, the fourth condition explicitly noted that Brazil had been a member and had voted in favor of the resolution.

The variation is found in the first two paragraphs of the vignettes employed in each treatment condition. The first provides a general introduction to international law, while the second specifically describes the international legal commitments related to the monitoring of nuclear materials.

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5Although not specified in the vignette, we are referring to U.N. Security Council Resolution 1540. As described by the committee charged with monitoring its implementation, the resolution “imposes binding obligations on all States to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons, and their means of delivery” (http://www.un.org/en/sc/1540/, accessed 20th June 2016).

6Ideally, we would have stated in the third condition that Brazil was not a member of the U.N. Security Council when the resolution was passed. Since Resolution 1540, however, is the basis of our vignette and Brazil was, in fact, on the council when it was passed, we could not do this without deception.
the case of non-consent-based law with participation, this second paragraph also describes Brazil’s membership on the U.N. Security Council at the time of the resolution and notes that Brazil voted for the resolution. Following these two paragraphs, all of the respondents were told, “While this is a good objective, it is costly to undertake the monitoring.” And then they were asked whether they thought that Brazil should comply with its international legal obligations. The specific phrasing of the question varied with the treatment. Table 1 shows the variation in the text across the four different vignettes.

The question that concludes the vignettes is our main outcome of interest. We also asked two additional follow-up questions to allow us to test the reputation and material punishment mechanisms: “If Brazil stops the required monitoring of nuclear materials, do you think that its international reputation will suffer?” and “If Brazil stops the required monitoring of nuclear materials, do you think that other countries will try to punish Brazil in some way, for example, by imposing economic sanctions?”

To assess the random assignment, we ran a multinomial logit model predicting assignment to the four treatment conditions using the respondent’s gender, age, level of education, social class, level of interest in

Table 1. Variation in Vignette text.

<table>
<thead>
<tr>
<th>Condition</th>
<th>Non-consent-based</th>
<th>Non-consent-based with participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generic</td>
<td></td>
<td></td>
</tr>
<tr>
<td>… Brazil has a variety of international legal obligations with which it is expected to comply. Some of these international legal obligations involve monitoring materials that could be used to produce nuclear bombs. The monitoring may help prevent international terrorists from obtaining these dangerous materials.</td>
<td>Like nearly all countries in the world, Brazil has signed the Nuclear Non-Proliferation Treaty and is expected to comply with it. This treaty involves monitoring materials that could be used to produce nuclear bombs. While this is a good objective, it is costly to undertake the monitoring. Do you believe Brazil should comply with …</td>
<td>Brazil is a member of the United Nations and is expected to comply with resolutions from the United Nations Security Council. The Security Council approved a resolution that involves monitoring materials that could be used to produce nuclear bombs. Brazil was serving a two-year term on the U.N. Security Council at this time and voted in favor of the resolution.</td>
</tr>
<tr>
<td>Consent-based</td>
<td></td>
<td></td>
</tr>
<tr>
<td>… its international legal obligations in this area …</td>
<td>… its obligations under the Nuclear Non-Proliferation Treaty …</td>
<td>… its obligations under this U.N. Security Council resolution …</td>
</tr>
<tr>
<td>… even if it is costly to do so?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

7Our goal with this sentence was to introduce the idea of costs to the respondents. As a reviewer pointed out, the initial clause, however, may also increase baseline levels of support for compliance. Since we use the phrase in all four vignettes, the phrase should not drive any differences in responses to the vignettes.
international affairs, perceptions of benefits from international interactions, and indicators for whether they were nonwhite, catholic, and/or a member of another organized religion. We fail to reject the null hypothesis that this set of variables does not predict treatment assignment ($p < 0.46$), which indicates a successful randomization of the treatment conditions across subjects.

### Results

Overall, we find that 70% of Brazilians who answer our main outcome question expect Brazil to comply with its international legal commitments. As Table 2 shows, the highest desire for compliance was expressed in the generic “international legal commitment” condition, although the levels of pro-compliance responses in the consent-based and non-consent-based with participation conditions are statistically indistinguishable from the generic condition. In the condition where we describe the international legal commitment as having come from the U.N. Security Council and do not mention Brazil having participated in the voting on the resolution, we find a statistically significant eight percentage point decrease in the proportion of people saying that Brazil should comply with this obligation. H1, which proposed that the public would feel the lowest desire to comply with a non-consent-based obligation created without Brazil’s participation, is therefore not supported.

