

Rebel Governance and Judicial Process during Conflict

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ABSTRACT

While justice and rule-of-law strategies are being increasingly studied in regard to government behavior, new data on the use of transitional justice during armed conflict finds that this is a tactic of governance which is also employed by rebel groups. The During-Conflict Justice (DCJ) dataset (Loyle and Binningsbø 2017) records over 200 instances of rebel-initiated justice efforts. These efforts include a wide range of judicial behavior including ad hoc trials, offers of amnesty, and reparations programs. Building from the literature on rebel governance and government, I argue that the use of justice processes during armed conflict is a signaling strategy used by the rebel group to demonstrate strength and offer concession to the civilian population. I test this claim using new data on the rebel use of judicial process in the DCJ dataset.

In 1996, a civil war broke out between the government of Nepal and the CPN-Maoist political party. Originally poorly armed and organized, the Maoists quickly gained support throughout the general population and mounted a ten-year civil war that ended with a negotiated peace agreement and a promise to rewrite the Nepalese constitution. There are many factors which lead to the high levels of popular support for the Maoists in regions throughout Nepal (i.e. their populist, anti-caste message, their promise of land redistribution). Among these, the Maoist's themselves argue that the popularity of their judicial system, the "People's Courts", helped to demonstrate their commitment to their ideological goals and to demonstrate the ability of the group effectively govern along those ideological lines. These People's Courts were local courts set up in the territory under Maoist control to try people for crimes under a newly written Maoist code of law. Punishable violations included property crimes and domestic abuse, but also 'war crimes' committed during the conflict (Sivakumaran, 2009). While original their ability to mobilize was weak, the Maoist's attribute their ultimate mobilization capacity to the strength that they demonstrated through their governance system and their ability to punish those individual not supportive of the Maoist cause.

While justice and rule-of-law strategies are being increasingly studied in regard to government behavior, new data on the use of transitional justice during armed conflict finds that this is a tactic of governance which is also employed by rebel groups. The During-Conflict Justice (DCJ) dataset (Loyle and Binningsbø 2017) records over 200 instances of rebel-initiated justice efforts across 57 conflicts. These efforts include a wide range of judicial behavior including ad hoc trials, truth commissions or commissions of inquiry, offers of amnesty, reparations programs, and purging. Despite the seeming proliferation of these judicial and quasi-judicial processes among both government and rebel groups, the extant literature provides us with little information about the use of these processes during armed conflict and the drivers which lead governments and rebel to select these tactics and between these tactics.

While scholars have failed to directly address the use of rebel judicial processes during armed conflict, there is an emerging body of work on the issue of rebel governance and institutional formation. This literature has stressed the importance of rebel governance for securing cooperation and compliance from the civilian population, a central concern for rebel groups. Following from the findings in this work, I argue that we can view rebel judicial processes as a strategy of cooptation and control of the population used by rebel groups in an attempt to either secure support from the local population, as with offers of amnesty given to government informers by the PIRA in Northern Ireland, or to demonstrate strength and capability, as in the case with the Maoists in Nepal. I find that while many of the standard predictors of rebel governance behavior hold for patterns of DCJ use, such as group capacity, ideology, and political context, there is important variation across DCJ type. In particular, I find variation between the use of conciliatory tactics such as the implementation of truth commissions, offers of amnesty, or reparations payments and the use of coercive tactics such as the adoption of trials and purges.

These findings offer at least three important contributions to the literatures on conflict studies, rebel governance, and transitional justice. First, this is the first study to systematically investigate the patterns of rebel judicial behavior across time and space. New data from the DCJ dataset allows us to test previously unexamined hypotheses about the conditions under which rebel groups are most likely to use different judicial strategies. Second, while most of the work on rebel governance has focused exclusively on the use of rebel-initiated trials or court systems, this study expands our inquiry by including an analysis of the rebel use of truth commissions, amnesty agreements, reparations programs, and purging processes. Finally, the transitional justice literature has focused almost exclusively on those judicial and quasi-judicial processes adopted by governments once armed conflict has ended or a political transition has taken place. This study expands our existing inquiry to include processes adopted

while armed conflict remains ongoing and to include those processes initiated by non-state actors, namely rebel groups.

This paper begins with an overview of the extant work on rebel governance particular as it applies to institutions. I then present an overview of the use of during-conflict justice processes by rebel groups relying on new data from the During Conflict Justice (DCJ) Dataset. Building on the existing literature on rebel governance and patterns within the universe of cases, I develop and test a theory of rebel use of during-conflict justice based on a strategy of conciliation and coercion. I test this theory using data from the DCJ dataset. In closing, I present the results of the analysis and suggest avenues for future study.

Rebel Governance and Government

In the last few years, an emerging literature on rebel governance has begun to engage with the question of “Why would rebels, almost always the weaker party in asymmetric conflicts create and sustain governments for civilians during civil war?” (Kasifr, 2015: 21). While much early rebellion philosophy focused on the need to demonstrate capacity and capability through the construction of institutions, Mamphilly (2011) argues that there is something different going on in most rebel movements than that traditional focus on governing institutions attributed to Guevara and Mao. In particular, because we see great variation in rebel governance patterns across group and within group, a singular argument regarding rebel ideology is insufficient to explain when and how rebels choose to govern.

To begin with, there is an important distinction made in this literature between rebel government and rebel governance. Rebel governance generally refers to a rebel group’s ability to secure and regulate territory, while rebel government applies specifically to the institutions which are built and employed by rebel groups (Huang, 2016). Scholars of rebel government put forth a variety of factors which contribute to the development of formal governance institutions. These factors include ideology

(Mamphilly, 2011), cultural beliefs and social values (Kasfir, 2015), territorial control, a democratic tradition, domestic resources, and foreign aid to the rebel group (Huang, 2016), to highlight a few.

