Public Reactions to Non-Compliance with Judicial Orders

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September 11, 2019

Abstract

The massive global expansion of constitutional protections for individual rights, enforceable via flexible judicial remedies and accessible courts, represents one of the most transformative legal reform efforts of the last 100 years. Yet, the success of the judicialization of rights depends on the ability of judges to compel states to remedy rights violations; and the simple fact is that non-compliance with judicial orders is far from uncommon. This paper studies one potential solution to the problem that follows from extant research on the politics of constitutional review: make information about the compliance process visible to citizens so that public pressure for compliance can be leveraged. In so far tracking compliance outcomes is costly and making information about non-compliance available could have little impact or even undermine pressure for compliance, the logic of making orders visible depends on the answers to a series of empirical questions. We pose and answer several relevant questions by combining an observational study of compliance with actual judicial orders in the Colombian tutela with a survey experiment fielded on a large, nationally representative sample of Colombian adults. Our key findings are as follows. The overall non-compliance rate in the tutela was 30% during the period in which we studied it. This is a highly unacceptable rate to a large proportion of Colombian nationals; there is considerable willingness among this population to take costly actions to remedy the problem; and, features of cases that scholars have suggested might provide rationales for accepting non-compliance as a reasonable outcome do not change these basic reactions. Finally, we find that reactions to the information we provide depends on prior expectations about the compliance rate.

*The survey experiment study described in the paper was registered with Evidence in Governance and Politics, “Public Reactions to Non-Compliance in the Colombian Tutela (20170805AA). The study was reviewed by the Emory University Institutional Review Board (IRB00089440). The compliance tracking study was reviewed by the Emory University Institutional Review Board (IRB00057134). The analysis plan for a field experimental design conducted as a part of the tracking study was registered with the American Economic Association RCT registry, “Publicity and Compliance in the Colombian Tutela,” (AEARCTR-0000571).
1 Introduction

The expansion over the last century of social and economic rights in the world’s constitutions raised the possibility that states would take a more active role in redressing the persistently negative social consequences of extreme poverty and inequality (Law and Versteeg, 2011; Brinks and Gauri, 2014). Although these commitments have been merely aspirational in some contexts and total shams in others (Jung, Hirschl and Rosevear, 2014; Law and Versteeg, 2013), a large number of states have attempted to make rights promises enforceable (Melton et al., 2013). By the second decade of the 21st century, roughly two thirds of the states whose constitutions contained at least one social and economic right made those rights enforceable through a variety of judicial remedies (Jung, Hirschl and Rosevear, 2014, p. 1050). All over the world, individuals, aided by legal activists, have pursued an expansive rights agenda through the courts (Tate, Vallinder et al., 1995; Epp, 1998; Sieder, Schjolden and Angell, 2016; Hirschl, 2006). This is particularly true of the Latin American region, where a vast array of social and economic rights have been made justiciable via individual constitutional complaints (e.g., amparo, tutela, mandado de segurança), which delegate to judges the task of overseeing an often massive bureaucratic effort in public service provision.

Although legal pathways for the protection of rights clearly exist, in order to provide effective remedies for rights violations, judges must be able to compel political officials to comply with their orders; and, it is important to remember that judicial orders are not self-enforcing. Compliance depends on choices and efforts made by a variety of actors outside the judiciary, including executives and their agents, parties, NGOs, firms, as well as the beneficiaries of judicial protection and citizens generally (e.g. Rodríguez-Garavito, 2010; Vanberg, 2005; Kapiszewski and Taylor, 2013). The simple fact is that public officials do not always implement court orders, undermining constitutional efforts to make the protection of social and economic rights a practical reality.¹

¹Non-compliance with judicial orders is an unmitigated problem from a rule of law perspective. In the context of rights claims, we can entertain the possibility that some level of non-compliance with judicial orders is not only to be expected, but perhaps desirable. It is possible that in attempting to regulate the provision of public services that judges harm the provision of rights by substituting their judgment over how to provide service for those of better informed bureaucrats. This is most clearly possible in the context of health litigation, where poorly constructed orders can, in principle, interfere with hospital and doctor decisions. Generally speaking, however, we are comfortable taking the position that on balance rights will be better protected when remedial judicial orders are obeyed.
Scholarship on the politics of constitutional review suggests a natural solution to the challenge of non-compliance: *make the implementation process of judicial orders visible to the public*. The power of courts is commonly understood to derive from broad public support for the proposition that officials should be constrained by legal limits on their authority, combined with beliefs that courts are the appropriate forum for adjudicating claims that officials have violated these limits (Gibson, Caldeira and Baird, 1998; Vanberg, 2005). For public pressure to be relevant to compliance decisions; however, it must at least be possible for citizens to learn about instances of non-compliance. Judiciaries capable of compelling compliance thus rely on the transparency or visibility of their work, so that public pressure for compliance can be leveraged (Staton, 2010; Krehbiel, 2016). In the context of social and economic rights litigation, where judicial caseloads are enormous and few cases garner media attention, this logic is particularly compelling. In short, informing citizens about the implementation decisions of public officials and their agents should increase compliance with court orders by leveraging public dissatisfaction with non-compliance.

This logic offers a pathway for the full realization of states’ rights commitments, yet existing scholarship also raises caveats. Although some information about constitutional litigation (e.g., who files, when, where and about what) is readily available and more or less easily promoted, compliance information itself is not part of the typical case files that are archived in court houses. Instead, judges rely on parties to bring claims of non-compliance on their own; and, it is unclear that litigants often, much less always, come back to court to complain about implementation failures (Hausman, 2012; Pieterse, 2004). Collecting good information on compliance outcomes requires costly effort.

In light of these costs, it is important to remember that while public support may enhance judicial power, there is no reason to assume that publics will support courts, court orders, or even share the judiciary’s view of what would constitute an acceptable non-compliance rate (Helmke, 2017; Driscoll and Nelson, 2019; Staton, 2004). Reporting on non-compliance could lower implementation pressures by convincing people that non-compliance is a norm (e.g. Sarsfield, 2012). Related, an individual’s reactions to compliance information, like reactions to many types of information, may depend on expectations (Kahneman and Tversky, 1979; Kahneman, Slovic and Tversky, 1982; Damore, 1997). Releasing information about compliance could undermine pressure for compliance among people who expected a higher non-compliance rate that that which is reported. If a substantial proportion of a population has such expectations, then informing the public about compliance rates could undermine pressure for
compliance. Further, even if people are dissatisfied with the information they learn, effective pressure will require a population that is willing to mobilize, an activity that is far from costless (Weingast, 1997). Finally, features of case facts and judicial orders suggest plausible rationales for the failure to implement judicial orders, also potentially resulting in reduced pressure for compliance. So, information providers might need to be careful about the information they release. All of these reasons might render a process of accurately informing people about compliance insufficiently beneficial to justify the costs of producing the information. It might even be net costly.

Developing a successful plan for addressing the challenge of non-compliance via information provision thus requires answers to a series of questions. We seek to provide these answers in one country, Colombia, and by so doing demonstrate how this might be done generally. Doing this well, we argue, requires two steps. First, we would ideally like actual data on compliance with judicial orders so that our conclusions will speak to a real process of judicial order implementation. Second with those data in hand, we can learn about likely public reactions. We thus pair an observational study of compliance with judicial orders in the Colombian tutela with a survey experiment fielded on a large, nationally representative sample of Colombian adults.

As we hope will become obvious, conducting our study across multiple countries would have been infeasible given the effort required to track compliance. Colombia represents a particularly appropriate state to investigate public reactions to non-compliance information. The tutela is a critical component of Colombia’s constitutional architecture for the protection of fundamental rights, adopted during a constitutional reform process designed to make justice accessible to as many people in Colombia as possible. The tutela is used often and widely across the country (Merhof, 2015). During the period of our study, the Constitutional Court had the opportunity to review roughly 400,000 tutela decisions per year. As recently as 2017, this number rose to over 600,000 or roughly 2500 per work day!² Each year, this amounts to a tutela action for every 80 people in the country. The Colombian Constitutional Court’s rights jurisprudence is one of the most innovative in the Western hemisphere and the tutela action has been used to confront critical challenges of human rights, from health to housing and associated challenges associated with large number of internally displaced people as a consequence of the violent

conflict (Merhof, 2015; Brewer-Carías, 2009). The *tutela* process represents an important symbol of the Colombian state’s formal commitment to rights and compliance with court orders in essential to making real this commitment. Thus, getting answers to our questions is relevant to the country we study and yet doing so will also have implications for countries with similar formal commitments to the protection of rights.