<table>
<thead>
<tr>
<th>Condition</th>
<th>Proportion saying that Brazil should comply (standard error) [95% Confidence interval]</th>
<th>Difference from generic condition [95% Confidence interval]</th>
<th>$p$-value on $H_0$: No difference from generic condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generic</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(N = 467)</td>
<td>0.73 (0.02) [0.69–0.77]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consent-Based</td>
<td>0.69 (0.02) [0.65–0.74]</td>
<td>0.04 [−0.02–0.10]</td>
<td>0.18</td>
</tr>
<tr>
<td>(N = 444)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-Consent-Based</td>
<td>0.65 (0.02) [0.61–0.69]</td>
<td>0.08 [0.03–0.14]</td>
<td>0.01</td>
</tr>
<tr>
<td>(N = 448)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-Consent-Based with Participation</td>
<td>0.71 (0.02) [0.67–0.75]</td>
<td>0.02 [−0.04–0.08]</td>
<td>0.47</td>
</tr>
<tr>
<td>(N = 460)</td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

$p$-value is from a difference in proportions test of $H_0$: no difference between mean response in given condition and control condition.

8Note that this is the same proportion of Brazilians who think that nuclear proliferation is important or very important in the IRI-USP (2015) survey cited above. Nine percent of respondents said that they did not know or refused to give an answer.

9We also present these results in the Appendix in a regression framework using treatment indicators and a full set of controls. The indicator for the non-consent-based law treatment is negative and highly significant. Most of the control variables are not significant, although two questions measuring international attitudes both positively and significantly predict increased support for compliance.
supported. This difference might result because the idea of violating non-consent-based law does not generate the same reputational concerns as the idea of violating other forms of international law (H3) or because it generates fewer concerns about material consequences of non-compliance (H4), or it could be because of a sense that non-consent-based law impinges on national sovereignty. H2, which proposed that the public would feel more of an urge to comply with consent-based law or non-consent-based law where Brazil had participated in its construction, however, is not supported, as it is the generic condition referencing a variety of international legal obligations that elicits the highest overall levels of support for compliance (although they are not statistically distinguishable from those observed in the consent-based and participatory non-consent-based conditions).

It also is worth highlighting that the second largest difference in support for compliance across the treatment conditions comes from the comparison between the two non-consent-based conditions. Public desire for compliance is six percentage points lower when the prompt mentions only the U.N. Security Council Resolution, as compared to when Brazil is described as having been on the U.N. Security Council when a non-consent-based resolution was passed. This difference is statistically significant at conventional levels ($p < 0.04$).

As noted above, the difference between the generic condition and the non-consent-based condition might be driven by differing concerns about the reputational or material consequences of non-compliance (H3 and H4). The lack of statistically significant differences, however, between the generic condition and the consent-based condition and the non-consent-based condition with participation suggest that such concerns are varying in only a limited way if at all. Table 3 shows no statistically significant differences across any of the conditions for either the question about reputational consequences of non-compliance or the question about material consequences of non-compliance. Regardless of the source of international law, almost four out of five Brazilians think that non-compliance will be punished with a loss of reputation and/or material sanctions. While these concerns about reputation and material consequences might explain the generally high desire for compliance that we find in Table 2, they cannot explain the variation that we see with regard to the higher willingness to support the violation of non-consent-based law where Brazil has not participated in its creation. We think that this difference in support for compliance is likely driven by concerns about international institutions encroaching on national sovereignty. As we lack the questions in the current survey to test this mechanism, we must leave an exploration of the mechanism to future research.

With regard to H5 – that people may fear material retaliation when a formal organization like the U.N. Security Council is involved as compared
to cases where it is not – we see some evidence that this is the case if we are willing to think that respondents understood the Nuclear Non-Proliferation Treaty as having a powerful organization associated with it. All three of the conditions that name a specific origin of international law elicit slightly more concern about sanctions than does the generic condition. However, even when pooling all three conditions together, the average reaction is not statistically distinguishable from that found in the generic condition ($p < 0.29$).