Many of these factors impact civilian mobilization which is seen as a strong factor in determining whether or not a rebel group will expend resources on governance and institutions. As Mamphilly argues, “many insurgencies find civilian support to be an essential concern in pursuit of their organizational ambitions (Mamphilly, 2011: 53).” Once a group gains control of territory, a rebel leader can choose between relying on coercion and violence to pacify internal dissent or finding alternative means of securing civilian support (Mamphilly, 2011: 54). As a collective good, rebel governance can be employed when the pacification of the broader population needs to be addressed (Mamphilly, 2011).

Other work has stressed the wider political environment in which a group operates. In particular, Mamphilly (2011) argues that rebel government structures are a product of the pre-conflict relationship between the state and society and the strategic objectives of a given rebel group (16). This work focuses on the dynamic transformation of rebel government over time, including the successes and failures of different governance strategies.

Despite the proliferation of recent work on rebel government and governance, little work has directly engaged with the question of the rebel use of quasi-judicial processes. Huang (2016)’s work on rebel governance accounts for the use of courts by rebel groups. She finds that 28% of rebel groups in her sample employed some form of court structure. However, this work does not capture the important variation in government strategies employed across the range of different quasi-legal institutions a rebel group could choose to employ, such as the important theoretical difference between trials and commissions of inquiry.

Jo’s (2015) work on rebel group adherence to international human rights law argues that compliant rebels (or those who obey international law) are those “that want to exchange the “legitimacy” of their own organization and movement in the eyes of key political “audiences” that care

about values consistent with international law at domestic and international “levels.” In this way, rebel governance and institutions can be viewed as important symbolic behavior for both domestic and international audiences. Mamphilly (2015) speaks directly to the use of symbolic processes by rebel groups. While some justice processes take on more traditional legal forms, others could be conceived in terms of symbolic practices designed to convey messages of authority, justice, and change. While Jo (2015)’s work engages most directly with arguments regarding the external signals of rebel behavior, Mamphilly’s (2015) symbolism argument focuses mainly on the role of rebel practices for domestic signaling.

In order to further expand on the relationship between rebel use of during-conflict justice and these theoretical variables of interest, I turn to an overview of the patterns of rebel DCJ across some of these key theoretical variables.

Patterns of DCJ use across rebel groups

In examining patterns in rebel group judicial behavior, I rely on the During-Conflict Justice dataset. A dataset collected in collaboration with Helga Malmin Binningsbø, the During-Conflict Justice dataset catalogues justice processes across 204 internal armed conflicts in 108 countries between 1946 and 2011, as appear in the UCDP/PRIO Armed Conflict Dataset version 4-2012 (Gleditsch et al., 2002; Themnér & Wallensteen, 2012). Similar to our previous work on post-conflict justice (Binningsbø et al. 2012), the During-Conflict Justice dataset codes justice processes which focus exclusively on crimes or wrongdoings related to the events of a particular conflict. For example, a truth commission or commission of inquiry included in the data must relate specifically to events which took place as part of the civil war. Similarly, the data would also include a reparations policy for civilians whose property was destroyed as part of a government advance during the conflict.

During-conflict justice is defined as “a judicial or quasi-judicial process initiated during an armed conflict that attempts to address wrongdoings that have taken or are taking place as part of that conflict (Loyle & Binningsbø, 2017).”¹ The six forms of DCJ in the dataset represent the most dominant options for governments and rebel groups seeking to address abuses (Elster, 2004): trials, truth commissions and commissions of inquiry, reparations, amnesties, purges, and exiles.² As will be obvious from the examples below there is no assumption of “justice” in this operational definition. In fact, it is often the case that there are serious concerns regarding issues of due process, independence of proceedings, and impartiality in these processes.

The DCJ data includes a total of 2205 during-conflict justice processes. While the DCJ dataset includes information on DCJ initiated by both government and rebel groups, for this analysis I look only at those processes initiated by a rebel group. In the data there are 222 justice processes adopted by rebels from 67 different rebel groups across 57 conflicts. Of note, rebel DCJ represents 10% of total DCJ behavior during armed conflicts, yet over 60% of conflicts in the DCJ dataset include at least one rebel initiated DCJ process.

Types of During-Conflict Justice

Within the DCJ dataset a trial is defined as *the formal examination of alleged wrongdoing through judicial proceedings within a legal structure* (Loyle & Binningsbø, 2017). For a rebel group, this would be those court proceedings held through a rebel-initiated court structure such as the Maoist People’s

1 While much of the existing work on rebel government puts scope conditions on the possibility of rebel institutions, such as the need for territorial control (Kasfir 2015), I treat these conditions as areas of inquiry questioning whether or not they are a necessary condition for the use of DCJ, as such these scope conditions are not included in the operational definition of rebel DCJ.

2 Exiles are not included in the following analysis of rebel DCJ. They are the least common rebel DCJ process and there is definitional uncertainty regarding whether or not a rebel group is able to credibly exile an individual from their territory without having sovereign control of the state itself.

Courts described above or the People's Courts implemented by the Shining Path in Peru. There are 136 rebel-initiated trials in the DCJ dataset.