We report the following findings. In our sample of 1800 *tutela* cases in which a judge found a constitutional violation and ordered the state to provide a particular remedy to an individual, we found an overall non-compliance rate of roughly 30%. The rate was slightly higher in the context of cases dealing with pensions and victims of the violent conflict and lower in cases dealing with health. Our survey research found that among those respondents exposed to the overall non-compliance rate, there was a very high level of concern. A large majority of the sample found the rate unacceptable and a very large plurality of the sample found it totally unacceptable. We also found that a large proportion of the sample was willing to take costly actions (described below) in order to inform Colombian society about our findings. We did not find any support for theoretical claims suggesting that certain features of cases and court orders might create rationales for accepting non-compliance. Specifically, our experimental results find no support for the claim that the vagueness of judicial orders, the high costs of complying with judicial orders or the low SES status of many beneficiaries changed the basic reactions we observe. Consistent with core claims about the public source of judicial power, we did find that individuals who display strong beliefs in the legitimacy of the judiciary were particularly dissatisfied with the non-compliance rate, but judicial legitimacy is unrelated to decisions to take costly actions to remedy the problem. Finally, we found that that the effect of informing people about our results depended on their prior expectations. Among people who expected a lower non-compliance rate than we reported, providing information about the actual resulted in a significant increase in willingness to contribute to a process of informing the Colombian public. Among people who expected a higher non-compliance rate, the information had no effect. These findings suggest that, in Colombia at least, informing the public about compliance outcomes may well produce expectations of negative consequences of future non-compliance, and that way, increase pressure to faithfully implement orders in *tutela*.

We divide the remainder of our paper into four sections. We first discuss theoretical work that structures our study and specify the empirical questions we will attempt to answer. Second, we discuss the Colombian case and summarize our compliance monitoring study. Third we describe our survey
experiment and present the results of that study. We consider the implications of our findings in a concluding section.

2 Theory

The rationale for making information about compliance outcomes available for public consumption follows immediately from a scholarship that has proposed a public enforcement mechanism for judicial orders. In this section, we describe the basic argument and then consider a variety of ways in which making judicial orders visible might produce little effect or even backfire.

2.1 A Public Enforcement Mechanism for Judicial Orders

A public enforcement mechanism for judicial orders derives from the idea that the power of judges ultimately derives from commitments among large groups of people to the propositions that officials of the state ought to be subject to legal limits on their authority (Raz, 1997), and that properly empowered courts are an appropriate location for adjudicating disagreements over whether officials have violated these limits (Gibson, 1989; Gibson and Nelson, 2014). Vanberg (2005) suggests two key conditions for this kind of mechanism to hold leaders to their legal obligations. The first, straightforward condition is that that courts must actually enjoy public support relative to the targets of their oversight. From this perspective, compliance is incentivized in the same way that public official actions are generally incentivized: by exposing officials to the negative consequences of defying court orders. The argument shares much in common with work on democratic theory on the role for transparency in efforts to hold elected officials accountable (Fearon, 1999; Ferejohn, 1986). Indeed, on this account, horizontal accountability is ultimately an indirect form of vertical accountability (O’Donnell, 1998). Critically, however, such a mechanism also requires that the public generally (or at least important coalitions of citizens) is aware of the conflicts courts resolve, or more plausibly, that they can be made aware of these conflicts by opinion leaders (Vanberg, 2005). Clearly, if judicial oversight work is carried out far from the public view it is unclear how we can possibly imagine that public pressure will be sufficient to deter non-compliance, even if people generally support courts over their elected officials.

Consistent with this view, scholars have noted that domestic and international courts around the world shape the information that they release to the public by managing the public nature of their
hearings (Krehbiel, 2016; Cavallaro and Brewer, 2008). In many cases, they have sophisticated social communications offices that selectively report on topics relating to the judiciary, attempt to shape their public image, and highlight particular decisions for media attention (Staton, 2010, See new paper by Krehbiel). Most relevant for our study, the Colombian Constitutional Court has already made use of public hearings to create visibility for compliance processes associated with its structural rulings involving victims of the violent conflict and the healthcare system. Similarly, in 2009 the constitutional bench of the Supreme Court of Costa Rica began tracking its own compliance record in its *amparo* jurisdiction. In March of 2010 it held a well-attended press conference in San Jose in order to announce to the country the results of its initial analysis, which showed massive variation in compliance outcomes for some of the most important agencies of the state. Its own data is consistent with a positive effect of making the compliance process public (Staton, Gauri and Cullell, 2015).

In summary, there are a series of straightforward reasons to release information about compliance to the public and in a number of ways courts are already taking steps to make their work more visible. There are thus valid reasons to consider increasing the visibility of judicial orders. That said, it is important to consider the real and potential costs of this strategy. Information about the litigants who file complaints, the nature of their complaints and the outcome of judicial processes are readily available in almost all legal systems, even if the cases continue to be stored in physical filing cabinets rather than in electronic form. Information on compliance outcomes is different. Although the institutional framework for the individual constitutional complaint includes mechanisms to remedy non-compliance (e.g., the _incidente de inejecución_ in the Mexican *amparo* or the _incidente de desacato_ in the Colombian _tutela_), these must be initiated by the complainant herself. If she does not understand that there has been a form of non-compliance, or if she does not have the resources or energy to continue, no concern will be raised. We cannot rely on self-reported incidents of non-compliance. Instead, we must seek information from complainants, and if possible, check with defendant agencies. Simply put, this is far from costless work. In light of these costs, it is important to consider a series of caveats.

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3We set aside for the moment costs related to creating an image of a politicized actor, which is certainly possible when a judicial system begins to interact directly with the political system outside the context of its formal jurisdiction. We instead here only focus on the very real administrative costs of tracking compliance and making the information available.
People do not necessarily support courts  Scholars writing about the public enforcement mechanism have developed intuitions about how judicial-government interactions might work in light of the idea that courts rely on public support for their authority, but the work recognizes that politicians might on balance enjoy greater support than do the courts that are trying to hold them to legal limits on their authority (Helmke, 2017; Staton, 2004). Indeed, this is a natural assumption to make in a democratic system when an elected official’s behavior is called into question by an unelected official of the state. Public opinion research is now consistently finding partisan effects in the interpretation of judicial-government relations (Driscoll and Nelson, 2019). Similarly, scholars have found that in the context of weak democratic states, support for the president is strongly related to tolerance for presidential non-compliance with Supreme Court orders (Driscoll and Schorpp, 2019). Likewise, countries vary considerably in their commitments to core rule of law values, including possibly the belief that public officials should be constrained by the law or that judicial decisions should be respected (Again, see Driscoll and Schorpp, 2019).

A related problem emerges when non-compliance rates are relatively high. It is possible that reporting on high non-compliance will undermine beliefs in the rule of law by highlighting for people that the failure to be bound to legal limits is common (Sarsfield, 2012). It is certainly possible that providing information will result in no appreciable pressure for compliance because courts either enjoy low support or large groups of people tolerate non-compliance. Worse, the information could reduce pressure for compliance by communicating that non-compliance is the norm.

There is a difference between dissatisfaction and doing something about it  The public enforcement mechanism requires that groups of people punish leaders for the failure to comply with orders directed in the context of other people’s litigation. That is, significant costs of non-compliance, especially in the context of social and economic rights litigation, will only materialize if people are willing to coordinate in order to help enforce the law on behalf of others. Weingast (1997) argues that two kinds of coordination are jointly necessary to establish self-enforcing norms of restraint on the part of government officials. Citizens must coordinate their beliefs about what are appropriate limits on the powers of state officials; and, conditional on a coordination of beliefs about what is right and what is wrong, citizens must be capable of behavioral coordination on protest activities. With respect to the problem of incentivizing compliance, the absence of either form of coordination will
undermine the public costs of defying judicial orders. The second coordination problem is obviously linked to a collective action problem. Effective public protest is costly. For present purposes, the point is that a successful plan for informing citizens will depend on citizens being not only likely to be dissatisfied with non-compliance but willing to pay the minimal costs associated with coordinated mobilization. Absent information about these two related but distinct coordination problems, a strategy of information provision may be premature and ultimately misguided.

**Features of cases and court orders that increase tolerance for compliance**  Judges craft judicial orders in ways that arguably increase tolerance for non-compliance. Most obviously, vague orders directed at public officials make it more difficult to claim that an order has been defied (Staton and Vanberg, 2008). Making judicial orders visible makes it possible for people to learn that judges are often unclear, and ultimately infer that non-compliance generally is likely a consequence of judicial failure to be clear. Scholars have also suggested that the real, financial costs of compliance influence how states respond to changes in their legal obligations (Gauri, 2011). For example, the constitutional right to health in Costa Rica required the state to provide universal access to the drugs necessary for the proper treatment of HIV/AIDS. Doing so required a significant increase in public expenditures (Wilson and Cordero, 2006; Wilson, 2011). In contrast, the constitutional right to petition government for information requires next to no increase in public spending. Governments need only respond to individual requests for information. While this may require a slight increase in staffing, even that expenditure is arguably unnecessary. It is entirely possible that individuals recognize that high real costs of compliance raise potential tradeoffs in the provision of public services. For that reason, individuals may be more (less) willing to forgive non-compliance in cases where the real costs of compliance are high (low). Again, if people learn that judges often ask for outcomes that would bust budgets, especially if done at scale, pressure for compliance may be reduced.