We also see some evidence that naming the specific institution of international law from which an obligation comes increases the perception that there may be reputational consequences for violating the obligation in question. However, once again, even if we pool all of the non-generic conditions together, the average perception of reputational risk is not statistically distinguishable from that found in the generic condition ($p < 0.22$).

Finally, we examine two subgroups of respondents in the data who might be more likely to have nuanced understandings of international law. We study those respondents who have at least a completed high school education (which is true of just under half of our sample). We also study those respondents who either say that they are very interested in international news (the highest category on a four-point scale) or who say that international business is good for Brazil; these two criteria characterize about 57% of our sample. As can be seen in Table 4, there is a small intercept shift, where each of these sub-

<table>
<thead>
<tr>
<th>Condition</th>
<th>Proportion saying that non-compliance will have reputational consequences (standard error) [95% Confidence interval]</th>
<th>Difference from generic condition [95% confidence interval] $p$-value on $H_0$: no difference from generic condition</th>
<th>Proportion saying that other countries will punish non-compliance (standard error) [95% Confidence interval]</th>
<th>Difference from generic condition [95% confidence interval] $p$-value on $H_0$: no difference from generic condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generic (N = 463/459)</td>
<td>0.76 (0.02) [0.72–0.80]</td>
<td>−0.76 (0.02) [−0.73–0.80]</td>
<td>0.76 (0.02) [0.73–0.80]</td>
<td>−0.76 (0.02) [−0.73–0.80]</td>
</tr>
<tr>
<td>Consent-Based (N = 438/431)</td>
<td>0.79 (0.02) [0.76–0.83]</td>
<td>−0.03 (0.02) [−0.09–0.02]</td>
<td>0.79 (0.02) [0.75–0.83]</td>
<td>−0.02 (0.02) [−0.08–0.03]</td>
</tr>
<tr>
<td>Non-Consent-Based (N = 450/450)</td>
<td>0.78 (0.02) [0.74–0.82]</td>
<td>−0.02 (0.02) [−0.07–0.03]</td>
<td>0.79 (0.02) [0.75–0.83]</td>
<td>−0.02 (0.02) [−0.08–0.03]</td>
</tr>
<tr>
<td>Non-Consent-Based with Participation (N = 466/457)</td>
<td>0.79 (0.02) [0.75–0.83]</td>
<td>−0.03 (0.02) [−0.08–0.02]</td>
<td>0.79 (0.02) [0.75–0.83]</td>
<td>−0.02 (0.02) [−0.08–0.03]</td>
</tr>
</tbody>
</table>

First N represents non-missing responses in a given treatment condition for the reputational consequences outcome; second N represents non-missing responses in a given treatment condition for the sanctions outcome. $p$-value is from a difference in proportions test of $H_0$: no difference between mean response in given condition and control condition.
populations is generally more supportive of compliance than the overall sample. But the overall patterns of differentiation across the conditions remain the same: the non-consent-based international law where no mention is made of Brazil’s participation yields the lowest proportion of respondents saying that Brazil should comply, and this proportion is statistically significantly different from the generic condition both among the highly educated and among the internationalists, while the other conditions yield levels of support for compliance that remain indistinguishable from one another.

Therefore, in both the overall population and in some specific subgroups that plausibly would be more aware of distinctions between different international law mechanisms, we find that people are less likely to support compliance with international law mandated from above without the participation of the state in question as compared to supporting compliance with other forms of international law. We do not find evidence that this is due to reduced perceptions that there will be reputational or material consequences to non-compliance with this type of international law. Indeed, our results in Table 3 suggest that the drop in support for compliance occurs despite a constant perception that violating international law will have reputational and material consequences. This leads us to believe that the lack of support for compliance is driven by a negative reaction to international encroachment on national sovereignty. Unfortunately, we did not ask a follow-up question that would allow us to provide direct evidence that respondents