Truth commissions are defined as *officially-sanctioned, temporary investigative bodies that focus on a pattern of abuse over a particular period of time* (Hayner, 2011: 14). This includes formal truth commissions as well as formal investigations and commissions of inquiry. For example, in 1992 during the civil war in Angola, UNITA appointed a commission of inquiry to investigate the death of two internal opponents, Tito Chingungi and Wilson dos Santos and their families. While UNITA originally denied involvement, following the findings of the commission, movement leader Jonas Savimbi made a public announcement confirming that these individuals were killed by UNITA in 1991 (Department of State, 1993). The commission further reported on "irregularities" under the command of Miguel N'Zau Puna, the head of UNITA's security commission. These irregularities included the forced disappearances of people along with "increased acts of brutality by the public sector force". The report released by the commission argued that UNITA had "nothing to hide during its long history as a liberation movement" and concluded that these infractions were the result of individual commanders who were subsequently punished (BBC, 1992). There are 6 truth commissions included in the DCJ dataset.

Reparations are defined as *compensation given by the rebel group to an individual or group who was harmed in some way during the conflict*. The DCJ dataset includes only material compensation, either in the form of money, property, skills training and education, or compensations to war-affected communities as a whole. The Communist Part of India-Maoist (CPI-Maoist) provides an example. In 2008 there was documentation of the group paying Rs. 50,000 reparations to a widow of a Maoist cadre who was killed in an encounter with Indian security forces in 2006. The Maoists also covered the cost of school fees for both of her children. Over two dozen families throughout the Latehar district were thought to be receiving payments. These payments were thought to be in response to similar

reparations being paid by the Indian state to policeman killed in anti-Maoist operations (Indo-Asian News Service, 2008). There are 9 reparation processes in the DCJ dataset.

Amnesty processes are defined as *a promise on the part of the governing party (rebel group) to not prosecute or punish violators*. In 1982, the Provisional Irish Republican Army (PIRA) offered informers a two-week amnesty, publically stating that anyone who confessed to having provided information on the rebel group to the police or UK army would be spared execution by PIRA death squads (Associated Press, 1982). The DCJ data includes 37 amnesty processes.

Purges are *the act of removing politicians, members of the armed forces or judiciary, or other members of society for their (alleged) collaboration with or participation in a conflict and limiting their influence accordingly*. Purging can include excommunication particularly during an ethno-religious conflict as this a common way of removing individuals from participating in a given group, in this case a religious community. Rebel groups use purges to remove threats from within their organization as in the case of the Khmer Rouge. In the mid 1990s as the group began to lose power, the Khmer Rouge began a systematic exclusion and often elimination (execution) of those individuals found to be sympathetic with a breakaway faction engaging in peace talks with the government of Cambodia (Associate Press, 1996). There are 34 purges in the DCJ dataset.

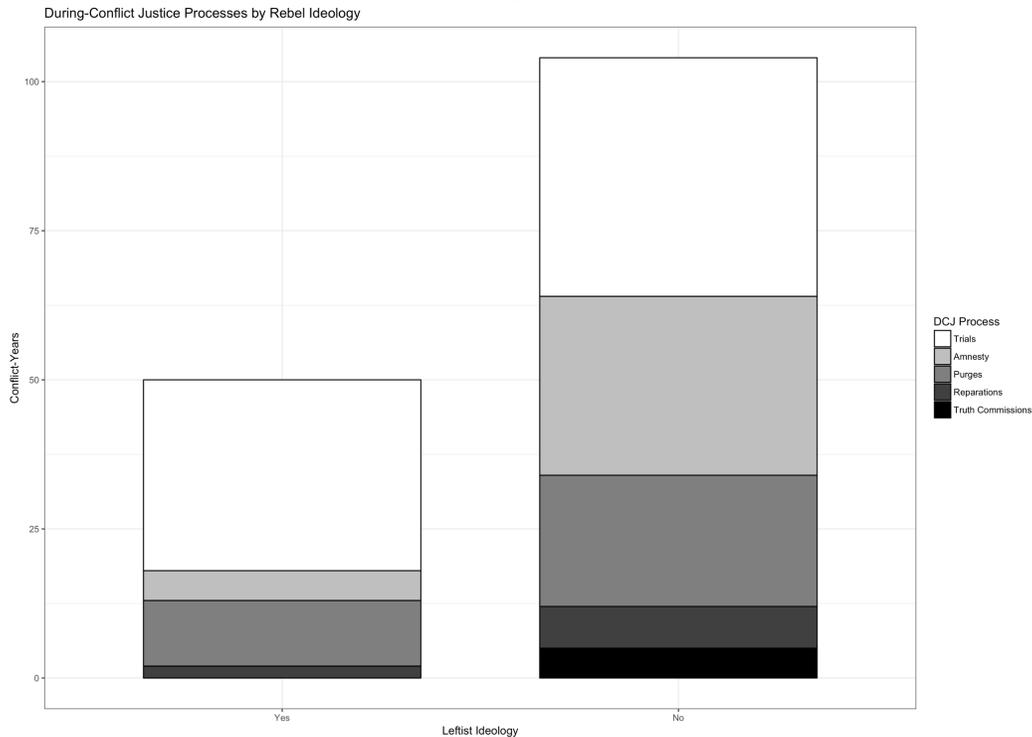
Following from the literature on rebel governance, I examine the patterns of rebel use of these DCJ processes across rebel group ideology, secessionist demands, territorial control by the rebel group, and regime type of the challenger government.