Finally, the literature on social and economic rights enforcement has been skeptical about the extent to which the legal system provides benefits to individuals independently of social class (e.g. Brinks and Gauri, 2014). Instead, scholars have generally found that the legal system’s output is biased toward people with higher socioeconomic status. In so far as the social system that structures the law is organized around class, it may be that individuals perceive non-compliance with orders benefiting the
poor and the less educated as less of a problem than non-compliance with orders that would have benefited middle class or wealthy, educated individuals.

The Relationship between Expectations and Outcomes  Suppose that judges possess an estimate of their court’s compliance rate, and they believe it to be relatively low. If people have thought about it at all, it is unlikely that they will have the same expectations as judges, and differences between what we expect and what we observe can have powerful effects on how we interpret what we learn. Psychologists have long contended that individuals evaluate outcomes with respect to a variable reference point (Kahneman and Tversky, 1979; Kahneman, Slovic and Tversky, 1982; Medvec, Madey and Gilovich, 1995), and an expectation about bureaucratic responses to tutela orders can be conceptualized as a reference point. Importantly, a significant literature in marketing suggests that consumers are less (more) satisfied with products that perform below (above) expectations than they are with products that perform as expected (Erevelles and Leavitt, 1992; Oliver, 1977; Spreng, MacKenzie and Olshavsky, 1996). For these reasons, companies are strongly discouraged from over-promising with respect to expected results. Research in finance finds that stock prices are highly sensitive to earnings reports that exceed or fall below expectations (Shepperd and McNulty, 2002). And of course in political science, scholars have found that the approval of presidents, congresspeople and local political figures is also sensitive to prior expectations (Damore, 1997; Kimball and Patterson, 1997; Van Ryzin, 2004). It is highly plausible to worry that the reporting of information about compliance will be sensitive to this “expectation-outcomes” dynamic which is generally referenced to as the “disconfirmation hypothesis” in marketing. If so, then reactions to information about non-compliance will depend on prior beliefs about the non-compliance rate. Critically, even a report of a relatively high rate of non-compliance might be perceived as acceptable to people who believe that non-compliance is common.

2.2 Empirical Goals and Expectations

In light of this discussion we pursue purely descriptive goals, goals limited to descriptive inference and goals that require causal inference. First, we will describe a compliance tracking process, which is similar in nature to that run by the Supreme Court in Costa Rica. We believe that this process highlights the costs of tracking compliance, especially in a busy legal system. We also seek to obtain a plausible estimate of the overall non-compliance rate with tutela decisions in Colombia. Third, will seek to infer
how acceptable Colombian citizens would find the rate we uncovered and whether Colombians would be willing to take costly actions to remedy it. We seek to describe the relationship between beliefs in the acceptability of the non-compliance rate and willingness to take a costly remedial action; and, finally we will whether perceptions of judicial legitimacy are in fact associated with either acceptability, costly actions or both. These descriptive findings alone have important implications for a plan to inform people generally about compliance in the Colombian *tutela*.

We also seek answers to a group of related causal claims. We first consider whether there is support for existing theoretical accounts suggesting how court orders and case facts might undermine pressure for compliance. Specifically, we test the following hypotheses.

*Colombians will be more accepting of non-compliance and less willing to take a costly remedial actions when they are informed that:*

- judicial orders in *tutela* actions are expressed vaguely,
- compliance with judicial orders in *tutela* actions would require considerable public expenditure, and,
- complainants in *tutela* actions have relatively low SES status.

Finally, we seek to estimate the causal effect of informing Colombians about the bottom line non-compliance rate that we find. We test the following two hypotheses.

*Colombians will be less accepting of non-compliance and more willing to take a costly remedial action when:*

- they are informed about the non-compliance rate in *tutela*, and
- they are informed about a non-compliance rate that they thought would be lower than what we reported.

### 3 The Tutela

The *tutela* was adopted as a part of the 1991 Colombian constitutional reform, which took place in the context of an ongoing violent conflict and widespread social concerns with corruption and a generalized failure of the state to ensure justice for all of its citizens. The reform was sparked by a national student’s
movement (Movimiento de la Séptima Papeleta) and was ultimately made possible by a legally questionable use of President Virgilio Barco Vargas’s state of siege power to declare a national referendum on whether to hold a Constituent Assembly for the purpose of drafting a new constitution. The question passed in 1990 with 88% of the vote (Schor, 2011, p. 185). A highly diverse Assembly, where no one political group had a majority, produced a radical constitutional change (Fox and Stetson, 1992). As Schor (2011) writes,

The latter half of the twentieth century witnessed a profound constitutional moment throughout the Americas. No country in the Americas experienced as profound a constitutional transformation, however, as Colombia . . . The 1991 Constitution addressed Colombia’s democratic deficits: a system of representation that had done a poor job of aggregating voter preferences; an overly powerful president; and a broad failure to effectuate individual rights [emphasis added].

The tutela was an essential piece of this reform, designed to make real the formal rights commitments contained in the new constitution. As former constitutional court judge Manuel José Cepeda puts it, the tutela is “a bridge between the Constitution and reality that goes beyond a juridical procedure to become a material source of the enjoyment of rights.”

Legally, the tutela action is an individual constitutional complaint designed to product fundamental rights against the action or omission of any public authority. The Constitutional Court of Colombia has interpreted its powers to include the ability to decide on the meaning of “fundamental right,” the implication of which has been that the tutela can be used to protect rights beyond those enumerated in Title II, Chapter I. As a result of this interpretation, there has been a significant expansion in the protections afforded by the writ, which reflects the Colombian Constitutional Court’s innovative

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5The tutela may also be used for protection against the actions or omissions of private actors when these activities threaten the collective interest or when the complainant is in a position of “subordination or vulnerability,” Constitución Política de Colombia, Artículo 86, §§1 and 4.

6This Chapter enumerates “fundamental rights.”
approach to constitutional interpretation and its larger role in shaping politics of the Colombian state (Landau, 2005; Dixon and Issacharoff, 2016). As Merhof (2015) writes:

The court significantly expanded the catalog of enforceable rights [protected by the *tutela*], at first by developing the right to minimum subsistence derived from several other rights – the right to life (art. 11 CP), health (art. 49 CP), work (art. 25 CP), and social security (art. 48 CP) – and the fundamental principles of a social state and the respect of human dignity (art. 1 CP). This opened the *tutela* to cases the [Constituent Assembly] might not have thought of. Suddenly, people could file a *tutela* because their pensions or their salaries were not paid properly – but only in exceptional cases where without those payments their minimum subsistence could no longer be guaranteed.

The *tutela* may be moved by any individual or on behalf of any individual, before any judge in the country, at any time. Like the *amparo* action generally, the *tutela* is designed to provide swift justice: formally, there can only be 10 days between the request for protection and the resolution. The Constitutional Court enjoys discretionary jurisdiction over all *tutelas* filed in the country. The practical consequence of this is that all *tutela* actions, following any appeal, are sent to Bogotá to the Constitutional Court for its review. In light of the massive caseload, the Court only reviews a small proportion of the total cases that arrive at its Registry.

### 3.1 The Colombian Context

Clearly the *tutela* holds a special significance in Colombia. Our findings speak to an important aspect of Colombia’s constitutional infrastructure. Since we are restricted to a single country, it is worth placing Colombia in its regional context. Figure 1 provides a snapshot of Colombia across four national-level measures in relation to 23 other countries in the Latin America and the Caribbean region. The upper-left panel in the figure shows a dot plot of the Varieties of Democracy “Judicial Compliance” measure (Coppedge and Ziblatt, 2019; Pemstein and Miri., 2018). This expert-based measure asks survey respon-

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7 Constitución Política de Colombia, Artículo 86, §3.

8 Constitución Política de Colombia, Artículo 86, §2.

9 Author’s Note: Future draft will want to give some examples of *tutela* cases.
dents to estimate how often they believe “the government complies with important decisions by [courts other than the Supreme Court or Constitutional Court] with which it disagrees.” The upper-right panel shows a similar comparison for V-Dem’s “Executive Respects the Constitution” item, which asks for opinions about whether the executive branch respects a country’s constitution. The lower-left panel provides a comparison of latent judicial independence (Linzer and Staton, 2015; Staton et al., 2019). Finally, the lower-right panel provides an estimate of economic development from data made available by the World Bank. We included data for 2017 (the year in which we fielded the survey) or the closest available year.

The data reflect common intuitions about the rule of law in Colombia. Although there are surely challenges, as there are in every state, among Latin American countries Colombia judicial system is well-regarded. With respect to V-Dem’s estimates of compliance and respect for the Constitution, Colombia lies at the relatively high end of the regional distribution. Estimates of judicial independence are above average as is the level of development.

4 The Tracking Study

The compliance monitoring study involved a partnership between the The World Bank, the University of los Andes, the Colombian Constitutional Court and Emory University. The primary aims of the project were to develop a mechanism for tracking compliance with direct orders of Colombian judges and to describe the process that we observed. The project also involved a cluster randomized field experiment conducted in the context of the health sector. The aim of that study was to learn about whether informing health providers that their responses to court orders were being recorded would change compliance rates. It did not. Nevertheless the data offer a wealth of information about the compliance process in the Colombian tutela.

