



The Impact of International Tribunals and Domestic Trials on Peace and Human Rights After Civil War

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We analyze whether international criminal tribunals and domestic human rights trials can play an important role in peacebuilding in post-conflict societies. Advocates and scholars argue that by providing justice and truth, helping to remove war criminals and peace spoilers from their societies, and by contributing to deterrence, these institutions contribute to improvements in human rights and the maintenance of peace. Other scholars assert that few such beneficial effects have occurred. We test the impact of international tribunals and domestic trials on the recurrence of civil war and human rights improvements in states that have emerged from civil war since 1982. The evidence regarding their beneficial impacts is fairly clear, however, and suggests that while domestic human rights trials and international tribunals do not exercise any negative effects, they do not appear to contribute to reducing the recurrence of civil war or improvements in human rights practices.

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The end of civil wars marks the beginning of a new struggle: to repair damaged or destroyed institutions, rebuild economies, protect human rights, and to prevent wars from recurring. Adversaries, the affected populations, and the international community have utilized various strategies and institutions to aid these efforts, and today the global costs of postwar reconstruction and peacebuilding efforts run in the hundreds of billions of dollars (Belasco 2008). In particular, international and local actors have exerted substantial interest and devoted considerable effort to addressing the violent legacy and abuses of the past. States emerging from civil wars confront demands for justice from those who experienced human rights violations during the violence; for peace from populations weary of conflict and often ready to put the past behind them; and for criminal prosecution from those who seek retribution and who fear the local and global consequences of letting perpetrators escape with impunity. Many strategies including trials, truth commissions, memorials, lustration, and amnesties have been deployed to address the human rights abuses and violations of international law that typically accompany violent disputes. Some strategies can have a powerful impact by naming and punishing those who ordered and committed violations, such as criminal prosecutions, whereas other strategies, like amnesty, seek to put the past safely out of reach to repair the destruction left by war. All strategies, however, are the result of difficult social, economic, and political compromises that attempt to come to grips with the ever-present tension between

peace and justice. The costs of recovery in conflict ridden societies—in both financial and human terms—are so high that we might expect considerable expertise and research devoted to analyzing the effectiveness of such strategies. Yet, after an exhaustive overview of extant research, Thoms, Ron, and Paris (2008:12) write that, “Our primary conclusion is that existing empirical knowledge about the impacts of transitional justice is still limited. Systematic research is nascent, and many early findings are questionable or contradictory.”

Currently, there is a great deal of emerging research examining the impact of various methods of transitional justice (Sikkink and Booth-Walling 2007; Kim and Sikkink 2008; Van Der Merwe, Baxter, and Chapman 2009; Olsen, Payne, and Reiter 2010; Wiebelhaus-Brahm 2010), although only the proverbial tip of the iceberg has been uncovered. Wiebelhaus-Brahm’s (2010) book provides the most extensive examination of truth commissions to date using a mixed-methods approach, but it is focused on truth commissions rather than criminal prosecutions. Sikkink and Booth-Walling (2007) and Kim and Sikkink (2008) analyze the impact of domestic human rights trials on human rights practices. More generally, Olsen et al. (2010) study a variety of transitional justice mechanisms across states and over time. We provide an empirical analysis of one of the most frequently utilized forms of transitional justice—the use of criminal prosecution at the national and international levels—to assess their impact on human rights practices and the maintenance of peace in the aftermath of civil wars. Thus, we seek to expand the focus on the impact of criminal prosecution as we consider both domestic and international efforts. And, we seek to broaden our understanding of the effects of these institutions on both peace and human rights.

Our concern for understanding the impact of trials and tribunals is multifaceted. First, such prosecutions are often some of the most visible and far-reaching events in post-conflict societies. As Freeman (2006:10) writes, “...the importance of criminal trials remains unrivaled. No other mechanism is perceived to have a greater impact on deterrence, public confidence in the state’s ability and willingness to enforce the law, and a victim’s sense of justice.” Second, there is considerable debate regarding the wisdom of nations conducting or participating in such prosecutions that may continue to polarize citizens across ethnic, religious, socioeconomic, and political divides (e.g., Snyder and Vinjamuri 2003, 2004). Trials may enflame such situations as formerly warring factions seek vengeance against those who committed offenses, but it is also possible that they might provide a neutral venue in which another actor assumes responsibility for discovery of the truth and allocation of blame. We do not know. Hence, research into their impact is necessary to address these competing perspectives. Finally, given the complexity of post-conflict societies and the multiplicity of transitional justice mechanisms, we seek to concentrate our efforts on one particularly important modality of justice to provide a more in-depth and useful analysis—criminal prosecution. We seek to determine whether these criminal prosecutions have a positive impact on the prospects for peace and improvements in human rights practices in the aftermath of civil war.

We begin by describing the goals of domestic trials and international tribunals to better understand what they are designed to accomplish. Woven through our discussion is an assessment of what the extant literature has found thus far regarding the impact of this type of transitional justice and an evaluation of what issues and problems remain to be addressed. From this research, we identify two principal, competing predictions regarding the impact of domestic trials and international tribunals on human rights and peace. Some scholars suggest that trials and tribunals undermine governance and peace in post-conflict societies, while other scholars and proponents believe they can accomplish much good in these three areas. Rigorous and empirical testing in the post-conflict environments of nations across time and space has only recently begun in

earnest. Our goal is to contribute to this emerging area of research through a statistical analysis of the absence of civil war and human rights from nations that have emerged from a civil war since 1982. We provide multiple analyses to evaluate the role of trials and tribunals in human rights and keeping the peace. We find that, in general, neither international tribunals nor domestic human rights trials appear to exercise a significant impact on peace or human rights. We conclude by discussing the possibilities for future research to provide a more intensive analysis of the impact of domestic trials and international tribunals in light of our findings.

Assessing the Impact of International Tribunals and Domestic Trials

Most scholars agree that until just recently there has been a distinct lack of systematic and empirical research on the impact of domestic trials and international tribunals. However, there has been no shortage of assertions about the purported effects of such institutions. The following section addresses the arguments and assessments regarding the purported effects of these mechanisms. We begin by defining international criminal tribunals and domestic human rights trials.

Generally, a war crimes or international criminal tribunal is a “judicial body created to investigate and prosecute individuals accused of violations of human rights or humanitarian law in the wake of violent conflict” (IDEA 2003). In the modern era, tribunals and the idea of holding individuals who were leaders accountable for their criminal actions descends directly from the Nuremburg and Tokyo military tribunals following World War II. More recently, in the aftermath of the Balkan wars and Rwandan genocide, tribunals such as the International Criminal Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) (ad hoc tribunals), the International Criminal Court (ICC), and other international tribunals in Sierra Leone, East Timor, and Cambodia were established. Criminal prosecutions held at the domestic level are similar in terms of their general purpose of holding accountable those who have engaged in human rights violations, but their structures and powers may be different from international tribunals. Kim and Sikkink (2008:16) define domestic human rights trials for their data collection purposes as:

All domestic judicial proceedings in transitional countries for human rights violations during previous regimes committed by government officials or their agents (emphasis in the original) were considered. To be included in the data set the judicial activity discussed in the report must inflict costs on a government agent accused of having individual criminal responsibility (emphasis in the original) for human rights violations.

The creators and advocates of international tribunals and domestic trials have articulated multiple goals for these institutions, but most especially they have been associated with furthering the establishment of peace through removal from power of peace spoilers, providing justice, and truth telling, especially to victims, and promoting deterrence (sometimes expressed as “ending impunity”). We assess the impact of trials and tribunals in advancing each goal below.

The promotion of peace has been a key aim of trials and tribunals. For example, in the statute authorizing the establishment of the ICTY, the Security Council found the situation in the former Yugoslavia constituted, “a threat to international peace and security” and asserted that the establishment of the ICTY was intended to “...contribute to the restoration and maintenance of

peace.” Akhavan argues that the “empirical evidence suggests that the ICTY and the ICTR have significantly contributed to peacebuilding in postwar societies, as well as to introducing criminal accountability into the culture of international relations” (2001:9). International tribunals and domestic trials are thought to contribute to facilitating the establishment of peace in post-conflict nations through several means, but most especially through the removal from power of spoilers; the assignment of guilt to individuals rather than collectives, and general deterrence (i.e., through force of example to dissuade potential war criminals from carrying out illegal actions, which we discuss below). The importance of sidelining those who would subvert peace is critical. Stedman (1997:5) contends that the greatest danger to post-conflict societies “...comes from spoilers—leaders and parties who believe that peace emerging from negotiations threatens their power, worldview, and interests...” The removal of spoilers from power to stand trial facilitates post-conflict peacebuilding by giving local actors the political space needed to reconstruct society and cement peacebuilding efforts (Minow 1998; Akhavan 2001:16–26). Thus, criminal prosecutions can effectively sideline these individuals and prevent them from taking actions that would undermine the peace.