Leftist Ideology

Revolutionary theory would suggest that those groups professing leftist or Marxist aims would be more likely to adopt governing institutions to parallel the ideology of the group. In particular we would expect parallel rule-of-law processes such as trials and truth commissions to be more common among leftist

groups who are explicitly seeking to overthrow the existing institutional structure of the challenger government.³

Figure 1. During-Conflict Justice by Rebel Ideology (Leftist)

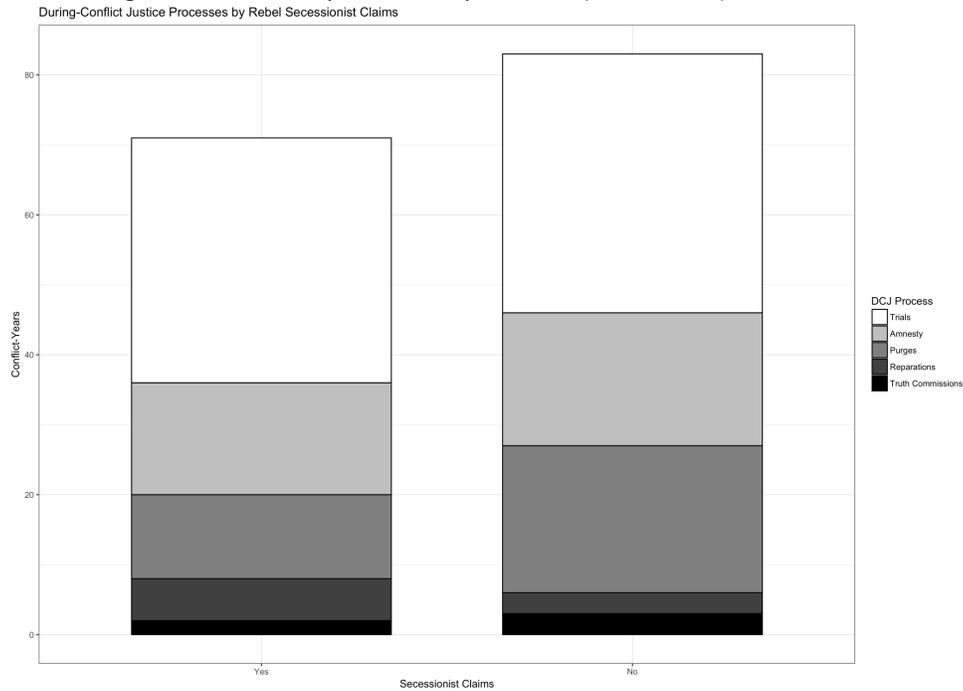


Secessionist Demands

An alternative argument would be that groups intent on one day ruling their own sovereign territory would be more concerned with governance and the creation of institutions regardless of ideology. Here we would expect that those groups professing secessionist claims to be more likely to adopt all forms of governing institutions including during-conflict justice processes.

³ For the purpose of this analysis, I use the conflict-year as the unit of analysis. The graphs below represent the total number of conflict-years in which one or more DCJ is present.

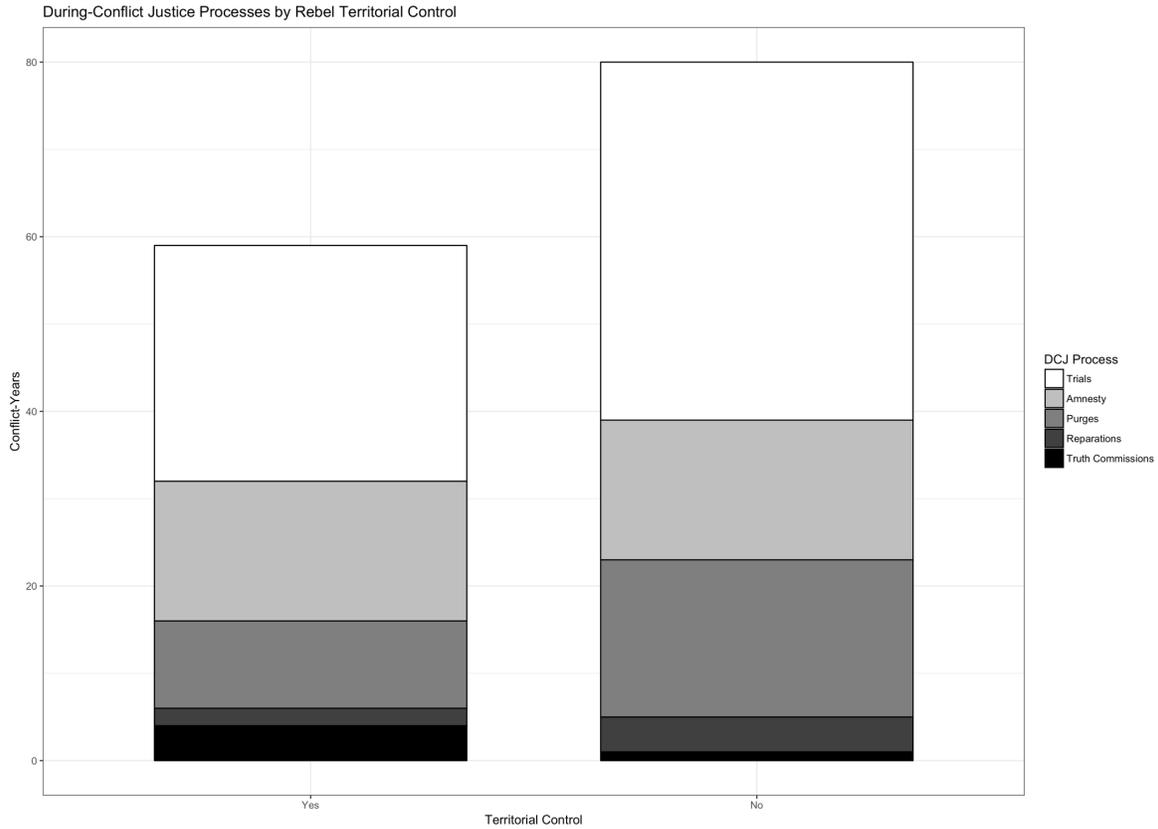
Figure 2. During-Conflict Justice by Rebel Group Demand (Secessionist)



Territorial control

It may be that those groups which are able to hold territory are more likely to have the capacity and inclination to adopt governing institutions such as during-conflict justice processes (Kasfir 2015). This would lead us to expect that DCJ would be more common across those rebel groups currently effectively holding territory.