To understand the logistical challenges of carrying out the project it is important to have a sense of context, recalling that all tutela decisions in the country must be sent to the Constitutional Court

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10 The results are substantially similar when restricted to decisions of peak courts. In light of the fact that our study concerns decisions of courts other than the Constitutional Court, we used this item.

Figure 1: *Rule of Law and Economic Development in Latin America*. This figure places Colombia, denoted with a red diamond, in regional context. The upper left panel shows a dot plot of the Varieties of Democracy expert based estimates of compliance with judicial orders in the year 2016. The upper right panel shows Varieties of Democracy (V-Dem) estimates of executive compliance with the constitution in 2016. The lower left panel shows the Linzer et al measure of latent judicial independence in 2015, the latest year available. The lower right panel shows the World Bank measure of GDP/cap in 2010 US dollars for the year 2017.

for potential review. The Colombian Constitutional Court is located at the heart of downtown Bogotá, close to the Presidential Palace and the Capitol. The massive building has 9 floors, security windows, and very little sunlight. One floor of this building hosts about three hundred thousand tutela files, bundled in packages of 20 files, that the Court has to summarily study to decide whether it will select them for revision or not.

Figure 2 displays a photograph of one piece of the archive. Roughly 2,000 cases arrive at the court daily from all over the country. They are registered and stored to allow representatives of the chambers...
to select cases for review. These cases are stored in the archive for 2-3 weeks, after which they are returned to the originating court for permanent archiving. During this period the packets of case files are in constant motion, moving from a registration area, to an area where they can be reviewed, to a staging area for departure. The key first point is that case files are only available for review in one location for a short period of time. In order to ensure that we would not disturb the court’s work, our team committed to reviewing only decisions that the Court declined to review – over 99% of the total cases resolved in Colombia. The second point is that to review a case file involves disturbing a massive temporary archiving operation. Our team was embedded in the archive and worked closely with Court’s staff. To ensure that we did not fundamentally disturb their work, the Court limited the team to 45 cases per day.

![Figure 2: Constitutional Court Archive](image)

Figure 2: *Constitutional Court Archive.* This photograph displays on the right an image of the Constitutional Court’s archive. Depicted are stacks of tutela case files organized in groups of twenty.

Figure 3 summarizes the workflow of the study. Having completed a pilot study in the Spring of 2013, the team began compliance tracking on October 1, 2014. The study terminated July 31, 2014. The work was divided into two phases and carried about two separate World Bank-Los Andes-Emory
(WBLAE) teams in a partnership with the Court’s Registry led by Martha Sáchica Moncaleano, the Secretary General of the Constitutional Court. Upon arrival cases are registered. The Court sent our team a weekly sampling frame, which included four pieces of information: case number, name of defendant agency, and two decision codes, which allowed us to know whether the complainant had prevailed in her claim in the first and/or second instance. We selected a random sample of 180 cases per week, dividing their selection across the four days of the week we were permitted to work. Our first team retrieved the sampled case files from the stacks and recorded a large amount of information about the case including: (1) features of courts that had heard it, (2) case facts, (3) features of the legal argument including the rights claims made and requests for remedy, (4) features of the decision, including the full text of the direct orders and the deadline for compliance, and (5) features of the complainant and her representatives, if applicable.

Figure 3: Study Workflow. This diagram shows the workflow for the compliance monitoring study. The study was carried out in two phases, one inside the Constitutional Court’s archives, where we sampled and recorded information from case files and a second at the Universidad de los Andes where we contacted litigants. The diagram shows which part of the team was involved in which aspect of each phase.

The second phase of the process was carried out by a second WBLAE team of Colombian lawyers. This team was responsible for conducting phone interviews with complainants. All interviews were conducted after the deadline for compliance. To measure compliance we first reminded the complainant what the formal order required. We then asked complainants if the action that the authority had been
required to take had been taken in fact. Our team listened to their story and recorded whether, in our judgment, in light of the complainant’s story, that the authority had complied by the deadline.\textsuperscript{12}

The study resulted in a number of findings. The key finding relevant for this study is that the overall non-compliance rate for our study was 28.9\%, which we rounded up to 30\% for the purposes of giving survey respondents a round number. In addition, a review of the court orders revealed that Colombian judges were extremely clear about what agencies needed to do in 30.2\% of cases. They were extremely vague in 12\% of cases. Another kind of vagueness concerns the deadline. By law the default deadline for compliance is 48 hours; however, judges do extend the timeframe depending on the circumstances. We found that in nearly 15\% of cases, an order gave an indefinite deadline, raising the question of whether it would be possible to fail to comply.\textsuperscript{13} Speaking to the SES status of the complainants, 77\% had secondary education or lower. From reading the cases, it is was also clear that compliance with some actions required almost no effort at all – simply informing a person about her status. Other actions involved the significant spending of state resources as in the case of providing long term medical care to a person who is permanently disabled. We informed our sample of this basic information.

\section{Survey/Experimental Design}

To gauge the public’s reaction to the level of non-compliance we found in the tracking study, we conducted an experiment on a sample of respondents (\textit{n}=3200) using the survey firm Netquest’s online panel.\textsuperscript{14} Using quotas the sample is designed to be nationally representative of the Colombian public based on for sex, age groups, and region. NetQuest panelists receive points (“caracolas”) for partic-

\textsuperscript{12}An interesting feature of the Costa Rican compliance monitoring project was that the Court contacted the defendant agencies as well. We were unable to do this for logistical reasons (agencies did not want to speak to us) and research design reasons (in health at least we were conducting an experiment on the role of monitoring)

\textsuperscript{13}In these cases our team’s compliance statement reflects simply whether the order had been implemented by the time of the call, the indefinite deadline notwithstanding.

pation, which are exchangeable for goods. Our study does not employ deception. The only pieces of information we provide respondents are factual: (1) the basic nature of the *tutela* action, (2) the overall non-compliance rate discovered in our tracking study (30%), (3) that *tutela* orders can be vague, (4) that compliance can be sometimes costly and (5) that the beneficiaries of *tutela* orders can have low levels of education.

Our study involves two related experimental designs. Below we discuss them in turn, describe the outcomes of our balance and manipulation checks, and present our attitudinal and behavioral outcome variables.

### 5.1 Experimental Design: Study 1

The first study randomly assigns respondents to one of six groups. Respondents in the first five groups answer a series of pre-treatment questions described in the Appendix. All respondents, however, read the following description, which we refer to as the “main text.”

**Main:** *When Colombians feel that their fundamental rights (for example, rights to health, due process, information, etc.) are threatened or violated, they can present a *tutela* claim before a judge to demand protection of those rights. When the judges order an authority to protect the fundamental rights of a citizen, the authority is obligated to obey by law.*

Respondents who only read the main text represent a pure Control group, necessary based on the following logic. Our compliance study on the Colombian *tutela* was the first of its kind. It was, thus, unclear how much non-compliance Colombians would expect or whether they held real attitudes towards it at all. The Control group permits us to test whether informing respondents (in a variety of ways) about the study and its core findings changes beliefs and behavior.

Respondents in all other groups learn information beyond the main text. Namely, by reading the “study text” below, they learn that the overall non-compliance rate in our tracking study was 30%.

**Study:** *[MAIN TEXT] . . . An academic study in 2014 found much variation in compliance with judges’ orders in these cases. For example, requested authorities failed to comply with the judge’s order to fulfill fundamental rights in almost 30% of the total cases reviewed.*

Importantly, all participants may opt out of their relationship with Netquest at any time, including while participating in our study.
Respondents assigned to Study 1’s second arm read only the main and study text. Those assigned to the third, fourth and fifth arms read the main text, the study text, and information about one of three findings in our compliance study related to theoretical constructs of interest – the vagueness of judicial order, the high costs of complying with some judicial orders, and the proportion of citizens of low social status that received protection via the tutela process. Specifically, respondents in the third arm read the following:

**Vague Orders:** [MAIN TEXT] . . . [STUDY TEXT] . . . The study also found that a significant percentage of the judge’s orders to the defendant authorities were vague, for example they did not include a definite time frame.

Respondents in the fourth arm read the following:

**High Cost of Compliance:** [MAIN TEXT] . . . [STUDY TEXT] . . . The study also found that a significant percentage of the judicial orders required a significant monetary cost on the part of the defendant authorities.

Respondents in the fifth arm read the following:

**Low Social Status of Claimant:** [MAIN TEXT] . . . [STUDY TEXT] . . . The study also found that a significant percentage of the individuals that received protection through tutela claims only had a primary education.

Members of the sixth group read the same texts about the tutela and the compliance study as the Study group (second arm); however, as mentioned, these respondents do not answer the series of questions administered pre-treatment. Hence this sixth arm allows us to gauge whether these pre-treatment items prime particular kinds of answers and behavior in ways that might overstate treatment effects. We discuss how below. Table 1 provides a visual summary of the design. A full description of the flow of questions for each arm can be found in the Appendix.
Table 1: Design Summary. A Control group is exposed only to the main text summarizing the tutela process. In addition to the main text, the Study arm learns about the core finding – the overall non-compliance rate – from the 2014 tutela study. Treatment groups Vague Orders, High Cost and Low Social Status all read the main text, the study text, as well as text related to vagueness, the cost of compliance, the education level of beneficiaries. The final, No Covariates, group receives the same information as the Study group but does not answer any pre-treatment items.