Furthermore, the removal from power or the ostracism of former political and military leaders is thought to diminish the perceived need for individuals to engage in acts of revenge and continue the cycles of violence. By pointing the finger of blame squarely at those who conceived, organized, and ordered the commission of war crimes, crimes against humanity, and genocide, criminal prosecution is theorized to contribute to deterrence by lessening the perceived need for one ethnic group to take revenge against another (Akhavan 2001, although see Sloane 2007; Stover and Weinstein 2004). The individualization rather than collectivization of guilt for these crimes is intended to not only attribute responsibility to those most culpable, but also to shed light on the machinations these leaders employed to instill ethnic hatred and hide evidence of their atrocities. Because these conflict entrepreneurs, as well as other governments that employ political violence and ethnic division as tools to attain and perpetuate their power, also monopolize information in their societies, most citizens remain only dimly aware of the true nature of these conflicts and are deluded into believing that their very survival depends on the elimination of the “other.” Thus, advocates of trials and tribunals argue that by holding individuals, especially those who bear the greatest responsibility for violations of human rights and international law, legally accountable for their actions will help advance the establishment of peace and dispel notions of collective guilt.

Such arguments have not gone uncontested. Several scholars contend that the political context in which trials and tribunals operate is critical (Snyder and Vinjamuri 2003, 2004; Mendeloff 2004) and that absent a more general political settlement among formerly warring factions regarding power sharing, policies and political institutions, criminal prosecutions may do more harm than good. Mendeloff argues that these mechanisms are likely to work best in societies where there is a minimum level of democracy and where there is a stable peace—“truth-telling may have value, but it is likely limited” (2004:376). Snyder and Vinjamuri (2003, 2004) argue that threatening to remove important leaders from positions of power can cause these individuals and their followers to resist peace agreements and to undermine the work of trials and tribunals. When prosecutors demand their apprehension, such persons are left with no incentives to engage in constructive peace-making efforts, and every incentive to work against a peacebuilding process that has criminalized their conduct.

Second, international tribunals and domestic trials are intended to provide justice for the victims and others in the affected nations, as well as the “international community” writ large through holding individuals accountable for their

violations of human rights and international laws. By bringing the “impartiality” of the courtroom to adjudicate these crimes, trials and tribunals are critical in re-establishing the rule of law and justice where such institutions had previously broken down (Meernik 2005; Stromseth et al. 2006; Kim and Sikkink 2008). Former ICTY Chief Prosecutor Richard Goldstone asserted that, “If there is no justice, there is no hope of reconciliation or forgiveness because these people do not know who to forgive” (quoted in Ivkovic 2001:6). Yet, there are also grounds for doubt about the claims of the advocates of criminal trials in general and the international tribunals in particular (Soloway 2002). Snyder and Vinjamuri (2003, 2004), like Mendeloff, contend that if tribunals are not part of a larger, post-conflict societal agreement on political processes and institutions, they are unlikely to realize their intended aims. They argue instead that the affected parties must reach an understanding regarding the future of former human rights abusers before society can move forward. “Attempting to implement universal standards of criminal justice in the absence of these political and institutional preconditions risks weakening norms of justice by revealing their ineffectiveness and hindering necessary political bargaining” (2003, 2004:6).

Third, perhaps the most direct contribution tribunals and trials can provide to facilitate peace is via their deterrence functions. Scholars of the ICTY have extensively analyzed the (potential) deterrent impact of international tribunals (Teitel 1999; Akhavan 2001; Minow 2002; Snyder and Vinjamuri 2003, 2004; Stover and Weinstein 2004; Drumbl 2007; Sloane 2007). As Ku and Nzelibe (2006:779) write, “...contemporary justifications for these tribunals stress their potential to deter future humanitarian atrocities.” The ICTY’s authorizing statute asserts that the, “establishment of an international tribunal and the prosecution of persons responsible for the above-mentioned violations of international humanitarian law *will contribute to ensuring that such violations are halted and effectively redressed*” (emphasis added).¹ Given the long-standing impunity enjoyed by nearly all war criminals throughout history and the recognized need to end the suffering inflicted by these individuals, the long-term prospects for international criminal justice depend substantially on demonstrating that such actions will no longer be tolerated (Harmon and Gaynor 2007). Immediate or specific deterrence is realized to the extent that those accused of violations of international law are brought to justice to prevent them from committing such crimes again. General deterrence is enhanced if would-be war criminals elsewhere are dissuaded from carrying out their criminal enterprises for fear of international justice.

Yet, there are certainly those skeptical of the effectiveness of (especially) the international tribunals in this regard as well as anecdotal evidence to suggest that deterrence does not always work (Minow 2002; Gordy 2003; Drumbl 2007; Sloane 2007). The tribunal’s powers in this regard are rather limited (Hazan 2006; Sloane 2007). It has no direct means by which it is able to secure the apprehension of indicted war criminals, but must rely on the cooperation of states (Peskin and Boduszynski 2003). To the extent judicial institutions dispense justice in a fair, effective, and efficient manner, tribunal personnel can pressure members of the international community to arrest indictees, but it is the power of example and persuasion, not command that ultimately accomplishes this goal. Deterrence requires that the punishment for those suspected, caught, tried, and found guilty be swift and appropriately severe (Ku and Nzelibe 2006), but such qualities are often lacking in the machinery of international justice (Drumbl 2007; Sloane 2007). Rather, international tribunals have been repeatedly

¹United Nations Security Council Resolution 827, adopted May 25, 1993. As found at http://www.icty.org/x/file/Legal%20Library/Statute/statute_827_1993_en.pdf. Last accessed on July 23, 2010.

criticized for slow and cumbersome procedures that delay the start of trials and prolong their completion. Barria and Roper are skeptical of the tribunals' deterrent effects and argue that, "Although decisions of the ICTY and the ICTR courts have referred to the deterrent effect of the tribunals, they are not a forum that can provide a general deterrent" (2005:357). Nonetheless, even if the tribunals were to provide justice in a manner as efficient as many domestic jurisdictions, their decisions may not have the intended impact on politicians and generals who care not about the law, or ordinary soldiers who have no knowledge of international law and merely obey their superior officers. There is little evidence regarding the impact of domestic human rights trials on deterrence, except as we note below.

Ultimately, however, despite the many claims and counter-claims regarding the benefits and impacts of trials and tribunals, research in this area is just now emerging in earnest. Sikkink and Booth-Walling (2007) study the impact of human rights trials in Latin America and find that "the countries that held more [domestic] trials had a higher average improvement in human rights than the countries that had fewer trials" (2007:437). Similarly, Kim and Sikkink (2008) find that "although the involvement in civil wars certainly exacerbates governmental repression, trial experiences still appear to have a positive impact on human rights protection in those situations compared to states with no human rights trials experience" (2008:29). The study of war crimes tribunals, however, has been criticized for a lack of empirical research and an emphasis on advocacy for particular institutional outcomes (Vinjamuri and Snyder 2004). Mendeloff (2004:356) argues that this line of inquiry has "done a poor job of specifying the logic of truth-telling arguments, defining and clarifying key concepts, operationalizing key variables...providing compelling theoretical evidence to support core assumptions, and testing claims systematically against competing explanations."

We contend that our analysis of the impact of international tribunals and domestic trials is critical and advances this literature for several reasons. First, we provide the first empirical analysis of both domestic human rights trials and international tribunals on post-civil war states to test the assertions made by many of their potentially positive and negative effects. Second, our analysis is the first to study the impact of transitional justice on two critical conditions of post-civil war states—their prospects for peace and the prevention of renewed human rights abuses. Hence, we provide a rigorous and data-driven analysis that responds to the need to provide generalizable results based on empirical analyses across conflicts and over time (Van Der Merwe et al. 2009). We turn now to the development of a theory to better systematically analyze the question of the effectiveness of trials and tribunals on post-conflict societies.

The Determinants of Peace and Human Rights in Post-Conflict Societies

International Criminal Tribunals and Domestic Human Rights Trials

The determinants of peace and human rights are variegated and often have complex relationships with one another in post-conflict societies—and we accept at the outset that our analysis is just one part of a complex puzzle of how societies re-build after mass violence. We hypothesize that the contributions by domestic human rights trials and international tribunals help promote peace and human rights through four principal mechanisms. These arguments regarding the hypothesized salutary effects of trials and tribunals are just that—arguments that have not been tested. We offer these assertions not as evidence, but as the rationale behind our hypotheses.