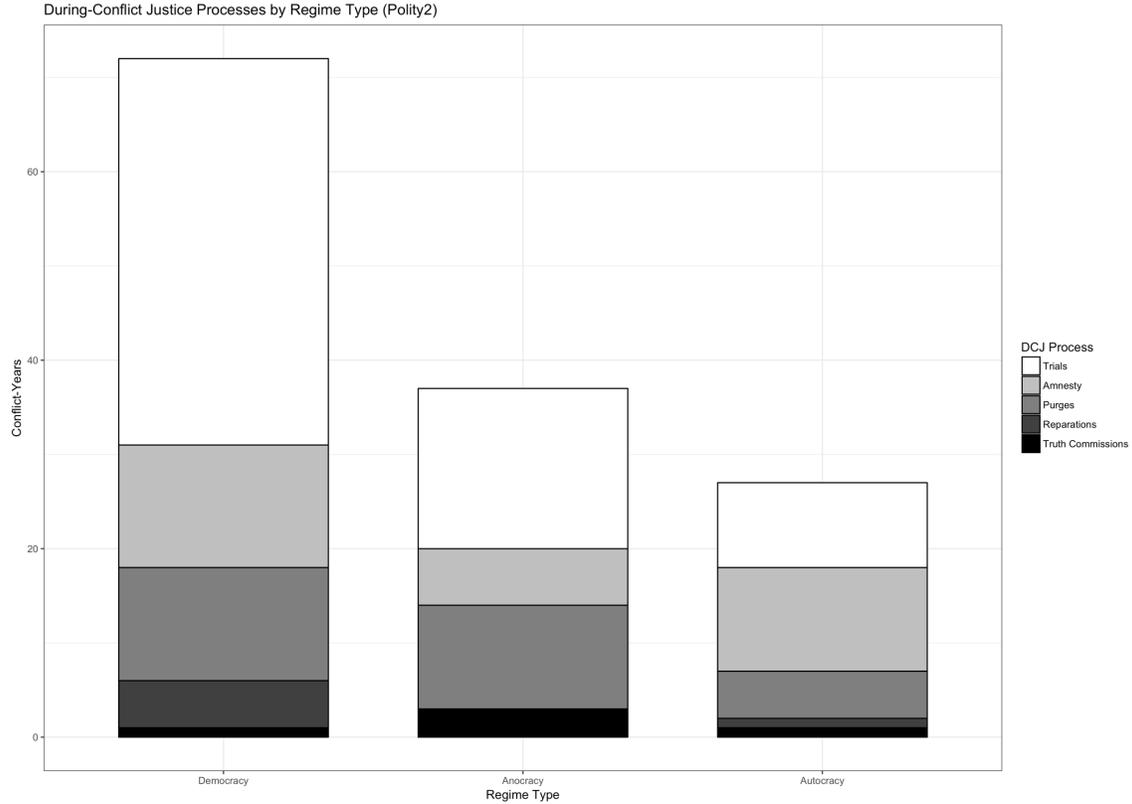
Figure 3. During-Conflict Justice by Rebel Group Territorial Control



Regime Type

Finally, based on findings from the rebel governance literature (Huang, 2016), we would expect rebel groups fighting against an established democracy to be more likely to adopt quasi-judicial institutions which most closely approximate those institutions available from the challenger government. In this case, we would expect DCJ to be more common when rebel groups are fighting against a democracy than when they are fighting against an anocracy or autocratic regime.

Figure 4. During-Conflict Justice by Challenger Government Regime Type



Of note, chi-squared tests of these relationships only find significance for the relationship between DCJ behavior and ideology and regime type.

Explaining Rebel use of During-Conflict Justice

The empirical patterns above suggest that the rebel use of DCJ may not simply be a story of capacity, ideology, or political aims. Based on prior work about the use of post-conflict justice institutions by government actors (Loyle and Apple, 2017), I argue that rebel use of during-conflict justice can best be understood as a tactic of the rebel group during the armed conflict. Following from the rebel governance literature, we can understand the institutional behavior of rebel groups as part of a broader

strategy aimed at winning the conflict or securing a more favorable bargaining position (Mao Zedong, 1961).

Elsewhere I have written about the use of during-conflict justice by government actors (Loyle, 2016). In that work I theorized the ability of DCJ processes to address grievances and showcase state strength, addressing both rebel motivation and opportunity for rebellion. Because a state, in the majority of cases, already has a functioning rule-of-law system, the use of during-conflict justice processes can often be seen as an extension of existing judicial policies. Rebel groups, on the other hand, have the potential of expending significant resources on the construction of a quasi-legal system and in implementing during-conflict justice. Furthermore, the quasi-judicial processes and institutions of rebel groups are very public signals about a group's ideology and intentions (Mampilly 2015). For this reason, I conceptualize the rebel use of DCJ as part of a rebel strategy to communicate with the broader civilian population. Similar to my argument about the government use of DCJ, I argue that rebel groups can use DCJ as a tool of conciliation of the general population or coercion, signaling either a desire to address local grievances or demonstrate group strength.⁴

The adoption of different DCJ processes afford the rebel group an important opportunity to communicate with the general population. Unlike the government which can rely on a standing army for its ability to wage war, rebel groups must constantly be recruiting new members in order to remain a credible challenger to the state. As Walter (2004, 374) argues, "Rebel leaders do not have the luxury to call on a standing army.... Instead, they must recruit and remobilize soldiers for each individual campaign." Furthermore, rebel groups often rely heavily on civilian support for supplies, intelligence, and cover (Lyll 2009, 336–38; Staniland 2012, 148–56; Valentino, Huth, and Balch-Lindsay 2004, 384;

⁴ It is also likely, as has been theorized elsewhere (Jo 2015), that rebel judicial behavior can be a strong signal to the international community. However, for the purpose of this study I focus exclusively on rebel DCJ as a domestic signal. The impact of rebel DCJ on international behavior is an area of future inquiry.