5.2 Outcome Measures

We report two outcome measures linked to our theoretical expectations. The first is an attitudinal measure of how acceptable respondents find the 30% rate of non-compliance that resulted in our tracking study:

**Acceptability:** *To what extent would you say that the rate of non-compliance with judges’ orders in tutela cases is acceptable or unacceptable?*

<table>
<thead>
<tr>
<th>Totally unacceptable</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>Totally acceptable</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ □ □ □ □ □ □</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td>7</td>
<td></td>
</tr>
</tbody>
</table>

We are also interested in evaluating whether Colombians would be willing to take some kind of costly action in order to do something about the compliance rate we reported. Doing so will give us the

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15The pre-registered design included a third outcome which asked respondents which three policy interventions they would prefer in order to reduce non-compliance: (1) informing the public, training judges or increasing criminal sanctions for non-compliant public officials. We did not have strong theoretical expectations. All results from the analysis we pre-registered are available. The findings reflect what we report here. A very large proportion of the sample suggested enhancing criminal sanctions and no treatments affected this.
chance to evaluate the connection between beliefs about appropriate state actions and the behavioral propensity to take an action to address the behavior. Our behavioral measure leverages the fact that NetQuest panelists earned points which are redeemable for items of value for participating in our survey. This allows us to ask respondents whether they would be willing to donate some of these points to help us disseminate the results of our study. As stated in our pre-registration document we will, in turn, use our savings from their donations to fund a website highlighting the results of our study. The item is as follows.

**Donation Outcome** *The authors of the study would like to inform the Colombian public about the level of non-compliance with tutela claims. How many of your caracoles would you be willing to donate to contribute to the fund the diffusion of the results?*

- □ 0 points
- □ 1 point
- □ 2 points
- □ 3 points
- □ 4 points
- □ 5 points
- □ 6 points
- □ 7 points
- □ Other amount [Enter amount here]

### 5.3 Experimental Design: Study 2

The “Study” treatment in Study 1 informs subjects about the 30% non-compliance rate found in our 2014 compliance study. Per the “disconfirmation hypothesis” referenced above, whether that rate elicits an attitudinal and/or behavioral response depends on respondents’ prior expectations. If respondents expect non-compliance is fairly rate, 30% might appear problematic; if they expect rampant non-compliance, the comparatively good news of 30% non-compliance is unlikely to stimulate the sort of attitudes and actions theorized. In short, Study 2 tests the “disconfirmation hypothesis” regarding the level of non-compliance with judicial orders in the tutela.
In Study 2, before respondents read the “study text” we elicit their prior beliefs about compliance in the tutela. Given resource constraints we did not gauge the full prior distribution of non-compliance rates that respondents might have. Instead, we sought to measure their estimates of the non-compliance rate. Critically, to observe whether the “study” treatment told someone a compliance rate above or below their expectations, our measure places respondents’ beliefs on the percentage scale. However, we suspected some individuals might have very uncertain beliefs about compliance in tutela. In principle this presents no problem, as an individual can report a best guess (say the mean level of non-compliance) even if uncertain. That said we were concerned that people with relatively high uncertainty, who nevertheless did have a guess, might be particularly likely to give a “don’t know” response if we immediately sought an answer in the form of a percentage. To mitigate these issues, our approach seeks the percentage information in two steps.

We first ask the following question.

**Prior Belief:** Which of the following descriptions best reflects your assessment of the compliance rate in tutela cases.

- Authorities never fail to comply with judicial orders in tutela cases.
- Authorities rarely fail to comply with judicial orders in tutela cases.
- Authorities frequently fail to comply with judicial orders in tutela cases.
- Authorities always defy judicial orders in tutela cases.
- I do not have an assessment of the frequency of compliance with judicial orders.

Respondents who give a substantive answer to this question are then given the opportunity to estimate the non-compliance rate on a sliding scale. Respondents who report that they do not know are prompted to give an estimate even though the study administrator recognizes that their uncertainty when answering the Prior Belief question.

Table 2 compares this set-up to the original control and study groups.

5.4 Balance

A key condition for identifying a causal effect is that randomization generates balanced experimental conditions. Table 3 provides balance statistics. As is clear, there is substantial balance across all treat-
Design 2 | Design 1
--- | ---
Control 2 | Study 2 | Control 1 | Study 1

<table>
<thead>
<tr>
<th>Text respondents see</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Covariates</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Main</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Prior beliefs</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Study</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Vague</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Outcomes</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

Table 2: Design Comparison. In both designs, a control group is exposed only to the main text summarizing the tutela process whereas the Study group reads the main text as well as text about the core finding of the 2014 tutela study. The difference between the designs lies in the fact that in the second design, all respondents are asked to give information on their prior beliefs about compliance in the tutela. This changes the nature of the treatment, which is administered directly after the priors question. By priming prior beliefs, treatment is better conceptualized providing information that will present news that is better, worse or about the same as expected.

5.5 Manipulation Checks

In addition to randomization, a precise estimate of the causal effect depends on our attempts to treat respondents successfully. To that end, at the end of our surveys we asked the respondents to identify which of a list of facts they encountered in the course of the study. The bolded numbers identify fact-treatment arm combinations where the respondents were given the information we ask them.

There are few things to note. First, the manipulations were successful. All treatment groups display higher proportions of correct answers for the unique information that they received. Second, though the manipulation checks were correct, there is evidence of treatment non-compliance. Fewer than 50% of respondents in the vague, high costs and SES arms mentioned the facts that we told them about. Whether there was in fact noncompliance with treatment is a conceptual issue. If the treatment is exposure to information, then there was 100% compliance, unless the NetQuest platform was broken, which it was not. On the other hand, if treatment is learning the information, then clearly there is evidence that not all people assigned to the vague orders treatment learned what we told them. To
<table>
<thead>
<tr>
<th></th>
<th>Control w/prior</th>
<th>Control w/prior</th>
<th>Study w/prior</th>
<th>Study w/prior</th>
<th>Vague</th>
<th>Cost</th>
<th>SES</th>
<th>No Cov.</th>
</tr>
</thead>
<tbody>
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<td>Age</td>
<td>38</td>
<td>35</td>
<td>36</td>
<td>36</td>
<td>37</td>
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<td>36</td>
<td>37</td>
</tr>
<tr>
<td></td>
<td>(13.5)</td>
<td>(12.5)</td>
<td>(12.9)</td>
<td>(12.4)</td>
<td>(13.6)</td>
<td>(13.3)</td>
<td>(13.3)</td>
<td>(13.7)</td>
</tr>
<tr>
<td>Female</td>
<td>.57</td>
<td>.58</td>
<td>.56</td>
<td>.57</td>
<td>.56</td>
<td>.53</td>
<td>.55</td>
<td>.57</td>
</tr>
<tr>
<td>Jud. Legitimacy</td>
<td>3.98</td>
<td>4.08</td>
<td>4.05</td>
<td>4.04</td>
<td>4.00</td>
<td>3.93</td>
<td>4.05</td>
<td>–</td>
</tr>
<tr>
<td></td>
<td>(1.73)</td>
<td>(1.79)</td>
<td>(1.74)</td>
<td>(1.72)</td>
<td>(1.73)</td>
<td>(1.64)</td>
<td>(1.79)</td>
<td></td>
</tr>
<tr>
<td>Rule of Law</td>
<td>2.95</td>
<td>3.00</td>
<td>2.80</td>
<td>2.87</td>
<td>2.91</td>
<td>3.05</td>
<td>2.90</td>
<td>–</td>
</tr>
<tr>
<td></td>
<td>(1.35)</td>
<td>(1.38)</td>
<td>(1.32)</td>
<td>(1.39)</td>
<td>(1.39)</td>
<td>(1.44)</td>
<td>(1.43)</td>
<td></td>
</tr>
<tr>
<td>Social Trust</td>
<td>3.92</td>
<td>3.75</td>
<td>3.86</td>
<td>4.00</td>
<td>3.92</td>
<td>3.94</td>
<td>3.72</td>
<td>–</td>
</tr>
<tr>
<td></td>
<td>(1.51)</td>
<td>(1.51)</td>
<td>(1.57)</td>
<td>(1.46)</td>
<td>(1.50)</td>
<td>(1.55)</td>
<td>(1.68)</td>
<td></td>
</tr>
</tbody>
</table>

Table 3: Balance. Table shows means and standard deviations of salient pre-treatment variables across all treatment arms.

consider both possibilities below we present both average treatment effects and compliance average causal effects.\(^\text{16}\)

Thirdly, all of the groups that we informed reported lower correct answers for the *tutela* question than the control groups. Critically, large majorities in all samples remembered learning the simple description of the *tutela*. That said, all of the treatment groups were less accurate than the control group about this simple fact about *tutela*. Since the information we delivered was randomized the differences displayed in Table 4 can be interpreted as causal effects regarding the provision of information on a respondent’s accurate identification of the *tutela* summary. Grouping together all groups that received the study information, we find a ten (10) percentage point drop in accuracy among the treatment groups.