First, such institutions can provide an important condition for the promotion of human rights and peace because they provide justice and “truth” (at least the truth that emerges in courtroom settings [Tieger and Shin 2005]). The provision of justice and truth can serve as an acknowledgment of the past and bring out a more accurate historical record that can lead to governmental reforms to facilitate improvements in human rights and contribute to keeping the peace. Often the kinds of crimes committed by state and nonstate actors were intended to be denied easily by authorities. If “deception is so central to the abuses, then the truth takes on a greatly added significance” (quoted in Hayner 2002:27). While not all societies that emerge from the maelstrom of civil war and widespread human rights abuses require trials or a tribunal to reform human rights practices or make the current peace more sound, absent an effort at acknowledging the crimes that occurred, the unaddressed problems and tensions will likely resurface and undermine people’s confidence in society’s institutions (Hayner 1994, 2002; Sarkin 1999). There are unanswered questions and community tensions regarding what occurred during the repression which may “fester, or deepen, if...left unaddressed” (Hayner 2002:11).

Such recognition helps to educate those who may have been ignorant or misled about such crimes by repressive governments. Without official recognition, the affected parties may well conclude that real change is not occurring and that their government will not be truthful about the past and will not take care of their future. Luc Huyse asserts that “truth is both retribution and deterrence, and undermines the mental foundation of future human rights abuses” (Huyse 2002:327). If the past is not acknowledged and remains “off limits” in political discourse, the long-run prospects for peacebuilding would seem rather dim. We expect that such recognition can help facilitate improvements in human rights and the prevention of future violence by establishing the root causes of violence and atrocities (Hayner 2002; Huyse 2002). This, in turn, should reduce the need and willingness to resort to violence. Furthermore, the information that emerges from trials and tribunals may spur local actors to reform governmental practices that led to human rights abuses or contributed to the prospects for war. Hence, tribunals and trials are thought to contribute to providing a more truthful and legitimate accounting of past misdeeds that can make their recurrence less likely.

Second, international tribunals and domestic trials can advance human rights and peace by removing from power those who committed past abuses. Imprisonment of those suspected and those found guilty of crimes certainly prevents these individuals from *directly* causing conflict. Both the ICTR and the ICTY, “...have helped to marginalize nationalist political leaders and other forces allied to ethnic war and genocide, to discourage vengeance by victim groups, and to transform criminal justice into an important element of the contemporary international agenda” (Akhavan 2001:9). Likewise, domestic trials have also played a role in removing troublemakers from the polity, by naming names and through public shaming, which ostracizes human rights violators and sends a signal that violence will not be tolerated. The removal of these war criminals and peace spoilers (Stedman 1997) from the political process should facilitate improvements in human rights and the maintenance of peace as they will no longer be able to dominate politics, subvert efforts aimed at improving human rights and sabotage the peace.

Third, tribunals and trials can contribute to reducing the prospects for renewed war and improving human rights practices through their deterrence of those who may contemplate violent and aggressive actions. More specifically, Akhavan (2001) argues that the removal from power or the ostracizing of former political and military leaders diminishes the perceived need for *other* individuals to engage in acts of revenge, leads to greater levels of cooperation

among formerly warring groups, and promotes specific and general deterrence. Akhavan (2001:16) also writes, "...the international community's policy of using the ICTY as an instrument to remove from power indicted leaders has contributed to post-conflict peacebuilding by creating incentives for political parties to behave in a more conciliatory manner," and that the ICTR, "...has palpably improved the post-conflict situation by impeding resurrection of the former government and enhancing the political attraction of criminal justice as an alternative to Hutu violence" (Akhavan 2001:26). The removal of suspected war criminals from their area of operations achieves the immediate deterrent effect of ending their ability to commit violations of international law. It may also have the practical effect of hindering such actions by others whom they organized, and dissuading the suspect's compatriots from engaging in such behavior in the future.

Finally, we note that there are arguments to suggest domestic trials and international tribunals can help mobilize domestic groups and encourage social movements that assist in preventing abuses from recurring and promote peaceful conflict resolution. By making it socially and politically permissible to discuss the conflict, these institutions can help open up a society's space for political discourse regarding conflict resolution. As civil society (re)gains its strength, it can become an effective counter-weight to those who would prefer to bury the past or who may continue to protect the interests of the old regime. Therefore, we would expect that a principal, albeit indirect effect, of domestic trials and tribunals is the empowerment of domestic groups and social movements that work to prevent violence and to protect victims' rights. Truth telling, deterrence, and the facilitation of the re-emergence of civil society all serve to build society's confidence that their nations are worth the investment of their time, energy, and capital.

We must note that we cannot test the precise causal logic behind our hypotheses. That is, we do not analyze whether trials and tribunals further actual truth telling; the extent to which these institutions are actually responsible for the removal from power of those suspected of violating human rights; they deter those who might commit violations of human rights or initiate aggression; or lead to the growth of civil society. Rather, these are benefits that others have suggested result from the use of transitional justice that then lead to further improvements in human rights and the reduction of the probability of renewed civil war. Our analysis, like others (Kim and Sikkink 2008), focuses on the hypothesized ultimate benefits of transitional justice. We measure the presence of domestic human rights trials and international tribunals regarding post-conflict societies as dichotomous variables, which are described in detail in our Appendix 1. Based on these arguments, we offer the following hypotheses:

Hypothesis 1: *The establishment of international criminal tribunals improves the likelihood of peace.*

Hypothesis 2: *The establishment of international criminal tribunals improves human rights conditions.*

Hypothesis 3: *The establishment of domestic human rights trials improves the likelihood of peace.*

Hypothesis 4: *The establishment of domestic human rights trials improves human rights conditions.*

We note that there are particular limitations to evaluating the impact of the international criminal tribunals on peacebuilding and human rights. There have been several such institutions created in recent history, yet we can assess only the impact of four such international tribunals—the ICTY, the ICTR, the Special Court for Sierra Leone, and the Serious Crimes Unit of East Timor (other

tribunals have just recently been established [e.g., The Cambodian and Lebanese tribunals], while the Iraqi Tribunal is not considered an international court). Thus, concerns about generalizability are legitimate. Despite this, we suggest that there is much to gain from such an analysis, and we join with other scholars who argue that an increased emphasis on international criminal trials demands a far better understanding than we currently have (Mendeloff 2004). While the establishment of international criminal tribunals is an infrequent event (much like international war), their creation by the international community, the substantial sums of money provided to support their purposes, the far-reaching aims of their charters, and their influence over the political destinies of multiple nations involved in some of the most infamous and important events of the 1990s, warrants more systematic and evidence-based analysis. Simply put, the causes and the consequences of these tribunals are too important to eschew empirical analysis, even if their occurrence is not as frequent as we would prefer. Second, we observe that these tribunals, especially the ICTY and ICTR, served as models for the creation of the International Criminal Court (ICC). We would also note that as King, Keohane, and Verba (1994) advocate when studying small numbers of cases, we leverage as much information from our data as possible. Accordingly, our tribunal variable encompasses eight nations altogether (Bosnia, Croatia, Macedonia, Serbia, Rwanda, Sierra Leone, Indonesia, and East Timor) that are subject to these tribunals across multiple years. While this does not eliminate concerns regarding the generalizability of our results, we believe that given the calls for more systematic research on tribunals, our focus on these institutions substantially improves the theoretical development regarding the impact of truth-telling enterprises. Moreover, in evaluating *all* countries that have emerged from conflict since 1982, we locate the role of domestic trials and tribunals within the broader discipline of peace and conflict research.

We are also mindful of the possibility that the presence of an international criminal tribunal may measure more than just the impact of criminal justice machinery on peace and human rights. These institutions may also indicate that the international community is committing substantial resources to such post-conflict societies. So while we must be cautious about drawing strong inferences regarding the effects of such institutions and maintain a healthy degree of skepticism, we would also point out that the creation of such tribunals may indeed be *precisely because* the international community has ignored the society that has experienced violent upheaval.