Wickham-Crowley 1990, 223–26). Signally strategies are an important component of this recruitment and retention strategy.

Yet not all DCJ processes transmit the same signal to the civilian population. Under certain circumstances, during-conflict justice can be a powerful signal of the services a rebel group can provide and the potential benefits that an individual can receive from supporting and assisting rebel efforts. DCJ can also be used to address grievances within the civilian population either resulting from rebel behavior or government actions. Alternatively, certain DCJ processes can be used to signal the strength of a rebel organization securing compliance through punishment or coercion. In particular, I argue that truth commissions, amnesty agreements, and reparations programs are all attempts on the part of the rebel group to reward the civilian population through addressing grievances. Alternatively, trials and purges are signals of group strength where the rebel group is able to demonstrate its ability to identify and hold individuals accountable of their actions, punishing those who do not support rebel efforts.

Given the variation in signaling strategies across different DCJ processes, we would expect rebels who are effectively mobilizing from the population to be more likely to reward the population for its support by creating government institutions which address grievances and offer public goods and benefits. In this case, we would expect conciliatory DCJ such as truth commissions, amnesty offers, and reparations payments to be more likely.

H1: Rebel groups are more likely to use conciliatory DCJ when they maintain strong support from the civilian population.

When rebel groups are not able to effectively mobilize and do not have the strong support of the population, we would expect the rebel group to be more likely to demonstrate their strength through the implementation of government institutions which hold individuals accountable for their behavior and demonstrate the rebel group's ability to identify and punish these individuals. In this way the rebel group hopes to coerce cooperation or at least minimize the support that civilians are willing to offer to

the government opposition. In this case, we would expect coercive DCJ such as trials and purges to be more likely.

H2: Rebel groups are more likely to use coercive DCJ when they wish to punish a civilian population or demonstrate strength in light of poor civilian support for the group.

Alternative Hypotheses

It may be the case, however, that DCJ behavior is independent of a rebel group's mobilization efforts and is instead a product of group level dynamics within the rebel organizations as is most often suggested in the rebel governance literature. In particular, it may be that patterns of DCJ implementation is most directly impacted by the overall capacity of the rebel group, their ideology, and their demands. We would therefore expect DCJ, in general, to be more likely when the rebel group has an overall high functioning capacity, has a leftist ideology, and when that group is making secessionist claims against the government.

H3: Rebel groups which a high level of fighting capacity vis-à-vis the government will be more likely to adopt DCJ than lower capacity rebel groups.

H4: Rebel groups with leftist ideology will be more likely to adopt DCJ than those groups with alternative or no specified ideology.

H5: Rebel groups professing secessionist demands will be more likely to adopt DCJ than those groups making other claims on the government.

Below I turn back to the During-Conflict Justice dataset to test the conditions under which rebel use of DCJ is most likely.

Research Design

In order to test my theory of rebel use of DCJ, I return to the During-Conflict Justice dataset. I selected the DCJ dataset for two main reasons. First, to the best of my knowledge, it is the first and only

systematic catalogue of rebel initiated DCJ processes across all categories of judicial and quasi-judicial processes. While other efforts have been undertaken to catalogue rebel courts, for example (Huang 2016), this work has not included parallel institutions such as truth commissions and amnesty programs which provide important variation into rebel strategy. Second, the DCJ dataset uses the UCDP/PRIO Armed Conflict Dataset version 4-2012 (Gleditsch et al., 2002; Themnér & Wallensteen, 2012) as its universe of conflict cases which allows me to rely on existing measures of rebel strength and mobilization capacity in order to test my hypotheses.

The DCJ data include all during conflict justice activities related to internal conflicts as coded by Gleditsch et al. (2002) and uses a process, conflict-year format. Based on the Armed Conflict Dataset (Gleditsch et al., 2002; Themnér & Wallensteen, 2012), the start date for each conflict episode is the first year when twenty-five battle deaths occurred between combatants with a stated incompatibility. The end date is when an active conflict year is followed by a year that had fewer than twenty-five battle-related deaths (Kreutz 2010). A new conflict episode is created when the conflict restarts between the same combatants, even if it is several years later. While the DCJ dataset is in a process, conflict-year format, in order to run this analysis, I converted the DCJ data to a conflict-dyad year format. This format allows me to use annual group-level data on rebel groups to test my hypotheses.

Response Variable

The response variable in the analysis is the implementation (or not) of a given DCJ process. In model 1, I run a logit model to estimate the effect of mobilization capacity, group fighting capacity, leftist ideology, and group secessionist claims on the use of DCJ. For the first model, I code DCJ use as a dichotomous variable where 1 is the rebel adoption of any form of DCJ in a given conflict year, and 0 records no DCJ use. In models 2 and 3, I create separate DCJ variables which include my theoretical DCJ types: conciliatory DCJ and coercive DCJ. In model 2, I run a logistic regression to estimate the effects of my

variables of interest on the rebel use of coercive DCJ processes. Specifically, I created a dichotomous variable coded as 1 when a rebel group adopted a trial(s)⁵ or purge in a given conflict year, and 0 when no such process was adopted. In model 3, I run a logistic regression to estimate the effect of my variables of interest on the rebel use of conciliatory DCJ processes. This dichotomous variable is coded as 1 when a rebel group adopted a truth commission, amnesty agreement, or reparations program in a given conflict year. The variable is coded as 0 if no conciliatory DCJ was adopted that year.