\(^\text{16}\)In the case that we are worried about non-compliance, then we should treat the ATEs we report as intent to treat effects.
### Table 4: Manipulation checks.

Columns display treatment arms and rows the facts that respondents were asked to identify. The first row reflects a fact that all participants in the study learned. All respondents in the study group learned the second fact. Only respondents in the vague orders treatment arm learned the third fact; only respondents in the high costs arm learned the fourth fact; and, only respondents in the low SES arm learned the fifth fact.

<table>
<thead>
<tr>
<th>Facts</th>
<th>Control w/prior</th>
<th>Control w/prior</th>
<th>Study w/prior</th>
<th>Study w/prior</th>
<th>Vague</th>
<th>Cost</th>
<th>SES</th>
<th>No Cov.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Present tutela</td>
<td>0.83</td>
<td>0.74</td>
<td>0.76</td>
<td>0.60</td>
<td>0.69</td>
<td>0.69</td>
<td>0.70</td>
<td>0.67</td>
</tr>
<tr>
<td>Non-Compliance rate is 30%</td>
<td>0.14</td>
<td>0.16</td>
<td>0.53</td>
<td>0.65</td>
<td>0.56</td>
<td>0.54</td>
<td>0.48</td>
<td>0.59</td>
</tr>
<tr>
<td>Orders vague</td>
<td>0.07</td>
<td>0.09</td>
<td>0.09</td>
<td>0.07</td>
<td>0.35</td>
<td>0.11</td>
<td>0.09</td>
<td>0.08</td>
</tr>
<tr>
<td>Costs high</td>
<td>0.05</td>
<td>0.05</td>
<td>0.05</td>
<td>0.03</td>
<td>0.04</td>
<td>0.34</td>
<td>0.08</td>
<td>0.05</td>
</tr>
<tr>
<td>Beneficiaries</td>
<td>0.04</td>
<td>0.03</td>
<td>0.03</td>
<td>0.01</td>
<td>0.02</td>
<td>0.02</td>
<td>0.33</td>
<td>0.03</td>
</tr>
<tr>
<td>low SES</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Learned nothing</td>
<td>0.07</td>
<td>0.09</td>
<td>0.04</td>
<td>0.04</td>
<td>0.03</td>
<td>0.04</td>
<td>0.05</td>
<td>0.04</td>
</tr>
</tbody>
</table>
6 Descriptive Results

6.1 Acceptance and Donation Outcomes

We begin with a summary of the outcome measures, focusing on all respondents that we informed about the non-compliance rate. Figure 4 shows histograms of the acceptance and respondent donation measures. There are two key findings. First, a very large proportion of the sample did not find the rate we reported acceptable. On the 7-point scale, the mean response was 2.51 and the median was 2. If we collapse the scale into three categories (1-3 - unacceptable; 4 - neutral; 5-7 - acceptable), we find that 71.5% of the sample found the rate unacceptable; only 12.75% of the sample found it acceptable. Concerning the donation question, the modal category was 0 points; however, the mean was nearly 5 points and the median was 2 and 73% of the sample made a positive donation.

Figure 4: Distributions of Outcome Measures. Figure shows the distribution of the acceptability and donation outcome measures. The mean acceptability response was 2.51; the median was 2. The mean donation was 4.98 caracolas; the median was 2.

A central concern in the context of the public enforcement mechanism for judicial orders is that while people may find an action of the state unacceptable, providing incentives to refrain from these actions requires people to be willing to do something about it. We are unable in our study to observe actual willingness to mobilize in the form of a public protest, but our donation measure does tap into willingness to take costly actions. Figure 5 shows a scatterplot (with jittered data) of the donation

\footnote{That is, we exclude the pure control group.}
choices on the acceptability outcome. The choices are negatively associated as might be expected. A simple linear regression results in a coefficient of -0.30 with a standard error of 0.06, which is significant at the 0.001 level. Controlling for age, SES status, region, judicial legitimacy, social trust and rule of law preferences results in a coefficient of -0.27 and a standard error of 0.07, significant at the same level. So, people who do not accept the decision are more likely to donate. But the scatterplot surely suggests that there is tremendous variation in the degree to which people donate, for any given level of acceptability. The regression results suggest that, all else equal, the difference between donations at the lowest and highest levels of acceptability is 1.89 points. This is less than one half of a standard deviation in the donation distribution.

![Relationship between Acceptability and Donation](image)

Figure 5: *Relationship between Acceptability and Donation.* Figure shows a scatter plot of donation choices on the acceptability response.

### 6.2 Judicial Legitimacy, Acceptability and Donation

To consider the possibility that judicial legitimacy is a predictor of our outcomes, we developed a simple additive index of judicial legitimacy derived from the following two pre-treatment items. These items are common in the battery of questions used to create a judicial legitimacy scale (e.g. Gibson, Caldeira and Baird, 1998).

**Jurisdiction:** *The capacity of judges to decide certain types of controversial topics should be reduced.*
Strongly agree Strongly disagree

□ □ □ □ □ □ □ □
1 2 3 4 5 6 7

Institutional Commitment: If judges started making decisions that many people disagreed with, it would be better to reduce the power of the judges.

Strongly agree Strongly disagree

□ □ □ □ □ □ □ □
1 2 3 4 5 6 7

We also considered a judicial trust measure, but it did not scale well with the two additional items. In addition to the additive scale, we constructed a binary measure of “very high judicial legitimacy,” which is equal to 1 for respondents in the top three categories of the scale and 0 otherwise.

To consider the association between legitimacy and our outcomes, we fit a linear regression. Let $Y_i^D$ and $Y_i^A$ denote the values of the donation and acceptability outcome measures for respondent $i$. Similarly, let $JL_i$ denote either the judicial legitimacy scale or a indicator variable for respondents who expressed extremely high levels of judicial legitimacy; and let $X$ denote a vector of $K$ control variables described. We include controls for gender, age, region, trust, and rule of law preferences. We fit the following two models.

\[
Y_i^b = \beta_0 + \beta_1 JL_i + \epsilon_i, \quad \text{and} \\
Y_i^{b \prime} = \beta_0 + \beta_1 JL_i + \sum_{k=1}^{K} \beta_k X_{ki} + \epsilon_i
\]

\[18\]The donation measures are clearly counts of points. We have considered a negative binomial regression, as well. The results are unchanged.
Table 5 summarizes the results. It reveals that judicial legitimacy is associated with the acceptance of non-compliance. That said, the association is small. Consider that the coefficient on the high legitimacy indicator is only -0.29 with controls included. This is 5% of a standard deviation.

What does increase donation in this sample? It turns out the the strongest predictor is age. This is not just about wealth, as we control for the standard Colombian SES measure, which is provided by NetQuest. All age cohorts donate at a higher rate than the 18-24 year old cohort. The predicted donations in the model are 6.59, 7.91, 7.59 and for the age cohorts 35-44, 45-54 and 55+, respectively. Among those people in the 44-54 range, the median donation was 6 points (recall it is 2 for the entire sample). Although we do not want to make too much of it, this cohort was between 19 and 28 when the 1991 Constitution was adopted, so that they would have come to political age during this important period. Indeed, much of the cohort would have been students during the lead up to the referendum.

<table>
<thead>
<tr>
<th></th>
<th>Accept</th>
<th>Accept</th>
<th>Accept</th>
<th>Accept</th>
<th>Donate</th>
<th>Donate</th>
<th>Donate</th>
<th>Donate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Legitimacy</td>
<td>0.06***</td>
<td>0.03</td>
<td>–</td>
<td>–</td>
<td>0.12</td>
<td>0.10</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td></td>
<td>(0.02)</td>
<td>(0.02)</td>
<td>(0.08)</td>
<td>(0.08)</td>
<td>(0.10)</td>
<td>(0.11)</td>
<td>(0.34)</td>
<td>(0.34)</td>
</tr>
<tr>
<td>High Legitimacy</td>
<td>–</td>
<td>–</td>
<td>-0.40***</td>
<td>-0.29***</td>
<td>–</td>
<td>–</td>
<td>-0.05</td>
<td>-0.05</td>
</tr>
<tr>
<td></td>
<td>–</td>
<td>–</td>
<td>(0.10)</td>
<td>(0.11)</td>
<td>–</td>
<td>–</td>
<td>(0.34)</td>
<td>(0.34)</td>
</tr>
<tr>
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<td>YES</td>
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</tr>
<tr>
<td>N</td>
<td>1779</td>
<td>1779</td>
<td>1779</td>
<td>1779</td>
<td>1779</td>
<td>1779</td>
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</tr>
<tr>
<td>( R^2 )</td>
<td>0.01</td>
<td>0.03</td>
<td>0.01</td>
<td>0.04</td>
<td>0.01</td>
<td>0.08</td>
<td>0.01</td>
<td>0.08</td>
</tr>
</tbody>
</table>

Table 5: Regression analysis of association between beliefs in judicial legitimacy and the acceptability and donation outcomes. **\( p < .05 \); ***\( p < .01 \)

7 Causal Results

7.1 Study 1: Effects of Vagueness, Cost and SES

We now turn to our experimental results. To focus on the effects of providing information on order vagueness, the cost of compliance, and the education level of beneficiaries, an appropriate baseline for comparison is the mean outcome in the Study group. We regress \( Y^b_i \) for \( b \in \{D, A\} \) on three dummy
variables \((D^v_i, D^c_i, D^{ses}_i)\) marking the Vagueness, High Cost, and Low Social Status of Beneficiaries treatments.\(^\text{19}\) This model is written as

\[
Y^b_i = \beta_0 + \beta_1 D^v_i + \beta_2 D^c_i + \beta_3 D^{ses}_i + \epsilon_i.
\]

The first column of Table 6 summarizes the results of that model for our attitudinal and behavioral outcomes. The constant, denoted “Control Group Outcome,” is the mean outcome among the “Study” group, i.e. respondents who only learned that we had conducted a study on the rates of compliance in tutela cases.