Control Variables

Conflict Characteristics

We also include in our model characteristics of the nature of the civil war experienced by nations to control for the impact of conflict history on post-conflict peace and human rights improvements. First, we know that the violence and duration of civil war play a role in peacebuilding (Doyle and Sambanis 2000; Fortna 2004; Walter 2004; Quinn, Mason, and Gurses 2007). We expect that states that have been involved in especially violent and long, internal conflicts, would exhibit a greater propensity to slide back into violence (Quinn et al. 2007) and not improve their human rights practices. We include one variable measuring the number of conflict battle deaths per capita, and another which measures conflict duration. We also expect that in states where formal, peace agreements have been reached between formerly warring parties, there will be greater progress on peace and human rights. Such agreements provide for explicit guidance on governance and relations between contending factions and are generally associated with more lasting and durable peace (Hartzell, Hoddie, and

Rothchild 2001; although see Licklider 1995). We measure peace agreements using a dichotomous variable. We also include one variable measuring whether government forces emerged victorious from the recent civil war and another measuring whether rebel forces won (Licklider 1995; Mason and Fett 1996; Mason, Weingarten, and Fett 1999; Quinn et al. 2007). We expect that in either case a clear victory by one side would contribute toward greater human rights protection and maintenance of the peace. States where civil wars end inconclusively are more likely to remain unstable, violent, and contested. Such conditions are not likely to be conducive to either human rights improvement or the prevention of further civil war. Lastly, in the model of human rights improvements we include a variable measuring whether the nation relapsed into civil war again as this is a key factor in the human rights literature (Poe and Tate 1994; Poe, Tate, and Keith 1999). Operationalization of all of our control variables is found in Appendix 1.

Democracy

We include a variable measuring the level of democracy in a state. We expect that more democratic states would have better human rights practices (Poe and Tate 1994) and would be less likely to relapse into civil wars (Henderson and Singer 2000; Hegre, Ellingsen, Gates, and Gleditsch 2001). There is discussion in the latter literature that the relationship between democracy and civil war is characterized by a nonlinear relationship. Therefore, we initially estimated the model of civil war recurrence using both the Polity measure of democracy and its squared term. As we discuss later, this particular specification of the relationship between democracy and civil war does not appear to provide a good model fit and we instead investigated other specifications.

UN Peacekeeping Forces

UN peacekeeping operations can contribute to human rights improvements and peace in post-civil war states in multiple ways (Bertram 1995; Diehl, Druckman, and Wall 1998; Fortna 2004; Doyle and Sambanis 2006). Such missions may oversee ceasefires and the disarmament of previously warring armies; they may provide security in the absence of a viable, national force; they may help oversee democratic elections; assist in the return of refugees; and help create confidence in the people that their problems have been recognized and taken seriously by the international community. We include a variable measuring the years in which UN forces are deployed in country to control for the impact exercised by these operations.

Economic Health

Improving human rights and the prospects for peace in a nation emerging from civil war depends on both military security and economic prosperity. While war and the constant threat of violence to life, limb, and property are often sufficient to drive people from their homes, the devastation wrought by such fighting also keeps people away. This, in turn creates a vicious cycle—those who remain have fewer resources upon which to draw, and in turn they look elsewhere for economic stability. We include measures of gross domestic product per capita and aid per capita from the Organization for Economic Cooperation and Development. We expect that as both measures increase, we should find the prospects for peace increasing and human rights practices improving as economic growth and foreign aid can contribute to providing employment, social welfare needs, and can lead to foreign investment.

Measuring the Absence of War and Human Rights

Building a sustainable peace after mass conflict requires social, political, military, and economic efforts by the affected peoples, domestic political actors, and international actors over multiple years (Collier, Elliott, Hegre, Hoeffler, Reynal-Querol, and Sambanis 2003). A sustainable peace is built upon the interacting layers of a complex foundation of political stability, freedom from repression, and, of course, the absence of war. That there are other factors that contribute to a sustainable peace, we have no doubt. We choose to examine improvements in human rights protections and the absence of conflict itself as critical, but neither sufficient nor exclusive conditions for a sustainable peace. We seek to determine whether international tribunals and domestic trials can contribute to improvements in these conditions in post-conflict societies. Of all the various elements of peacebuilding that supporters of transitional justice argue these institutions can facilitate, the promotion of peace and human rights is perhaps the most critical.

We analyze the data for nations that have emerged from intrastate wars as measured by the Uppsala Conflict Data Project/Peace Research Institute of Oslo (Gleditsch, Wallensteen, Eriksson, Sollenberg, and Strand 2002). We include in our analysis all states in which a civil war ended (as defined by the PRIO database) since 1982. We have chosen to begin these analyses in 1982 because this year marks the first use of domestic human rights trials as recorded by Kim and Sikkink (2008). We consider only the year the first civil war ended (from 1982 onward) for these nations and subsequent post-conflict years. States that experienced subsequent civil wars after a conflict ended in the 1982–onward period remain in this set of estimates, but are not double recounted. Thus, if country X experiences a civil war between 1991 and 1997, we include yearly observations for that nation beginning in 1997 through 2007. If country X subsequently experienced a second civil war, of any duration between 1997 and 2007, it remains in the sample. Thus, all our data are in the form of a pooled, cross-sectional time series.

We have chosen to focus on post-civil war environments rather than other types of situations where states have, for example, undergone regime transitions, or have held trials in the context of post, international war environments for several reasons. First, we seek to focus the analysis on a fairly similar set of states to control for the much greater variety of political developments surrounding other cases of transitional justice. Second, because of their prevalence and destructiveness, we believe that a focus on the experiences of post-civil war states is especially useful. Third, because of the vast sums of money spent on helping such nations rebuild after conflict, there is a particularly compelling need to provide better assessments of transitional justice mechanisms in these settings.

First, and most importantly, peacebuilding depends critically, if not by definition, on the absence of war. Nations that lapse back into renewed violence can hardly be said to be building a stable foundation for future peace and stability. Yet, we know from extensive research on the subject of civil wars that once nations have become embroiled in one conflict, the likelihood that they will lapse back into war increases considerably (Doyle and Sambanis 2000; Sarkees 2000; Mason and Quinn 2006). Our data on civil wars were derived from the Uppsala Conflict Data Project/Peace Research Institute of Oslo (PRIO) measure of all civil violence in their Armed Conflict data set (Gleditsch et al. 2002). We include all civil wars, regardless of the severity, in our data, as many conflicts may ebb and flow in terms of their level of violence over time. Thus, our first dependent variable measures the presence or absence of civil war each year after the conclusion of the most recently ended civil war as a dichotomous dependent

variable. Further information on the data used for the dependent variables is found in Appendix 1.

Second, we argue that human rights protections are an important criterion in peacebuilding. When governments are still involved in abusing the human rights of their citizens, the likelihood of long-term peace and stability is dampened, while those governments that provide protections for human rights are engendering the respect for rights and for the rule of law thought necessary to build a foundation for peace. Systematic human rights abuses are likely to negatively affect confidence-building among the people and increase the risk that formerly warring factions will resume violence and interfere with other aspects of economic and social peace. We utilize the Political Terror Scale, which measures the level of human rights abuses in a society and constructs an indicator of human rights improvement for our second dependent variable. To measure whether a state experienced progress in its human rights practices in any given post-conflict year, we constructed a human rights improvement variable. We first take the difference between a nation's human rights record at year_t and year_{t-1}. We then code all instances in any given post-conflict year in which there was movement toward greater protection of human rights as "1"; instances in which human rights conditions deteriorated as "-1" and instances where there was no change as "0."

Methodology and Analysis

For our model of civil war recurrence, we utilize a probit model with robust standard errors given the expected bias from heteroskedastic standard errors. Our model of changes in human rights conditions is estimated using ordered probit with robust standard errors. Table 1 below provides descriptive summary statistics for all of our variables.

Table 2 contains the model explaining whether states that have emerged from civil wars subsequently relapsed back into civil war, and Table 3 provides our model estimates for post-civil war states' human rights records. Thus, it should be understood that the impact of all variables holds just for the population of states that have emerged from civil wars. Based on the literature regarding the hypothesized salutary effects of transitional justice, we expect to find that international tribunals and domestic human rights trials contribute toward peace and better human rights practices. The evidence, however, does not support either hypothesis. Those states that have been involved in international tribunals—

TABLE 1. Summary Statistics

<i>Variable</i>	<i>N</i>	<i>Mean</i>	<i>Standard deviation</i>	<i>Minimum</i>	<i>Maximum</i>
Human rights improvement	1,112.000	0.049	0.669	-1.000	1.000
Recurrence of civil war	1,112.000	0.186	0.389	0.000	1.000
Domestic human rights trials	1,112.000	0.180	0.384	0.000	1.000
International tribunals	1,112.000	0.095	0.294	0.000	1.000
Political terror scale overall score	999.000	3.060	0.984	1.000	5.000
Polity score	874.000	2.363	6.334	-9.000	10.000
Battle deaths per capita	879.000	0.005	0.013	0.000	0.124
Civil war duration	1,112.000	4,009.159	3,958.242	1.000	15,370.000
Peace agreement	1,112.000	0.158	0.365	0.000	1.000
Government victory	1,112.000	0.211	0.408	0.000	1.000
Rebel victory	1,112.000	0.174	0.379	0.000	1.000
UN forces in country	1,112.000	0.116	0.320	0.000	1.000
OECD aid per capita	861.000	0.000	0.000	0.000	0.000
GDP per capita	837.000	2,815.966	5,603.177	0.000	42,783.550