Theoretical Variables of Interest

The four main variables of interest for this analysis are rebel group mobilization capacity, group fighting capacity, leftist ideology, and group secessionist demands. Rebel group mobilization capacity and fighting capacity are coded from the NSA dataset (Cunningham et al. 2013). Group mobilization capacity is a variable which records “the ability of the rebel group to mobilize personnel, rated relative to the government” (Cunningham et al. 2012). It a four-category variable ranging from very weak to very strong. Fighting capacity records “the rebel group’s fighting capacity, rated relative to the government” (Cunningham et al. 2012). It a four-category variable ranging from very weak to very strong. Leftist ideology was coded using Wood and Thomas (2017). Wood and Thomas (2017) define Leftist rebels as “...typically draw[ing] on Marxist philosophies of class struggle and promote revolution as a strategy through which to liberate peasants, workers, and other oppressed class groups.” They continue, “...rebellions adopting these ideologies typically propose a fundamental reshaping of existing social hierarchies in order to ‘liberate’ the population” (34). Leftist ideology is coded as a dummy variable where those groups which profess a leftist ideology are coded as 1 and those which do not are coded as

⁵ Of note, the trial variable is coded differently from the other DCJ variables in the analysis. Because of the nature of the coding of trials in the DCJ dataset, there were 21 conflict years in which more than one rebel trial took place. Because the conflict-year format of the data it was not possible to incorporate this variation into the current analysis. Future versions of this analysis will account for variation in the total number of DCJ processes in a given conflict year.

0. The variable for group demands was collected from the conflict incompatibility variable in the UCDP/PRIO ACD (Gleditsch et al. 2002). Conflict incompatibility is coded as a dummy variable for whether or not the conflict was being fought for secessionist goals.

Empirical Results

As introduced above, I use logistic regression to estimate the impact of the theoretical variables of interest on a rebel group's pattern of DCJ use (see Table 1). Model 1 tests the impact of the variables of interest on the rebel group's decision to adopt any form of during-conflict justice in a given conflict year. Here the overall fighting capacity of the rebel group and leftist ideology are found to be significant factors in the rebel decision to adopt DCJ, lending support to hypotheses 3 and 4. Interestingly, secessionist claims do not have a significant impact. It could be that all groups, including those which claims on the government itself have incentives to demonstrate their ability to govern through the use of DCJ processes.

In Model 2, I include the same variables of interest but look only at a subset of DCJ, namely coercive DCJ. Here I find that overall military capability and ideology remain a significant predictor of rebel use of trials and purges. While not significant, mobilization capacity has a negative effect on the use of coercive DCJ, lending weak support for hypothesis 2.

Model 3 examines the relationship between conciliatory DCJ and the key variables of interest. Here I found support for the impact of mobilization capacity on the use of conciliatory DCJ processes, namely truth commissions, amnesty offers, and reparation programs. While overall military capacity is still found to be important, leftist ideology is not a significant predictor of rebel conciliatory DCJ behavior.

Table 1: During-Conflict Justice Processes

	<i>Dependent variable:</i>		
	Any DCJ (1)	Coercive DCJ (2)	Conciliatory DCJ (3)
Mobilizing Capacity	0.052 (0.170)	-0.174 (0.200)	0.738*** (0.283)
Military Capability	0.621*** (0.236)	0.540* (0.278)	0.852** (0.361)
Leftist Ideology	0.786*** (0.222)	1.063*** (0.251)	-0.343 (0.446)
Secessionist Claims	0.234 (0.229)	0.206 (0.263)	0.475 (0.384)
Constant	-4.608*** (0.667)	-4.262*** (0.772)	-7.925*** (1.121)
McFadden's Pseudo R2	0.309	0.305	0.345
LR Test	16.989 (df = 4)	19.764 (df = 4)	15.574 (df = 4)
Observations	1,608	1,608	1,608
Log Likelihood	-366.087	-296.246	-153.118

Note: *p < 0.1; **p < 0.05; ***p < 0.01

Conclusion

Despite our focus on transitional justice and rule-of-law processes implemented by governments both after and during armed conflict, a number of rebel groups choose similar institutional forms in their patterns of governance during armed conflict. While similar in form, there are important differences in the motivations and outcomes of rebel DCJ processes. In this paper, I explore the patterns in rebel DCJ behavior demonstrating that some of the key predictors of rebel behavior from the rebel governance literature may not hold for rebel judicial and quasi-judicial institutions. In particular, the results of this analysis suggest that there are important theoretical differences between different types of during-conflict justice processes. In other words, the motivation, and likely the outcomes, of the use of different forms of rebel institutions vary across process type. In line with work by Huang (2016), I find that the overall mobilization capacity of the rebel group is a predictor of institutional behavior. Groups

that are already able to recruit successfully from the civilian population and to mobilize support for their organization select different institutions of governance than those rebel groups who are not as successful in this task.

Furthermore, it is worth reflecting on the important differences between government and rebel DCJ processes. Many of the examples of rebel DCJ suggest that these processes are a far cry from judicial processes functioning according to the rule-of-law or internationally recognized standards of best practice. As in the case of the commission of inquiry established by UNITA in Angola, there is evidence that the commission was created, in part, to delegitimize a UNITA general who was posing a political threat to Savimbi. We should therefore be cautious about linking this institutional behavior too closely to other commission of inquiry and truth commissions which profess to more clearly provide impartial and 'just' verdicts. That being said, much of the recent work in the study of transitional justice has called into question the impartial and apolitical nature of these processes (Loyle, 2016). It may be that government and rebel DCJ can best be understood as two sides of the same coin.