Results are separated by experimental effects. The first columns under the Acceptability and Donation headings display coefficients on the vagueness, high costs, and low social status treatment arms which can be interpreted as average treatment effects (ATE). None of the effects in the Acceptability model approach conventional levels of statistical significance. Put another way, receiving information about the mitigating circumstances that bureaucratic agents place in complying with judges’ orders in tutela cases – the vagueness of the orders and the high cost of compliance – did not alter how acceptable respondents rated the reported level of non-compliance. Nor did learning that tutela disproportionately helps Colombians of lower social strata. Turning to the Donation model, the ATEs suggest that exposing respondents to this sort of information about the tutela had virtually no effect on their willingness to donate to publish the study’s results. Thus, our treatments appear not to have altered attitudes or behaviors over and above the average rate of acceptability or donating among the Study group in any reliable way. We find no support for claims in the literature which suggest that pressure for non-compliance might be lowered by the order, case and complainant features we varied.

Although we were reasonably assured by the results of our manipulation checks, some respondents appeared not to have received the additional information we sought to provide them in Vague Orders, High Costs, and Low Social Status treatments. Such respondents can be considered “non-compliers.” Because respondents assigned to the control groups were not told the information we are considering,\(^\text{19}\) our preregistration document calls for us to fit models with covariates in order to consider whether we could increase precision. These models do not effect the results. They are available (and will be made available on our website).

\(^{19}\)Our preregistration document calls for us to fit models with covariates in order to consider whether we could increase precision. These models do not effect the results. They are available (and will be made available on our website).
they cannot have learned it during our study. Thus, at worst we have one-sided non-compliance. To consider the robustness to non-compliance, we calculate the complier average causal effect (CACE) for each treatment across the Acceptability and Donation models (Gerber and Green, 2012). To do this we created a two-stage least squares models in which, in the first stage, we instrumented having reported receiving the correct information in a given treatment – that orders were vague, that costs were high, or that many *tutela* complainants were uneducated – by assignment to the treatment itself. The dependent variable in the first stage is a binary measure of whether the person correctly recalled the information that we told them about. All respondents assigned to control are given a score of 0 on this measure. In the second stage, we regress our outcomes on the instrumented values of relevant knowledge questions derived from the first stage.

As is clear from the table, the CACE estimates are consistently stronger than the ATE estimates; however, none come close to statistical significance. There just is no evidence that vague orders, high costs of compliance or complainants with low levels of education change the basic reaction we describe above.

<table>
<thead>
<tr>
<th></th>
<th>Acceptability</th>
<th>Donation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Control Group Outcome</td>
<td>2.49 2.49 2.49 2.49</td>
<td>4.85 4.93 4.93 4.93</td>
</tr>
<tr>
<td>ATE</td>
<td>-0.06 (0.13)  -0.15 (0.39)</td>
<td>-0.16 (0.35)  -0.40 (1.14)</td>
</tr>
<tr>
<td>CACE</td>
<td>-0.15 (0.39)  -0.40 (1.14)</td>
<td>-0.16 (0.39)  -0.30 (1.12)</td>
</tr>
<tr>
<td>Vague Orders</td>
<td>0.04 (0.13)   0.10 (0.36)  0.08 (0.39)  0.41 (1.17)</td>
<td></td>
</tr>
<tr>
<td>High Costs</td>
<td>0.17 (0.13)   0.46 (0.36)  0.08 (0.39)  0.41 (1.17)</td>
<td></td>
</tr>
<tr>
<td>Low SES</td>
<td>1434 727 726 711</td>
<td>1603 727 726 711</td>
</tr>
<tr>
<td>N</td>
<td>0.0023 0.0000 0.0047 0.0000 0.0004 0.0000 0.0000 0.0062</td>
<td></td>
</tr>
</tbody>
</table>

Table 6: Average treatment and compliance average causal effects. *p < .10; **p < .05; ***p < .01
7.2 Study 1: Effects of being informed

We now consider the effects of receiving any information about our study. This requires comparing all respondents who received study information to a pure control group. To do this we require an additional dummy variable to keep track of assignment to the Study arm. Let $D_i^s$ be an indicator for whether respondent $i$ is in the Study arm. We then fit the following model.

$$Y_i^b = \beta_0 + \beta_1 D_i^s + \beta_2 D_i^v + \beta_3 D_i^c + \beta_4 D_i^{ses} + \epsilon_i,$$

Table 7 summarizes the results. As is clear, there are no effects of any of our treatment evidence in the table. Relative to the control group, which did not receive information about the actual non-compliance rate (or any other information from the study for that matter), the average acceptability rating and donation is the same across our treatment arms. Indeed, the effects are estimated to be very close to 0. The largest acceptability effect is in the table (for the Vagueness treatment) is -0.18 on a scale that ranges from 1 to 7.

7.3 Study 2: Effects Conditional on Prior Expectations

Importantly, we have reason to believe that people react to information differently depending on their expectations. To consider the effects of learning about the study conditional on prior expectations we need to keep track of the priors of the respondents. We define an indicator variable $D_i^{above}$ which indicates that the $i^{th}$ person reported an expected compliance above what we report in the study arm. Recall that we are comparing individuals in Control to those in the Study arm. We then fit the following model.

$$Y_i^b = \beta_0 + \beta_1 D_i^s + \beta_2 D_i^{above} + \beta_3 (D_i^s \ast D_i^{above}) + \epsilon_i,$$  \hspace{1cm} (1)

Given the interactions, it is useful to provide a brief interpretation of the coefficients reflecting the main effects in the model. Consider $Y_i^A$. The constant term, $\beta_0$, reflects the mean outcome for the acceptability measure for members of the control group who reported a prior expectation below what
Table 7: Effects of Providing Information. Table shows the control group outcomes in the first row. All of the following rows show estimates of average treatment effects (standard errors in parentheses). This analysis differs from our pre-registration plan in two ways. First, no respondent chose a non-compliance rate equal to 30%. Second, no respondent failed to give a rate. Twenty-five percent of the sample said that they did not know, but when given a chance to assign a percentage they did in fact. **p < .05; ***p < .01.

we report; $\beta_1$ gives the effect of receiving the information treatment for individuals who expected the level below what we reported; $\beta_2$ gives the change in the mean response for control group respondents who had beliefs prior expectations of a higher non-compliance rate than we reported; and, $\beta_1 + \beta_3$ gives the effect the information treatment for individuals who expected a higher non-compliance rate. Similar interpretations apply for $Y^D_i$, the donation outcome.

We find no effects of information related to the acceptability outcome, whether respondents expected a higher or lower non-compliance rate. Given the very low levels of acceptability at baseline, it is unsurprising that we do not find an additional effect of information.

On the other hand, we find a fairly strong, one point effect of information in the donation model for those people who expected to hear a lower non-compliance rate. Specifically, the average treatment effect of providing information for individuals who reported an expected non-compliance rate below

<table>
<thead>
<tr>
<th></th>
<th>Accept</th>
<th>Donate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Control Group Outcome</td>
<td>2.61</td>
<td>4.94</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>ATE</th>
<th>ATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Study</td>
<td>-0.13</td>
<td>-0.02</td>
</tr>
<tr>
<td></td>
<td>(0.13)</td>
<td>(0.42)</td>
</tr>
<tr>
<td>Vague</td>
<td>-0.18</td>
<td>-0.17</td>
</tr>
<tr>
<td></td>
<td>(0.13)</td>
<td>(0.42)</td>
</tr>
<tr>
<td>High Costs</td>
<td>-0.09</td>
<td>-0.12</td>
</tr>
<tr>
<td></td>
<td>(0.13)</td>
<td>(0.42)</td>
</tr>
<tr>
<td>Low SES</td>
<td>0.04</td>
<td>0.13</td>
</tr>
<tr>
<td></td>
<td>(0.13)</td>
<td>(0.42)</td>
</tr>
<tr>
<td>N</td>
<td>1777</td>
<td>1778</td>
</tr>
<tr>
<td>$R^2$</td>
<td>0.01</td>
<td>0.01</td>
</tr>
</tbody>
</table>
Table 8: Effect of providing information by prior beliefs about the non-compliance rate. Table shows coefficients from multiplicative interaction model. The constant reflects the expected values of the outcomes for respondents in control who had prior beliefs of the non-compliance rate below 30%. The Study Group coefficient is the average treatment effect of the information treatment among respondents who had prior beliefs of the non-compliance rate below 30%. *p < .10; **p < .05; ***p < .01

what we reported is 0.94 caracolas with a 95% confidence interval of (.10, 1.78). For respondents who reported a non-compliance rate above what we reported, the average treatment effect is estimated to be 0.26 with a very wide 95% confidence interval of (-2.62, 3.14).