TABLE 2. Conflict Recurrence After Civil Wars, 1982–2007

<i>Variable</i>	<i>Coefficient</i>	<i>Standard error</i>	<i>T statistic</i>	<i>p value</i>	<i>Marginal impact</i>
Domestic human rights trials	-0.244	0.218	-1.120	.262	-0.035
International tribunals	0.272	0.235	1.160	.246	0.050
Political terror scale	0.820	0.112	7.320	.000	0.128
Polity score	0.033	0.014	2.450	.014	0.005
Battle deaths per capita	-20.444	7.399	-2.760	.006	-3.190
Civil war duration	0.000	0.000	3.270	.001	0.000
Peace agreement	-1.392	0.279	-4.990	.000	-0.126
Government victory	-0.735	0.174	-4.230	.000	-0.087
Rebel victory	-0.731	0.264	-2.770	.006	-0.082
UN forces in country	-0.457	0.316	-1.440	.149	-0.055
OECD aid per capita	-787.610	2,047.321	-0.380	.700	-122.900
GDP per capita	0.000	0.000	-1.280	.201	0.000
Constant	-3.321	0.409	-8.110	.000	
<i>N</i> = 703					
Pseudo R2 = 0.35					

TABLE 3. Human Rights Improvement After Civil Wars, 1982–2007

<i>Variable</i>	<i>Coefficient</i>	<i>Standard error</i>	<i>T statistic</i>	<i>p value</i>	<i>Marginal impact*</i>
Domestic human rights trials	0.040	0.124	0.330	.745	0.013
International tribunals	0.060	0.161	0.370	.708	0.020
Political terror scale	0.758	0.068	11.190	.000	0.248
Polity score	0.011	0.009	1.130	.260	0.003
Battle deaths per capita	2.576	4.911	0.520	.600	0.843
Civil war duration	0.000	0.000	-2.760	.006	0.000
Peace agreement	0.004	0.133	0.030	.974	0.001
Government victory	-0.084	0.125	-0.670	.503	-0.027
Rebel victory	-0.014	0.148	-0.090	.925	-0.005
Ongoing civil war	-0.848	0.142	-5.960	.000	-0.223
UN forces in country	-0.088	0.160	-0.550	.581	-0.028
OECD aid per capita	2,665.915	1,293.946	2.060	.039	872.514
GDP per capita	0.000	0.000	2.880	.004	0.000
<i>N</i> = 703					
Pseudo R2 = 0.09					

*Impact on the probability of improvement in human rights.

Serbia, Croatia, Bosnia, Macedonia, Rwanda, Indonesia, East Timor, and Sierra Leone—are neither more nor less likely to relapse into renewed civil war, nor do they make stronger strides in human rights protection. The coefficients for this variable are statistically insignificant in both sets of estimates. We see analogous findings regarding the impact of domestic human rights trials. The coefficients for the domestic human rights trial variable are not statistically significant in either set of estimates. Those states that adopt these judicial remedies for confronting human rights abuses neither find their human rights scores worsening nor improving in post-civil war environments. Nor do they appear to reap any benefit in the form of a reduced risk of renewed civil conflict.

To more deeply investigate these possible relationships and determine whether the impact of domestic and international trials on civil war recurrence and human rights improvements might be conditional on other factors, we estimated several different models. First, because several scholars have argued that the impact of transitional justice is contingent upon stable, power-sharing arrangements in post-conflict environments, we estimated models for those states

that would typically be considered democratic (they scored “6” or higher on the Polity scale), and those that would not be considered mostly democratic (those states that scored below “6” on the Polity scale). Still, we find that neither the coefficient for the international tribunals variable, nor the coefficient for the domestic trials variables is statistically significant in either set of estimates for the absence of civil war (Table 4) or improvements in human rights (Table 5). We also undertook additional analyses to determine whether states that concluded civil wars with peace agreements were more likely to experience the benefits of transitional justice than those whose civil wars concluded by some other means. However, the number of states in the former category was too small to allow for multivariate analysis. Finally, we also combined both the international tribunals variable and the domestic trials variable to determine whether their combined effect might reach statistical significance. Once again, the coefficients in both the estimates of civil war recurrence and human rights improvements were statistically insignificant.

Thus, we must conclude for this analysis that there does not appear to be any substantial and positive effects stemming from the utilization of trials in post-conflict states. We would not go so far as to say, however, that such transitional justice efforts cannot have positive effects or should not be utilized. First, it is quite possible that these legal remedies prevented some states from becoming more war-prone or susceptible to human rights abuses. In other words, conditions might have deteriorated even further in these states had such efforts not been made. Just as domestic criminal justice systems do not deter all crime (and thus no one would argue against their necessity because crime continues to occur), so too post-conflict justice may be a necessary, but not sufficient, condition for some societies to move forward in the aftermath of war. Absent any form of reckoning with those who commit serious violations of international law, we might find the norm of impunity prevailing once again with all the consequences that would entail. Second, it may well be that some particular subset of states we have not yet identified do enjoy significant gains in human rights and

TABLE 4. Conditional Effects of Regime Type on Conflict Recurrence After Civil Wars, 1982–2007

Variable	Democracies				Non democracies			
	Coefficient	Standard error	T statistic	p value	Coefficient	Standard error	T statistic	p value
Domestic human rights trials	-0.217	0.260	-0.840	.402	0.334	0.545	0.610	0.540
International tribunals	-0.084	0.322	-0.260	.795	-0.102	0.511	-0.200	0.841
Political terror scale	0.653	0.188	3.470	.001	0.833	0.156	5.340	0.000
Polity score	-0.045	0.117	-0.380	.701	0.075	0.023	3.200	0.001
Battle deaths per capita	-154.409	61.769	-2.500	.012	-10.169	12.032	-0.850	0.398
Civil war duration	0.000	0.000	2.250	.024	0.000	0.000	2.570	0.010
Peace agreement	-1.005	0.310	-3.240	.001	Dropped out			
Government victory	-0.826	0.356	-2.320	.021	-0.908	0.237	-3.830	0.000
Rebel victory	Dropped out				-0.341	0.458	-0.740	0.457
UN forces in country	-0.192	0.532	-0.360	.718	-0.345	0.385	-0.900	0.370
OECD aid per capita	2,946.198	2,411.931	1.220	.222	-8,685.057	5,953.685	-1.460	0.145
GDP per capita	0.000	0.000	-1.330	.184	0.000	0.000	-0.830	0.405
Constant	-2.195	1.271	-1.730	.084	-3.285	0.555	-5.920	0.000
N = 296					N = 320			
Pseudo R2 = 0.35					Pseudo R2 = 0.36			

TABLE 5. Conditional Effects of Regime Type on Human Rights Improvement After Civil Wars, 1982–2007

Variable	Democracies				Non democracies			
	Coefficient	Standard error	T statistic	p value	Coefficient	Standard error	T statistic	p value
Domestic human rights trials	0.096	0.146	0.660	.509	-0.251	0.324	-0.780	0.438
International tribunals	0.269	0.224	1.200	.230	-0.204	0.278	-0.730	0.463
Political terror scale	0.809	0.103	7.890	.000	0.836	0.110	7.610	0.000
Polity score	0.048	0.065	0.730	.463	0.006	0.016	0.370	0.709
Battle deaths per capita	-1.266	7.295	-0.170	.862	9.913	8.435	1.180	0.240
Civil war duration	0.000	0.000	-1.760	.079	0.000	0.000	-1.750	0.080
Peace agreement	0.030	0.172	0.170	.863	-0.011	0.237	-0.050	0.964
Government victory	0.127	0.226	0.560	.573	-0.254	0.178	-1.430	0.153
Rebel victory	-0.155	0.233	-0.670	.505	0.338	0.230	1.470	0.141
Ongoing civil war	-0.773	0.209	-3.700	.000	-0.957	0.210	-4.560	0.000
UN forces in country	-0.010	0.413	-0.020	.981	-0.031	0.180	-0.170	0.865
OECD aid per capita	3,874.487	2,056.255	1.880	.060	1,884.605	1,774.762	1.060	0.288
GDP per capita	0.000	0.000	2.160	.031	0.000	0.000	0.270	0.787
N = 351					N = 352			
Pseudo R2 = 0.10					Pseudo R2 = 0.10			

*Impact on the probability of improvement in human rights.
 (Notes. Civil war recurrence.)

the prevention of war. The lack of statistical significance may imply that the effects vary widely across states or are consistently trivial—we do not yet know. In-depth examination of the establishment of such legal mechanisms and process tracing of their effects may reveal the details of their impact that are concealed in large *N* studies.