Understanding the rebel use of during-conflict justice processes has important implications for policy work within the field of rebel diplomacy. In particular, DCJ strategy by rebel groups could be a strong predictor of the intentions of that group and signal outcomes related to the potential for future peace and/or democratization. Learning about how rebels govern maybe a strong indicator of their preferences and goals teaching us lessons about how to best interact with these groups and their civilian support base in the future.

Works Cited

The Associated Press. January 29, 1982, Friday. "Guerrillas Offer Two-Week Amnesty To Informers." LexisNexis Academic.

The Associated Press. August 26, 1996, Monday. "Khmer Rouge Hard-liners Reportedly Purging Ranks, Launch Attacks." LexisNexis Academic.

BBC Summary of World Broadcasts/The Monitoring Report. March 26, 1992, Thursday. "Angola dissident generals accuse UNITA of political killings; allegation denied." LexisNexis Academic.

Cunningham, David E., Kristian Skrede Gleditsch, Idean Salehyan (2012) "Codebook for the Non-State Actor Data" Version 3.3 (24 January 2012).

Cunningham, David E., Kristian Skrede Gleditsch, Idean Salehyan (2013) "Non-State Actors in Civil Wars: A New Dataset." *Conflict Management and Peace Science* 30(5), 516 – 531.

Department of State Dispatch. February 1993. "Angola Human Rights Practices, 1992" LexisNexis Academic.

Elster, Jon, 2004. *Closing the Books: Transitional Justice in Historical Perspective*. Cambridge: Cambridge University Press.

Gleditsch, Nils Petter, Peter Wallensteen, Mikael Eriksson, Margareta Sollenberg, and Håvard Strand (2002) "Armed Conflict 1946-2001: A New Dataset." *Journal of Peace Research* 39(5).

Hayner, Priscilla. 2011. *Unspeakable Truths: Facing the Challenge of Truth Commissions*. New York: Routledge.

Huang, Reyko. 2016. *The Wartime Origins of Democratization: Civil War, Rebel Governance, and Political Regimes*. Cambridge, UK: Cambridge University Press.

Indo-Asian News Service. January 8, 2008, Tuesday. "Maoists in Jharkhand introduce compensation for killed cadre." LexisNexis Academic.

Jo, Hyeran. 2015. *Compliant Rebels: Rebel Groups and International Law in World Politics*. Cambridge, UK: Cambridge University Press.

Kasfir, Nelson. 2015. "Rebel Governance- Constructing a Field of Inquiry: Definitions, Scope, Patterns, Order, Causes" in ed. Ana Arjona, Nelson Kasfir, and Zachariah Mampilly. *Rebel Governance in Civil War*. New York, NY: Cambridge University Press.

Kreutz, Joakim. 2010. "How and When Armed Conflicts End: Introducing the UCDP Conflict Termination Dataset." *Journal of Peace Research* 47(2): 243–250.

Loyle, Cyanne E. (2016) "Justice During Armed Conflict: Addressing Grievance and Opportunities for Rebellion" American Political Science Association Annual Conference, Sept. 1-4, 2016.

Loyle, Cyanne E., and Benjamin Appel. 2017. "Post-Conflict Justice and Conflict Recurrence: Addressing Motivations for Sustainable Peace" *International Studies Quarterly*. 61(3).

Loyle, Cyanne E. and Helga Malmin Binningsbø. (Forthcoming). "Justice during armed conflict: A new dataset on government and rebel strategies" with *Journal of Conflict Resolution*.

Lyall, Jason. 2009. "Does Indiscriminate Violence Incite Insurgent Attacks? Evidence from Chechnya." *Journal of Conflict Resolution* 53 (3): 331–62.

Mampilly, Zachariah. 2011. *Rebel Rulers: Insurgent Governance and Civilian Life During War*. Ithaca, NY: Cornell University Press.

Mampilly, Zachariah. 2015. "Performing the Nation-State: Rebel Governance and Symbolic Processes" in ed. Ana Arjona, Nelson Kasfir, and Zachariah Mampilly. *Rebel Governance in Civil War*. New York, NY: Cambridge University Press.

Mao Zedong. 1961. *On Guerilla Warfare*. New York: Praeger.

Marshall, Monty G. and Keith Jagers. 2003. Polity IV Project: Political Regime Characteristics and Transitions, 1800-2002.

Sivakumaran, S. 2009. "Courts of Armed Opposition Groups: Fair Trials or Summary Justice?." *Journal of International Criminal Justice* 7(3): 489–513.

Staniland, Paul. 2012. "Organizing Insurgency: Networks, Resources, and Rebellion in South Asia." *International Security* 37 (1): 142–77.

Themnér, Lotta, and Peter Wallensteen. 2012. "Armed Conflicts, 1946–2011." *Journal of Peace Research* 49(4): 565–575.

Valentino, Benjamin, Paul Huth, and Dylan Balch-Lindsay. 2004. "Draining the Sea: Mass Killing and Guerrilla Warfare." *International Organization* 58 (2): 375–407.

Walter, Barbara F. 2004. "Does Conflict Beget Conflict? Explaining Recurring Civil War." *Journal of Peace Research* 41 (3): 371–88.

Wickham-Crowley, T. P. 1990. *Exploring Revolution: Essays on Latin American Insurgency and Revolutionary Theory*. Armonk, NY: ME Sharpe.

Wood, Reed M., and Jakana L. Thomas. "Women on the frontline: Rebel group ideology and women's participation in violent rebellion." *Journal of Peace Research* 54.1 (2017): 31-46.