8 Conclusion

Our study finds that Colombian citizens are very likely to react negatively to information about the non-compliance rate that we found in our tracking study. And it is unlikely that giving them information about features of the cases and orders and complainants will change that reaction. Further, we have evidence that a relatively large group of Colombians will be motivated to do something about this issue. Most directly we have evidence that they would want to contribute to a program informing the public generally about what we found. We also found, consistent with work on the “disconfirmation hypothesis,” we found that the information we provided caused an increase in donation behavior among people who expected a lower rate than we found. Importantly, the proportion of people who believed
the rate would be below 30% was 90%, identical in both the control and study arms. Our tracking results would be surprising and negatively so to a very large proportion of the population.

Given the nature of the information it is worth considering the meaning of the non-compliance rate we found. Importantly, we were only able to talk to complainants once. Thus, our rate should probably be interpreted as an upper bound on the non-compliance rate. If an agent implemented the order after we called, we would have missed it. Whether we should interpret compliance after a deadline as a form of compliance or something else is a matter of conceptual interpretation. There is no right answer to that question. That said, a program designed to inform people broadly about non-compliance would surely want to think carefully about how to characterize the rate.

Our results have implications for political studies of constitutional review as well as the literature on social and economic rights litigation. Although we do not find evidence that particular features of cases seem to influence public reactions, our evidence does suggest that a strategy to make orders and compliance outcomes more visible could be effective, at least in a country with a strong commitment to rights.

[Note: There might be more to say here, but we’re up against the deadline!]
References


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Tate, C Neal, Torbjorn Vallinder et al. 1995. The global expansion of judicial power. NYU Press.


9 Appendix

9.1 Study Flow Diagram

The following figure describes the flow of information to which respondents are exposed in each arm of the study.

Figure 6: Information Flow Chart. The figure shows the flow of information flow for each arm of the study. Nodes in the flow chart reflect text, questions or batteries of questions to which respondents are exposed. Links between notes are labeled with the arm number, as described in the legend.

9.1.1 Pre-treatment covariates

In addition to a number of demographic characteristics, we included a battery of questions, which respondents answer prior to reading the main text, which measure aspects of the rule of law values.
9.1.2 Rule of Law

Rule of Law 1: There are times in which it is necessary to disobey the law. To what extent do you agree or disagree?

<table>
<thead>
<tr>
<th>Strongly agree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ □ □ □ □ □  □</td>
<td>□</td>
</tr>
<tr>
<td>1 2 3 4 5 6 7</td>
<td></td>
</tr>
</tbody>
</table>

Rule of Law 2: There are times in which it is necessary for public officials to disobey the law. To what extent do you agree or disagree?

<table>
<thead>
<tr>
<th>Strongly agree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ □ □ □ □ □  □</td>
<td>□</td>
</tr>
<tr>
<td>1 2 3 4 5 6 7</td>
<td></td>
</tr>
</tbody>
</table>

Rule of Law 3: Breaking the law is not so bad, it is only bad if you are caught. To what extent do you agree or disagree?

<table>
<thead>
<tr>
<th>Strongly agree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ □ □ □ □ □  □</td>
<td>□</td>
</tr>
<tr>
<td>1 2 3 4 5 6 7</td>
<td></td>
</tr>
</tbody>
</table>

Rule of Law 4: A person who is guilty of murder should receive the death penalty.

<table>
<thead>
<tr>
<th>Strongly agree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ □ □ □ □ □  □</td>
<td>□</td>
</tr>
<tr>
<td>1 2 3 4 5 6 7</td>
<td></td>
</tr>
</tbody>
</table>

Rule of Law 5: It is preferable for a citizen to shoot someone who commits a crime than to let that person escape.
Rule of Law 6: It is difficult to obey the law when many people do not.

<table>
<thead>
<tr>
<th>Strongly agree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>□ □ □ □ □ □ □</td>
</tr>
<tr>
<td>1</td>
<td>2 3 4 5 6 7</td>
</tr>
</tbody>
</table>

9.1.3 Trust and Legitimacy

We include a battery of questions in order to measure individual beliefs in the legitimacy of the judicial system as well as trust in the bureaucracy. We include items sufficient to produce a legitimacy measure consistent with that in Gibson, Caldeira and Baird’s (1998) study of high court legitimacy.

**Trust in judges:** *In general, you can trust judges to make decisions that are right for the country.*

<table>
<thead>
<tr>
<th>Strongly agree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>□ □ □ □ □ □ □</td>
</tr>
<tr>
<td>1</td>
<td>2 3 4 5 6 7</td>
</tr>
</tbody>
</table>

**Trust in public officials:** *In general, you can trust public officials to make decisions that are right for the country.*

<table>
<thead>
<tr>
<th>Strongly agree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<tr>
<td>1</td>
<td>2 3 4 5 6 7</td>
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</tbody>
</table>
Jurisdiction: *The capacity of judges to decide certain types of controversial topics should be reduced.*

<table>
<thead>
<tr>
<th>Strongly agree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
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<td>□ □ □ □ □ □ □</td>
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<td>1 2 3 4 5 6 7</td>
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Institutional Commitment: *If judges started making decisions that many people disagreed with, it would be better to reduce the power of the judges.*

<table>
<thead>
<tr>
<th>Strongly agree</th>
<th>Strongly disagree</th>
</tr>
</thead>
<tbody>
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<td>□ □ □ □ □ □ □</td>
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<td>7</td>
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</table>

9.1.4 Social Sanctioning

We included several items to measure social sanctioning preferences. Research on collective action problems and institutional evolution suggests individuals (as well as groups) vary with respect to willingness to engage in behaviors that involve “costly punishment” in the service of social fairness norms of which a belief that the law should be enforced all individuals in a state, independent of social status or even position in government, is one (e.g. Bowles and Gintis, 2011; Knight, 1992). Pro-social norm enforcement mechanisms entailing “Costly punishment appears to have co-evolved with the spread of markets and religion, and their development permitted human expansion from kinship-based groupings to complex large-scale societies (e.g. Ensminger and Henrich, 2014; Fehr and Fischbacher, 2003). It is possible that the failure to implement a direct judicial order when doing so is required by law will be interpreted as a violation of a core social norm. This individual characteristic could, in turn, influence the willingness of a respondent to donate NetQuest points. We have considered measuring these preferences via simple behavioral games, in which respondents are able to spend NetQuest points to punish others for anti-social behavior. We are very concerned about the impact of such game play on subsequent decisions to donate, and so we instead approach this challenge through attitudinal measures, we now describe.
Now we will present some phrases that people sometimes use to describe how they treat others. For each one, please indicate to what extent these phrases can be applied to you, using the scale from 1, “Does not apply to me at all” to 7 “Applies to me perfectly.”

**Positive Public Reciprocity 1:** If someone does someone else a favor, I am prepared to do a favor for him or her.

<table>
<thead>
<tr>
<th>Does not apply to me at all</th>
<th>Applies to me perfectly</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>1</td>
<td>7</td>
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</tbody>
</table>

**Positive Public Reciprocity 2:** I go out of my way to help somebody who has been kind to someone else before.

<table>
<thead>
<tr>
<th>Does not apply to me at all</th>
<th>Applies to me perfectly</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>1</td>
<td>7</td>
</tr>
</tbody>
</table>

**Positive Public Reciprocity 3:** I am ready to undergo personal costs to help somebody who has helped someone else even if that implies a personal cost to myself.

<table>
<thead>
<tr>
<th>Does not apply to me at all</th>
<th>Applies to me perfectly</th>
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<tbody>
<tr>
<td>□</td>
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<tr>
<td>1</td>
<td>7</td>
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</table>

**Negative Public Reciprocity 1:** If someone does someone else wrong, I will avenge that person as soon as possible, no matter what the cost.
<table>
<thead>
<tr>
<th></th>
<th>Does not apply</th>
<th>Applies to me</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>to me at all</td>
<td>perfectly</td>
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**Negative Public Reciprocity 2:** If someone puts someone else in a difficult or compromising situation, I will do the same to that person.

<table>
<thead>
<tr>
<th></th>
<th>Does not apply</th>
<th>Applies to me</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>to me at all</td>
<td>perfectly</td>
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</tbody>
</table>

**Negative Public Reciprocity 3:** If someone insults another person, I will insult him or her.

<table>
<thead>
<tr>
<th></th>
<th>Does not apply</th>
<th>Applies to me</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>to me at all</td>
<td>perfectly</td>
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<td>1 2 3 4 5 6 7</td>
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</tbody>
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