The effects of the other variables in Tables 2 and 3 on the recurrence of civil wars and improvements in human rights are mostly in keeping with our expectations and prior research. One of the most powerful predictors of improvements in human rights and civil war recurrence is a state’s Political Terror Scale score. The worse the level of human rights protection, the greater the likelihood that nation will relapse into civil war. As we see in Table 2, a one-unit worsening of human rights conditions on the PTS scale is associated with an approximately 13% increased likelihood of civil war according to the marginal effects coefficient, *ceteris paribus*. These findings complement previous human rights research that found civil wars were among the most powerful factors influencing worse human rights records (Poe and Tate 1994; Poe et al. 1999) as they demonstrate that human rights abuses are also a precursor to such conflicts. As well, those states with worse human rights scores are also more likely to see their human rights record improve. This is not necessarily surprising as states with worse records have the greatest room for improvement, while there is much less opportunity to improve for those with better records.

Although we find that the higher a nation’s Polity score, the more likely it is to improve its human rights practices, the coefficient for this variable is statistically insignificant. The relationship between regime type and civil war recurrence, however, is more complicated. While prior research on civil war recurrence utilized the Polity measure and often its squared term to capture an expected nonlinear relationship (Henderson and Singer 2000; Hegre et al. 2001), we found no such evidence of a relationship in our analyses. We initially estimated our model using the Polity variable and its squared term, but neither coefficient even remotely approached statistical significance. Because there did

not appear to be any gains in explanatory power from utilizing both measures, we included just the standard Polity measure in the civil war model. However, we see in Table 2 there is an unexpectedly positive relationship between democracy and the likelihood of civil war recurrence. With each unit increase in the Polity scale, the probability that civil war will reoccur increases by 0.5%. Because we did not find the expected nonlinear, or even a negative relationship between regime type and war in these estimates, we ran additional correlation analyses. In these analyses (not shown) we found that regime type is strongly associated with the Political Terror Scale (as the human rights literature [Poe and Tate 1994] has consistently found) and is actually negatively related to civil war recurrence as we had expected. When we remove the human rights variable from our probit model of civil war recurrence, the Polity coefficient is in the expected, negative direction (further testing of a potential nonlinear relationship between polity type and civil war recurrence still did not provide confirmation of that hypothesis). Thus, both more democratic regimes and those with better human rights practices are less likely to return to civil war, but their impacts become somewhat obscured when they work in tandem given their correlation with each other.²

We find that the characteristics of the civil wars from which these states are emerging play an important role in peacebuilding. As others have argued, the severity of the war is a key factor in explaining civil war recurrence (Doyle and Sambanis 2000; Fortna 2004; Walter 2004; Quinn et al. 2007). States whose civil wars were especially violent and resulted in a great loss of life are less likely to experience such conflicts again. However, the longer the initial civil war that most recently concluded, the greater the likelihood the state will once again experience this catastrophe. Perhaps some of these wars are long-running, low-intensity conflicts whose negative impact is not sufficiently severe to dissuade political actors that serious efforts must be made to prevent such conflicts from recurring. We also see that battle deaths per capita are not related to human rights improvements. The duration of the recently concluded civil war, however, is negatively related to human rights. The longer this past war, the less likely that human rights condition will improve in such a state.

The manner in which the civil war ended does not appear to exercise an appreciable impact on human rights improvements. None of the coefficients for the variables measuring peace agreements, government victory, and rebel victory is statistically significant in the human rights models. However, these factors do play a role in civil war recurrence as expected. (Licklider 1995; Mason and Fett 1996; Hartzell 1999; Mason et al. 1999; Hartzell et al. 2001; Hartzell and Hoddie 2003, 2007; Quinn et al. 2007). All three coefficients are negatively related to the likelihood of civil war recurrence and are statistically significant. In states where civil war was ended through a peace settlement, there is a 12.6% less likely chance of civil war recurrence in any given year. Conflicts that ended with a government victory are associated with an 8% reduction in the likelihood of future conflict, whereas civil wars that conclude with a rebel victory are associated with an 8% decrease in the likelihood of further war according to the marginal effects coefficient, *ceteris paribus*. A conclusive end to the war, whether it is achieved through military victory or a negotiated settlement, rather than a cease fire or some other indeterminate mechanism, would seem to work best at sustaining the peace.

²We also examined whether there was a threshold effect regarding the impact of democracy on civil war recurrence and improvements in human rights. We analyzed the data using a binary variable coded "1" for all states that scored a "6" or higher on the Polity scale and "0" otherwise. The direction of the relationships stayed the same, although the impact weakened in both sets of estimates.

The impact of a United Nations mission is mixed. The presence of these forces is associated with a decrease in the likelihood a nation will relapse into civil war, although the coefficient is not statistically significant. The presence of such forces is also associated with a decreased likelihood of human rights improvements, although this variable does not quite reach conventional levels of statistical significance. Certainly, many of these forces are being introduced into very unstable environments and societies awash in weapons (Fortna 2004). Thus, it is not surprising that human rights abuses continue while such forces are in the country. Ideally, future research should utilize data pertaining to the size, scope, and financing of such missions to better gauge their impact on elements of positive peace, such as human rights.³

The impact of the economic variables is also mixed. Neither gross domestic product per capita nor per capitized OECD development assistance is related to civil war recurrence in Table 2. The coefficients for both variables are statistically insignificant. However, the coefficients for these two variables are both statistically significant and positively related to improvements in human rights protections in Table 3. The greater the size of an economy, adjusted for population, the greater the likelihood that human rights will improve (Poe and Tate 1994; Poe et al. 1999). Additionally, nations that receive greater amounts of OECD aid, again adjusted for population, are more likely to experience improvements in human rights conditions. Thus, while there appears to be a strong relationship between such economic indicators and government human rights practices, such positive effects do not appear to translate into larger matters involving war. Lastly, we note the powerful effect of the coefficient measuring whether a state was involved in a civil war on the likelihood of improvements in human rights practices. As we see in Table 3, the likelihood states will improve their human rights practices declines by 22% when they are involved in civil wars (Poe and Tate 1994; Poe et al. 1999). Of all the determinants of human rights practices, involvement in ongoing civil war is among the most damaging such conditions.

Next, we analyze alternative measures of our two dependent variables. Because very few nations change their human rights practices or plunge into civil war in any given year, we do not necessarily obtain the most holistic picture of the impact of our independent variables. Therefore, rather than only seeking evidence in these yearly "snapshot" pictures, we also analyze overall changes in the 5-year period after the end of civil war. We take the averages or maximum values (e.g., if there was a UN mission in any of these 5 years, we code this variable as "1," while states in which there were no such deployments are coded "0") of all of our variables in this span of time and utilize a purely cross-sectional data set of all post-civil war states. To measure civil war recurrence, we code any nation that experiences such a conflict in this 5-year span as "1" and "0" otherwise. Instead of using our measure of human rights improvement, we use each nation's average human rights score for the 5-year period. Because some nations may experience both progress and regress, it seemed more sensible to examine whether the overall human rights records of states involved with human rights trials or tribunals were better than those states that were not so involved. Because this modeling strategy substantially reduces the population of our cases, we include in these analyses only our primary variables of interest and those other variables whose coefficients in Tables 2 and 3 reached conventional levels of statistical significance (0.10 or lower). Because of the use of the overall human rights score in the human rights model, we cannot include the lagged

³We chose not to include additional peacekeeping missions deployed by organizations other than the United Nations as data on these operations conclude in 1999 (Fortna 2004) and would cause us to lose a substantial amount of our data.

measure of that variable. The results are found in Table 6 (civil war recurrence) and Table 7 (human rights scores).

The results here do not change dramatically from those we provide in Tables 2 and 3. The coefficients for international tribunals and domestic human rights trials are statistically insignificant in both sets of estimates. We also find that although some variables no longer retain their statistically significant coefficients, the direction of these relationships holds. In Table 5 we find that those states that recently concluded lengthier civil wars have a higher probability of civil war recidivism. When the conclusion of such wars is marked by peace agreements, however, the likelihood the nation will relapse into civil war diminishes. In Table 6 we see that those nations that have become embroiled in new civil wars have generally worse human rights scores, while economically more developed states tend to have better human rights practices (Poe and Tate 1994; Poe et al. 1999). States that return to civil war have markedly worse chances of improving their human rights. As others have found (Poe and Tate 1994; Poe et al. 1999), civil wars are extremely harmful to human rights protections.