<table>
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<th>Subgroup:</th>
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<th>Internationalists</th>
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<tr>
<td></td>
<td>Proportion Saying That Brazil Should Comply</td>
<td>Difference from Generic Condition</td>
</tr>
<tr>
<td></td>
<td>(Standard Error)</td>
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<td></td>
<td>(Standard Error)</td>
<td>[95% Confidence Interval]</td>
</tr>
<tr>
<td>Generic (N = 248/278)</td>
<td>0.73 (0.03)</td>
<td>([0.68–0.79])</td>
</tr>
<tr>
<td>Consent-Based (N = 206/274)</td>
<td>0.73 (0.03)</td>
<td>([-0.08–0.08])</td>
</tr>
<tr>
<td>Non-Consent-Based (N = 252/254)</td>
<td>0.66 (0.03)</td>
<td>([-0.01–0.16])</td>
</tr>
<tr>
<td>Non-Consent-Based with Participation (N = 233/278)</td>
<td>0.74 (0.03)</td>
<td>([-0.09–0.07])</td>
</tr>
</tbody>
</table>

First N is non-missing responses for highly educated respondents; second N is non-missing responses for respondents who score high on the internationalism questions. p-value is from a difference in proportions test of H0: no difference between mean response in given condition and control condition.
perceive non-consent-based international law as less legitimate. For the moment, we are left to assume that this is the most plausible logic for why a U.N. Security Council Resolution passed with Brazilian participation would elicit responses similar to a generic international legal commitment or a multilateral treaty, while a U.N. Security Council Resolution that is not explicitly linked to Brazil would elicit lower levels of preferences for compliance than any of the three other forms of international law.

Discussion

International legal scholars have called for increased use of new forms of international law that are not consent-based (Guzman 2012), and the U.N. Security Council has begun to use its powers, as described in the U.N. Charter, to pass resolutions that put generic and time-unlimited obligations on states (Szasz 2002; Talmon 2005). If compliance with most international law, however, is determined by the perceptions of policy makers and the mass public about the consequences of non-compliance, will this non-consent-based law be viewed in the same way as consent-based law?

Existing studies have found that citizens informed about international legal commitments will change their willingness to support sanctions (Tomz 2008), torture (Wallace 2013), trade barriers (Chaudoin 2014), reforms to domestic penal policies (Chilton 2014), or attacks on civilians during war (Chilton 2015), although the effects of information about international law might be limited to those with more liberal ideologies (Chilton and Versteeg 2016; Wallace 2013) or those who do not have strongly defined ex ante attitudes about the issue in question (Chaudoin 2014). In all of these cases, however, the international legal obligation is either described as consent-based or generic.

We build on this literature by (1) exploring variation in the origins of the international law; (2) testing some of the underlying mechanisms by which information about international law might change public opinion; and (3) collecting data in a regional power context. Since we care about how individuals perceive different kinds of international law, we do not study issue positions per se as our key outcome variable but rather look directly at preferences for complying with international law in a given issue area (that is, the monitoring of nuclear materials). We ask respondents whether they think that non-compliance will have reputational or material consequences. We do so in the context of a nationally representative survey in Brazil.

We find that Brazilians generally want to comply with international law related to nuclear proliferation. Across all of our conditions, 70% of Brazilians say that Brazil should honor its international legal commitments regardless of their origin; this number mirrors the proportion of Brazilians who generally think that nuclear proliferation is important. We find that
citizens react to consent-based obligations, like treaties, in a way that is indistinguishable from their reactions to a generic international legal obligation. We also find that, as long as Brazil has been involved in the creation of the law, citizens do not distinguish non-consent based law – like U.N. Security Council Resolutions that mandate specific behavior – from these other forms of international law. When there is a non-consent-based mandate where Brazil did not participate in the legislating, however, public support for compliance falls. These patterns are consistent across several relevant subsets of the population.

Since we find no variation in how respondents perceive the likely reputational or material consequences of violating any of these forms of international law, we propose that the most likely explanation for the willingness to not comply with the U.N. Security Council Resolution created without explicit Brazilian participation is that this form of international law has less legitimacy than the forms where Brazil has – one way or another – shown its consent. This mechanism is worthy of additional study in future research.

Overall, these results suggest that Brazil’s continued involvement in the international legal architecture is not something that will be resented by its citizens and that, as a regional power, it may continue to participate in the construction and implementation of international law. However, Brazilian citizens – and perhaps citizen in many countries – are more likely to be somewhat skeptical of international law received as mandates and may be willing to endorse non-compliance with the law even when they view reputational or material consequences of non-compliance as likely. Although the levels of diminished support that we observe are not so large as to render non-consent-based international law useless in global governance, lawmakers may do well to favor consent-based mechanisms wherever gaining public support for the implementation of international law is desired.

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