In these and our prior modeling estimates, we also tested to determine whether other variables affected human rights improvements and the prevention of further civil war including the following: (i) the level of ethnic violence; (ii) the level of regional violence; (iii) the time elapsed since the civil war ended; and (iv) whether the state had formerly been a British colony. We did not find that the coefficients of any of these variables exercised a statistically significant impact, nor did the results change appreciably. However, because some of these data were not always available for the full time span of our data, their inclusion resulted in the exclusion of several recent years from our analysis.

TABLE 6. Explaining Likelihood of Conflict Recurrence in the First 5 Years After Civil War

<i>Variable</i>	<i>Coefficient</i>	<i>Standard error</i>	<i>T statistic</i>	<i>p value</i>	<i>Marginal impact</i>
Domestic human rights trials	0.031	0.562	0.060	.956	0.008
International tribunals	-0.234	0.809	-0.290	.772	-0.058
Political terror scale	0.658	0.271	2.420	.015	0.177
Polity score	0.001	0.044	0.020	.988	0.000
Battle deaths per capita	-14.568	23.651	-0.620	.538	-3.921
Civil war duration	0.000	0.000	2.150	.031	0.000
Peace agreement	-1.815	0.756	-2.400	.016	-0.287
Government victory	-1.205	0.788	-1.530	.126	-0.215
Rebel victory	-1.021	0.826	-1.240	.216	-0.187
Constant	-2.794	0.912	-3.060	.002	
<i>N</i> = 62					
Pseudo R2 = 0.37					

TABLE 7. Explaining Human Rights in the First 5 Years After Civil War

<i>Variable</i>	<i>Coefficient</i>	<i>Standard error</i>	<i>T statistic</i>	<i>p value</i>
Domestic human rights trials	0.173	0.223	0.770	.443
International tribunals	0.056	0.321	0.170	.862
Civil war duration	0.000	0.000	1.620	.111
Ongoing civil war	0.891	0.223	4.000	.000
OECD aid per capita	713.618	1,466.698	0.490	.629
GDP per capita	0.000	0.000	-2.730	.009
Constant	2.601	0.164	15.870	.000
<i>N</i> = 62				
Adjusted R2 = 0.27				

Conclusion

Our analyses have shown that peace and better human rights practices in the aftermath of mass violence are generally not enhanced by the utilization of domestic human rights trials or international criminal tribunals. While such institutions do not appear to exercise any negative effects as some have speculated (e.g., Snyder and Vinjamuri 2003, 2004), neither do they appear to live up to the promise envisioned by their supporters (Scharf 1997; Minow 1998; Akhavan 2001). Because our analysis is the first step in a more systematic assessment of the impact of justice and truth on post-conflict societies, we are hesitant to conclude there are no important positive benefits or negative consequences resulting from these institutions of transitional justice. Rather, we sketch out below what we believe are the next steps in this research agenda to further the analysis and debate regarding the use of criminal prosecution at the domestic and international levels after conflict.

We are chiefly concerned with the need for more empirical and cross-national research on the effects of domestic trials and international tribunals as others have argued is so strongly needed (Fletcher and Weinstein 2002; Mendeloff 2004). While our results do not demonstrate that these transitional justice institutions exercise a powerful effect for good or ill in post-conflict states, there is reason to continue to study these phenomena further given their widespread prevalence. Future research should proceed to analyze potentially more complex relationships through both sophisticated statistical analyses and case study process tracing to illuminate the direct, indirect, and contingent relationships as well as the sequence of these relationships. In particular, is agreement on democratic government necessary for such human rights trials to occur? Do such agreements then pave the way for better human rights practices? What practical effect do domestic human rights trials have on human rights practices and war prevention and when does this impact tend to occur? These same questions should be addressed with regard to international tribunals. Here the issue is complicated by the role of the international community in establishing such tribunals, and the tendency of such tribunals to take jurisdiction over states with worse human rights practices, as our evidence shows.

The next step is to develop a more focused theoretical agenda regarding the types of judicial mechanisms most likely to contribute to human rights improvements and the prevention of war from which a theoretically driven data collection project can take root. The arguments we examined mostly assume that the powers accorded these institutions are more or less similar, but it is more likely that some domestic criminal prosecution efforts possess greater powers or greater levels of support than others to apprehend the accused, gain access to witnesses and evidence, and attract greater levels of support from key internal and external stakeholders. Thus, we should also examine how these powers and various forms of support (i.e., political, judicial, economic) work in concert with the political and social context in which these bodies are created to better account for their contributions toward peace and human rights. The increasing usage of these institutions makes such a project both relevant and necessary.

The popularity of international tribunals with limited jurisdiction, such as the ICTY, ICTR, Special Court for Sierra Leone, Cambodian, and East Timorese tribunals, as well as the creation of the ICC bespeak an increasing need for retributive justice. With the passage of time, more cross-national research can be conducted as these and other tribunals conclude their work and the ICC completes its first trials. This will result in a greater variety of cases from a wider array of post-conflict settings. It then becomes possible to conduct research analogous to that suggested above in which we interact the powers and accomplishments of the tribunals with the international (especially the political, economic, and military [e.g., peacekeeping and other forces to apprehend suspects])

support provided directly or indirectly to these institutions) and national context to determine which types of tribunals, and which kinds of tribunal actions (e.g., convictions, plea agreements, outreach) are more likely to lead to the prevention of conflict and improvements in human rights practices. Especially as the ICC investigates more alleged violations of international law, we can also analyze which nations are more likely to become subject to international tribunals.

Last, survey research on popular attitudes toward trials and tribunals is increasingly being conducted that will be extremely valuable in determining the perceptions of local populations regarding the fairness and effectiveness of these institutions, as well as their broader societal impacts. Gibson's (2004) work on the South African Truth and Reconciliation Commission in this regard is quite instructive and will lead to similar such work in many of the nations that have experience with these institutions to explore the level of public engagement with and support for such mechanisms. Such research can begin to tell us the extent to which these institutions are truly changing individual opinions and ultimately entire societies and facilitating the development of reconciliation and peace. Given their tremendous costs, and human suffering that led to the creation of these domestic human rights trials and international tribunals, better understanding of their consequences and impact is clearly needed to determine whether such institutions contribute to peace and human rights protection in post-conflict societies.

Appendix 1: Data Appendix

Dependent Variables

1. Human Rights. We use data from the Political Terror Scale that evaluates countries and their protection of human rights from 1982 to 2007 and take the average from the scores based on the Amnesty International reports and those based on the U.S. State Department reports. The scale measures from 1 to 5 where "5" is the lowest and "1" is the highest level of protection across multiple, internationally recognized human rights. Data are available at <http://www.politicalterrorscale.org/>. Site last visited April 26, 2010. For the human rights measure in Table 3 we take the difference between the PTS value in year_t - year_{t-1} and code countries where there was human rights improvement as "1"; we code countries in which human rights conditions deteriorated as "-1" and code countries in which there was no change as "0." The variable is measured on the 1-5 scale in the remaining tables.

2. Civil War. Using data from the Uppsala Conflict Data Project/Peace Research Institute of Oslo (Gleditsch et al. 2002), we measure the presence or absence in any given year of an episode of internal war. Any year in which such conflict takes place on or after a state's first recorded instance of civil war ending on or after 1976 is coded as "1." For example, in the 1982-2007 period, if the earliest date of the end of a civil war in country X is 1989, then any year after this in which such conflict occurs is coded as "1." We use the same variable in the human rights models.

Independent Variables

Domestic Human Rights Trials

To measure the impact of domestic human rights trials, we create a binary variable that is coded "1" for the year in which domestic human rights trials as defined by Kim and Sikkink (2008:16) occur, as well as subsequent years after trials have been held. More specifically, we include in this measure the 5-year period after Kim and Sikkink (2008) code the trials as having ended to

capture their ongoing impact. Their definition of such trials and coding scheme follows:

All domestic judicial proceedings in transitional countries for human rights violations during previous regimes committed by government officials or their agents (emphasis in the original) were considered. To be included in the data set, the judicial activity discussed in the report must inflict costs on a government agent accused of having *individual criminal responsibility* (emphasis in the original) for human rights violations. Some of our trials involve former heads of state and high level officials, but trials of lower level officials including police officers and prison guards are also included. Judicial proceedings can be initiated either by governments themselves or by individuals or groups. When the Human Rights Country Reports mentioned a judicial proceeding that met the above criteria, a country is coded "1" for having transitional human rights trials in a given year (a country trial year). If there was no mention of a human rights trial, a country was coded "0" for that year.

Tribunals

To measure the impact of international criminal tribunals we create a binary variable that is coded "1" for each year subsequent to (i) the establishment of the International Criminal Tribunal for the Former Yugoslavia in 1993 for Yugoslavia (later Serbia and Montenegro and later still, just Serbia), Bosnia-Herzegovina, Croatia, and Macedonia; (ii) the establishment of the International Criminal Tribunal for Rwanda in 1994 for Rwanda; (iii) the establishment of the Special Court for Sierra Leone in 2000; and (iv) the establishment of the Serious Crimes Unit for East Timor and Indonesia in 1999.

Control Variables

Conflict Characteristics

We measured the intensity of a conflict as the percentage of total deaths from internal war from the overall population. We measure conflict duration as the number of days the civil war lasted. We measure whether the civil war ended with a peace agreement, rebel victory or government victory as dichotomous variables. Each of these variables was obtained from the Uppsala Conflict Data Program (UCDP) at the Department of Peace and Conflict Research, Uppsala University and Centre for the Study of Civil War at the International Peace Research Institute, Oslo (PRIO) data on armed conflicts found at <http://www.prio.no/CSCW/Datasets/Armed-Conflict/UCDP-PRIO/Armed-Conflicts-Version-X-2009/>. Last visited April 26, 2010. Only those conflicts that were coded as civil wars, regardless of intensity, were included.

Polity

We use data from the Polity Web site to measure the level of democracy in a nation using the -10 to 10 scale. Data were obtained at <http://www.systemic-peace.org/inscr/inscr.htm>. Last accessed on April 26, 2010. Cases with missing values do not appear in the analysis.

UN Peacekeeping

We include a binary variable for the period when the UN forces are in a country. The time periods of UN peacekeeping operations are from information

available at the UN Peacekeeping Web site at <http://www.un.org/Depts/dpko/dpko/>. Last visited March 1, 2008.

Economic Factors

We utilize two indicators to measure a nation's economic prospects: per capita gross domestic product and the per capita level of aid provided by the nations of the Organization for Economic Cooperation and Development. Data on GDP comes from the World Bank Development Indicator data base. These data are available at web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS/0,,menuPK:232599~pagePK:64133170~piPK:64133498~theSitePK:239419,00.html. Last visited February 15, 2008.

OECD foreign aid data are available at http://www.oecd.org/document/33/0,2340,en_2649_34447_36661793_1_1_1_1,00.html. Last visited March 1, 2008.

TABLE A1. States Subject to International Tribunals

Bosnia–Herzegovina—1993 onward
Croatia—1993 onward
Macedonia—1993 onward
Serbia—1993 onward
Rwanda—1994 onward
Sierra Leone—2000 onward
East Timor—1999 onward
Indonesia—1999 onward

TABLE A2. Countries with Transitional Human Rights Trials
(Kim and Sikkink 2008: 43)

Bosnia and Herzegovina	1995, 1999–2004
Burundi	1996
Croatia	1992–1994, 1998–2004
El Salvador	1990–1992, 1998
Eritrea	1991, 1993
Ethiopia	1991–1992, 1994–2003
Guatemala	1988, 1991–1994, 1996–2003
Haiti	1986–1987, 1989, 1995–1997
Indonesia	2000–2004
Iraq	2004
Mali	1991, 1993
Mexico	2002–2004
Nicaragua	1992–1996
Niger	1992
Panama	1991–1999, 2002, 2004
Paraguay	1989, 1991–1992, 1994–1999, 2002–2004
Peru	1985, 1990, 1993–1995, 2001–2004
Romania	1990
Rwanda	1994–2004
Serbia and Montenegro	2001–2004
South Africa	1992
Spain	1982
Thailand	1998
Turkey	1983

(Note. We include only the following cases that also emerged from civil war.)

TABLE A3. Post-Civil War States from PRIO/UCDP

<i>Country</i>	<i>War begins</i>	<i>War ends</i>
Afghanistan	April 27, 1978	December 7, 2001
Angola	November 11, 1975	December 31, 1995
Azerbaijan	December 1, 1991	December 5, 2005
Bangladesh	February 1, 1975	November 5, 1992
Bosnia & Herzegovina	April 27, 1992	November 21, 1995
Burkina Faso	October 15, 1987	October 15, 1987
Burundi	November 26, 1991	December 31, 1992
Cambodia	December 1, 1978	December 25, 1998
Cameroon	January 1, 1960	April 9, 1984
Central African Republic	October 1, 2001	December 31, 2006
Comoros	November 27, 1989	November 29, 1989
Congo (Brazzaville), Republic of	November 3, 1993	December 31, 2002
Cote d'Ivoire	September 19, 2002	December 31, 2004
Croatia	May 1, 1992	November 12, 1995
Djibouti	November 12, 1991	December 31, 1999
Egypt	October 8, 1981	December 31, 1998
El Salvador	March 25, 1972	December 31, 1991
Equatorial Guinea	August 3, 1979	August 3, 1979
Eritrea	December 16, 1993	December 31, 2003
Ethiopia	March 15, 1964	May 28, 1991
Gambia	July 30, 1981	August 5, 1981
Georgia	September 25, 1991	December 31, 1993
Ghana	December 31, 1981	December 31, 1981
Guinea-Bissau	June 7, 1998	May 10, 1999
Haiti	April 6, 1989	December 31, 2004
India	January 1, 1978	December 31, 2004
Indonesia	December 7, 1975	December 31, 1998
Iran, Islamic Rep.	August 13, 1972	December 31, 2001
Iraq	July 1, 1973	December 31, 1993
Israel	January 1, 1965	December 31, 1996
Kenya	August 1, 1982	August 21, 1982
Laos	May 1, 1984	February 17, 1988
Lebanon	September 2, 1975	October 22, 1976
Lesotho	September 4, 1998	November 30, 1998
Liberia	April 12, 1980	August 18, 2003
Macedonia	January 11, 2000	August 13, 2001
Malaysia	January 1, 1981	December 31, 1981
Mali	June 28, 1990	December 31, 1994
Mauritania	December 15, 1975	December 31, 1978
Mexico	January 1, 1994	December 31, 1996
Moldova	December 13, 1991	July 21, 1992
Morocco	September 1, 1975	December 31, 1989
Mozambique	January 1, 1977	October 4, 1992
Myanmar	December 1, 1948	December 31, 1990
Nepal	July 13, 1996	November 21, 2006
Nicaragua	December 27, 1974	October 15, 1989
Niger	October 1, 1991	December 31, 1992
Nigeria	June 5, 2004	September 29, 2004
Pakistan	January 1, 1974	July 5, 1977
Panama	October 3, 1989	October 3, 1989
Papua New Guinea	October 28, 1989	December 31, 1996
Paraguay	February 3, 1989	February 3, 1989
Peru	June 16, 1965	December 31, 1999
Philippines	September 1, 1969	December 13, 1995
Romania	December 22, 1989	December 23, 1989
Russia	November 1, 1988	October 18, 1991

Table A3. Continued

Country	War begins	War ends
Rwanda	October 1, 1990	December 31, 2002
Saudi Arabia	November 25, 1979	December 15, 1979
Senegal	January 1, 1984	December 31, 2003
Serbia and Montenegro	July 10, 1991	December 31, 1991
Sierra Leone	March 23, 1991	November 10, 2000
Somalia	April 9, 1978	December 31, 2002
South Africa	August 26, 1966	December 22, 1988
Spain	June 7, 1968	December 31, 1992
Sri Lanka	April 5, 1971	December 31, 1990
Sudan	July 22, 1971	July 2, 1976
Suriname	July 1, 1986	December 31, 1988
Syria	June 16, 1979	February 2, 1982
Tajikistan	May 10, 1992	November 9, 1998
Thailand	October 1, 1974	December 31, 1982
Togo	September 23, 1986	December 4, 1991
Trinidad & Tobago	July 29, 1990	August 1, 1990
Tunisia	January 27, 1980	January 27, 1980
Turkey	January 1, 1987	October 17, 2005
Uganda	October 1, 1978	December 31, 1992
United Kingdom	August 11, 1970	December 15, 1991
Uzbekistan	February 16, 1999	September 30, 2004
Venezuela	February 4, 1992	November 29, 1992
Yemen Arab Republic	May 1, 1980	May 31, 1982
Yemen People's Republic	January 13, 1986	January 23, 1986
Zaire	August 17, 1977	June 15, 1978
Zimbabwe	February 23, 1973	December 21, 1979

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